



# AGENDA REPORT

## CITY OF SAN CLEMENTE

### CITY COUNCIL MEETING

910 Calle Negocio  
2nd Floor  
San Clemente, California  
www.san-clemente.org

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**Meeting Date:** October 17, 2023

Agenda Item: 7K

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**Department:** Public Works/Utilities

**Prepared By** Julie Schmidt, Management Analyst II

**Subject:**

**CONSIDERATION OF A RESOLUTION AUTHORIZING THE CITY TO JOIN A REGIONAL CONTRACT BETWEEN THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA), MILES CHEMICAL, INC., AND SOCWA ENTITIES FOR DELIVERY AND SUPPLY OF FERRIC CHLORIDE TO THE WATER RECLAMATION PLANT FOR WASTEWATER TREATMENT, AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT, AND FINDING THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**Fiscal Impact:**

The funding for the purchase and delivery of Ferric Chloride to the City's Water Reclamation Plant for wastewater treatment was approved in the Fiscal Year 2023-24 Budget in the Sewer Operating Fund, Account Number 054-472-42150 in the amount of \$150,000. Additional funding for any contract renewals will be proposed as part of the City's annual budget process for future fiscal years.

**Summary:**

The City Council is being asked to approve the City entering into a regional contract with SOCWA, Miles Chemical, and SOCWA entities for a one-year term for the delivery and supply of Ferric Chloride to the City's Water Reclamation Plant (WRP) for wastewater treatment and authorize the Public Works Director to approve up to four annual renewals to the contract for amounts not to exceed the approved budget amounts for this chemical in each appropriate fiscal year. The Agenda Item from the SOCWA Board of Directors Meeting on August 3, 2023 related to this contract can be found at Attachment 3.

**Background:**

Ferric Chloride is a chemical that is necessary for wastewater treatment to maintain compliance with air quality regulations for sulfides in digester gas, control treatment plant odors, and ensure consistent settling in the wastewater treatment process. The City of San Clemente partners with SOCWA and other agencies that are collectively referred to as SOCWA entities in the joint contract (including Santa Margarita Water District, El Toro Water District, City of San Clemente, and Moulton Niguel Water District) to purchase wastewater treatment chemicals, and SOCWA entities have a long history of partnering to purchase bulk chemical supplies to reduce the cost of chemicals.

There are only a few Ferric Chloride manufacturers in the western United States, and SOCWA staff reviewed recent Ferric Chloride requisitions from around Southern California and found that three companies were responding to requests for proposals to provide Ferric Chloride. SOCWA

staff also reviewed two recently completed bidding processes in Southern California, and Miles Chemical was the recent low bidder and SOCWA's most recent Ferric Chloride provider. SOCWA determined that the recent procurement processes were consistent with SOCWA's cooperative purchasing or piggyback processes and a new contract with Miles Chemical was approved.

The City has previously participated in a joint contract through SOCWA for the purchase and delivery of Ferric Chloride which has expired. SOCWA has entered into an initial one-year contract with Miles Chemical, with four optional annual renewals which will be negotiated at the expiration of each term. The new contract reflects a 26.36% increase over previous pricing which is due to price increases from hydrochloric acid (HCl) supply chain disruptions. Another factor in the increased pricing is the government ban on asbestos diaphragms used to produce HCl and other chlor-alkali products which has significantly reduced the production of HCl nationwide while plants convert to the newer and more expensive asbestos-free technology. Utilities staff anticipated this significant cost increase for Ferric Chloride and budgeted for a 36% increase, which will cover the increased costs under the new contract.

***Council Options:***

- Adopt Resolution No. 23-121, granting approval for the City to enter into the regional contract with SOCWA, Miles Chemical, and SOCWA entities for a one-year term for the delivery and supply of Ferric Chloride to the City's Water Reclamation Plant (WRP), authorizing the City Manager to execute the contract, and authorizing the Public Works Director to approve up to four annual renewals to the contract for amounts not to exceed the approved budget amounts for this chemical in each appropriate fiscal year.
  
- Modify and adopt Resolution No. 23-121.
  
- Continue the item and direct staff to provide additional information.
  
- Deny Resolution No. 23-121 and deny the approval of the purchase of Ferric Chloride through the joint contract.

***Environmental Review/Analysis:***

Staff recommends that the City Council determine this action to be categorically exempt from CEQA under Class 1 (Existing Facilities, 14 CCR section 15301) of the State CEQA Guidelines. A notice of exemption will be filed with the County of Orange Recorder's Office. (See attachment 4).

***Recommended Actions:***

Staff Recommendation

STAFF RECOMMENDS THAT the City Council adopt Resolution No. 23-121, which will:

1. Find the project categorically exempt from CEQA under Class 1 (Existing Facilities, 14 CCR section 15301) of the State CEQA Guidelines;
  
2. Approve the City entering into the regional contract with SOCWA, Miles Chemical, and SOCWA entities for a one-year term for the delivery and supply of Ferric Chloride to the City's Water Reclamation Plant (WRP) and authorize the City Manager to execute the contract; and

3. Authorize the Public Works Director to approve up to four annual renewals to the contract for amounts not to exceed the approved budget amounts for this chemical in each appropriate fiscal year.

***Attachments:***

1. Resolution No. 23-121
2. Joint Contract with SOCWA, Miles Chemical, and SOCWA Entities
3. SOCWA Agenda Item 5.D. dated August 3, 2023
4. CEQA Notice of Exemption Form

***Notification:***

None.

# Attachment 1

## RESOLUTION NO. 23-121

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE CITY TO ENTER INTO A REGIONAL CONTRACT BETWEEN THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA), MILES CHEMICAL, INC., AND SOCWA ENTITIES FOR DELIVERY AND SUPPLY OF FERRIC CHLORIDE TO THE WATER RECLAMATION PLANT FOR WASTEWATER TREATMENT, AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT, AUTHORIZING THE PUBLIC WORKS DIRECTOR TO APPROVE UP TO FOUR ANNUAL RENEWALS, AND FINDING THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of San Clemente provides maintenance and operation of the City's sanitary sewer collection and treatment system infrastructure in order to ensure wastewater service to protect public health and safety, in compliance with all local, state and federal regulatory requirements; and

WHEREAS, the City of San Clemente Water Reclamation Plant treats wastewater through a series of physical, biological, and chemical treatment processes to meet regulatory requirements; and

WHEREAS, Ferric Chloride is a chemical that is necessary for wastewater treatment to maintain compliance with air quality regulations for sulfides in digester gas, control treatment plant odors, and ensure consistent settling in the wastewater treatment process; and

WHEREAS, in the past, the City of San Clemente has partnered with SOCWA and other agencies that are collectively referred to as SOCWA entities in the joint contract (specifically, Santa Margarita Water District, El Toro Water District, and Moulton Niguel Water District) to purchase wastewater treatment chemicals; and

WHEREAS, SOCWA staff reviewed recent Ferric Chloride requisitions from around Southern California, and reviewed two recently completed bidding processes in Southern California, and Miles Chemical, Inc. was the recent low bidder and SOCWA's most recent Ferric Chloride provider; and

WHEREAS, SOCWA has entered into an initial one-year contract with Miles Chemical for Ferric Chloride, with four optional annual renewals which will be negotiated at the expiration of each term; and

WHEREAS, the City of San Clement and the other SOCWA entities can join the regional contract for the delivery and supply of Ferric Chloride; and

WHEREAS, joining the regional contract with SOCWA, Miles Chemical, and SOCWA

entities is in the best interests of the City and the public.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby find, determine and resolve as follows:

Section 1. That the above recitals are true and correct and incorporated herein as findings.

Section 2. That this project is categorically exempt from the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities, 14 CCR section 15301) of the State CEQA Guidelines because it consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, and there is no reasonable possibility that the activity will have a significant direct or foreseeable indirect effect on the environment.

Section 3. That approval is hereby granted for the City to enter into the regional contract with SOCWA, Miles Chemical, Inc. and SOCWA entities for a one-year term for the delivery and supply of Ferric Chloride to the City’s Water Reclamation Plant (WRP). The City Manager is authorized and directed to execute that contract in a form substantially similar to that presented to the City Council on October 17, 2023. The Public Works Director is authorized to approve up to four annual renewals to such contract for amounts not to exceed the approved budget amounts for this Ferric Chloride in each appropriate fiscal year.

Section 4. That staff is authorized and directed to take such other and further actions and execute such other and further documents as may be necessary to accomplish the purpose of this resolution.

Section 5. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of San  
Clemente, California

STATE OF CALIFORNIA     )  
 COUNTY OF ORANGE        ) §  
 CITY OF SAN CLEMENTE    )

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 23-121 was adopted at a regular meeting of the City Council of the City of San Clemente held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 CITY CLERK of the City of  
 San Clemente, California

Approved as to form:

\_\_\_\_\_  
 Elizabeth A. Mitchell, City Attorney

**CONTRACT SERVICES AGREEMENT BETWEEN THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY AND OTHER PUBLIC ENTITIES AND PROVIDER FOR THE DELIVERY AND SUPPLY OF CHLOR-ALKALI PRODUCTS TO SOCWA WASTEWATER TREATMENT FACILITIES**

This Agreement is made and entered into this August 1, 2023 (“Effective Date”), between on the one hand, the South Orange County Wastewater Authority (“SOCWA”), Santa Margarita Water District (“SMWD”), El Toro Water District (“ETWD”), City of San Clement (“CSC”), Moulton Niguel Water District (“MNWD”) and, on the other hand, Miles Chemicals, Inc. (“PROVIDER”). For purposes of this Agreement, SOCWA, SMWD, ETWD, CSC, MNWD are collectively referred to as “SOCWA Entities” and are individually referred to as an “Agency of the SOCWA Entities”. SOCWA Entities and PROVIDER may be referred to in this Agreement from time to time as “party” or “parties”.

**RECITALS**

**WHEREAS**, the SOCWA Board of Directors on August 3, 2023, authorized SOCWA to acquire certain services for the supply and delivery of Ferric Chloride as outlined herein; and

**WHEREAS**, the SOCWA Entities desire to secure contract services for the provision of providing chlor-alkali products for the referenced treatment facilities; and

**WHEREAS**, PROVIDER represents that it has the necessary equipment, land, permits, and skills required to perform the necessary contract services.

**NOW, THEREFORE**, SOCWA and PROVIDER agree as follows:

**SECTION 1 PROVIDER’S SERVICES**

PROVIDER will supply chlor-alkali products to the facilities listed below in the product specifications and per ton price as found in Attachment 1. During the hours of 7:00 AM and 3:00 PM, Monday through Friday. All Ferric Chloride shall be delivered within five (5) working days of the request. If the supplier is unable to deliver a requested quantity within the terms stated above, the Owners may purchase on the open market such additional Ferric Chloride that might be necessary for their use and consumption. If the cost of the product procured results in increased operating costs, Provider shall be responsible for the difference in costs.

Each shipment of Ferric Chloride delivered shall have a certified weight statement included with the delivery.

It is estimated that SOCWA will require an annual quantity of approximately 380,000 gallons of ferric chloride. However, no representation is made as to the total quantity that will be used during this period. This product will be used for controlling sulfides in the digester gas, although the Owners reserve the right to use it for other applications. Present projections indicate ferric chloride will be required on a fairly uniform basis throughout the supply period, but no assurances for this are given.

Deliveries shall be 5,000 gallons or less by tank truck for discharge to a bulk storage tank. All transportation equipment shall be thoroughly cleaned, and free from scale and other foreign matter. All truck connecting piping and valves shall be inspected before shipment and shall be in proper operating condition upon delivery. Defective tank trucks from which Ferric Chloride cannot be withdrawn will be rejected and returned at the manufacturer’s expense. Provider shall inspect the storage and transfer facilities to ensure compatibility with trucks prior to commencing delivery.

All Ferric Chloride shall be delivered within five (5) working days of the request. If the supplier is unable to deliver a requested quantity within the terms stated above, the Owners may purchase on the open market such additional Ferric Chloride that might be necessary for their use and consumption. If the cost of the product procured results in increased operating costs, Provider shall be responsible for the difference in costs.

1.1

South Orange County Wastewater Authority Facilities

- J.B. Latham Treatment Plant  
34156 Del Obispo St.  
Dana Point, CA 92629
- Coastal Treatment Plant  
28303 Alicia Parkway  
Laguna Niguel, CA 92677
- Regional Treatment Plant  
29201 La Paz Road  
Laguna Niguel, CA 92677

Santa Margarita Water District Facilities

- Chiquita WRF  
28792 Ortega Highway  
San Juan Capistrano, CA 92690
- Oso Creek WRP  
27204 E. La Paz Road  
Mission Viejo, CA 92690
- Nichols WRF  
33608 Ortega Highway  
San Juan Capistrano, CA 92690

City of San Clemente

- Water Reclamation Plant  
380 Avenida Pico  
San Clemente, CA 92672

El Toro Water District Facilities

- Water Recycling Plant  
23542 Moulton Parkway  
Laguna Hills, CA 926533
- R-6 Reservoir  
24251 Los Aliso Blvd.  
Lake Forest, CA 92630

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Moulton Niguel Water District

- 3A  
62801 Camino Capistrano  
Laguna Niguel, CA 92677

- 1.2 Provider represents and warrants that it is and will at all times during the performance of this Agreement remain aware of existing, revised, proposed, and new federal, State of California (“State”) and local rules and regulation (collectively, the “Regulation”) covering its activities in connection with the work. Changes in Provider’s practices necessitated by any revision to such Regulations will be brought to the attention of the SOCWA Entities sufficiently in advance of implementation. The SOCWA Entities will not be responsible and has no duty for notifying the Provider of any changes in Regulations regarding the operation or permitting of the Provider’s facility or equipment or Provider’s duties and obligations under this Agreement. Changes in any Regulations will not constitute justification for amendments to this Agreement or any alteration or diminution in the duty and responsibility of Provider to provide the required services hereunder.
- 1.3 All equipment utilized in connection with Provider’s operation shall be fully licensed by all applicable agencies to operate on the highways of the State and any other states as applicable. Provider shall be responsible for ensuring that all licenses are current. The Provider shall be fully responsible for the proper licensing and training of its personnel. Provider shall produce evidence that Provider’s firm has developed programs required under the Omnibus Transportation Employee Testing Act of 1991. Provider shall be required to complete a hazardous materials manifest(s) prior to the transportation of every load to SOCWA facilities.
- 1.4 The Provider shall be responsible for cleaning up and removing all trash, grease, oil and debris that is the result of the specified work. All of the Providers equipment shall be kept clean and shall maintain a neat appearance. Cleaning or servicing of equipment shall not be undertaken at any SOCWA facility except for emergency repairs. Any spills or discharge at the SOCWA Entities facilities resulting from Provider’s operation will be promptly cleaned up by Provider.
- 1.5 Provider hereby certifies in witting that, to the best of its knowledge, the Provider safety programs and related employee training meets or exceeds all applicable local, State and Federal regulatory requirements for:
- Injury and Illness Prevention Program
  - Emergency Action Plan
  - Hazard Communication Program
  - Personal Protective Equipment
- 1.5.1 In addition, Provider must adhere to all aspects of SOCWA’s Safety Program whenever the Provider or Provider’s field personnel, including any subcontractors of Provider are performing work in and around SOCWA’s treatment facilities. Provider acknowledges that SOCWA has provided, and Provider has received, a copy of SOCWA’s Safety Program.

**SECTION 2 TERM OF AGREEMENT**

- 2.1 The term of this Agreement will be from the effective date as first written above until August 1, 2024. The Agreement may be extended for additional four (4) one-year periods, not to exceed five (5) successive extensions, if agreed upon in writing by the SOCWA Entities and the Provider. Price increases, if any, for the extension periods, will be negotiated to the satisfaction of both parties and will not occur at a frequency of more than once per year, coinciding with the anniversary date of

the Effective Date. The extension must be agreed upon at least sixty (60) days prior to the termination of the Agreement unless otherwise waived by the Parties.

**SECTION 3 COMPENSATION FOR SERVICES**

3.1 Ferric Chloride at \$1,232.00 per dry ton for full loads (40,000+ dry tons), \$1,425.00 per dry ton for loads of 20,000 to <40,000 dry tons and \$1,545.00 per dry ton for loads of 10,000 to <20,000 dry ton, plus applicable fees and taxes including applicable charges for split load deliveries.

Rates effective 11/1/23 to 11/1/24

Thereafter subject to market adjustment based on prior negotiations and agreement between SOCWA Entities and Provider.

**SECTION 4 PAYMENTS FOR SERVICE**

4.1 Compensation will be billed monthly by Provider per the SOCWA requested format and will be based upon the actual work performed during the designated time period. Invoices will include delivery date(s), location of delivery and shall be submitted to the Agency of the SOCWA Entities to where deliveries originated as set forth below in this Section 4. Each Agency of the SOCWA Entities, respectively, will make payment to Provider within thirty (30) calendar days of receipt and approval of the invoices by such agency, provided all required documentation is attached to such invoices. Each Agency of the SOCWA Entities agrees with the other Agencies of the SOCWA Entities that each shall be responsible for payment of the contract services provided by Provider to such Agency's facilities or plants.

To receive the timely payment of Providers' s invoices, send billings to:

For services rendered for SOCWA Facilities:

email invoices to [finance@socwa.com](mailto:finance@socwa.com)

- Invoice MUST include a PO # for respective plant where delivery was made.
- SOCWA's Fiscal Year End is June 30<sup>th</sup> all invoices must be submitted for payment by the 15<sup>th</sup> of the previous month.

For services rendered for SMWD Facilities:

Mail invoices to: SMWD - Accounts Payable  
PO Box 7005  
Mission Viejo, CA 92690-7005.

For services rendered for ETWD Facilities:

Mail invoices to: ETWD-Accounts Payable  
PO Box 4000  
Laguna Hills, CA 92654

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For services rendered for the City of San Clemente WRP Facility:

Mail invoices to: City of San Clemente-Attn: Accounts Payable  
380 Avenida Pica, Bldg. N  
San Clemente, CA 92672

For services rendered for MNWD Facilities:

E-Mail invoices to: [invoices@mnwd.com](mailto:invoices@mnwd.com)

- 4.2 Acceptance and payment by the Agency of the SOCWA Entities for services furnished hereunder, will not in any way relieve the Provider of its responsibility to provide services in strict accordance with Regulations. Neither an Agency of the SOCWA Entities acceptance of, nor payment for any services will be construed to operate as a waiver of any rights an Agency of the SOCWA Entities have under this Agreement or of any cause of action or claim arising out of the performance of this Agreement.

## **SECTION 5 TERMINATION OF AGREEMENT**

- 5.1 If, during the term of this Agreement, SOCWA, SMWD, ETWD, MNWD or CSC determines that Provider is not faithfully abiding by any term or condition contained herein, any (or all) such agencies (“affected agencies”) may notify Provider in writing of such defect or failure to perform. Such notice must allow Provider a ten (10) calendar day period thereafter in which to perform services or cure the deficiency related to the affected agency’s specified SOCWA Entities facility (ies) within the specified period. After such 10-day period, if the Provider has not satisfactorily performed the services or cured the deficiency, this will constitute a breach of this Agreement, and the affected agency specified may terminate the Agreement as it applies to such affected agency and such SOCWA Entity facility (ies) immediately by written notice to Provider. At such time, neither party will have any further duties, obligations, responsibilities, or rights under this Agreement. In said event, Provider will be entitled to the reasonable value of its services performed from the beginning of the period in which the breach occurs, up to the day it received the affected agency’s notice of termination, minus any offset from such payment representing the affected agency’s damages from such breach. In no event, will Provider be entitled to receive in excess of compensation as specified under Section 3 of this Agreement.

## **SECTION 6 LIABILITY**

- 6.1 Provider is an independent contractor and not an employee of the SOCWA Entities. No permitted or required approval by any of the SOCWA Entities hereunder or in connection with Provider’s services will be construed as making the SOCWA Entities responsible for the manner in which Provider performs such services. Such approvals are intended only to give the SOCWA Entities the right to satisfy themselves with the quality of work performed by Provider.
- 6.2 Provider will indemnify, defend and hold harmless the SOCWA Entities, the member agencies of SOCWA, and each of their officers, directors, agents and employees (collectively and individually the “indemnitees”), from and against all claims, demands, losses, damages, costs, expenses, and legal liability arising from, connected with, or resulting from or claimed to have arisen out of, in connection with or resulted from, Provider’s services and work hereunder including (a) bodily injury to or death of persons, and personal injury, including but not limited to, third parties and employees, directors and officers the indemnitees, Provider, and third parties, and damage or injury

to natural resources (b) violation of any Regulations, including but not limited to strict liability imposed by Regulations; (c) and any other claims, demands, losses, damages, costs, expenses, attorneys' fees and liability connected with or arising from, or as a result of Provider's services or work under this Agreement; excepting only such claims, losses, demands, damages, costs, expenses, attorneys' fees and liability caused by the sole negligence or willful misconduct of the indemnitees.

Provider Acknowledges that any claim, demands, losses, damages, costs, expenses, and legal liability that arise out or result from or are in any way connected with the release or spill of any hazardous (as designated under the Regulations) material, by-product or residue as a result of the services or work performed under this Agreement by Provider or its subcontractors are expressly within the scope of this indemnity, and that the costs, expenses, and liability for (a) environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration and remedial work; (b) penalties and fines arising from the violation of the Regulations; and (c) attorneys' fees, disbursements and other response costs, are all expressly within the scope of this indemnity.

Provider shall, on the indemnitee's request, defend any action, claim or suit asserting a claim covered by this indemnity clause. Provider shall pay all costs that may be incurred by the indemnitees in enforcing this indemnity, including reasonable attorney's fees. This indemnity obligation shall survive the termination of this Agreement by any party hereto.

- 6.2.1 SOCWA shall indemnify SMWD, ETWD, MNWD, and CSC in their individual entity capacities and not as a member agency of SOCWA, and each of their respective officers, directors, employees and agents against, and shall hold and save them and each of them harmless from, and all actions, claims, damages to persons or property, penalties, obligations or liabilities of any kind that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, governmental entity or agency or other organization arising out of or in connection with the negligence or willful misconduct of SOCWA in the performance of this Agreement related to the SOCWA RTP, JBL and the CTP.
- 6.2.2 SMWD shall indemnify SOCWA, and its member agencies (excluding SMWD), ETWD, MNWD, and CSC and each of their respective officers, directors, employees and agents against, and shall hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities of any kind that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, governmental entity or agency or other organization arising out of or in connection with the negligence or willful misconduct of SMWD in the performance of this Agreement related to SMWD's Chiquita WRF, Oso Creek WRP and Nichols WRP.
- 6.2.3 CSC shall indemnify SOCWA, and its member agencies (excluding CSC), ETWD, MNWD, and SMWD and each of their respective officers, directors, employees and agents against, and shall hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities of any kind that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, governmental entity or agency or other organization arising out of or in connection with the negligence or willful misconduct of CSC in the performance of this Agreement related to CSC WRF.
- 6.2.4 ETWD shall indemnify SOCWA, and its member agencies (excluding ETWD), CSC, MNWD, and SMWD and each of their respective officers, directors, employees and agents against, and shall

hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities of any kind that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, governmental entity or agency or other organization arising out of or in connection with the negligence or willful misconduct of ETWD in the performance of this Agreement related to the ETWD WRP and R-6 Reservoir.

- 6.2.5 MNWD shall indemnify SOCWA, and its member agencies (excluding MNWD), CSC, SMWD, and ETWD and each of their respective officers, directors, employees and agents against, and shall hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities of any kind that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, governmental entity or agency or other organization arising out of or in connection with the negligence or willful misconduct of MNWD in the performance of this Agreement related to the MNWD 3a Treatment Plant.

## **SECTION 7 INSURANCE**

- 7.1 In addition to the requirements set forth below in this Section 7, during the course of the Agreement, Provider will pay for and maintain, in full force and effect, all insurance required by any governmental agency having jurisdiction to require particular insurance of Provider in connection with or related to the services covered under this Agreement.
- 7.2 Provider will furnish satisfactory proof by certificate or otherwise as may be required by the SOCWA Entities that it has taken out public or commercial liability and property damage insurance naming the SOCWA, its member agencies, ETWD, SMWD, MNWD and CSC, and each of their directors, officers, agents and employees as additional insureds under such policies, in accordance with the terms of this Agreement (see Section 7.5). Provider shall furnish each individual Agency of the SOCWA Entities herein with certificates of insurance naming each such individual entity as an additional insured.
- 7.3 The insurance will be comprehensive in form and cover all indemnity and other contractual obligations set forth in this Agreement, and will insure against (1) claims, loss or damages on account of bodily injury and personal injury, including death resulting therefrom, caused or alleged to have been caused directly or indirectly from the performance or execution of this Agreement or performance of services hereunder by Provider, its employees, officers, agents and any subcontractor thereof and (2) claims, loss or damages to any property caused or alleged to have been caused directly or indirectly by the performance or execution of the Agreement or performance of the services hereunder by Provider, its employees, officers and agents and any subcontractor thereof. Such insurance will also adequately insure against all injury, death, claims, loss, damage or accidents caused by or alleged to have been caused directly or indirectly by the use and operation of automobiles, trucks and/or other mobile or stationary equipment. Provider will maintain worker's compensation insurance, including occupational disease provisions, under the laws of the State or other state (as applicable) and employer's liability insurance for the benefit of its employees. All said public or commercial liability and auto liability and other insurance will be for the period of performance under this Agreement and shall be on a per occurrence basis and any and all aggregate amounts, if applicable, must be stated in the certificates provided hereunder. The amounts of coverage of said insurance will not be less than the following:

INSURANCE COVERAGE	AMOUNT PER OCCURRENCE
General Liability- Bodily, Personal Injury; Property Damage	\$3,000,000
Auto Liability – Bodily, Personal Injury; Property Damage	\$1,000,000
Employers Liability – Bodily Injury by Accident	\$1,000,000
Employers Liability – Bodily Injury by Disease	\$1,000,000

- 7.4 Said policies will have a clause providing that thirty (30) calendar days written notice by registered mail will be given to the SOCWA Entities proper to any cancellation or amendment to such policies, Such insurance will be issued and underwritten by insurance companies having at least an A- policyholders rating and financial rating not less than Class VII in accordance with the most current Best’s Rating Guide – Property/Casualty and which will be admitted and licensed to do business in the State and have an agent for service of process in the State. Provider may satisfy the limit requirements in a single policy or multiple policies, provided, however, that any such additional policies written as excess insurance will not provide any less coverage than that provided by Provider’s first or primary policy. All policies of insurance and certificates of insurance showing compliance with the terms of this Section 7 will be furnished to each Agency of the SOCWA Entities concurrently with Provider’s execution of this Agreement and upon renewal thereafter.
- 7.5 All of the above policies of insurance shall be primary insurance and shall name “SOCWA, the SOCWA member agencies, SMWD, ETWD, MNWD, and CSC, and each of their officers, employees, directors and agents” as additional insureds (the Additional Insureds) by endorsements. The insurer shall waive all rights of subrogation and contribution it may have against the Additional Insureds and their respective insurers and the certificates of insurance shall set forth the waiver of subrogation by separate endorsement as necessary. In the event any of said policies or insurance are canceled, Provider shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 7 to each participating agency. No work or services under this Agreement shall commence until Provider has provided the SOCWA Entities with certificates of insurance and endorsements and said certificates of insurance and endorsements are approved by the SOCWA Entities.
- 7.6 In the event Provider subcontracts any portion of the services under this Agreement, the contract between Provider and such subcontractor shall require the subcontractor to maintain the same policies of insurance that Provider is required to maintain pursuant to this Section 7, and to name the Additional insureds under the policies identified above, in accordance with all of the requirements of this Section 7.
- 7.7 Nothing in the insurance requirements set forth in this Agreement is to be construed as limiting the liability of Provider or Provider’s insurers. Provider agrees that the provisions of Section 7 shall not be construed as limiting in any way the extent to which Provider may be held responsible for the payment of damages or other costs to the SOCWA Entities or to SOCWA members agencies,

or any persons or property, resulting from Provider's activities or the activities of any person or persons for which Provider is otherwise responsible including Provider's subcontractors.

**SECTION 8 ADDITIONAL PROVISIONS**

8.1 This Agreement represents the entire understanding of the SOCWA Entities and Provider as to those matters contained herein. No prior oral or written understanding will be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by all parties. Provider represents and warrants that its Authorized representative, SOCWA's General Manager or his/her designee has been duly and validly authorized to enter into this Agreement. Any notice required or permitted to be given hereunder in not otherwise specified herein may be given or delivered by depositing the same in the United States Post Office, registered or certified, postage prepaid, or by personal service a hand delivery, and addressed to:

To SOCWA: Jeanette Cotinola, Contracts Administrator  
34156 Del Obispo St.  
Dana Point, CA 92629  
949-234-5430

To Provider: Miles Chemicals Inc.  
Attn: Dan Zinman  
12801 Rangoon St.  
Arleta, CA 91331

8.2 The Provider shall not assign this Agreement, nor any part thereof, nor any monies due, or to become due hereunder, without prior written consent of the SOCWA Entities. Any assignment by the Provider without the SOCWA Entities' approval shall be cause for termination of this Agreement at the sole option of the SOCWA Entities. In no event shall any contractual relationship be created between any third party and the SOCWA Entities.

8.3 In the event an action is filed by either party to enforce any rights or obligations under this Agreement, the prevailing party will be entitled to recover all attorney's fees and court costs, in addition to any other relief granted by the Court.

8.4 The provisions of this Agreement will be interpreted and enforced in accordance with the laws of the State of California.

8.5 Each Agency of the SOCWA Entities acknowledges and agrees with the other Agency of the SOCWA Entities that this Agreement is not intended to establish a joint exercise of powers arrangement under and pursuant to laws of the State with respect to the contractual matters hereunder among such agencies; further, SMWD, ETWD, MNWD, and CSC each agree that the existing joint powers agreement establishing SOCWA and the joint powers arrangements established pursuant to that agreement, have no bearing or effect on this Agreement and the application thereof to the SMWD facilities, ETWD facilities, MNWD facility, or the SCS WRP.

8.6 This Agreement may be executed in counterparts, each of which shall be deemed an original.

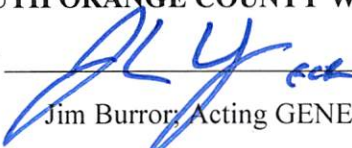
[Signatures on next page]

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IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

**SOUTH ORANGE COUNTY WASTEWATER AUTHORITY**

BY:  for  
Jim Burror, Acting GENERAL MANAGER

DATE: 8/3/23

**APPROVED AS TO FORM:**

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP

Legal Counsel -SOCWA

BY:   
Adriana Ochoa

DATE: Aug 3, 2023

**SANTA MARGARITA WATER DISTRICT**

BY:   
GENERAL MANAGER

DATE: Aug 3, 2023

**CITY OF SAN CLEMENTE**

BY: \_\_\_\_\_  
GENERAL MANAGER

DATE: \_\_\_\_\_

**EL TORO WATER DISTRICT**

BY: \_\_\_\_\_  
GENERAL MANAGER

DATE: \_\_\_\_\_

**MOULTON NIGUEL WATER DISTRICT**

BY: \_\_\_\_\_  
GENERAL MANAGER

DATE: \_\_\_\_\_

**MILES CHEMICALS, INC.**

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_



Attachment 1  
Chlor-Alkali RFP Specification  
(AS ACCORDING TO REQUEST FOR PROPOSAL)

SPECIFICATIONS	VALUE
<b><u>General</u></b>	
Specific gravity	1.41 - 1.51
Iron salts (% wt.)	37-43
Ferric Iron (% wt.)	13.8 - 16.2
Ferrous Iron (% wt.)	< 2.5
Free acid as HCL (% wt.)	< 1
Insoluble matter (% wt.)	< 0.5
Crystallization 37% FeCl <sub>3</sub>	-15 deg F
Crystallization 40% FeCl <sub>3</sub>	10 deg F
Sulfur	2000 mg/l
<b><u>Heavy Metals</u></b>	
	(mg/l)
Arsenic	< 0.5
Barium	< 4.0
Beryllium	< 1.0
Cadmium	< 2.0
Chromium	< 45
Copper	< 35
Lead	< 10
Selenium	< 1
Manganese	≤ 500
Silver	1.0
Mercury	< 0.01
Molybdenum	< 3.0
Nickel	< 40
Vanadium	< 10
Zinc	< 30
<b><u>Miscellaneous</u></b>	
	(mg/l)
<u>Radionucleides</u>	ND

# Agenda Item

# 5.D.

**Budgeted:** Yes

**Budget Amt:** PC2 \$300,000, PC 15 \$105,000, PC 17 \$475,000, Total 880,000

**Line Item:** PC 2, 15, & 17 Lines 5008

**Legal Counsel Review:** No

**Meeting Date:** August 3, 2023

**TO:** Board of Directors

**FROM:** Jim Burror, Acting General Manager/Director of Operations

**STAFF CONTACT:** Jeanette Cotinola, Procurement/Contracts Manager

**SUBJECT:** One (1) Year Contract Award to Miles Chemical for Ferric Chloride  
[Project Committees 2, 15 and 17]

## Summary

The Ferric Chloride chemical contract with Miles Chemical expires in August. This chemical is necessary to maintain compliance with air quality regulations for sulfides in digester gas, control treatment plant odors, and ensure consistent settling in the wastewater treatment process.

The Board is being requested to approve a one (1) year contract with Miles Chemical for Ferric Chloride at \$1,232 per dry ton, plus applicable fees and taxes, including applicable charges for split load deliveries, with up to four (4) annual renewals.

## Discussion/Analysis

There remain only a few Ferric Chloride manufacturers in the western parts of the United States. Staff reviewed recent Ferric Chloride requisitions from around Southern California and found that three (3) companies were responding to requests for proposals to provide Ferric Chloride. SOCWA staff also found two bidding processes were recently completed in Southern California.

The recent bids for ferric chloride ranged from \$1,233 to 2,040 per ton. Staff reviewed the recent procurement processes and found they were consistent with SOCWA's cooperative purchasing or piggyback processes. SOCWA staff contacted the lowest bidder, and they offered the recently bid lowest price of \$1,233 per ton (40+ ton deliveries) to SOCWA with options for extensions. The list of offered prices is below:

Volume	Current Price	Proposed Price	Inc %
Dry ton (40k+)	\$975.00	\$1,232.00	26.36%
Dry ton (>40k)	\$1,095.00	\$1,425.00	30.14%
Dry ton (>20k)	\$1,216.00	\$1,545.00	27.06%

Miles Chemical was the recent low bidder and SOCWA's current ferric chloride provider. The proposed one (1) year Contract is an increase of 26.36% over the current contract pricing. The increase is from \$975 to \$1,232 per ton. The high ferric chloride prices are due to price increases

from hydrochloric acid (HCl) supply chain disruptions. Additionally, the Federal government has banned the asbestos diaphragms used to produce HCl and other chlor-alkali products. This ban has restricted our nation's production of HCl, and other chlor-alkali products, while the existing plants convert to the newer and more expensive asbestos-free technology.

**Prior Related Project Committee or Board Action(s)**

None

**Fiscal Impact**

The impact on each of the Project Committees will be a 26.36% increase over last year's expenses for ferric chloride. Only a 6% increase was estimated when the budget was initially estimated in April 2023.

The estimated impact of the 26.36% increase to the member agencies by PC is:

PC2	Price inc.	Solids O&M
MNWD	\$13,523	17.10%
SMWD	\$50,690	64.10%
SCWD	\$14,867	18.80%
Total	\$79,080	100.00%

PC15	Price inc.	Solids O&M
CLB	\$14,855	53.67%
EBSD	\$637	2.30%
MNWD	\$0	0.00%
SCWD	\$12,187	44.03%
Total	\$27,678	100.00%

PC17	Price inc.	Solids O&M
CLB	\$16,428	13.12%
EBSD	\$701	0.56%
ETWD	\$13,460	10.75%
MNWD	\$18,982	15.16%
SCWD	\$75,639	60.41%
Total	\$125,210	100.00%

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Agency	Total
CLB	\$31,282
EBSB	\$1,338
ETWD	\$13,460
MNWD	\$32,505
SMWD	\$50,690
SCWD	\$102,693
Total	\$231,968

**Recommended Action:** Staff recommends the Board of Directors to authorize the Acting General Manager/Director of Operations to enter into a one (1) year contract with up to four (4) optional annual renewals with Miles Chemical, Inc. for Ferric Chloride at the following pricing:

Volume	Proposed Price (per dry ton)
Dry ton (40k+)	\$1,232.00
Dry ton (>40k)	\$1,425.00
Dry ton (>20k)	\$1,545.00

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: Orange
P.O. Box 238
Santa Ana, CA 92702

From: (Public Agency): City of San Clemente
380 Avenida Pico, Bldg N
San Clemente, CA 92672
(Address)

Project Title: Regional contract for delivery and supply of Ferric Chloride to the City's Water Reclamation Plant

Project Applicant: City of San Clemente Public Works Department

Project Location - Specific:
San Clemente Water Reclamation Plant, 380 Avenida Pico, San Clemente, CA 92672

Project Location - City: San Clemente Project Location - County: Orange

Description of Nature, Purpose and Beneficiaries of Project:
Regional contract through the South Orange County Wastewater Authority (SOCWA), Miles Chemical, Inc. and SOCWA entities for the delivery and supply of Ferric Chloride to the City's Water Reclamation Plant.

Name of Public Agency Approving Project: City of San Clemente

Name of Person or Agency Carrying Out Project: City of San Clemente

- Exempt Status: (check one):
[ ] Ministerial (Sec. 21080(b)(1); 15268);
[ ] Declared Emergency (Sec. 21080(b)(3); 15269(a));
[ ] Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
[X] Categorical Exemption. State type and section number: Section 15301, Class 1 Existing Facilities
[ ] Statutory Exemptions. State code number:

Reasons why project is exempt:
Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

Lead Agency
Contact Person: David Rebensdorf, Public Works Director Area Code/Telephone/Extension: (949) 361-6130

- If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? [ ] Yes [ ] No

Signature: Date: Title:

[ ] Signed by Lead Agency [ ] Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR:
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.