

Agenda

Sacramento Suburban Water District Facilities and Operations Committee

3701 Marconi Avenue, Suite 100
Sacramento, CA 95821

Friday, January 20, 2017
3:00 p.m.

Public documents relating to any open session item listed on this agenda that are distributed to the Committee members less than 72 hours before the meeting are available for public inspection in the customer service area of the District's Administrative Office at the address listed above.

The public may address the Committee concerning any item of interest. Persons who wish to comment on either agenda or non-agenda items should fill out a Comment Card and give it to the General Manager. The Committee Chair will call for comments at the appropriate time. Comments will be subject to reasonable time limits (3 minutes).

In compliance with the Americans with Disabilities Act, if you have a disability, and you need a disability-related modification or accommodation to participate in this meeting, then please contact Sacramento Suburban Water District Human Resources at (916)679-3972. Requests must be made as early as possible and at least one-full business day before the start of the meeting.

Call to Order

Roll Call

Public Comment

This is an opportunity for the public to comment on non-agenda items within the subject matter jurisdiction of the Committee. Comments are limited to 3 minutes.

Consent Items

The committee will be asked to approve all Consent Items at one time without discussion. Consent Items are expected to be routine and non-controversial. If any member of the Committee, staff or interested person requests that an item be removed from the Consent Items, it will be considered with the action items.

1. Minutes of the December 9, 2016 Facilities and Operations Committee Meeting

Recommendation: Approve subject minutes.

Items for Discussion and Action

2. McClellan Park Reservoir Tank Property
Receive written staff report and direct staff as appropriate.
3. McClellan Business Park and Operations Agreement Update
Receive written staff report and direct staff as appropriate.
4. Water System Master Plan Update
Receive written staff report and direct staff as appropriate.
5. City of Sacramento Wholesale Water Rates and 9,023 af of Area D Water
Receive written staff report and direct staff as appropriate.
6. Operations and Maintenance Cost Accounting
Receive written staff report and direct staff as appropriate.

Adjournment

Upcoming Meetings:

Monday, January 23, 2017 at 6:00 p.m., Financing Corporation Meeting
Monday, January 23, 2017 at 6:30 p.m., Regular Board Meeting

I certify that the foregoing agenda for the January 20, 2017, meeting of the Sacramento Suburban Water District Facilities and Operations Committee was posted by January 17, 2017 in a publicly-accessible location at the Sacramento Suburban Water District office, 3701 Marconi Avenue, Suite 100, Sacramento, California, and was made available to the public during normal business hours.

Robert S. Roscoe
General Manager/Secretary
Sacramento Suburban Water District

Minutes

Sacramento Suburban Water District
Facilities and Operations Committee
Friday, December 9, 2016

Call to Order

Director Locke called the meeting to order at 2:08 p.m.

Roll Call

Directors Present: Craig Locke and Neil Schild.

Directors Absent: None.

Staff Present: General Manager Rob Roscoe, Assistant General Manager Dan York, Amy Bullock, Mitch Dion, John Valdes, Dave Jones and James Arenz.

Public Present: William Eubanks, Paul Selsky and Melanie Holton.

Public Comment

None.

Announcements

General Manager Rob Roscoe (GM Roscoe) announced:

- On December 8, 2016 Director Frederick Gayle took his oath with Sacramento Metropolitan Fire District and is no longer a Director with Sacramento Suburban Water District.
- Director Elect Dave Jones is in the audience as a District employee, but will not be participating in the Facilities and Operations Committee meeting as a Board member. The Brown Act applies to Directors Elect.

Consent Items

1. **Minutes of the September 30, 2016 Facilities and Operations Committee Meeting**
Director Schild moved to approve Item 1; Director Locke seconded. The motion passed by unanimous vote.

AYES:	Schild and Locke.	ABSTAINED:	
NOES:		RECUSED:	
ABSENT:			

Items for Discussion and Action

2. **Water System Master Plan Update**
Mitch Dion (Mr. Dion) introduced Paul Selsky (Mr. Selsky) and Melanie Holton (Ms. Holton) with Brown and Caldwell and they went through the PowerPoint presentation.

GM Roscoe clarified that the Water System Master Plan Update would not be presented at the Regular Board meeting on December 19, 2016 noting that staff was working at the Committee level first so that when it goes in front of the full Board in approximately February 2017; it should be ready for adoption. He also noted that staff distributed this document to the Board at this early stage of the draft process because it was requested by Directors at the previous Board meeting.

Director Schild requested clarification on what AMP abbreviation stands for, on slide 2.

Mr. Selsky clarified that the abbreviation stands for Asset Management Plan and will make a note to spell that out in the future presentations and slides.

Director Locke inquired if the O&M expenses are broken down by each well or is this stated as the average in the presentation.

Mr. Selsky stated that this is an average.

Melanie Holton (Ms. Holton) went through the remainder of the PowerPoint presentation.

Director Schild inquired when the groundwater well management asset plan would be done.

Mr. Dion stated that the last groundwater well management asset plan was done in 2013 and another update would be coming around April of 2017.

Assistant General Manager Dan York (AGM York) stated that the District reviews the groundwater well asset management plan every three to five years.

Director Locke stated that it would be helpful to show the reduction and keep a running total of the shortfall, and the flowchart needs to have more to it.

Director Schild inquired about when staff anticipated the final Master Plan documents would be ready.

Ms. Holton stated that the final Master Plan report will be presented in February of 2017.

Director Locke suggested that staff give the Directors what kind of policy decisions staff is looking for.

GM Roscoe stated that he was not looking for Board members to edit the report and get down in the details of the report. He gave as an example of a policy-level decision in this report the transition from a large number of neighborhood wells to a smaller number of well campuses on larger properties, capable of handling future well head treatment systems should that be required.

Director Schild inquired if McClellan Business Park was left out of this report.

Mr. Dion stated that McClellan Business Park was not included in the report and that if it is not included in the final report come February 2017, then staff will state that in the final report.

Mr. Eubanks commented that the General Manager spelled out the plan well; he noted that it was clear and concise and that he understood that the report is still in the draft stages. Mr. Eubanks stated his questions were answered in the presentation.

3. Parkland Estates Paving Partnership Agreement with the County of Sacramento

Mr. Dion presented the staff report.

Director Schild inquired how much pavement would be replaced on Eastern Avenue, would it be all or half of Eastern Avenue.

Mr. Dion stated that it would be half a roadway down Eastern Avenue from centerline to the east side.

Director Schild suggested that the public is made aware that this is a County project and that the District is working with the County. Director Schild also suggested that the public be made aware that this is a County project so the public knows where to go if they are interested in inquiring about the project.

GM Roscoe stated that the paving partnership is not necessarily a money saver for the District; however, it is a risk transfer for the District.

Director Schild moved to take this item to the full Board with recommended approval.

Director Locke, seconded the motion.

Adjournment

Director Locke adjourned the meeting at 3:06 p.m.

Robert S. Roscoe
General Manager/Secretary
Sacramento Suburban Water District



Facilities and Operations Committee

Agenda Item: 2

Date: January 10, 2017

Subject: McClellan Park Reservoir Tank Property

Staff Contact: Mitchell S. Dion, Technical Services Director

Recommended Committee Action:

It is recommended that the Committee provide direction to the General Manager to negotiate and accept the proposed location of comparable value and usability for the District and bring the site to Board of Directors for approval at the February 27, 2017 regular Board meeting.

Discussion:

The McClellan Business Park (MBP) has proposed that the District consider and accept assignment of an alternative site for use by the District as a future reservoir or material storage site. MBP has previously negotiated with the District and the site for this purpose has previously been relocated (Exhibit 1). Currently, the land for this purpose and land underlying other District facilities (such as booster station or elevated tanks) has never been deeded or conveyed to the District, therefore, the placement of the future tank site has been flexible. Moreover, the future water demands for MBP have not been established and typical infrastructure plans to determine a future reservoir location (if needed) remains unknown.

Typical considerations for a site would include a variety of factors. The size of the site and location; for accessibility, hydraulics, and land-use compatibility are keen. In addressing the vagaries of MBP, only the size of the parcel currently proposed (just over one acre) is reliably determined. The District and MBP have incrementally increased the size of the parcel as the commercial value decreased. The newly proposed site is across the street from the previously agreed upon site with no security limitations.

Currently, the District has no plans to construct a reservoir or storage facility at MBP. However, future operational flexibility and uncertainty warrant preservation of options which can be secured by cooperation and negotiation at this time.

Background:

2000 – The County of Sacramento executed an agreement (Agreement) with Northridge Water District for operation and maintenance of the potable water facilities with ownership of the facilities, including language to transfer various real estate properties. One of the various properties was Facility 662/663, a concrete surface level storage tank and pump house,

respectively, located at the northwest corner of Bell Avenue and Winters Street (see Exhibit 2). The concrete surface level storage tank and pump house were not in operation and the site had previously been disconnected from the distribution system.

2008 – The District agreed with MBP to exchange the future tank site from the original site shown on Exhibit 2, to approximately 900 feet north along Winters Street as shown on Exhibit 3. The site on Exhibit 3 was enlarged (to approximately an acre) to accommodate a larger future storage tank with a preliminary estimated capacity of three million gallons. The agreement executed between the District and MBP left the possibility open to change the future tank site to a different site other than that shown on Exhibit 3, so long as it was mutually agreed by both parties.

2016 – MBP made a request to the District to trade the current site on Winters Street for a new location near the runway (see Exhibit 4). This site is within a security perimeter and affected by restrictions, such as height, occupancy and usage restrictions of the Air Installation Compatibility Use Zone. In addition, the soil has contamination issues that will not be corrected until 2019/20.

2017 – MBP has made a new request to the District to trade the current site, Exhibit 3, for a new location across the street (see Exhibit 5). Preliminary reconnaissance indicates the site is suitable for a tank or material storage and conveniently located.

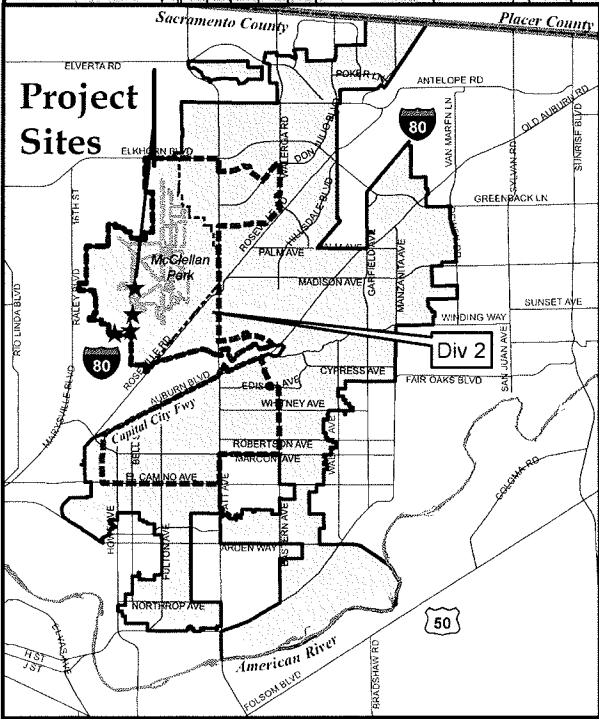
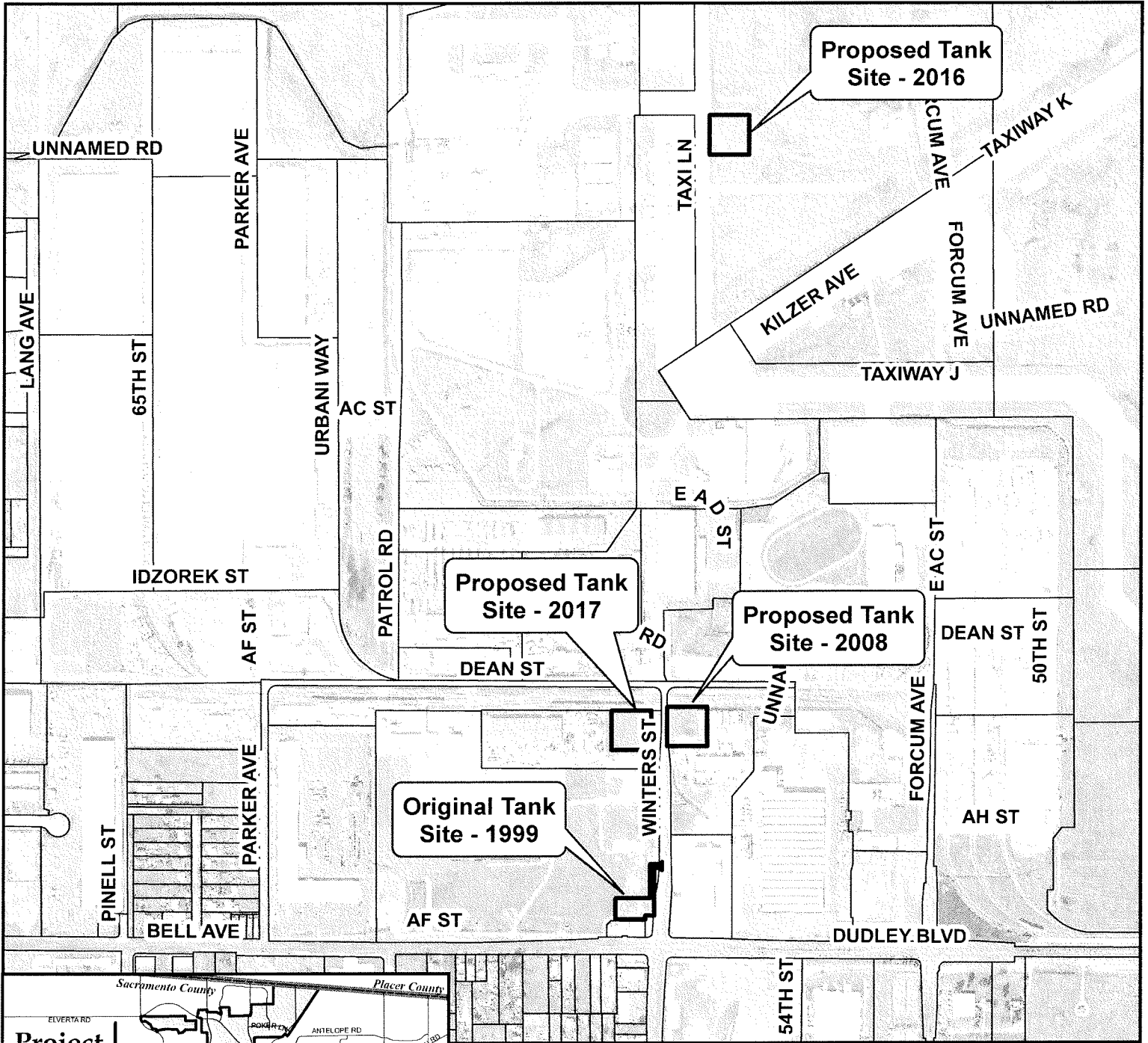
Fiscal Impact:

Except for administrative time, the District has not invested any funds into this land acquisition and is not anticipating any expense beyond the organizational effort, legal review or recording fees.

Strategic Plan Alignment:

Facilities and Operations – 2.B. Monitor and improve the system efficiencies in operating and maintaining system infrastructure. This item aligns with this goal because the properties are necessary to maintain the District’s infrastructure such as reservoirs. District customers benefit by owning a parcel that may accommodate a future reservoir site or proffered for other purposes.

There is tangible value in the land and the District’s options to use this value for the benefit of the rate payers are dependent upon securing and completing a recordable land transfer to the District.



NO SCALE Portion of Sacramento Suburban Water District

EXHIBIT 1

NOT FOR RECORDING

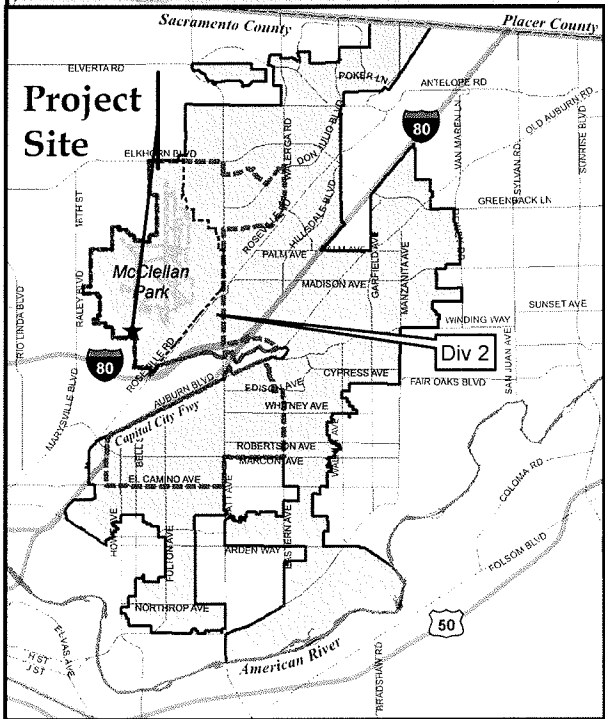
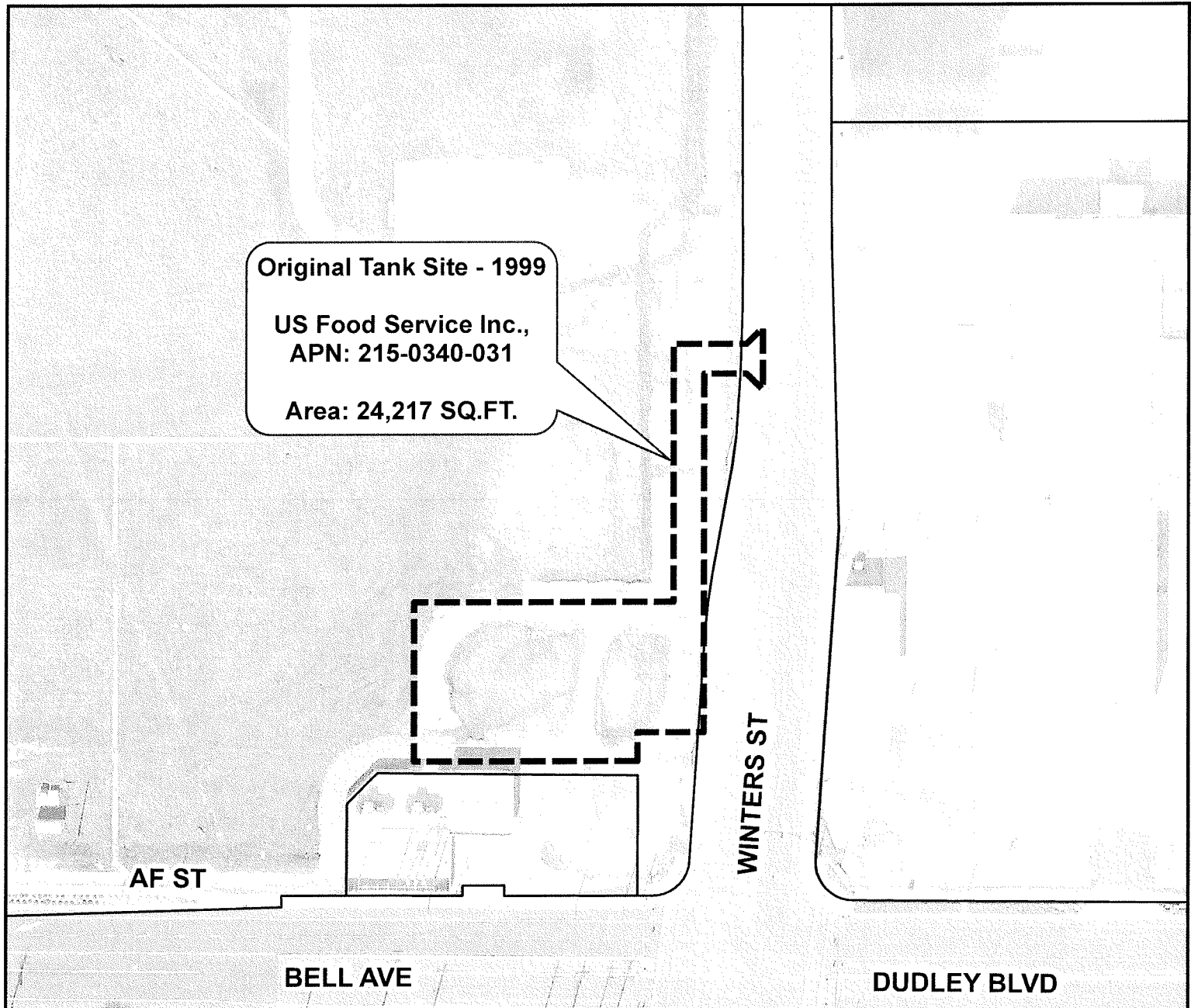
All Sites

(Voting Division 2)

Base Data: Sacramento County Gis Base Map
 Projection: CA State Plane 2, NAD83
 Scale: No Scale
 Prepared by: DAV, SSWD
 Sacramento, CA - Sept., 2016
 All-Sites.mxd

THIS MAP SHOWS THE LOCATION OF THE PUE AND IS NOT PART OF EASEMENT DOCUMENTS

Original Tank Site - 1999
US Food Service Inc.,
APN: 215-0340-031
Area: 24,217 SQ.FT.



NO SCALE Portion of Sacramento Suburban Water District

EXHIBIT 2
NOT FOR RECORDING
Original Tank Site
1999



(Voting Division 2)



Base Data: Sacramento County Gis Base Map
 Projection: CA State Plane 2, NAD83
 Scale: No Scale
 Prepared by: DAV, SSWD
 Sacramento, CA - Sept., 2016
 1999-SITE.mxd

THIS MAP SHOWS THE LOCATION OF THE PUE AND IS NOT PART OF EASEMENT DOCUMENTS

KILZER AVE

KILZER AVE

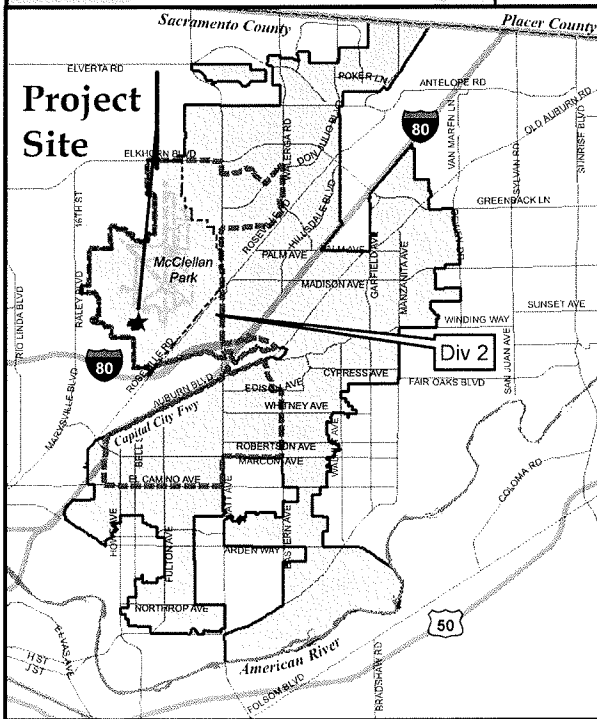
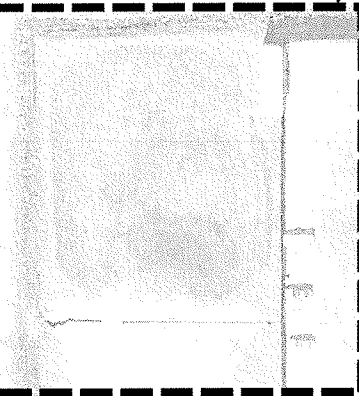
DEAN ST

Proposed Tank Site - 2008

MP Holdings Ll.c.,
APN: 215-0340-021

Area: 40,000 SQ.FT.

WINTERS ST



NO SCALE Portion of Sacramento Suburban Water District

EXHIBIT 3

NOT FOR RECORDING

Proposed Tank Site
2008

(Voting Division 2)



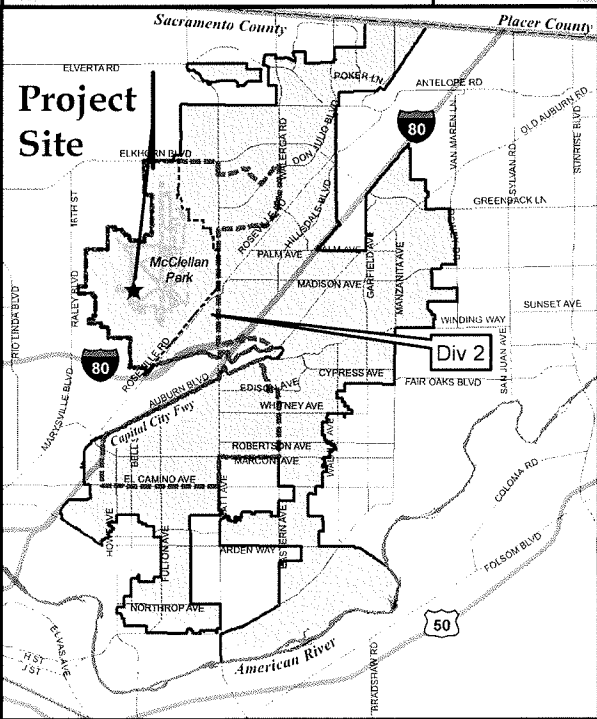
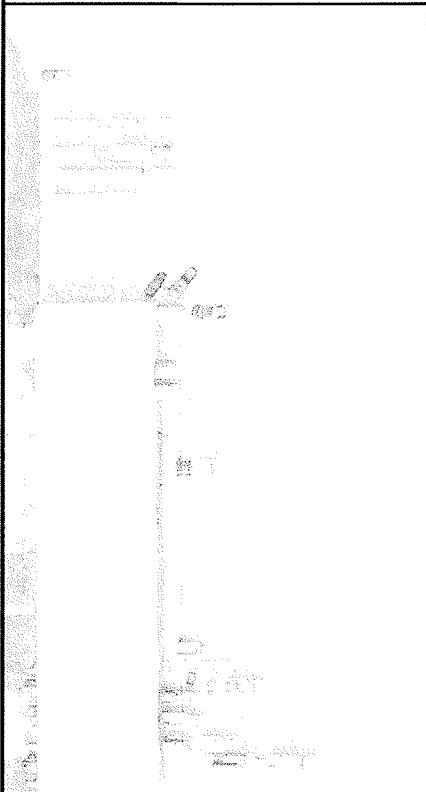
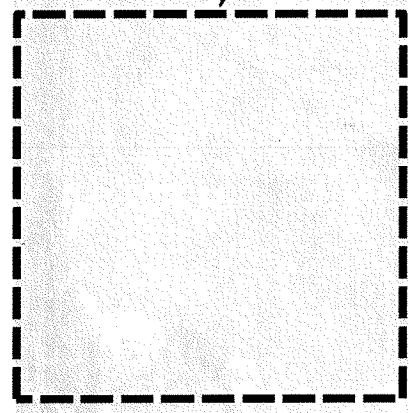
Base Data: Sacramento County Gis Base Map
Projection: CA State Plane 2, NAD83
Scale: No Scale
Prepared by: DAV, SSWD
Sacramento, CA - Sept., 2016
2008-SITE.mxd

THIS MAP SHOWS THE LOCATION OF THE PUE AND IS NOT PART OF EASEMENT DOCUMENTS

UNNAMED R

Proposed Tank Site - 2016
McClellan Business Park Llc.,
APN: 215-0360-012
Area: 40,000 SQ.FT.

TAXI LN



NO SCALE Portion of Sacramento Suburban Water District

EXHIBIT 4
NOT FOR RECORDING



Proposed Tank Site
2016

(Voting Division 2)



Base Data: Sacramento County Gis Base Map
Projection: CA State Plane 2, NAD83
Scale: No Scale
Prepared by: DAV, SSWD
Sacramento, CA - Sept., 2016
2016-SITE.mxd

THIS MAP SHOWS THE LOCATION OF THE PUE AND IS NOT PART OF EASEMENT DOCUMENTS

KILZER AVE

KILZE

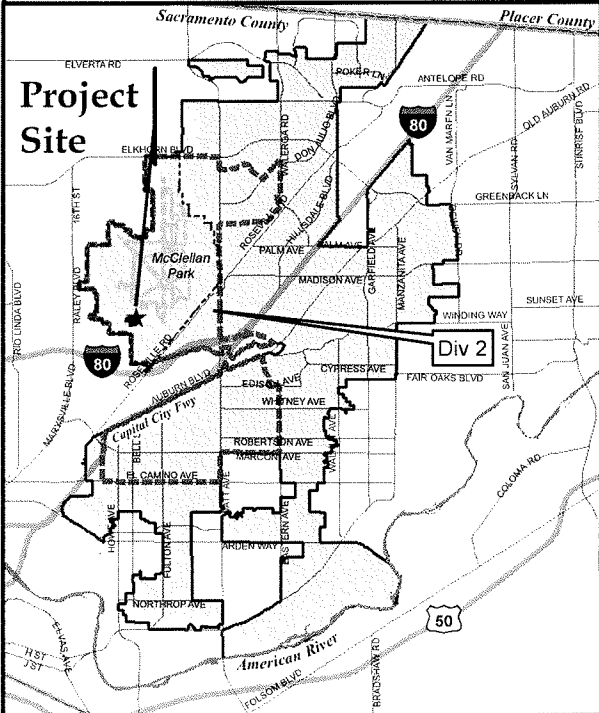
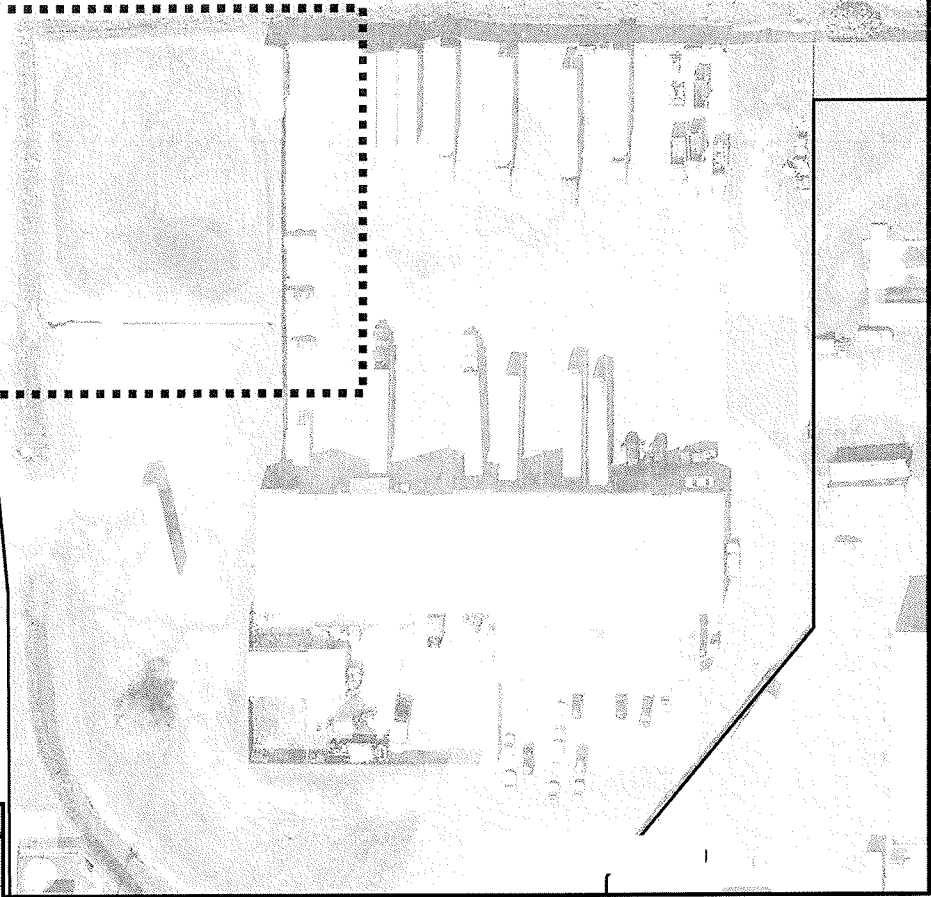
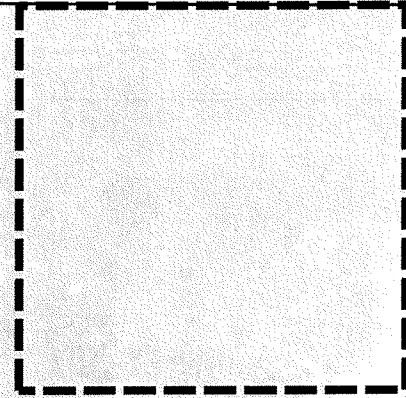
Proposed Tank Site - 2017

MP Holdings Llc.,
APN: 215-0340-029

DEAN ST

Area: 40,000 SQ.FT.

WINTERS ST



NO SCALE Portion of Sacramento Suburban Water District

EXHIBIT 5

NOT FOR RECORDING



Proposed Tank Site 2017

(Voting Division 2)



Base Data: Sacramento County Gis Base Map
Projection: CA State Plane 2, NAD83
Scale: No Scale
Prepared by: DAV, SSWD
Sacramento, CA - Sept., 2016
2017-SITE.mxd

THIS MAP SHOWS THE LOCATION OF THE PUE AND IS NOT PART OF EASEMENT DOCUMENTS



Facilities and Operations Committee

Agenda Item: 3

Date: January 17, 2017

Subject: McClellan Business Park and Operations Agreement Update

Staff Contact: Dan York, Assistant General Manager

Recommended Committee Action:

Receive report on the current status of the McClellan Business Park (MBP) 1999 Agreement (Agreement). Provide direction to bring a recommendation to the District's Board regarding closure to the existing Agreement and negotiate a new agreement between the District and MBP.

Background:

On September 7, 1999, Northridge Water District (NWD) executed the Agreement between Sacramento County (County) and NWD for the Conveyance of the McClellan Water Distribution System for ownership, operation, and maintenance of the potable water system. Included in the Agreement was a Capital Improvement Plan (CIP) consisting of ten items that were included in the proposal. In Section 2 of the Agreement, NWD was required to provide "upgrades" to the existing potable water system to bring it up to current standards. The "upgrades" are itemized in Exhibit C of the Agreement for a total estimated cost of \$5,062,000. There are three items from the CIP list that have yet to be 100% completed.

MBP is now questioning whether the District, MBP, or a developer is responsible for upsizing the existing water mains at MBP. In particular, MBP is challenging whether the District's Regulations Governing Water Service is applicable at MBP, or whether their interpretation of the Agreement is obligating the District to pay for and make these improvements.

Discussion:

Under the Agreement NWD agreed to take over the water system at McClellan Air Force Base. As consideration for receiving the assets of the water system and assuming its operation and maintenance as the base's water provider, NWD agreed in the first paragraph of Section 2, page 3 of the Agreement to:

Upgrade, maintain, and operate the System in accordance with all applicable laws, rules, regulations, and orders of State and Federal governments, agencies, and other governmental authorities, including, but not limited to, the American Water Works Association, the California Department of Health Services, the California Department of Toxic Substance Control, and the

Central Valley Regional Water Quality Control Board. NWD estimated that system upgrades would cost approximately \$5,100,000, as further described and set forth in Exhibit C. Implementation of system upgrades will be dictated by the County's final re-use and capital improvement plan for MBP. The total funding spent to date is approximately \$9.97 million, including maintenance and operations. Cost associated with the ten items on the capital improvements is approximately \$7.24 million (list of projects has not been completed thus final costs are unknown). A cursory study of metering MBP has been compiled. An analysis of the amount of annual revenue being collected based solely on the meter service charge and capital facilities charge components of the District's water rate schedule was conducted. Volume of water was excluded considering an equal amount of water would be sold whether MBP be metered individually or master metered. Based on the 2017 water rates, the District will collect approximately \$1.06M through individual metering.

MBP's interpretation of the County's final re-use plan dictates all upgrades are the responsibility of the District. The District feels the only other guidance on the scope of its obligation is Exhibit C to the Agreement, which is entitled "McClellan Air Force Base Capital Improvement Plan." Although the title is broad, the ten items listed in Exhibit C are various types of water system improvements. The District's interpretation of the Agreement is that once the required improvements as listed in Exhibit C have been completed, its obligation to make water system upgrades ends.

District staff has had numerous meetings with MBP executive staff in attempts to resolve the disagreement on the interpretation of the Agreement. In February 2016, the District's legal counsel generated a legal opinion letter, attached as Exhibit 1, that stated the District's obligation to upgrade the water system at MBP is limited to those specific obligations set forth in Exhibit C to Agreement. In December 2016, the District received a legal opinion letter from MBP legal counsel, attached as Exhibit 2 to this report. It is the opinion of MBP legal counsel that the Agreement cannot reasonably limit the District's obligations to perform upgrades to MBP.

District staff met with MBP executive staff on January 6, 2016, per their request, to discuss the interpretation of both opinion letters in hopes to move forward with limited legal involvement. The meeting was very productive. Both the District and MBP was in agreement that further discussions need to be developed on amending the Agreement, with focus based on what infrastructure improvements are required based on improvements to an existing facility or new development.

Due to the fact the Agreement is between the District and County, on January 10, 2017, staff met with the County Director of Economic Development and his key staff. The purpose of the meeting was to inform the County of the ongoing issues that need to be resolved at MBP. The County realizes the issue needs to be resolved and will be scheduling future meetings with both the District and MBP to continue discussions and ultimately amend the Agreement. The Director of Economic Development has appointed Kent Craney, Principal Engineer, to be the County's representative in the future discussions on implementing the District's standards and regulations in coordination with MBPs future development.

Fiscal Impact:

The cost incurred by the District will be at legal counsel's hourly rate to negotiate with MBPs legal counsel for amendment of the current agreement. There will be District staff time, some consulting time and legal expenses to develop new agreement supportive of the MBP development plans while being protective of the current rate payers. The costs for other improvements and future development will be addressed with those activities and not considered a factor in this action.

Strategic Plan Alignment:

Facilities and Operations – 2.B. Monitor and improve the District's efficiencies in operating and maintaining system infrastructure.

District customers benefit as the proposed new agreement will facilitate closure of past issues and provide direction moving forward with the development at MBP.

BARTKIEWICZ, KRONICK & SHANAHAN

PAUL M. BARTKIEWICZ
RICHARD P. SHANAHAN
ALAN B. LILLY
RYANS BEZERRA
JOSH A M HOROWITZ
KATRINA C GONZALES
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7722-54

Of Counsel

STEPHEN A KRONICK

February 24, 2016

Privileged & Confidential Attorney-Client Communication

Robert S. Roscoe, P.E.
General Manager
Sacramento Suburban Water District
3701 Marconi Avenue, Suite 100
Sacramento, CA 95821-5346

Re: McClellan Business Park Easement and Water System Upgrade Issues

Dear Rob:

This letter addresses two issues that I have recently discussed with you and Assistant General Dan York concerning the water system at McClellan Business Park ("MBP"). These two issues were raised by representatives of MBP directly with you, Mr. York and/or with the members of the District Board of Directors' Facilities & Operations Committee. The two issues involve interpreting the terms of the agreement dated September 7, 1999 under which the District's predecessor, Northridge Water District, acquired the former McClellan Air Force Base water system from Sacramento County (the "1999 Agreement").

The first issue involves recent statements by MBP personnel that the District has a "blanket easement" on all MBP property for water system facilities. The second issue concerns the District's obligation to provide upgrades to the MBP water system and any limits on that obligation. This letter addresses each of these issues in turn.

"Blanket Easement" for District Water Facilities

In regard to the issue of a "blanket easement" for the District's water system facilities on MBP property, I conclude that MBP's statement is partially true and that in the long term the 1999 Agreement intends that the District acquire express, recorded easements for all water system facilities not in County roads and public utility easements.

The third paragraph of Section 2, page 4 of the 1999 Agreement provides as follows:

Within 12 months of transfer of title to NWD, NWD shall initiate or participate in a process to secure legal descriptions, suitable for recordation, of all necessary easements to encumber the System, excepting that portion of the System which lies within the proposed rights of way and public utility easements adjacent thereto, as described in paragraph 11. Easements shall be a minimum width required by NWD to ensure maintenance, to provide for access, and shall be offered by NWD for dedication as public utility easements.

Section 11 of the 1999 Agreement provides for a priority for County improvements in roadways and appurtenant public utility easements identified by Sacramento County under an adopted master roadway plan for the McClellan property. Under Section 12, however, the District has a first priority right over all other utilities in all other easements and rights of way.

While I am not aware that Northridge or SSWD has ever initiated or been involved in a process for identifying and securing easements for all existing water system facilities within MBP, the intent of the 1999 Agreement is clear -the District was not intended to have a "blanket easement" for water system facilities on a long-term basis. To the extent that any such facilities are not within a County-identified public road or utility easement, the District's facilities are supposed to be located in express easements provided by the USA, County or MBP and on which the District would have a first priority to operation.

The fact that the District has not previously engaged in this effort does not necessarily present a problem. It is similarly clear from the language of Section 2 that the effort to identify and secure easements for the MBP water system is intended to be a collaborative effort that requires the cooperation of all interested parties. The fact that this effort may not have occurred in the past probably has more to do with the transition of the land from an Air Force base to a private industrial and commercial facility via Sacramento County, including the circuitous process for toxics remediation and transfer of the real property rights. Of course, until the District and MBP undertake this effort, the initial "blanket easement" granted by the County to the District for existing water system facilities remains in place and protects those facilities subject to any prevailing priority for County utilities.

In terms of how the District should determine the proper scope of easements, and for that matter, new water system facilities, and MBP's and its tenants' obligations in this regard, the 1999 Agreement provides in Section 14, page 8, that:

Water Service provided by NWD at McClellan and the Associated Facilities shall be in accordance with NWD's Rates, Rules, and Regulations, as amended from time to time, attached as Exhibit D.

The intent of the 1999 Agreement is thus clear that the existing MBP water system facilities and any future new facilities installed for private development within MBP would be governed by Northridge's ordinances, rules, regulations, and policies as amended from time to time in the former district's discretion. As the successor to Northridge, the District's ordinances, rules, regulations, and policies now govern the operation, maintenance, repairs, replacements, and improvements to the MBP water system. To the extent that MBP or a commercial or industrial entity at MBP would like to install new or relocated services, such new or relocated services should be installed according to all prevailing District requirements, including MBP's obligation to grant express easements of the required dimensions to the District for such new or relocated facilities. There is nothing in the 1999 Agreement that carves out any exceptions to this rule for MBP or any public or private entity other than certain delimited rights of the U.S. Air Force and Sacramento County that are not immediately relevant to the granting of easements for the operation, maintenance and development of the water system within MBP.

In conclusion, the so-called "blanket easement" that the District enjoys on MBP's property was intended by the 1999 Agreement to apply only to existing water system facilities acquired by the District and then only until the parties can identify and negotiate express easements for all water system facilities not in a County-designated public road or utility easement. While we recommend that the District consider initiating a process in collaboration with MBP to identify all existing water system facilities with the goal of securing express, recorded easements for all such facilities, that conversation should be incorporated into the current discussions that the District and the Board's Facilities & Operations Committee are engaged in with MBP about water service issues, including (1) the need for MBP and its tenants to comply with applicable District regulations as provided in Section 14 of the 1999 Agreement.; and (2) the form and content of the District's standard grant of easement for MBP water system facilities. Finally, please note the final clause in the third paragraph of Section 2 of the 1999 Agreement providing that all express easements "shall be offered by NWD for dedication as public utility easements." I recommend that the District discuss with MBP and the County deleting this obligation from the 1999 Agreement. It introduces an onerous and unworkable obligation on the District that could have significant impacts on its water system facilities.

Scope of the District's Obligations to Upgrade McClellan Water System

The second issue related to current discussions with MBP concerns the scope of the District's obligations to make upgrades to the MBP water system. As will be explained below, I conclude that under the 1999 Agreement the District's obligation to upgrade the MBP water system is limited and that when those obligations are satisfied the District's obligation will terminate.

Robert S. Roscoe, P.E.
February 24, 2016
Page 4 of 5

Under the 1999 Agreement, Northridge agreed to take over the water system at McClellan Air Force Base. As consideration for receiving the assets of the water system and assuming its operation and maintenance as the base's water provider, Northridge agreed in the first paragraph of Section 2, page 3 of the 1999 Agreement to:

[U]pgrade, maintain, and operate the System in accordance with all applicable laws, rules, regulations, and orders of State and Federal governments, agencies, and other governmental authorities, including, but not limited to, the American Water Works Association, the California Department of Health Services, the California Department of Toxic Substance Control, and the Central Valley Regional Water Quality Control Board. NWD estimates that System upgrades will cost approximately \$5,100,000, as further described and set forth in Exhibit C. Implementation of system upgrades will be dictated by County's final re-use and capital improvement plan for McClellan.

The July 2000 McClellan Air Force Base Final Reuse Plan is devoid of any requirements for Northridge's implementation of water system upgrades. Section 4.5.2 of the reuse plan simply describes the main features of the existing water system and states that the system has been conveyed to Northridge. Section 6.3.1 states only that Northridge will be responsible for making improvements to the water system. There is nothing else in the reuse plan concerning the water system. Except as discussed below, I also was unable to identify a separate capital improvement plan for MBP that discusses requirements for water system upgrades.

The only other guidance on the scope of the District's obligation is Exhibit C to the 1999 Agreement, which is entitled "McClellan Air Force Base Capital Improvement Plan." Although the title is broad, the ten items listed in Exhibit C are various types of water system improvements that total an estimated \$5,062,600. I have attached a copy of Exhibit C to this letter for your information and for reference in this discussion. The key issue is that Exhibit C identifies ten specific upgrades that the District was obligated to make to the MBP water system. Exhibit C is self-contained and is not open-ended other than as to the time the specified improvements must be made. Once the District makes the required improvements as listed in Exhibit C, its obligation to make water system upgrades ends.

We discussed the related issue of what options the District has if it in fact has not completed all of the upgrades listed in Exhibit C. The bottom line response is that upgrades that can be, but are not yet, completed, should be completed by the District as promptly as possible. If the District believes that a listed upgrade is not necessary for the proper functioning of the water system, the District could ask MBP to provide a written waiver of the upgrade in consideration of the District's actual expenditures to date on system upgrades that total almost double the amount of funds budgeted as stated in Exhibit C. If MBP refuses to provide such a waiver, an option would be for the District to

Robert S. Roscoe, P.E.
February 24, 2016
Page 5 of 5

offer to liquidate the obligation by paying MBP some percentage of the budgeted amount for the upgrade in question.

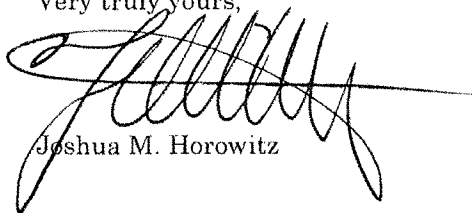
If there are any unperformed upgrades that the District has been unable to perform because it has been prevented from performing them due to circumstances beyond its control (for example well upgrades because of contamination issues), I believe that the District could and should refuse to honor such obligations because of legal contract defenses, including impossibility of performance and failure of consideration. This is particularly true when the District has given substantially more in monetary consideration than was budgeted for in Exhibit C.

Regardless of the outcome of discussions with MBP concerning the District's obligations under the 1999 Agreement to upgrade the water system, once a resolution of this issue is reached, it should be memorialized in writing by an amendment to the 1999 Agreement or a side letter signed by MBP.

In conclusion on this second issue, the District's obligation to upgrade the water system at MBP is limited to those specific obligations set forth in Exhibit C to the 1999 Agreement. The District's obligation is further limited by standard contracting principles to the extent that a specific upgrade or upgrades cannot be performed because of circumstances beyond the District's control. To the extent the District is obligated to perform an upgrade and has not yet done so, it should attempt to liquidate the obligation by first asking MBP to waive the obligation in consideration of the amounts already expended by the District on other upgrades. Failing that, the District should consider asking MBP to liquidate the obligation for a payment of some lesser amount than what was budgeted for the subject upgrade(s) in Exhibit C to the 1999 Agreement.

Please contact me with any questions about this letter, or if you would like further assistance with this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Joshua M. Horowitz', with a long horizontal flourish extending to the right.

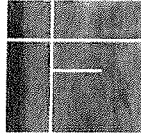
Joshua M. Horowitz

JMH:
Encl.
cc: Dan York (via email)

EXHIBIT C

McClellan AIR FORCE BASE CAPITAL IMPROVEMENT PLAN

	Description	Unit Charge	Qty.	Estimated Charge
1	Water meters and backflows (All Buildings)	N/A	517	\$ 1,374,000
2	Fire sprinkler protection system for all fire sprinkler services.	N/A	189	911,800
3	3/4 inch meters (Capehart Housing)	N/A	648	668,800
4	Fire Hydrants - testing -upgrade / replacement	300 ea. 2,500 ea.	360 180	108,000 450,000
5	Storage tank inspection, cleaning and/or recoating.	100,000 ea.	4	400,000
6	Backflow protection on fire and deluge system tanks.	10,000 ea.	4	40,000
7	Water well inspection and upgrade to current DOHS standards, including VFD drives, telemetry equipment and controls.	100,000 ea.	4	400,000
8	Altitude valves on storage facilities.	N/A	4	90,000
9	Water quality sampling plan and sampling station and installation.	20,000	LS	20,000
10	Pipeline Extensions - Roseville Road 24 inch - Roseville Road 16 inch	N/A N/A	LS LS	380,000 220,000
	<i>Estimated Total</i>			<i>\$5,062,600</i>



T R A I N O R F A I R B R O O K
A T T O R N E Y S A T L A W

John D. Fairbrook
jfairbrook@trainorfairbrook.com

December 5, 2016

ELECTRONIC MAIL

Jay Heckenlively, Esquire
McClellan Business Park
3140 Peacekeeper Way
McClellan Park, California 95662

Re: McClellan Business Park Water System Contract Analysis

Dear Jay:

Pursuant to your request, I have reviewed the agreement between the County of Sacramento and the Northridge Water District for the conveyance of the McClellan water distribution system dated September 7, 1999 ("Agreement"). You have specifically requested that I comment on the observations and conclusions contained in Robert Roscoe's August 3, 2016 correspondence to Alan Hersh which enclosed the legal opinion from the Sacramento Suburban Water District ("District") attorney, Joshua Horowitz. The District and its counsel have interpreted the Agreement as limiting the District's obligations to make improvements to the water distribution system to \$5,100,000, the amount set forth in Exhibit C to the Agreement. For the reasons discussed herein, it is my opinion that the District's interpretation is not supported by the language of the Agreement and is inconsistent with California's rules of contract interpretation.

The current dispute centers around a transfer of the McClellan water distribution system ("System") to the Northridge Water District.¹ The transfer of the water distribution system pursuant to the Agreement was one of a series of utility and infrastructure transfers which occurred in connection with the closure of McClellan Air Force Base. The Agreement provided that the County would transfer the System to Northridge. In addition to the System, Northridge received title to certain real property and "the exclusive right to be the sole water provider for McClellan" for a ten year period. In exchange, Northridge agreed to upgrade, maintain and operate the system in accordance with all applicable laws and standards. The specific provisions

¹ The Northridge Water District and Arcade Water District were consolidated in to the Sacramento Suburban Water District in 2002. Underlying my analysis is the assumption that the District has assumed all of the contractual obligations of Northridge under the Agreement.

Jay Heckenlively, Esquire

Re: McClellan Business Park Water System Contract Analysis

December 5, 2016

Page 2

of the Agreement underlying this dispute are contained in section 2 of the Agreement and read in relevant part:

... As consideration for the County's transfer and conveyance of the System to NWD, NWD shall upgrade, maintain and operate the System in accordance with all applicable laws, rules, regulations, and orders of the state and federal governments, agencies and other government authorities, including, but not limited to the American Water Works Association, the California Department of Health & Services, the California Department of Toxic Substances Control, and the Central Valley Regional Water Quality Control Board. NWD estimates that System upgrades will cost approximately \$5,100,000, and further described and set forth in Exhibit C. Implementation of System upgrades will be dictated by County's final re-use and capital improvement plan for McClellan Park.

California applies an objective standard to the interpretation of contracts. Under this standard, it is the outward manifestations of the parties' intent that are considered in determining the meaning of a contract. (*Brandt v. California Dairies* (1935) 4 Cal.2d 128, 133; *Beard v. Goodrich* (2003) 110 Cal.App.4th 1031, 1039.) Subjective understandings or post hoc rationalizations or opinions are irrelevant. The California Civil Code sets forth the basic rules of contract interpretation. Section 1636 directs that a contract is to be interpreted "as to give effect to the mutual intention of the parties as it existed at the time of contract, as the same is ascertainable and lawful." (Civ. Code § 1636.) Section 1638 states that "the language of the contract is to govern its interpretation if the language is clear and explicit and does not involve an absurdity." (Civ. Code § 1638.)

The Contract Language

The first step in the analysis is to review the language of the Agreement to determine if there is any language which supports the District's conclusion that its upgrade obligations are limited. Initially, it should be underscored that the Agreement's plain language clearly requires that the District "upgrade, maintain and operate the System in accordance with all applicable laws, rules, regulations, etc." The question, therefore, is whether there exists any other language in the Agreement which would place a cap or other limitation on the District's obligations.

The Agreement does not contain any language which expressly places any limitation on the District's obligation to upgrade the System to applicable standards. Notably absent from the Agreement is any express language which directly limits the District's upgrade obligations. Nevertheless, the District's obligations are not open-ended and are limited to

Jay Heckenlively, Esquire

Re: McClellan Business Park Water System Contract Analysis

December 5, 2016

Page 3

upgrades necessary to bring the System in compliance with applicable law, standards and regulations. The District focuses on Exhibit C and the language of the Agreement to the effect that "NWD estimates that the System upgrades will cost approximately \$5,100,000 as further described and set forth in Exhibit C." This language, by its very terms, is an "estimate" by Northridge of the "approximate" costs of certain upgrades. Significantly, the Agreement does not characterize Exhibit C as having been agreed to by both parties. Northridge had been operating and maintaining the System since 1998 and was in the best position to know and understand what specific upgrades were required to ensure that the System complied with all applicable laws, rules and regulations, etc. as specified in the Agreement. The recital of an approximate estimate by one party to the agreement cannot reasonably be read as an overall limitation of the District's upgrade obligations. Significantly, absent from the Agreement is any language which limits the scope of the District's obligation to upgrade the System to meet current standards.

When construing a contract, it is necessary that "the whole of a contract is to be taken together so as to give effect every part, if reasonably practical, each clause helping to interpret the other." (Civ. Code § 1641.) Also in interpreting a contract, "several contracts relating to the same matters between the same parties, and made as parts of substantially one transaction are to be taken together." (Civ. Code § 1642.) Here, the Agreement specifically refers to the County's Final Reuse and Capital Improvement Plan for McClellan. Provisions of the Reuse Plan confirm the underlying intention of the parties that Northridge would be responsible for upgrading the System to meet current standards.

The Reuse Plan identifies as a critical component of the base closure that the "backbone infrastructure" would be updated. The Reuse Plan calls for upgrades to the backbone infrastructure to ensure that the infrastructure would meet Sacramento County standards and also to ensure sufficient capacity "necessary to adequately serve the build out of the general development program." (Reuse Plan, § 6.3.1.) The costs for these backbone infrastructure improvements in many cases were passed on to agencies other than the Sacramento County, including Northridge. In particular, the Reuse Plan provides:

Improvements to other backbone infrastructure systems will be completed by agencies other than Sacramento County. Sacramento Municipal Utility District will be responsible for electric utility improvements and Pacific Gas & Electric as well as other services providers will be responsible for gas utility improvements. **The Northridge Water District will be responsible for water improvements** and Pacific Bell and other services providers will be responsible for telephone and telecommunications improvements. (Emphasis added.)

Jay Heckenlively, Esquire

Re: McClellan Business Park Water System Contract Analysis

December 5, 2016

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The Reuse Plan also expressly contemplates the expenditure of the District's own capital for system upgrades. Section 4.5 of the Reuse Plan entitled "Other Infrastructure and Utility Systems" provides:

Other existing utility and infrastructure systems have been or will be conveyed to third party service providers or the systems will be abandoned. **In exchange for the conveyance, the service providers will operate and maintain the respective utilities, and invest their own capital for system improvements.** (Emphasis added.) (§ 4.5.)

Section 4.5.2 of the Reuse Plan also identifies that the water distribution system has been conveyed to Northridge. Notably, nothing in the Reuse Plan provides for any monetary limitation or cap on the upgrades to the System required.

Contrary to the interpretation placed on the Agreement by the District, the language of the Agreement is not reasonably susceptible to the conclusion that the parties intended Exhibit C to act as a cap or other limitation on the capital improvements required to be made to the System. In contrast, the language of the Agreement requires the District to upgrade the System in accordance with all applicable laws, rules and regulations, etc. and contemplates that the System would be upgraded to meet County standards as well as the future build out of the project. This interpretation is further supported by the language of the County's Final Reuse Plan which specifically articulates the strategy and responsibility for infrastructure improvements.

The District argues that additional upgrades beyond those enumerated in Exhibit C to the Agreement are the responsibility of McClellan Business Park or its tenants. The District, however, points to no specific provision or language of the Agreement which would impose this obligation on McClellan Business Park or its tenants. Moreover, the notion that the additional upgrades would be the obligation of those other than the District is inconsistent with the express contractual obligation of the District to upgrade the system to meet, *inter alia*, "all applicable laws, rules regulations ..."

Negotiation and Performance

When confronted with contractual terms which are ambiguous, California courts will consider evidence of the parties' negotiations and their performance of the contract as evidence of the parties' intent. As part of my review and analysis of the Agreement, I interviewed Paul Philleo, the County's Senior Engineer who was responsible for negotiating the Agreement with Northridge. I also interviewed Kent Craney, the County's Senior Civil Engineer responsible for McClellan project since 2006. During my interview with Mr. Philleo, he expressed strong disagreement with the notion that Exhibit C to the Agreement was intended as a

Jay Heckenlively, Esquire

Re: McClellan Business Park Water System Contract Analysis

December 5, 2016

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cap the District's obligations to upgrade the System. According to Mr. Philleo, during the negotiations for the Agreement, it was discussed and understood by all that Exhibit C and the items set forth thereon were not exclusive nor exhaustive. Exhibit C was not intended to identify all System upgrades which would be required. Rather, Exhibit C was an estimate of those improvements which Northridge assumed would be minimally required to operate the System. Northridge's estimate of those costs were included as a means of identifying some value for the consideration offered by the District in exchange for the receipt of the System and associated real property.

It is also significant that both Mr. Philleo and Mr. Craney described the performance of the Agreement by Northridge as being inconsistent with the interpretation currently proffered by the District. In particular, numerous requests for new service within the McClellan Business Park have been processed by Northridge without the requirement that the new users pay for upgrades to the System or otherwise comply with the general standards of the District. Specifically, the District's current insistence that all new users be required to upgrade the System or otherwise meet specific District standards represents a significant departure from the prior practice of the parties. California courts routinely give weight to the parties' performance as a means of interpreting the meaning of ambiguous terms. Under the so-called rule of practical construction, the actions of the parties are used as a means of ascertaining the intent of contractual terms. The rationale underlying the rule of practical construction was examined by the California Supreme Court in *Crestview Cemetery Ass'n v. Dieden* (1960) 54 Cal.2d 744 where the court explained:

This rule of practical construction is predicated on the common sense concept that 'actions speak louder than words.' Words are frequently but an imperfect medium to convey thought and intention. When the parties to a contract perform under it and demonstrate by their conduct that they knew what they were talking about the courts should enforce that intent.

(*Crestview Cemetery Ass'n v. Dieden, supra*, 54 Cal.2d at 754.)

Both Messrs. Philleo and Craney confirmed that for well over ten years following the transfer of the System to Northridge there was no dispute concerning the District's obligation to upgrade the System. Nor was there any attempt to pass on the costs of upgrades to McClellan Business Park or its tenants. During this period, requests for new service were routinely processed and approved without the imposition of any requirement for System upgrades. In fact, there appears to have been no disagreement during the performance of the Agreement. Warren Jung acted as the engineer responsible on behalf of Northridge for implementation of the Agreement and continued as engineer for the District, with responsibility over McClellan Business Park. Mr. Jung was also one of the principal negotiators for Northridge during the formation of the

Jay Heckenlively, Esquire

Re: McClellan Business Park Water System Contract Analysis

December 5, 2016

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Agreement. It has been only with the departure of Mr. Jung that a new interpretation has been placed on the terms of the Agreement by the District. As described above, this new interpretation is inconsistent with the manner in which the Agreement has been interpreted by the parties for many years.

Contract Defenses

In addition to offering his interpretation of the agreement, the District's legal counsel also argues that the obligation of the District to upgrade the system to the applicable standards is subject to various contract defenses including a failure of consideration, unconscionability, and the prohibition on gifts of public funds.

- **Failure of Consideration**

The question presented by the parties' dispute concerns the proper interpretation of the provision which sets forth consideration which was to be provided by Northridge. The defense of a failure of consideration is applicable only where there is a material failure of one party to receive the consideration contemplated under the contract. (Civ. Code § 1689(b).) Here, Northridge received the System, associated real property and the exclusive right to be the sole water provider at McClellan Business Park for a ten year period. There does not appear to be any contention that the District did not receive the full consideration to which it was entitled pursuant to the terms of the Agreement. Accordingly, the defense of a failure of consideration is not applicable.

- **Unconscionability**

The question of unconscionability is determined not on the basis of hindsight but based on an analysis of the Agreement at its inception. To establish that an agreement is unconscionable one must establish that the agreement suffers from both "procedural" and "substantive" unconscionability. (*A&M Produce v. FMC Corporation* (1982) 135 Cal.App.3d 473, 486.) Here, the Agreement is not a form contract and is not a contract of adhesion. Rather, the Agreement was specifically prepared for this transaction and was negotiated by two sophisticated parties of roughly equally bargaining position. Accordingly, there does not appear to exist any procedural unconscionability. Moreover, no evidence has been presented to establish substantive unconscionability. No evidence or analysis has been provided which would suggest that the District's receipt of the System, associated real property and the exclusive right to service McClellan Business Park had a value in an amount which was grossly less than the District's obligation to upgrade the System to meet applicable rules and regulations. In this regard, part of the consideration received by the District was the opportunity to serve the McClellan Business Park, a benefit the District continues to enjoy today.

Jay Heckenlively, Esquire

Re: McClellan Business Park Water System Contract Analysis

December 5, 2016

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- **Gift of Public Funds**

Without some analysis of the relative value of the consideration exchanged between the parties, no meaningful analysis of whether the transactions could conceivably implicate an improper gift of public funds can be made. Moreover, the prohibition against gift of public funds has no application where the contract was incident to an overall redevelopment effort occasioned by the closure of McClellan Air Force Base. A recognized exception to a prohibition against the gift of public funds are expenditures for public purposes. (*San Bernardino County v. Way* (1941) 18 Cal.2d 647, 654; see also *San Diego County v. Hammond* (1936) 6 Cal.2d 709.) Here, the transfer of the water distribution system and the concomitant obligation of the District to upgrade that system to current applicable standards furthers the overall public purpose sought to be achieved by the overall redevelopment of the McClellan Air Force Base. Moreover, the required upgrades to the water distribution system similarly serves the general public purpose of providing utilities to the public at large. "It is well settled that, in determining whether an appropriation of public funds or property is to be considered a gift, the primary question is whether the funds are to be used for a 'public' or a 'private' purpose. If they are for a 'public purpose,' they are not a gift within the meaning of section 31 of Article IV. The benefit to the state from an expenditure for a "public purpose" is in the nature of consideration and the funds expended are therefore not a gift even though private persons are benefitted therefrom ..." (*Winkleman v. City of Tiburon* (1973) 32 Cal.App.3d 834, 845-846 (citing *County of Alameda v. Janssen* (1940) 16 Cal.2d 276, 281.)

Conclusion

The express provisions of the Agreement recite the fact that the District received the McClellan water distribution system and certain other consideration in exchange for upgrading, maintaining and operating the System in accordance with all applicable laws, rules and regulations. In sole support for its argument that the District's upgrade obligations are limited, the District points to the language of the Agreement which references Exhibit C.

It is my opinion that the Agreement cannot reasonably be interpreted as limiting the District's obligations to perform upgrades to the System. Of particular significance is the lack of any express language in the Agreement which purports to limit or otherwise cap the District's obligation to upgrade the System to meet current standards. Similarly lacking is any language which would impose such upgrade obligations on McClellan Business Park or its tenants, as is currently argued by the District. The District's reliance on provisions of the Agreement which reference Exhibit C as supporting its interpretation is misplaced. By its terms, Exhibit C represents Northridge's approximate estimate of certain upgrade costs. In addition to being a statement of only one party's estimate, there is no language in the Agreement which states that the items and costs identified in Exhibit C represent a comprehensive or exclusive itemization of Northridge's upgrade obligations. Evidence of the parties' negotiations and

Jay Heckenlively, Esquire

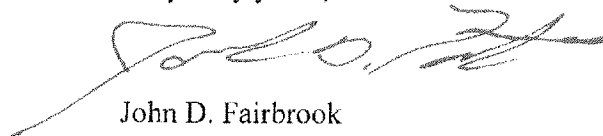
Re: McClellan Business Park Water System Contract Analysis

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subsequent performance of the Agreement are also inconsistent with the interpretation currently placed on the Agreement by the District. Accordingly, both the language of the Agreement and relevant extrinsic evidence do not support the District's current interpretation that its upgrade obligations are limited to those identified on Exhibit C.

Very truly yours,

A handwritten signature in black ink, appearing to read "John D. Fairbrook", written in a cursive style.

John D. Fairbrook

JDF:kem

2999201.1501664.1



Facilities and Operations Committee

Agenda Item: 4

Date: January 9, 2017

Subject: Water System Master Plan Update

Staff Contact: Mitchell S. Dion, Technical Services Director

Recommended Committee Action:

Update only, no recommended action.

Discussion:

In December 2016, the District's engineering consultant, Brown and Caldwell (B&C), completed an internal review draft of the Water System Master Plan update. The Water System Master Plan update is an important document that will be used by District for project guidance, funding plans, and general engineering and water resource planning into the future. It is intended to assist the District to better plan and budget for future facilities projects and capital improvements. By itself, the Master Plan does not represent any financial commitment from the District.

In December 2016, copies of the administrative draft report were provided to the Facilities and Operations (F&O) Committee and to the other Board members for review and comments. Note that some F&O Committee comments were received verbally at the committee meeting on December 9, 2016.

B&C has now prepared a second draft of the Water Master Plan update. They have incorporated review comments received to date from District staff and board members. B&C has also finished Chapter 11, Hydraulic Modeling, which had not yet been completed when the administrative draft was prepared.

A presentation from key B&C staff will be made at the January 20, 2017 F&O Committee Meeting. They will focus on changes made to the administrative draft that are now incorporated into the current draft report. B&C will also be interested in any further review comments from the committee. Major changes to the document since the administrative draft are summarized below.

- B&C has drafted an Executive Summary section.
- B&C has completed Chapter 11, Hydraulic Modeling.

- B&C has added an introductory statement(s) at the beginning of each chapter describing how it aligns with the District's adopted Strategic Plan.
- A table has been added to Chapter 6, Supply Facilities Analysis, which provides the demand versus production capacity for the groundwater wells in each of the District's subareas.
- Discussion has been added regarding the benefits of aquifer storage and recovery (ASR) and the possibility of a pilot program to demonstrate ASR's effectiveness within the District.

The proposed schedule for adoption of the Water Master Plan Update is as follows:

- January 20, 2017 – Presentation of the current Draft to the F&O Committee.
- January 27, 2017 – Final comments due.
- February 20, 2017 – Final Draft report completed.
- February 28, 2017 – Distribution of final Draft report to District.
- March 20, 2017 – Adoption by Board of Directors.

The Water Master Plan had previously been scheduled for adoption by the Board of Directors at the February 27, 2017 regular Board meeting. However, with a newly elected Board member being sworn in at the January 23, 2017 regular Board meeting, staff wanted to give the new Board member an opportunity to review the Water Master Plan prior to adoption.

Before it is finalized for adoption, a public review copy will also be available at the Marconi Office front desk and available electronically.

Fiscal Impact:

The Water System Master Plan report does include a capital needs analysis for a 15-year period from 2017 through 2031. It is intended to be used as a planning tool for future CIP budget discussions with the Board. However, the Master Plan does not represent a financial commitment by the Board, other than those CIP funds already approved and adopted.

Strategic Plan Alignment:

Water Supply – 1.B. Provide for the future needs of the District through prudent planning that will ensure sufficient capacity to serve all customers.

Water Supply – 1.D. Manage the District's groundwater supply to ensure its quality and quantity.

Customer Service – 3.D. Provide effective customer and community relations by communicating, educating, and providing information on District operations, drinking water issues, water conservation, resource sustainability and environmental stewardship.

The Water System Master Plan update aligns with each of the goals/principles outlined above. It provides a roadmap for the future including a recommended 15-year Capital Improvement

Program (CIP). It will also help in managing the District's groundwater supply and to estimate the future water supply needs for District's customers. It can also be used as a tool to effectively communicating information to the District's customers on drinking water supply and other relevant planning issues.



Facilities & Operations Committee

Agenda Item: 5

Date: January 13, 2017

Subject: City of Sacramento Wholesale Water Rates and 9,023 af of Area D Water

Staff Contact: Dan York, Assistant General Manager

Recommended Committee Action:

Receive report on current discussions related to the City of Sacramento (City) wholesale water rates and 9,023 acre feet (af) of surface water supply of the former Northridge Water District (NWD), and direct staff as appropriate.

Background:

District staff has been working with City staff to address the wholesale water rates and resolve uncertainties regarding the 9,023 af of surface water supply that the former NWD had contracted with the City.

Wholesale Water Rates

The District and the City entered into a Wholesale Water Supply Agreement in January 2004. The Agreement was for the right to divert up to 26,064 acre feet (af) of water per year from the American River under the City's Permit Supply. The cost per af in 2004 was \$110. In 2016, the cost per af was \$428. Due to the substantial increase per af, District staff has met with City staff numerous times informing them of the concerns related to the increases that will basically price the City out of selling their water to the District. Both agencies concur that it is advantageous to amend the Agreement that will hopefully lower the cost per af that would allow the City to utilize their water supplies and allow the District to purchase the water to benefit its Conjunctive Use Program.

In addition, as previously reported to the Board in 2016, the City is currently negotiating with the environmental caucus to provide for increased opportunities to wholesale water in the region. Currently, the City is prevented from wholesaling water to the District during low "Hodge" flows in the lower American River, but the environmental caucus may be open to removing or amending this restriction through a demonstration that the City would increase diversions off the Sacramento River rather than the American River during lower American River flows. The final outcome may bring forth opportunities to have a more consistent and flexible wholesale agreement between the City and the District. An informal agreement was made to allow the City to conduct a pilot test on how the reporting mechanism for water being utilized from the Sacramento and Fairbairn treatment plants.

The pilot test began on November 5, 2016 and concluded on November 21, 2016, of which the District received the 435 af of surface water owed by the City previously provided to them during emergency scenarios in 2014 and 2015.

Staff met with City staff to discuss their Wholesale Rates in October and November 2016. Staff informed the City that if the Wholesale Rates were lowered, it would enable the use of the District's contract water rights in a manner that provides better cost benefit to its customers. The City is willing to continue discussions regarding amending the existing agreement for the purpose of how their water from the treatment plants is delivered to the District, as well as the potential of lowering their Wholesale Rates. The District is in the process of developing guiding principles for updating the Agreement.

9,023 af of Area D Water

The City entered into an agreement with the former Northridge Water District on January 31, 1980, under which the City granted NWD the right, subject to specified conditions, to divert up to 9,023 af per year from the American River for use within the portion of service area of NWD, referred to as Area D. The conditions specified in the agreement were not fulfilled. The operative date of the agreement was the first day of the calendar year in which NWD diverted any water under the agreement, but no later than January 1, 1982. Water was never diverted under the agreement. Per the agreement, NWD was required to pay twice annually. It is unknown at this time if NWD provided payments to the City, or when it ceased making payments.

District staff has met with City staff to discuss the 9,023 af of surface water supply to determine if it can be reallocated to the District. District and City staff met with with City and District legal counsel to determine if there are any legal issues that may hinder the process. Upon conclusion of that meeting, it was determined that there are no legal issues that would hinder the process of the City reallocating the 9,023 af of surface water to the District.

District staff would prefer to place the 9,023 af of surface water in the amended 2004 Agreement. However, to expedite the approval process for allocating to the District the 9,023 af of surface water, District and City staff prepared a draft agreement that would allocate to the District the subject surface water until the City is prepared to amend the Agreement. A draft agreement for reallocating the 9,023 af of surface water is attached to this report as Exhibit 1.

Fiscal Impact:

The fiscal impact is unknown at this time. Once the District and the City begin amending the wholesale agreement there will be legal counsel fees for review purposes.

Strategic Plan Alignment:

Water Supply, 1.B. Provide for the long-term future needs of the District through prudent planning that will ensure sufficient capacity to serve all customers.

Water Supply, 1.D. Manage the District's water supplies to ensure their quality and quantity.

If the District were to secure an additional water supply, along with lowering the cost per af, this is benefit to the customers in terms of water supply reliability, conjunctive use, and cost of surface water.

Exhibit 1

AGREEMENT BETWEEN CITY OF SACRAMENTO AND SACRAMENTO SUBURBAN WATER DISTRICT

THIS AGREEMENT is made and entered into the __ day of January, 2017, by and between the CITY OF SACRAMENTO, a municipal corporation, hereinafter called “City”, and SACRAMENTO SUBURBAN WATER DISTRICT, a County water district, hereinafter called “SSWD.”

RECITALS

A. The City’s American River supply is for use within the portion of SSWD’s service area that is within the portion of the authorized Place of Use (“POU”) for the City’s American River water rights permits, referred to as “Area D”. Area D of the City’s POU is depicted on “Exhibit A.”

B. SSWD has three prior water supply agreements with the City.

1. In 1964, the City granted to the predecessor Arcade Water District (AWD) the right to divert up to 26,064 ac-ft/yr from the American River for use within the portion of Arcade that lies within “Area D” of the place of use of the City’s American River water rights. A portion of this amount was diverted through AWD’s American River well field until 1997, when the use of the supply was ceased because of the new requirement to construct an appropriate water treatment facility to meet the requirements of the Surface Water Treatment Rule.
2. In 1980, the City entered into an agreement with the prior Northridge Park County Water District (“NPCWD”) to divert up to 9,023 ac-ft/yr from the American River for use within “Area D.” No water supply has been provided to SSWD under the 1980 agreement.

3. In 2004, the City entered into a Wholesale Water Supply Agreement with SSWD. According to the 2004 agreement between the City and SSWD, the two prior agreements are not impacted by the 2004 agreement.

C. This current City water supply to the District is subject to the Water Forum diversion restrictions. The restrictions on the City's total American River diversion are:

1. Diversions at Fairbairn WTP not greater than 155 cubic feet per second (cfs) (100 MGD) and 50,000 acre-feet/year when UIFR is less than 400,000 acre-feet.
2. Diversion up to 310 cfs (200 mgd) when American River flow is greater than Hodge Flow Criteria and the UIFR is greater than 400,000 acre-feet.
3. When flow is less than Hodge Flow Criteria, maximum diversion is:
 - a. January – May: 120 cfs
 - b. June – August: 155 cfs
 - c. October – December: 100 cfs
4. The Hodge flows are defined as follows:
 - a. Oct. 15 – February: 2,000 cfs
 - b. March – June: 3,000 cfs
 - c. July - October 15: 1,750 cfs

D. The frequency of occurrence of American River flows less than the Hodge criteria and the possible impacts of ongoing efforts such as the Water Forum Flow Management Standard and the Operational Criteria and Plan (OCAP) create uncertainty as to the extent of availability of this City surface water supply to the District. Maximizing the amount of surface water available from the City in wet years is important to the District's conjunctive use efforts.

1. PURPOSE

It is the purpose of this agreement to make use of a portion of the Permit Supply for the benefit of users whose lands lie within the geographical boundaries of the former Northridge Water District, and lie also within "Area D" of the City's Place of Use, as said area is more specifically set forth on "Exhibit A". Only Area D is involved in this agreement.

2. DEFINITIONS

A. The maximum quantity to be diverted in any year shall be 9,023 acre feet allowable under this agreement at the date hereof. During the life of this agreement, it shall be the intent that SSWD will be provided water to serve its customers in such parts of Area D, as shown on "Exhibit A", that the former Northridge Park County Water District served, and should the areas being so served vary from the figures used in this agreement at its inception, then the maximum diversion allowable and the maximum permissible quantity to be diverted shall be proportionately adjusted in accordance with the diversion and quantity criteria set forth in this paragraph.

3. PROMISES

A. RIGHT TO DIVERT

The City grants to SSWD the right to divert from the American River that portion of its Permit Supply which the former Northridge Park County Water District requires for serving any portion of Area D, as shown on "Exhibit A", which SSWD may actually serve from time to time, not to exceed the rate of diversion and annual quantity diverted, as determined by Paragraph II, subparagraph C, above.

B. PAYMENT

Payment to the City by SSWD for water under this agreement is intended to be on the same basis of actual cost of water, as represented by payments to the Bureau of Reclamation (“Bureau”) by the City, plus possible future additional costs, set forth in this paragraph. Definitions and methods of payment computation are as follows:

1. SSWD’s Permissible Annual Diversion is defined in Paragraph II, subparagraph C.
2. The City’s Maximum Permissible Diversion shall be defined as the figure shown in “Schedule B” of the Bureau Agreement for the year 2030 or any reduced figure hereafter established under the provisions of Paragraph 13 of the Bureau Agreement. In this connection, see “Exhibit B” attached hereto, and by that reference incorporated herein, which is a copy of the schedule contained within the Bureau Agreement.
3. Payment by SSWD to the City in any year shall be Sacramento’s Unit Cost of Water, multiplied by either “SSWD’s actual diversion” or “SSWD’s Minimum Quantity for Payment”, whichever shall be greater.

CITY OF SACRAMENTO

[Name, Title]
City of Sacramento

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

**SACRAMENTO SUBURBAN WATER
DISTRICT**

Robert P. Wichert, President
Sacramento Suburban Water District
Board of Directors

ATTEST:

Robert S. Roscoe
Secretary / General Manager
Sacramento Suburban Water District



Facilities and Operations Committee

Agenda Item: 6

Date: January 17, 2017

Subject: Operations and Maintenance Cost Accounting

Staff Contact: Dan York, Assistant General Manager

Recommended Committee Action:

Receive report from staff on the operations and maintenance cost accounting process for the purpose of invoicing San Juan Water District (SJWD) and City of Sacramento (City) and direct staff to present the process as an information item at the February 27, 2017 regular Board meeting.

Discussion:

SJWD - The District has an agreement with SJWD that specifies cost allocations for maintenance, repair, replacement, and operation of the infrastructure at the Antelope Pump Back Booster Pump Station. SJWD owns 79% of the capacity in the pump station, therefore, when invoicing occurs, SJWD is invoiced 79% of cost allocations related to the operation and maintenance of the pump station. An invoice, in the amount of \$4,649.41, has been prepared to deliver to SJWD for operation and maintenance of the Antelope Pump Back Booster Pump Station for Calendar Year 2016 (see Exhibit 1). A Work Order from the District's computerized maintenance management system, Cityworks, (see Exhibit 2) provides supporting documentation to the invoice.

City – The District has an agreement with the City for the Enterprise-Northrop Intertie that was brought before the Facilities and Operations Committee in January 2016. The agreement stipulates that fifty percent of all operating, maintenance, and repair costs directly related to the intertie will be billed to the City. Operating costs include the direct cost of personnel hours and power to operate and monitor the intertie, including routine inspections and incidental costs related to the actual use of the intertie. Cost accounting for operation and maintenance is provided through the District's Cityworks system that is utilized to produce an invoice for billing purposes. An invoice, in the amount of \$137.62, has been prepared to deliver to the City for Calendar Year 2016 (see Exhibit 3).

Fiscal Impact:

There is minimal fiscal impact to the District for operation and maintenance of the facilities related to SJWD and the City due to the ability to invoice those agencies based on the agreements that have been approved by the Board.

Strategic Plan Alignment:

Finance - 4.I. Pursue opportunities for grant funding and cost savings activities with collaborative entities.

Leadership - 5.C. Participate in regional, statewide and national water management partnerships.

District customers will benefit as this project will allow SSWD operators more operational flexibility by having control of flows and pressures when moving water into the City to improve water service and reliability for both agencies under emergency or controlled scenarios.



CLEARLY REFRESHING SERVICE!

Attn: Finance Department
3701 Marconi Avenue, Suite 100
Sacramento, CA 95821-5346
Phone: 916.972.7171
Fax: 916.972.7639

Operations & Maintenance Invoice

Billing Period	1/1/2016 -12/31/2016
Name:	San Juan Water District
Billing Address:	9935 Auburn Folsom Road
City/State/Zip:	Granite Bay, CA 95746
Bill Date:	January 26, 2017
Date Due:	March 13, 2017

Project Name: Antelope Pump Back Booster Pump Station

LABOR @ \$41.79/Hour EMPLOYEE (S)	HOURS	
	STD	OT
Production Operator - Operating Costs (Facility Inspection/Maintenance) 1/1/2016 - 12/31/2016)	60.66	
Production Operator - Maintenance, Repair, and Replacement (1/1/2016 - 12/31/2016)	7.00	

TOTAL \$ 2,827.51

Vehicles & Equipment @ \$11.14/Hour	HOURS	
	STD	OT
Truck #51 - Operating Costs (Facility Inspection/Maintenance) 1/1/2016 - 12/31/2016)	44.61	
Truck #51 - Maintenance, Repair, and Replacement (1/1/2016 - 12/31/2016)	7.00	

EQUIPT/VEHICLES \$ 574.94

MATERIALS USED			
DESCRIPTION	QUANTITY	UNIT COST	TOTAL
Electricity (SMUD) January 2016	2.00	\$208.54	\$417.08
4" Vent Screens	2.00	\$117.32	\$234.64
3" Vent Screens	2.00	\$54.82	\$109.64
Aluminum Screen and Clamps	1.00	\$11.60	\$11.60

MATERIALS: \$ 772.96

OUTSIDE SERVICES USED (INVOICE(S) ATTACHED)			
DESCRIPTION	QUANTITY	UNIT COST	TOTAL
Grounds Maintenance (pro rata 79%)	12.00	\$39.50	\$474.00

OUTSIDE SERVICES: \$ 474.00

TOTAL LABOR, MATERIALS, & OUTSIDE SERVICES.... **\$ 4,649.41**

LESS: DEPOSIT(S) - IF APPLICABLE....

INVOICE TOTAL.... **\$ 4,649.41**

REASON FOR CHARGE:

Per the 2015 Agreement, SJWD pays 79% of all operation, maintenance, repair and power costs related to the pump back facility.

APPROVAL _____

Date _____

Exhibit II

Sacramento Suburban Water District

Work Order: 151153 PRESS REDUCT STAT MAINTENANCE
 Address: Pump Back Station - Take water and then return water

WO Initiated:	W/O Start - Finish:	Requested:	Submitted:	Project:	Supervisor:	Priority/Status:
1/8/2016 3:13:14 PM SHEDENHELM, SHAWN	1/12/2016 2:43:29 PM 1/21/2016 2:43:34 PM	SHEDENHELM, SHAWN	LEE, RODNEY		CATER, DOUG	High Closed

Account Num:	Map Page: 0002

Labor:

Date	Hours	Employee	Task Name	Trans. Date	Total
1/12/2016 3:59:08 PM	6.00	SELTZER, JOHN		1/12/2016 3:59:25 PM	\$250.74
1/13/2016 12:00:57 PM	3.76	SELTZER, JOHN		1/13/2016 6:42:12 PM	\$157.13
1/13/2016 4:30:14 PM	4.00	SELTZER, JOHN		1/13/2016 6:43:27 PM	\$167.16
1/13/2016 7:00:40 PM	2.51	SELTZER, JOHN		1/13/2016 6:45:06 PM	\$138.93
1/13/2016 12:00:00 AM	8.50	MILLER, PAUL		1/15/2016 11:39:13 AM	\$355.22
1/15/2016 11:57:01 AM	3.00	SELTZER, JOHN		1/15/2016 11:57:11 AM	\$125.37
1/15/2016 3:38:32 PM	1.50	SELTZER, JOHN		1/15/2016 3:38:41 PM	\$62.69
1/20/2016 12:00:00 PM	2.00	SEGOVIANO, HECTOR		1/20/2016 2:05:51 PM	\$83.58
1/20/2016 12:00:00 PM	2.00	SEGOVIANO, HECTOR		1/20/2016 2:05:51 PM	\$83.58
1/20/2016 2:06:51 PM	0.81	SEGOVIANO, HECTOR		1/20/2016 2:07:04 PM	\$33.64
1/20/2016 2:06:51 PM	0.81	SEGOVIANO, HECTOR		1/20/2016 2:07:04 PM	\$33.64
1/20/2016 3:05:23 PM	6.50	SELTZER, JOHN		1/20/2016 3:05:38 PM	\$271.64
1/20/2016 11:30:00 AM	3.50	SHEDENHELM, SHAWN		1/21/2016 7:23:51 AM	\$146.27
1/20/2016 3:00:00 PM	3.00	SHEDENHELM, SHAWN		1/21/2016 7:24:26 AM	\$125.37
1/20/2016 10:00:00 PM	1.00	SHEDENHELM, SHAWN		1/21/2016 7:25:00 AM	\$55.35
1/21/2016 7:30:00 AM	1.00	SHEDENHELM, SHAWN		1/21/2016 7:26:21 AM	\$55.35
1/21/2016 10:58:07 AM	2.50	SELTZER, JOHN		1/21/2016 10:58:19 AM	\$104.48
1/21/2016 10:15:00 AM	1.13	SEGOVIANO, HECTOR		1/21/2016 11:13:21 AM	\$47.01
1/21/2016 10:15:00 AM	1.13	SEGOVIANO, HECTOR		1/21/2016 11:13:21 AM	\$47.01
1/21/2016 8:00:00 AM	0.17	SHEDENHELM, SHAWN		1/21/2016 2:51:24 PM	\$9.41
1/21/2016 9:00:00 AM	1.00	SHEDENHELM, SHAWN		1/21/2016 2:52:03 PM	\$41.79
1/20/2016 11:00:00 AM	2.50	BRUNS, DAVID		1/21/2016 2:52:37 PM	\$104.48
1/22/2016 12:00:00 PM	1.17	SEGOVIANO, HECTOR		1/22/2016 4:02:55 PM	\$48.69
1/22/2016 12:00:00 PM	1.17	SEGOVIANO, HECTOR		1/22/2016 4:02:55 PM	\$48.69

Total Labor Cost: \$2,597.19

Material:

Item	Description	Material Source	Task Name	Qty	Unit Cost	Total
						Total Material Cost: \$0.00

Equipment:

Description	Equip Source	Hours	Units	Unit Cost	Total
F-250 Standard Cab w/Utility Bed	Inventory	6.00	1.00	\$66.84	\$66.84
F-250 Standard Cab w/Utility Bed	Inventory	3.75	1.00	\$41.78	\$41.78
F-250 Standard Cab w/Utility Bed	Inventory	4.00	1.00	\$44.56	\$44.56
F-250 Standard Cab w/Utility Bed	Inventory	2.50	1.00	\$27.85	\$27.85
F-250 Standard Cab w/Utility Bed, Rack & Hydraulic Lift	Inventory	8.50	1.00	\$138.55	\$138.55
F-250 Standard Cab w/Utility Bed	Inventory	3.00	1.00	\$33.42	\$33.42
F-250 Std Cab w/Knapheid Util Bed, Rack & Hyd Lift	Inventory	4.00	1.00	\$40.28	\$40.28
F-250 Std Cab w/Knapheid Util Bed, Rack & Hyd Lift	Inventory	1.61	1.00	\$16.21	\$16.21
F-250 Standard Cab w/Utility Bed	Inventory	6.50	1.00	\$72.41	\$72.41
F-250 Standard Cab w/Utility Bed	Inventory	2.50	1.00	\$27.85	\$27.85
F-250 Std Cab w/Knapheid Util Bed, Rack & Hyd Lift	Inventory	2.25	1.00	\$22.66	\$22.66

Total Equipment Cost: \$532.41

Total Work Order Cost: \$3,129.59

Tasks:

Order	Task Description	Name	Task Actual Start Date	Task Status	Task Comments
1	Perform Work	SELTZER, JOHN	1/12/2016 2:42:51 PM	COMPLETE	
2	Review Work	SHEDENHELM, SHAWN	1/28/2016 8:15:10 AM	COMPLETE	
3	Job Completed	LEE, RODNEY		COMPLETE	

Custom Fields:

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Field Name	Field Value
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Comments: By SELTZER, JOHN: 1/12/2016 3:58:15 PM

Prepped site for tomorrow, 1/13/16 to take approx. 3 million gallons of water from the transition main from San Juan Water. CL2 trailer is on site with plenty of chemical to dose the North area to obtain proper residual.

By SELTZER, JOHN: 1/13/2016 6:41:18 PM

Took approx. 2.946 Mgal of water through our PRV's at Antelope to our north service area. Maintained proper residual utilizing our portable CL2 dosing trailer.

By SELTZER, JOHN: 1/15/2016 11:56:09 AM

Finished up the securing of the CL2 trailer and getting it ready for next time. Took the extra CL2 drums back to Walnut. Replaced leaking 3/4" ball valve on the 36" line and added a tee and a hose bib and plugged the other side. Flushed out both dosing pumps with water.

By SELTZER, JOHN: 1/15/2016 3:37:44 PM

Had meeting about this process.

By SEGOVIANO, HECTOR: 1/20/2016 2:04:49 PM

Helped in transferring water to SJWD.

By SELTZER, JOHN: 1/20/2016 3:04:39 PM

Ramped of flow up to approx. 5000 gpm to send back 7.2 Mgal of water to San Jaun to get to a zero balance for each district. The new flow meter at the pump back station was set to read proper gpm by Tesco at this time.

By SHEDENHELM, SHAWN: 1/21/2016 8:05:37 AM

Performed system monitoring while SSWD pumped water to SJWD @ 5000 gpm over night. This was done on Wednesday 01/20/2015 on into the morning of the next working day.

By SELTZER, JOHN: 1/21/2016 10:57:16 AM

Shut down the pump back station after delivering approx. 7.2 million gallons of water to San Juan. Put the wells in the North service area back to normal operating conditions.

By SEGOVIANO, HECTOR: 1/21/2016 11:12:29 AM

Helped John Seltzer with C-Bar-C Shut Down.

By BRUNS, DAVID: 1/21/2016 2:51:20 PM

Assisted in the pump back to SJWD

By SEGOVIANO, HECTOR: 1/22/2016 4:01:40 PM

Helped Patrick Wilson with new sample stations.

Instructions: Take water from the conveyance line to the North service area and chlorinate appropriately. SSWD will then follow up with pumping water back to San Juan to yield a net zero balance.



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Attn: Finance Department
3701 Marconi Avenue, Suite 100
Sacramento, CA 95821-5346
Phone: 916.972.7171
Fax: 916.972.7639

Operations & Maintenance Invoice

Billing Period	1/1/2016 -12/31/2016
Name:	City of Sacramento
Billing Address:	915 I Street
City/State/Zip:	Sacramento, CA 95814
Bill Date:	January 26, 2017
Date Due:	March 13, 2017

Project Name: Emergency Water Service Agreement

LABOR @ \$41.79/Hour EMPLOYEE (S)	HOURS	
	STD	OT
Production Operator (Facility Inspection/Checks) 1/1/2016 - 12/31/2016)	2.60	

TOTAL	\$	108.65
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Vehicles & Equipment @ \$11.14/Hour	HOURS	
	STD	OT
Truck #60	2.60	

EQUIPT/VEHICLES	\$	28.96
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MATERIALS USED			
DESCRIPTION	QUANTITY	UNIT COST	TOTAL

MATERIALS:	\$	-
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OUTSIDE SERVICES USED (INVOICE(S) ATTACHED)			
DESCRIPTION	QUANTITY	UNIT COST	TOTAL

OUTSIDE SERVICES:	\$	-
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TOTAL LABOR, MATERIALS, & OUTSIDE SERVICES.... \$ 137.62

LESS: DEPOSIT(S) - IF APPLICABLE....

INVOICE TOTAL.... **\$ 137.62**

REASON FOR CHARGE:

Per the 2016 Agreement, the City pays 50% of labor, vehicle, maintenance and repair costs related to the intertie.

APPROVAL _____

Date _____