

OTAY WATER DISTRICT
FINANCE, ADMINISTRATION AND COMMUNICATIONS
COMMITTEE MEETING
and
SPECIAL MEETING OF THE BOARD OF DIRECTORS

2554 SWEETWATER SPRINGS BOULEVARD
SPRING VALLEY, CALIFORNIA
BOARDROOM

TUESDAY
December 9, 2008
4:00 P.M.

This is a District Committee meeting. This meeting is being posted as a special meeting in order to comply with the Brown Act (Government Code Section §54954.2) in the event that a quorum of the Board is present. Items will be deliberated, however, no formal board actions will be taken at this meeting. The committee makes recommendations to the full board for its consideration and formal action.

AGENDA

1. ROLL CALL
2. PUBLIC PARTICIPATION – OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO SPEAK TO THE BOARD ON ANY SUBJECT MATTER WITHIN THE BOARD'S JURISDICTION BUT NOT AN ITEM ON TODAY'S AGENDA

DISCUSSION ITEMS

3. APPROVE A FIVE YEAR CONTRACT WITH UNDERGROUND UTILITIES, INC. FOR CLEAN-OUT SERVICES OF 850 METER BOXES PER YEAR IN THE AMOUNT OF \$124,312.50, PLUS APPROPRIATE INCREASES TIED TO THE SAN DIEGO CONSUMER PRICE INDEX (HENDERSON) [5 minutes]
4. PRESENTATION OF THE OTAY WATER DISTRICT'S DRAFT DROUGHT COMMUNICATIONS PLAN FOR BOARD INPUT AND FEEDBACK (BUELNA) [15 minutes]
5. ADOPT RESOLUTION NO. 4132 AMENDING THE DISTRICT'S 401(a) PLAN TO INCLUDE MATCHING EMPLOYER CONTRIBUTIONS TO CERTAIN GROUPS AND APPROVE A SECOND AMENDMENT TO THE ADOPTION AGREEMENT TO IMPLEMENT THE EMPLOYEE CONTRIBUTION COMPONENT OF THE 401(a) PLAN AT A LATER DATE (WILLIAMSON) [10 minutes]
6. ADJOURNMENT

BOARD MEMBERS ATTENDING:

Mark Robak, Chair
Larry Breitfelder

All items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the Board.

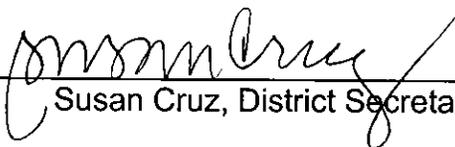
The Agenda, and any attachments containing written information, are available at the District's website at www.otaywater.gov. Written changes to any items to be considered at the open meeting, or to any attachments, will be posted on the District's website. Copies of the Agenda and all attachments are also available through the District Secretary by contacting her at (619) 670-2280.

If you have any disability which would require accommodation in order to enable you to participate in this meeting, please call the District Secretary at 670-2280 at least 24 hours prior to the meeting.

Certification of Posting

I certify that on December 5, 2008 I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of Otay Water District, said time being at least 24 hours in advance of the meeting of the Board of Directors (Government Code Section §54954.2).

Executed at Spring Valley, California on December 5, 2008.



Susan Cruz, District Secretary



AGENDA ITEM 3

STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 7, 2009
SUBMITTED BY:	Elaine Henderson, Customer Service Manager <i>eh</i>	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Joseph R. Beachem, Chief Financial Officer		
APPROVED BY: (Asst. GM):	German Alvarez, Assistant General Manager		
SUBJECT:	Execute a Five-Year Contract with Underground Utilities, Inc. for Meter Box Clean-out Services		

GENERAL MANAGER'S RECOMMENDATION:

That the Board authorizes the General Manager to:

1. Execute a five-year contract with Underground Utilities, Inc. in the amount of \$124,312.50, plus appropriate increases tied to the San Diego Consumer Price Index, for clean-out services of 850 meter boxes per year, with the first year's cost of \$29.25 per meter box and the annual cost as follows:

Year 1	\$24,862.50
Years 2-5	\$24,862.50 - plus an annual price increase tied to the San Diego Consumer Price Index for the prior year and becomes effective on July 1 st of each year.

COMMITTEE ACTION: _____

Please see Attachment A.

PURPOSE:

To provide bid results and obtain authorization to award a five-year meter box clean-out services contract to Underground Utilities, Inc.

ANALYSIS:

In December of 2007, to improve the efficiency and safety of meter reading, the District entered into a contract with Westturf Landscape Maintenance for meter box clean-out services. On June 30, 2008 this contract expired.

In accordance with the District's purchasing requirements, a solicitation for quotations for meter box clean-out services was published. Between October 17, 2008 and October 29, 2008, five bids were received and publicly opened. Following are the bid results:

Bidder	Bid Unit Cost	Total Annual Bid
Underground Utilities, Inc.	\$29.95	\$24,862.50
Kirk Paving, Inc.	\$35.00	\$29,750.00
C.E. Wilson Corporation	\$35.00	\$29,750.00
Westturf Landscape Maintenance	\$55.00	\$46,750.00
Coastline Water Resources, Inc.	\$88.53	\$75,250.00

The apparent low bidder, Underground Utilities, Inc., had good references and also did a good job performing AMR meter change outs for the District for three years. This contract will be consistent with all the District's multi-year contracts and should the vendor fail to perform as required, the District will have the ability to terminate the contract, at any time, for cause.

It is recommended that the Board award a contract to Underground Utilities, Inc. for five years in the amount \$124,312.50 plus appropriate increases tied to the San Diego Consumer Price Index.

FISCAL IMPACT:



This expense is supported by a \$30,000.00 allocated in the FY09 Budget for meter box clean-out services.

STRATEGIC GOAL:

The proposed contract supports the District's strategy of Business Process Efficiency.

LEGAL IMPACT:

None.



 General Manager

Attachments:

- A) Committee Action Form



ATTACHMENT A

SUBJECT/PROJECT:	Execute a Five-Year Contract with Underground Utilities, Inc. for Meter Box Clean-Out Services
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COMMITTEE ACTION:

That the Finance, Administration, and Communications Committee recommend that the Board approve the General Manager to execute a five-year contract with Underground Utilities, Inc. for meter box clean-out services.

NOTE:

The "Committee Action" is written in anticipation of the Committee moving the item forward for board approval. This report will be sent to the Board as a committee approved item, or modified to reflect any discussion or changes as directed from the committee prior to presentation to the full board.



AGENDA ITEM 4

STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	1/7/09
SUBMITTED BY:	Armando Buelna, <i>AB</i> Communications Officer	W.O./G.F. NO:	DIV. NO. All
APPROVED BY:			
SUBJECT:	Drought Communications Plan		

GENERAL MANAGER'S RECOMMENDATION:

That the Board of Directors receive the Otay Water District's draft Drought Communications Plan and provide input on the Plan.

PURPOSE:

To present the Board of Directors with a plan containing recommended actions the District can use to: inform customers about mandatory water restrictions and when those restrictions will take effect; advise customers of water conservation practices they can employ to reduce their water use and lessen the impact of drought rates; and, help the District achieve its water conservation goals.

COMMITTEE ACTION:

See Attachment A

BACKGROUND

With the ongoing drought in much of the Southwest and pumping restrictions remaining in place, the potential for mandatory water restrictions in 2009 is becoming increasingly likely.

While the District continues to make every effort to advise customers of the worsening situation, staff feels additional steps can be taken. The attached Drought Communications Plan puts in place the tools, messages, and tactics, ready to deploy, should they become needed.

In the customer Pipeline newsletter, in bill inserts and bill messages, and in other District publications, the worsening water situation is frequently noted. Water conservation tips, programs, and promotions are used to advance conservation. While these steps are important and contribute to the District's overall conservation strategy, these measures may not be enough

should Level II or Level III drought stages come to pass that require all customers achieve 20% to 40% water use reductions.

The Drought Communications Plan looks at the range of possible communication tools that exist, internal and external needs and opportunities, and sets forth a plan to reach out to our various community stakeholders, customers, and audiences.

The philosophy behind the strategy is to make conservation activity positive rather than punitive. The messages to be used praise and acknowledge efforts to conserve water. They also provide useful information about the water shortage, and deliver useful, easy to understand conservation tips.

The Plan utilizes existing tools such as our Breakfast and Briefing meetings for local elected officials. These meetings are extremely useful to communicate with our community stakeholders and build ongoing relationships and rapport. In addition, Conservation staff will continue meeting with homeowners associations to promote water conservation. The Speaker's Bureau will also be utilized to reach out to service clubs and community groups.

In addition, the Plan identifies new communications techniques such as expanding the auto-dialing messaging program, email messaging, intelligent bill inserts, and moveable/changeable mobile signs. And, recognizing the challenge recycled water may pose, the Plan includes a component to raise awareness of the important role recycled water plays in maintaining public parks, open space, and common areas in those communities where it is available.

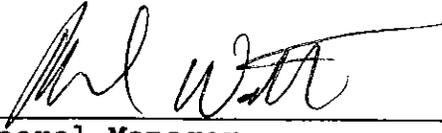
FISCAL IMPACT:



Developing key messages, script writing, press releases and graphic design can be accommodated under the existing agreement with Marston+Marston. However, staff will return to your Board through the budget process with costs for implementing other elements of the program such as expanding the auto-dial program, moveable/changeable mobile signs, printing, postage, graphic design, or other related costs.

LEGAL IMPACT:

None.



General Manager

Attachments

Attachment A - *Committee Action Report*

Attachment B - *Draft Drought Communications Plan*



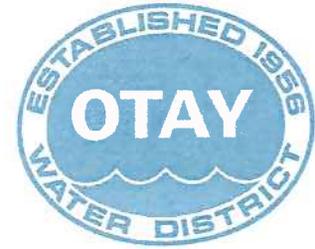
ATTACHMENT A

SUBJECT/PROJECT:	Drought Communications Plan
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COMMITTEE ACTION:

NOTE:

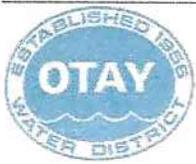
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Otay Water District

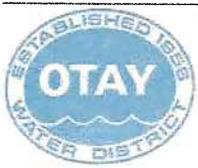
Drought Communications Plan

December 2008



OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

AREA	GOAL	ACTION STRATEGIES	TIME-LINE
GENERAL	Create behavior-changing campaign messages and identify tools to be used to best communicate those messages.	<ol style="list-style-type: none"> 1. Develop Key Messages for Target Audiences 2. Website Updates 3. Explore Utilizing Portable/Changeable Roadway Message Signs <i>Similar to Amber Alert signs but not used on freeway</i> 4. Printed Collateral: <ol style="list-style-type: none"> a) Door Hangers b) Water Ambassador Yard Signs c) Water Ambassador Cling Stickers d) "Drought Timeline" e) Comprehensive "Water Ambassador Kit" for Field Operations Team- see below f) Water Ambassador Magnets g) Squeeze toys 	<p>Dec 08</p> <p>Ongoing</p> <p>Level II or III</p> <p>Jan 09</p>



OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

AREA	GOAL	ACTION STRATEGIES	TIME-LINE
<p><i>RATE-PAYER SUBCATEGORIES</i></p> <ul style="list-style-type: none"> • SINGLE-FAMILY • MULTI-FAMILY (HOA'S AND MANAGEMENT) • COMMERCIAL • INDUSTRIAL • CONSTRUCTION /AG • PUBLIC AGENCIES 	<p><i>General communication tool goals and strategies will be applied to each target audience.</i></p>	<ol style="list-style-type: none"> 1. Printed Collateral: <ol style="list-style-type: none"> a. "Thank You for Conserving" cards b. Drought Update quarterly print and e-newsletter c. Bill Inserts (include Intelligent Inserting) 2. In-house Auto-Dial Drought Messaging Campaign to "high water-users" <ol style="list-style-type: none"> a. Script writing/ Recording b. IT ticket c. Execution 3. Call-Em-All auto-dial drought messaging campaign <ol style="list-style-type: none"> a. Script writing b. Coordinating lists and actions with external company c. Recording d. Execution 	<p>Jan 09</p> <p>Feb 09</p> <p>Feb 09</p> <p>March 09</p> <p>April</p> <p>April</p> <p>April</p> <p>TBD</p> <p>Ongoing</p>



OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

AREA	GOAL	ACTION STRATEGIES	TIME-LINE
		<p><i>Conservation staff will meet with HOAs, landscapers, and other groups to advise them about the drought/water shortage situation and deliver water saving tips and information on conservation programs.</i></p>	Ongoing
OPERATIONS' AND CUSTOMER SERVICE WATER AMBASSADOR KIT	<p>This kit will be created for operators in the field and customer service to equip them with any <i>positive reinforcement</i> materials if opportunities arise where they may need to distribute drought communications</p>	<p>This kit will include:</p> <ul style="list-style-type: none"> • Drought Info Brochure • Water-wise window stickers • Door Hangers • Water Conservation rewards e.g. Water-Wise car wash coupons 	March 09
DEVELOPING AN UPDATED EMAIL DATABASE	<p>LOW WATER-USE CLOTHES WASHER GIVEAWAY:</p> <p>This is a contest we will use in order to gather rate-payers' email addresses.</p>		



OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

AREA	GOAL	ACTION STRATEGIES	TIME-LINE
	<p>The contest will be rooted on-line. Rate-Payers will be driven to the website where a registrant form will be filled out and email addresses will be captured. The give-a-way should be advertised throughout the end of April 2009, culminating in a drawing May 2009.</p> <p>Advertising for this contest should include: Newsletters, bill inserts, website, and on-bill printing.</p> <ol style="list-style-type: none"> 1. Jan 09 Registration Form and announcement on-line 2. Jan/Feb 09 Advertise in Newsletter 3. Feb/Mar 09 Bill Insert 4. May 09 Give away 		
<p>GOV'T/ CIVIC ORGS</p>	<p>To establish strong relationships with all government and political leaders.</p> <p>To equip all government</p>	<ol style="list-style-type: none"> 1. Drought Briefing Booklet <i>This booklet will include:</i> <ul style="list-style-type: none"> ✓ <i>Overview of Current Drought</i> 	<p>March 09</p>



OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

AREA	GOAL	ACTION STRATEGIES	TIME-LINE
	community leaders with the communication tools they need to communicate with constituents	<p><i>Levels and descriptions</i></p> <ul style="list-style-type: none"> ✓ <i>Any affects on rate-payers in the area</i> ✓ <i>Speaking points to communicate with constituents and community</i> <p>2. Breakfast & Briefings <i>This event will be held as a format to inform the leaders of the community of the drought levels and actions to take. Briefing Booklets will be distributed here.</i></p> <p>3. Speakers Bureau <i>The Speakers Bureau will be utilized to</i></p>	<p>March 09</p>



OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

AREA	GOAL	ACTION STRATEGIES	TIME-LINE
		<i>disseminate information to service organizations and other appropriate groups.</i>	
MEDIA	<p>To effectively communicate key drought and conservation messages to strategic public audiences.</p> <p>To position OWD and its rate-payers as leaders in conservation efforts and drought management.</p>	<ol style="list-style-type: none"> 1. Develop a bank of releases that communicate key messages, drought announcements, and milestone events. 2. Develop a series of commentaries to reflect key messages and place in strategic publications within the community <ol style="list-style-type: none"> a. "State of Our Water" by OWD Board Director - author according to district served by publication 	<p>Feb 09</p> <p>March 09</p>



OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

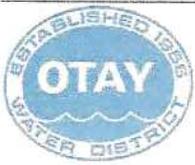
AREA	GOAL	ACTION STRATEGIES	TIME-LINE
RECYCLED WATER	To develop greater support for the use of recycled water, recognition that it is being used for irrigation, and to prevent misunderstanding, concern, or confusion over its use during drought.	<ol style="list-style-type: none"> 1. Develop commentaries in the Star News and other Chula Vista based publications that remind customers about the use of recycled water in their community and that this supply is drought proof 2. Add recycled water facts or article to newsletter 3. Develop more visible recycled water signs 	<p>Feb 09</p> <p>Spring 09</p> <p>June 09</p>



OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

Timetable		
Action Item	Starting	Notes
General Communications: • Develop Key Messages	December – January 2008	
General Communications: • Website Updates • Printed Collateral • HOAs/Speakers Bureau • Recycled Water	January – February 2009 Ongoing March–April	
In-House Auto Dial Conservation Campaign	February - March 2009	
Call-Em-All auto dial Drought Messaging Campaign	April 2009	
Operations Team Water Ambassador Kit	March 2009	
Clothes Washer Giveaway (<i>developing an email database</i>)	January – May 2009	
Government/Civic Organizations • Drought Briefing Booklet • Breakfast and Briefings	March 2009 April – October 2009	
Media Relations	February – October 2009	

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OTAY WATER DISTRICT DROUGHT COMMUNICATIONS PLAN

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18 19 20 21 22 23 24	22 23 24 25 26 27 28	20 21 22 23 24 25 26
25 26 27 28 29 30 31	29 30	27 28 29 30 31



AGENDA ITEM 5

STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	January 7, 2009
SUBMITTED BY:	Kelli Williamson <i>KW</i> Human Resources Manager	W.O./G.F. NO:	DIV. NO. All
APPROVED BY: (Chief)	Rom Sarno, Chief of Administrative Services <i>[Signature]</i>		
APPROVED BY: (Asst. GM):	German Alvarez, Assistant General Manager, Finance and Administration <i>[Signature]</i>		
SUBJECT:	Adopt Resolution No. 4132 Amending the District's 401(a) Plan to include matching employer contributions to certain groups and authorize the General Manager to execute a second amendment to the Adoption Agreement to implement the employee contribution component of the 401(a) Plan at a later date		

GENERAL MANAGER'S RECOMMENDATION:

That the Board of Directors adopt Resolution No. 4132 to:

- 1) Amend the District's 401(a) Plan to include matching employer contributions to certain groups and
- 2) Authorize the General Manager to execute a second amendment to the Adoption Agreement to implement the employee contribution component of the 401(a) Plan at a later date.

COMMITTEE ACTION: _____

See Attachment A.

PURPOSE:

To request that the Board amend the District's 401(a) Plan to permit employer contributions and obtain authority for the General Manager to further amend the District's 401(a) Plan to permit employee contributions.

ANALYSIS:

In October 2004, Resolution No. 4023 was passed authorizing the Otay Water District to establish a 401(a) Terminal Pay Plan with ICMA Retirement Corporation, in which employees age 55 and older are allowed to tax shelter their vacation and sick accruals upon

termination. This Terminal Pay Plan also allows the District and the terminating employee to save on their social security taxes.

In order to enhance the District's retirement plan beyond the current 401(a) Terminal Pay Plan, staff is proposing to add a new component which would allow more flexibility for employees to save for their retirement. The District currently makes a matching contribution to the following groups into their Deferred Compensation 457 Plan: \$1,000 for Confidential Employees and Supervisors, \$3,000 for Managers, and \$5,000 for Senior Management. This proposal would match the employees' contributions into a 401(a) plan instead of matching the contributions into the employees' 457 Deferred Compensation Plan. This would allow the employees to make the maximum contributions into their 457 Deferred Compensation Plan if they wish. Passing Resolution 4132 (Attachment B), would allow employees to save additional pre-tax dollars into their 457 Deferred Compensation Plan, while the District makes the matching contributions into each employee's respective 401(a) Plan.

District staff is also in the process of researching the feasibility for allowing employees to contribute directly into their 401(a) plans during their employment with the District (rather than limiting employee contribution to vacation and sick leave accruals at termination). District staff is working with the General Counsel, special legal counsel on benefits, and the District's 401(a) Plan administrator (the ICMA Retirement Corporation) to develop an employee contribution plan that complies with state and federal law, including applicable IRS regulations.

In order to provide a January 1 implementation date on the employer contribution component of the 401(a) Plan, District staff recommends that the District's Board of Directors approve the following:

- 1) Amended Adoption Agreement submitted with this Staff Report and
- 2) Authorize the General Manager to take all action necessary, including executing a second amendment to the Adoption Agreement, to implement the employee contribution component of the 401(a) Plan once it is fully developed by District staff and legal counsel.

FISCAL IMPACT:



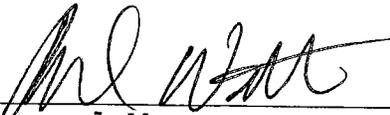
None.

STRATEGIC GOAL:

District's FY 09-11 Strategic Plan related to retaining a dedicated workforce.

LEGAL IMPACT:

None.



General Manager

Attachment A - Committee Action

Attachment B - Resolution No. 4132 Amending the 401(a) Plan to include matching employer contributions to certain groups and authorizing the General Manager to execute a second amendment to the Adoption Agreement to implement the employee contribution component of the 401(a) Plan at a later date.

Attachment C - Amended Adoption Agreement



ATTACHMENT A

SUBJECT/PROJECT:	Approve the adoption of Resolution No. 4132 which will amend the 401(a) Plan to include matching employer contributions to certain groups and authorize the General Manager to execute a second amendment to the Adoption Agreement to implement the employee contribution component of the 401(a) Plan at a later date
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COMMITTEE ACTION:

The Finance/Administration Committee met on December 9, 2008 and the Committee supports Staff's recommendations to approve amending the current 401(a) Plan to include matching employer contributions to certain groups and authorizing the General Manager to execute a second amendment to the Adoption Agreement to implement the employee contribution component of the 401(a) Plan once it is fully developed by District staff and legal counsel.

NOTE:

The "Committee Action" is written in anticipation of the Committee moving the item forward for board approval. This report will be sent to the Board as a committee approved item, or modified to reflect any discussion or changes as directed from the committee prior to presentation to the full board.

ATTACHMENT B

RESOLUTION NO. 4132

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF OTAY WATER DISTRICT
AMENDING THE DISTRICT'S 401(a) MONEY
PURCHASE PLAN**

WHEREAS, on or about January 7, 2004, the Board of Directors ("Board") of the Otay Water District ("District") approved Resolution No. 4005, authorizing the adoption of benefit plans qualified under section 401(a) of the Internal Revenue Code ("Code") to provide supplemental retirement benefits to qualified employees ("401(a) Plan");

WHEREAS, on or about October 6, 2004, the Board approved Resolution No. 4023, establishing the District's 401(a) Plan with ICMA Retirement Corporation in the form of The ICMA Retirement Corporation Governmental Money Purchase Plan & Trust;

WHEREAS, the 401(a) Plan currently allows District employees age 55 and older to tax shelter their vacation and sick accruals upon termination of employment with the District;

WHEREAS, the District currently makes the following matching contributions to the following employee groups into their Deferred Compensation 457 Plan ("457 Plan"):

1. \$1,000 for Confidential Employees and Supervisors
2. \$3,000 for Managers
3. \$5,000 for Department Chiefs
4. \$5,000 for Assistant General Manager
5. \$5,000 for General Manager

WHEREAS, it is the desire of the Board to enhance retirement benefits and provide more flexibility for its employees by expanding the 401(a) Plan to allow the District to make matching contributions into the 401(a) plan rather than the 457 Plan for the above referenced employee groups;

WHEREAS, it is the further desire of the Board to further enhance retirement benefits and provide additional flexibility for its employees by permitting employees in the above referenced employee groups to make contributions into the 401(a) Plan during their employment with the District;

WHEREAS, District staff is in the process of developing the details and requirements for further expanding the 401(a) Plan to allow employee contributions;

WHEREAS, the District has employees rendering valuable services; and

WHEREAS, it is in the best interest of the District and its employees to move forward with implementing the employer matching contribution component forthwith, pending further development of the employee contribution component of the 401(a) Plan.

NOW THEREFORE BE IT RESOLVED, ORDERED AND DETERMINED that the Otay Water District hereby amends its 401(a) Plan to allow employer matching contributions to be made to the 401(a) plan for Confidential Employees, Supervisors and Managers, and Senior Management, pursuant to the specific provisions of the Amended Adoption Agreement in substantially the form of the agreement submitted to the Board as attached;

BE IT FURTHER RESOLVED that the District's General Manager is hereby authorized by the Board to execute the Amended Adoption Agreement.

BE IT FURTHER RESOLVED that the District's General Manager is hereby authorized by the Board to take all necessary and desirable actions, including but not limited to executing a second amendment to the Adoption Agreement, to expand the 401(a) Plan to allow employee contributions by the employee groups referenced herein.

PASSED, APPROVED AND ADOPTED by the Board of Directors of Otay Water District at a regular meeting held this 7th day of January, 2009.

Ayes:
Noes:
Abstain:
Absent:

President

ATTEST:

District Secretary

ATTACHMENT C

DRAFT copy- An updated copy may be provided at the Committee Mtg. on 12/9/08

2009 RESTATEMENT OF ATTACHMENT AND
AMENDMENT TO THE OTAY WATER DISTRICT
401 (A) PLAN (FORMERLY KNOWN AS THE OTAY WATER DISTRICT TERMINAL
PAY PLAN)

This 2009 Restatement of Attachment and Amendment to the Otay Water District 401(a) Plan (Formerly known as the Otay Water District Terminal Pay Plan) is incorporated into and made a part of the Otay Water District 401(a) Plan ("Plan"). Notwithstanding any other provision of the Plan, including, but not limited to, the Adoption Agreement and the Basic Document, the Attachment is restated as follows, effective as of January 1, 2009:

1. New Section 2.12A is added to the Plan to read as follows:

"Deferred Compensation 457 Plan Contributions" means contributions that are allocated to the account of the Participant under the Employer Deferred Compensation 457 Plan.

2. Section 2.21A is added to the Plan to read in full as follows:

2.21A "Sick Leave Pay" means sick leave pay to which a Participant is entitled to be paid by the Employer on or after his or her termination of employment with the Employer.

3. New Section 2.13A is added to the Plan to read as follows:

2.13A "Matching Contributions" means contributions by the Employer that match Deferred Compensation 457 Plan Contributions that are allocated to the account of the Participant under the Employer Deferred Compensation 457 Plan.

4. Section 2.24 is added to the Plan to read in full as follows:

"Vacation Leave Pay" means vacation leave pay to which a Participant is entitled to be paid by the Employer on or after his or her termination of employment with the Employer.

5. Section 4.01 of the Basic Plan Document is revised to read in full as follows:

A. Employer Contributions of Terminal Pay

Contributions will be made by the Employer on behalf of each Participant who has accrued but unpaid Sick Leave Pay and/or Vacation Leave Pay at

the time of such Participant's: (i) termination of employment after he or she has reached Normal Retirement Age, or (ii) death. Such contribution will be deemed to be made effective immediately prior to the Participant's termination of employment with the Employer; provided, however, that all or a portion of the contribution that would otherwise be contributed will not be made to the Plan to the extent such amount cannot be allocated to the Participant's Account by reason of the limitations in Article V of the Plan. Employer contributions will be allocated only to the Account of the Participant on behalf of whom they are made. Contributions will be paid to the Trustee as soon as administratively practicable following the Participant's termination of employment.

B. Employer Matching Contributions

The Employer will make Matching Contributions to the Plan which match the Participant's Deferred Compensation 457 Plan Contributions as follows:

(i) General Manager

100% of Deferred Compensation 457 Plan Contributions up to an annual maximum of \$5,000.

(ii) Assistant General Manager

100% of Deferred Compensation 457 Plan Contributions up to an annual maximum of \$5,000.

(iii) Department Chief

100% of Deferred Compensation 457 Plan Contributions up to an annual maximum of \$5,000.

(iv) Managers

100% of Deferred Compensation 457 Plan Contributions up to an annual maximum of \$3,000.

(v) Supervisor/Confidential

100% of Deferred Compensation 457 Plan Contributions up to an annual maximum of \$1,000.

6. In Section 8.02, each reference to "Plan Administrator" is revised to read "Employer".
7. The following Section 15.01(h) is added to the Plan to read in full as follows:

The Employer (or its delegate) shall have the discretionary authority to interpret the terms of the Plan and to determine eligibility for benefits under the Plan. The Plan Administrator will be subject to the directions of the Employer.

8. Section 15.07 is revised to read in full as follows:

Except as otherwise determined by the Employer (or its delegate), all constructions, determinations and interpretations made by the Plan Administrator pursuant to Section 15.02(a) or (d) shall be final and binding on all persons participating in the Plan. Decisions by the Plan Administrator and the Employer shall be given deference in all courts of law to the greatest extent allowed by applicable law.

IN WITNESS WHEREOF, the Employer hereby causes this 2009 Restatement of Attachment and Amendment to the Plan to be executed on this ___ day of _____, 2008.

EMPLOYER

By: _____

Title: _____

Draft Copy- An updated copy may be provided at the Committee Mtg. on 12/9/08

ICMA RETIREMENT CORPORATION
GOVERNMENTAL MONEY PURCHASE PLAN & TRUST
ADOPTION AGREEMENT

PLAN NUMBER 10-8655

The Employer hereby establishes a Money Purchase Plan and Trust to be known as Otay Water District 401(a) Plan (formerly known as The Otay Water District Terminal Pay Plan) (the "Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust (MPP 01/01/06).

This Plan is an amendment and restatement of an existing defined contribution money purchase plan.

X Yes _____ No

If yes, please specify the name of the defined contribution money purchase plan which this Plan hereby amends and restates:

The Otay Water District Terminal Pay Plan

Effective Date: **January 1, 2009**
Summary of Change: **Contribution Provisions**

I. Employer: Otay Water District

II. The Effective Date of the Plan shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate Effective Date is hereby specified: 1/1/04 (e.g., January 1, 2006 for the MPP 01/01/06 Plan)

III. Plan Year will mean:

(X) The twelve (12) consecutive month period which coincides with the limitation year. (See Section 5.03(f) of the Plan.)

() The twelve (12) consecutive month period commencing on _____ and each anniversary thereof.

IV. Normal Retirement Age shall be age 55 (not to exceed age 65).

V. ELIGIBILITY REQUIREMENTS

1. The following group or groups of Employees are eligible to participate in the **Terminal Pay Plan**:

 X All Employees (**For Terminal Pay Plan Only**)
 All Full-Time Employees

The following groups of Employees are eligible to participate in the Terminal Pay Plan and the Employer Matching Contribution Plan.

 X Supervisor / Confidential
 X Department Chief
 X Management
 X Assistant General Manager
 X General Manager
 Other (specify below)

The group specified must correspond to a group of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other material in effect in the state or locality of the Employer.

2. The Employer hereby waives or reduces the requirement of a twelve (12) month Period of Service for participation. The required Period of Service shall be N/A (write N/A if an Employee is eligible to participate upon employment).

If this waiver or reduction is elected, it shall apply to all Employees within the Covered Employment Classification.

3. A minimum age requirement is hereby specified for eligibility to participate. The minimum age requirement is 21 (not to exceed age 21. Write N/A if no minimum age is declared.)

VI. CONTRIBUTION PROVISIONS

1. The Employer shall contribute as follows (choose all that apply):

() Fixed Employer Contributions With or Without Mandatory Participant Contributions.

A. Fixed Employer Contributions. The Employer shall contribute on behalf of each Participant ___% of Earnings matching dollar for dollar (subject to the limitations of Article V of the Plan). Mandatory Participant Contributions

__ are required

_____ are not required
to be eligible for this Employer Contribution.

B. Mandatory Participant Contributions for Plan Participation. A Participant is required to contribute (subject to the limitations of Article V of the Plan)

- (i) _____% of Earnings,
- (ii) \$_____, or
- (iii) a whole percentage of Earnings between the range of _____ (*insert range of percentages between 0% and 20% (e.g., 3%, 6%, or 20%; 5% to 7%)*), as designated by the Employee in accordance with guidelines and procedures established by the Employer

for the Plan Year as a condition of participation in the Plan. A Participant shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

The Employer hereby elects to "pick up" the Mandatory Participant Contributions.¹

_____ Yes _____ No

() **Fixed Employer Match of Voluntary Participant Contributions.**

The Employer shall contribute on behalf of each Participant _____% of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has contributed _____% of Earnings or \$_____. Under this option, there is a single, fixed rate of Employer contributions, but a Participant may decline to make the required Participant contributions in any Plan Year, in which case no Employer contribution will be made on the Participant's behalf in that Plan Year.

() **Variable Employer Match of Voluntary Participant Contributions.**

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

¹ Neither an IRS advisory letter nor a determination letter issued to an adopting Employer is a ruling by the Internal Revenue Service that Participant contributions that are picked up by the Employer are not includable in the Participant's gross income for federal income tax purposes.

_____% of the Voluntary Participant Contributions made by the Participant for the Plan Year (not including Participant contributions exceeding ____% of Earnings or \$_____);

PLUS ____% of the contributions made by the Participant for the Plan Year in excess of those included in the above paragraph (but not including Voluntary Participant Contributions exceeding in the aggregate ____% of Earnings or \$_____).

Employer Matching Contributions on behalf of a Participant for a Plan Year shall not exceed \$_____ or ____% of Earnings, whichever is ___ more or ___ less.

2. Each Participant may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Section 4.05 and Article V of the Plan.

____ Yes X No

3. Employer contributions shall be contributed to the Trust in accordance with the following payment schedule:

4. Participant contributions shall be contributed to the Trust in accordance with the following payment schedule:

VII. EARNINGS

Earnings, as defined under Section 2.09 of the Plan, shall include:

- (a) Overtime

____ Yes X No

- (b) Bonuses

____ Yes X No

- (c) Other

VIII. The Employer will permit rollover contributions in accordance with Section 4.11 of the Plan.

___ Yes X No

IX. **LIMITATION ON ALLOCATIONS**

If the Employer maintains or ever maintained another qualified plan in which any Participant in this Plan is (or was) a participant or could possibly become a participant, the Employer hereby agrees to limit contributions to all such plans as provided herein, if necessary in order to avoid excess contributions (as described in Sections 5.02 of the Plan).

1. If the Participant is covered under another qualified defined contribution plan maintained by the Employer, the provisions of Section 5.02(a) through (f) of the Plan will apply unless another method has been indicated below.

() Other Method. (Provide the method under which the plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any excess amounts, in a manner that precludes Employer discretion.)

N/A

2. The limitation year is the following 12-consecutive month period: January 1 through December 31

X. **VESTING PROVISIONS**

The Employer hereby specifies the following vesting schedule, subject to (1) the minimum vesting requirements and (2) the concurrence of the Plan Administrator.

<u>Years of Service Completed</u>	<u>Percent Vested</u>
Zero	<u> 100 </u> %
One	___ %
Two	___ %
Three	___ %
Four	___ %
Five	___ %
Six	___ %
Seven	___ %
Eight	___ %
Nine	___ %
Ten	___ %

XI. Loans are permitted under the Plan, as provided in Article XVII:

_____ Yes X No

XII. Age 70-1/2 in-service distributions are permitted under the Plan as provided in Section 9.08.

X Yes _____ No

XIII. In-service distributions of the Rollover Account are permitted under the Plan as provided in Section 9.07.

_____ Yes X No

XIV. SPOUSAL PROTECTION

The Plan will provide the following level of spousal protection (select one):

_____ A. Participant Directed Election. The normal form of payment of benefits under the Plan is a lump sum. The Participant can name any person(s) as the Beneficiary of the Plan, with no spousal consent required.

X B. Beneficiary Spousal Consent Election (Article XII). The normal form of payment of benefits under the Plan is a lump sum. Upon death, the surviving spouse is the Beneficiary, unless he or she consents to the Participant's naming another Beneficiary. (This is the default provision under the Plan if no selection is made.)

_____ C. QJSA Election (Article XVII). The normal form of payment of benefits under the Plan is a 50% qualified joint and survivor annuity with the spouse (or life annuity, if single). In the event of the Participant's death prior to commencing payments, the spouse will receive an annuity for his or her lifetime.

XV. The Employer hereby attests that it is a unit of state or local government or an agency or instrumentality of one or more units of state or local government.

XVI. The Plan Administrator hereby agrees to inform the Employer of any amendments to the Plan made pursuant to Section 14.05 of the Plan or of the discontinuance or abandonment of the Plan.

XVII. The Employer hereby appoints the ICMA Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST.

The Employer hereby agrees to the provisions of the Plan and Trust.

XVIII. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

XIX. An adopting Employer may rely on an advisory letter issued by the Internal Revenue Service as evidence that the Plan is qualified under section 401 of the Internal Revenue Code to the extent provided in applicable IRS revenue procedures and other official guidance.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this _____ day of _____, 200__.

EMPLOYER

ICMA RETIREMENT CORPORATION
777 North Capital St., NE
Washington, DC 20002-4290
202-962-8096

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____