



BOARD OF DIRECTORS

Agenda Report

Administration Building
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File #: 2023-3345

Agenda Date: 12/14/2023

Agenda Item No: 3.

FROM: Robert Thompson, General Manager
Originator: Wally Ritchie, Director of Finance

SUBJECT:

SALES TAX REIMBURSEMENTS FOR CHEMICAL PURCHASES

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

Approve the California Department of Tax and Fee Administration counteroffer in the amount of \$12,541.24, as set forth below, which represents a settlement of 14.5% of the remaining claimed amounts totaling \$86,234.

BACKGROUND

Orange County Sanitation District (OC San) uses certain chemicals to treat wastewater. In some circumstances, the California Department of Tax and Fee Administration (CDTFA) has determined that the purchase of specific chemicals used to treat wastewater may be exempt from sales tax.

The Board previously approved a Sole Source Agreement with attorney Marty Dakessian, of Dakessian Law, Ltd. & Equity Recovery Solutions (ERS). They have been working on trying to resolve certain claims for the past several years, pursuing the various administrative remedies available under the law. This process finally led to the entry of the claims into the CDTFA's formal settlement program in May 2020.

Originally, the amounts remaining after the first round of settlement were \$1,817,092. Most of these claims were denied due to various documentation and audit issues. These included the refusal of vendors to timely file claims, provide us with powers of attorney, or otherwise refused to prosecute the refund claims.

RELEVANT STANDARDS

- Ensure the public's money is wisely spent
- Maintain a culture of improving efficiency to reduce the cost to provide the current service level or standard

PROBLEM

OC San regularly procures chemicals, equipment, and other capital items that are used during the process of treating wastewater at both treatment plants. OC San currently pays sales and use taxes on the purchase of these goods and consumables.

PROPOSED SOLUTION

Approve the CDTFA counteroffer in the amount of \$12,541.24, as set forth below, which represents a settlement of 14.5% of the remaining claimed amounts totaling \$86,234.

| VENDOR | REMAINING CLAIMED AMOUNTS | CDTFA FINAL OFFER |
|----------------------------|----------------------------------|--------------------------|
| Olin Chlor Alkali Products | \$86,234.00 | \$12,541.24 |

PRIOR COMMITTEE/BOARD ACTIONS

November 2023 - Approved Sole Source Agreements for Tax Consulting and Advocacy Services with Dakessian Law, Ltd. and ERS regarding pursuit of refunds for sales tax paid on chemical purchases.

ADDITIONAL INFORMATION

N/A

CEQA

N/A

FINANCIAL CONSIDERATIONS

This request complies with authority levels of OC San's Purchasing Ordinance.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- OCSD Settlement Memo