

NOVATO SANITARY DISTRICT

October 26, 2009

The Board of Directors of Novato Sanitary District will hold a Closed Session at 5:00 p.m., Monday, October 26, 2009, at the District offices, 500 Davidson Street, Novato. (Open session begins at 6:30 p.m. See agenda below).

CLOSED SESSION AGENDA

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – EXPOSURE TO LITIGATION – TWO POTENTIAL CASES:

Significant exposure to litigation pursuant to Subsection (b) of Government Code Section 54956.9

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION – ONE POTENTIAL CASE:

Initiation of litigation pursuant to Subsection (c) of Government Code Section 54956.9

REGULAR AGENDA

Materials related to items on this agenda are available for public inspection in the District Office, 500 Davidson Street, Novato, during normal business hours.

1. **PLEDGE OF ALLEGIANCE:**
2. **AGENDA APPROVAL:**
3. **PUBLIC COMMENT (PLEASE OBSERVE A THREE-MINUTE TIME LIMIT):**

This item is to allow anyone present to comment on any subject not on the agenda, or to request consideration to place an item on a future agenda. Individuals will be limited to a three-minute presentation. No action will be taken by the Board at this time as a result of any public comments made.

4. **BOARD MEMBER REPORTS:**
5. **REVIEW OF MINUTES:**
 - a. Consider approval of minutes of July 27th and September 14th, 2009 meetings.
6. **CONSENT CALENDAR:**
 - a. Approval of disbursements.

7. ADMINISTRATIVE MATTERS

- a. Consider changing financial institution.

8. PROPOSITION 1A SUSPENSION

- a. Consider adopting a resolution approving the form of and authorizing the execution and delivery of a purchase and sale agreement and related documents with respect to the sale of the Novato Sanitary District's Proposition 1A receivable from the State, and directing and authorizing certain other actions in connection therewith.

9. WASTEWATER TREATMENT FACILITY OPERATION:

- a. Wastewater Operation Committee report.

10. STAFF REPORTS:

- a. North Bay Water Reuse Authority
- b. Treatment Plant tours October 24th and November 7th
- c. Hamilton Hometown Festival

11. MANAGER'S ANNOUNCEMENTS:

12. ADJOURNMENT:

Next resolution no. 3013

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the District at (415) 892-1694 at least 24 hours prior to the meeting. Notification prior to the meeting will enable the District to make reasonable accommodation to help ensure accessibility to this meeting.

Materials that are public records and that relate to an open session agenda item will be made available for public inspection at the District office, 500 Davidson Street, Novato, during normal business hours.

July 27, 2009

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, July 27, 2009, preceded by a closed session beginning at 5:30 p.m. at the Hill Community Room, Margaret Todd Senior Center, 1560 Hill Road, Novato.

CLOSED SESSION:

President Di Giorgio opened the Closed Session Board Meeting at 5:30 p.m.

BOARD MEMBERS PRESENT: President Michael Di Giorgio, Members James D. Fritz, Arthur T. Knutson, William C. Long and George C. Quesada.

STAFF PRESENT: Manager-Engineer Beverly James.

AGENDA APPROVAL:

On motion of Member Long, seconded by Member Quesada, and carried unanimously, the Agenda was approved as mailed.

Confer with District's labor negotiators regarding meet and confer with District's "General" bargaining unit, represented by Teamsters Local 315.

Closed Session ended at 5:50 p.m.

RECONVENE IN OPEN SESSION AT 6:30 p.m.

The Manager reported the following actions were taken in Closed Session:

- For each of the nine employees affected by the contract operations transition, the District will offer \$2,000 for each full or partial year of service if they choose not to transfer to the Vendor and sever their employment with NSD.
- For employees of retirement age who do not currently qualify for retiree medical benefits and who wish to retire by September 30, 2009, the District will provide the retiree medical at the single party rate.
- For any employee transferring to the Vendor, Novato Sanitary District (NSD) will transfer all NSD accrued sick leave time to the Vendor.

ADDITIONAL STAFF PRESENT FOR OPEN SESSION: Deputy Manager- Engineer Sandeep Karkal, District Counsel Kent Alm, Administrative Services Manager June Penn Brown, and Administrative Secretary Julie Borda.

ALSO PRESENT: Colleen Rose, Novato resident
Justina Daniel, Novato resident
Dennis Welsh, Novato resident and former NSD employee
Pam Welsh, Novato resident
Art Ribbel, Novato resident

Pat Ribbel, Novato resident
Bob Abeling, Novato resident
Carol Abeling, Novato resident
Eric Roley, Novato resident
Bill Scott, Novato resident, Marin Building Trades Council
Tom Pierce, Novato resident
Barry Buckley, Novato resident
Dennis Fishwick, Novato resident
Dean L. Heffelfinger, Novato resident
Phil Tucker, CA Healthy Communities Networks
Lynn Axelrod, Marin County resident
Dean B. Heffelfinger, NSD employee and Novato resident
Dr. Robert Ovetz
Heidi Heffelfinger, Novato resident
Margaret Ballow
Dale Robbins, Secretary-Treasurer for Teamsters Union Local 315
Barb Keller
Joseph Feller, CA Healthy Community Networks
Gary Wetstein
Gene Noble, Novato resident
Eric Ruby
Suzanne Brown Crow, Novato resident
David Keller, former Petaluma City Council Member
Margaret Keller
Heidi Heffelfinger, Novato resident

PUBLIC COMMENT:

Dennis Welsh, Novato resident and former District employee, requested the following item be placed on the August 10th Agenda: One third reduction of salary compensation for the Manager-Engineer, the Deputy Manager-Engineer, the District Board members and any manager whose employees are being reduced by one-third due to the transfer of these employees to Veolia Water.

BOARD MEMBER REPORTS:

Member Quesada questioned how Public Comment should be facilitated in regards to the Brown Act. District Counsel Kent Alm explained that the public can bring up items during Public Comment that are not on the Agenda. He stated that for items that are on the Agenda, the public may comment when that item comes up and, in addition, the Board may set time limitations for public comment as they feel appropriate.

Member Fritz asked for the Board Member Reports portion of the July 13th Board meeting minutes be changed to reflect the following: "Member Fritz stated that on June 25th he had the pleasure of flying over the Novato Sanitary District treatment facility with

Mr. Sam Renati, former Board Member. *This trip was to continue photographic documentation of the treatment facility upgrade project."*

President Di Giorgio requested the public act with integrity and decorum during the Board meeting.

REVIEW OF MINUTES:

On motion of Member Fritz, seconded by Member Long, and passed unanimously as amended with above comments by Member Fritz, the Board meeting Minutes of July 13, 2009 were approved.

CONSENT CALENDAR:

On Motion of Member Quesada, seconded by Member Fritz, and carried unanimously, the following Consent Calendar items were approved:

- a. Board Meeting schedule as follows: August 10th and 24th, September 14th and 28th, October 12th and 26th.
- b. Approval of regular disbursements in the amount of \$380,375.92 and project account disbursements in the amount of \$77,302.23.

COLLECTION SYSTEM IMPROVEMENTS: PROJECT 72706, PHASE B – STATE ACCESS ROAD SEWER PROJECT:

Consider making CEQA findings, approving plans and specifications and authorizing advertising for bids. Deputy Manager Sandeep Karkal gave an overview of the State Access Road Sewer project. He stated that Nute Engineering has completed the plans and specifications for this project and the project is ready to bid with the Engineer's Estimate for this work at \$434,000. He noted that the project involves work on the District's sewer on the State Access Road area. In addition, he stated that District staff has completed the California Environmental Quality Act (CEQA) documentation and has determined that the project is categorically exempt. For this reason, he recommends the Board direct staff to make CEQA findings, approve plans and specifications, and authorize the advertising for bids. He stated bids are expected to be received on August 20, 2009 and will be presented to the Board at their August 24th Regular Board meeting.

Member Fritz questioned the placement of District easements in the public right of ways. The Deputy Manager noted that normally no easements are allowed in public streets, but this project is an exception and the District has a recorded easement in the State Access Road area.

On motion of Member Fritz, seconded by Member Long and carried unanimously, the Board authorized Staff to make CEQA findings, approve the plans and specifications

and authorize the advertising of bids for the Collection System Improvements Project #72706, Phase B – State Access Road Sewer Project.

STAFF REPORTS:

Update on fraudulent internet access to the District's bank accounts: Administrative Services Manager June Brown gave an update on the fraudulent internet access to the District's bank accounts, noting that of the \$514,543.45 loss from the Bank of Marin account, 84% of those funds have been recovered, or \$432,615.91. She discussed the District's actions immediately following the notification of the breach and the ongoing actions the District is taking. She stated that there is no evidence to justify rumors of embezzlement or pilfering by District employees.

Norman Stone, Novato resident, asked the Board if there was any evidence that the fraudulent activity was caused by negligent conduct or lack of conduct by a District employee. District Counsel Kent Alm stated that the investigative report by outside computer forensic consultants shows no mis-conduct by District employees. In addition he stated that there were several other local businesses that suffered the same type of loss. He stressed that investigative reports secured at this time have not indicated any negligence by the District.

North Bay Water Reuse Authority (NBWRA) Coordination Committee Meeting: The Manager noted that the NBWRA Coordination Committee met on July 20th at 9:30 a.m. She stated that the Committee is looking into a regional water recycling project for Marin, Sonoma and Napa Counties. She discussed the MOU that the Committee is preparing and noted Member Long was also in attendance at the NBWRA meeting.

Member Long commented that he had hoped the NBWRA would receive some stimulus funding but stated that none was received through the Title 16 Program. He stated the NBWRA is still trying to receive funds at the Federal and State levels and that he remains optimistic.

State Proposition 1A suspension: The Manager noted that the California Legislature recently adopted a State budget which includes suspension of Proposition 1A. She explained that the State will be taking an 8% share of local property taxes which translates into a District budget loss of \$160,000. She stressed that this is an amount much smaller than anticipated and will not impact the overall District budget by a great deal.

WASTEWATER TREATMENT PLANT UPGRADE PROJECT 72609B:

Consider making CEQA findings and adoption of an addendum regarding contracting for the operation and maintenance of the treatment facilities. District Counsel Kent Alm outlined the CEQA process in relation to the operation by a private contractor of the upgraded Novato Sanitary District Wastewater Treatment Facility. He addressed several questions to outline why the District has begun the CEQA process and why the

process is progressing at this time. He discussed the definition of a CEQA project as outlined in CEQA Guidelines section 15378. He discussed the appropriateness of moving forward with a CEQA finding in light of the substantial community opposition to the hiring of a contract operator. Mr. Alm discussed the exemption for existing facilities as outlined in Section 15301 of the CEQA Guidelines: "operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination" can be considered exempt. He stated given the significance and controversy attached to the current situation he felt the District should go beyond the minimal steps required.

He stated that District staff has also reviewed the 2005 EIR and the criteria in section 15162 of the CEQA Guidelines to determine whether the proposed operation, maintenance and management of the Project Facilities by Contractor is a modification to the Project requiring a subsequent or supplemental EIR. He noted there are no substantial changes in the circumstances under which the Project will be undertaken. The proposed operation, maintenance and management of the treatment facilities by the Contractor does not involve any changes to the physical design, construction, or operation of the existing, transitional or new WWTP facilities comprehended in the Project. In addition, he stated the environmental setting and physical environmental conditions for the area have not changed from those anticipated in the 2005 EIR.

Mr. Alm stated he believes there has been fair and reasonable notice that the District plans to proceed at the current Board meeting with both the decision of whether the Board seeks to move forward with negotiating a contract with one of the contract operations proposals and secondly, undertaking the CEQA compliance as appropriate for this type of decision.

Mr. Alm pointed out that under CEQA Guidelines section 15164, an Addendum need not be circulated for public review but can be included in or attached to the final EIR and that the Board shall consider the addendum coupled with the previously adopted final EIR in making its decision. In addition, he stated, the Addendum should contain an explanation of the decision not to prepare a subsequent EIR and that explanation must be supported by substantial evidence.

Mr. Alm recommended that the Board adopt the Addendum that has been provided as well as acknowledging the comments in the Staff report and include these as the basis of moving forward on a discretionary act with regard to contracting out the operations and maintenance of the Novato Sanitary District treatment plant facility if that is the decision of the Board.

Eric Ruby, questioned the wording "operations, repairs and maintenance" and asked if these also include materials. District Counsel Kent Alm responded by quoting excerpts from CEQA Guidelines section 15301, "Categorical Exemptions".

Lynn Axelrod, Marin County resident, asked how, under CEQA, Novato citizens are to understand how CEQA is governing the contract when the citizens have not been allowed to see the contract. District Counsel Kent Alm responded that there are two different laws that apply. He stated that although the Veolia contract has not been signed, the term sheet for the contract, which was fairly detailed, sets forth the terms of the contract and was included in the RFP document. He stated an indemnity clause has not been drafted or agreed to at this time, but the detailed term sheet sets forth the terms of the contract. He stated that the presentation that was made at the Board meeting on July 20th has been made available in this board meeting packet and tends to show the financial terms.

Ms. Axelrod questioned if there were documents that showed the actual daily use, maintenance and operations so the citizens could determine under CEQA whether or not what they are being given tonight is adequate. She questioned if these documents have been made publicly available.

Mr. Alm responded that the operations manual is not available and won't be drafted until after the District finalizes their decision to begin using a private contract operator or to remain with District staff.

Ms. Axelrod stated that operations, repairs and maintenance, etc, within the CEQA exemption, can't possibly be something that anyone here could determine if they don't have it written at this point. She stated she feels Mr. Alm and the Board are premature.

Suzanne Brown Crow, Novato resident, discussed comments made by Mr. Alm in his presentation, disagreeing with some of his findings. She pointed out that Mr. Alm omitted a section in his reading that states: "alterations of existing public or private structures." She stated that the upgrade/construction at the District is a great modification of the existing structure. In addition, she stated it appears Mr. Alm stated the CEQA is overridden by the 2005 EIR for the structure that was noted for the modifications. She requested the Board postpone their decision to adopt the EIR.

District Counsel Kent Alm stated he feels Ms. Crow's statements mischaracterize what he was attempting to say. He stated that in the memo, he noted there were a variety of ways to view CEQA. In the first instance, the question is: Is it a project? Mr. Alm stated that in fact there are bases within the CEQA guidelines where one could conclude it wasn't a project and one would not have to go further. But, he stated, out of an abundance of caution, the District did proceed. He stated that secondly, the District then looked at whether or not the project might fall into an exemption. He stated that the District reached the conclusion that the project would in fact fall within that exemption because the structure that is being referred to is a facility that has been in existence and has been operating in the same function under the permit for many years. He stated that

notwithstanding these two issues which may not apply and may not require the District to proceed further into the CEQA review, the District desired to look carefully at the process. He stated the District decided that the appropriate mechanism would be an Addendum. He stated that he has looked at the Addendum, the basic facts that are set forth in the RFP, including the detailed term sheet. He stated it is on this basis that he recommends to the Board that they are in a position to move forward, if they choose to do so at this meeting.

Pam Welsh, Novato resident, read a letter written to President Di Giorgio from the law firm of Shute, Mihaly & Weinberger, LLP. The letter discussed the Board actions from the July 20th Board meeting and urged the Board to postpone the approval of the Addendum until the public has had an adequate opportunity to review the document in conjunction with the final contract.

The Manager addressed the audiences questions regarding the bank fraud incident and the EPA investigation, noting that the District is cooperating fully with the investigations.

Dean L. Heffelfinger, Novato resident, discussed previous Board meetings and the Board member comments regarding the Eisenhardt Report's motives and intentions. He discussed The Eisenhardt Group's advertisements which listed their experience with procuring public-private partnerships. He also discussed meetings between the Eisenhardt Group and the District's public relations firm, Martin Rauch, on January 26, 2009, in which they discussed public outreach in support of a public-private partnership. He also noted that the Eisenhardt Group had listed on their time sheet for January 2009 meeting with District personnel to prepare RFQ and RFP requests.

Bill Scott, Novato resident and business manager for the Marin County Building Trades Council, discussed items on the Novato Sanitary District website which listed labor costs. He stated the Council noted that Veolia wages were lower than District's costs but questioned how this was possible due to the fact that the labor hours would be the same. He stated that the Council felt the decision to move forward with negotiations to hire a contract operator is premature and the District should allow more time for information to be disseminated to the public.

Member Long asked District Counsel Kent Alm if he recommends the Board move forward with passage of the CEQA Addendum. Mr. Alm stated that the Board is in a position to approve the Addendum; however is not required to move forward. He stated that if the Board wishes to move forward with the negotiating of a contract with Veolia Water, the adoption of the Addendum should take place. Member Long asked if there would be consequences if the Board did not move forward. Mr. Alm stated that in circumstances such as this, there is always the possibility for a lawsuit. However, he stated that if the Board postponed their decision, the basic facts would remain the same.

The Manager stated that the adoption of the CEQA Addendum had been agendized for this Board meeting and was clearly noticed to the Public. She stated that a CEQA

decision must take place prior to a significant decision, such as what the Board is proposing by entering into negotiations with Veolia Water.

District Counsel Kent Alm explained further that making a CEQA decision must be done prior to any final decisions. For that reason, CEQA is completed as early in the process as is possible prior to making any irreversible action. Mr. Alm stated that, in his judgment, the Board has reached a point where the basic issues have been developed and despite the disagreement on those issues, with regards to an environmental effect, the basic issues are before the Board. If the Board takes an action to move forward in negotiations, he believes that comes very close to an irrevocable commitment to move forward with the project, unless there is some problem with negotiations. He stated he believes this is an appropriate time frame to make this decision.

Member Quesada stated he moves approval of the Addenda. He clarified that by moving approval of the Addendum, the Board is also approving all of the addenda that are composed in the Addendum. Member Long seconded the motion at this time.

Member Fritz commented that he feels time is running out and the Board should move forward in their decision.

District Counsel Kent Alm clarified for the Board that items (a) and (b) could be moved with the same motion, or done seriatim after the Board's discussion of item (b).

President Di Giorgio noted that a motion and a second had been called and that the Board would now move to discussion on item (b).

Consider authorizing District staff to negotiate an agreement with Veolia Water North America Operating Services to operate, manage, and maintain the District's wastewater treatment facilities.

Member Fritz moved approval and Member Quesada seconded the motion.

The Manager noted that the Board faces a significant decision and she stated she strongly recommends the Board authorize staff to negotiate an agreement with Veolia Water. She stated she felt the decisions made during closed session address some of the staff's concerns and treats the employees fairly. She outlined the process the Board has taken in determining the best possible solution for operating the new treatment plant facilities and stated the process has been very thorough. She stated Veolia's staff and experience will be valuable to the District. She referenced the well validated savings of \$7 million and recommended the Board of Directors authorize District staff to negotiate an agreement with Veolia Water North America Operating Services to manage the operation and maintenance of the District's wastewater treatment facilities including the Novato Treatment Plant, the Ignacio Treatment Plant, the sludge storage ponds, the Dechlorination Facility, and the Ignacio Transfer Pump Station and Equalization basins.

President Di Giorgio opened the meeting to public comment.

President Di Giorgio read the comment from Gene Noble: "Refer to the Marin Independent Journal Editorial in July 27th. I agree with the editorial to hire a private firm to operate the District's new treatment plant as outlined in the editorial."

Gary Wetstein commented on the current employees' lack of District provided training on the new equipment at the upgraded facility. He referenced charts that were displayed on the walls and disputed the figures.

Tom Pierce, 30 year Novato resident, stated he is concerned about what is currently happening to the District. He discussed Veolia's track record and discussed problems that have taken place with other Veolia Water operated Districts.

Joseph Feller, Chairman of the Advisory Committee of Healthy Communities Network, read a letter addressed to the Board of Directors from the California Healthy Communities Network (Network). He read four requests the Network would like to make.

Dennis Fishwick, Novato resident, discussed actions the Board could take at this time. He discussed Veolia's contract and hopes the Board votes against the contract.

David Keller, former Petaluma City Council Member, discussed Petaluma's new Ellis Creek treatment facility and noted this facility is completely publicly owned. He discussed Petaluma's former circumstances when they were operated by private contract operators and discussed Petaluma's transition back to a publicly operated facility. He discussed the Boards proposed actions and urged the Board to bring the final bid documents before the public so they may provide comments, suggestions and scrutiny to the Board.

Paul Eisenhardt, the Eisenhardt Group, addressed the Board and clarified what services the Eisenhardt Group provides to their clients.

Dale Robbins, Secretary/Treasurer with Teamsters Local 315, clarified that the Teamsters Union does not recommend the private contractor option. He discussed the employee benefits Union members have with their District employment and how they would be adversely changed if the Board chose the contract operator option. He asked the Board to take into consideration actions that would impose the least disruption on their benefits.

Margaret Keller discussed the four page document that she faxed to the Board members the morning of July 27th. She stated she feels the District has the appropriate resources to manage the upgraded facility, but feels management did not appropriately utilize these resources.

Heidi Heffelfinger discussed past Board meetings and the way the Board has dealt with the public. She discussed the Eisenhardt Group report and the numbers that were used for consultants. She stated that consultants would not need to be used for five years as stated in the report. She gave numerous examples of why the District should not proceed with their decision.

Dr. Robert Ovetz, Professor of Political Science, discussed data he procured from the Food and Water Watch website which showed rate increases that have taken place in other wastewater facilities that are operated by private contractors.

Dean B. Heffelfinger, Novato resident and NSD employee, discussed discharge violations noting that the violations were a cause of the aging wastewater treatment facility not the cause of operator error. He discussed District employee strengths and their ability to work together in emergency situations.

Phil Tucker, Project Director of CA Healthy Communities Network, discussed comments that were made by District Counsel Kent Alm at the July 20th meeting regarding CEQA. He stated that negotiating the contract with Veolia Water is intricately tied to CEQA and without having a contract that can be reviewed by the public, he felt this undermined the entire CEQA process. He stated that the public wants transparency, time to review the contract and an adequate opportunity to respond.

Lynne Axelrod stated she was surprised that the Board would be making a decision to enter into a contract with Veolia Water without a final report from the FBI investigation. She stated that the public should be allowed to see a draft of points which show why the Board is proceeding with the negotiations.

Dennis Welsh, Novato resident and former NSD employee, discussed his employment as an operator at the Petaluma Treatment facility. He discussed Petaluma's ability to start-up their new upgraded treatment facility without the help of consultants or an outside contract operator.

President Di Giorgio closed Public Comment.

District Counsel Kent Alm spoke to questions the audience brought forth with regard to being unable to move forward with the CEQA Addendum. He noted that there is substantial information available on the Novato Sanitary District website. Mr. Alm addressed the public comment that there had been a change to the stated plans to move forward with beginning contract operations at this Board meeting. He stated that there have been numerous notices, staff papers and the posted Agenda which stated the negotiations were going to be addressed by the Board at their July 27th meeting. He stated there has been substantial notice and the Board has legal basis for moving forward at this meeting. Mr. Alm addressed a procedural issue and directed the Board on how to proceed regarding an earlier motion that was brought forth.

Member Long made a motion to table the motion to adopt the Addendum to the EIR as per District Counsel's recommendation.

On motion of Member Long, seconded by Member Fritz, a Motion to table the Motion to adopt the Addendum to the EIR was passed.

Hearing no opposition to the Motion, President Di Giorgio announced the Motion carried 5-0.

Member Long asked for clarification regarding the need for consultants for a period of five years and what duties the consultants would perform. The Manager stated the cost estimates for consultants as shown in the Eisenhardt Report listed their fees for a five year period. To clarify, she stated the cost estimate was for a certain scope of work not for a projected time frame and the need for consultants could be completed prior to a five year period but the funds expended would remain the same

Member Long stated he fully understands that the current employees are quite capable to operate the upgraded treatment facility, however there is a significant need for training on the new equipment and controls. He stated that with the \$90 million treatment facility, a strong team is needed to operate the facility. He stated that since 1972, Veolia Water has started-up or transitioned over 500 treatment facilities which shows a great amount of experience and expertise. He stated that the employee combination of compensation and benefits needs to be equivalent. He encouraged staff to proceed with the contract negotiations as expeditiously as possible.

Member Quesada stated the Board must move forward.

Member Fritz commented that he feels the Eisenhardt Group has produced a factual document and believes the Board should move forward to negotiate a contract with Veolia Water.

President Di Giorgio discussed the actions the management and Board has taken to prepare for the operation of the upgraded facility. He stated his concerns are to ensure the efficient operation of the facility, to ensure protection of the environment, to ensure the contract operator performs as specified, and to ensure sewer service charges are regulated. He discussed the operation of the Petaluma treatment facility.

The Manager stated that the Board could vote in one combined motion or separately to move Agenda Item 11 a. and 11 b. District Counsel Kent Alm stated either method is acceptable.

President Di Giorgio noted that the Board would now be voting on Item 11 b.:

Consider authorizing District staff to negotiate an agreement with Veolia Water North America Operating Services to operate, manage, and maintain the District's wastewater treatment facilities.

(The motion was earlier moved by Member Fritz and seconded by Member Quesada.)

The motion was carried unanimously with a 5-0 vote.

Member Long discussed with District Counsel Kent Alm the proper procedures necessary to move forward with approval of Agenda Item 11 a. The Board was instructed to un-table the motion before proceeding with the motion.

On motion of Member Long, seconded by Member Fritz, and carried unanimously, the following motion was taken off the table: Consider making CEQA findings and adopt an Addendum regarding contracting for the operation and maintenance of the treatment facilities.

President Di Giorgio noted that the Board would now be voting on Item 11 a.:

Consider making CEQA findings and adoption of an Addendum regarding contracting for the operation and maintenance of the treatment facilities.

(The motion was earlier moved by Member Fritz and seconded by Member Quesada.)

The motion was carried unanimously with a 5-0 vote.

District Counsel Kent Alm clarified that the Boards vote included adopting the Addendum that was attached with the other documentation and the findings contained within the CEQA document attached.

President Di Giorgio announced a short recess at 8:47 p.m.

President Di Giorgio reconvened the Board meeting at 9:00 p.m.

LIABILITY CLAIM:

Consider rejection of claim from Deva Sherman, 113 Caribe Isle, Novato. The Manager noted that a claim for damages at the JMB Caribe Isle construction site on June 7, 2009, was received from Deva Sherman. She stated that the District's insurance claims adjuster recommended the District reject the claim and direct the claimant to JMB Construction.

On motion of Member Fritz, seconded by Member Quesada and carried with the following vote, the Board rejected the insurance claim from Deva Sherman: Ayes: Di Giorgio, Fritz, Long, and Quesada. Noes: none. Absent: Member Knutson.

BEL MARIN KEYS PUMP STATIONS REHABILITATION PROJECT 72403:

Consider approval of a contract amendment in the amount of \$65,000 with the Covello Group for construction management services on a time and materials basis. The Manager explained that The Covello Group had been contracted to provide construction management services for the construction of the Bel Marin Keys Pump Stations Rehabilitation project which was awarded to JMB Construction as the low bidder. However, due to several factors, additional intense construction management and oversight was need for this project. She recommends the Board approve an amendment to The Covello Group's contract in the amount of \$65,000. She outlined JMB Construction's experience.

On motion of Member Fritz, seconded by Member Long and carried unanimously, the Board approved a contract amendment in the amount of \$65,000 with The Covello Group for construction management services on a time and materials basis.

The Board discussed with the Manager the circumstances surrounding the selection of JMB Construction and the need for additional construction management.

District Counsel Kent Alm discussed ways in which a contractor could be disqualified for a construction project even if they presented the lowest bid.

MANAGER'S ANNOUNCEMENTS:

The Manager discussed the upcoming CASA meeting being held in San Diego between August 12th through August 14th.

ADJOURNMENT: There being no further business to come before the Board, President Di Giorgio adjourned the meeting at 9:05 p.m.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording

September 14, 2009

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, September 14, 2009, at the District Office, 500 Davidson Street, Novato.

BOARD MEMBERS PRESENT: President Michael Di Giorgio, Members James D. Fritz, William C. Long and George C. Quesada.

BOARD MEMBERS ABSENT: Arthur T. Knutson.

STAFF PRESENT: Manager-Engineer Beverly James, District Counsel Kent Alm, and Administrative Secretary Julie Borda.

ALSO PRESENT: Jim Henderson, Novato resident
Sam Renati, former Board Member, Novato resident
Pam Welsh, Novato resident
Bill Scott, Novato resident
Dennis Welsh, former NSD employee, Novato resident
Dean L. Heffelfinger, Novato resident
Jo Heffelfinger, Novato resident

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

On motion of Member Quesada, seconded by Member Fritz, and carried unanimously by those members present, the Agenda was approved as mailed.

PUBLIC COMMENT:

Jim Henderson, Novato resident, discussed his lateral sewer pipe on East Ct. He stated that he was told by the Manager that repair was going to be completed by late spring, 2009. He stated, however, the repairs have not been completed. He briefly discussed the Eisenhardt Report and disputed the findings that the NSD Operators and Mechanics would need to be trained by consultants for a full three years before being able to operate the new facility without assistance.

Bill Scott, Novato resident discussed the Novato Unified School District schools being charged for garbage collection and the cost of debris box rentals.

President Di Giorgio explained why the District began charging school districts for their debris collection.

Pam Welsh, Novato resident, discussed the change of the Board meetings to 6:30 p.m.

REVIEW OF MINUTES:

Consider approval of minutes of the July 20th, 2009 Board meeting.

On motion of Member Long, seconded by Member Fritz, and carried unanimously by those members present, the Minutes of the July 20th, 2009 Board meeting were approved as written.

CONSENT CALENDAR: *On motion of Member Long, seconded by Member Fritz, and unanimously carried by those Members present, the following consent calendar items were approved:*

- a. Approval of a Board Meeting for September 21, 2009 at 6:30 p.m.
- b. Approval of Sewer Main Extension Plans for "The Landing" Subdivision.
- c. Approval of regular disbursements in the amount of \$516,875.70, upgrade project disbursements in the amount of \$3,496,374.29, Board member disbursements in the amount of \$2,644.49, and ratification of August, 2009 payroll and payroll related disbursements in the amount of \$354,560.98.

BOARD MEMBER REPORTS:

Member Long discussed a trip he made to Washington D.C. on behalf of the North Bay Water Reuse Authority (NBWRA) and gave a brief report on the NBWRA's progress in regards to the receipt of funding.

President Di Giorgio noted he attended a meeting held on September 10th hosted by the Alliance for Concerned Citizens of Novato.

COLLECTION SYSTEM IMPROVEMENTS PROJECT 72706:

Consider approval of a contract in the amount of \$266,400 with The Covello Group for construction management services on a time and materials basis. The Manager noted that the Board has previously awarded construction contracts for two phases in a five phase project. The total estimated construction value of the projects is about \$2.5 million. She noted that given the current bidding climate and staff workload, feedback was requested on current construction management practices from the engineering group of the Bay Area Clean Water Agencies (BACWA). The feedback confirms that our industry is currently in a bidding climate that is intensely competitive. She stated that this environment may result in bidders that require more intensive and detailed oversight during construction.

She stated that staff had requested a proposal from The Covello Group to provide construction management services on all phases of the current projects (as noted above) for a not-to-exceed fee on a time-and-materials basis of \$266,400. She noted

the specific areas the fees will cover and stated the fee is approximately 10.67% of the total estimated construction costs for the projects.

Member Long questioned that if the bidding environment were less competitive, would a 10.67% fee for construction management be appropriate. The Manager replied that it would be. Member Long and the Manager discussed the safety obligations of the construction manager.

Bill Scott, Novato resident, discussed pre-qualifications and screening of contractors as part of the bidding process and commented that he felt 10% for construction management appears to be too high. President Di Giorgio responded to Mr. Scott's comments.

On motion of Member Long, seconded by Member Fritz, and carried unanimously by those members present, a contract was approved in the amount of \$266,400 with The Covello Group for construction management services on a time and materials basis.

2009-10 ANNUAL DISTRICT BUDGET:

Presentation of final 2009-10 annual District budget. The Manager noted that the final Draft Budget was radically different from budgets of previous years due to the possibility of the Districts use of the private contract operator, Veolia Water. She discussed all line items and the budget details with the Board members.

Member Quesada asked if the District would see savings in chemical costs right away. The Manager explained that this would not be the case because the UV sterilization system would not be fully operational until the next fiscal year.

Dennis Welsh, Novato resident and former NSD employee, questioned the increase in legal fees. He strongly objected to the District paying for legal representation for individuals involved in the EPA investigation if no specific individual has been charged.

District Counsel Kent Alm explained that the District would be responsible for the first \$25,000 of legal fees per person. After that time, the District's insurance would be activated and pay any fees that occurred above \$25,000. In addition, he explained that most attorneys have broad preparation that needs to be completed prior to any charges being filed against their client.

Consider adoption of Resolution No. 3012, Adopting Novato Sanitary District Fiscal Year 2009-10 Budget.

On motion of Member Fritz, seconded by Member Long, and carried unanimously by those members present, the Board adopted Resolution No. 3012: A Resolution Approving Budget and Fixing Tax Allocation for the Year 2009-2010.

At 7:15 p.m., President Di Giorgio called for a 5 minute break.

At 7:20 p.m., President Di Giorgio reconvened the District Board meeting.

WASTEWATER TREATMENT FACILITY OPERATION:

Consider approval of task order in an amount not to exceed \$24,500 for interim professional services with Veolia Water North America. The Manager explained that the negotiations with Veolia Water were anticipated to be completed by August 31, 2009; however, they are now scheduled for completion on September 21, 2009. The Manager noted that she had authorized an Agreement with Veolia Water on August 7, 2009, to allow them to begin preparing for the transition of the District facility. This Agreement was for \$24,500 in anticipation that the negotiations would be completed by August 31st. She noted that the construction schedule will continue to require the participation of the Veolia staff prior to the Notice to Proceed on the long term contract. For this reason, she recommends approval of the task order.

On motion of Member Long, seconded by Member Quesada, and carried unanimously by those members present, the Board approved a task order in an amount not to exceed \$24,500 for interim professional services with Veolia Water North America.

Dennis Welsh, Novato resident, stated he strongly objects to the District providing funds to Veolia Water.

The Manager explained the benefits and advantages to the District by Veolia's participation in construction meetings and instrumentation and control efforts. She outlined the benefits of Veolia's assistance at this time for the start-up of the new equipment.

Member Long agreed with the Manager that valuable work is being done and that work needs to move forward to meet deadlines for completion of the construction.

COLLECTION SYSTEM OPERATION AND MAINTENANCE:

Consider approval of a contract in the amount of \$63,960 with Duke's Root Control, Inc.. The Manager briefly explained the importance of the District's annual Collection System maintenance activities which include control and abatement of tree roots that intrude into its sewer lines. She recommends Duke's Root Control for the maintenance activities with an overall estimated cost of \$63,958.94. The Manager discussed the details of the chemical treatment with the Board. She stated that the chemical Duke's dispenses complies with the District's discharge permit requirements.

On motion of Member Quesada, seconded by Member Fritz, and carried unanimously by those members present, the Board awarded a contract to Duke's Root Control, Inc. in the amount of \$63,960 for tree root abatement.

STAFF REPORTS:

Pollution Prevention outreach: The Manager discussed the Pollution Prevention outreach event which the District participated in at the Novato Chamber of Commerce Business Showcase event. She noted that President Di Giorgio attended the event with her and she felt the event was well attended and quite well done. The Manager discussed other events that the District will be participating in such as a mercury thermometer exchange. She noted that the Sanitary District continues to offer tours of the Novato Sanitary District treatment facility.

North Bay Watershed Association meeting: The Manager noted that the NBWA met on Friday, September 11th. She discussed the presentations that were shown. The Manager discussed the Lateral Model Ordinance and anticipates presentations by various boards by the end of the year, 2009. She briefly discussed the District's Lateral Grant Program.

Bill Scott, Novato resident, discussed the issues of lateral replacement and to what extent the District will participate with assistance to residents for private lateral replacement.

The Manager explained to what length the District plans to replace a private lateral when the District is required to replace the main sanitary sewer line.

MANAGER'S ANNOUNCEMENTS:

The Manager stated that draft copies are available of the contract between Veolia Water and the Novato Sanitary District.

District Counsel Kent Alm stated that the final copy of the contract will contain errata sheets which will highlight the changes from the draft copy to the final copy of the Veolia contract.

There being no further business to come before the Board, President Di Giorgio adjourned the Regular Board Meeting at 7:50 p.m.

President Di Giorgio announced the board would enter into closed session to discuss the item on the closed session agenda:

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL-EXPOSURE TO LITIGATION-ONE MATTER:

Significant exposure to litigation pursuant to Subsection (b) of Government Code Section 54956.9.

At 9:01 p.m., the Board reconvened in open session.

The Board approved an amount not to exceed \$25,000 for the engagement of a forensic expert to assist legal counsel.

ADJOURNMENT: There being no further business to come before the Board, President Di Giorgio adjourned the meeting at 9:02 p.m.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording

DRAFT

10/23/09

Novato Sanitary District Check Register

October 23 - 26, 2009

Date	Num	Name	Credit
Oct 23 - 26, 09			
10/26/2009		Veolia Water North America	144,049.25
10/26/2009		Pacific, Gas & Electric	85,562.83
10/26/2009		Meyers, Nave, Riback, Silver &...	53,253.22
10/26/2009		Sideman & Bancroft, LLP	34,627.22
10/26/2009		Carollo Engineers, Inc	25,697.00
10/26/2009		California Diesel & Power	23,489.24
10/26/2009		North Marin Water District	17,467.67
10/26/2009		Fishnet Security	7,810.00
10/26/2009		Central Marin Sanitation District	7,543.05
10/26/2009		JMB Construction Inc.	5,290.00
10/26/2009		Fort Dearborn Life Insurance	3,921.40
10/26/2009		ControlCo Automation	3,059.93
10/26/2009		American Express-21007	3,018.50
10/26/2009		Team Ghilotti	2,357.34
10/26/2009		G & K Services	2,233.50
10/26/2009		Kaiser Permanente	2,072.76
10/26/2009		Millipore Corp, Lab H2O Division	1,621.73
10/26/2009		McNichols Company	1,134.32
10/26/2009		Maggiore & Ghilotti Inc.	1,029.30
10/26/2009		Nextel Communications	1,001.36
10/26/2009		IDEXX Distributing Corp.	995.99
10/26/2009		Siemens Water Tech Corp.	849.70
10/26/2009		Water Components & Building	824.64
10/26/2009		Oakley Water Strategies, Inc.	795.00
10/26/2009		J.L. Halbert	765.00
10/26/2009		Novato Public Access Television	700.00
10/26/2009		Johnson Controls, Inc.	598.00
10/26/2009		North Bay Truck Service	565.27
10/26/2009		3T Equipment Company Inc.	351.16
10/26/2009		Beecher Engineering	300.00
10/26/2009		Labworks Equipment	291.93
10/26/2009		Borda, Julie	239.77
10/26/2009		Cagwin & Dorward Inc.	229.00
10/26/2009		Alhambra	219.71
10/26/2009		Datco Billing Inc.	154.70
10/26/2009		Alpha Analytical Lab	150.00
10/26/2009		North Marin Auto Parts	145.59
10/26/2009		WC's Locks & Keys	121.77
10/26/2009		Orkin Pest Control	75.90
10/26/2009		One Stop Auto Service Inc.	62.16
10/26/2009		Cook Paging	41.20
10/26/2009		Novato Lock	36.67
10/26/2009		Electrical Equipment Company	27.28
10/26/2009		T-Mobile	22.27
10/26/2009		Able Tire & Brake Inc.	21.74
10/26/2009		Staples Business Adv	15.89
10/26/2009		Radio Shack	14.76
10/26/2009		United Parcel Service	10.44
Oct 23 - 26, 09			<u>434,865.16</u>

10/23/09

Novato Sanitary District Check Register

October 23 - 26, 2009

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Credit</u>
Oct 23 - 26, 09			
10/26/2009	1352	RMC Water & Environment, Inc.	93,400.58
10/26/2009	1354	Veolia Water North America	35,737.37
10/26/2009	1349	Eisenhardt Group, Inc.	5,737.16
10/26/2009	1351	HDR Engineering Inc	5,586.37
10/26/2009	1353	Unicorn Printing Specialists	1,316.02
10/26/2009	1355	Verizon California Inc	1,100.00
10/26/2009	1350	Empire Mini Storage - Novato	730.00
Oct 23 - 26, 09			<u>143,607.50</u>

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Administrative Matters: Consider Changing Financial Institution	MEETING DATE: 10/26/2009 AGENDA ITEM NO. : 7.a
RECOMMENDED ACTION: Selection of WestAmerica Bank for District banking functions.	
SUMMARY AND DISCUSSION: <p>Since the unfortunate cyber attack on District bank accounts with Bank of Marin earlier this year, District staff has evaluated a number of banking institutions in an effort to find the highest level of security available for District banking, particularly on-line banking. The District terminated on-line banking immediately when our accounts were compromised through outside fraudulent activity, and we have been reluctant to reinstate Internet banking without the assurance of stricter security measures.</p> <p>Staff feels that sufficient time has elapsed for Bank of Marin to have concluded its recovery efforts which required the cooperation of banks, credit unions, and financial institutions throughout the country through which the illegal funds were channeled.</p> <p>We therefore believe it is an appropriate time for the District to change financial institutions and, after careful comparison of a number of banks, it was determined that the highest level of security is offered by WestAmerica Bank. WestAmerica is the only bank interviewed that is in the process of implementing a Multifactor Authentication fob (MFA) which will be in place by the end of 2009. MFA is a token based authentication device that must be used when releasing wire transfers or Automated Clearing House (ACH) transactions. The device issues a unique pass code every 60 seconds, and once it is set up, wire transfers or ACH batches cannot be released without it. The MFA is an added security feature in addition to existing levels of access.</p> <p>Despite rising concerns about how easy it is to breach online accounts, 99% of U.S. banks require just a user name and password to access online accounts, which was the District's experience with its current bank. It's apparent that WestAmerica has a more sophisticated, higher level of security for electronic banking and staff therefore recommends that the Board authorize changing banking activities to WestAmerica Bank. Attached is a summary of banks that were interviewed and the security measures offered by each.</p>	
ALTERNATIVES:	
BUDGET INFORMATION:	
DEPT. MGR. :	MANAGER'S APPROVAL:

Novato Sanitary District Comparison of Banking Security Measures

The following are standard procedures instituted by most banks. All of the banks interviewed have these standard procedures in place so they won't be repeated for each bank.

- Multi-part login.
- Password requires at least 8 characters (combination of letters and numbers).
- Five security questions requiring three correct answers.
- User is locked out after three unsuccessful login attempts.
- Password changes every three months.

FIRST REPUBLIC BANK, SAN RAFAEL:

Additional Security Measures:

- Transaction limits and dual control requirements for on-line banking.
- Positive Pay whereby electronic transactions are identified and authorized by the customer before posting.

First Republic has no local office making it inconvenient for deposits, etc.

CITY BANK, SAN FRANCISCO:

The District was approached by City Bank after publication of the bank incident in the newspaper.

Additional Security Measures:

- ACH (Automated Clearing House) block which means an all-debit block can be placed on accounts that should have no ACH activity.
- ACH filter which means only authorized ACH debits designated in advance are accepted.

City Bank has no offices in Marin County. The closest branch is in Walnut Creek. Deposits may be made at Wells Fargo or by City Bank's courier service. City Bank is hoping to expand into Marin County.

WELLS FARGO BANK:

Additional Security Measures:

- ACH filter which means only authorized ACH debits designated in advance are accepted.
- ACH block which means an all-debit block can be placed on accounts that should have no ACH activity.
- Positive Pay whereby electronic transactions are identified and authorized by the customer before posting.

WESTAMERICA BANK:

Additional Security Measures:

- Onsite Banker Plus which provides two levels of access. Each level has a login and password.
- Confirmation of on-line ACH transactions can be faxed to WestAmerica. Information on the fax is compared to the electronic file transmitted from the customer before transactions are executed.
- The Bank sends an email to the Administrator (a District employee other than a User) if a District User changes his/her email address; an unknown computer is used and is prompted to retrieve a security code; or when an ACH file is downloaded.
- A Multifactor Authentication device (fob) will be available by the end of the year which adds another level of security. The device issues a unique pass code every 60 seconds, and wire transfer or ACH batches cannot be released without it.

Unlike the District's current financial institution that uses an Automated Clearing House on the East Coast, WestAmerica Bank uses an ACH in California so transactions are conducted in local time. The bank partners with Digital Insight as their online banking provider. Among other things, Digital Insight has an Online Fraud Shutdown Service that proactively detects and shuts down fraudulent sites and blocks access to suspicious sites prior to shutdown. WestAmerica is a local bank and was recently ranked top mid-tier bank in the nation by U.S. Banker magazine.

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Proposition 1A Suspension: Replacement funding	MEETING DATE: October 26, 2009 AGENDA ITEM NO.: 8.a.
<p>RECOMMENDED ACTION: Adopt a resolution approving the form of and authorizing the execution and delivery of a purchase and sale agreement and related documents with respect to the sale of the Novato Sanitary District's Proposition 1A receivable from the State, and directing and authorizing certain other actions in connection therewith.</p>	
<p>SUMMARY AND DISCUSSION:</p> <p>The emergency suspension of Proposition 1A was passed by the Legislature and signed by the Governor as ABX4 14 and ABX4 15 as part of the 2009-10 budget package on July 28, 2009. Under the provision, the State will borrow 8% of the amount of property tax revenue apportioned to cities, counties and special districts. The state will be required to repay those obligations plus interest by June 30, 2013. The legislature passed and the Governor signed a clean-up bill, SB67, which provides for bond financing of the receivables of the Prop 1A borrowing by California Communities. This bond issuance will occur in November 2009 and the deadline for participation is November 6, 2009.</p> <p>The Prop 1A Securitization Program was instituted by California Communities to enable Local Agencies to sell their respective Prop 1A Receivables to California Communities. Under the Securitization Program, California Communities will simultaneously purchase the Prop 1A Receivables, issue bonds ("Prop 1A Bonds") and provide each local agency with the cash proceeds in two equal installments, on January 15, 2010 and May 3, 2010 (to coincide with the dates that the State will be shifting property tax from local agencies). The purchase price paid to the local agencies will equal 100% of the amount of the property tax reduction. All transaction costs of issuance and interest will be paid by the State of California. Participating local agencies will have no obligation on the bonds and no credit exposure to the State.</p> <p>If the Novato Sanitary District sells its Prop 1A Receivable under this program, California Communities will pledge the District's Prop 1A Receivable to secure the repayment of a corresponding amount of the Prop 1A Bonds. The District's sale of its Prop 1A Receivable will be irrevocable. Bondholders will have no recourse to the District if the State does not make the Prop 1A repayment.</p> <p>Benefits of Participation in the Proposition 1A Securitization Program:</p> <p>The benefits to the Novato Sanitary District of participation in the Proposition 1A Securitization Program include:</p> <ul style="list-style-type: none"> • Immediate cash relief • All costs of financing borne by the State of California: • No obligation on Bonds • Security of repayment 	
<p>ALTERNATIVES: Do not participate and receive interest payments equal to LAIF interest and the principal back in June 2013.</p>	
<p>BUDGET INFORMATION: This will restore the property tax receipts of \$140,000 for this year's budget.</p>	
DEPT.MGR.:	MANAGER:

Staff Report (Continued)
Proposition 1A Securitization Program

Background

California Statewide Communities Development Authority (“California Communities”) is a joint powers authority sponsored by the California State Association of Counties and the League of California Cities. The member agencies of California Communities include approximately 230 cities and 54 counties throughout California. *[Note –Novato Sanitary District does not need to be a member of California Communities to participate].*

Proposed Proposition 1A Receivables Sale Resolution:

The proposed Prop 1A Receivables Sale Resolution:

- (1) Authorizes the sale of the District's Prop 1A Receivable to California Communities;
- (2) Approves the form, and directs the execution and delivery, of the Purchase and Sale Agreement with California Communities and related documents;
- (3) Authorizes and directs any Authorized Officer to send, or to cause to be sent, an irrevocable written instruction required by statute to the State Controller notifying the State of the sale of the Prop 1A Receivable and instructing the disbursement of the Prop 1A Receivable to the Prop 1A Bond Trustee;
- (4) Appoints certain District officers and officials as Authorized Officers for purposes of signing documents; and
- (5) Authorizes miscellaneous related actions and makes certain ratifications, findings and determinations required by law.

Proposed Purchase and Sale Agreement

The proposed Purchase and Sale Agreement:

- (1) Provides for the sale of the Prop 1A Receivable to California Communities;
- (2) Contains representations and warranties of the Novato Sanitary District to assure California Communities that the Prop 1A Receivable has not been previously sold, is not encumbered, that no litigation or other actions is pending or threatened to disrupt the transaction and the this is an arm's length "true sale" of the Prop 1A Receivable.
- (3) Provides mechanics for payment of the Purchase Price
- (4) Contains other miscellaneous provisions.

Proposed Purchase and Sale Agreement Exhibits:

The proposed Proposition 1A Purchase and Sale Agreement Exhibits:

- (B1) Opinion of Counsel: This is an opinion of the counsel to the local agency (which may be an in-house counsel or an outside counsel) covering basic approval of the documents, litigation, and enforceability of the document against the Seller. It will be dated as of the Pricing date of the bonds (currently expected to be November 10, 2009).
- (B2) Bringdown Opinion: This simply "brings down" the opinions to the closing date (currently expected to be November 19, 2009).
- (C1) Certificate of the Secretary of the Local Agency: A certificate of the Secretary confirming that the resolution was duly adopted and is in full force and effect.
- (C2) Seller Certificate: A certification of the Seller dated as of the Pricing Date confirming that the representations and warranties of the Seller are true as of the Pricing Date, confirming authority to sign, confirming due approval of the resolution and providing payment instructions.
- (C3) Bill of Sale and Bringdown Certificate: Certificate that brings the certifications of C2 down to the Closing Date and confirms the sale of the Proposition 1A Receivable as of the Closing Date.
- (D) Irrevocable Instructions to the Controller: Required in order to let the State Controller know that the Proposition 1A Receivable has been sold and directing the State to make payment of the receivable to the Trustee on behalf of the Purchaser.
- (E) Escrow Instruction Letter: Instructs Transaction Counsel (Orrick) to hold all documents in escrow until closing, and if closing does not occur by December 31, 2009 for any reason, to destroy all documents.

October 23, 2009

To: Board of Directors

From: Wastewater Operations Committee
James D. Fritz
George C. Quesada

Re: Wastewater Operations Committee Report

The Wastewater Operations Committee met on Friday, October 23, 2009 to discuss the status of the Pre-Start Up work, operations and maintenance to date, develop a contract monitoring plan, and discuss the role of the Wastewater Operations Committee.

Background

On July 27, 2009, the Board of Directors selected Veolia Water West Operating Services, Inc. (Veolia) to operate and maintain the District's wastewater treatment facilities. The Service Agreement, which was approved on September 21, 2009, required that Veolia complete a number of tasks prior to receiving the Notice to Proceed. These tasks were completed by September 29, 2009 and the Notice to Proceed was issued for October 5, 2009.

Pre-Start Up Submittals

The status of the Pre-Start up deliverables are summarized in the Table below. The District has completed a review of the draft documents and Veolia is incorporating these comments in the final documents as appropriate. Some of these such as the Customer Service and Emergency Response Plan and the Staffing and Training Plan are living documents that will continue to be updated throughout the contract.

**Contract Operations Service Agreement
 Pre-Start Up Submittals**

Activity Description	Due Date	Received by District	District Review Complete
Precedent to Notice to Proceed			
Obtain Insurance & Guarantees	10/2/09	9/28/09	10/1/09
Draft Operational Transition Plan	10/2/09	9/22/09	10/19/09
Draft Customer Service & Emergency Response Plan	10/2/09	9/22/09	10/19/09
Start up Plan	10/2/09	9/25/09	
Retain staff	10/5/09	10/5/09	10/5/09
Meet legal requirements	10/2/09	9/28/09	10/1/09
Review of permits and Certifications	10/2/09	9/25/09	
Schedule 2			
Odor Response Plan		9/22/09	10/19/09
Schedule 3			
Staffing and Training Plan	11/4/09	9/22/09	10/19/09

Operations and Maintenance Report

Veolia provided the draft format for the monthly Operations and Maintenance Report. It will cover:

- Novato and Ignacio treatment plant performance;
- Environmental and permit compliance status;
- A review of operations and maintenance status;
- Repair/replacement report;
- Administration;
- Safety and training;
- Public relations

Veolia will maintain a Daily log in accordance with State certification requirements.

Contract Monitoring

Effective monitoring and evaluation of contractor performance is a critical component of successful service delivery. For the Novato Sanitary District contract with Veolia Water West Operating Services, Inc. (Veolia) it started with clear performance standards and expectations in the Agreement. These standards are quantifiable and specific and include maintaining compliance with regulatory requirements, maintaining the facility and equipment, documentation and record-

keeping, providing and training qualified, certified staff, emergency response, and maintaining site safety and security.

The District will monitor Veolia's achievement with these performance standards through regular weekly staff meetings, monthly staff and board committee meetings, site inspections, annual audits, and review of required reports. In the first year of the contract the District will engage an outside expert in monitoring contract operations to participate in the monthly meetings, and to review the performance at the three month, six month, and one year milestones.

Wastewater Operations Committee Role

The Wastewater Operations Committee will meet monthly in the third week of each month to review the previous month's Operation and Maintenance Report and NPDES monitoring report. They will receive reports from Veolia, District staff, and the outside expert on contractor performance and make recommendations to the Board of Directors.

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Staff Report: North Bay Water Reuse Authority	MEETING DATE: October 26, 2009 AGENDA ITEM NO.: 10 a
RECOMMENDED ACTION: None. Information only	
SUMMARY AND DISCUSSION: <p>Federal Funding The NBWRA Federal Legislative Liaison had good news to report from the Fiscal Year 2010 Appropriations Bill. NBWRA received \$162,000 to complete the feasibility study and \$200,000 toward starting construction. Although the amount for construction was small it was a real accomplishment to get a new project start approved. It was 1 of just 20 nationwide approved by the Senate. In Fiscal Year 2011 we will be advocating for the full \$25 million in funding that was authorized. It is anticipated that request forms will be due in mid-February and a trip back will be needed to support the requests.</p> <p>State Funding The State Legislative Liaison just started in June and is working to build familiarity and support among the State legislators. This includes setting up meetings and tours with legislators. They are also tracking all of the water legislation and working to get the NBWRA project included.</p> <p>Environmental Impact Report (EIR/EIS) On May 5, 2009, the draft EIR/EIS for the North San Pablo Bay Restoration and Reuse Project (NBWRP) was released for public comment. Three public hearings were held during the review period. The public review and comment period was extended to July 20, 2009 for a total review period of 76 days. The comments were included in the Final Administrative Draft of the EIR/EIS along with the response to comments which was released on August 25, 2009.</p> <p>Sonoma County Water Agency is the CEQA lead agency. It will be considering certifying the EIR/EIS as complete under CEQA at their meeting on December 1, 2009. The Joint Committee on Recycled Water for Novato Sanitary District, North Marin Water District, and Las Gallinas Valley Sanitary District will meet on December 2nd to review the findings for the projects specific to Novato. Novato Sanitary District will be considering individual project approvals for the Novato projects as a "Responsible Agency" at their Board Meeting on December 14, 2009.</p> <p>Memorandum of Understanding (MOU) The NBWRA Coordinating Committee approved changes to the MOU that would create an oversight board made up of elected officials. These changes are being reviewed by the Sonoma County legal counsel. The revised MOU will then go to the individual agencies which must approve the revised MOU before the changes go into effect.</p>	
ALTERNATIVES: NA	
BUDGET INFORMATION: NA	
DEPT.MGR.:	MANAGER: