

NOVATO SANITARY DISTRICT

May 9, 2011

The Board of Directors of Novato Sanitary District will hold a regular meeting at 6:30 p.m., Monday, May 9, 2011, at the District Offices, 500 Davidson Street, Novato.

Materials related to items on this agenda are available for public inspection in the District Office, 500 Davidson Street, Novato, during normal business hours. They are also available on the District's website: www.novatosan.com.

AGENDA

- 1. PLEDGE OF ALLEGIANCE:**
- 2. CALL TO ORDER:**
- 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 the March 14th, April 11th, 20th, and 25th, 2011 meetings.

- 6. CONSENT CALENDAR:**

The Manager-Engineer has reviewed the following items. To her knowledge, there is no opposition to the action. The items can be acted on in one consolidated motion as recommended or may be removed from the Consent Calendar and separately considered at the request of any person.

- a. Approve regular disbursements and ratify payroll and payroll-related disbursements.
- b. Approve Center Road Sewer Upgrade project and authorize staff to file Notice of Completion.
- c. Approve Ignacio Blvd. Sewer Rehabilitation project and authorize staff to file Notice of Completion.
- d. Approve meeting date of May 25th at 6:30 PM, 2011.

7. BOARD OF DIRECTORS:

- a. Consider adopting a resolution appointing a board member to fill the vacancy.
- b. Seating of new Board Member.

8. FINANCING

- a. Financial consultant report on financing alternatives.
- b. Consider approval of financing method.

9. DISTRICT BOARD MEMBER ELECTION:

- a. Discuss schedule for Board Member election.
- b. Consider adoption of a resolution Proposing an Election and Requesting the County Elections Department to Conduct Election Services.

10. RECYCLED WATER:

- a. Consider approval of revision to the North Marin Water District Agreement.

11. HOUSEHOLD HAZARDOUS WASTE AND RECYCLING:

- a. Consider approval of Marin County Hazardous and Solid Waste Grant Agreement for 2010-11.

12. WASTEWATER TREATMENT PLANT UPGRADE PROJECT:

- a. Review bids received for Contract D Recycled Water Facility, approve the withdrawal of the bid by KG Walters, authorize contract award to the lowest responsive bidder, Gateway Pacific Contractors Inc., and authorize Manager-Engineer to execute contract.
- b. Staff report on Water Resources Board inspection.

13. ADMINISTRATION:

- a. Committee appointments.

14. STAFF REPORTS:

- a. California Association of Sanitation Agencies meeting.
- b. Administrative Civil Liability Complaint status.

AGENDA/Board of Directors
May 9, 2011

15. MANAGER'S ANNOUNCEMENTS:

16. ADJOURN:

Next resolution no. 3030

Next meeting date: Monday, May 25, 2011, 6:30 PM at the Novato Sanitary District office, 500 Davidson Street, Novato, CA

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.

March 14, 2011

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, March 14, 2011, preceded by a closed session beginning at 6:00 p.m. at the District offices, 500 Davidson Street, Novato.

At 6:05 p.m., President Long announced that the Board would meet in closed session to discuss the item on the closed session agenda:

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: 1 potential case.

BOARD MEMBERS PRESENT FOR CLOSED SESSION: President William C. Long, Members Michael Di Giorgio, James D. Fritz and Dennis Welsh. Member George C. Quesada arrived at 6:15 p.m.

BOARD MEMBERS ABSENT: None

STAFF PRESENT FOR CLOSED SESSION: Manager-Engineer-Secretary Beverly B. James, District Counsel Kent Alm and Timothy Cremin, Meyers Nave.

OPEN SESSION: No reportable action was taken in closed session and President Long began the meeting in open session at 6:51 p.m.

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

STAFF PRESENT: Manager-Engineer-Secretary Beverly B. James, Deputy Manager-Engineer Sandeep Karkal, District Counsel Kent Alm, Timothy Cremin, Meyers Nave, and Administrative Secretary Julie Borda.

ALSO PRESENT: Ernie Carpenter, Sebastopol resident
Lee Pierce
Walter Schivo, Novato
Casey Mazzon, Marin Builders Association
Dean Heffelfinger, Novato resident
Jo Heffelfinger, Novato resident
Delyn Kies, Sustainable Novato/MFSRTF
Beverly Ackerman, Novato resident
Bruce Baum, Green Coalition for Responsible Waste
Jerry Peters, Novato resident

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

President Long requested the agenda be amended and move agenda items 4, 5 and 6 to immediately follow agenda item 7.

On motion of Member Quesada, seconded by Member Di Giorgio and carried unanimously, the agenda was approved as amended.

PUBLIC COMMENT:

Fred Grange, Grange Debris Box, stated that he hopes the District will discuss debris box issues later in the agenda.

Susan Stompe, Marin Conservation League, addressed the Board and discussed a "Clean and Green Day" on April 9th. She asked for Board and public participation. She stated the Marin Conservation League supports Zero Waste goals and hopes the District will adopt a franchise agreement that will encourage the waste hauler to utilize food waste recycling programs for commercial and multi-family housing sites.

An individual addressed the Board and discussed a budget amendment which was approved at the March 2, 2011 Board meeting. She questioned if the Manager had the authority to approve the expense of \$68,000 which was for a matter not provided by Meyers Nave but was invoiced through Meyers Nave.

An individual questioned why Novato Disposal only paid Novato Sanitary District a franchise fee of \$45,000 in comparison to Petaluma who receives approximately \$1 million in franchise fees from their solid waste hauler.

Walter Schivo, Novato resident, expressed his concern about debris box collection and requests the Board put debris box collection out for competitive bidding.

President Long closed Public Comment.

District Counsel Kent Alm stated that Lozeau Drury submitted additional documents the afternoon of March 14th for the Board members. Mr. Alm passed out the sets of documents as provided by Lozeau Drury.

SOLID WASTE:

- Consider making determination that the Amendment of the Agreement between Novato Sanitary District and Novato Disposal Service, Inc. for Solid Waste Collection, Processing, Diversion and Disposal (Agreement) is not a Project and/or is categorically exempt under CEQA and direct staff to file the Notice of Exemption.

The Manager introduced Timothy Cremin, Meyers Nave, to review the facts relating to the CEQA (California Environmental Quality Act) determination. He stated that the current Agreement is categorically exempt under CEQA and is not a Project pursuant to CEQA Guidelines sec. 15378(b) (4). He stated that the Agreement is a financial agreement that does not commit the District to any specific project that will result in a potentially significant adverse impact on the environment.

Mr. Cremin stated that if the Agreement is considered a Project under CEQA, there are various exemptions that apply and the underlying factual basis for the exemptions were the following: 1) activities under Amendment will be the same as under the existing Franchise Agreement; 2) Amendment does not approve or commit to the approval of any project, including a new or expanded drop off recycling center; 3) Amendment implements, but does not adopt, requirements for waste reduction; and 4) the activities implemented under Amendment will result in environmental benefits.

Mr. Cremin stated that the Franchisee currently takes materials to the Redwood Landfill and will continue to take materials only to this location. He stated the Agreement is not a policy adoption document but is an implementation of the goals adopted at the State and local levels. He stated the Agreement will implement Zero Waste policies which will result in a significant reduction in the waste sent to landfills for disposal.

Mr. Cremin discussed a letter from the law firm Lozeau Drury which was provided to the Board at the beginning of the March 14, 2011 meeting. He spoke to the key factual CEQA assertions addressed in the letter.

- Consider approving the Amended and Restated Agreement between Novato Sanitary District and Novato Disposal Service, Inc. for Solid Waste Collection, Processing, Diversion, and Disposal subject to minor modifications approved by the District Manager-Engineer and District Counsel.

The Manager gave a PowerPoint presentation which detailed the proposed amendments to the Solid Waste Franchise Agreement between Novato Disposal Services and Novato Sanitary District. She stated that the Amendment would incorporate zero waste goals, limit future rate increases and extend the term of the original agreement to the year 2025. She discussed the provision to incorporate Zero Waste Goals and stated that the terms relating to Zero Waste Goals are being taken to implement policies for waste reduction previously adopted by the State of California, Marin County, the Marin County Hazardous and Solid Waste Joint Powers Agency (JPA), and the City of Novato.

The Manager presented photos of the two North Bay Corporation facilities referenced in the Lozeau Drury correspondence. She discussed her visits to the sites and noted she had reviewed their compliance permits. She stated they are doing a good job maintaining the environmental requirements in the facilities. She also noted that their disposal vehicles will be brought into carbon-monoxide compliance and that they have a

vehicle maintenance/upgrade schedule in order to comply with the changes to the Air Quality Standards requirements.

The Manager introduced Dee Johnson, Household Hazardous Waste/Solid Waste Consultant, who addressed the issue of construction and demolition (C&D) debris box collection and disposal. She stated that currently the City of Novato has permitted three facilities as part of their ordinance that accept and divert C&D waste. She reported that Novato Disposal must provide quarterly reports to the City of Novato on their debris box and C&D recycling and over the last year, their debris box diversion rate has been around 79 percent.

The Manager pointed out that the staff report, *Amendment of Solid Waste Franchise*, which was part of the Board agenda packet, provided detailed answers to questions that were asked by various groups and the public. She discussed the letters and comments the District received. She stated that based on a public opinion poll commissioned by Novato Disposal, respondents strongly supported the goals for zero waste and would like to see Novato Disposal move ahead with commercial food waste recycling. The Manager stated that the advantage to providing an extended agreement was that Novato Disposal receives the benefit of the extension and the Novato residents are assured that the disposal rates will remain stable. She stated that construction and demolition (C&D) recycling is an integral part for reaching zero waste goals.

The Manager discussed the specific modifications to the Amended and Restated Agreement, dated March 11, 2011 from the Agreement that was released at the March 2, 2011 Board meeting.

The Manager stated that staff recommends that the Board make the finding that the Amendment of the Agreement between Novato Sanitary District and Novato Disposal Service, Inc. for Solid Waste Collection, Processing, Diversion and Disposal is not a Project and if deemed a Project, is categorically exempt under CEQA and direct staff to file the Notice of Exemption.

The Manager stated that staff further recommends the Board approve the Amended and Restated Agreement between Novato Sanitary District and Novato Disposal Service, Inc. for Solid Waste Collection, Processing, Diversion and Disposal subject to minor modifications approved by the District Manager-Engineer or District Counsel.

President Long opened the meeting to public comment on the issue of the Amendment of Solid Waste Franchise Agreement.

Richard Drury, Attorney, Lozeau Drury LLP, requested the Board accept hard copies of correspondence originally provided to the District on a CD rom. Mr. Drury expressed his concern that the process to amend the Agreement was rushed and requested the Board allow up to thirty days for public review of the Agreement. He suggested the District may be in violation of the Brown Act because the meeting documents were not made available in hard copy form until the morning of March 14, 2011. He discussed

proposed Franchise Agreement violations, alleging that Novato Disposal is in violation of the Federal Clean Water Act. He directed the Board's attention to Exhibit K of the correspondence Lozeau Drury presented which contained the discharge monitoring reports obtained from the Regional Water Quality Control Board. Mr. Drury stated the District was not legally able to enter into a contract with Novato Disposal because of the existing violations of law.

Mr. Drury stated that he believes the Franchise Agreement is a discretionary project with possible environmental impacts and therefore is not exempt from CEQA review. He outlined the potential environmental impacts Novato Disposal's long-term operations could have.

Mr. Drury discussed comments submitted to the Board from Dr. Petra Pless, an environmental scientist, who has concluded that this project may have adverse environmental impacts with respect to increased carbon dioxide-equivalent emissions. He stated that the Franchise Agreement does not specify where Novato Disposal will take C&D materials it collects and that this may result in "long haul" trips as far away as Stockton.

Mr. Drury discussed environmental impacts from storm water run-off at the Novato Disposal sites.

Mr. Drury discussed a study which showed an increase in illegal dumping of household debris, appliances, and construction debris in areas where debris box rates are considered high.

Mr. Drury discussed a report he presented from the Fair Political Practices Commission which showed that Novato Disposal, through an entity called Delphi, has made political contributions to members of the District's Board of Directors. He felt these contributions raised significant issues of conflict of interest.

Dana, Account Manager for Industrial Carting, discussed a past incident where a building contractor in Novato contacted Industrial Carting for debris box services because of the poor service and high cost of debris boxes through Novato Disposal. Dana requested the Board allow competitive bidding for debris box services. She stated that Industrial Carting can provide the needed documentation to show acceptable diversion rates for C&D disposal.

Casey Mazonni, Legislative Analyst with the Marin Builders Association, stated that the majority of the Marin Builders Association members supported competitive bidding and requested the adoption of the Franchise Agreement Amendment be postponed. In addition, she stated that the Marin Builders Association requests an analysis regarding any adverse effects of open market competition and a comparison relative to how neighboring jurisdictions might have mitigated any similar concerns.

Fred Grange, Grange Debris Box, gave an overview of his company's history and stated that allowing another debris box provider to operate in Novato would not pose a problem. He stated that Grange can provide a better debris box service and asked the Board to postpone their decision on the Agreement until he can provide a presentation to the Board outlining his services.

Bruce Bam, Green Coalition for Responsible Waste and Resource Management, expressed his concern with a 15 year term extension to the Franchise Agreement. He requested the Board directly fix the terms of extension to achieve diversion goals. He urged the Board to not approve the Agreement.

Martha Hiedinger, Novato homeowner, requested the Board modify the current Agreement to allow for competitive debris box services which would keep the rates low and offer better services to the community. She requested the Board postpone their decision to allow other Novato residents the opportunity to come before the Board with comments.

Tom Pierce, Novato resident, stated that he believes the Agreement is considered a project under CEQA. He expressed his concern for the wear and tear on the Novato streets from the Novato Disposal vehicles.

Margaret Weems, Weems Law Office, attorney representing Grange Debris Box, requests the Grange letter of March 11, 2011 be included in the record of the March 14, 2011 Board meeting. She questioned why the Board seeks at this time to extend the Franchise Agreement for 15 years. She stated that there is no reasonable basis to extend the original Agreement which was entered into in 2005. She stated that the amended agreement delivers no new benefits to the public, but continues the monopoly which denies the Novato residents the benefits of competitive markets outside of Novato Disposals current services. She noted that the existing 2005 Franchise Agreement imposes waste diversion and recycling goals. She requested the District provide quarterly reports on their website. She requested the Board just say no to the Agreement.

Dorgio Huberts expressed his dissatisfaction that the District did not provide board meeting materials to the public with adequate time for review prior to the board meeting. He requested the Board take additional time before making a final decision on the Agreement.

Delyn Kies, Sustainable Novato and Marin Food Scrap and Recycling Taskforce, expressed her appreciation to the Board for allowing her to submit comments regarding the Franchise Agreement. She asked the Agreement reflect a diversion rate of 80% by the year 2015, instead of the year 2020.

David Butler, Grange Debris Box employee, stated that he has worked in the construction and demolition business for approximately 25 years. He stated that construction/demolition contractors routinely separate their C&D materials prior to

placing the materials in the debris box to keep their costs low. He noted that Marin Sanitary separates their materials prior to disposal but that Novato Disposal does not.

Suzanne Crow discussed the costs associated with maintaining the contract with Novato Disposal. She noted that substantial outside costs are being incurred and expressed her concern that the \$45,000 franchise fee paid by Novato Disposal is not covering the additional expenses.

The Manager stated that the special costs in the Agreement are considered “pass through” costs and are paid directly by Novato Disposal.

Dee Johnson reported that Novato Disposal pays the District approximately \$370,000 per year for costs associated with the Household Hazardous Waste Facility and costs for her consulting services. She noted that this amount is in addition to the \$45,000 franchise fee that is paid by Novato Disposal.

Lee Pierce, Government Affairs Manager for Industrial Carting and Global Material Recovery Services, requested that the Board stipulate, as part of the Franchise Agreement, that recycling and debris box services be subject to competitive bidding. He stated that Industrial Carting is fully able to process approximately 400 tons of C&D materials per day. He requested that the Board defer their decision until after they make a personal visit to Industrial Carting’s facility in Santa Rosa. He provided the Board with photographs of Industrial Carting’s facilities and trucks.

Bob Williams, Williams Law Offices, stated he would like to see the contract tied to goals which must be achieved prior to an extension.

Curtis Michelini, Industrial Carting, stated he would like to be given the opportunity to competitively perform to achieve the zero waste goals as established by the District. He requested the Board visit his facility and allow his company to offer debris box services in Novato.

Ed Mainland, Sustainable Novato, commented on the March 2, 2011 Board meeting minutes and stated some comments might be misinterpreted. He clarified that Sustainable Novato is represented by Delyn Kies and himself, and Sustainable Novato has no connection with The Concerned Citizens group of Novato.

President Long closed public comment and declared a five minute break at 8:57 p.m.

President Long reconvened the Board meeting at 9:07 p.m.

The Manager gave an overview of the public comments, stating that there was considerable interest in the debris box issue. She noted that the debris box collection service in Novato is part of the current Franchise Agreement and is not being considered independently of the Agreement. She stated that Novato residents want to see better recycling efforts and zero waste goals achieved without an increase in their

household garbage collection rates. She stated that the Agreement prevents Novato Disposal from raising the current rates, outside of increases for inflation.

Member Quesada asked when the Amended Agreement was posted. The Manager replied that the Amended and Restated Agreement, Final Draft, Dated 3/11/2011, was posted to the District website by 6:30 p.m. on March 11, 2011. She pointed out that this Agreement was an amended version of the December 31, 2005 Agreement and that at their January 24, 2011 Board meeting, the Board reviewed the same draft document entitled "Draft Language to Amend the Agreement Affective December 31, 2005, Between Novato Sanitary District and Novato Disposal Company". The Manager also noted that the Agreement presented at this meeting is substantially the same Agreement as was presented at the March 2, 2011 Board meeting. She stated that the changes to the Agreement were shown as strike-out and bold italic text and that the Agreement was posted to the website. She noted that the Brown Act requires the District post only the meeting Agenda within 72 hours of the meeting, but does not require the entire packet be posted, although in this case, the packet was posted within 72 hours of the meeting.

The Manager stated that the amended Agreement made no changes to debris box services and that this has been consistent through all drafts of the Agreement.

District Counsel, Kent Alm, stated that he would not address preferences and policy issues, but only legal issues. He stated that in response to the allegation regarding a Brown Act violation, he believes there was no violation. In regard to the suggestion that there is a violation of the Franchise Agreement due to the allegations in a law suit filed by Lozeau Drury in Federal Court, there has been no judicial resolution of these allegations. He stated that until a Judge resolves the issue or the parties come to a settlement, the alleged charges are only allegations and do not prevent the District from entering into a contract with Novato Disposal. Mr. Alm addressed the comments regarding the Cease and Desist Order. He stated that according to the documents provided by Mr. Drury, that Order was withdrawn when the company ceased to provide the services in dispute. Since that time, he noted that the company has made certain improvements that were mentioned earlier, which could provide a defense to the lawsuit that has been mentioned.

Mr. Alm addressed the comments regarding the high cost of debris box disposal which may cause illegal dumping in Marin County. He stated he has looked at the general information provided and does not necessarily disagree with some of the conclusions. It is common knowledge that illegal waste dumping can be attributed to the cost of disposal. However, he noted that it is not just the cost of picking up the debris but also the cost of disposal at the landfill as well. He stated that the cost structure adopted does not legally prevent the Board from approving the Agreement with Novato Disposal.

Mr. Alm stated he does not see any legal reasons why the Board cannot proceed with approving the Agreement.

Member Di Giorgio noted that the major point of concern was the issue of debris box disposal, and stated that regardless if the Board approved the Agreement before them, the issue of debris box disposal would remain the same for the length of the contract until the year 2015. He stated that the District has proceeded to secure probably the lowest garbage rates in the County. He discussed the environmental impacts and noted they would remain the same no matter who was awarded debris box hauling. Member Di Giorgio stated he would vote 'Aye' on the motion.

Member Fritz discussed smaller debris haulers such as "Got Junk". He questioned if in fact other debris haulers were prohibited from hauling debris for residents.

The Manager stated that it is a violation of the District's ordinance to haul waste on the streets of Novato without a permit from the District. She stated that if a resident or contractor is doing construction demolition and fills their own box, they can "self-haul" to Redwood Landfill which is allowed under the ordinance.

Mr. Alm clarified what is allowed under the District's ordinance.

Member Welsh stated that the District has incurred numerous legal fees recently and does not want the District to become involved in litigation regarding a CEQA challenge. He suggested the Board table the motion to declare the Agreement exempt under CEQA until the Board meeting in late April. He suggested the Agreement be amended further to address the debris box disposal concerns and the concerns regarding a relocated recycling facility.

Member Quesada questioned contractors who have their own debris boxes. The Manager stated that these contractors are allowed to haul and dump at the landfill and are not in violation of the ordinance.

President Long asked who would be responsible for the legal fees if there were to be a court challenge. The Manager responded that Novato Disposal is responsible for the legal fees, as clarified in Section 8.1 of the Agreement.

On motion of Member Di Giorgio, seconded by Member Fritz and carried with the following vote, the Board made a determination that the Amendment of the Agreement between Novato Sanitary District and Novato Disposal Service, Inc. for Solid Waste Collection, Processing, Diversion and Disposal (Agreement) is not a Project and/or is categorically exempt under CEQA and directed staff to file the Notice of Exemption. Ayes: Long, Di Giorgio, Fritz, and Quesada. Noes: Welsh.

The Board discussed the approval of the Amended and Restated Agreement with Novato Disposal Service, Inc.

Member Di Giorgio commented that he is very familiar with the Agreement and hopes Novato Disposal will achieve the 80% diversion goals sooner than the year 2025 deadline, as required in the Agreement.

The Board discussed the diversion goals as stated in the Agreement and the incentive to Novato Disposal if they were to achieve higher diversion goals sooner than required.

Dee Johnson stated that Novato Disposal's diversion rate is currently at nearly 58 percent.

Member Quesada stated that he felt a higher franchise fee is a bad idea because the cost would be passed on to the rate payers.

President Long addressed the public comment of "Why now?" He noted that the agreement currently in place already allows the District to dictate a number of provisions that are in the amended contract; however the Novato residents' rates would need to increase to pay for these services. He stated that under the amended Agreement, Novato residents receive these services, and rates are guaranteed to remain the same except for yearly increases based on the cost of living index. He stated that the District should take another look with Novato Disposal at the debris box issues and see if there isn't some way to provide a better and more competitive service. He stated the Board should address this issue down the road. He stated that the decision before the Board tonight is a very good deal in terms of implementing real progress towards great reduction in landfill waste.

On motion of Member Di Giorgio, seconded by Member Fritz, and carried with the following vote, the Board approved the Amended and Restated Agreement between Novato Sanitary District and Novato Disposal Service, Inc. for Solid Waste Collection, Processing, Diversion, and Disposal subject to minor modifications approved by the District Manager-Engineer and District Counsel. Ayes: Long, Di Giorgio, Fritz, Quesada. Noes: Welsh.

BOARD MEMBER REPORTS:

Member Quesada discussed the District's emergency planning and preparedness. The Manager stated that the District works constantly on emergency preparedness and would be happy to brief the Board at a later date on the District's emergency preparedness.

President Long discussed a Cal Pers presentation he attended on their employee retiree benefit trust program. He suggested a future discussion take place to look into the investment options for the money being set aside to cover the District's GASB liability.

Member Long reported that he attended a meeting of the Marin County Council of Mayors and Councilmember's Ad Hoc Committee on Pensions and Other Post-Employment Benefits.

REVIEW OF MINUTES:

Consider approval of minutes of the March 2, 2011 meeting.

On motion of Member Di Giorgio, seconded by Member Fritz, and carried unanimously, the minutes of the March 2, 2011 Board meeting were approved with the inclusion of the letter provided by Sustainable Novato, dated March 14, 2011.

CONSENT CALENDAR:

On motion of Member Di Giorgio, seconded by Member Fritz and carried unanimously, the following Consent Calendar items were approved:

- a. Approval of the Sewer Main Extension (SME) plans for 275 Bel Marin Keys Blvd.
- b. Approval of regular disbursements in the amount of \$531,835.33, project account disbursements in the amount of \$5,457,297.31, Board member disbursements in the amount of \$3,226.92 and ratification of payroll and payroll related expenses from the month of February in the amount of \$242,705.18.

MARIN LOCAL AGENCY FORMATION COMMISSION (LAFCO):

Consider selecting first, second, and third choice candidates for the regular Special District representative to LAFCO. The Manager stated that the Board would be voting on a candidate for a regular Special District representative to serve from May 2011 until May 2015. The Board discussed the candidates and their qualifications.

On motion of Member Di Giorgio, seconded by Member Fritz and carried with the following vote, the Board selected Dennis Rodoni, North Marin Water District, as the first choice. Ayes: Long, Di Giorgio, Fritz, Welsh. Noes: Quesada.

On motion of Member Fritz, seconded by Member Di Giorgio and carried unanimously, the Board selected Craig Murray, Las Gallinas Valley Sanitary District, as the second choice.

On motion of Member Fritz, seconded by Member Di Giorgio and carried unanimously, the Board selected Lew Kious, Almonte Sanitary District, as the third choice.

PUMP STATION REHABILITATION PROJECT NO. 72403:

- Review bids received, authorize contract award to the lowest responsive bidder and authorize the Manager-Engineer to execute the contract. The Deputy Manager-Engineer stated that at its February 14, 2011 meeting, the District Board made CEQA findings and authorized staff to advertise for bids for the Pump Station Rehabilitation Project; Project Unit 3, Western Oaks, Hamilton 2 & 3 Pump Stations; Project No. 72403. He outlined the bids received, noting that Anderson Pacific submitted the lowest

responsive bid in the amount of \$1,265,000. He requested the Board authorize the Manager-Engineer to execute the contract.

On motion of Member Di Giorgio, seconded by Member Fritz and carried unanimously, the Board awarded the Pump Station Rehabilitation Project; Project Unit 3, Western Oaks, Hamilton 2 & 3 Pump Stations; Project No. 72403 to Anderson Pacific with a bid of \$1,265,000. Furthermore, the Board authorized the Manager-Engineer to execute the contract.

STAFF REPORTS:

The Manager discussed a North Bay Watershed Association meeting she attended on March 4, 2011 at the Novato Sanitary District. She stated that Harry Seraydarian discussed the 2011-12 budget and noted that members would be paying approximately 3% less due to the addition of Napa Flood Control and Water Conservation District as a member and that Petaluma would be returning as a voting member in 2011-2012. She also stated that Daria Mazey, U.S. Army Corps of Engineers provided an overview of the San Pablo Bay Watershed Management Plan.

MANAGER'S ANNOUNCEMENTS:

- The Manager regrets to announce that Member Fritz has indicated that he will be retiring from the Novato Sanitary District Board as of April 1, 2011. She stated that Member Fritz has served on the Board most faithfully and provided his considerable expertise in water and wastewater issues during his service for the Board. The Manager expressed her appreciation to Member Fritz and stated that the Board and the District have benefited enormously during his years of service. She commented on Member Fritz's attentive involvement during the upgrade of the treatment facility and thanked him for his incredible photographs.
- The Wastewater Operations Committee Meeting will be held on March 21st at 2 p.m. at the Novato Sanitary District.
- The next regularly scheduled Board Meeting will be held on Wednesday, March 30, 2011 at 6:30 p.m. instead of Monday, March 28th.
- North Marin Water District will hold a Community Outreach event for their recycled water distribution program on March 22nd at 6:30 p.m. at the North Marin Water District office.
- The California Special District Association (CSDA) will be offering a Special District Leadership Academy series consisting of four modules: Governance Foundations, March 31st; Board's Role in Human Resources, April 14th; Board's Role in Finance & Fiscal Accountability, April 28th, and Setting Direction/Community Leadership, May 2nd. All classes will be held in Sacramento between the hours of 9 a.m. and 4 p.m.

ADJOURNMENT: There being no further business to come before the Board, President Long adjourned the meeting at 10:00 p.m.

Respectfully submitted,

Beverly B. James, Secretary

Julie Borda, Recording

DRAFT

April 11, 2011

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, April 11, 2011 at the District offices, 500 Davidson Street, Novato.

BOARD MEMBERS PRESENT: President William C. Long, Members Michael Di Giorgio, George C. Quesada and Dennis Welsh.

STAFF PRESENT: Manager-Engineer-Secretary Beverly B. James and Administrative Secretary Julie Borda.

ALSO PRESENT: Jo Heffelfinger, Novato resident
Brant Miller, Novato resident
Suzanne Brown Crow

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

On motion of Member Quesada, seconded by Member Di Giorgio and carried unanimously, the agenda was approved as mailed.

PUBLIC COMMENT:

Brant Miller, Novato resident, discussed a phone conversation he had with Angelica Randolph, President of the Marin Coalition. Ms. Randolph stated that Dennis and Pam Welsh had recently joined the Coalition and she noted that Mr. Welsh had spoken at one of the meetings and requested the Marin Coalition sign a letter that was critical of Novato Sanitary.

Member Welsh commented that the information presented by the previous speaker was inaccurate and that he had nothing to do with the letter.

Mr. Miller stated he was mistaken and that Ms. Randolph did not specifically tie Mr. Welsh with the letter.

Suzanne Crow, Novato resident, discussed the garbage contract and the cost of debris disposal. She relayed her personal experience with the Redwood Landfill and the high costs for debris disposal. She discussed the Manager's authorization of \$68,000 in legal expenses and requested that the Manager's specific spending authority be placed as a Board agenda item. Ms. Crow requested that the documents relevant to the EPA investigation be placed on the District website.

The Manager stated that agenda item 8a. will address Ms. Crow's concerns regarding the legal expense approval.

BOARD MEMBER REPORTS:

None.

REVIEW OF MINUTES:

- Consider approval of minutes of the March 30, 2011 meeting.

Member Quesada pointed out an error on page four of the meeting minutes where the Manager stated that the next District election would be held on November 1, 2011. Member Quesada stated that he verified with the Registrar of Voters that the election will be held on November 8, 2011. Recorder Julie Borda was asked to make this correction to the March 30th minutes.

On motion of Member Di Giorgio, seconded by Member Quesada, and carried unanimously, the minutes of the March 30, 2011 meeting were approved with the addition of the corrected information regarding the election date.

CONSENT CALENDAR:

On motion of Member Di Giorgio, seconded by Member Quesada and carried unanimously, the Board approved the following Consent Calendar items:

- a. Approval of regular disbursements in the amount of \$174,256.35, approval of project account disbursements in the amount of \$96,811.67, approval of Board member disbursements in the amount of \$4,574.02 and approval of payroll and payroll related expenses for the month of March in the amount of \$245,808.90.
- b. Approval of meeting dates of April 20th at 6:30 p.m. and April 25th at 4:30 p.m.

WASTEWATER FACILITIES UPGRADE PROJECT 72609:

- Review bids received and authorize contract award to lowest responsive bidder. The Manager stated that on April 5, 2011, four bids were received for the Phase 1 Landscaping Project and that North Bay Landscape Management, Inc. submitted the lowest responsive bid at \$50,950.00. She stated that North Bay's bid documents have been reviewed and are in order and she recommends the Board award the Wastewater Facilities Upgrade Project No. 72609-Phase 1 Landscaping Project to North Bay Landscape Management for a bid of \$50,950. She requested the Board authorize the Manager-Engineer to execute the contract. She stated that the project will be managed by the District's Field Services Superintendent, Steve Krautheim.

On motion of Member Quesada, seconded by Member Di Giorgio and carried unanimously, the Board awarded the Wastewater Facilities Upgrade Project No. 72609-Phase 1 Landscaping Project to North Bay Landscape Management, Inc and authorized the Manager to execute said contract.

STAFF REPORTS:

- Legal costs for employment issues.

The Manager discussed questions that were previously raised regarding additional legal expenses related to personnel issues and her authority to approve these expenditures. She stated that all of the expenditures, with the exception of the work done by one attorney, were within the signing authority of the Manager.

Member Quesada questioned the Deputy Manager-Engineer's signing authority limit. The Manager responded that it is \$15,000

Member Welsh requested clarification of the personnel investigation and disciplinary issues for which the attorney's fees were spent. The Manager responded that with some personnel issues, the appropriate approach is to go through confidential legal counsel. She stated that all of the personnel issues needing legal counsel have been resolved.

Suzanne Crow questioned the pass-through costs and stated she feels these cost are not transparent. She stated that the large expenditures need more disclosure. She thanked the Manager for placing this item on the agenda.

President Long stated that the invoices and expenditure details are public record. He stated that agency's characteristically authorize the Manager to handle routine business expenditures as part of their duties.

Member Quesada requested the Personnel Committee reconsider the Deputy Manager-Engineer's \$15,000 spending authority limit and increase it to \$25,000 or \$30,000.

The Manager noted that in June the District will review the expenditure authorizations for the various staff levels.

MANAGER'S ANNOUNCEMENTS:

- The City of Novato is offering a Crisis Communications and Disaster Preparedness workshop for California's Public Officials and Board members on April 22nd.

- The Wastewater Operations Committee meeting is on Monday, April 18th. Member Quesada and Member Di Giorgio are committee members.

- The Novato Chamber of Commerce Annual Business Tradeshow is being held on April 21st from 4 to 7 p.m. at the StoneTree Golf Club. The District will have a table at the event for Pollution Prevention education.

- The LAFCO meeting on April 14th has been cancelled and rescheduled for May 12th.

- The Manager stated that the California Association of Sanitation Agencies (CASA) Spring Conference was going to be held in Sacramento on April 27-29, 2011.

Member Welsh stated that the District does not have a policy to change board meeting dates and times. He requested the item be put on the agenda for the next Board meeting.

ADJOURNMENT: There being no further business to come before the Board, President Long adjourned the meeting at 7:05 p.m.

Respectfully submitted,

Beverly B. James, Secretary

Julie Borda, Recording

DRAFT

April 20, 2011

A special meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Wednesday, April 20, 2011 at the District offices, 500 Davidson Street, Novato.

BOARD MEMBERS PRESENT: President William C. Long, Members Michael Di Giorgio, George C. Quesada and Dennis Welsh.

STAFF PRESENT: Manager-Engineer-Secretary Beverly B. James, Deputy Manager-Engineer Sandeep Karkal, and Administrative Secretary Julie Borda.

ALSO PRESENT: Dean Heffelfinger, Novato resident
Jo Heffelfinger, Novato resident
Angelica Randolph, Co-Chair of Marin Coalition
David K. Randolph
Jim Fritz, past Board member
B. Abbate
Brent Ainsworth, Novato Patch
Jean Mariani, Novato resident
John Coleman, Novato resident
Donald Brand, Novato resident
Brant Miller, Novato resident
Suzanne Brown Crow, Novato resident
A. Gerald (Jerry) Peters

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

On motion of Member Di Giorgio, seconded by Member Quesada and carried unanimously, the agenda was approved as mailed.

PUBLIC COMMENT:

Angelika Randolph, Co-Chair of the Marin Coalition, addressed the Board and read a statement she prepared regarding a conversation she had previously with Brant Miller. In the statement, she rebutted comments Mr. Miller had made at the April 11, 2011 Board meeting.

BOARD OF DIRECTORS:

Interview candidates for open board position.

The Manager stated that at its March 30, 2011 meeting, the District Board directed staff to proceed with the Board Member appointment process to fill the vacant position

created by the retirement of Board Member Jim Fritz. She reported that six applications were received: Jean Mariani, Donald Brand, John Coleman, Brant Miller, Suzanne Brown Crow and A. Gerald (Jerry) Peters. She noted that each applicant's address was checked to ensure that they live within the District and the candidates had been invited to an interview at an open board meeting on April 20, 2011. She noted that following the interviews, the Board may vote to select a candidate. Three affirmative votes are required to make an appointment. Once an appointment is made, the Secretary will swear in the new member.

President Long gave an overview of the review process, stating that each candidate will be allowed up to five minutes to make an opening statement and then the Board will have up to ten minutes for questions and discussion with the candidate.

President Long invited all candidates to wait outside the Board room until they were called for their interview. The interview process began immediately after, with applicants being called in the following order:

1. Jean Mariani
2. Donald Brand
3. John Coleman
4. Brant Miller
5. Suzanne Brown Crow
6. Gerald (Jerry) Peters

Following the interviews, President Long invited all candidates to rejoin the meeting.

Consider adopting a resolution appointing a board member to fill the vacancy.

President Long thanked the candidates for their participation and invited discussion from the Board.

Member Quesada stated he was not ready at this time to make a decision on the candidates and requested a two-week or longer period to come to a decision.

Member Di Giorgio nominated Jean Mariani to fill the vacancy on the Novato Sanitary District Board of Directors.

Member Welsh nominated Suzanne Brown Crow to fill the vacancy on the Novato Sanitary District Board of Directors.

President Long asked the Board if any further nominations were intended, and hearing none, announced that the nominations were closed.

President Long opened the meeting for public comment, and hearing none, proceeded to Board discussion.

The Board discussed the nominees and their qualifications.

Member Di Giorgio made a motion to appoint Jean Mariani to the Novato Sanitary District Board of Directors. The motion received the following vote: Ayes: President Long, Member Di Giorgio. Noes: Member Welsh. Pass: Member Quesada.

Member Welsh made a motion to appoint Suzanne Brown Crow to the Novato Sanitary District Board of Directors. The motion received the following vote: Ayes: Member Welsh. Noes: President Long, Member Di Giorgio. Pass: Member Quesada.

Member Quesada asked the Manager for the deadline in which the Board would have to make a selection before the action would be forced to go to the Board of Supervisors for appointment. The Manager requested a recess to bring the information before the Board.

At 8:03 p.m., President Long declared a 10 minute recess.

At 8:13 p.m., President Long reconvened the meeting.

The Manager stated that the Board will have until May 30, 2011 to make an appointment to fill the vacancy. If they fail to do so, the decision will pass to the Board of Supervisors who would then have until June 28, 2011 to make an appointment or require the District to call an election.

President Long requested the Manager place the Board Vacancy Appointment item on the April 25, 2011 agenda.

MANAGER'S ANNOUNCEMENTS:

- The Manager stated that the next regular Board meeting will take place on Monday, April 25, 2011 at 4:30 p.m. instead of the regular time of 6:30 p.m. The change was necessary to ensure that the Board would have a quorum of members present.
- The Manager noted that the Novato Leadership Program, 2011 is holding their graduation ceremony on May 11, 2011 from 5 to 7:30 p.m. She stated that the District's Finance Officer, Laura Creamer, and the Plant Manager, John Bailey, Veolia Water, are both graduating from the Leadership Program.

ADJOURNMENT: There being no further business to come before the Board, President Long adjourned the meeting at 8:15 p.m.

Respectfully submitted,

Beverly B. James, Secretary

Julie Borda, Recording

April 25, 2011

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 4:30 p.m., Monday, April 25, 2011 at the District offices, 500 Davidson Street, Novato.

BOARD MEMBERS PRESENT: President William C. Long, Members Michael Di Giorgio, George C. Quesada and Dennis Welsh.

STAFF PRESENT: Manager-Engineer-Secretary Beverly B. James, Deputy Manager-Engineer Sandeep Karkal, Administrative Secretary Julie Borda, and Jennifer Faught, Assistant District Counsel.

ALSO PRESENT: Jo Heffelfinger, Novato resident
Dean L. Heffelfinger, Novato resident
Brant Miller, Novato resident
Suzanne Brown Crow, Novato resident
John Coleman, Novato resident
Brent Ainsworth, Novato Patch
John O'Hare, Veolia Water
John Bailey, Project Manager, Veolia Water
Lynda Rodefer, Planner Scheduler/ Safety Coordinator, Veolia Water
Jerry Peters, Novato resident

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

Member Quesada stated that he would like to delete Item #7 from the agenda: *Board of Directors: Consider adopting a resolution appointing a board member to fill the vacancy. Seating of new Board Member.* He stated he felt the Board was not ready to act on this item because it has only been seven days since the prior meeting and much of that time was the Holy Week holidays with Good Friday and Easter.

Board Member Quesada made a motion to accept the agenda with the deletion of Item #7. Member Welsh seconded the motion.

President Long called for the question. Members Quesada and Welsh voted aye. President Long and Member Di Giorgio voted no.

In the absence of a majority vote, President Long declared the meeting would move forward without a formal approval of the agenda and stated that if Member Quesada would like to protest this, he could.

Member Quesada stated that he was prepared to leave the meeting. He stood and announced his seat was vacant.

Member Welsh asked for clarification as to whether a quorum would still exist if one or two members left the meeting.

President Long stated that it was his understanding that if a meeting is convened with a quorum and subsequently members leave, as long as there is a majority of the Board present, business could be conducted.

Member Quesada stated that there would not be a majority of the Board present.

President Long asked Member Quesada to please be seated and reminded him that he was a public official elected to represent the public. He stated that Member Quesada had a job to do the same as the other Board members and that his personal interest in this matter should not get in the way of doing the job of the public. He asked Member Quesada to please be seated and rejoin the meeting.

Member Welsh stated he was not sure if a meeting could continue under the circumstances and asked if counsel was present to give a legal opinion.

President Long stated that it was a hypothetical question being posed as Member Quesada was the only member threatening to leave the meeting.

Member Quesada stated that Member Welsh was also going to leave the meeting.

Member Welsh stated that he would leave the meeting as well after counsel responded to the question of whether or not a quorum was still present.

Jennifer Faught, Assistant District Counsel, stated that a majority of the Board would need to be present in order to have a quorum and conduct the Agency business.

Member Welsh stated that every resolution or item which required a vote would need a quorum present in order to pass. Ms. Faught agreed.

Member Quesada asked if a quorum would be present with only two Board members remaining. Ms. Faught responded no.

Member Quesada questioned if the meeting would be over immediately if two seats were vacant. Ms. Faught stated that one action the remaining members could take would be to set a time and date for a future meeting when a quorum would be present.

The Manager stated that there were non-action items on the agenda such as committee reports, administration reports and staff reports which could still be discussed in the absence of a quorum. Ms. Faught agreed.

President Long questioned Member Quesada as to his intentions. Member Quesada stated that he and Member Welsh would be leaving.

Member Welsh stated that he felt the approval of the agenda with a tie vote was reason enough to leave and that continuing the meeting under the circumstances was not a good idea. He stated that Member Quesada's opinion to delay the decision to appoint a new member was valid and that the Board should take a little longer to make the decision. Member Welsh stated that he and Member Quesada should walk out of the meeting.

Member Di Giorgio stated that there were other items on the agenda as well and if Member Quesada wished to abstain from the vote appointing a new member, he could. He stated he did not understand why Member Welsh should leave the meeting when other business needed to be taken care of.

President Long asked if an approval of the agenda was a required Board action. The Manager stated that agenda approval was not a required Board action, but rather a matter of convention.

Ms. Faught stated that if the Board wished to reorder the meeting items and place the contended item last, a Board majority would be necessary.

Member Quesada asked if it took a Board majority to remove an item from the agenda. Ms. Faught stated that it did. Member Quesada stated that he would stay at the meeting if another Member would vote aye to the earlier motion to remove Item #7 from the agenda.

President Long questioned why Member Quesada did not want to stay at the meeting. Member Quesada replied that he did not want to stay as long as item #7 was on the agenda.

President Long reiterated the comments of Member Di Giorgio, stating that Member Quesada could abstain or leave the room when Item #7 was brought before the Board. He stated that to leave the meeting with the other items of business unattended to was an insult to the public. He asked Member Quesada to relay how his leaving the meeting was in the public interest.

Member Quesada stated that he felt thoughtful consideration of the candidates was paramount and in the public interest. He stated that he has repeatedly informed the Board that he was not prepared to vote on Item #7 at this meeting. He reiterated that there has only been seven days since the candidates were interviewed, with much of those days being Holy Week, and there has not been enough time to interview the candidates. Member Quesada stated that he intended to call the candidates and discuss their qualifications and that he may not even be ready to vote on the issue at the May 9th Board meeting.

Member Welsh stated he supports Member Quesada's decision to take more time to evaluate the candidates.

President Long stated that it was time to move forward with the meeting.

Members Welsh and Quesada began to leave the Board meeting at 4:39 p.m.

PUBLIC COMMENT:

Norm Stone, Novato resident, commented on President Long's earlier statement that invited Member Quesada to protest if he so wished. Mr. Stone stated that Member Quesada's actions were a display of protest as President Long had invited.

Suzanne Brown Crow, Novato resident, questioned what would happen if there were three votes to appoint a new Board member and Member Quesada's vote, the fourth vote, was an abstention.

Ms. Faught stated that the Board would need three votes in favor of one candidate in order to seat them as a new member. She stated that with three Board members present, the Board could conduct business as usual because there would be a quorum.

Ms. Crow stated that she had information from an extremely reliable source as to the formation of a committee which will look into the consolidation of the North Marin Water District and the Novato Sanitary District. She stated that this source said there would not be a consolidation unless a good financial reason existed to do so. She asked the Manager for more information on the topic and requested this item be discussed openly at a future board meeting.

The Manager stated that there is no such committee formed at the Novato Sanitary District and if there are committees, she is unaware of them.

Ms. Faught suggested the agenda be reordered to place Item #7 at the end so the Board could conduct the necessary business because a quorum would be present and leave the controversial item to the end of the meeting.

President Long stated that was a constructive suggestion but was not sure if the departing Board members would agree. As the Board members were leaving the room, Member Quesada stated that he did not want to remain at the meeting.

Ms. Faught stated that without a quorum present, the Board could only hear committee and staff reports and Manager's announcements.

The Manager stated that the meeting could continue without the two Board Members. She regretted that the revised North Marin Water District Agreement would not be approved at this time and stated that North Marin Water District would be disappointed. She stated that the other action items on the agenda could be deferred.

President Long continued the meeting and the remaining informational items were discussed: Wastewater Operations Committee Report, Quarterly Revenue & Expenditure Report, Quarterly Investment Report, Staff Reports.

The meeting ended at 5:19 p.m.

Respectfully submitted,

Beverly B. James, Secretary

Julie Borda, Recording

DRAFT

Novato Sanitary District Check Register

April 25, 2011

Date	Num	Name	Credit
Apr 25, 11			
4/25/2011	52681	J&M Inc.	35,979.95
4/25/2011	52689	Meyers, Nave, Riback, Silver ...	34,164.51
4/25/2011	52671	Covello Group, The	26,645.64
4/25/2011	52667	Central Marin Sanitation District	22,314.40
4/25/2011	52699	Rauch Communication Cons...	8,244.75
4/25/2011	52687	Linscott Engineering Contract...	8,147.17
4/25/2011	52695	Novato, City	5,848.91
4/25/2011	52675	Environmental Resource Assoc	3,658.81
4/25/2011	52660	American Express-22062	3,366.57
4/25/2011	52701	Thomas & Associates, Inc.	3,028.42
4/25/2011	52666	Centex Homes	3,000.00
4/25/2011	52688	Marin Mechanical II, Inc.	2,823.00
4/25/2011	52700	Team Ghilotti, Inc.	2,375.10
4/25/2011	52690	Monterey Mechanical, Inc.	1,800.00
4/25/2011	ach	Bowens, Kenneth	1,650.00
4/25/2011	52706	Willis Professional Land Surv...	1,475.00
4/25/2011	52692	North Bay Truck Service	1,293.66
4/25/2011	52677	HACH/American Sigma Inc	1,221.72
4/25/2011	52694	North Marin Water District	1,182.27
4/25/2011	52684	Kaiser Permanente	1,157.78
4/25/2011	52658	Air Technology West	1,098.70
4/25/2011	52686	Leonardi Automotive & Electri...	980.04
4/25/2011	52679	Independent Journal	847.85
4/25/2011	52707	Zee Medical Company	833.63
4/25/2011	52685	Lab Safety Supply, Inc.	830.77
4/25/2011	52674	Electrical Equipment Compan...	721.29
4/25/2011	52676	Grainger	382.11
4/25/2011	52678	Ikon Office Solutions	365.53
4/25/2011	52668	Cintas Corporation	365.30
4/25/2011	52664	Cagwin & Dorward Inc.	229.00
4/25/2011	52693	North Marin Auto Parts	222.68
4/25/2011	52673	Datco Billing Inc.	209.30
4/25/2011	52661	Aquatic Biosystems Inc.	208.00
4/25/2011	52669	Cole-Parmer Instrument Com...	192.30
4/25/2011	52670	Control Systems West, Inc.	188.75
4/25/2011	52680	Industrial Scientific, Corp	176.15
4/25/2011	ach	Long, William C.	170.82
4/25/2011	52659	AirGas-NCN, Inc.	165.14
4/25/2011	52663	Bel Marin Keys Community S...	156.00
4/25/2011	52691	North Bay Portables, Inc.	89.70
4/25/2011	52705	Water Components & Buildin...	87.60
4/25/2011	52702	United Parcel Service	74.23
4/25/2011	52698	Petty Cash	68.72
4/25/2011	52696	One Stop Auto Service Inc.	67.86
4/25/2011	52697	Pacific, Gas & Electric	14.78
4/25/2011	52662	AT&T-SAC	
4/25/2011	52665	CASA	
4/25/2011	52682	JCK Communications	
4/25/2011	52683	Johnson Controls, Inc.	
4/25/2011	52703	Verizon California	
4/25/2011	52704	Verizon Communications	
Apr 25, 11			178,123.91

Voided

05/06/11

Novato Sanitary District Check Register

April 25, 2011

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Credit</u>
Apr 25, 11			
4/25/2011	2168	Covello Group, The	57,636.00
4/25/2011	2170	Monterey Mechanical, Inc.	51,373.25
4/25/2011	2169	Empire Mini Storage - Novato	1,480.00
Apr 25, 11			<u><u>110,489.25</u></u>

Novato Sanitary District Check Register

May 9, 2011

Date	Num	Name	Credit
May 9, 11			
5/9/2011	52765	Pacific, Gas & Electric	67,676.41
5/9/2011	52751	J&M Inc.	36,581.75
5/9/2011	52774	Sonoma County Water Agency	25,157.00
5/9/2011	52781	Veolia ES Special Services, I...	18,681.85
5/9/2011	52746	Edd Clark & Associates, Inc.	13,205.33
5/9/2011	52762	Nute Engineering Inc.	11,951.00
5/9/2011	52771	PSC	10,865.70
5/9/2011	52737	Caltest Analytical Lab Inc.	9,291.95
5/9/2011	52752	Johnson, Dee	7,528.49
5/9/2011	52778	Team Ghilotti, Inc.	5,220.00
5/9/2011	52782	Veolia Water North America, ...	4,163.59
5/9/2011	52780	U.S. Bank Card (2)(June)	3,487.65
5/9/2011	52772	RMC Water & Environment, I...	3,478.69
5/9/2011	52770	Preferred Benefit	3,325.62
5/9/2011	52744	Dearborn National	3,028.97
5/9/2011	52766	Penhall Company	2,595.00
5/9/2011	52732	Aqua Science	2,545.00
5/9/2011	ACH	Bowens, Kenneth	2,310.00
5/9/2011	52745	E & M Electric & Machinery, I...	1,830.52
5/9/2011	52741	Comet Building Maintenance,...	1,470.21
5/9/2011	52750	Irvine Consulting Services Inc.	1,440.00
5/9/2011	52754	Linscott Engineering Contract...	1,228.35
5/9/2011	52755	Marin County Office	1,164.50
5/9/2011	52758	North Bay Truck Service	1,154.54
5/9/2011	52788	Western Oaks Village Homeo...	1,134.00
5/9/2011	52759	North Marin Water District	1,122.63
5/9/2011	52748	Grainger	1,028.99
5/9/2011	52773	SASM	1,000.00
5/9/2011	52786	Water Components & Buildin...	611.09
5/9/2011	52764	Pacific Coast Cutters, Inc.	600.00
5/9/2011	52760	North Marin Water District Jo...	570.00
5/9/2011	52775	Special District and Local Go...	570.00
5/9/2011	52731	AlphaGraphics	536.09
5/9/2011	52784	Vision Service Plan	506.49
5/9/2011	52757	Nextel Communications	492.95
5/9/2011	52749	HACH/American Sigma Inc	473.54
5/9/2011	52785	VWR International Inc.	466.80
5/9/2011	52768	Pini Hardware	422.32
5/9/2011	52742	CT Promotions	406.63
5/9/2011	52769	Pitney Bowes Reserve Account	400.00
5/9/2011	52783	Verizon California	330.98
5/9/2011	52734	AT&T Mobility	303.12
5/9/2011	52740	Claremont EAP, Inc.	295.00
5/9/2011	52733	AT&T-SAC	284.10
5/9/2011	52761	Novato Disposal-	282.00
5/9/2011	52736	Cagwin & Dorward Inc.	280.00
5/9/2011	52747	EOA, Inc.	270.74
5/9/2011	52738	CDW Government, Inc.	270.00
5/9/2011	52739	Cintas Corporation	216.59
5/9/2011	52787	Wesco Distribution	213.35
5/9/2011	52735	BoundTree Medical, LLC	189.88
5/9/2011	52730	Alhambra	180.94
5/9/2011	52729	AirGas-NCN, Inc.	141.16
5/9/2011	52743	CWEAmembers	132.00
5/9/2011	52779	U.S. Bank Card (1)(Bev)	117.99
5/9/2011	52753	Leighton Stone Corp	114.45
5/9/2011	52763	One Stop Auto Service Inc.	101.64
5/9/2011	52767	Petty Cash	73.46
5/9/2011	52776	Staples Business Adv Inc.	45.81
5/9/2011	52756	McMaster-Carr Supply Co.	40.22
5/9/2011	52777	T-Mobile	22.68
May 9, 11			253,629.76

05/06/11

Novato Sanitary District Check Register

May 9, 2011

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Credit</u>
May 9, 11			
5/9/2011	2173	HDR EngineeringInc	2,680.15
5/9/2011	2172	Cantarutti Electric, Inc	2,450.00
5/9/2011	2171	Alliance Industrial	53.15
May 9, 11			<u>5,183.30</u>

05/06/11

Novato Sanitary District Check Register

May 6, 2011

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Credit</u>
May 6, 11			
5/6/2011	3101	Di Giorgio, Michael	1,121.04
5/6/2011	ach	Long, William C	981.25
5/6/2011	3103	Welsh, Dennis J	296.58
May 6, 11			<u>2,398.87</u>

Novato Sanitary District
Payroll and Payroll Related Check Register

April 27 - 30, 2011

<u>Date</u>	<u>Name</u>	<u>Credit</u>
Apr 27 - 30, 11		
04/30/2011	April P/R Checks and Vouchers	114,150.63
04/30/2011	Retiree health benefits	15,466.57
04/27/2011	PERS Retirement	30,772.87
04/27/2011	CalPers Health	29,838.34
04/30/2011	United States Treasury	24,565.54
04/27/2011	EDD	6,935.86
04/27/2011	Lincoln Financial Group-401a Plan	3,995.88
04/27/2011	Lincoln Financial Group-401a Plan	3,403.54
04/27/2011	State Street Bank & Trust	2,875.00
04/27/2011	Lincoln Financial Group	3,869.80
04/27/2011	Marin Employ Federal Credit Union	517.00
04/27/2011	Torres, Cari	400.00
04/27/2011	Local Union 315	320.00
04/27/2011	ACS	80.00
04/27/2011	North Bay Children's Center	40.00
		<u>237,231.03</u>
Apr 27 - 30, 11		

**NOVATO SANITARY DISTRICT
BOARD AGENDA ITEM SUMMARY**

TITLE: Consent Calendar: Center Road Sewer Project	MEETING DATE: May 9, 2011 AGENDA ITEM NO.: 6.b
RECOMMENDED ACTION: Consider granting Final Acceptance of the Project and authorize staff to file the Notice of Completion.	
SUMMARY AND DISCUSSION: <p>On August 23, 2010 the District Board of Directors awarded the Contract for the Center Road, Rica Vista to Western Avenue Sewer Project to J&M, Inc. for a low bid amount of \$394,727. The work began on the project on October 11, 2010 and substantial completion was achieved on January 7th, 2011.</p> <p>The Contractor has completed the contract work and the project is ready for final acceptance. At this time, additive change orders for the project are \$10,502, while deductive change orders are \$12,429, for a net credit to the District of \$1,927. The current cost of the project therefore, is \$392,799.47 or \$1,927 below the bid amount. There is one outstanding change order where the work has been completed but costs have not been finalized. It is estimated that the cost of this change order would be about \$15,000. Once this change order is finalized, a final payment will be made to the Contractor to close out the Contract.</p> <p>As noted earlier, the substantial completion date was January 7th, 2011, and the District has had beneficial occupancy since that time. Therefore, it would be appropriate to file the Notice of Completion to start the 35-day Retention Release period.</p> <p>Therefore, it is recommended that final acceptance be granted and staff be authorized to file the Notice of Completion.</p>	
ALTERNATIVES: None	
BUDGET INFORMATION: This project was funded under the Collection Systems Improvements Project, which has a FY2010-11 budget amount of \$3,000,000.	
DEPT.MGR.:	MANAGER:

**NOVATO SANITARY DISTRICT
BOARD AGENDA ITEM SUMMARY**

TITLE: Collection System Improvements; Ignacio Boulevard Sewer Rehabilitation Project; Project No. 72706 – Phase E	MEETING DATE: May 9, 2011 AGENDA ITEM NO.: 6.c
RECOMMENDED ACTION: Consider granting Final Acceptance of the Ignacio Boulevard Sewer Rehabilitation Project, and authorize staff to file the Notice of Completion.	
SUMMARY AND DISCUSSION: On June 14, 2010 the District Board of Directors awarded the Contract for the Ignacio Boulevard Sewer Rehabilitation Project to Team Ghilotti for a low bid amount of \$84,643.00. The work began on the project on September 16, 2010 and substantial completion was on September 30, 2010. The Contractor has completed the project and the project is ready for final acceptance. The final cost to complete the project including change orders is \$91,416.13. Final acceptance of the work was delayed due to the completion of punchlist items due to winter weather. It is recommended that final acceptance be granted, and staff authorized to file the Notice of Completion.	
ALTERNATIVES: None	
BUDGET INFORMATION: This project was funded under Account 72706, Collection Systems Improvements Project. The FY2010-11 budget for this Account is \$3,000,000.	
DEPT.MGR.:	MANAGER:

May 6, 2011

To: Board of Directors

From: Beverly B. James, Manager-Engineer

Re: Board Member Appointment

The process for selection of a replacement board member is set forth in California Government Code Section 1780. A copy of Section 1780 is attached for reference.

The District actions required by the code are:

1. Notify the Marin County Elections Official of the vacancy by April 15, 2011.
Letter sent March 31, 2011
2. Decide whether to fill the vacancy by appointing a replacement or calling a special election.
Board voted unanimously on March 30, 2011 to proceed to appoint a replacement rather than call an election.

Appointing a Replacement

1. The District is required to post a notice of the vacancy in at least three conspicuous places in the District.
Notices were posted at the District office, on the District website, at the libraries in downtown Novato and Hamilton on March 31, 2011. Notices were also emailed to the Novato Advance and the Novato Patch on 4/1/2011.
2. At least 15 days after posting the notice the Board may make the appointment.
The District received six applications for the position:
 - **Jean Mariani**, BS Economics, Sonoma County Water Agency Finance; 30 years with City and County of San Francisco including Finance with SF PUC; Director of Management and Budget for East Bay Municipal Utility District; Past President California Association of Sanitation Agencies, Board Member and President of Sanitary District No. 1 of

Marin County and Central Marin Sanitation Agency. 21 year Novato resident, 49 year Marin County resident.

- **Donald Brand**, BS, MS Mechanical Engineering; Retired after Thirty three years with PG&E; Senior Vice President of Engineering and Construction; past Director of North Marin Water District; Board Member Integrated Community Services, Advisory Board for Marin Boy Scouts, past Board Member Gilead House. 38 years in Novato and Marin County.
 - **John Coleman**, Retired butcher, truck driver, and salesman; Little League equipment manager, run bingo at Novato Youth Center and volunteer at Nostalgia Days and 4th of July parade. 29 year Novato resident.
 - **Brant Miller**, BS Chemical Engineering; Retired after more than 25 years managing design and construction services for Chevron. Member of 2010-11 Marin Grand Jury; Member and Pilot Sheriff's air patrol. 4 year Novato resident, 53 year Marin resident.
 - **Suzanne Crow Brown**, BA Psychology, MBA, J.D.; Attorney with Doherty and Georgeson; School volunteer, Coach swimming and water polo, Board Member Marin Voter Integrity and Rock 4 Good. 25 years in Novato and Marin
 - **Jerry Peters**, BA, MBA Transportation; Retired from Brayton Purcell; 26 years Experience as a Manager in Airline and Computer industry; Served on Novato Planning Commission, Past President Novato Chamber of Commerce; Co-Chair of Chamber Government Affairs Committee; Chairman of Novato Save-the-Depot Task Force; Co-founder of July 4th parade, former youth basketball coach. 2007 Novato Citizen of the Year. 36 year Novato and Marin resident.
3. **The Board interviewed candidates at a special open public meeting on April 20, 2011 but did not select a board member. At the meeting scheduled for April 25, 2011, board members George Quesada and Dennis Welsh left the meeting without a quorum rather than consider making an appointment.**
 4. The Board has a maximum of 60 days from the date the position becomes vacant (March 31, 2011) to make the appointment. If the District Board does not make a decision by May 30, 2011 the appointment it is automatically referred to the Board of Supervisors to make the appointment or call an

election. In accordance with Board policy three affirmative votes are required to appoint a Board member.

5. The Board of Supervisors has 90 days from March 31, 2011 to make an appointment. Their deadline is June 29, 2011.

RESOLUTION NO. 3030

**A RESOLUTION APPOINTING A DIRECTOR TO FILL
A VACANCY IN AN ELECTIVE OFFICE**

NOVATO SANITARY DISTRICT

RESOLVED, by the Board of Directors of the Novato Sanitary District, Marin County, California, as follows:

WHEREAS, a vacancy on the Board of Directors of the Novato Sanitary District has existed since March 31, 2011, which is the effective date of the vacancy;

WHEREAS, Section 6483 of the Health and Safety Code of the State of California provides that all vacancies occurring in the membership of a Sanitary District Board shall be filled pursuant to the provisions of Section 1780 of the Government Code of the State of California;

WHEREAS, the provisions of said Section 1780 provide that the person appointed to fill a vacancy in any elective office on the governing board of a special district shall hold office until the next general District election which is scheduled 130 or more days after the effective date of the vacancy, unless an election is also held on the same date for the purpose of electing a director to serve a full term in the same office to which the person was appointed, in which event the person appointed to the vacancy shall fill the balance of the unexpired term of his or her predecessor; and

WHEREAS, the next District general election scheduled 130 or more days after the effective date of the vacancy is the same date for the purpose of electing a director to serve a full term in the same office to which a person will be appointed;

NOW, THEREFORE, IT IS ORDERED as follows:

1. Pursuant to the provisions of Section 1780 of the Government Code of the State of California, _____, being a resident elector of this District be and is hereby appointed to the office of Director of the Novato Sanitary District to hold such office for the balance of

the unexpired term of his predecessor in office.

2. The Secretary of this District is directed to file, within ten (10) days from the date of adoption of this resolution, with the Secretary of State and the County Clerk of Marin County, the necessary "Statement of Facts", and shall include in the transmittal to said County Clerk a duly executed copy of the Certificate of Appointment and Oath of Office of the newly appointed Director together with a certified copy of this Resolution.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the Board of Directors of the Novato Sanitary District at a meeting thereof held on the 9th day of May, 2011, by the following vote:

AYES, and in favor thereof, Members:

NOES, Members:

ABSENT, Members:

President
Novato Sanitary District

(SEAL)

ATTEST:

Secretary
Novato Sanitary District



BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS

1889 Alcatraz Avenue
Berkeley, CA 94703
510 653 3399 fax: 510 653 3769
e-mail: bwa@bartlewells.com

TO: Novato Sanitary District

**FROM: Bartle Wells Associates
Tom Gaffney, Principal**

RE: Comparison of Borrowing Alternatives

DATE: May 3, 2011

The attached table is an update of a comparison of capital financing alternatives between a bank loan and municipal bonds. This comparison is based on the latest available information and is subject to changes in interest rates.

Bank Loan

Banks will lend funds to public agencies to receive income-tax exempt interest. Many banks will not lend beyond a ten-year term and if they do, they charge a premium on the interest. In the example, one bank required a Swap arrangement to hedge the Bank's interest rate risk beyond the tenth year. Some banks will charge a lending fee and require an independent legal review. Banks perform an independent credit review, which adds to the time required to close the loan.

Municipal Bond

NSD may issue income-tax exempt bonds for virtually any term up to about 30 years. Generally, a bond with a term beyond about 25 years is not cost-effective. Wastewater bonds are readily acceptable to the municipal bond market because they are classed as providing an "essential public service." Bonds are relatively easy to issue; however, issuance costs are relatively higher than bank loans. Bonds would also require a reserve, funded from bond proceeds and available to pay the last year's principal and interest.

I will be present at the District's May 9, 2011 Board meeting to provide more detail and answer questions as needed.

Novato Sanitary District					
Bond vs. Bank Loan Comparison - May 2011					
	20-Year Bond	15-Year Bond	13-Year Bond	10-Year Bank Loan	20-Year Bank Loan
				Umpqua Bank	Bank of Marin
Funding Target	\$15,000,000	\$15,000,000	\$15,000,000	\$15,000,000	\$15,000,000
	Reserve fund pays final year	Reserve fund pays final year	Reserve fund pays final year	Bank policy - no Swap Ten-year loan	Requires a Swap after year 10
Total Debt Issue	\$16,385,000	\$16,590,000	\$16,675,000	\$15,115,000	\$15,115,000
Project Funding	\$15,000,000	\$15,000,000	\$15,000,000	\$15,055,000	\$15,000,000
Issuance Costs					
Discount - 0.6%/1%	\$100,000	\$100,000	\$100,000		\$150,000
Issuance Costs	118,000	118,000	118,000	50,000	15,000
Debt Service Reserve	1,160,000	1,365,000	1,450,000		
Rounding/Contingency	<u>7,000</u>	<u>7,000</u>	<u>7,000</u>	<u>10,000</u>	
Total	1,385,000	1,590,000	1,675,000	60,000	165,000
Financing Terms					
Term (Years)	21	16	14	10	20
Est. Future Interest Rate	4.18%	3.65%	3.53%	3.30%	4.09%
Annual Debt Service					
Gross Annual Debt Service	1,187,000	1,388,000	1,530,000	1,799,000	1,121,000
Less: Reserve Interest - 2%	<u>(23,000)</u>	<u>(27,000)</u>	<u>(29,000)</u>	<u>0</u>	<u>0</u>
Net Annual Debt Service	1,164,000	1,361,000	1,501,000	1,799,000	1,121,000

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: : District Board of Directors: November 2011 election	MEETING DATE: May 9, 2011 AGENDA ITEM NO.: 9.a. and b
RECOMMENDED ACTION: Adopt a Resolution proposing that an election be held and that it be consolidated with other elections.	
SUMMARY AND DISCUSSION: The terms for two seats on the District's Board expire in 2011. One of the seats is held by George C. Quesada and the second seat was vacated by the retirement of Board Member James D. Fritz. An appointment has not yet been made by the Board to fill the unexpired term of Mr. Fritz. In order to be included in the general election to be held on November 8, 2011, the District Board must adopt the attached resolution and submit it to the Marin County Registrar of Voters by May 31, 2011. The filing period is July 18 th to August 12 th , 2011. If all incumbents do not file, the filing period is extended to August 17, 2011 for non-incumbents only.	
ALTERNATIVES: NA	
BUDGET INFORMATION: The cost of the election is approximately \$1.50 - \$2.50 per registered voter and will be included in the 2011-12 budget. There are approximately 30,505 registered voters in the District.	
DEPT.MGR.:	MANAGER:

MARIN COUNTY REGISTRAR OF VOTERS
CALENDAR OF IMPORTANT DATES FOR NOVEMBER 8, 2011
UNIFORM DISTRICT ELECTION

DATES	DOCUMENTS	APPLIES TO
July 18-Aug 12 (E-113-E-88)	<u>Nominations period.</u> Obtain and file nominations papers (Declaration of Candidacy, statement of qualifications, etc.) <i>pay filing fee when obtain papers.</i>	All candidates
Aug 12-Aug 17 (E-88-E-83)	<u>Nominations period – 5 day extension</u>	Applies only if incumbent did not file nominations papers by August 12.
Aug 13- Aug 22 (E-87-E-78)	10-day examination period for candidates' statements	For candidates' statements filed during nominations period. (CA Elections Code Sec. 13313-14)
Aug 15 (E-85)	Last day for candidates to withdraw statement of qualifications	Applies to candidates who filed by August 12.
Aug 18- Aug 27 (E-82-E-73)	10-day examination period for candidates' statements	For candidates' statements filed during extended period. (CA Elections Code Sec. 13313-14)
Aug 18 (E-82)	Last day for candidates to withdraw statement of qualifications	Applies to candidates who filed during extended period.
Aug 18 (E-82)	Random Alphabet drawing by Secretary of State	Determines order of candidates' names on ballot
Aug 23 (E-77)	Last day to file a petition forcing a contest on the ballot.	Only for contests with unopposed or insufficient candidates
Sept 12-Oct 25 (E-57-E-14)	Write-in candidates obtain and file nominations papers	Write-in candidates only
Sept 9 (E-60)	First day to mail ballots to overseas and military voters	Overseas and military voters
Sept 29 (E-40)	Deadline to file 1 st pre-election campaign expense report in person or by overnight mail.	From last statement to 9/24/2011
Sept 29 (E-40)	First day to mail sample ballot and voter information pamphlets	All registered voters
Oct 10 E-29	Deadline to request precinct indexes and mailing labels for delivery before election	

Oct 10 (E-29)	First day to mail ballots and first day of voting at the Registrar of Voters' Office.	Applies to any voter who wants to vote at the elections office or applies to vote by mail.
Oct 24 (E-15)	Deadline to register to vote in the November 8, 2011 election	
Oct 27 (E-12)	Deadline to file 2 nd pre-election campaign expense report in person or by overnight mail	From last report to 10/22/2011
Nov 1 (E-7)	Last day ROV can receive application for a vote-by mail ballot from US mail	
Nov 2-Nov 8 (E-6-E-0)	Vote in person at the election office or authorize in writing a representative to pick up a ballot	Voters unable to go to the polls on Election Day.
Nov 8	Election day	Polls open from 7:00 a.m. to 8:00 p.m.
Nov 17 (E+9)	Random selection of precincts for 1% manual tally	9:30 a.m. at Registrar of Voter's Office

Asterisks: When the starting or ending dates of a time period fall on a Saturday, Sunday or a holiday, the deadline is moved forward to the next business day. Dates moved forward are shown with an asterisk.

RESOLUTION NO. _____

RESOLUTION OF THE GOVERNING BODY OF THE

NOVATO SANITARY DISTRICT

PROPOSING AN ELECTION BE HELD IN ITS JURISDICTION;
REQUESTING THE BOARD OF SUPERVISORS TO CONSOLIDATE WITH ANY
OTHER ELECTION CONDUCTED ON SAID DATE, AND REQUESTING
ELECTION SERVICES BY THE REGISTRAR OF VOTERS

WHEREAS, it is the determination of said governing body that the Uniform
District Election to be held on the 8th day of November, 2011, at which election the
issue to be presented to the voters shall be:

To elect members to the Board

Number of Regular Term Positions (4 year) 2

Number of Short Term Positions (2 year)

BE IT FURTHER RESOLVED that the Board of Supervisors of the County of
Marin is hereby requested to:

- 1) Consolidate said election with any other applicable election conducted on
the same day;
- 2) Authorize and direct the Registrar of Voters at District expense, to provide
all necessary election services and to canvass the results of said election.

PASSED AND ADOPTED this _____ day of _____, _____ by the
following vote, to wit:

AYES:

NOES:

ABSENT:

PRESIDENT, BOARD OF DIRECTORS

ATTEST: _____
Secretary



NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Recycled Water Project interagency Agreement	MEETING DATE: May 9, 2011 AGENDA ITEM NO.: 10.a
RECOMMENDED ACTION: Approve revision to the Interagency Agreement for Recycled Water Between Novato Sanitary District and North Marin Water District and authorize Manager-Engineer to approve further minor revisions.	
SUMMARY AND DISCUSSION: At its February 14, 2011 meeting the District Board approved a revised Interagency Agreement for Recycled Water Between Novato Sanitary District and the North Marin Water District. North Marin Water District has requested an additional revision to comply with the requirements of the State Water Resources Control Board SRF loan. This revision will add a minimum annual delivery quantity of 186 ac-ft/year pursuant to a connection schedule in an added Exhibit F. A copy of the proposed revision is attached.	
ALTERNATIVES: N/A.	
BUDGET INFORMATION: No impact	
DEPT.MGR.:	MANAGER:

**SECOND REVISED
INTER AGENCY AGREEMENT
FOR RECYCLED WATER
BETWEEN
NOVATO SANITARY DISTRICT
AND
NORTH MARIN WATER DISTRICT**

FEBRUARY 2011

TABLE OF CONTENTS

RECITALS	1
AGREEMENT PROVISIONS	2
ARTICLE A. INTRODUCTORY PROVISIONS	2
1. Definitions	2
2. Term and Renewal	2
ARTICLE B. RECYCLED WATER SERVICE PROVISIONS	3
1. Recycled Water Delivery Limitations	3
2. Recycled Water Delivery Quantities	3
3. Metering and Measurement of Flows	4
4. Recycled Water Quality and Pressure	4
5. Recycled Water Limitations of Use	5
6. Permits	5
ARTICLE C. RECYCLED WATER FACILITIES	6
1. Initial Construction	6
2. Master Plan	6
3. Construction of Facilities	6
4. Ownership, Operation and Maintenance of Facilities	8
5. Monitoring	9
6. Reporting	9
ARTICLE D. PAYMENT PROVISIONS	9
1. Recycled Water Pricing Policy	9
2. Recycled Water Rate Review	9
3. Billings	10
4. Obligation to Pay for Available Water	10
5. Time and Method of Payment	10
ARTICLE E. TERMINATION	10
1. General	10
2. Failure to Initiate Initial Construction	10
3. Non-Renewal	11
4. Cause	11
5. Failure to Approve Annual Funding	11
6. Decision by Distributor to Cease Distributing Recycled Water	11
7. Impasse over Rates	11
8. Buyout Upon Termination	11
ARTICLE F. GENERAL PROVISIONS	12
1. Good Faith	12
2. Amendments	12
3. Notices	12
4. Severability	13
5. Paragraph Headings	13
6. Successors and Assigns	13
7. Assignment	13
8. Remedies	13
9. Indemnification	14
10. Dispute Resolution	14

11. Governing Law	14
12. Further Assurances	14
13. Waiver	14
14. Presumptions	15
15. Counterparts	15
16. Entire Agreement	15
17. Insurance	15

1 J. Distributor wishes to acquire from Producer the quantity of secondary effluent and/or
2 recycled water which it can sell to End Users (as defined in Article B2).

3 K. City of Novato, Novato Unified School District playing fields, Valley Memorial Park
4 Cemetery and Fireman's Fund Business Park landscaping will be the initial End
5 Users of recycled water and other end users may be served in the vicinity of the
6 recycled water pipeline to be constructed from the RWTF's.

7 **AGREEMENT PROVISIONS**

8 For and in consideration of the foregoing recitals and of the mutual promise and covenants
9 herein contained, the Parties hereto agree as follows:

10 **ARTICLE A. INTRODUCTORY PROVISIONS**

11 **1 Definitions**

12 When used in this Agreement, the following terms shall have the meanings
13 hereinafter set forth:

- 14 a) "End User" shall mean the ultimate user of recycled water.
- 15 b) "Fiscal Year" shall mean each 12-month period during the term of this
16 Agreement commencing July 1 of one year and terminating June 30 of the
17 next succeeding year, both dates inclusive.
- 18 c) "Operation and Maintenance Costs" shall mean the actual cost of: labor
19 (including general and administrative overhead plus tools and supplies
20 normally applied), equipment and vehicle charges, consumables (such as
21 chemicals and electrical power), and spare parts and/or replaced
22 components necessary to reliably treat and deliver recycled water to the End
23 Users pursuant to this agreement. Operation and Maintenance Costs shall
24 not include costs for major capital replacement or process changes.
- 25 d) "Point of Connection" shall mean a secondary effluent connection between
26 the Producer's sewerage system and the Distributor's Deer Island RWTF
27 and distribution system (see Exhibit "A" attached hereto and incorporated
28 herein by this reference), or a recycled water connection between the
29 Producer's Davidson Street RWTF and Distributor's distribution system (see
30 Exhibit "B" attached hereto and incorporated herein by this reference).
- 31 e) "RWTF" shall mean the Recycled Water Treatment and Pumping Facilities
32 required to produce recycled water from the Producer's sewerage system to
33 the "Point of Connection."
- 34 f) "Distribution" system shall mean the recycled water transmission/distribution
35 pipelines and storage facilities.

36 **2. Term and Renewal**

37 This Agreement shall commence on the Effective Date and be in force for
38 twenty (20) years. Following the original twenty (20) year Agreement term, the
39 Agreement term shall be automatically renewed and extended for consecutive
40 one (1) year terms, unless terminated in accordance with the provisions of
41 Article E herein.

42

1 **ARTICLE B. RECYCLED WATER SERVICE PROVISIONS**

2 **1. Recycled Water Delivery Limitations**

- 3 a) Distributor understands and acknowledges that Producer is charged with the
4 responsibility to operate its sewerage systems in a manner which it
5 reasonably determines to be most beneficial to the users thereof. The rights
6 of Distributor to secondary effluent or recycled water under this Agreement
7 pertain only to that which actually is produced at the RWTF. Nothing
8 contained herein shall be construed to qualify in any manner Producer's right
9 to operate the sewerage system and Davidson Street RWTF at such rates of
10 flow as Producer reasonably determines to be appropriate so as to comply
11 with Producer's NPDES permit.
- 12 b) Nothing herein shall be construed to commit any portion of the recycled
13 water from the RWTF beyond that which will be delivered by Distributor to its
14 customers for reasonable beneficial uses. Producer to give to Distributor at
15 least 30 days advance written notice of any non-emergency planned
16 reduction that would reduce the availability of secondary effluent or recycled
17 water to Distributor. Distributor shall have ample opportunity to meet and
18 confer with the Producer on the issue of reduced availability of recycled
19 water.
- 20 c) Any circumstances beyond Producer's control which cause an unplanned
21 reduction in the recycled water available for distribution may, at the
22 discretion of Producer, result in a temporary decrease in recycled water
23 available to Distributor under this Agreement. The reduced availability of
24 recycled water will continue in effect until such time as operations have been
25 restored to normal, provided the Producer must use its reasonable best
26 efforts to restore normal operations as soon as possible. Producer shall
27 inform Distributor on a weekly frequency regarding status of restoration of
28 normal operation.
- 29 d) The Parties acknowledge that in unusual conditions, an emergency diversion
30 of recycled water by Producer may be necessary, and such diversion shall
31 be made to an effluent storage pond or wet weather basin, treatment plant or
32 other authorized location to receive such diversion by the Regional Water
33 Quality Control Board and shall not be deemed a violation of this Agreement.

34 **2. Recycled Water Delivery Quantities**

- 35 a) Subject to the provisions herein, Producer agrees to make available to
36 Distributor each Fiscal Year during the term hereof, secondary effluent
37 and/or recycled water produced at the Davidson Street RWTF in the
38 anticipated minimum annual delivery quantity of **186 acre-feet per year** (the
39 "Annual Delivery Quantity") **pursuant to user Connection Schedule**
40 **(Exhibit F)**.
- 41 b) Annually, Producer and Distributor shall meet and confer in good faith to
42 mutually determine the Annual Delivery Quantity and anticipated production
43 schedule for each month for the ensuing Fiscal Year and to project minimum
44 Annual Delivery Quantities for the next ensuing three Fiscal Years. The
45 purpose of this determination is to provide the Producer and Distributor with
46 information necessary to plan production at the Davidson Street RWTF and

1 Deer Island RWTF respectively including staffing, chemical purchases,
2 maintenance and coordination of operations at the RWTF's.

3 c) Producer and Distributor acknowledge that circumstances such as drought
4 may require additional Annual Delivery Quantities or a prolonged schedule
5 of operation at the RWTF's and agree to use reasonable best efforts to meet
6 such additional requirements.

7 d) Distributor shall make reasonable efforts to provide back-up source(s) of
8 water for the distribution system at the Deer Island RWTF that will provide a
9 reliable flow of water to End Users in the event that circumstances beyond
10 Producer's control cause a reduction or temporary loss of flow of secondary
11 effluent or recycled water from Producer.

12 **3. Metering and Measurement of Flows**

13 a) Producer will measure all recycled water delivered to Distributor at the point
14 of connection. This point of connection delivery (master) metering will be in
15 addition to any retail (customer) metering conducted by the Distributor
16 and/or End Users (collectively, the "Customer Metering"). The Master
17 Metering shall govern billings to Distributor and shall also be used for
18 reporting Distributor's recycled water usage to regulatory agencies. Where
19 either Distributor or Producer acts as End Users, they shall also report
20 usage by metering.

21 b) The Producer shall test the accuracy of the Master Metering not less
22 frequently than annually and provide the Distributor with a report of such
23 test. The Distributor shall have the right at any time and at its expense to
24 make additional tests of the Master Metering. If the Master Metering is
25 found to be reading 2 percent or more fast or slow, it shall immediately be
26 recalibrated, repaired or replaced by the Producer to bring it within 2 percent
27 accuracy.

28 c) Title to and risk of loss and responsibility for the handling and control of all
29 recycled water which meets the quality criteria shall pass from the Producer
30 to the Distributor at the point of connection. The Producer and Distributor
31 agree to exercise due diligence in inspecting their various pipelines and
32 appurtenances and take steps to guard against unreasonable loss of
33 recycled water. Should unreasonable loss of recycled water occur, the
34 parties shall meet in good faith to determine a fair allocation of the cost
35 thereof.

36 **4. Recycled Water Quality and Pressure**

37 a) All recycled water to be delivered pursuant to the terms of this Agreement
38 will be of such quality that the same may be used for all purposes from time
39 to time allowed for disinfected tertiary recycled water. The recycled water to
40 be delivered to Distributor at the Davidson Street RWTF Point of Connection
41 pursuant to this Agreement shall range in pressure from XX to 80 pounds
42 per square inch (psig) and conform to the quality requirements set forth in
43 the then current disinfected tertiary recycled water quality and monitoring
44 regulations specified in Title 22, Division 4, Chapter 3: Wastewater
45 Reclamation Criteria Section 60301.230 (California Code of Regulations), as
46 further regulated by the State of California Regional Water Quality Control

1 Board, the California Department of Public Health and all other federal, state
2 and local agencies having jurisdiction over recycled water quality.

- 3 b) The Parties recognize that factors beyond the control of Producer could
4 cause operational difficulties at the Davidson Street RWTF resulting in the
5 temporary production of recycled water which does not meet the current
6 requirements referenced in the previous subparagraph for the intended uses
7 of the End Users. In such cases, Producer shall temporarily suspend
8 deliveries of recycled water to Distributor from Producer's facilities, and
9 Distributor shall produce recycled water from the Deer Island RWTF or
10 provide a back-up source pursuant to Article B, Section 2.d) of this
11 agreement. Producer shall use its best efforts to reestablish the production
12 of recycled water of a suitable quality and pressure as soon as reasonably
13 possible and shall reestablish Distributor's supply of such water accordingly.
- 14 c) Producer shall immediately notify Distributor if recycled water from the
15 Davidson Street RWTF does not meet the currently applicable regulatory
16 requirements and its deliveries of recycled water will be suspended. Such
17 notice shall be given to Distributor, via control system alarm, e-mail
18 (info@nmwd.com) or telephone (415) 897-4133 with a follow-up written
19 confirmation on the same day automatic notice is given, or on the next
20 business day if automatic notice is not given during normal business hours.
21 Said notice shall contain the date and time delivery was interrupted and the
22 date and time delivery resumed or is scheduled to resume.
- 23 d) From time to time, it may be necessary for the parties to develop, agree
24 upon and implement detailed operating criteria and procedures. Distributor
25 agrees to provide real time recycled water storage level data to facilitate
26 such operating criteria for the RWTF.

27 **5. Recycled Water Limitations of Use**

28 Distributor agrees to provide the recycled water it receives hereunder only for
29 the use of those End Users who have obtained the appropriate permits to use
30 recycled water. Distributor shall be responsible for establishing the required
31 Administrative Procedures and End User Rules and Regulations, for issuing
32 permits to End Users, and for providing regulatory oversight of End User sites.

33 **6. Permits**

34 This Agreement is based on the necessary permitting requirements under the
35 San Francisco Regional Water Quality Control Board Order 96-011 General
36 Water Reuse Requirements for Wastewater and Water Agencies and the
37 Department of Public Health Title 22 water reuse criteria relating to the use of
38 recycled water and the development and construction of a recycled water
39 production and distribution system. Each of the Parties undertakes and agrees,
40 severally and jointly as appropriate, to file any and all applications and
41 undertake such proceedings as may be necessary to enable each Party to carry
42 out the undertaking contemplated herein, and to pursue each application and
43 proceedings in good faith and due diligence. Distributor will act as lead agency
44 in obtaining, complying with and maintaining the permits that are applicable to
45 the construction and initial permitting of the distribution system and Deer Island
46 RWTF. Producer will act as lead agency in obtaining, complying with, and
47 maintaining the permits that are applicable to the operation of the Davidson

1 Street RWTF. However, both Producer and Distributor agree to cooperate in
2 obtaining and complying with permits necessary to carryout the provisions of
3 this agreement and are responsible, where applicable to their role as Producer
4 or Distributor, to comply with the requirements set forth in these permits.

5
6 **ARTICLE C. EXPANDED NOVATO NORTH SERVICE AREA RECYCLED WATER**
7 **FACILITIES**

8 **1. Initial Construction**

9 a) The Parties have worked together to develop planning, permitting and
10 preliminary engineering design for a Davidson Street RWTF and distribution
11 system to serve various Novato North Service Area End Users including the
12 City of Novato, Novato Unified School District playing fields, Valley Memorial
13 Park Cemetery and Fireman’s Fund Business Park landscaping.

14 **2. Master Plan**

15 a) The Parties have prepared and approved a focused master plan (the
16 “Master Plan”) for contemplated expanded distribution and/or treatment
17 facilities for the distribution of recycled water in the service area of
18 Distributor (the “Expanded Facilities”). The focused Master Plan promotes
19 the use of recycled water throughout the service area of Distributor, and is
20 consistent with Distributor’s overall water supply planning.

21 Arrangements between the parties relating to permitting, design and
22 construction of Expanded Facilities beyond that contemplated herein shall
23 be addressed in one or more future agreements.

24 **3. Construction of Facilities**

25 a) Each party shall be solely responsible for obtaining all permits, contracts,
26 approvals, easements, land rights, or other permission or consent necessary
27 to proceed with its recycled water facilities, as contemplated by this
28 Agreement.

29 b) Recycled water delivered to Distributor pursuant to this Agreement shall be
30 provided by Producer from the Davidson Street RWTF facility. Initial
31 construction of the Davidson Street RWTF shall be administered, managed
32 and financed by the Producer with a bank loan and/or grant funding.
33 Repayment of any said loan financing shall be pursuant to Producer
34 wastewater sewer service charges.

35 Initial construction of Recycled Water distribution facilities shall be
36 administered, managed and financed by the Distributor with a California
37 State Water Resources Control Board State Revolving Fund Low Interest
38 Loan, bank loan and/or grant funding. Repayment of any said loan financing
39 shall be pursuant to Distributor Water Connection Fees paid by Distributor
40 customers.

41 c) Initial Construction Costs (including engineering support, construction
42 management and administration) for the Davidson Street RWTF are
43 estimated to be \$5,450,000 pursuant to the Phase 3 Engineering and
44 Economic/Financial Analysis Report for the Project by Camp Dresser McKee
45 (CDM, June 2008) with revised project summary costs (RMC, August 2010

1 costs) or 52% of the total Initial Construction Costs, and allocated to the
2 Producer.

3 Initial Construction Costs for the Recycled Water distribution facilities are
4 estimated to be \$5,100,000 pursuant to the revised CDM, November 2009
5 costs, or 48% of the total initial construction costs and allocated to the
6 Distributor.

7 d) Federal Funding Grant Allocation.

8 The Producer has entered into an agreement with Sonoma County Water
9 Agency (SCWA) on behalf of Producer and Distributor for up to 25% federal
10 grant funding for the Expanded Facilities, also known as the “Novato North
11 and Central Service Area Recycled Water” projects as defined by the North
12 San Pablo Bay Restoration and Reuse Project – EIR/EIS (ESA 2010).
13 Federal grant funds are anticipated from the American Reinvestment and
14 Recovery Act (ARRA) and Title XVI Grants awarded by the U.S. Bureau of
15 Reclamation (USBR). Until such a time that Distributor is a direct recipient of
16 ARRA or Title XVI grant funds from SCWA, Distributor agrees to abide by all
17 the terms and conditions of said agreement between Producer and SCWA,
18 attached hereto as Exhibit D.

19 i. Allocation of ARRA Grant Funds

20 Of the \$7,203,000 in ARRA grant funds eligible for payment to SCWA by
21 USBR, \$2,637,500 is to be allocated by SCWA to Producer for the Expanded
22 Facilities Novato North Service Area Recycled Water. The aforementioned
23 ARRA grant fund allocation is based on the Expanded Facilities Novato
24 North Service Area project total cost estimate of \$10,550,000, 48% allocated
25 for Distributor’s storage and pipeline components and 52% allocated for
26 Producer’s treatment and pumping components. It is agreed that the ARRA
27 grant funds will be shared proportionately between the Producer and
28 Distributor using the above-stated percentages after accounting for the grant
29 administration expenses.

30 ii. Allocation of Title XVI Funds

31 Notwithstanding the allocation methodology provided above for the ARRA
32 grant allocation, any future Title XVI grant funding allocation will be based
33 upon the amounts identified in Exhibit C of the North Bay Water Reuse
34 Authority Second Amended Memorandum of Understanding (Exhibit E). It is
35 further anticipated that any future grant application and funding disbursement
36 will be structured so that SCWA distributes grant funds directly to Distributor
37 as a Member Agency of NBWRA and Recipient under a future Agreement for
38 Grant Facilitation Services for North San Pablo Bay Restoration and Reuse
39 Project.

40 e) State Funding Grant Allocation

41 Allocation of any grant funding from the State of California for the expanded
42 facilities shall be shared proportionately between the Producer and
43 Distributor using the percentages stated in Article C. Section 3.d)i.

44 f) Expansion of the Davidson Street RWTF and Expanded Distribution
45 Facilities will be undertaken from time to time as subject to any other future
46 agreements executed between Producer and Distributor.

1 Planned capital improvements or replacements projects to the Davidson
2 Street RWTF shall be coordinated with Distributor sufficiently in advance to
3 ensure adequate funds are available to carry out said projects

4 **4. Ownership, Operation and Maintenance of Facilities**

5 Distributor shall own, operate and maintain at no cost to Producer, The Deer
6 Island RWTF and all of its distribution facilities from the Point of Connection up
7 to the End User meters.

8 Producer leases the property on which the Deer Island RWTF is located from
9 the Marin County Flood Control and Water Conservation District. This lease
10 expires on July 1, 2023 with an option to extend it for an additional ten years.

11 Producer shall own, operate and maintain all of the Davidson Street RWTF up
12 to the Point of Connection. At Distributor's request or as necessary to comply
13 with permit conditions of state or federal law, Producer may assist with the
14 maintenance and emergency repair of Distributor's distribution facilities.
15 Distributor shall reimburse Producer for reasonable and necessary expenses
16 incurred in carrying out such maintenance or repair. At Producer's request or as
17 necessary to comply with permit conditions of state or federal law, Distributor
18 may assist with the maintenance and emergency repair of Producer's
19 distribution facilities. Producer shall reimburse Distributor for reasonable and
20 necessary expenses incurred in carrying out such maintenance or repair.

21 Producer agrees to provide the Distributor the uninterrupted right of ingress to
22 and egress from the recycled water pipeline route on Producer's property and
23 the right at all times to enter in, over and upon and to use said recycled water
24 pipeline route and every part thereof for all purposes connected with the laying
25 down, constructing, reconstructing, replacing, removing, repairing, maintaining,
26 operating and using said distribution facilities.

27 Producer agrees not to do anything which may interfere with Distributor's full
28 rights for the purposes noted above including without limitation the following:
29 placing or permitting to be placed on said recycled water pipeline route any
30 building or structure (including without limitation new fences not approved by
31 Distributor) or deck(s), tree(s), large shrub(s), or rock(s) weighing more than 50
32 pounds;

33 Subject to the foregoing provisions, Producer may excavate or change the
34 grade of the surface of said recycled water pipeline route way for the Producer's
35 continued operation and maintenance of the existing wastewater facility
36 operations, provided that before making any such change, Producer shall notify
37 Distributor of the proposed change and enable Distributor the opportunity to
38 raise or lower distribution facilities as solely determined by Distributor if
39 Distributor determines in its sole discretion that the change of the grade
40 necessitates that any Distributor facilities be raised or lowered.

41 Producer may cultivate and landscape the surface of said recycled water
42 pipeline route and may construct a roadway thereon provided that such actions
43 do not in any way conflict with or violate any of the preceding limitations.

44 Producer reserves the right to change the location of said recycled water
45 pipeline route on Producer's property to a new location agreeable to Distributor,
46 provided that the full expense of relocating the recycled water pipeline and

1 appurtenant facilities to the new location shall be funded from the Recycled
2 Water Capital Replacement and Expansion Fund.

3 Distributor shall be under no obligation to install or maintain a roadway or
4 pavement or other surfacing upon the recycled water pipeline route except such
5 as may be convenient for its own purposes. (Any surface changes, such as
6 paving, need to be approved by Producer.)

7 **5. Monitoring**

8 Producer's responsibility for management and monitoring the recycled water
9 delivered hereunder shall be limited only to recycled water production at the
10 Davidson Street RWTF and shall cease upon delivery to Distributor at the Point
11 of Connection. Operation, management, maintenance and monitoring of
12 facilities under the control of the Distributor shall be the sole responsibility of
13 Distributor. Distributor agrees to accept Producer's reporting responsibility for
14 conformance to all monitoring, reporting, and any other requirements assigned
15 to the "recycled water agency" in Title 22 of the California Code of Regulations,
16 all applicable regulations of the State of California Regional Water Quality
17 Control Board and the California Department of Health Services and Order 96-
18 011 (General Water Reuse Requirements for Municipal Wastewater and Water
19 Agencies).

20 **6. Reporting**

21 As a condition of, and to provide assistance sufficient to enable Distributor to
22 carry out this reporting responsibility undertaken by Distributor, Producer shall
23 provide Distributor with the following reporting information:

24 a) Quarterly (or annual, at Distributor's option) recycled water production and
25 monitoring records certified by Producer to meet quality pursuant to Exhibit
26 C within 30 days of the close of each fiscal quarter (or Calendar Year, as the
27 case may be) to the extent permissible by law.

28 b) Adequate notifications of Producer inspections, start-ups, shutdowns and
29 disconnections, or violations, if any.

30 **ARTICLE D. PAYMENT PROVISIONS**

31 **1. Recycled Water Pricing Policy**

32 The Parties agree that the rates charged by Producer to Distributor shall be in
33 the amount required to reimburse Producer's actual Davidson Street RWTF
34 Operation and Maintenance Costs. Rates charged by Distributor to End Users
35 shall cover actual RWTF Operation and Maintenance Costs and Distributor's
36 actual Operation and Maintenance Costs of the distribution facilities, plus an
37 amount for maintenance and replacement. Any payments to the Distributor by
38 the End User in excess of actual costs (marginal payments) shall be deposited
39 in a Recycled Water Capital Replacement and Expansion Fund.

40 **2. Recycled Water Rate Review**

41 Producer shall charge for the delivery of recycled water in accordance with the
42 rate schedule for recycled water service as such rate schedule is established by
43 the producer and approved by Producer's governing board. Producer shall
44 review and establish said rate schedule based on the above-described policy of
45

1 reimbursing Producer's Davidson Street RWTF actual Operation and
2 Maintenance Costs every Fiscal Year. Distributor shall be given ample
3 opportunity to meet and confer upon the intended application of the pricing
4 policy and Producer's proposed recycled water rates with Producer prior to final
5 determination of Producer's recycled water rates, to ensure compatibility with
6 the intent of this Agreement.

7 Notwithstanding any other provision of this Agreement, the cost of planned
8 capital improvements or replacement projects to the Davidson Street RWTF
9 shall not be included in Producer's recycled water rates but shall instead be
10 reimbursed from the Recycled Water Capital Replacement and Expansion Fund
11 30 days after receipt of invoice.

12 **3. Billings**

13 Distributor agrees to make quarterly (or annual, at Producer's option) payments
14 for the total amount of recycled water delivered pursuant to Article B.3 in each
15 fiscal quarter (or Fiscal Year, as the case may be) at the rates set according to
16 the procedures herein.

17 **4. Obligation to Pay for Available Water**

18 Distributor is obligated to pay Producer for the Annual Delivery Quantity of
19 recycled water for each Fiscal Year, assuming such quantity of recycled water is
20 made available to it by Producer. Producer shall bill Distributor at the close of
21 each quarter (or each Fiscal Year) for the actual quantity of recycled water
22 taken by Distributor pursuant to Article B.3 during that quarter (or Fiscal Year).

23 **5. Time and Method of Payment**

24 Payments shall be made by Distributor in response to, and within 30 days of,
25 billing by Producer.

26 **6. Recycled Water Capital Replacement and Expansion Fund**

27 The Recycled Water Capital Replacement and Expansion Fund will be
28 maintained by the Distributor. Distributor shall provide annual reports of the
29 fund to the Producer. Any expenditure from the fund shall be jointly approved
30 by both the Producer and the Distributor.

31 **ARTICLE E. TERMINATION**

32 **1. General**

33 This Agreement may be terminated upon the occurrence of the events
34 described in the following paragraphs.

35 **2. Failure to Initiate Initial Construction**

36 If the initial construction is not initiated by the second anniversary of the
37 Effective Date of this Agreement (the "Plan Date"), then either Party may elect
38 to terminate this Agreement by serving a written notice (the "Termination
39 Notice") on the other Party within 180 days following the Plan Date. In the event
40 of such termination:

- 41 a) This Agreement shall be deemed terminated as of the last day of the Fiscal
42 Year during which the Termination Notice was given.

1 **3. Non-Renewal**

2 Following the expiration of the original 20-year term of this Agreement, either
3 Party may serve upon the other no later than 30 days prior to the next occurring
4 anniversary of the Effective Date a notice of intent to terminate this Agreement.
5 Such termination shall become effective upon said next occurring anniversary of
6 the Effective Date.

7 **4. Cause**

8 This Agreement may be terminated by either Party at any time for good cause
9 upon 60-days' written notice to the other Party. However, if the good cause is
10 the breach of the other Party, this Agreement may not be terminated under this
11 section unless such breach is not cured by the breaching Party during such 60-
12 day period. Notwithstanding the foregoing, if a cure of any such breach by any
13 Party hereto cannot practicably be affected within such 60-day period, and the
14 breaching Party, upon receiving such written notice, promptly initiates efforts to
15 cure such failure within such 60-day period, and diligently pursues such cure,
16 this Agreement may not be terminated under this section.

17 **5. Failure to Approve Annual Funding**

18 The Parties acknowledge that each Party undergoes an annual budgeting
19 process and that neither Party is obligated to expend additional funds or to
20 construct additional facilities in any given year unless the applicable Party's
21 governing board has budgeted money for that purpose. Notwithstanding the
22 foregoing, failure to budget such funds may constitute good cause for
23 termination of this Agreement under paragraph 4 above.

24 **6. Decision by Distributor to Cease Distributing Recycled Water**

25 This Agreement shall be terminated in the event that Distributor determines that
26 it no longer intends to be a purveyor of recycled water within its service area.
27 Such termination shall be effective at the end of the Fiscal Year following the
28 Fiscal Year in which notice of Distributor's desire to terminate this Agreement
29 pursuant to this Paragraph is furnished to Producer.

30 In the event of termination pursuant to this Section, the Producer and Distributor
31 agree to meet and consider arrangements to insure water service is maintained
32 as necessary to customers historically receiving recycled water.

33 **7. Impasse over Rates**

34 If following mediation as provided for herein, Distributor is unwilling to accept a
35 new annual rate set for recycled water by Producer then this Agreement shall be
36 deemed terminated at the end of the Fiscal Year for which such impasse is
37 reached. Producer, following mediation as provided for herein, declares an
38 impasse due to Distributor setting rates that do not recover costs necessary to
39 adequately fund recycled water production, then this Agreement shall be
40 terminated at the end of the Fiscal Year for which such impasse is reached.

41 **8. Buyout Upon Termination**

42 If this Agreement is terminated in accordance with the provisions of Paragraphs
43 3, 4, 5, 6 or 7 of this Article, then Producer shall have the option to purchase
44 from Distributor those portions of the Distribution Facilities (along with any
45 appurtenances necessary to distribute recycled water in Producer's service

1 area) that have been constructed or are then under construction from
2 Distributor, including easements and any associated real estate required for
3 their use or maintenance. Producer may exercise this option on the following
4 terms:

- 5 a) Producer shall give written notice of its intent to purchase said facilities
6 within 180 days following the effective date of the termination.
- 7 b) The purchase price shall be equal to the newly reconstructed cost
8 (determined as of the date of the notice in paragraph 8.a) less depreciation
9 (RCNLD) of Distributor's improvements. Upon request, Distributor shall
10 furnish appropriate accounting data and information to Producer to
11 establish the purchase price.
- 12 c) Distributor shall assign to Producer all water delivery contracts with End
13 Users using the Distribution Facilities along with any applicable consulting
14 or construction contracts.

15 **ARTICLE F. GENERAL PROVISIONS**

16 **1. Good Faith**

17 This Agreement is the result of good faith negotiations entered into by the
18 Parties willingly, with due diligence, and with full advice of legal counsel, and it
19 is the intent of the Parties that all aspects of performance of this Agreement will
20 be undertaken in the same manner. The Parties acknowledge and agree that it
21 is not possible to anticipate every issue, situation or problem that might arise or
22 be encountered during the term of this Agreement. As to any issue, situation, or
23 problem not expressly provided for in this Agreement, each Party agrees to
24 refrain from doing anything (1) to injure the right of each other Party to receive
25 the benefits of this Agreement, or (2) to frustrate the purpose for which this
26 Agreement was executed. Each Party further agrees that in the event any such
27 unanticipated issue, situation or problem arises, they will meet and confer in
28 furtherance of the implied covenant of good faith and fair dealing in order to find
29 a mutually acceptable solution.

30 **2. Amendments**

31 This Agreement may be amended at any time by mutual written agreement of
32 the Parties. The Parties agree that in the event of action by an outside
33 governmental body producing a prospective change in the volume or use of
34 recycled water by Distributor's customers, the Parties will make such
35 amendments to this Agreement as the circumstance may reasonably and
36 equitably require.

37 **3. Notices**

38 All notices or other writings in this Agreement to be given by either Party to the
39 other, shall be deemed to have been given or when made in writing and either
40 (i) delivered personally, or (ii) sent by facsimile transmission to the Fax numbers
41 set forth below with the original deposited in the U.S. mail, postage pre-paid,
42 first class, addressed as set forth below, or (iii) deposited in the United States
43 mail, registered, or certified, postage prepaid, and addressed as follows:

44 To Distributor

45 General Manager

1 North Marin Water District
2 P.O. Box 146
3 Novato, CA 94948-0146
4 Phone: (415) 897-4133
5 FAX: (415) 892-8043
6

7 To Producer

8 General Manager/Engineer
9 Novato Sanitary District
10 500 Davidson Street
11 Novato, CA 94945
12 Phone: (415) 892-1694
13 FAX: (415) 898-2279

14 The address of either Party may be changed upon written notice given by such
15 Party as above provided. Notices shall also be deemed given when delivered
16 by personal delivery, with a confirmation copy by first class mail.

17 **4. Severability**

18 If any one or more of the covenants or agreements set forth in this Agreement
19 on the part of Producer or Distributor, or either of them, to be performed should
20 be contrary to any provision of law or contrary to the policy of law to such extent
21 as to be unenforceable in any court of competent jurisdiction, then such
22 covenant or covenants, agreement or agreements, shall be null and void and
23 shall be deemed severable from the remaining covenants and agreements and
24 shall not affect the validity of this Agreement.

25 **5. Paragraph Headings**

26 Paragraph headings in this Agreement are for convenience only and are not to
27 be construed as part of this Agreement or any way limiting or amplifying the
28 provisions here.

29 **6. Successors and Assigns**

30 Subject to the provisions of the succeeding Paragraph hereof, this Agreement
31 and all the terms, covenants, agreements, and conditions herein contained shall
32 inure to the benefit of and be binding upon the successors and assigns of the
33 Parties hereto.

34 **7. Assignment**

35 No assignment or transfer by Distributor of this Agreement or any part hereof, or
36 of any rights hereunder or interest herein of Distributor, shall be valid unless
37 approved by Producer, which approval shall not be unreasonably withheld.

38 No assignment or transfer by Producer of this Agreement or any part hereof, or
39 of any rights hereunder or interest herein of Producer, shall be valid unless
40 approved by Distributor, which approval shall not be unreasonably withheld.

41 **8. Remedies**

42 By reason of the specialized nature of the recycled water service to be
43 rendered, and for the further reason that the extent of any damage caused to a
44 party by any breach of this Agreement by the other party may be extremely
45 difficult to determine in monetary terms, it is agreed by the Parties hereto that an

1 action for monetary damages is an inadequate remedy for any breach, and that
2 specific performance, without precluding any other remedy available in equity or
3 at law, will be necessary to furnish either Party hereto with an adequate remedy
4 for the breach hereof.

5 **9. Indemnification**

6 Producer shall save Distributor, its officers, agents and employees, free and
7 harmless from any and all cost liability, damages or health-related claims arising
8 out of any act or omission to act, including any negligent act, by Producer, its
9 officers, agents or employees arising out of the Producer's performance of its
10 obligation under this Agreement. Distributor shall save Producer, its officers,
11 agents and employees, free and harmless from any and all cost liability,
12 damages or health-related claims arising out of any act or omission to act,
13 including any negligent act, by Distributor, its officers, agents or employees
14 arising out of the Distributor's performance of its obligation under this
15 Agreement.

16 **10. Dispute Resolution**

17 Any controversies between the Parties regarding the construction or application
18 of this Agreement, and claims arising out of this Agreement or its break, shall be
19 submitted to mediation within 30 days of the written request of a Party after the
20 service of that request on the other Party. The Parties may agree on one
21 mediator. If they cannot agree on one mediator, the Party demanding mediation
22 shall request that the Presiding Judge of the Superior Court of Marin County
23 appoint a mediator. The mediation meeting shall not exceed one day (eight
24 hours), unless the Parties agree to extend said time. The cost of the mediator
25 shall be borne by the Parties equally. Mediation under this section is a condition
26 precedent to filing an action in any court.

27 The Parties shall make good faith efforts to resolve all claims and disputes
28 related to this Agreement at the lowest possible cost. Unless the Parties agree
29 upon an alternative forum of dispute resolution, any litigation concerning claims
30 and disputes related to this Agreement shall be filed in and timely prosecuted to
31 conclusion in the Superior Court in and for Marin County, and each party hereby
32 waives its right to move to change venue.

33 **11. Governing Law**

34 This Agreement shall be governed, construed and enforced in accordance with
35 the laws of the State of California.

36 **12. Further Assurances**

37 Each of the Parties agrees to execute, and deliver to the other parties, such
38 documents and instruments, and take such actions, as may reasonably be
39 required to effectuate the terms and conditions of this Agreement; provided,
40 however, such covenant shall not have the effect of increasing the obligations of
41 any Party pursuant to this Agreement or require any representations and
42 warranties by any Party in addition to those of such party set forth herein.

43 **13. Waiver**

44 No waiver of any right or obligation of any of the parties shall be effective unless
45 in writing, specifying such waiver, executed by the party against whom such
46 waiver is sought to be enforced. A waiver by any of the parties of any of its

1 rights under this Agreement on any occasion shall not be a bar to the exercise
2 of the same right on any subsequent occasion or of any other right at any time.

3 **14. Presumptions**

4 Because all of the parties have participated in preparing this Agreement, there
5 shall be no presumption against any party on the ground that such party was
6 responsible for preparing this Agreement or any part hereof.

7 **15. Counterparts**

8 This Agreement may be executed in two or more counterparts, each of which
9 shall be deemed an original, but all of which shall constitute one and the same
10 instrument.

11 **16. Entire Agreement**

12 This Agreement constitutes the entire agreement between the parties regarding
13 the subject matter hereof and thereof, and supersedes all prior or
14 contemporaneous negotiations, understandings or agreements of the parties,
15 whether written or oral, with respect to such subject matter.

16 **17. Insurance**

17 Each Party shall be responsible for requiring all contractors that it retains for the
18 construction and construction-related tasks related to this Agreement to provide
19 insurance in the amounts and with the coverages consistent with its policies and
20 practice for projects involving similar construction costs and risks. Each Party
21 shall be responsible for obtaining from each such contractor a certificate of
22 insurance evidencing such coverage, and policy endorsements adding both
23 Parties, and their respective directors, officers, employees, agents, and
24 authorized volunteers as additional insureds to the contractor's Commercial
25 General Liability and Comprehensive Automobile Liability insurance policies,
26 which shall be provided to both Parties prior to the commencement of the
27 construction and/or construction-related tasks.

28

1 IN WITNESS WHEREOF, Producer and Distributor have caused this Agreement to be
2 executed by their respective duly authorized officers effective as of the day and year first herein
3 written below.

4

NOVATO SANITARY DISTRICT

By:

Board President

Dated: _____

Attest:

Board Secretary

Approved as to Form:

Novato Sanitary District Attorney

NORTH MARIN WATER DISTRICT

By

Board President

Dated: _____

Attest:

Board Secretary

Approved as to Form:

North Marin Water District Attorney

5

6

1	EXHIBITS:	
2	Exhibit A	Point of Connection Detail – Deer Island RWTF
3	Exhibit B	Point of Connection Detail – Davidson Street RWTF
4	Exhibit C	Producer’s Schedule of Sampling and Analysis
5	Exhibit D	Agreement for Grant Facilitation Services for North San Pablo Bay
6		Restoration and Reuse Project
7	Exhibit E	North Bay Water Reuse Authority Second Amended Memorandum of
8		Understanding
9		
10	Exhibit F	User Connection Schedule

EXHIBIT C

PRODUCER'S SCHEDULE OF SAMPLING & ANALYSIS

Constituent (units)	Limit	Type of sample	Frequency
Flow Rate (gallons/day)	500,000	Observation	Daily
Total Coliform (MPN/100 ml)	2.2 median	Grab (7 days)	Daily
	23 maximum	Grab (in any 30 day period)	Daily
Turbidity (NTU)	2 maximum	Daily average	Continuous
	5 maximum	5% of time	Continuous
	10 maximum	Any time	
Dissolved Oxygen (mg/l)	1.0 minimum	Grab	3/week
Dissolved Sulfide (mg/l)	0.1 maximum	Grab	3/week (only if D.O. ≤ 1.0 mg/l)

**NOVATO SANITARY DISTRICT
BOARD AGENDA ITEM SUMMARY**

TITLE: Household Hazardous Waste: Consider Approval of HHW Grant Agreement	MEETING DATE: May 9, 2011 AGENDA ITEM NO.: 11.a
RECOMMENDED ACTION: Approve the Household Hazardous Waste Grant Agreement with the Marin County Hazardous & Solid Waste Joint Powers Authority for 2010-11	
SUMMARY AND DISCUSSION: <p>This agreement is the result of discussions with the Marin County Hazardous and Solid Waste Joint Powers Agreement to convey to the District the funds collected by the JPA for the household hazardous waste program from Novato residents who self-haul to the landfill. The JPA has committed \$32,463 for the fiscal year 2010-11.</p> <p>This represents the 8th year the District has entered into an agreement with the County. Previous payments are as follows:</p> <p>2003-04: <u>\$46,455.00</u> (\$31,452 current year fees + \$15,003 portion of prior years' fees)</p> <p>2004-05: <u>\$51,993.00</u> (\$36,990 current year fees + \$15,003 portion of prior years' fees)</p> <p>2005-06: <u>\$42,934.00</u> (\$27,931 current year fees + \$15,003 portion of prior years' fees)</p> <p>2006-07: <u>\$32,962.00</u> (\$17,959 current year fees + \$15,003 portion of prior years' fees)</p> <p>2007-08: <u>\$32,628.20</u> (\$17,625.20 current year fees + \$15,003 portion of prior years' fees)</p> <p>2008-09: <u>\$33,503.00</u> (\$18,500 current year fees + \$15,003 portion of prior years' fees)</p> <p>2009-10 <u>\$40,355.00</u> (\$25,352 current year fees + \$15,003 portion of prior years' fees)</p>	
ALTERNATIVES: N/A	
BUDGET INFORMATION: The 2010-11 District Budget includes anticipated JPA reimbursement fees at the same level as 2009-10. However, actual reimbursement fees will be \$32,463, or \$7,892 less than budgeted.	
DEPT.MGR.:	MANAGER:

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Wastewater Facility Upgrade Project Contract D – Novato Recycled Water Facility; Project No. 73002	MEETING DATE: May 9, 2011 AGENDA ITEM NO.: 12.a												
RECOMMENDED ACTION: Review bids received, approve the withdraw of the bid by KG Walters, authorize contract award to the lowest responsive bidder, Gateway Pacific Contractors Inc., and authorize Manager-Engineer to execute contract.													
SUMMARY AND DISCUSSION: <p>At its March 2, 2011 meeting the District Board authorized staff to advertise for bids for the project. On April 20, 2011, 6 bids were received as follows:</p> <table style="margin-left: 40px; border: none;"> <tr> <td style="padding-right: 20px;">1. K. G. Walters</td> <td style="text-align: right;">\$4,550,400</td> </tr> <tr> <td>2. Gateway Pacific</td> <td style="text-align: right;">\$5,294,505</td> </tr> <tr> <td>3. Monterey Mechanical</td> <td style="text-align: right;">\$5,518,000</td> </tr> <tr> <td>4. Western Water</td> <td style="text-align: right;">\$5,729,623</td> </tr> <tr> <td>5. West Bay Builders</td> <td style="text-align: right;">\$5,764,000</td> </tr> <tr> <td>6. GSE</td> <td style="text-align: right;">\$5,989,000</td> </tr> </table> <p>KG Walters Construction Company Inc. of Santa Rosa, CA submitted the lowest bid of \$4,550,400. However, KG Walters has since provided notice and evidence of a clerical error in their bid and therefore, in accordance with Public Contract Code Section 5103, KG Walters has requested that they be allowed to withdraw their bid. The District's Construction Manager (The Covello Group) and staff have reviewed the information submitted by KG Waters regarding the bid error and concur that a clerical error was made, and therefore recommends that KG Walters be allowed to withdraw their bid.</p> <p>Subject to the withdrawal of KG Walters' bid, Gateway Pacific Contractors, Inc. of Sacramento, CA submitted the lowest responsive bid of \$5,294,505 which is \$94,505 (2%) above the engineer's estimate of probable construction cost of \$5,200,000. Gateway Pacific's bid is \$223,495 (4%) below the next lowest bidder.</p> <p>Gateway Pacific's bid documents have been reviewed and they are in order. Gateway Pacific's references included with the bid documents appear to meet the required experience qualification criteria. The Owners Representatives for reference projects were contacted and have confirmed Gateway Pacific's satisfactory performance. Gateway Pacific also meets the safety and financial qualification criteria. The District is under a strict time schedule to complete the work in order to comply with the Stimulus Grant requirements.</p> <p>Accordingly, it is recommended that the Board award the Wastewater Facility Upgrade Project Contract-D Novato Recycled Water Facility Project to Gateway Pacific Contractors, Inc. for the above noted bid amount and authorize the Manager-Engineer to execute the contract.</p>		1. K. G. Walters	\$4,550,400	2. Gateway Pacific	\$5,294,505	3. Monterey Mechanical	\$5,518,000	4. Western Water	\$5,729,623	5. West Bay Builders	\$5,764,000	6. GSE	\$5,989,000
1. K. G. Walters	\$4,550,400												
2. Gateway Pacific	\$5,294,505												
3. Monterey Mechanical	\$5,518,000												
4. Western Water	\$5,729,623												
5. West Bay Builders	\$5,764,000												
6. GSE	\$5,989,000												
ALTERNATIVES: Not Award and not authorize Manager-Engineer to execute contract.													
BUDGET INFORMATION: This work will be funded from the budget for the Wastewater Treatment Plant Upgrade – Contract D Recycled Water Project 73002, which has a current FY10-11 budget balance of \$2,951,100 as well as a grant of \$1,358,300 from the US Bureau of Reclamation and a potential grant of \$260,000 from Proposition 84. Most of the work will take place during the 2011-12 fiscal year and will be included in that budget.													
DEPT.MGR.:	MANAGER:												