

OTAY WATER DISTRICT
ENGINEERING, OPERATIONS & WATER RESOURCES COMMITTEE MEETING
and
SPECIAL MEETING OF THE BOARD OF DIRECTORS

2554 SWEETWATER SPRINGS BOULEVARD
SPRING VALLEY, CALIFORNIA
Board Room

TUESDAY
January 21, 2014
12:00 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 PROFESSIONAL AS-NEEDED SERVICES CONSULTING SERVICES CONTRACT WITH DR. MICHAEL WELCH IN AN AMOUNT NOT-TO-EXCEED \$100,000 FOR FISCAL YEARS 2014 THROUGH 2019 (KENNEDY) [5 minutes]
4. APPROVE CHANGE ORDER NO. 1 TO THE EXISTING CONTRACT WITH ADVANCED INDUSTRIAL SERVICES, INC. FOR A CREDIT IN THE AMOUNT OF <\$73,338.63> FOR THE 803-3 AND 832-2 RESERVOIRS INTERIOR/EXTERIOR COATINGS AND UPGRADES PROJECT (MARTIN) [5 minutes]
5. APPROVE A RENEWAL TO THE “AGREEMENT FOR THE TEMPORARY EMERGENCY DELIVERY OF A PORTION OF THE MEXICAN TREATY WATERS.” (PORRAS) [5 minutes]
6. SAN DIEGO COUNTY WATER AUTHORITY UPDATE (WATTON) [10 minutes]
7. ADJOURNMENT

BOARD MEMBERS ATTENDING:

David Gonzalez, Chair

Gary Croucher

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 that 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 January 17, 2014 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 January 17, 2014.

/s/ Susan Cruz, District Secretary

AGENDA ITEM 3



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 5, 2014
SUBMITTED BY:	Bob Kennedy Engineering Manager	PROJECT:	Various DIV. NO. All
APPROVED BY:	<input checked="" type="checkbox"/> Rod Posada, Chief, Engineering <input checked="" type="checkbox"/> German Alvarez, Assistant General Manager <input checked="" type="checkbox"/> Mark Watton, General Manager		
SUBJECT:	Award of a Professional As-Needed Consulting Services Contract for Fiscal Years 2014 through 2019		

GENERAL MANAGER'S RECOMMENDATION:

That the Otay Water District (District) Board of Directors (Board) authorize the General Manager to execute a Professional As-Needed Consulting Services Agreement with Dr. Michael Welch in an amount not-to-exceed \$100,000 for Fiscal Years 2014 through 2019.

COMMITTEE ACTION:

Please see Attachment A.

PURPOSE:

To obtain Board authorization for the General Manager to enter into a Professional As-Needed Consulting Services Agreement with Dr. Michael Welch in an amount not-to-exceed \$100,000 for Fiscal Years 2014 through 2019 (see Attachment D).

ANALYSIS:

Dr. Welch has more than a 30 year history in assisting the District in groundwater, recycled water, drinking water, and seawater desalination facilities planning and regulatory issues. In the 1980s, he assisted the District in securing original permit approvals for the Ralph W. Chapman Water Recycling Facility and the District's

"purple pipe" recycled water system. He assisted the District in the 1990s and 2000s in recycled water use regulatory compliance and investigating groundwater supply development opportunities. More recently, he assisted the District in complying with Salt and Nutrient Management provisions of the 2009 State Recycled Water Policy. He is currently assisting the District in addressing the California Department of Public Health and other regulatory issues associated with seawater desalination.

Given the many challenges in advancing this desalination project, the District will benefit by retaining the services of a consultant to advise the board and management on matters concerning desalination water quality, requirements of the California Department of Public Health, and the Regional Water Quality Control Board among other subjects related to water resources development opportunities.

Staff is recommending the engagement of Dr. Welch as a sole source consultant based on his experience and knowledge in these matters (see Resume and Business Information, Attachments B and C). Dr. Welch has been engaged as a consultant to the District in a similar capacity under the General Manager's authority since 2009 and his analysis, reporting, and expertise has been of benefit to the District on many different subjects. With Dr. Welch's efforts, the District has established very important contacts and relationships with various regulatory agencies. This has resulted in a better understanding of the various projects and initiatives by local, state, and federal agencies. Dr. Welch's billing rate is \$150/hour.

In addition to the Otay Mesa Conveyance and Disinfection System project, there are other opportunities for Dr. Welch to help the District, including but not limited to, recycled water regulations, groundwater regulations, potable water quality regulations, and water treatment alternatives. Dr. Welch will continue to provide valuable insight and assistance in these efforts.

FISCAL IMPACT: Joe Beachem, Chief Financial Officer

The funds for this contract will be expended for a variety of projects, as previously noted above. This contract is for as-needed professional services based on the District's need and schedule, and expenditures will not be made until a task order is approved by the District for the consultant's services on a specific CIP project. The District also has the option of terminating this agreement on a ten (10) calendar days' notice.

Based on a review of the financial budgets, the Project Manager anticipates that the budgets will be sufficient to support the

professional as-needed consulting services required for the CIP projects noted above.

The Finance Department has determined that the funds to cover this contract are available as budgeted for these projects.

STRATEGIC GOAL:

This supports the District's Mission statement, "To provide high value water and wastewater services to the customers of Otay Water District, in a professional, effective, and efficient manner" and the District's Strategic Goal, "To satisfy current and future water needs for potable, recycled, and wastewater services."

LEGAL IMPACT:

None.

BK:RP/jf

P:\WORKING\CIP P2451 Desalination Feasibility Study\Staff Reports\Board 2-5-14 M Welch\BD 02-05-14, Staff Report, Award of Consulting Services Contract to Michael Welch, (BK).docx

Attachments: Attachment A - Committee Action
Attachment B - Resume
Attachment C - Business Information
Attachment D - Agreement



ATTACHMENT A

SUBJECT/PROJECT: Various	Award of a Professional As-Needed Consulting Services Contract for Fiscal Years 2014 through 2019
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee (Committee) reviewed this item at a meeting held on January 21, 2014. The Committee supported Staff's recommendation.

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

MICHAEL R. WELCH, Ph.D., P.E. CONSULTING ENGINEER

REGISTRATION California, 1979, Civil Engineer, No. 30990

EDUCATION Ph.D., 1988, Civil Engineering, University of California, Irvine, California
M.S., 1977, Civil Engineering, Stanford University, Stanford, California
B.S., 1977, Civil Engineering, Stanford University, Stanford, California.

PROFESSIONAL MEMBERSHIPS American Society of Civil Engineers
American Water Works Association
California Water Environment Association
Water Environment Federation

HONORARY MEMBERSHIP Tau Beta Pi

EXPERIENCE AND PROFESSIONAL BACKGROUND

Dr. Welch has over thirty-six years experience in planning and implementing Southern California recycled water, wastewater, groundwater, water, and desalination projects. Dr. Welch has served as an independent consultant since 1994, and specializes in assisting municipalities and public agencies in evaluating regulatory compliance with state and federal water quality regulations, state and federal drinking water regulations, and state public health regulations.

Dr. Welch has more than a 30 year history in assisting the Otay Water District in groundwater, recycled water, drinking water, and seawater desalination facilities planning and regulatory issues. In the 1980s, he assisted the District in securing original permit approvals for the Ralph W. Chapman Water Recycling Facility and the District's "purple pipe" recycled water system. He assisted the District in the 1990s and 2000s in recycled water use regulatory compliance and investigating groundwater supply development opportunities. More recently, he has assisted the District in addressing regulatory issues associated with seawater desalination.

In addition to the Otay Water District, Dr. Welch has assisted a number of other Southern California clients in water, recycled water, and wastewater regulatory compliance, including:

Seawater Desalination. Dr. Welch served as a regulatory consultant to Poseidon Resources Corporation's proposed seawater desalination facilities in Carlsbad and Huntington Beach, California. In this capacity, he assisted Poseidon in assessing brine discharge impacts, preparing Environmental Impact Reports, addressing California Department of Public Health issues, addressing Regional Water Quality Control Board issues, and obtaining NPDES permits for the discharge of waste brine to the ocean from Poseidon's Carlsbad and Huntington Beach facilities.

Reservoir Augmentation. Dr. Welch serves as a regulatory consultant on the City of San Diego Water Purification Demonstration Project team that obtained in 2012 concept approval from the California Department of Public Health and Regional Water Quality Control Board for the discharge of highly purified recycle water to San Vicente Reservoir. He is also currently assisting the Rancho California Water District and City of Escondido in assessing the feasibility of indirect potable recharge to potable water storage reservoirs.

In the early 1990s, Dr. Welch prepared the original San Diego County Water Authority concept feasibility study assessing the potential for discharging highly purified recycled water to San Vicente Reservoir. Subsequently in the mid-1990s, he served as one of three principal investigators that led the City of San Diego team that refined the reservoir augmentation concept and obtained the first-ever concept approval from the State of California Department of Public Health for the proposed discharge of purified recycled water to a drinking water reservoir.

Salinity and Brine Management. In 2006, Dr. Welch prepared a study for the San Diego County Water Authority that assessed salinity impacts and salinity management options for the Region's imported water supplies, local groundwater supplies, and local recycled water supplies.

He is currently assisting the National Water Research Institute in preparing an issues paper that addresses compliance issues and strategies associated with the ocean discharge of waste brine. Additionally, he has assessed brine management and disposal options and assisted clients in obtaining NPDES permits for the:

- City of Escondido discharge from the City's Industrial Brine Collection System (IBCS),
- City of Carlsbad recycled water demineralization facility discharge to the Encina Ocean Outfall,
- discharges of brackish groundwater brine to the South Orange County Wastewater Authority San Juan Creek Ocean Outfall and Aliso Creek Ocean Outfall, and
- City of Oceanside groundwater demineralization discharge to the Oceanside Ocean Outfall.

Groundwater Evaluations. Dr. Welch has served as lead investigator in a wide variety of groundwater quality or groundwater management efforts that involve recycled water discharges, including:

- preparing a County-wide groundwater resource development plan for the San Diego County Water Authority that assessed groundwater resources and identified and evaluated potential groundwater projects in each of the County's major watersheds.
- preparing a recycled water recharge/groundwater recovery feasibility study for the Yucaipa Valley Water District.
- for the City of San Diego, assessing groundwater availability and preparing a study that developed concept-level extraction, treatment, and conveyance facilities for a proposed groundwater demineralization facility near Qualcomm Stadium.
- for the City of Oceanside, evaluating groundwater pumping impacts, preparing preliminary facilities studies, and preparing a CEQA Environmental Assessment for the expansion (from 2 mgd to 6.37 mgd) of the City's Mission Basin brackish groundwater desalting facility.
- participating on a team that investigated the potential for recycled water groundwater recharge within the Santee/El Monte basin as part of projects for the Padre Dam Municipal Water District and Helix Water District.
- preparing an environmental impact report/environmental impact statement for the U.S. Marine Corps, Camp Pendleton that assessed effects wastewater percolation operations on groundwater-dependent vegetation.

Salt and Nutrient Management Plans. Dr. Welch has served as lead investigator in a variety of efforts directed toward complying with Salt and Nutrient Management Plan (SNMP) provisions of the 2009 State Recycled Water Policy. For the Southern California Salinity Coalition and National Water Research Institute, Dr. Welch coordinated with the Regional Board and Southern California water and recycled water agencies and prepared guidelines for the development of SNMPS. Subsequent to Regional Board adoption of the SNMP guidelines in 2010, Dr. Welch has assisted numerous San Diego Region agencies in preparing SNMP work scopes/scoping plans, coordinating with stakeholders, and preparing/reviewing SNMPS, including efforts for the:

- Padre Dam Municipal Water District,
- Ramona Municipal Water District,

- Rancho California Water District,
- South Orange County Wastewater Authority,
- City of Escondido/Rincon Del Diablo Municipal Water District,
- U.S. Marine Corps Camp Pendleton, and
- City of San Diego.

Municipal Wastewater Discharges. Dr. Welch's experience in municipal wastewater discharge regulations includes:

- preparing NPDES permit application documents and assessing impacts of effluent discharges for the following ocean outfalls:
 - City of Oceanside discharge to the Oceanside Ocean Outfall,
 - South Orange County Wastewater Authority discharges to the Aliso Creek and San Juan Ocean Outfalls,
 - U.S. Marine Corps Base Camp Pendleton discharge to the Oceanside Ocean Outfall,
 - Encina Wastewater Authority discharge to the Encina Ocean Outfall,
 - City of Carlsbad discharge to the Encina Ocean Outfall,
 - San Elijo Joint Powers Authority discharge to the San Elijo Ocean Outfall,
 - City of Escondido discharge to the San Elijo Ocean Outfall, and
 - City of San Diego discharge to the South Bay Ocean Outfall.
- serving as lead consultant for the City of San Diego's successful 1995, 2001 and 2007 applications to EPA and the Regional Board for Clean Water Act Section 301(h) modified secondary treatment requirements for the discharge of advanced primary effluent to the Point Loma Ocean Outfall.
- investigating wet weather wastewater disposal/handling alternatives for the City of San Diego North City WRP and City of Escondido Hale Avenue Resource Recovery Facility.
- preparing NPDES permit application documents, assessing Basin Plan surface water quality objectives, and assessing recycled water stream discharge impacts for the following recycled water stream discharge projects: Padre Dam Municipal Water District discharge to the San Diego River, the City of Escondido discharge to Escondido Creek, U.S. Marine Corps Base Camp Pendleton discharge to the Santa Margarita River, and Rancho California Water District discharge to Murrieta Creek.

Recycled Water Projects. Dr. Welch's experience with recycled water irrigation projects includes serving as lead author and investigator for preparing waste discharge permit applications, assessing Basin Plan water quality compliance, performing basin salt balances, evaluating recycled water impacts, and securing discharge permits for the following facilities:

- City of Carlsbad WRP,
- City of Escondido Hale Avenue Resource Recovery Facility,
- City of Oceanside San Luis Rey WRP,
- City of San Clemente WRP,
- City of San Diego North City WRP,
- City of San Diego South Bay WRP,
- City of Carlsbad WRP,
- Olivenhain MWD 4S Ranch WRP,
- Padre Dam MWD WRP,
- Rancho California Water District Santa Rosa WRP,
- Rancho Santa Fe Water District Santa Fe Valley WRP,
- San Elijo Joint Powers Authority WRP,
- Valley Center MWD Live Oak Ranch WRP, and
- Valley Center MWD Woods Valley Ranch Water Reclamation Plant (WRP).

Dr. Welch authored salinity management and Basin Plan compliance sections of the U.S. Bureau of Reclamation Southern California Phase I and Phase II Water Reuse Studies. Dr. Welch also served as principal author and investigator for recycled water plans that assessed impacts and Basin Plan compliance issues for the City of San Diego and Rancho California Water District. He also participated on consulting teams that prepared recycled water master plans for the U.S. Marine Corps Base, Camp Pendleton, Encina Wastewater Authority, Padre Dam Municipal Water District, City of Oceanside, and City of Victorville.

Watershed Protection. Dr. Welch is currently serving as a regulatory consultant in the effort to update the San Diego Region Integrated Regional Water Resources (IRWM) plan. Dr. Welch's experience in other watershed protection efforts includes:

- serving as lead technical author on the 2007 San Diego Region Integrated Regional Water Management Plan for the San Diego County Water Authority, City of San Diego, and County of San Diego that evaluated water resources and watershed protection needs within the San Diego Region.
- participating on consulting teams that prepared watershed management plans for the San Diego River Watershed and Santa Margarita River Watershed.
- participating on teams that prepared watershed source control/sanitary surveys for the City of San Diego Water Department for watersheds tributary to Sutherland, Hodges, Murray, Jennings, El Capitan, San Vicente, Barrett, Morena, and Otay Reservoirs.
- preparing and updating Sanitary Sewer Overflow Prevention Plans and Sanitary Sewer Overflow Emergency Response Plans for the City of San Clemente, and preparing a Sanitary Sewer Management Plan for the City of San Clemente.
- preparing sanitary survey/vulnerability assessments that evaluated compliance with source water protection regulations for City of San Clemente and City of Oceanside groundwater wells.

Industrial Pretreatment. Dr. Welch's industrial pretreatment project experience includes:

- developing industrial waste pretreatment programs for Rancho California Water District and Elsinore Valley Municipal Water District.
- developing recommended local industrial sewer discharge limits for the Elsinore Valley Municipal Water District, Rancho California Water District, and City of San Clemente.
- providing as-needed industrial pretreatment services for the Rancho California Water District, City of Escondido, City of San Clemente, and City of San Diego.

NBS/Lowry Experience. Prior to becoming an independent consultant in 1994, Dr. Welch served for 14 years as a vice president and principal engineer with NBS/Lowry Engineers and Planners. His experience with NBS/Lowry (1980-1994) included serving as project manager and/or principal investigator on the following:

- for the City of Oceanside, preparing a comprehensive water management plan that included the original concept and facilities planning for the City of Oceanside Mission Basin Groundwater Desalting Facility.
- preparing a conceptual groundwater management plan for the Otay Water District and Sweetwater Authority that evaluated groundwater treatment, and management alternatives for developing groundwater supply within the Middle Sweetwater River basin.
- assessing the applicability of Basin Plan surface water quality objectives, and preparing applications that resulted in the modification of Regional Board Basin Plan surface water quality objectives for TDS the Ysidora, DeLuz, and Wolf basins within the Santa Margarita River watershed.

- for Fallbrook Public Utility District, preparing a groundwater conjunctive use facilities plan (including filtration and membrane treatment) for complying with state and federal drinking water standards and surface water treatment regulations.
- developing a recycled water master plan for the Rancho California Water District.
- assessing the applicability of Basin Plan water quality objectives, and preparing applications that resulted in the modification of Regional Board Basin Plan groundwater quality objectives for the following basins:
 - Pauba HSA 2.51 (for the Eastern Municipal Water District),
 - Wolf HSA 2.52 (for the Eastern Municipal Water District),
 - DeLuz HA 2.2 (for the Rancho California Water District),
 - Valley Center HSA 3.14 (for the Valley Center Municipal Water District),
 - Mission San Diego HSA 7.11 (for the Padre Dam Municipal Water District),
 - Poway HA 6.2 (for the City of Poway),
 - Salt Creek and Poggi Canyon Portion of Otay HA (for the Otay Water District), and
 - Telegraph Canyon HSA 9.11 (for the Otay Water District).
- performing assimilative capacity analyses that assessed compliance of proposed water reclamation projects with Basin Plan groundwater quality objectives for Rancho California Water District, Padre Dam Municipal Water District, and City of Escondido.
- for the City of San Diego, preparing a groundwater resources feasibility study for the Tijuana basin, and preparing a conceptual strategies report assessing groundwater/reclaimed water regulatory and institutional constraints within the San Pasqual, San Dieguito, Poway, Santee/El Monte, Mission San Diego, Lower Sweetwater, and Lower Tijuana basins.
- developing a recycled water groundwater recharge/recovery plan for the Valley Center Municipal Water District.
- preparing facilities plans and performing environmental analyses (including evaluation of streamflow impacts on downstream groundwater basins) for proposed reclaimed water live stream discharge projects for the Padre Dam Municipal Water District (San Diego River), Fallbrook Sanitary District (Pilgrim Creek), City of San Diego (San Diego River), Eastern Municipal Water District (Santa Margarita River), and Rancho California Water District (Murrieta Creek).
- preparing a wastewater facilities plan for the County of San Diego that assessed the potential for groundwater recharge within the Santee/El Monte basin groundwater basin.
- preparing conceptual groundwater management plans for the lower Santa Margarita River basin (Camp Pendleton, Fallbrook Public Utility District, Eastern Metropolitan Water District, and Rancho California Water District), and the Paula/Temecula aquifers of the upper Santa Margarita River basin (Rancho California Water District).
- assessing for the U.S. Navy groundwater availability and water quality impacts associated with wastewater disposal practices at the Naval Air Station, Lemoore, California, and designing facilities to intercept lateral seepage from percolation ponds at Lemoore Naval Air Station.
- developing permit applications, performing groundwater hydrogeologic investigations of impacts of reclaimed water use on groundwaters, and assessing compliance with Basin Plan, water quality objectives, state water reclamation requirements, and public health regulations for recycled water projects proposed by the following projects and clients: Otay Water District; City of Escondido; Ramona Municipal Water District; Valley Center Municipal Water District; Santa Margarita Water District; Moulton Niguel Water District; Rancho California Water District; and Eastern Municipal Water District.

- developing industrial waste pretreatment programs for the Aliso Water Management Agency and Southeast Regional Reclamation Authority (now South Orange County Wastewater Authority).
- investigating compliance with State of California groundwater recharge guidelines for a recycled water project jointly proposed by Fallbrook Public Utility District, U.S. Marine Corps Base Camp Pendleton, Rancho California Water District, and Eastern Municipal Water District.

Regional Water Board Experience. Prior to joining NBS/Lowry in 1980, Dr. Welch served as an associate engineer with the California Regional Water Quality Control Board in San Diego. His duties included assessing Basin Plan water quality objectives and compliance; inspecting and evaluating wastewater facilities; performing special studies assessing the quality of ground and surface waters and water quality impacts resulting from wastewater or recycled water operations; coordinating review and approval of recycled water projects and onsite wastewater treatment systems with the State Department of Public Health and San Diego County Department of Environmental Health; and preparing discharge permits and enforcement orders.

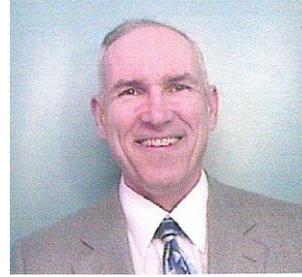
University Research. At Stanford University, Dr. Welch's research projects included assessing alternatives for treating wastewater containing high oxygen demand loads. While at Stanford, he was employed as a research assistant by the U.S. Geological Survey and performed laboratory analyses and experiments investigating pollutant transport through saturated soils.

At the University of California, Irvine, Dr. Welch's research evaluated relations among groundwater pumping, the availability of soil water in near surface soils, and transpirative water losses from native vegetation in Owens Valley, California. This research was performed with support from the U.S. Geological Survey, Los Angeles Department of Water and Power, and County of Inyo.

ATTACHMENT C



Michael R. Welch, Ph.D., P.E.
CONSULTING ENGINEER



BUSINESS INFORMATION

Michael R. Welch, Ph.D., P.E. is a one-person, sole proprietorship firm dedicated to providing quality, value-priced services to municipalities, water agencies, wastewater agencies, and water resources clients. Dr. Welch specializes in wastewater, recycled water, groundwater, and water supply regulations, and he has over thirty-six years experience in planning, permitting, and implementing Southern California water resources and wastewater projects.

Legal Form of Business:	Sole Proprietorship	
Office Location:	2735 San Clemente Terrace San Diego, CA 92122-4030 Telephone: (858) 625-0167 FAX: (858) 625-0267 email: mwelch1@san.rr.com	
Number of Employees:	One Employee (Michael R. Welch, Ph.D., P.E.)	
Year Business Started:	1994	
Insurance:	Errors & Omission (occurrence)	\$1,000,000
	Errors & Omission (aggregate)	\$1,000,000
	General Liability (occurrence)	\$1,000,000
	General Liability (aggregate)	\$2,000,000
	Commercial Auto	\$1,000,000
Billing Rates:	Professional Services	\$150 per hour
	Travel within Southern California	No Charge ¹
	Printing	No Charge ¹
	Direct Cost Markup	None
	Telephone, FAX, Computers	No Charge ¹

¹ Costs included as part of hourly billing rate overhead.

ATTACHMENT D

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
OTAY WATER DISTRICT
AND
MICHAEL R. WELCH, Ph.D., P.E.
FOR
ENGINEERING SERVICES**

This Professional Services Agreement (“Agreement”) is made and entered into this _____ day of February, 2014 by and between the OTAY WATER DISTRICT, a municipal water district formed and existing pursuant to the California Municipal Water District Act of 1911, as amended, hereinafter referred to as “District,” and Michael R. Welch, Ph.D., P.E., a sole proprietor, hereinafter referred to as “Consultant.”

RECITALS

WHEREAS, the District requires the services of a licensed professional engineering consultant to render certain technical and professional services described below; and

WHEREAS, the Consultant has available, and offers to provide, personnel and facilities necessary to accomplish the work within the required time, and has represented that it is qualified by experience and ability to perform the services desired by District.

NOW, THEREFORE, District and Consultant mutually agree as follows:

I. Scope of Professional Services

The Consultant agrees to perform those services described in the Scope of Work set forth in Exhibit “A” attached hereto and incorporated herein by reference.

II. Authorization; Term

Specific authorization to proceed with the work described in Exhibit ‘A’ is hereby granted. Upon receipt of a fully executed Agreement from the District, the Consultant shall proceed with the work described in Exhibit ‘A’; provided that more specific requests for certain services therein listed may be made by the District.

This Agreement shall become effective on the date first above written and expires on June 30, 2019 (the “Term”). This Agreement may be terminated or amended as provided below and may be extended in a writing signed by both parties to the expiration of the Term.

III. Compensation

In return for the Consultant’s satisfactory performance of the services described in Exhibit ‘A’, as hereafter amended (the “Scope of Work”), the District agrees to pay

compensation up to an amount not-to-exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), payable in proportion to the work completed, as further described in the paragraph below. Total compensation for all Professional Services provided under this agreement shall not exceed such amount during the term of this agreement without prior written authorization from the District.

The Consultant shall invoice the District on a monthly schedule in the format shown in Exhibit 'B' and 'C'. To the extent the provisions of Exhibit 'B and 'C' are ambiguous in relation to the provisions of this Agreement, inconsistent with the provisions of this Agreement, or expand upon the provisions of this Agreement, the provisions of this Agreement shall take precedence and the provisions of Exhibit 'B' and 'C' shall not apply. The Consultant shall not invoice the District for work that has not been completed at the time the invoice is prepared. The District shall have forty-five (45) days from the date of receipt of error-free invoices prepared in accordance with Exhibit 'B' and 'C' to make payment without incurring interest and/or penalty charges.

The Consultant will not be allowed to markup any subconsultant's work. A maximum markup of 10% will be allowed on all reimbursable costs. Reimbursable costs are defined as only vehicle mileage, printing costs, and courier services. Reimbursable expenses will be included in the total contract amount.

IV. Standard of Care

A. The Consultant is employed to render the services specified herein and the Scope of Work only, and any payment made to the Consultant is compensation solely for such services as are satisfactorily rendered. The Consultant's services shall be furnished in good faith, in compliance with best practices for its profession and with the standard of care generally employed by professionals licensed and qualified to perform such services within the State of California.

B. Unless disclosed in writing prior to the date of this Agreement, the Consultant warrants to the District that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the Consultant's professional performance or the furnishing of materials or services relating thereto.

V. Documents

All original drawings, spreadsheets and documents, including digital photographs and files developed for the project, shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the District, except as otherwise provided in Section VIII: Termination or Abandonment.

The Consultant shall provide final documents on compact disk (CD). Final drawings and details shall be in AutoCAD® 2010 format or more recent. Final Contract Specifications, reports, and spreadsheets shall be in Microsoft® Office 2010 format or more recent. Any other electronic format documents provided to the District must be formatted to the same software version or release as that of the District.

VI. Performance and Schedule

The Consultant agrees to coordinate the Scope of Work to ensure its timely completion in accordance with the agreed upon schedule, and shall promptly notify the District of any anticipated delays, which may affect the work schedule. In the event the time for completing the Scope of Work is exceeded due to circumstances beyond the control of the Consultant, the Consultant shall have an additional amount of time to be agreed upon in writing between the parties in which to complete the work.

VII. Change in Scope of Work

Only additional services approved and requested specifically by District, in writing, shall constitute the basis of a change, addition or modification to the Scope of Work. Consultant is responsible for ensuring that no work or services outside the Scope of Work are performed or invoiced.

If District requests performance of any services not within the Scope of Work, Consultant shall notify District immediately and shall indicate that no such work will be performed until approved by the District in writing. Concurrently with such notice, the Consultant shall provide District a written cost estimate for, and a written description of, each additional task to be performed.

The extent of additional work required, any additional compensation shall be negotiated by the parties and, if an agreement is reached, the parties will execute an amendment to Exhibit 'A' and to any other exhibits and/or this Agreement, to the extent required to reflect such additional work and compensation. If no agreement is reached, District may choose to terminate this Agreement and retain another consultant or may choose to retain another consultant to provide only the additional services.

Consultant shall not be entitled to compensation for any services rendered that are not specifically authorized under this Agreement or its Exhibits, and any amendments thereto. Any and all work performed without proper authorization shall be considered part of this Agreement for no additional compensation.

VIII. Termination or Abandonment

The District may terminate this Agreement or may terminate or abandon all or any portion of the Scope of Work at any time and for any reason by giving written notice to Consultant of such termination and specifying the effective date thereof, at least ten (10) calendar days prior to the effective date. The District is under no obligation to require all the services described under the Scope of Work and shall be able to select only those services needed from time to time, as provided in each work order. If the District abandons or terminates any services of the Scope of Work, the District has the right to take immediate possession and ownership of all original, copies or draft specifications, drawings, and other documents developed for the Scope of Work to the specified date of termination or abandonment. Following delivery of such documents in a form satisfactory to the District under the terms of this Agreement, the District will pay the Consultant for services for any portion of the services rendered prior to termination under the Scope of Work. If said termination occurs prior to full

completion of any task, the portion of the fee to be paid for the portion of work or service performed for such task shall be based on the percent of completion mutually agreed to by the District and the Consultant. The District will not be liable for any costs other than the fees or portions thereof, which are specified herein. If all work is abandoned as herein provided, this Agreement shall automatically terminate on the 10th day from the date of notice.

IX. Indemnification

A. CONSULTANT agrees to the following:

1. *Indemnification for Professional Liability.* Where the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend (with attorneys approved by District) and hold harmless District and any and all of its officials, elected board members, employees, volunteers, attorneys and agents ("Indemnified Parties") from and against any and all losses, liabilities, claims, suit, damages, costs and expenses, including attorney's fees and costs, caused in whole or in part by Consultant's negligent, reckless or wrongful act, errors or omissions of Consultant, its officers, agents, employees or sub-consultants (or any entity or individual for which Consultant is legally liable) in the performance of professional services under this Agreement.

2. *Indemnification for Other than Professional Liability.* To the fullest extent permitted by law, Consultant shall indemnify, protect, defend (with attorneys approved by District) and hold harmless the Indemnified Parties from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), arising out of or in any way attributable to the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or sub-contractors of Consultant.

3. *General Indemnification Provisions.* Consultant agrees to obtain executed indemnity Agreements with provisions identical to those set forth here in this section from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of District to monitor compliance with these requirements imposes no additional obligations on District and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend District as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement.

4. *Limitation of Liability.* The provisions of this section do not apply to claims occurring as a result of District's sole negligence or willful acts or omissions.

B. It is expressly understood and agreed that the indemnification provisions of this Section IX will survive termination of this Agreement.

C. The requirements as to the types and limits of insurance coverage to be maintained by Consultant as required by this Agreement and any approval of said insurance by

District, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

X. Insurance Requirements

A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, Consultant will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial general liability	\$1,000,000 per occurrence, \$2,000,000 aggregate
Professional liability	\$1,000,000 per occurrence, \$1,000,000 aggregate
Business automobile liability	\$1,000,000 per occurrence
Workers compensation	Statutory requirement
Employer's Liability	\$1,000,000 per occurrence

B. Commercial general liability insurance will meet or exceed the requirements of ISO-CGL Form No. CG 12 10 11 97. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Said policies, except for the professional liability and workers' compensation policies, will be endorsed to name District, its officials, and employees as "additional insureds" under said insurance coverage. Further, the policies shall state that such insurance will be deemed primary and non-contributory such that any other insurance that may be carried by District will be excess thereto. Such insurance will be on an "occurrence" basis, except professional liability shall be on a "claims made" basis. For professional liability coverage provided on a "claims made" basis, Consultant shall maintain such insurance coverage for four years after expiration of the term (and any extensions) of this Agreement. In addition, the "retro" date must be on or before the date of this Agreement. Professional liability coverage extends to and includes, but is not limited to, negligent design claims.

C. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 10 01, including symbol 1 (Any Auto).

D. Consultant will furnish to District duly authenticated Certificates of Insurance and Endorsements evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance as may be reasonably required by District from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII." Originals of the duly authenticated Certificates of Insurance and Endorsements shall be included with this Agreement as Exhibit D.

E. Each insurance policy shall state or be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to the District. Notwithstanding any commitment on the part of the insurer to provide such notice to the District, failure of the Consultant to provide separate notice of any intent to cancel any policy or change policy

providers, or of any actual or potential cancellation, shall constitute a breach of contract for which District shall be entitled to full indemnification under the Agreement.

F. Maintenance of specified insurance coverage is a material element of this Agreement, and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by District.

XI. Successors and Assigns

This Agreement and all of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns; provided, however, that no assignment of this Agreement shall be made without written consent of the parties to this Agreement. Any attempt by the Consultant to assign or otherwise transfer any interest in this Agreement without the prior written consent of the District shall be void. Since the primary consideration of the District in entering this agreement is the qualifications of the Consultant, as opposed to a low bid, the District may refuse to consent to assignments at its sole discretion.

XII. Project Organization

The Consultant hereby assigns Michael R. Welch, Ph.D., P.E. as the Consultant Project Manager under this Agreement. The Consultant Project Manager shall not be removed from the project or reassigned without prior written approval of the District, which approval shall not be unreasonably withheld.

The District hereby assigns Bob Kennedy, Engineering Manager as the District Project Manager under this Agreement.

XIII. Independent Consultant

Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners or joint ventures with one another. Neither the Consultant nor the Consultant's employees are employee of the District and are not entitled to any of the rights, benefits, or privileges of the District's employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

Neither the District nor its officers, agents or employees shall have any control over the conduct of the Consultant or any of the Consultant's employees except as herein set forth, and the Consultant expressly agrees not to represent that the Consultant or the Consultant's agents, servants, or employees are in any manner agents, servants or employees of the District, it being understood that the Consultant, its agents, servants, and employees are as to the District wholly independent consultants and that the Consultant's obligations to the District are solely such as are prescribed by this Agreement.

XIV. Licenses, Permits, Etc.

The Consultant represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to perform the services under this Agreement. The Consultant represents and covenants that the Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the Consultant to perform the services under this Agreement.

XV. Confidential Information

The District may from time to time communicate to the Consultant certain confidential information to enable the Consultant to effectively perform the services to be provided herein. The Consultant shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the District. The Consultant shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this section, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the Consultant, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the Consultant without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the Consultant by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The Consultant shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the District. In its performance hereunder, the Consultant shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

Consultant shall be liable to District for any damages caused by breach of this condition, pursuant to the provisions of Section IX.

XVI. Miscellaneous

A. **Covenant Against Discrimination.** Consultant covenants that, by and for itself, its heirs, executors, assigns and all related persons or entities, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry or any other classification prohibited by state or federal law in the performance of this Agreement. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry or any other classification protected by state or federal law.

B. **Non-liability of District Officers and Employees.** No officer or employee of District shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by District or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

C. **Conflict of Interest.** No officer or employee of District shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his financial interest or the financial

interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

D. Notice. Any notice or instrument required by, or contemplated under, this Agreement may be given by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

DISTRICT:

Otay Water District
2554 Sweetwater Springs Boulevard
Spring Valley, California 91978-2004
Attention: Bob Kennedy
Fax: (619) 670- 2273
Email: bob.kennedy@otaywater.gov
Copy to: Mark Watton, General Manager

CONSULTANT:

Michael R. Welch, Ph.D., P.E.
2735 San Clemente Terrace
San Diego, CA 92122-4030
Attention: Michael R. Welch
Fax: (858) 625- 0267
Email: mwelch1@san.rr.com

Notices mailed to the address above shall be effective upon date of mailing. Notices may also be given via facsimile or electronic communication, and shall be effective on the day so given, provided that evidence of successful transmission or acceptance via return email is attached to the Notice as evidence of the time and date of transmittal.

E. Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

F. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, regulations, statutes and ordinances (collectively, the "Laws") in connection with this Agreement and the performance of the work, including California Labor Code section 1720, et seq., relating to payment of prevailing wages for public works projects, if applicable. Consultant shall indemnify and defend the Indemnified Parties from and against any liability incurred due to any failure on the part of Consultant to comply with any applicable Laws.

G. Mediation. If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree to try, in good faith, to resolve it as follows: (i) first, the parties agree to engage in good faith negotiations to resolve the matter; (ii) second, if the parties are not able to reach a mutually satisfactory solution, either party may request that the matter be submitted to mediation in San Diego, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA"). Both Consultant and District agree to participate in the mediation in good faith with the intent to settle the dispute. The costs of mediation shall be borne equally by the parties.

H. Applicable Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action or proceeding brought by any party against any other party arising out of or related to this Agreement shall be brought exclusively in San Diego County.

XVII. Integration

This Agreement and the attached Exhibits represent the entire understanding by and between the District and the Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties hereto.

XVIII. Execution

This person(s) executing this Agreement and any Exhibits hereto on behalf of the Consultant warrant and represent that Consultant has vested authority on such person(s) to execute and deliver this Agreement and to perform the services contemplated hereunder and that this Agreement is valid and binding on Consultant.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

Michael R. Welch, Ph.D., P.E.

Otay Water District

Michael R. Welch

Mark Watton, General Manager

(Company seal or certification, if any)

APPROVED AS TO FORM

[Additional approvals, if any]

General Counsel

COPIES: FILE (Orig.), CONSULTANT, BINDER, ENG SECRETARY

EXHIBIT A

SCOPE OF SERVICES

CONSULTANT FURNISHED SERVICES

Consultant shall provide as-needed technical support services under the direction of District staff to assist the District in identifying, planning, evaluating, and/or implementing water, groundwater, recycled water, wastewater strategies, projects, facilities, plans, or operations. As-needed assistance requested by the District may include, but not be limited to, the following District projects:

- Rosarito Seawater Desalination Facility
- Otay Mesa Recycled Water System Link
- City of Chula Vista MBR Reclamation Plant

As-needed technical support services provided by the Consultant for these projects may, at the discretion of District staff, include assisting the District in:

- Identifying, reviewing, or assessing proposed water supply facilities, strategies, plans, or concepts.
- Reviewing, assessing, or providing technical input on regulations, technical considerations, environmental issues, economics, or institutional considerations that may affect proposed District groundwater, recycled water, water, wastewater facilities, plans, or operations.
- Reviewing, commenting on, or responding to technical reports, studies, correspondence, or other documents produced by District consultants, regulatory agencies, other government agencies, non-government organizations, or the public.
- Attending and providing input during internal or public meetings or workshops to identify, discuss, or assess District water, groundwater, recycled water, or wastewater facilities, plans, or strategies.
- Developing and/or making presentations to regulating agencies, government agencies, non-government organizations, or the public.

EXHIBIT B

CONSULTANT'S FEE PROPOSAL

Employee	Hourly Rate
Michael R. Welch, Ph.D., P.E.	\$150/hour

EXHIBIT C
Sample Invoice Format (Task Detail)

Otay Water District

Project Title

MM/DD/YY

CIP PXXXX-00XXXX

DESCRIPTION	THIS INVOICE			INVOICED TO DATE	CONTRACT AMOUNT	TOTAL %	
	HRS/ \$'s	RATE	AMOUNT			BILLED	COMPLETE
PROJECT TOTAL			\$5,763.35	\$20,884.30	\$46,500.00	45%	37%
TASK 1 – Project Management and Administration			\$3,955.25	\$15,420.90	\$20,600.00	75%	88%
Sub-Task 1.1	Data Acquisition		\$951.00	\$2,944.00	\$3,000.00	98%	100%
Project Manager	Smith	16.0 hr	41.00 \$/hr	\$656.00			
Drafter	William	5.0 hr	35.00 \$/hr	\$175.00			
Secretary	Allred	6.0 hr	20.00 \$/hr	\$120.00			
Sub-Task 1.2	Report Preparation		\$931.50	\$8,865.00	\$13,000.00	68%	75%
Principle	James	2.5 hr	95.00 \$/hr	\$237.50			
Project Manager	Smith	4.0 hr	41.00 \$/hr	\$164.00			
Drafter	William	14.0 hr	35.00 \$/hr	\$490.00			
Secretary	Allred	2.0 hr	20.00 \$/hr	\$40.00			
Direct Expenses			\$1,884.50	\$2,431.00	\$3,000.00	81%	81%
Reproduction		\$17.50	10%	\$19.25			
Subconsultant #1	B&K	\$640.50	0%	\$640.50			
Subconsultant #2	CEW	\$1050.00	0%	\$1,050.00			
TASK 2 – Review Existing Documentation & Related Proj. Info.			\$1,808.10	\$5,463.40	\$15,700.00	35%	22%
Sub-Task 2.1			\$951.00	\$2,944.00	\$12,000.00	25%	22%
Project Manager	Smith	16.0 hr	41.00 \$/hr	\$656.00			
Drafter	William	5.0 hr	35.00 \$/hr	\$175.00			
Secretary	Allred	6.0 hr	20.00 \$/hr	\$120.00			
Direct Expenses			\$762.00	\$2,225.00	\$2,500.00	89%	89%
Reproduction		\$120.00	10%	\$132.00			
Subconsultant #2	CEW	\$630.00	0%	\$630.00			

Note: 1) Consultant to edit, update, and add lines as necessary.

2) Rates shown above are to remain in effect throughout the life of the contract

AGENDA ITEM 4



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 5, 2014
SUBMITTED BY:	Dan Martin Engineering Manager	PROJECTS:	P2518-001103 DIV. NO. 5 P2519-001103
APPROVED BY:	<input checked="" type="checkbox"/> Rod Posada, Chief, Engineering <input checked="" type="checkbox"/> German Alvarez, Assistant General Manager <input checked="" type="checkbox"/> Mark Watton, General Manager		
SUBJECT:	Approve Change Order No. 1 to the Contract with Advanced Industrial Services, Inc. for the 803-3 & 832-2 Reservoirs Interior/Exterior Coatings and Upgrades Project		

GENERAL MANAGER'S RECOMMENDATION:

That the Otay Water District (District) Board of Directors (Board) approve Change Order No. 1 to the existing contract with Advanced Industrial Services, Inc. (AIS) for a credit in the amount of <\$73,338.63> for the 803-3 & 832-2 Reservoirs Interior/Exterior Coatings and Upgrades Project (see Exhibits A-1 & A-2 for Project locations).

COMMITTEE ACTION:

Please see Attachment A.

PURPOSE:

To obtain Board authorization for the General Manager to approve Change Order No. 1 (see Exhibit B) to the existing contract with AIS in the amount of <\$73,338.63> for the 803-3 & 832-2 Reservoirs Interior/Exterior Coatings and Upgrades Project.

ANALYSIS:

At the February 6, 2013 Board Meeting, the Board awarded a construction contract in the amount of \$946,900.00 to AIS for the

803-3 & 832-2 Reservoirs Interior/Exterior Coatings and Upgrades Project. The Project included the following coating and structural upgrades for both reservoirs: replace the twenty (20) year old coating on the interior and exterior surfaces, replace the existing level indicators, install new fall prevention devices on the interior ladders, modify anode access ports, replace all anodes, replace the roof vents, install new lanyard cables, and add miscellaneous tank penetrations for chlorination and sampling. These upgrades ensure compliance with AWWA and Cal-OSHA requirements as well as upgrade antiquated equipment on the tanks to meet operational needs.

Change Order No. 1 which serves as a close out change order for the Project addresses a number of items as follows:

- Items 1 & 2 - Provides credits for unused allowances associated with Bid Item 15, Structural Modification and Bid Item 16, Paving. In total, the credits associated with these items are <\$68,576.20>.
- Items 3 & 4 - Provides for reimbursement of lost water at both the 832-2 and 803-3 reservoirs resulting from failed volatile organic compound (VOC) testing. The reimbursement of the lost water for both reservoirs totals <\$12,526.43>.
- Items 5 & 6 - Compensates the contractor for dewatering support and slope protection at both the 832-2 and 803-3 reservoirs sites to mitigate erosion potential as the reservoirs drained. The costs associated with the dewatering support and slope protection provided by the contractor totals \$12,673.00.
- Items 7 & 8 - Provides a credit for deleted slurry seal at both the 832-2 and 803-3 reservoirs sites. Slurry seal at the sites was the last order of work for the Project. Due to the time required to resolve the VOC issues including dewatering of the reservoirs, the weather window for satisfactory slurry seal installation expired. This deleted work will be incorporated into a future CIP project. The credit associated with the deleted slurry seal for both sites totals <\$4,909.00>.

The following is a table summarizing the credit and cost items in Change Order No. 1. A more detailed description of each item is provided in Exhibit B:

Items	Description	Amount
1 & 2	Unused allowances associated with Bid Items 15 and 16.	<\$68,576.20>
3 & 4	Reimbursement of lost water at both the 832-2 and 803-3 Reservoirs.	<\$12,526.43>
5 & 6	Compensation for dewatering support and slope protection at 832-2 and 803-3 reservoirs.	\$12,673.00
7 & 8	Credit for deleted slurry seal at the 832-2 and 803-3 reservoirs.	<\$4,909.00>
Total		<\$73,338.63>

Change Order No. 1 also addresses contract time as a result of the items included in the Change Order. The dewatering of the reservoirs was coordinated with the adjacent property owners including but not limited to the Department of Fish and Wildlife. The rate of dewatering at each of the reservoir sites was slowed to minimize the potential of erosion impacts. The slower rate of dewatering, along with efforts to aerate the tanks to release VOC's, resulted in additional time to the contract. In total, one hundred and thirty four (134) days will be added to the contract which will result in a revised total contract duration of two hundred and eighty four (284) calendar days.

In summary, the net change to the Project for Change Order No. 1 is a decrease totaling <\$73,338.63> and the addition of one hundred and thirty four (134) calendar days.

FISCAL IMPACT: Joe Beachem, Chief Financial Officer

The total budget for CIP P2518, as approved in the FY 2014 budget, is \$750,000. Total expenditures, plus outstanding commitments and forecast, are \$605,046.

The total budget for CIP P2519, as approved in the FY 2014 budget, is \$775,000. Total expenditures, plus outstanding commitments and forecast, are \$610,993.

Based on a review of the financial budget, the Project Manager anticipates that both budgets are sufficient to support the Project. See Attachment B-1 for the budget detail for CIP P2518 and Attachment B-2 for the budget detail for CIP P2519.

Finance has determined that 100% of the funding is available from the Replacement Fund for both CIP P2518 and CIP P2519.

STRATEGIC GOAL:

This Project supports the District's Mission statement, "To provide high value water and wastewater services to the customers of the Otay Water District in a professional, effective, and efficient manner" and the General Manager's Vision, "A District that is at the forefront in innovations to provide water services at affordable rates, with a reputation for outstanding customer service."

LEGAL IMPACT:

None.

DM/RP:jf

P:\WORKING\CIP P2518 & 2519 - 803-3 & 832-2 Reservoir Interior-Exterior Coating\Staff Reports\BD 02-05-14_CO1\BD 02-05-14_803-3 and 832-2 Reservoirs Coatings CO1.docx

Attachments: Attachment A - Committee Action
Attachment B-1 - Budget Detail for CIP P2518
Attachment B-2 - Budget Detail for CIP P2519
Exhibit A-1 - 803-3 Location Map (P2518)
Exhibit A-2 - 832-2 Location Map (P2519)
Exhibit B - Change Order No. 1



ATTACHMENT A

SUBJECT/PROJECT: P2518-001103 P2519-001103	Approve Change Order No. 1 to the Contract with Advanced Industrial Services, Inc. for the 803-3 & 832-2 Reservoirs Interior/Exterior Coatings and Upgrades Project
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee (Committee) reviewed this item at a meeting held on January 21, 2014. The Committee supported Staff's recommendation.

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-1

SUBJECT/PROJECT: P2518-001103 P2519-001103	Approve Change Order No. 1 to the Contract with Advanced Industrial Services, Inc. for the 803-3 & 832-2 Reservoirs Interior/Exterior Coatings and Upgrades Project
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Otay Water District					Date Updated: 12/19/2013
p2518-803-3 Reservoir Interior/Exterior Coatin					
Budget	Committed	Expenditures	Outstanding Commitment & Forecast	Projected Final Cost	Vendor/Comments
750,000					
Planning					
Standard Salaries	1,266	1,266	-	1,266	
Total Planning	1,266	1,266	-	1,266	
Design					
Service Contracts	1,025	1,025	-	1,025	MAYER REPROGRAPHICS INC
	45	45	-	45	SAN DIEGO DAILY TRANSCRIPT
Standard Salaries	33,323	33,323	-	33,323	
Total Design	34,393	34,393	-	34,393	
Construction					
Construction Contracts	475,533	426,025	49,508	475,533	ADVANCED INDUSTRIAL SVCS INC
			(36,414)	(36,414)	CO NO. 1
	3,261	3,261	600	3,861	CLARKSON LAB & SUPPLY INC
Consultant Contracts	21,594	21,594	-	21,594	V & A CONSULTING ENGINEERS
	23,920	13,635	10,285	23,920	ALYSON CONSULTING
Professional Legal Fees	20	20	-	20	STUTZ ARTIANO SHINOFF
Service Contracts	873	873	-	873	KRATOS / HBE
Standard Salaries	80,000	69,722	10,278	80,000	
Total Construction	605,201	535,130	34,257	569,387	
Grand Total	640,860	570,789	34,257	605,046	

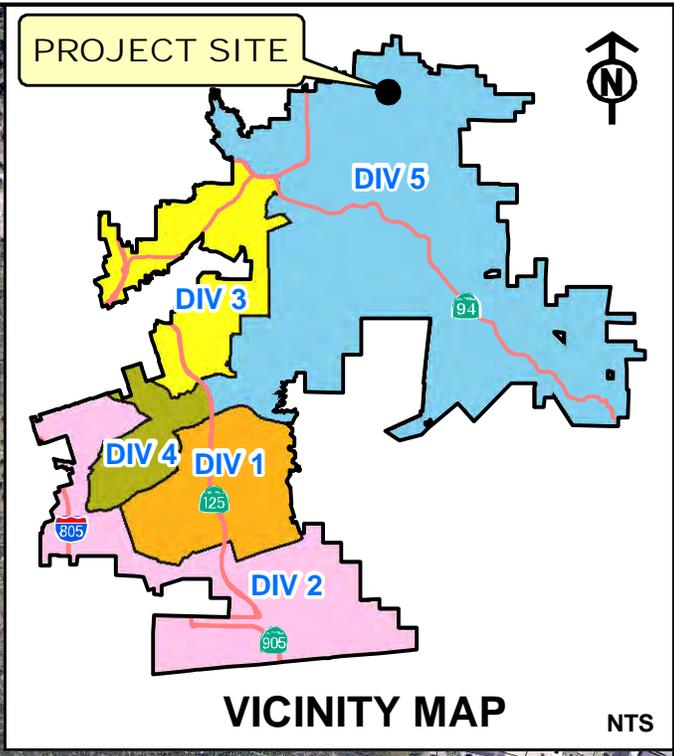


ATTACHMENT B-2

SUBJECT/PROJECT: P2518-001103 P2519-001103	Approve Change Order No. 1 to the Contract with Advanced Industrial Services, Inc. for the 803-3 & 832-2 Reservoirs Interior/Exterior Coatings and Upgrades Project
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Otay Water District					Date Updated: 12/19/2013
p2519-832-2 Reservoir Interior/Exterior Coatin					
<i>Budget</i>	<i>Committed</i>	<i>Expenditures</i>	<i>Outstanding Commitment & Forecast</i>	<i>Projected Final Cost</i>	<i>Vendor/Comments</i>
775,000					
Planning					
Standard Salaries	3,570	3,570	-	3,570	
Total Planning	3,570	3,570	-	3,570	
Design					
Service Contracts	1,025	1,025	-	1,025	MAYER REPROGRAPHICS INC
	45	45	-	45	SAN DIEGO DAILY TRANSCRIPT
Standard Salaries	28,330	28,330	-	28,330	
Total Design	29,399	29,399	-	29,399	
Construction					
Construction Contracts	471,367	397,225	74,142	471,367	ADVANCED INDUSTRIAL SVCS INC
			(36,924)	(36,924)	CO NO. 1
Consultant Contracts	19,104	19,104	-	19,104	V & A CONSULTING ENGINEERS
	23,920	13,635	10,285	23,920	ALYSON CONSULTING
	7,324	7,324	300	7,624	CLARKSON LAB & SUPPLY INC
Service Contracts	2,000	2,000	-	2,000	AQUA VIDEO ENGINEERING
	873	873	-	873	KRATOS / HBE
Standard Salaries	90,000	79,364	10,636	90,000	
Total Construction	614,587	519,525	58,439	577,963	
Grand Total	647,557	552,494	58,439	610,933	

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PROJECT SITE

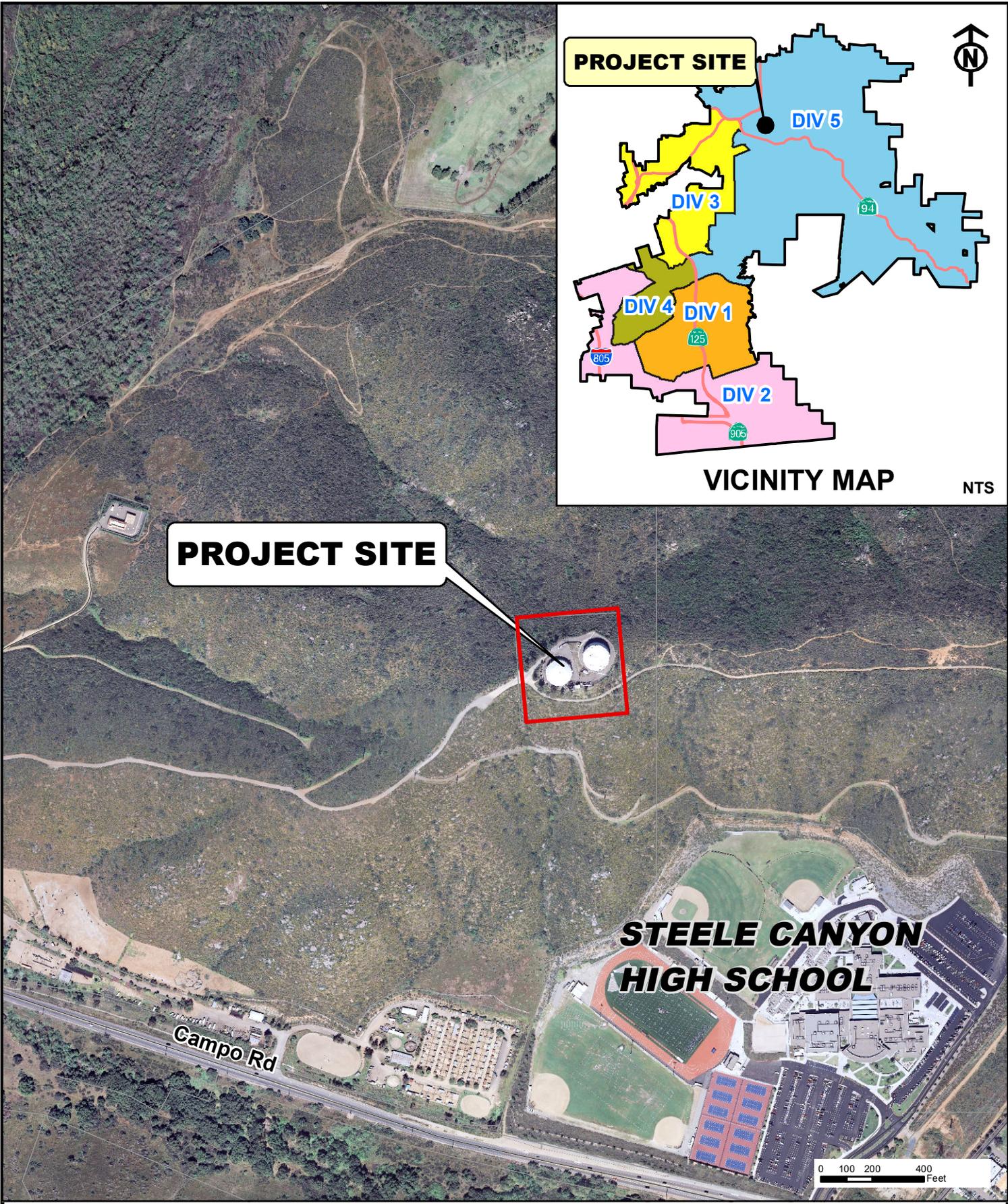


OTAY WATER DISTRICT
 803-3 RESERVOIR INT./EXT. COATING & UPGRADES
 LOCATION MAP



CIP P2518

P:\WORKING\CIP P2518 & 2519 - 805-3 & 832-2 Reservoir Interior-Exterior Coating\Staff Reports\Exhibit A-2-832-2 Location Map.mxd



OTAY WATER DISTRICT
832-2 RESERVOIR INT./EXT. COATING & UPGRADES
LOCATION MAP



CIP P2519

OTAY WATER DISTRICT
2554 SWEETWATER SPRINGS BLVD., SPRING VALLEY, CA. 91978, (619) 670-2222

CONTRACT/P.O. CHANGE ORDER No. 1

PROJECT/ITEM: 803-3 & 832-2 Reservoir Interior/Exterior Coating & Upgrades
CONTRACTOR/VENDOR: Advanced Industrial Services REF.CIP No.: P2518 & P2519
APPROVED BY: Board REF. P.O. No: 717051 DATE: 12/18/13

DESCRIPTION:

See attached page 2 of 3 for continuation.

REASON:

See attached page 2 of 3 for continuation.

CHANGE P.O. TO READ:

Revise Contract to credit \$73,338.63 and add 134 days time for a total Contract amount of \$873,561.37 with a Contract Duration of 284 Calendar Days.

ORIGINAL CONTRACT/P.O. AMOUNT:	\$	946,900.00
ADJUSTED AMOUNT FROM PREVIOUS CHANGE:	\$	0.00
TOTAL COST OF THIS CHANGE ORDER:	\$	(73,338.63)
NEW CONTRACT/P.O. AMOUNT IS:	\$	873,561.37
ORIGINAL CONTRACT COMPLETION DATE:		08/01/13
CONTRACT/P.O. TIME AFFECTED BY THIS CHANGE:		Yes
REVISED CONTRACT COMPLETION DATE:		12/13/13

IT IS UNDERSTOOD WITH THE FOLLOWING APPROVALS, THAT THE CONTRACTOR/VENDOR IS AUTHORIZED AND DIRECTED TO MAKE THE HEREIN DESCRIBED CHANGES. IT IS ALSO AGREED THAT THE TOTAL COST FOR THIS CHANGE ORDER CONSTITUTES FULL AND COMPLETE COMPENSATION FOR OBLIGATIONS REQUIRED BY THE CONTRACT/P.O. ALL OTHER PROVISIONS AND REQUIREMENTS OF THE CONTRACT/P.O. REMAIN IN FULL FORCE AND EFFECT.

CONTRACTOR/VENDOR:

SIGNATURE: 
NAME: Brett Johnston
TITLE: Project Manager DATE: 12/20/13
COMPANY & ADDRESS: Advanced Industrial Services
7831 Alondra Blvd
Paramount CA 90723

STAFF APPROVALS:

PROJ. MGR:  DATE: 12/20/13
DIV. MGR: _____ DATE: _____
CHIEF: _____ DATE: _____
ASST. GM: _____ DATE: _____

DISTRICT APPROVAL:

GEN. MANAGER: _____ DATE: _____

COPIES: FILE (Orig.), CONTRACTOR/VENDOR, CHIEF-ENGINEERING, CHIEF-FINANCE, ENGR. MGR.
 ACCTS PAYABLE, INSPECTION, PROJ. MGR., ENGR. SECRETARY, PURCHASING, PROJECT BINDER

Description of Work

<u>Description</u>	<u>Increase</u>	<u>Decrease</u>	<u>Time</u>
<p><u>Item No. 1:</u> This Change Order decreases the amount allocated for Bid Item 15, Structural Modification Allowance by \$58,576.20 to a new authorized amount of \$1,423.80.</p>		\$58,576.20	0
<p><u>Item No. 2:</u> This Change Order decreases the amount allocated for Bid Item 16, Paving Allowance by \$10,000.00 to a new authorized amount of \$0.00.</p>		\$10,000.00	0
<p><u>Item No. 3:</u> This Change Order provides for reimbursement of lost water at the 832-2 Reservoir resulting from failed VOC testing (CIP P2519).</p>		\$7,146.17	0
<p><u>Item No. 4:</u> This Change Order provides for reimbursement of lost water at the 803-3 Reservoir resulting from failed VOC testing (CIP P2518).</p>		\$5,380.26	0
<p><u>Item No. 5:</u> This Change Order provides for dewatering support and slope protection costs at the 832-2 Reservoir (CIP P2519).</p>	\$7,407.00		87
<p><u>Item No. 6:</u> This Change Order provides for dewatering support and slope protection costs at the 803-3 Reservoir (CIP P2518).</p>	\$5,266.00		47
<p><u>Item No. 7:</u> This Change Order provides a credit for deleted slurry seal at the 832-2 Reservoir site (CIP P2519).</p>		\$2,897.00	0
<p><u>Item No. 8:</u> This Change Order Provides a credit for deleted slurry seal at the 803-3 Reservoir site (CIP P2518).</p>		\$2,012.00	0
Sub Total Amount	\$12,673.00	\$86,011.63	134
Total Net Change Order Amount	(\$73,338.63)		

Revisions to: BID SCHEDULE

Item #	Description	Quantity	Unit	Unit Price	Amount
15	Structural Modification Allowance	1	LS	Allowance	\$1,423.80
16	Paving Allowance	1	LS	Allowance	\$0.00

Reason:

Item No. 1:

The Contract Bid Item No. 15, Structural Modification Allowance, was utilized to the maximum practical extent in the performance of the contract work and is no longer required.

Item No. 2:

The Contract Bid Item No. 16, Paving Allowance, was utilized to the maximum practical extent in the performance of the contract work and is no longer required.

Item No. 3:

Resulting from failed VOC testing on the 832-2 Reservoir, draining of the reservoir was required. This change is necessary to allow the District to recover the additional expenditures incurred for lost water pursuant to contractual provisions.

Item No. 4:

Resulting from failed VOC testing on the 803-3 Reservoir, draining of the reservoir was required. This change is necessary to allow the District to recover the additional expenditures incurred for lost water pursuant to contractual provisions.

Item No. 5:

Resulting from draining of the 832-2 Reservoir, dewatering support and erosion control issues were identified requiring Contractor assistance. Contractor personnel were used to implement BMP's and slope protection measures to mitigate erosion potential as the reservoir drained. This change is necessary to resolve all costs associated with the additional identified scope.

Item No. 6:

Resulting from draining of the 803-3 Reservoir, dewatering support and erosion control issues were identified requiring Contractor assistance. Contractor personnel were used to implement BMP's and slope protection measures to mitigate erosion potential as the reservoir drained. This change is necessary to resolve all costs associated with the additional identified scope.

Item No. 7:

Resulting from delays due to VOC testing difficulties at the 832-2 Reservoir the weather window for satisfactory slurry seal installation expired. This change is necessary to credit the Contract for the deleted work scope resulting from weather restrictions.

Item No. 7:

Resulting from delays due to VOC testing difficulties at the 803-3 Reservoir the weather window for satisfactory slurry seal installation expired. This change is necessary to credit the Contract for the deleted work scope resulting from weather restrictions.

CHANGE ORDER LOG

803-3 & 832-2 Reservoir Interior/Exterior Coating & Upgrades

P2518 & P2519

C.O.	AMOUNT	APPROVED		DESCRIPTION	TYPE C.O.
		BY	DATE		
1	(\$73,338.63)	Board		Closeout	
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
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36					
37					
38					
39					
40					

Total C.O.'s To Date: (\$73,338.63) -7.7%

Original Contract Amount: \$946,900.00

Current Contract Amount: \$873,561.37

Change Order Breakdown for the Month:

Month	Net C.O.\$	Limit	Authorization	Absolute C.O.\$	Absolute C.O. %
12/13	\$0.00	\$5,000/5%	PM/Supervisor	\$0.00	0.0%
		\$10,000/10%	Manager	\$0.00	0.0%
		\$15,000/20%	Chief	\$0.00	0.0%
		\$50,000/30%	GM	\$0.00	0.0%

AGENDA ITEM 5



STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	February 5, 2014
SUBMITTED BY:	Pedro Porras, Chief of Water Operations	PROJECT:	DIV. NO. ALL
APPROVED BY:	<input checked="" type="checkbox"/> Pedro Porras, Chief of Water Operations <input checked="" type="checkbox"/> German Alvarez, Asst. General Manager <input checked="" type="checkbox"/> Mark Watton, General Manager		
SUBJECT:	Renewal of Mexico Agreement to Transfer Water		

GENERAL MANAGER'S RECOMMENDATION:

That the Board authorize the General Manager to execute the proposed renewal (Attachment B) to the "Agreement for the temporary emergency delivery of a portion of the Mexican Treaty Waters."

COMMITTEE ACTION:

See Attachment A.

PURPOSE:

The purpose of this report is to request authorization to execute the proposed renewal to the agreement to deliver the Mexican Treaty Waters.

ANALYSIS:

Mexico has again made a formal request to the United States of America, through the International Boundary and Water Commission (IBWC), to provide an emergency water supply in and around the City of Tijuana.

Under a 1972 contract, the Otay Water District (District) built water conveyance facilities, including a 24-inch pipeline and pump station modifications, connecting existing District facilities with Mexican

water facilities at the international boundary. The funding for the construction was provided by Mexico. Also, under the 1972 contract, the United States delivered water from the Colorado River allotted to Mexico in a water treaty between the United States and Mexico signed in Washington, D.C. on February 3, 1944. Treaty water was delivered to Mexico under the 1972 contract and its amendments until the contract was terminated in 1983 due to completion of the Mexican aqueduct built to convey Colorado River water to Tijuana.

After termination of the 1972 contract, the connection between the United States and Mexico was removed. In 1989 and in 1992, emergency delivery of treaty water was provided through a temporary 14-inch above ground pipeline installed by District forces to reconnect the United States and Mexican water systems. These emergency deliveries were pursuant to arrangements coordinated by the IBWC.

In September 2003, and subsequently in November, 2008 the District, IBWC, United States Bureau of Reclamation, Metropolitan Water District (Metropolitan), and San Diego County Water Authority (SDCWA) entered into an Agreement for Temporary Emergency Delivery to the International Boundary in the Vicinity of Tijuana, Baja California, Mexico, and for Operation of Facilities in the United States. Both agreements were set for a five-year period and the last one expired on November 9, 2013. Mexico has fully complied with all terms and conditions of the contract.

Under terms and conditions of the Agreement, Mexico is required to pay in advance for requested deliveries, based on the fees and charges established by the SDCWA, Metropolitan and the District. Deliveries are on a space available basis in the conveyance systems of the three agencies. The Agreement stipulates that maximum monthly and annual delivery volumes, based on capacity of the emergency connection at the border, shall not exceed 1,200 acre-feet and 14,400 acre-feet, respectively.

Mexico has requested the continuation of a standby arrangement for emergency deliveries for Tijuana for an additional five years. In response to Mexico's request, the IBWC, in coordination with the participating water agencies in the United States and Mexico, prepared and plans to adopt a new IBWC Minute to extend emergency deliveries for another five-year term. The Minute serves as the binational agreement between the two countries and framework for the emergency deliveries to Tijuana. The next step is for the Minute to be signed by the Commissioners. Once signed, SDCWA will attach the Minute to the amended agreement and route for signature to the proper agencies.

The District is requesting amendments be made to the contract clarifying the terms of the agreement. Staff is proposing clarifying the terms related to the process of funding non-routine maintenance, which reflect the current practice. In addition, staff is clarifying the District's rights regarding the related facilities in the event the contract is terminated in the future.

FISCAL IMPACT: Joe Beachem, Chief Financial Officer

No fiscal impact is anticipated with the adoption of this wheeling agreement. In October of 2013 the Board approved the new wheeling rate that covers all District expenses. The rate is now \$64.14 per acre foot for Mexico water wheeled to Mexico.

STRATEGIC GOAL:

Deliver high quality services to meet customer needs and increase confidence of the customer in the value the District provides.

LEGAL IMPACT:

No legal impact is anticipated at this time.

Attachments: Attachment A - Committee Action
 Attachment B - Draft Agreement



ATTACHMENT A

SUBJECT/PROJECT:	
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COMMITTEE ACTION:

The Engineering, Operations, and Water Resources Committee met on January 21, 2014 and reviewed this item and supports presentation to the full Board for their consideration.

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

DRAFT

IBM No. 03-21
Amendment No. 2

AMENDMENT NO. 2 TO AGREEMENT FOR TEMPORARY EMERGENCY
DELIVERY OF A PORTION OF THE MEXICAN TREATY WATERS OF THE
COLORADO RIVER TO THE INTERNATIONAL BOUNDARY IN THE VICINITY
OF TIJUANA, BAJA CALIFORNIA, MEXICO, AND FOR THE OPERATION OF
FACILITIES IN THE UNITED STATES

1. PREAMBLE: This Amendment No. 2 to the Agreement for Temporary Emergency Delivery of a Portion of the Mexican Treaty Waters of the Colorado River to the International Boundary in the Vicinity of Tijuana, Baja California, Mexico, and for the Operation of Facilities in the United States ("Amendment No. 2") is made this 9th day of November, 2013, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto, including but not limited to the Boulder Canyon Project Act enacted December 21, 1928 (45 Stat. 1057), all of which are commonly known and referred to as Federal Reclamation law, by and among the United States of America ("United States"), acting by and through the United States Commissioner, International Boundary and Water Commission, United States and Mexico ("United States Commissioner"), and the Secretary of the Interior, acting by and through the Department of the Interior, Bureau of Reclamation ("Reclamation"); The Metropolitan Water District of Southern California ("Metropolitan"), a public corporation of the State of California; the San Diego County Water Authority ("Authority"), a public corporation of the State of California; and the Otay Water District ("OWD"), a public corporation of the State of California, sometimes collectively called "Parties."

WITNESSETH THAT:

2. EXPLANATORY RECITALS:

2.1 WHEREAS, Metropolitan, the Authority, OWD, and the United States entered into an Agreement for Temporary Emergency Delivery of a Portion of the Mexican Treaty Waters of the Colorado River to the International Boundary in the Vicinity of Tijuana, Baja California, Mexico, and for Operation of Facilities in the United States, IBM No.03-21, dated September 29, 2003 (Emergency Delivery Agreement – Exhibit A attached hereto);

2.2 WHEREAS, the parties to the agreement stated in Article 2.1 hereof extended the delivery period by five years through an amendment to the agreement (Amendment 1) on November 20, 2008 (Exhibit B attached hereto).

2.3 WHEREAS, Mexico has requested the continuation of a standby arrangement for Emergency Deliveries for Tijuana for a further five-year period beyond 2013; ending November 9, 2018.

2.4 WHEREAS, Metropolitan, the Authority, and OWD are willing to arrange for the transportation and delivery of a Portion of the Mexican Treaty Waters through available capacity in their respective distribution system facilities in accordance with the terms and conditions of this Amendment.

2.5 WHEREAS, continuation of a standby arrangement for Emergency Deliveries for Tijuana beyond November 9, 2013 required action by the International Boundary and Water Commission (IBWC);

2.6 WHEREAS, Minute No. xxx of the IBWC, dated November xx, 2013 (Exhibit C attached hereto), authorizes continuation of a standby arrangement for Emergency Deliveries for Tijuana to and including November 9, 2018;

2.7 WHEREAS, the Parties desire to enter into this Amendment No. 2 to conform the term of the Emergency Delivery Agreement to Minute No. xxx;

2.8 WHEREAS, OWD desires to amend subsection 4(d) to require funding in advance into the Authority's Account to pay for planned construction, installation, replacement, improvements and repairs of facilities or equipment used to convey and deliver water to Mexico given that, in practice, such expenditures have not been recovered through water charges but, instead, have been invoiced to Mexico upon project completion.

2.9 WHEREAS, OWD desires to add new subsection 5(b) to require an Emergency Repair Reserve fund in the Authority's Account to pay for emergency construction, installation and repairs of facilities or equipment used to convey and deliver water to Mexico given that, in practice, such expenditures have not been recovered through water charges but, instead, have been invoiced to Mexico upon project completion. Said additions will require current subsections 5(b), 5(c), and 5(d) to

become subsections 5(c), 5(d), and 5(e), respectively;

2.10 WHEREAS, OWD desires to add a new paragraph at the end of section 18 that addresses the status and disposition of facilities constructed for purposes of the Agreement upon termination of the Agreement, given that the Agreement is silent on such disposition;

2.11 WHEREAS, the United States has determined the proposal of extending water deliveries to Tijuana for five more years will not create significant or cumulative impacts and therefore will not be considered a major federal action significantly affecting the quality of the human environment for the purposes of the National Environmental Policy Act. Thus, the extension of water deliveries is categorically excluded under 46FR44083 (100.6a.5), which includes actions specifically required under any treaty or international agreement, or pursuant thereto, to which the United States is a party, or required by the decision of international organizations (including courts), authorities or consultations in which the United States is a member or participant.

2.12 WHEREAS, the Authority has performed an environmental assessment pursuant to the California Environmental Quality Act and determined that this action will not have a significant effect on the environment and is categorically exempt from the requirements for the preparation of environmental documents.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

3. AMENDMENT TO EMERGENCY DELIVERY AGREEMENT:

3.1 Recital B of the agreement as amended by Amendment NO. 1 is hereby amended to add the following sentence to the end of that paragraph:

"The United States Commissioner and the Mexican Commissioner have signed Minute No. xxx, dated November xx, 2013, of the International Boundary and Water Commission (hereinafter referred to as "IBWC Minute" beginning November 10, 2013), for subsequent Emergency Deliveries for Tijuana for a period ending no later than November 9, 2018 at the same point of delivery.

3.2 Recital P as amended by Amendment No 1 is hereby amended to delete from the first sentence the phrase "extend beyond November 9, 2013" and insert in its place the phrase "extend beyond November 9, 2018".

3.3 Article 4 (d) is hereby amended to read as follows:.

(d) The Authority Account shall be used for the purpose of accounting for, receipt, and disbursement of prepaid funds for payment for the actual cost incurred by OWD for planned purchases, installation, construction, repair or replacement of equipment or facilities used for the purpose of Emergency Deliveries for Tijuana or for planned improvements for the purpose of the security of such facilities (“Planned Projects”). Prior to the commencement of a Planned Project, OWD shall provide a description of the Planned Project and the estimated expenditures to the Authority. The Authority shall submit the description and estimated expenditures to the United States Commissioner. Upon Mexico’s approval of the Planned Project and the associated estimated expenditures, funds equal to the estimated expenditures must be provided by Mexico to the United States Commissioner prior to the commencement of the Planned Project. The United States Commissioner shall make all such funds received from Mexico available by depositing said funds with the Authority. Upon completion of a Planned Project, OWD shall submit a final cost accounting to the Authority and the Authority may draw the prepaid funds equal to the actual costs from the Authority Account to pay for the Planned Project. In the event the actual costs of a Planned Project exceed the estimate for said project, OWD shall submit an invoice to the Authority for such unpaid costs. The Authority will forward the invoice to the United States Commissioner for collection of funds by Mexico.

3.4 Article 5 is hereby amended by adding new Articles 5 (b), as follows, and making existing Articles 5 (b), 5 (c), and 5 (d) new Articles 5 (c), 5 (d), and 5 (e), respectively:

(b) Within the Authority Account, an Emergency Repair Reserve fund shall be established for the purpose of accounting for, receipt, and disbursement of funds for payment for the actual cost incurred by OWD for emergency purchases, installation, construction, repair or replacement of equipment or facilities used for the purpose of Emergency Deliveries for Tijuana or for emergency improvements for the purpose of the

security of such facilities (“Emergency Projects”). The amount of the Emergency Repair Reserve fund for Emergency Projects shall be determined by OWD annually, in consultation with Authority, based on historical data for such Emergency Projects and shall reflect the amount deemed reasonably necessary to cover the costs of Emergency Projects in the next calendar year. The minimum Emergency Repair Reserve shall be no less than seventy thousand dollars (\$70,000 USD) and no greater than two-hundred and fifty thousand dollars (\$250,000 USD). OWD shall submit its determination of the reserve funds necessary for Emergency Projects to Authority for the next calendar year by December 1st of each year in which Emergency Deliveries to Tijuana are to be made. In the event of an emergency, OWD shall notify Mexico of said emergency as soon as practicable following the occurrence of the emergency. Upon OWD receiving Emergency Project authorization from Mexico, the repairs shall be performed by OWD. Upon completion of an Emergency Project, OWD shall submit a final cost accounting to Authority and may draw from the Emergency Repair Reserve within the Authority Account to pay for the project. In the event that an Emergency Project is not authorized by Mexico or the Emergency Repair Reserve is not adequately funded, any Emergency Project shall follow the procedures for planned maintenance set forth in section 4(d) of the Agreement. In the event the Emergency Repair Reserve fund is depleted, reserve funds shall be provided at the time of depletion to replenish the reserves to the amount determined by OWD for that calendar year. In the event the actual costs of an Emergency Project exceeds the reserves, OWD shall submit an invoice to Authority to be paid for out of the Authority Account.

3.5 Article 18 is hereby amended to add the following paragraph after the existing language:

Upon the termination of the period during which this Agreement is in effect, or any subsequent extensions thereto, the materials, equipment, and facilities paid by Mexico for their incremental capacity to effectuate the Agreement and considered by OWD to be integral to the ongoing operations of OWD shall become the property of OWD. The disposition of any non-integral materials, equipment, and facilities not otherwise used for or necessary to service OWD customers, shall occur at no cost to OWD and shall

restore OWD's facilities to the condition which would exist if such materials, equipment, and facilities had not been constructed. Any removal of such non-integral materials, equipment, and facilities and subsequent disposition or delivery to Mexico at the international boundary shall be subject to payment in advance by Mexico of the contract costs for removal and delivery, including the cost of supervision of these works and the estimated cost of restoring OWD's facilities to the condition which would exist if such materials, equipment, and facilities had not been constructed. Notwithstanding the foregoing, subject to approval of the Governments of the United States and Mexico, through the Commission, the local authorities in the two countries would have the authority to agree upon and effect a different arrangement for the disposition of such materials, equipment, and facilities.

3.6 Article 15 is hereby amended to revise the last sentence to the following: "In both the federal and state environmental processes, it was determined that extending the Emergency Water Deliveries for Tijuana till November 9, 2013 will not have an environmental impact."

3.7 Article 18 (a) is hereby deleted in its entirety and is hereby replaced with the following:

"18 (a) Upon the expiration of the extended delivery period up to and including November 9, 2018."

3.8 Exhibit B of the Agreement is superseded by Exhibit B attached hereto.

4. OTHER PROVISIONS UNAFFECTED: Except as expressly modified by this Amendment No. 2, all other terms and provisions of the Emergency Delivery Agreement, as amended by Amendment No. 1, remain in full force and effect.

5. OFFICIALS NOT TO BENEFIT: No Member of or Delegate to the Congress, Resident Commissioner, or official of Metropolitan, the Authority, and OWD shall benefit from this Amendment No. 2 other than as a water user or landowner in the same manner as other water users or landowners.

6. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS: The expenditure or advance of any money or the performance of any obligation of the United States under this Amendment No. 2 shall be contingent upon appropriation or allotment

of funds. No liability shall accrue to the United States in case funds are not appropriated or allotted.

IN WITNESS WHEREOF, the Parties hereto, by their officers thereunto duly authorized, have executed this Amendment No. 2, and this Amendment No.2 shall take effect on the day and year first above written.

US SECTION OF THE INTERNATIONAL BOUNDARY & WATER COMMISSION OF AMERICA

By: _____

Edward Drusina
Commissioner
United States Section
Int. Boundary & water Commission

Date: -----

BUREAU OF RECLAMATION

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

SAN DIEGO COUNTY WATER AUTHORITY

OTAY WATER DISTRICT