

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

March 25, 2025

FROM

LUTHER SNOKE, Chief Executive Officer, County Administrative Office

SUBJECT

Amendment to Agreement with the Chino Basin Desalter Authority for the Chino Airport Groundwater Remedial Project

RECOMMENDATION(S)

1. Approve **Amendment No. 2 to Agreement No. 19-678**, including non-standard terms, with the Chino Basin Desalter Authority related to the treatment facilities and services for the Chino Airport Groundwater Remedial Project to further clarify roles and responsibilities of the parties and memorialize a cooperative approach, in the amount of \$465,630, which includes a 10% contingency for programming work done on the treatment plant, with no change to the other terms and conditions.
 2. Approve a budget increase to Capital Improvement Program Project No. 20-192, in the amount of \$1,243,670, increasing the total project budget from \$9,164,300 to \$10,407,970, for the Chino Plume Desalter Authority Agreement project for costs associated with Amendment No. 2 to Agreement No. 19-678 and for operational expenses associated with the South Granular Activated Carbon operations.
 3. Approve a budget decrease to Capital Improvement Program Project No. 18-222 in the amount of \$1,243,670, from \$67,489,704 to \$66,246,034, to the Chino Airport Groundwater Remedial project.
 4. Authorize the Chief Executive Officer or the Deputy Executive Officer to authorize change orders greater than the 10% contingency in Recommendation No. 1, in an amount not to exceed \$20,000, for a total amount of \$485,630.
 5. Direct the Chief Executive Officer or the Deputy Executive Officer to transmit all change orders to the Clerk of the Board of Supervisors within 30 days of execution.
 6. Authorize the Auditor-Controller/Treasurer/Tax Collector to post budget adjustments, as detailed in the Financial Impact section (Four votes required).
- (Presenter: Luther Snoke, Chief Executive Officer, 387-4811)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Costs). The total cost, of Amendment No. 2 (Amendment) to Agreement No. 19-678 (Agreement) with the Chino Basin Desalter Authority (CDA), in the amount of \$465,630, is for supervisory control and data acquisition (SCADA) programing to connect County infrastructure

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to CDA’s facilities and to update and amend CDA’s Division of Drinking Water (DDW) permit to accept water from County extraction wells. The Amendment includes a 10% contingency for Phase I and II of the programming work that needs to be completed on the treatment plant. This item is requesting additional contingency, in the amount of \$20,000, to cover any unforeseen costs due to the unknown timing of Phase II. Sufficient appropriation for the contingency cost is included in the 2024-25 budget (WBSE 10.10.0985).

Additionally, in accordance with the Agreement, the County is responsible for making two annual installment payments for the South Granular Activated Carbon (GAC) Operations and Maintenance (O&M) estimated budget for necessary operational expenses, including energy consumption, consumables, labor, water quality monitoring, and administrative costs to ensure the continued effectiveness of the South GAC operations, maintaining compliance and service reliability. This year, CDA provided the County with a budget of \$778,040, to be paid by the County in two installments. If actual costs exceed the estimated budget, CDA will invoice the County accordingly and if the budget exceeds the actual costs, CDA will credit the County the difference.

Funds for the Chino Airport Groundwater Remedial project (WBSE 10.10.0985) will decrease to fund the additional SCADA programming and annual CDA budget costs. The following 2024-25 budget adjustments are necessary to fund the total amount of \$1,243,670:

Fund Center	Commitment/ GL Account	Description	Action	Amount	WBSE
7700003100	54304030	Structures & Improvements To Structures	Decrease	\$1,243,670	10.10.0556
7700003100	40909999	Residual Equity Transfer Out	Decrease	\$1,243,670	10.10.0556
7700003100	54304030	Structures & Improvements To Structures	Increase	\$1,243,670	10.10.0985
7700003100	40909995	Residual Equity Transfer In	Increase	\$1,243,670	10.10.0985

BACKGROUND INFORMATION

On October 8, 2019 (Item No. 15), the Board of Supervisors (Board) approved the Agreement with CDA to assist the County in the remediation efforts required under Clean-up and Abatement Order No. R8-2017-0011, issued to the County by the Regional Water Quality Control Board-Santa Ana Region (Water Board) on January 11, 2017. The remediation efforts facilitate the treatment of groundwater contamination on and around Chino Airport and allow for the ultimate beneficial use of treated water through CDA’s drinking water system. The contamination alleged to be emanating from the Chino Airport property consists primarily of volatile organic compounds (VOCs). The Agreement is a cooperative approach relating to the design, construction, permitting, operation and maintenance of a County treatment plant, onsite and offsite County and CDA extraction wells, and necessary conveyances for what is known as the Chino Airport Groundwater Remedial Project (Project).

The County is progressing in its construction of on and offsite wells and piping. The recommended Amendment to the Agreement addresses additional cost items, including SCADA programming to connect the County’s infrastructure to CDA’s facilities for CDA to access County

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wells for treatment and costs to update CDA's DDW permit to accept water from the County wells. The Amendment addresses CDA's required indemnification and warranty protections for County contractors or subcontractors to make Fiber Optic Network (FON) connections to CDA well sites, and the ability for the County to connect some of its wells to existing CDA water pipelines, which CDA normally requires a pipe buy in cost.

CDA currently leases several wells at the Chino Airport. The lease for the wells is set to expire on December 10, 2026. CDA has requested an additional 30-year lease extension under the same terms and conditions for CDA to treat VOCs in the groundwater pumped from its leased sites in lieu of lease payments. CDA also requested an access easement to its Well I-4 because it can no longer access the well site from the public road due to recent offsite road improvements. The Amendment requires the parties to start negotiations on these requests.

Considering the long-term Agreement and treatment of groundwater for VOCs, this Amendment reaffirms a cooperative approach that provides for the parties to exchange the items without cost, except for the SCADA and DDW permit costs. In the event the County cannot convey the requested easement or extend the well lease on the same terms, the parties will negotiate costs in good faith for the items addressed in the Amendment. All other terms and conditions from the Agreement remain in place.

The Amendment includes non-standard contract terms as follows:

1. The County agrees to indemnify and hold harmless CDA for all liabilities for negligent acts or omissions of the County and the County's contractors or subcontractors, and warranty the work done by the County's contractors or subcontractors in making FON connections at CDA well sites.
 - The County standard contract does not include any indemnification or defense by the County with a contracting party for work done by County's contractor or subcontractor, nor warranty the contractor or subcontractor's work.
 - Potential Impact: By agreeing to indemnify CDA for the County's contractor or subcontractor's work, the County could be contractually waiving the protection of sovereign immunity. Claims that otherwise could be barred against the County, time limited, or expense limited could be brought by CDA against the County without such limitations and the County could be responsible to defend and reimburse CDA for costs, expenses, and damages, which could exceed the total agreement amount. The County may be able to pass on some of the expenses and liability from CDA to the County's contractor or subcontractor based on its current contractor's agreement in performing the FON work. The County may still be liable to warrant the contractor or subcontractor's work for improper or insufficient maintenance, or improper operation, which liability cannot be passed on to the contractor or subcontractor.
2. There is no termination for convenience. CDA may elect to unilaterally terminate the Agreement if the County cannot convey the easement or extend the well lease agreement and elect to cease its obligations in the Amendment, including allowing the County to utilize CDA's current water pipeline without cost.
 - The County standard contract gives the County the right to terminate the contract, for any reason, with a 30-day written notice without any obligation other than to pay for amounts of services rendered.

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- Potential Impact: If CDA elects to terminate the Agreement, the parties will no longer receive the benefit of exchanging the services without cost and will have to negotiate rates in implementing the Project.

On November 16, 2021 (Item No. 31), the Board approved Amendment No. 1 to the Agreement to extend the completion date of the GAC treatment facility from January 31, 2022 to January 31, 2023 and to more clearly define payment timeframes. The County's treatment plant was completed in 2023 and operational in April 2023, treating from three CDA wells.

The Amendment, including the non-standard terms, is recommended as it continues to assist the County in meeting its long-term obligations to treat groundwater VOCs under the Water Board order and reaffirm the cooperative approach with CDA for the County's treatment system.

The CDA Board approved the Amendment on March 6, 2025 and the General Manager/Chief Executive Officer signed it on March 14, 2025.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Maria Insixiengmay, Deputy County Counsel, 387-5455) on February 21, 2025; Auditor-Controller/Treasurer/Tax Collector (Charlene Huang, Auditor-Controller Manager, 382-7022) on March 10, 2025; Risk Management (Greg Ustaszewski, Staff Analyst II, 386-9008) on February 21, 2025; Finance (Yael Verduzco, Principal Administrative Analyst, 387-5285, and Carl Lofton, Administrative Analyst, 387-5404) on March 3, 2025; and Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on March 7, 2025.

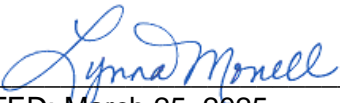
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Curt Hagman
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: March 25, 2025



cc: CAO - Yousif w/agree
Contractor - c/o CAO w/agree
File - w/agree
CCM 03/28/2025