

The City Council public decision-making process is no longer public

The decision to bury the reservoirs was "buried" within the city budget process without the public discussion obligated by land use laws.

The funding via general bonds was pursued ambiguously, without notice to known interested parties. Ratepayers did not approve of this significant burden, approaching at least \$200 million without including the larger costs of an ancillary filtration project under consideration, interest on the bonds and other elements of the Water Bureau's construction water safety plan. They will be buried in concrete tanks just below the surface, with severely limited and uncertain development planned on top.

A public process regarding burial was never offered to citizens. Here's the chronological record of public understanding:

- "We need to be careful that we don't invest a lot of money quickly in solutions that feel good but don't solve the problem" (Sten, 9/22/01)
- "Long-term changes could include capping the reservoirs..." (Oreg., 10/26/01)
- "Sten said he is thinking of ... security enhancements, [which] could include such things as better security at the City's two open reservoirs" (Oreg., 1/18/02)
- "City's Wish List to Fight Terror Hits \$20 mil...What's not on list?: security upgrades proposed by Bureau such as covering reservoirs" (Oreg., 2/21/02)
- "City Considers Quick Remedy for Water Security" (ie, burial) "It won't make our water system terrorism proof" (Oreg., Sten, 3/1/02)

After that, burial is treated as de facto, aside from formality of Council approval in May, the public left in the dark, waiting for process, for an explanation that holds water.

Then, despite being acutely aware of the intense community concern, the City authorized funding via revenue bonds without identifying the purpose of those bonds such that a reasonable person could have known that their purpose was related to the water system.

- On 12/18/02, the City Council passed Ordinance 177129, authorizing \$200 million toward the burial project.
- On 4/23/03, the City Council passed Ordinance 177406, authorizing another \$500 million "to finance various projects".

Once discovered, The Friends of the Reservoirs, along with Citizens for Safe and Affordable Water and other individual plaintiffs, sued the Portland City Council for underhanded use of revenue bonds as blank checks. The hearing was on November 5, 2003 before Judge Litzenberger in the Multnomah County Courthouse. The Judge should issue a ruling before Thanksgiving.

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Private contractors stand to reap huge profits

The primary contractor behind the push to bury the reservoirs is Montgomery Watson Harza (MWH). The engineer who heads the Portland division of MWH worked for 14 years for the city and its water bureau.

Here's two controversial examples of MWH's involvement with water and sewer projects.

- In Houston in October 2003, MWH was awarded a \$42 million expansion of a water treatment plant, without any competing bids. They have been accused of using sub-par materials and equipment. (*Houston Business Journal*: [City feels water pressure on treatment plant deal](#))
- In East Baton Rouge, Louisiana in 2002, MWH was awarded a \$618 million contract for overhauling a sewer system. No RFP was issued for this project. Conveniently, MWH was cozy with the head of the Dept. of Public Works. Many cried foul after the most expensive option was chosen and learning MWH was charging an above-market rate. Some city council members objected and were eventually circumvented. (*Greater Baton Rouge Business Report*: [City sewer deal smells](#) and [Experts question city sewer deal](#))

Source: <http://www.friendsofreservoirs.org/background.html>

BusinessReport.com

Print

City sewer deal smells

Monday, July 29, 2002

My prediction: In 15 years, long after Mayor Simpson and DPW chief Fred Raiford have left City Hall and are playing golf, enjoying their government retirements, the citizens of East Baton Rouge will likely still be paying the tab for the biggest political boondoggle in history. The sewer project will probably not be complete, but rest assured its cost will have far exceeded the \$618 million price tag and may reach \$800 million or even \$1 billion. The question is: Do Simpson, Raiford and the Metro Council even care how much it costs us? First, council members chose the most expensive option designed by Montgomery Watson. Then last week, they cow-towed to Raiford and the mayor and delivered on the political plum these two have fought so long and hard to deliver. The contract for engineering services is worth millions and was awarded without a Request For Proposal from qualified firms to get some idea of the fees each would charge. Raiford balked at the idea. And, despite Raiford's protests to the contrary, a number of cities and

other governmental agencies have required RFPs before awarding engineering services contracts. But you have to understand, saving the taxpayers' money was NOT the main objective. Montgomery Watson has been a player in this arena for some time and was quite cozy with former Mayor Tom Ed McHugh and Fred Raiford. They chose MW to draw up the seven sewer options before McHugh left office. Montgomery Watson contributed to several candidates in the mayor's race (including Simpson) and many of the council members. But they had help from Houston firms and others, including Baton Rouge's own Ken Dutruch (PEC engineering), who contributed major dollars to the Simpson campaign (\$20,000 in the first report). Was there a 'plan' developing to get control of our sewer plan? First, Raiford had to be promised he would head DPW under the newly elected mayor. (If you remember, McHugh had the job criteria altered to remove the requirement of being an engineer to hold the post.) Most folks didn't notice, but Raiford kept his old civil service position open after he was promoted and never hired a second assistant. Just a month prior to the mayor's election, Raiford stepped back into his civil service position, leaving the head job vacant. He was 'looking out for No. 1' just in case one of the candidates who had not 'promised him the top job' won the election. Simpson won, and as promised, Raiford re-assumed his old position. Was the next move in 'the plan' to pass state legislation that would allow Baton Rouge to institute the sewer project under a 'design-build' model? This is done elsewhere, but it essentially removes the public bids on work and puts one 'team' (typically an industrial builder and an engineering firm) in charge of overseeing the entire project. (The speculation was that Dutruch's firm, which had done engineering work for Simpson when he was mayor of Baker and helped raise a major portion of Simpson's campaign funds, would be named.) Simpson introduced the legislation, which was later killed by the Association of Builders and Contractors and Louisiana Association of Business and Industry because of concerns over the lack of specifics in the process. This was likely a major setback for 'the design-build team.' Now, on to 'Plan B.' Raiford came up with the idea of 'staff extensions.' This technique is sometimes used to add a few secretarial or staff positions. Raiford wanted to use it to add an 'engineering department' that could be paid \$10 million over the life of a 15-year contract. But could the contract be delivered? The first selection committee was comprised of just people who worked for Raiford in DPW. They had five firms, which they said were all qualified to do the job. In other words, this was a 'beauty contest.' Were price, timelines or specific proposals even requested or considered? Montgomery Watson was chosen. Surprise, surprise. After the DPW committee had chosen Montgomery Watson, the process began to be questioned by some. At a council meeting, Simpson and Raiford pleaded for approval. The process was challenged, and some council members requested the contract go to the Engineers and Surveyors Selection Board. The council members tried to 'cover their butts' but then failed to insist on bids or an RFP (which among five qualified firms could have insured we would get the best deal and best use of our tax money no matter which was chosen.) But that would have probably taken 'the politics' out of the equation, and some folks might have lost control. Now Raiford and Simpson's reputations were on the line. If the Engineers and Surveyors Selection Board reversed them it would be embarrassing and everyone knew it. DPW has a representative on the selection board and the dilemma had been well publicized. Guess what happened? The selection board conducted its own 'beauty contest' and chose Montgomery Watson. There would be no controversy or challenge to the DPW

committee's selection. Surprise, surprise. So it was back to the Metro Council to try to complete this deal and deliver what appears to me to be political patronage. Once confirmed by the council, Montgomery Watson was in the driver's seat and positioned to influence which other firms get future sewer work. Montgomery Watson and Raiford had initially negotiated a 3.1 multiplier (down from 3.4). That means if MW provides an engineer for the city who they pay \$50,000, MW will charge the city \$155,000 for their services (or 3.1 times all expenses). On top, the city is also providing MW office space. Raiford defended his deal and the entire selection process saying, 'I don't think that taxpayers are being gouged at all.' But two experts our reporters talked with said the rate is too high (

Katrina spending target of audit

Report looks N.O.'s overtime, contracts

Friday, November 24, 2006

By Michelle Krupa

and Gordon Russell%%par%%Staff writers

New Orleans officials paid some workers exorbitant amounts of overtime and awarded huge service deals to two well-placed contractors without seeking competitive bids in the months following Hurricane Katrina, a federal audit report shows.

A second audit report, meanwhile, describes deficiencies in the city's efforts to assess damage to flooded homes and in the appeals process for those assessments, both of which aroused controversy in the months after the storm.

Both reviews, which were not full audits but relied on document analysis and interviews with public officials, were conducted early this year by the inspector general's office of the U.S. Department of Homeland Security, which oversees FEMA. The reports were completed in late September and provided to The Times-Picayune this week.

Among the most eye-popping cases laid out in the review of fiscal matters are claims that amid \$39.2 million in overtime costs that the city asked the Federal Emergency Management Agency to reimburse was an employee who earned \$207 per hour after the storm; that employee normally was paid \$23 per hour. Another worker earned overtime pay for 14 consecutive 24-hour days, the report says.

Though auditors deemed both "ineligible" for compensation, city officials said this week that all overtime requests were proper and blessed by FEMA.

The fiscal report also claims that city officials used "illegal contracting methodology" in inking agreements worth more than \$92 million with two national firms, the Shaw Group and Montgomery Watson Harza. It says the deal with Montgomery Watson tied profits to costs, an arrangement that violates federal rules because it provides no incentive to keep costs low.

The report also claims both contracts were awarded without competition, which boosted the risk of "unreasonable prices," and that the city failed to monitor contractor performance. The Shaw contract, for home inspections and environmental mitigation, was written after the storm. Montgomery Watson already had a contract with the city that was amended to include storm-drain cleaning and construction management.

'There is no problem'

Though the report does not demand the return of federal money paid so far, the allegations related to Montgomery Watson may be delaying the release of almost \$10 million already in hand at the state level for the contract and could hamper FEMA's approval of the remaining \$14.8 million, city documents show....

Stinking Business

One of the least obvious, but possibly the most important, casualties of the storm lies beneath the streets of New Orleans – a shattered sewer system, with flooded pumps and miles of broken pipes. For most of the city, this qualified as an icky problem with possible public health ramifications. But for one man, it was a chance to help a friend cash in.

Benjamin Edwards Senior has served on the Sewerage & Water Board for more than a decade. A few weeks after Katrina, the board awarded the engineering firm Montgomery Watson Harza a \$10 million contract to inspect the sewers and assess the damage. That company quickly gave out subcontracts including a \$2.5 million subcontract to Management Construction Consultant Inc. (MCCI), which was formed by O.C. Coleman.

Coleman is the minister of Greater Light Ministries in the city's 8th Ward. Edwards is the minister of Third Shiloh Missionary Baptist Church in the 9th Ward. The two pastors claim that they don't do business together, however, records show that some of MCCI's employee timesheets were signed by a "B. Edwards."(93)

MCCI began sending invoices to the prime contractor, Montgomery Watson Harza, charging a rate of \$90 to \$106 per hour to visually inspect the sewers – i.e., lifting up manhole covers and looking inside. Yet Coleman's company did not incorporate as a business until three months later. When it did, it listed the address of an abandoned bank as its headquarters.(94)

The Sewerage & Water Board is still trying to get reimbursed by FEMA for the costs of those contracts. FEMA, however, has demurred, saying that much of the work done by subcontractors (including MCCI) won't be reimbursed because it lacks a "clear scope of work."(95)

Federal grand juries issued subpoenas in June 2006 for contracts relating to MCCI and Edwards, but no charges have been brought against Edwards or Coleman to date. The two men have said little about the investigation. "I don't feel I need to explain myself," Coleman told the New Orleans Times-Picayune,(96) while Edwards suggested that the inquiry is politically motivated.(97)

I think that this policy was implemented in Los Osos:

Per the attached document

Also, we found support for our concern about their style and motivations in their own documents. In a MWH, July 2002, memorandum *Open Reservoir Study — Permitting Strategy*, the author states,

“It will be important for the City to “manage” the P1 [Public Involvement] process in a way that does not significantly delay the City’s ability to protect its municipal water supply. In essence, effective P1 is absolute for project success and it must balance meaningful public input while maintaining the Water Bureau’s construction schedule.”

In the end, MWH’s intent reframes the public involvement process as a public information campaign where public input is “managed”. In the “managed” process, professionals control the schedule, the flow of information, and frame what, when, and how questions may be asked. In this way, the most important questions are kept off the table so that “the Water Bureau’s construction schedule” is maintained.

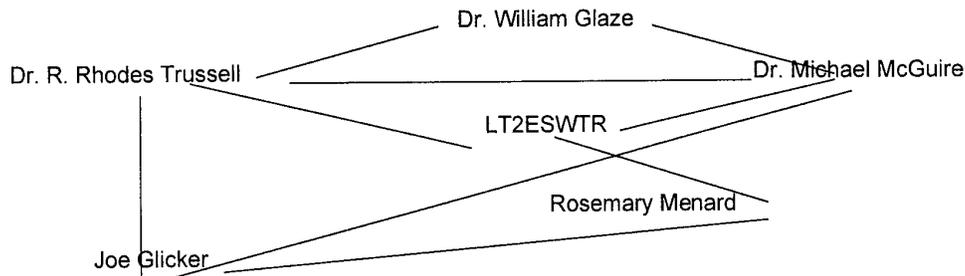
Source:

<http://www.friendsofreservoirs.org/resources/IRP/Introduction%20to%20the%20Organization%20and%20its%20Goals.pdf>

Professional Connections Raise Questions

Do professional connections matter?

The diagram below illustrates how individuals have been connected through their work on the Federal Advisory Committee to the EPA that formulated the "Agreement in Principle" for the draft LT2ESWT rule, which is guiding the Reservoir Review Panel process. All of the following, R. Rhodes Trussell, Senior Vice President of MWH, William Glaze, Reservoir Review Panel member, Rosemary Menard, Portland Water Bureau liaison for Michael McGuire, and Michael McGuire, Technical Assistant to the Reservoir Review Panel either served on the committee or were consultants hired by the committee. Joe Glicker, President of the Portland MWH office and the consultant who has continuously worked on projects related to the reservoirs since 1995, is directly related to Trussell and Menard through this contracting work. McGuire is also connected to Glicker by means of subcontract work to MWH.



William Glaze, Ph.D.

Chair of the EPA Scientific Advisory Board Executive Committee, signatory to the submission of the *EPA Disinfection Byproducts and Surface Water Treatment: A EPA Science Advisory Board Review of Certain Elements of the Stage 2 Regulatory Proposals*, May, 2003, which advised EPA on LT2ESWT rule.
Member Reservoir Review Panel

Michael McGuire, Ph.D.

Consultant to EPA committee that formulated the "Agreement in Principle" for the draft LT2ESWT rule.
Subcontractor to Portland MWH
Technical Advisor to the Reservoir Review Panel

Rosemary Menard

Portland Water Bureau
Portland representative to the Federal Advisory Committee that formulated the "Agreement in Principle" for the draft LT2ESWT rule, March 1999 to September 2000.
Unfiltered Systems Working Group representative to the Federal Advisory committee that formulated the "Agreement in Principle" for the draft LT2ESWT rule. Portland is the only unfiltered system in this group that did not participate in the Unfiltered Systems Working Group challenge to the EPA proposed rule.

R. Rhodes Trussell, Ph.D.

Senior Vice President MWH, 32 years with MWH
Trussell Technology 2003, Member of the EPA Science Advisory Board Executive Committee, and Chairman, Drinking Water Committee of the EPA Science Advisory Board which advised EPA on LT2ESWT rule. *EPA Disinfection Byproducts and Surface Water Treatment: A EPA Science Advisory Board Review of Certain Elements of the Stage 2 Regulatory Proposals*, May, 2003

Joe Glicker

Portland Water Bureau, 14 years

President of Portland Office MWH. With MWH since 1995

Obtained the following reservoir related contracts - Open Reservoir study 1995-present, Powell Butte Master plan 1995-present, Infrastructure Master Plan 2000 (this document guides the Water Bureau's Capital Improvement Plan), Bull Run Treatment Plant, 2001-2003.

Why do the Friends believe these connections matter?

We recognize that inevitably there are connections between water industry professionals. But with regards to the creation of water quality standards and their involvement on the Reservoir Review Panel, these individuals are more than casually connected. They are all either directly or indirectly connected through their work on the Federal Advisory Committee to the EPA that formulated the "Agreement in Principle" for the draft LT2ESWT rule. We assume they all continue to support the draft rule. This is problematic because the rule establishes standards that should be challenged by Portland and that are currently being strongly opposed by the Unfiltered Systems Working Group, a consortium consisting of AWWA, Association of Metropolitan Water Agencies, National Association of Water Companies and the National League of Cities, the Friends of Reservoirs, and many others. The proposed LT2ESWT rule varies significantly from the Federal Advisory Committee's "Agreement in Principle" which is why many are challenging the rule.

We find it difficult to believe that these individuals are neutral with regards to the draft standards. We question whether they will be receptive to proposals that suggest working with the other unfiltered systems, New York, Boston, San Francisco, Tacoma, and Seattle in their efforts to create an evidence-based rule.

This assessment of the required project permits is premised on the following engineering concepts:

Mt Tabor Park

There are three open reservoirs on Mt Tabor Park (Reservoirs 1, 5 and 6). Reservoir 1 will be decommissioned. Reservoir 5 will be replaced with two underground, circular reservoirs located within the approximate footprint of the existing reservoir. Reservoir 6 will be replaced with an underground rectangular reservoir located within the footprint of the northern half of the existing reservoir. Further, the majority of the yard piping in Mt. Tabor Park, which includes Reservoir inlet, outlet, overflow, drain, and major distribution piping will be replaced. Most of the yard piping in the Park is old and in need of replacement. Construction of the new reservoirs presents a good opportunity to replace the piping simultaneously to minimize future disruption to the Park.

The Water Bureau also owns and operates a small hydropower facility located in the Inlet Gatehouse of Reservoir 6. The Federal Energy Regulatory Commission (FERC) has jurisdiction at Mt. Tabor through their 1983 issuance of an "Exemption from Licensing" for the small hydropower facility. Alterations to the reservoirs at Mt. Tabor are required to be reviewed by FERC.

Washington Park

There are two open reservoirs at Washington Park (Reservoirs 3 and 4). In the near term, both of these existing reservoirs will be covered with a membrane cover. In the long term, both of these Reservoirs will be replaced with buried storage tanks, similar to Mt. Tabor Park. This permitting assessment evaluates permits for the near term cover project, only. It is not possible to anticipate permit requirements that will be in effect at the time these reservoirs are replaced.

SUMMARY OF FINDINGS

The major permits required to replace or cover the City's Open Reservoirs potentially include land use, park use permits and FERC authorization (amendment to the Mt. Tabor hydro-facility exemption). Determination of these permit requirements is subject to further interpretation of the proposed project as conceptual engineering evolves.

The primary issues that need to be resolved in the context of the City permit applications include: preservation of historic resources; construction impacts on park use; construction access; park development for the underground reservoirs; consistency of the planned park development with the Open Space designations and Parks Master Plans for Mt. Tabor and Washington Park; and compatibility of the park development with surrounding parks and neighborhoods.

The primary issue that needs to be resolved in the context of the FERC authorization of the project is the role of other Federal and State agencies commenting during the FERC review process. It is expected that FERC's required amendment to the hydro-facility exemption does constitute a "federal action". Therefore, commenting federal and state agencies will have the

opportunity to require their desired mitigation objectives be included in project design through the FERC review process. Of significance are the expected inclusion of the SHPO Section 106 Historical Preservation requirements as well as USFW bat mitigation opportunities. It will be prudent for the Water Bureau to be proactive in addressing both these issues early and in coordination with these agencies to keep the project on track.

All of these permitting issues will require public input and discussion prior to deciding how best to manage these issues. Therefore, the permitting approach needs to be effectively integrated into the Public Involvement (PI) program. It will be critical for the public to feel that they have had meaningful opportunities to help steer the course of decisions on this project to ensure the success of the project. It will also be important for the City to “manage” the PI process in a way that doesn’t significantly delay the City’s ability to protect its municipal water supply. In essence, effective PI is absolute for project success and it must balance meaningful public input while maintaining the Water Bureau’s construction schedule.

Mt. Tabor

It is recommended that permits be obtained for placing Reservoirs 5 and 6 underground after an initial PI process to solicit neighborhood and other stakeholder input. This should include interface with the Landmarks Commission, SHPO, FERC and USFW to solicit their ideas on resources that could be impacted by locating the reservoirs underground.

Reconstruction and burying of new facilities at Mt. Tabor Park is allowed as an outright land use. However, land use development above the buried reservoirs could be subject to a Type II (Administrative Approval) or Type III (Conditional Use) review depending on the selected park development. Therefore, it is recommended that design and construction of the new reservoirs be conducted in parallel with the Public Involvement and subsequent Land Use Permit application process. This will allow time for a meaningful PI process while maintaining the Water Bureau’s construction schedule to expeditiously secure the drinking water supply. With the engineering and public involvement processes moving forward concurrently, it will be important to submit all engineering constraints to park development opportunities very early in the PI process.

Discussions with SHPO, FERC and USFW should occur early in the project to establish a cooperative working relationship with the agencies to facilitate expedited and reasonable review and comment on resource issues of concern.

Washington Park

It is recommended that that the Water Bureau proceed with obtaining any required building permits for placing covers on the reservoirs at Washington Park after an initial PI process to solicit neighborhood and other stakeholder input. The project does not require any local land use, state or federal permits.

MAJOR PERMITS POTENTIALLY REQUIRED

The project will require both land use, parks permits and a FERC amendment to the hydro-facility exemption. However, determination of these permit requirements is subject to further interpretation of the proposed project as conceptual engineering evolves. The details of these permits are discussed below.

Land Use

Mt. Tabor. The area in and around Reservoirs 1, 5 and 6 at Mt. Tabor Park is zoned Open Space (OS) and the Reservoirs are classified as “basic utilities”. Basic utilities within the OS zone are allowed through a Type III, Conditional Use process. However, the existing reservoirs have “approved conditional use status” because of their historical use.

The purpose of the Open Space zone is to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including: providing opportunities for outdoor recreation; providing contrasts to the built environment; preserving scenic qualities; protecting sensitive or fragile environmental areas; and preserving the capacity and water quality of the stormwater drainage system (Code Section 33.100.010).

A major change to a basic utility (reservoirs) within the OS zone requires a conditional use permit. However, according to OPDR staff (Duncan Brown, April 4, 2002), placement of the reservoirs underground is considered a permitted outright use if the park development is temporarily designated open space for the purpose of moving forward with design and construction. The interpretation of the Code in this scenario would be the creation of additional open space in the OS zone. The creation of more open space is allowed outright.

Ultimately, alternative park development above the underground reservoirs may require a Type II (Administrative Approval) or Type III (Conditional Use) review depending on the type of use proposed. Park uses that are low impact such as viewing areas, open space or trails would be allowed outright or through a Type II process. However, high impact recreational uses including ball fields or tennis courts would require a Type III CU Permit. Further, the high impact recreational uses would require review of related park impacts such as on-site parking and traffic impacts in the local area.

Piping construction associated with the reservoir project is allowed outright in the OS zone as and accessory to the reservoirs provided they are considered to be “serving residents in the local area”.

An Environmental Conservation (EC) overlay zone is designated on areas surrounding the reservoirs. Discussions with OPDR staff (Duncan Brown, March 21, 2002) indicate that these EC designations were intended to apply to the densely forested areas of Mt. Tabor Park. Based on the engineering concepts noted above, it does not appear that the underground reservoir project will encroach on any areas designated as EC. However, routing of new Yard Piping and vault installation in Mt. Tabor Park will likely encroach on the EC overlay boundaries. A Type II environmental review will be required for piping construction within the EC overlay area. A

tree survey of trees impacted by the construction will also be required. Based on review of the EC boundary near the Mt. Tabor Reservoirs, it appears that the Water Bureau may desire to amend the EC boundary to more closely reflect the actual tree line. An amendment to the EC boundary requires a letter submittal to the Planning Director with evidence to support the boundary change. The Planning Bureau amends the boundary if they feel it is justified.

Washington Park. The area in and around Reservoirs 3 and 4 in Washington Park is also zoned as Open Space (OS) and the reservoirs are classified as “basic utilities”. The reservoirs at Washington Park also have “approved conditional use status” because of their historical use.

Placement of covers on top of the reservoirs at Washington Park is an allowed outright use within the OS zone. This would be considered a minor alteration to an approved conditional use. Therefore, no land use permit is required to place covers on top of the Washington Park reservoirs.

Environmental Conservation (EC) and Environmental Protection (EP) overlay zones are designated on areas near the reservoirs at Washington Park. However, they do not include the reservoirs and the immediate areas surrounding the reservoirs. The placement of covers on the reservoirs would not encroach on these environmental overlay zones.

A small portion of Reservoir 3 (northern section) contains a Scenic “s” overlay designation. The Scenic Resource zone establishes height limits within view corridors to protect significant views and establish landscaping and screening standards to preserve and enhance identified scenic resources. Planning staff (Duncan Brown) conducted a site visit to the “s” area at Reservoir 3 to access potential impacts of the covers within this scenic area. Based on site review, OPDR determined that no land use permit review is required to address the “s” overlay designation. Site review concluded that the immediate area between the scenic road and the reservoir is currently landscaped and that the reservoir sits too far off the scenic road to create an impact to the designated viewing area.

Parks Requirements

Mt. Tabor and Washington Park. The proposed reservoir projects are located within two public parks, Mt. Tabor and Washington Park which are operated by Portland Parks and Recreation. The Water Bureau owns the reservoirs and the land surrounding them except for a small portion of Reservoir 4 and all of Reservoir 3 in Washington Park.

There are two regulatory actions that may be required through Portland Parks and Recreation. They include a permit for “Non-Park use of Park Land” and an easement for the placement of any structure such as underground piping within property owned by Portland Parks and Recreation. The determination of where these Park regulatory actions apply should be based on review of design drawings showing exact locations of development/improvements and existing ownership/easement documents. It is anticipated that a substantial amount of replacement yard piping will be located outside of the Water Bureau’s property boundaries which surround each of the Reservoirs.

Review of the Parks and Recreation Policies and Procedures Governing Non-Park Use of Park Property (Adopted by Ordinance No. 171001) indicate that the "Non Park Use of Park Land" permit would apply only to land owned by Portland Parks. Therefore, if the construction of underground reservoirs is contained on Water Bureau property, then it would appear that a "Non-Park Use of Park Land" permit would not be required. This would be consistent with Water Bureau construction activities on Powell Butte. However, discussions with Portland Parks staff (Sue Donaldson, April 24, 2002) indicate that since the project has the potential to disrupt park activities and uses, a "Non-Park Use of Park Land" permit is required regardless of ownership. Sue Donaldson identified areas of potential concern to include construction management, staging areas, and construction access on park roads and the need to follow the Parks "Public Involvement Procedure for Capital and Policy Development Projects and Planning Initiatives". She also indicated that the Parks permit review process would include evaluation of the entire project as it could impact park users and activities.

A first step to resolve the question of the potential need for a Parks permit or easement would be to assess the ownership/easement documents to determine the existing Water Bureau vs. Park Bureau ownership at Mt. Tabor and Washington Parks. This information could be used to assess the potential impacts to Parks' property. An important element in reviewing this information would be to consider underground piping alignments, construction staging areas and construction access requirements. If the areas of construction impact are owned exclusively by the Water Bureau or are governed through existing easements held by the Water Bureau, then it would appear that a "Non-Park Use of Park Land" permit is not required. This may be the situation at Mt. Tabor and would be consistent with Water Bureau development activities on Powell Butte.

It should be noted that Parks' policies and procedures governing non-park use of park property identify two clauses (#3 and 5) that could support this approach of not requiring a Parks permit. Policy 3 - Policy Subject to Prior Commitments, identifies that Parks' policy shall not serve to terminate legally existing non-park uses or to invalidate prior commitments to allow non-park uses; and Policy 5 - Uniformity in Administration, states that this policy shall be administered as uniformly as practicable with respect to all non-park uses of similar nature.

Based on review of the regulations governing non-park uses, it would appear that a "Non-Park Use of Park Land" permit or easement from Portland Parks and Recreation is only required on land not owned by the Water Bureau or for which the Water Bureau does not have an easement.

Park development For Underground Reservoir. Portland Parks and Recreation recently completed a Master Plan Report for Mt. Tabor (Walker Macy, 2000). The Master Plan recommends park improvements including additional viewing areas, improved restroom accommodations, parking alterations and other park amenities. The Master Plan does not include an evaluation of park uses or activities for the land areas which contain the open reservoirs.

The Master Plan was developed through an extensive public involvement program that included a Citizens Advisory Committee and various neighborhood associations including the Mt. Tabor Neighborhood Association. The evaluation and ultimate determination of the appropriate park development over the underground reservoirs should be conducted in partnership between the Water and Parks Bureau and would be expected to follow the same type of public process as was

conducted for the Master Plan. This type of process can be lengthy; however, determining the eventual park development does not need to delay the construction schedule. The public process to determine the park development can be initiated at the beginning of the design process for the reservoir project and proceed during construction with a final decision reached prior to reservoir completion. It would not be desirable for the decision or land use permitting for the park development to drag beyond the completion of reservoir construction. This kind of delay will likely dampen public support for the entire project and cause areas of the park to be unusable for longer periods of time than necessary. The most desirable scenario would be for the construction of the park development activities to commence as soon as the underground reservoir construction is completed.

Potential constraints to “ideas” the public may have in regards to the park development over the reservoirs needs to be factored into public discussions. These constraints could include park development with significant load bearing requirements that impact the cost/design of the underground reservoirs.

The required permits for the park development would likely include either a Type II or Type III Conditional Use as described above depending on the park development to be constructed.

FERC Requirements

FERC has jurisdiction at Mt. Tabor through their 1983 issuance of an “Exemption From Licensing” for the small hydropower facility located in the Reservoir #6 gatehouse. During their review of this small hydro facility they determined that the reservoirs were “high hazard dams” and therefore needed their oversight also. There was never an identification of a FERC jurisdictional boundary on Mt. Tabor associated with these action and the letters issued by FERC for these actions are very skimpy in regards to the extent of their jurisdiction related to structural changes. In recent years FERC oversight has increased via direction from Washington D.C. staff to insure the safety of all FERC regulated facilities.

Discussion with FERC staff (Kirk Cover, Washington D.C.) indicates that the proposed underground reservoir project at Mt. Tabor will require an amendment to the “Exemption From Licensing”.

The amendment to the exemption is considered a federal action. Agencies and the public are notified of the action. Kirk said that their administrative rules guiding public notification are very strict – they give notice on about everything. He also said that since SHPO and USFW submitted comment letters on the first action (original exemption), then FERC would definitely notify them about the amendment to the exemption.

SHPO would likely review the project pursuant to Section 106 Historical Review. This can be a lengthy process if SHPO staff have concerns regarding the approach taken for preservation or demolition of identified historical resources. FERC does not have the discretion to “manage” or “sway” SHPO’s approach to the Section 106 process. FERC is required to “hold” the amendment to the exemption until all historical resource issues are resolved through the Section 106 process.

The USFW services may recommend mitigation for resources of interest. To date we are aware that USFW is studying the utilization of the reservoirs by bats. If USFW determines that ESA protected bat species are dependent on the reservoirs, they may require mitigation through the FERC review process. USFW may also recommend additional mitigation measures for non-protected species. FERC has the discretion to determine if these additional mitigation measures are warranted. FERC does not have the discretion to disregard USFW recommended mitigation for ESA protected species.

A letter request for an amendment to the “Exemption From Licensing” is required to initiate the FERC review process. Information about the project is required to supplement the letter request. FERC recommends that the Water Bureau contact the agencies that are likely to comment in the review process. Specifically, SHPO and USFW should be contacted to determine what issues need to be resolved regarding resources of concern. A proposal to address these agency issues should be included with the letter request for an amendment.

Historical Resources

Reservoirs 1,3,4,5 and 6 are considered historically significant, and are eligible for inclusion in the National Register of Historical Places and for local landmarks designation. They are also identified on the Portland Historical Resources Inventory as Rank I, the highest ranking given to a resource within the City. Several features of the reservoirs are considered historically important and include the gatehouses, concrete retaining walls, cast iron fencing, sidewalks around the reservoirs, original gatehouse equipment and weir houses.

Currently, the only local regulatory requirement governing the historical features of the reservoirs is the City of Portland Code Section 33.445 (Historical Resource Protection). However, if Federal funding is provided for the project or if a Federal action is required (FERC), it automatically initiates a State Historical Preservation Organization (SHPO) review, which could be time consuming and limit the Bureau’s flexibility in locating the new Reservoirs and Yard Piping.

Code Section 33.445 states that that all Rank I properties are subject to a 120-day demolition delay period. The intent to demolish must be publicly posted and include the following wording, “Structure to be demolished. Demolition of this structure has been delayed to allow time for consideration of alternatives to demolition. Alternatives to demolition might include restoration, relocation, or architectural salvage.” The address for the structure must be displayed as well as telephone numbers and names of owner(s) and contact person(s), dates of demolition and the ending date of the delay period. The Portland Landmarks Commission, Neighborhood Associations, and SHPO must be notified in writing of the planned demolition. The proposed demolition of any of the significant features of the reservoirs would be subject to the 120-day demolition delay period.

The Planning Bureau is currently in the process of amending the Code Section addressing protection of the City’s Historic Resources. At this time, it does not appear that the suggested Code amendments will change the 120-day demolition delay requirements significantly. However, this amendment process should continue to be monitored in case additional requirements are adopted that may affect the project.

It should be noted that it has been the past understanding of the Water Bureau that a proposed designation for inclusion in the National Register of Historic Places requires owner consent. However, discussions with Planning Staff (Ceilo Lutino) indicate that owner consent may not be required. Ms. Lutino identified OAR 736-05-02250 which states

“.....under federal rule, a statement of objection will not automatically preclude listing in the National Register of a property that is in public ownership.”

It may be appropriate to have the City’s legal council follow up on this question of whether or not anyone can cause the reservoirs to be included in the National Register of Historic Places. The process of obtaining Federal Register status may take too long to place additional restrictions on replacing Reservoirs 5 and 6. However, it could produce difficult regulatory hurdles for replacing Reservoirs 3 and 4 in the future.

It is also anticipated that the public does have a desire to preserve many of the reservoirs’ key historical features to the extent practicable. Therefore, it is recommended that the PI process include opportunities to encourage the public to provide input on which historic features are important to preserve. Also, an opportunity exists to gain the City’s Landmark’s Commission insight on which historic reservoir amenities are appropriate to preserve. While the Landmarks Commission would have no legal authority to direct specific preservation actions, they are very knowledgeable and could prove helpful in making good suggestions based on their experience.

SEQUENCE OF ACTIVITIES

The discussion above identified issues related to permitting, public involvement, project engineering and parks. It is clear that these issues are interrelated and will require a coordinated effort between the City Bureaus for the project to be successful. For the purpose of obtaining project permits, it is recommended that the following key project actions be pursued within the sequence identified.

1. Identify engineering constraints to potential park development
2. Conduct initial PI activity which includes discussion about historic resources and park development
3. Discuss historic resources with the Landmark’s Commission
4. Meet with SHPO and USFW to determine resource issues of concern and method to resolve them
5. Post 120-day demolition delay notice
6. Finalize preliminary design of Reservoir 5 and 6
7. Complete FERC letter request for amendment to the “Exemption From Licensing”
8. Conduct PI activity that gives project update and initiates focus on deciding park development
9. Determine ownership/easements based on preliminary design
10. Secure permits for Reservoir 5 and 6 construction with open space as the planned park development
11. Secure any required building (none may be required for public works project on City owned property) permits for reservoir covers at Washington Park (Reservoirs 3 and 4)

FINAL

12. Complete design, select contractor, initiate construction
13. Conduct PI activity that discusses construction activities and resolves park development decision
14. Secure land use/park permits for the selected park development above reservoirs
15. Complete reservoir construction
16. Initiate Park development construction

Press

Cape Coral, Kessler Investigation of
MWH (Halliburton)



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Attorney general faults Cape Coral utilities project Bidding may have violated state law, opinion finds

By Don Ruane
druane@news-press.com
Originally posted on February 28, 2007

The City of Cape Coral may have violated a state law when it negotiated two contracts for major utilities projects, Florida's attorney general concluded in an opinion released on Tuesday.

The attorney general's report said the city was wrong to negotiate the price for complex utilities contracts in phases rather than all at once.

The findings could have far-reaching implications that could affect how future utilities projects are bid, how lawsuits are resolved, how quickly the utilities expansion program continues and how much confidence citizens have in the city's government.

"Any time the attorney general finds fault in the contractual process it doesn't argue well for what they're doing," said resident Bill Diele, who has a utilities-related lawsuit pending against the city.

Mayor Eric Feichthaler said the council needs to take the attorney general's opinion seriously.

"The big question is has the city done anything wrong. If the city has done anything incorrect, we need to correct it," Feichthaler said.

Councilman Tim Day, who has called for a new way to bid utilities projects, wants to talk about the issues at next Monday's council meeting.

"I don't know if anybody is going to step up to the plate," said Day.

Feichthaler said the issue will be on Monday's agenda.

He said he wonders whether the city could bid design work for a project separately and bid construction later.

Construction costs depend on the design, Feichthaler said.

First impact

Residents who live in areas where projects to install water, sewer and irrigation lines are pending, known



Cape Coral Councilman Day

CAPE OFFICIAL REACTS

Statement from City Manager Terry Stewart on Attorney General's Opinion on Construction Manager at Risk

"The State Attorney General's Office has rendered an opinion on the Construction Manager at Risk program delivery method and opined that state statutes did not "contemplate" this type of contractual arrangement.

This opinion does not state that the construction manager at risk method is prohibited by state statutes. Nor does it render our existing contracts null and void. More specifically, the Attorney General writes that negotiating "each phase of a multi-phase project" with a construction manager at risk does not comply with the intent of section 287.055(9)(c) Florida statutes.

The construction manager at risk method has been in place within the City of Cape Coral since 1999. This method also is widely used by other Florida cities and counties, as well as the state of Florida. This Attorney

as Southwest 6 and 7, are likely to be the first to feel the impact of any changes prompted by the attorney general's nonbinding report, Feichthaler said.

Work on the next project in line, called Southwest 5, may be too far along, he said.

The council approved the design phase of Southwest 6-7 on Feb. 19. Before it could make any changes, the council would have to calculate the costs of killing a contract with a firm called MWH Americas to manage the construction phase, the mayor said.

Work is under way in Southwest 4, where residents are paying \$17,992 for a typical two-lot building site to receive the utilities lines.

Audits critical

Three audits have criticized how the city is managing the program.

One of those is the 2006 state audit that led to the request for an attorney general's opinion.

A separate audit by Kessler & Associates has led to a U.S. Department of Justice investigation into possible bid rigging in three prior projects.

The third audit, by auditor R.L. Townsend in 2005, said the city was paying too much to run the expansion program. City officials rejected most of his findings.

Attorney General Bill McCollum's opinion on Tuesday addressed an issue raised in the state audit concerning utilities operations between Oct. 1, 2000, and March 31, 2005.

Projects in areas known as Southwest 1, 2, 3 and along Pine Island Road were under construction at the time.

"Accordingly, it is my opinion that separately negotiating each phase of a multiphase project that has been awarded to a construction manager at risk or program manager at risk does not comply with the plain language or intent of section 287.055(9)(c), Florida Statutes," McCollum concluded in his five-page opinion.

City Manager Stewart released a 220-word statement that largely ignored the main issue of how contracts are negotiated.

He defended the city's method of managing projects and devoted just one sentence to the issue of negotiating prices in phases.

"This opinion does not state that the construction manager at risk method is prohibited by state statutes. Nor does it render our existing contracts null and void," Stewart wrote.

The state audit said negotiating each project phase separately limits the city's ability to determine total estimated cost.

The city's response was that it could better ensure a competitive and fair price for each phase. Contractors also were more likely to ask for more money since it's hard to predict labor and material costs five years in advance, officials said.

State impact possible

Stewart said the overall impact of Tuesday's report is unclear and the city's staff is standing by to help the

General's opinion may have significant repercussions for communities and agencies beyond the City of Cape Coral. Because of this widespread impact, one option may be to pursue legislation that will clarify the intent of these statutes.

It is too early to establish what course of action that Cape Coral should follow since the overall impact of this opinion is yet unclear. However, staff stands ready to provide our City Council with all information necessary on existing construction manager at risk projects to help them determine the direction they wish to proceed."

WHAT'S NEXT?

- What: Report by City Manager Terry Stewart and City Attorney Dolores Menendez on the impact of the state attorney general's opinion
- When: Monday at 5:30 p.m.
- Where: Council chamber, City Hall, 1015 Cultural Park Blvd.
- Online: news-press.com updates
- Television: Cape TV Channel 14 on Comcast

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council determine how to proceed.

The impact could stretch beyond Cape Coral, so one option might be to ask the Legislature to clarify the intent of the statutes.

Day said the attorney general appears to have researched the intent of the statute.

"He's clear. It's very short, and he's clear," Day said of the opinion.

Going to the Legislature could take another year, Day said.

The lawsuits

The city is involved in at least four lawsuits related to the utilities projects, and the attorney general's opinion could have an impact on them.

"People have a shot at starting a class-action suit against the city. Some doors have been blown off here," said John Sullivan, one of those who sued. He founded the Cape Coral Minutemen, a group of residents devoted to lowering the costs of the utilities projects.

McCollum's opinion just raises more questions, Sullivan said.

"Are these contracts illegal? If they are, what recourse do citizens have? Are our public officials responsible for this?"

"This is just going to shore up those lawsuits," Sullivan said.

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EO 13 RPT

CITY OF CAPE CORAL

Utilities Expansion

Managed by:

**Kellogg Brown & Root, Inc. (A Division of Halliburton)
MWH, Inc.**

Prepared for:

City of Cape Coral, City Auditor's Office

REPORT PREPARED BY:



KESSLER
INTERNATIONAL

New York, NY
www.investigation.com

July 2006

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Assembly Bill No. 2701

CHAPTER 360

An act to amend Section 61105 of, and to add Section 25825.5 to, the Government Code, relating to San Luis Obispo County.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2701, Blakeslee. San Luis Obispo County.

(1) Existing law authorizes the establishment of community services districts for the provision of various services to the geographic area within a district, including the collection, treatment, or disposal of sewage, wastewater, recycled water, and stormwater.

This bill would authorize the County of San Luis Obispo to undertake any efforts necessary to construct and operate a wastewater collection and treatment system to meet the needs of the Los Osos Community Services District, as specified, and to impose and collect user fees and other charges to cover the reasonable costs of any wastewater collection or treatment services provided pursuant to these provisions.

The bill would also require the Board of Supervisors of San Luis Obispo County to prepare and submit a proposed assessment to pay for the facilities, and, if certain requirements are met, to decide whether to proceed with construction of the project. The district would retain the powers to provide all other services to a designated zone. After a minimum of 3 years and when the district and the county mutually apply for, and are granted, a modification to the waste discharge permit issued by the Regional Water Quality Control Board, responsibilities would be transferred back to the district.

The people of the State of California do enact as follows:

SECTION 1. Section 25825.5 is added to the Government Code, to read:

25825.5. (a) The Legislature finds and declares all of the following:

(1) There are ongoing discharges to the Los Osos Discharge Prohibition Zone established in the Water Quality Control Plan for the Central Coast Basin.

(2) The agency responsible for eliminating these discharges is the Los Osos Community Services District, which is a relatively new agency, formed in 1998.

(1) Operate wastewater collection and treatment facilities within the district that the district was operating on January 1, 2006.

(2) Provide facilities and services, other than wastewater collection and treatment.

(e) To finance the construction and operation of a wastewater collection and treatment system, the county may levy benefit assessments consistent with the requirements of Article XIII D of the California Constitution, pursuant to any of the following:

(1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(2) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(3) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(f) The county may charge standby charges for sewer services, consistent with the requirements of Article XIII D of the California Constitution, pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5).

(g) The county may impose and collect user fees and charges and any other sources of revenue permitted by law sufficient to cover the reasonable costs of any wastewater collection or treatment services provided pursuant to this section.

(h) Promptly upon the adoption of a resolution by the board requesting this action, the board of directors of the district shall convey to the county any requested retained rights-of-way, licenses, funds, and permits previously acquired by the district in connection with construction projects for which the district awarded contracts in 2005. The county shall use those fee interests, rights-of-way, licenses, and funds for the purpose of furthering the construction and operation of a wastewater collection and treatment system pursuant to this section.

(i) After the approval of a benefit assessment, the board shall complete a due diligence review before deciding to proceed with the construction and operation of a wastewater collection and treatment system. The board shall consider any relevant factors, including, but not limited to, the prompt availability of reasonable and sufficient financing, the status of enforcement actions, the successful development of reasonable project technology and location options, the availability of any necessary permits and other approvals, and the absence of other significant impediments. At the completion of this due diligence review, the board shall adopt a resolution declaring its intention to proceed or not proceed with the construction and operation of the wastewater collection and treatment system.

(j) Collection of assessments may not commence until the adoption of the resolution to proceed pursuant to subdivision (i).

(k) The county shall have no power or responsibility to construct and operate a wastewater collection and treatment system pursuant to this

61105. (a) The Legislature finds and declares that the unique circumstances that exist in certain communities justify the enactment of special statutes for specific districts. In enacting this section, the Legislature intends to provide specific districts with special statutory powers to provide special services and facilities that are not available to other districts.

(b) (1) The Los Osos Community Services District may borrow money from public or private lenders and loan those funds to property owners within the district to pay for the costs of decommissioning septic systems and constructing lateral connections on private property to facilitate the connection of those properties to the district's wastewater treatment system. The district shall lend money for this purpose at rates not to exceed its cost of borrowing and the district's cost of making the loans. The district may require that the borrower pay the district's reasonable attorney's fees and administrative costs in the event that the district is required to take legal action to enforce the provisions of the contract or note securing the loan. The district may elect to have the debt payments or any delinquency collected on the tax roll pursuant to Section 61116. To secure the loan as a lien on real property, the district shall follow the procedures for the creation of special tax liens in Section 53328.3 of this code and Section 3114.5 of the Streets and Highways Code.

(2) (A) Except as otherwise provided in this paragraph, on and after January 1, 2007, the Los Osos Community Services District shall not undertake any efforts to design, construct, and operate a community wastewater collection and treatment system within, or for the benefit of, the district. The district shall resume those powers on the date specified in any resolution adopted pursuant to subdivision (j) of Section 25825.5.

(B) Nothing in this paragraph shall affect the district's power to do any of the following:

(i) Operate wastewater collection and treatment facilities within the district that the district was operating on January 1, 2006.

(ii) Provide facilities and services in the territory that is within the district, but outside the prohibition zone.

(iii) Provide facilities and services, other than wastewater collection and treatment, within the prohibition zone.

(C) Promptly upon the adoption of a resolution by the Board of Supervisors of the County of San Luis Obispo requesting this action pursuant to subdivision (h) of Section 25825.5, the district shall convey to the County of San Luis Obispo all retained rights-of-way, licenses, other interests in real property, funds, and other personal property previously acquired by the district in connection with construction projects for which the district awarded contracts in 2005.

(c) The Heritage Ranch Community Services District may acquire, construct, improve, maintain, and operate petroleum storage tanks and related facilities for its own use, and sell those petroleum products to the district's property owners, residents, and visitors. The authority granted by this subdivision shall expire when a private person or entity is ready,

(h) The El Dorado Hills Community Services District and the Rancho Murieta Community Services District may each acquire, construct, improve, maintain, and operate television receiving, translating, or distribution facilities, provide television and television-related services to the district and its residents, or authorize the construction and operation of a cable television system to serve the district and its residents by franchise or license. In authorizing the construction and operation of a cable television system by franchise or license, the district shall have the same powers as a city or a county under Section 53066.

(i) The Mountain House Community Services District may provide facilities for television and telecommunications systems, including the installation of wires, cables, conduits, fiber optic lines, terminal panels, service space, and appurtenances required to provide television, telecommunication, and data transfer services to the district and its residents, and provide facilities for a cable television system, including the installation of wires, cables, conduits, and appurtenances to service the district and its residents by franchise or license, except that the district may not provide or install any facilities pursuant to this subdivision unless one or more cable franchises or licenses have been awarded under Section 53066 and the franchised or licensed cable television and telecommunications services providers are permitted equal access to the utility trenches, conduits, service spaces, easements, utility poles, and rights-of-way in the district necessary to construct their facilities concurrently with the construction of the district's facilities. The district shall not have the authority to operate television, cable, or telecommunications systems. The district shall have the same powers as a city or county under Section 53066 in granting a franchise or license for the operation of a cable television system.

SEC. 3. Due to the unique circumstances concerning the wastewater treatment needs in the Los Osos Community Services District, as set forth in Section 1 of this act, it is necessary that, and the Legislature finds and declares that, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

O

SUMMARY

In light of the information that has been provided to your Board and to the public and for the record, I request that your Board take action:

1. Vote to agendize a review of the LOWTP design build procurement process and rescind the current consultant shortlist, if it has been approved, until a complete investigation can occur and implement independent third party oversight for the Wastewater Project design build process.

2. Vote to agendize an audit of all County/Agency contracts that the Public Works Director has managed, including the Lopez Lake Dam Retrofit project, and including his past relationships with consultants such as RMC, Carollo, Carella, and MWH, among others.

For your consideration:

“Elected and public employees are charged with a legal duty to report a suspected crime or illegal activities... If Board members knew about the illegal activity, their vote approving the final contract affirmed and condones it and all subsequent actions approving warrants and amendments to the contract simply continued the fraud on the public. They essentially participated in the criminal activity.” (Excerpt from the D.A.'s letter to LOCSD and their Attorneys, March 2, 2006)

This quote is timely for you; as you now have in your possession information and disclosure of illegal acts that have tainted the shortlisting and design build procurement process for the Los Osos project. This information will apply to all subsequent decisions that you make.

As I have said many times before, all Los Osos has ever asked for is a fair and honest process. We can still get there. Thank you for consideration of these materials.

To: Chairperson Gibson and the Board of Supervisors
From Lisa Schicker, Formal Complaint and Public Comment, submitted for the record May 5, 2009

May 5, 2009

RE: Formal Complaint: Mr. Ogren's Illegal MWH Contract, Conflict of Interest with MWH and Flaws with the Short listing of MWH and the Design-build Procurement Process for the Los Osos Wastewater Project

Dear Honorable Chairperson Gibson and Board of Supervisors:

As part of my duties as a previously elected person with direct knowledge of events that will influence decisions you will soon make on behalf of Los Osos citizens, it is my duty and responsibility to make you aware of information and activities that are unethical, illegal, and/or a suspected crime.

This will be my tenth communication and correspondence with you regarding a formal complaint filed a month ago, alerting you to past illegal activities of the Public Works Director, Paavo Ogren that are related to current County business and to unethical activities by consultants hired by Mr. Ogren for SLO County projects, including the LOWTP.

I have confirmed that your Board and/or County Counsel received my previous correspondence and documents which provide Attorney, DA and Engineering documents describing how Paavo Ogren (as IGM), directed the execution of an illegal MWH contract for the LOCSO's LOWTP.

Mr. Ogren appears now to have also violated the design-build code and contract procurement requirements for the County's project by hiring MWH in the fall of 2006, ignoring the refusal of the LOCSO to issue the necessary conflict waiver, and then short listing this same MWH firm again in April 2009.

MWH is a firm that has already made millions in Los Osos from this illegal contract, for a project that no one wanted (see your recent survey results), and has filed lawsuits against the citizens/LOCSO that are still active. They are also under investigation by the DOJ and FBI in Florida - for bid rigging and unethical billing practices.

How did MWH ever make it past the reference check that was conducted by the County's Design Build interview panel? Who conducted this interview and what was their prior relationship with MWH? Did MWH disclose their current lawsuits, their legal problems in Florida or complaints still pending against them at the Construction Management Association to the County, as is customary?

My purpose is to assure, for the public record, that you are fully aware of the seriousness of these allegations. I recommend that each of you request that County Counsel compile a complete set of materials sent to you regarding this matter and that you have all the supporting documents, too, in order to remain completely informed.

I also request that you take prompt action to protect the County taxpayers and Citizens of Los Osos from any further financial harm. Please do not allow the continuation of a tainted procurement process being led by the Public Works Director, when at the very least there now is a perceived conflict of interest; both MWH and your Public Works Director must be immediately removed from working on this project.

I have attached additional supporting documents in PDF format for your review; most are new, and some have been previously referenced in writing and/or during my public testimony from March 28, 2009 to the present.

Page 2

To: Chairperson Gibson and the Board of Supervisors
From Lisa Schicker, Formal Complaint and Public Comment, submitted for the record May 5, 2009

Here is a list of the enclosed attachments:

1. Official Memo from GM Bruce Buel, sent to LOCSD Board: January 6, 2006, stating that Interim GM Paavo Ogren directed him to backdate the first MWH contract for \$288,000. **According to the County DA, this is considered a “violation of Penal Code Section 424 and Government Code Section 6200, both of which prohibit falsification of public records such as the backdated contract...”** Paavo Ogren knowingly directed the backdating of the original contract, affecting all subsequent amendments and contracts for over \$16 million with MWH, which were executed after the fraudulent first contract.
2. Copy of the LOCSD/MWH backdated contract. Attorney (approved to form) and Board President signatures are missing, as are required on LOCSD public contracts. Dated September 1, 1999, Paavo Ogren, IGM was in charge, before Bruce Buel, eventual GM, was even employed.
3. LOCSD Resolution 2005-47, requiring DA to investigate the MWH contracts. December 2005.
4. Letter 1 to DA, all attachments, citing illegal acts and false claims, and including false claim letter to MWH (12-8-05), and an invoice showing Ogren's approval of \$29K invoice from MWH without board authority in Nov 1999. **This letter to the DA constituted the reporting of a crime, which by receipt of this note, you now have also been notified.**
5. Letter 2 to DA, citing illegal acts - March 2006.
6. Letter to AG with all copies of DA correspondence, citing illegal acts - March 2006.
7. LOCSD letter to Construction Management Association, citing illegal acts, conflict of interest and examples of MWH poor engineering judgment. March 2006.
8. LOCSD letters 1 and 2 to MWH, terminating contracts and detailing all False Claims. August 2006.
9. Newspaper articles regarding these issues.

In light of the information that has been provided to your Board and to the public and for the record, I request that the BOS:

1. **Vote to agendize a review of the LOWTP design build procurement process and rescind the current consultant shortlist, if it has been approved, until a complete investigation can occur and implement independent third party oversight for the Wastewater Project design build process.**
2. **Vote to agendize an audit of all County/Agency contracts that the Public Works Director has managed, including the Lopez Lake Dam Retrofit project, and including his past relationships with consultants such as RMC, Carollo, Carella, and MWH, among others.**

To: Chairperson Gibson and the Board of Supervisors
From Lisa Schicker, Formal Complaint and Public Comment, submitted for the record May 5, 2009

One last thought, for your consideration:

“Elected and public employees are charged with a legal duty to report a suspected crime or illegal activities... If Board members knew about the illegal activity, their vote approving the final contract affirmed and condones it and all subsequent actions approving warrants and amendments to the contract simply continued the fraud on the public. They essentially participated in the criminal activity.” (Excerpt from the D.A.'s letter to LOCSD and their Attorneys, March 2, 2006)

This quote is timely for you; as you have in your possession information and disclosure of illegal acts that have tainted the short listing and design build procurement process for the Los Osos project. This information will apply to all subsequent decisions that you make.

As I have said many times before, all Los Osos has ever asked for is a fair and honest process. We can still get there. Thank you for consideration of these materials.

Most Sincerely,

.....
Lisa Schicker
Past President and Director, LOCSD 2004-2008

Cc:

The citizens of Los Osos, members of my community will also receive copies of this formal complaint

County Counsel, Design Build Institute of America, Construction Management Institute of America, DOJ, DA and AG

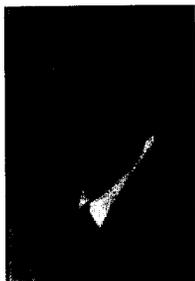
.....
This Formal Complaint was presented in person during public comment at BOS Meeting - Los Osos Wastewater Update and hand delivered to each supervisor and the County Clerk for inclusion in the record

This formal complaint with all attachments was emailed to the BOS, and County Counsel on the evening of May 5, 2009.

Los Osos sewer project tainted by 'expired' crime

Posted: Wednesday, April 22, 2009 11:07 pm

By DANIEL BLACKBURN



Supervisor Frank
Mecham said he wants to
hear County Counsel
opinion on contract
legality.

County planning commissioners Thursday will consider a proposal for construction of Los Osos' contentious wastewater project, a mission now shadowed by a documented crime.

Despite the existence of substantial evidence of unlawful backdating of key contract agreements, executed by now departed officials of the Los Osos Community Services District (LOCSD), county planners are moving toward a decision that could ratify what critics are calling "a fatally flawed procurement process." Several formal complaints by district officials to San Luis Obispo County District Attorney Gerald T. Shea, starting in 2005 and detailing allegations of potential conflicts of interest and other unlawful activities, were eventually brushed aside.

Chief Deputy District Attorney Steve Brown, in a response to citizen complaints, acknowledged in 2006 that "falsification of a public record by a public employee is a felony," and that a criminal act relating to the backdating apparently had occurred. But Brown declined further investigation by determining that a three-year statute of limitation had expired.

The backdating of the contract in question happened in 1999. Bruce Buell, who at the time was just coming into his job as general manager of LOCSD, has admitted to backdating the contract at the request of Paavo Ogren, then district interim manager and now San Luis Obispo County's director of public works.

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LOS OSOS CSD

Memo

To: Dan Bleskey
From: Bruce Buel
CC: File, Karen Vega
Date: 1/6/06
Re: Statement Regarding Execution of 1999 Montgomery Watson Agreement

I reported to work as LOCSD's General Manager on November 16, 1999. Paavo Ogren, who was the Interim General Manager prior to my term, presented me with a series of items of unfinished business. One of these items was the draft agreement with Montgomery Watson (MW) to perform Wastewater Project Management Services. Paavo explained to me that the Board had selected MW in August 1999 to perform this work and had directed MW to assist in negotiations with Oswald Engineers (OE) for OE to produce the Project Report for the Wastewater Project. The negotiations with OE were lengthy and contentious and were not resolved until late October 1999. The Board formally approved the OE agreement and the MW agreement in early November 1999, but Paavo had not executed either document. Paavo advised me that the Board had authorized MW to assist in the negotiations and that I should pre-date the agreement to accommodate the work actually done by MW at the Board's request starting Sept 1, 1999. I did so. I also directed Karen Vega to witness my signature, which she did at my direction.

Feel free to call me at 805-528-9370 or e-mail me at bbuel@losososcscsd.org

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CSD Now Going After Sewer Project Engineers

By Jack Beardwood

Los Osos Community Services District is demanding more than \$6 million in damages and reimbursements from the lead consultant in the sewer project.

According to Dan Bleskey, interim general manager, the district filed a claim Dec. 9 against Montgomery Watson Harza for "contract irregularities" related to the wastewater treatment project.

"Citing numerous docu-

ments, the district claims that MWH billed the district, on 57 separate occasions, for services falsely claimed under their contract," according to a district press release.

Bleskey said the contract with MWH was executed before the CSD board approved it and that the firm submitted claims before the contract was valid.

The claim was filed with Marshall W. Davert, vice president MWH Americas, Inc. in Sacramento. A telephone call

to Davert was not returned.

The claim states that MWH is in violation of Government Code 12650, the California "False Claims Act" because of a defective contract between MWH and the LOCSO.

The contract is said to have been signed on Sept. 1 of 1999 by Bruce Buel, general manager who is currently on administrative leave. The claim states that Buel did not begin work for the CSD until Nov. 16 of that year. "Since Mr.

Buel was not the general manager of the CSD until Nov. 15, 1999, he was not an agent for the district and had no authority to execute the contract and he had no authority to backdate the contract."

Buel said he did backdate the contract. "The firm had been selected by the board in 1999 and I was directed to execute the agreement to cover the work they had already done for the district. Montgomery Watson Harza had actually started performing work for Los Osos

Community Services District in August of 1999. My understanding at that time was that the board was aware that they had performed services that the district was obligated to pay for."

When asked if it is legal to sign a contract dated before his time of employment, Buel replied: "I can't answer that. That's a legal question."

Bleskey said Government Code Section 12650 provides the district with the right for reimbursement of three times

the amount of damages, plus \$10,000 for each false claim made, plus other damages including but not limited to legal fees, staff costs and other real and punitive damages as may have been incurred. The CSD is seeking reimbursement of more than \$5.5 million, plus \$10,000 for every false claim submitted and attorney fees and interest for the full amounts.

"The irregularities in the

See CLAIM, page 7

CLAIM, from page 3

MWH contracts call into question whether the contract process was full and open as required by state law," said Lisa Schicker, CSD board president. "It calls into question whether or not there was ever an objective evaluation of all alternatives available."

Bleskey said staff is reviewing all district contracts. The CSD board of directors has asked the county District Attorney's Office to investigate the CSD and asked the Inspector General of the EPA to investigate circumstances surrounding the State Revolving Fund loan that was recently cancelled by the State Water Resources Control Board.

Bleskey said he is mystified by the fact that the district agreed to pay MWH \$7.5 million for two years to provide

construction management services. He said five people could have been hired to do the job at his rate of pay for \$1 million a year. "That construction contract should not cost more than \$2 million," he said. "It's absolutely an outrageous contract."

"I believe the old board was under such incredible pressure," said Bleskey. "They didn't have the expertise that this new board has. Bruce Buel is an administrator. He is not an engineer. He doesn't have formal training in construction contracts, like all the people on this board with the exception of Julie Tacker. The old board was really in a bad way."

"I believe that MWH showed up and recognized that and then they took the district for a ride. Their whole behavior after the election has been cover your ass."

Los Osos sewer project tainted by 'expired' crime

Posted: Wednesday, April 22, 2009 11:07 pm



Supervisor Frank Mecham said he wants to hear County Counsel opinion on contract legality.

By DANIEL BLACKBURN

County planning commissioners Thursday will consider a proposal for construction of Los Osos' contentious wastewater project, a mission now shadowed by a documented crime.

Despite the existence of substantial evidence of unlawful backdating of key contract agreements, executed by now departed officials of the Los Osos Community Services District (LOCSD), county planners are moving toward a decision that could ratify what critics are calling "a fatally flawed procurement process." Several formal complaints by district officials to San Luis Obispo County District Attorney Gerald T. Shea, starting in 2005 and detailing allegations of potential conflicts of interest and other unlawful activities, were eventually brushed aside.

Chief Deputy District Attorney Steve Brown, in a response to citizen complaints, acknowledged in 2006 that "falsification of a public record by a public employee is a felony," and that a criminal act relating to the backdating apparently had occurred. But Brown declined further investigation by determining that a three-year statute of limitation had expired.

The backdating of the contract in question happened in 1999. Bruce Buell, who at the time was just coming into his job as general manager of LOCSD, has admitted to backdating the contract at the request of Paavo Ogren, then district interim manager and now San Luis Obispo County's director of public works.

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**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE LOS OSOS COMMUNITY SERVICES DISTRICT
REQUESTING THE SAN LUIS OBISPO COUNTY
DISTRICT ATTORNEY TO INVESTIGATE CERTAIN ACTIVITIES
PERTAINING TO THE LOS OSOS COMMUNITY SERVICES DISTRICT**

WHEREAS, the Los Osos Community Services District ("LOCSD") is a public agency, corporate and politic, exercising its authority pursuant to applicable local and State law, including (without limitation) Government Code section 61600 *et seq.*;

WHEREAS, the LOCSD provides water, wastewater, drainage, and parks, recreation, street lighting, solid waste, fire, emergency and rescue response services to the residents of the Los Osos community and is authorized to develop and operate a wastewater collection and treatment system ("System") for the community;

WHEREAS, voters in the Los Osos community circulated a ballot initiative that set forth siting requirements for LOCSD's wastewater treatment facility and required that the voters first approve the siting of that facility ("Measure B") and also circulated recall petitions for three members of the LOCSD's Board of Directors;

WHEREAS, on September 27, 2005, voters in the LOCSD approved Measure B and recalled three LOCSD Directors, and the County Clerk-Recorder certified the election results on September 30, 2005, and administered the oath of office to three newly-elected LOCSD Directors;

WHEREAS, on October 1, 2005, the new LOCSD Board met in a special meeting and appointed an interim District Counsel;

WHEREAS, a number of matters have been brought to the interim District Counsel's attention relating to the September 27, 2005, election as well as internal operations of the LOCSD that require an unbiased assessment from a disinterested third party as to the legality of these matters;

WHEREAS, on November 17, 2005, following a conversation with a staff member of the San Luis Obispo County District Attorney's Office, District Counsel requested that the LOCSD Board of Directors consider adopting a resolution formally requesting the District Attorney to investigate matters pertaining to the election and the LOCSD's internal operations;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT HEREBY RESOLVES AS FOLLOWS:

1. The LOCSD concurs with interim District Counsel that the aforementioned matters require an unbiased assessment from a disinterested third party as to the legality of those matters and that the appropriate third party to conduct this assessment is the San Luis Obispo County District Attorney.

2. By this Resolution, the LOCSD requests that San Luis Obispo County District Attorney initiate a formal investigation into certain matters relating to the September 27, 2005, election and internal operations of the LOCSD, and directs interim District Counsel to cooperate with the District Attorney's Office in conducting its investigation.

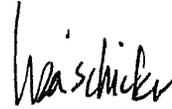
PASSED, APPROVED, AND ADOPTED THIS 22ND DAY OF NOVEMBER, 2005, BY THE FOLLOWING VOTE:

AYE: DIRECTORS CESENA, FOUCHE, SCHICKER, SENET, TACKER

NOES: NONE

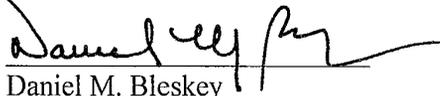
ABSTAIN: NONE

The foregoing resolution is hereby passed, approved and adopted by the Board of Directors fo the Los Osos Community Services District this 22ND day of NOVEMBER 2005.



Lisa Schicker, President
Board of Directors
Los Osos CSD

ATTEST:



Daniel M. Bleskey
Interim General Manager and Secretary of the Board

Original signed

~~Sam~~ Biggs to Shea

12-21-05

BURKE, WILLIAMS & SORENSEN, LLP

3403 Tenth Street - Suite 300
Riverside, California 92501-3659
voice 951.788.0100 - fax 951.788.5785
www.bwslaw.com

RECEIVED
DEC 27 2005
BY: 

Our File No:
04844-0001
jbiggs@bwslaw.com

December 21, 2005

Gerald T. Shea, District Attorney
San Luis Obispo County District Attorney's Office
County Government Center, 4th Floor
San Luis Obispo, CA 93408

Re: Los Osos Community Services District Investigation

Dear Mr. Shea:

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The allegations in that letter are predicated on CSD actions documented by official minutes and by its General Manager, Bruce Buel, as well as other CSD employees and officers. It appears from the Minutes of the CSD that the CSD approved the contract for MWH on November 4, 1999 and authorized the Board President to sign that contract.

The contract, however, is hand-dated September 1, 1999 and purportedly signed on that date by Mr. Buel, the District Clerk and MWH. Records show that Mr. Buel was not employed by the CSD on that date and could not bind the CSD to the terms of any contract. Mr. Buel's personnel records, and public statements he has made in public under oath, demonstrate that his first day of employment was November 15, 1999.

In fact, there does not appear to be any authority for anyone to execute a contract on September 1, 1999. Execution of the contract by Mr. Buel, who was not an employee of the CSD until November 15, 1999, could not bind the CSD as of September 1, 1999. MWH was participated in the public hearing process that led to approval of the terms of the contract on November 4, 1999, and also knew that no one was authorized to sign a contract with MWH dated September 1, 1999 because no such contract had been approved at that time.

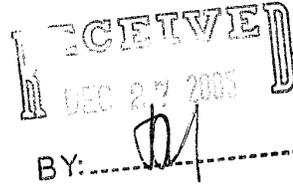
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Los Angeles - Inland Empire - Orange County - San Diego - San Jose - Ventura County

Page Number 000143

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The ad hoc subcommittee recommendation included a provision that the contract would be "retroactive to the date services were initially provided." Article 11, section 10(a) of the California Constitution strictly forbids a public agency from making retroactive payments for services rendered to it prior to entering into a contract. Under the law, any work performed before approval of the contract on November 4, 1999 would not have been entitled to payment even if a valid contract had been properly executed by the parties after that date.

The ad hoc subcommittee recommendation acknowledges that the parties knew services were being rendered without a contract or agreement for payment and that the Board and MWH intended to provide retroactive compensation for such services. Minutes of the CSD show that the terms to be included in the contract were not approved by the CSD Board until November 4, 1999, and that at that time the District President was authorized to execute an agreement "upon final preparation by legal counsel." This confirms that as late as November 4, 1999, no contract existed.

In addition, District contracts usually include a signature line for District counsel to approve the contract as to form. Interestingly, this contract which was apparently prepared by District legal counsel contains no "approval as to form" line or the approval of District legal counsel.

No provision included in the final contract prepared by legal counsel states that it is to be retroactive. The contract does contain a standard provision (section 32) noting that the contract as written constitutes the entire agreement of the parties. It thus appears that the parties attempted to circumvent the constitutional prohibition by simply pretending that the contract had been signed at an earlier date.

Based on these records, it appears that the contract was back-dated by the parties and that the date of signature was falsified by Mr. Buel and the District Clerk as well as MWH in order to permit payment for services previously rendered to the CSD. It

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As you are undoubtedly aware, falsification of records, and payments made or received as a result of such falsification, is a violation of Penal Code §424. Payment of invoices on such an account, constitutes misappropriation of public funds under Penal Code §424 as well.

Our review indicates that there is potential criminal liability on the part of Mr. Buel, Ms. Karen Vega, MWH and potentially one or more of the CSD board members who were in office at the time for falsification of public records and misappropriation of public funds as a result of payments made by the CSD to MWH for work performed prior to approval of the contract on November 4, 1999. Further, because the contract is not signed by an authorized representative of the CSD, we believe it is void and any payments made after November 4, 1999 are also false claims which may constitute embezzlement under the provisions of Penal Code §434. Facts supporting this contention became known only after the election of Ms. Lisa Schicker and Ms. Julie Tacker to the CSD Board in November of 2004.

I would be pleased to assist your investigation in any way that might be helpful to resolving this issue in a manner consistent with California law. Please call me at (951) 788-0100 if you wish further information.

Very truly yours,

BURKE, WILLIAMS & SORENSEN, LLP



Julie Hayward Biggs

cc: Daniel Bleskey, Interim General Manager, Los Osos CSD
John G. McClendon, District Counsel, Los Osos CSD
Stephen R. Onstot, Esq.



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President

Lisa Schicker

Vice-President

John Fouche

Director

Chuck Cesena
Steve Senet
Julie Tacker

Interim General Manager

Daniel M. Bleskey

Utilities Manager

George J. Milanés

**Administrative
Services Manager**

Patricia J. McClenahan

Fire Chief

Phill Veneris



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www.losososcscd.org

December 8, 2005

Advance Copy by FAX
Certified Mail/Return Receipt Requested

Marshall W. Davert
Vice President
MWH Americas, Inc.
3321 Power Inn Road, Suite 300
Sacramento, California 95826

Subject: NOTICE OF ILLEGAL CONTRACT AND CLAIM
FOR REIMBURSEMENT: VIOLATION OF
GOVERNMENT CODE §12650

Dear Mr. Davert:

This letter is the Los Osos Community Services District's (LOCSD) notification of Montgomery Watson Harza's (MWH) violation of Government Code 12650, the California "False Claims Act". Specifically the LOCSD has investigated the circumstances related to a defective contract between MWH and the LOCSD dated September 1, 1999 including all amendments (Contract). A copy of this contract is included as Attachment A.

The Contract was purportedly signed on September 1, 1999, by Bruce Buell for the LOCSD and attested to by Karen Vega purportedly on the same date. Carol Tate, a Vice President for MWH also purports to have executed the Contract on September 1, 1999. The Contract was amended eight times. The total amount paid on these contracts was \$1,841,987.27.

LOCSD staff has reviewed the circumstances of the award of the Contract and determined that the Contract was not executed in accordance with the LOCSD Board action of November 4, 1999, specifically:

- On November 4, 1999, the LOCSD Board of Directors approved Agenda Item No. 13, "Consideration and approval of Montgomery Watson's contract for Wastewater Project

- Management Services in an amount not to exceed \$288,145.00." Review of the November 4, 1999, LOCSD Board meeting minutes indicate that the Board authorized, by a 3 to 2 vote, the Board President to execute an agreement with Montgomery Watson upon final preparation by legal counsel, see Attachment B and Attachment C.
- The date of execution of the Contract is September 1, 1999. It appears that the date of execution of the Contract is in conflict with the date of the Board's November 4, 1999 authorization. There is no provision in the Board's authorization to back-date the Contract.
- There is no record of the LOCSD Board of Director's taking any action to ratify the Contract.
- On November 5, 1999, LOCSD received MWH's Invoice Number 262856, dated October 29, 1999 in the amount of \$29,979.90 and the period of services for this invoice was August 10, 1999 through October 29, 1999, Attachment D.
- The period of the services and the date of the invoice precede the date of the Contract as well as the date of the LOCSD Board's authorization to enter into the Contract.
- On October 22, 1999, the LOCSD entered into a contract that established an employment relationship with Mr. Bruce Buel as the General Manager, Attachment E. Mr. Buel's first day of service as the General Manager was November 16, 1999.
- The only person authorized to execute the Contract was the Board President. The Contract was executed by Bruce Buel as the General Manager in violation of the LOCSD's Board November 4, 1999, action;
- Mr. Buel was not the General Manager of the LOCSD until November 16, 1999. Since Mr. Buel was not employed by the District until November 15, 1999, he was not an agent for the District and had no authority to execute the Contract and he had no authority to backdate the Contract.

Persons dealing with California public agencies are charged with knowledge of the limitations of authority of its officers and agents; contracts made without authority are invalid and cannot be the subject of ratification or estoppel. (*City of Pasadena v. Estrin* (1931) 212 Cal. 231; *Foxen v. City of Santa Barbara* (1913) 166 Cal. 77, 82 ["all persons

contracting with a municipal corporation must at their peril inquire into the power of the corporation or its officers to make the contract."].) Failure to abide by those procedures and then seek payment from that entity constitutes a violation of the "False Claims Act," specifically Government Code Section 12650.

MWH billed the LOCSD on fifty-seven separate occasions for services falsely claimed under the Contract. Government Code Section 12650 provides the LOCSD with right for reimbursement of three times the amount of the damages plus \$10,000 for each false claim made, plus other damages including but not limited to legal fees, staff costs and other real and punitive damages as may have been incurred. Therefore, the LOCSD is seeking reimbursement from MWH in the amount of \$5,525,961.81 plus \$10,000 for every false claim submitted and attorney fees and interest for the full amounts. Therefore, the LOCSD demands that MWH immediately submit payment to the LOCSD in the amount of \$6,095,961.81 as the first installment of the amounts due the LOCSD. LOCSD staff is continuing to investigate the Legal fees, putative damages and staff time incurred as a result of MWH's violations, including any other currently unidentified amounts that the LOCSD and the citizens of the Los Osos Community Services District are rightfully due.

The LOCSD reserves the right to amend this claim pending further investigation and reserves all civil and criminal remedies available resulting from MWH's violation of the California "False Claims Act"

Sincerely,



Daniel M. Bleskey,
Interim General Manager

Attachments

Cc: LOCSD Board of Directors
John McClendon, Interim District Counsel
Julie Biggs, Special District Counsel
Steve Onstot, Special District Counsel
Alexis Strauss, Director US EPA Region IX
Inspector General of the US EPA
SLO, District Attorney
Attorney General of the State of California

Daniel M. Bleskey
Interim General Manager
2122 9th Street
Los Osos, CA 93402
805-528-9436 OFFICE
805-528-9377 FAX

**LOS OSOS
COMMUNITY
SERVICES DISTRICT**

Fax

To: Honorable Bill Lockyer

From: Daniel M. Bleskey

Fax: 916-323-5341

Pages: 4 (including this page)

Phone: 916-445-9555

Date: December 9, 2005

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

• **Comments:**



President

Lisa Schicker

Vice-President

John Fouche

Director

Chuck Cesena

Steve Senet

Julie Tacker

Interim General Manager

Daniel M. Bleskey

Utilities Manager

George J. Milanés

**Administrative
Services Manager**

Patricia J. McClenahan

Fire Chief

Phill Veneris



Offices At:

2122 9th Street

Los Osos, California 93402

Mailing Address:

P.O. Box 6064

Los Osos, California 93412

Phone 805/528-9370

Fax 805/528-9377

www.losososcscd.org

December 8, 2005

Advance Copy by FAX
Certified Mail/Return Receipt Requested

Marshall W. Davert
Vice President
MWH Americas, Inc.
3321 Power Inn Road, Suite 300
Sacramento, California 95826

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Sincerely,



Daniel M. Bleskey,
Interim General Manager

Attachments

Cc: LOCSD Board of Directors
John McClendon, Interim District Counsel
Julie Biggs, Special District Counsel
Steve Onstot, Special District Counsel
Alexis Strauss, Director US EPA Region IX
Inspector General of the US EPA
SLO, District Attorney
Attorney General of the State of California

Attachment A

1st Contract
By Mark
by Legat
Fac Plan

Los Osos Community Services District
P.O. Box 6064
Los Osos, CA 93412

AGREEMENT FOR SERVICES OF INDEPENDENT CONSULTANT

Project Description: FACILITY PLAN (the "Project")

Project Location: Los Osos Community Services District

THIS AGREEMENT (hereinafter referred to as "Agreement") is made by and between the Los Osos Community Services District, a community services district duly existing and operating pursuant to the provisions of Government Code Section 61000 et seq. (hereinafter referred to as "LOCSO") and Montgomery Watson Americas, Inc., having a principal place of business at 1340 Treat Blvd, Suite 300, Walnut Creek, CA 94596 (hereinafter referred to as "Consultant"), wherein Consultant agrees to provide the LOCSO and LOCSO agrees to accept the services specified herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVES. Bruce Buel, District General Manager at telephone number (805) 528-9370 is the representative of LOCSO and will administer this Agreement for and on behalf of LOCSO. Mark Ysusi, Project Manager, at telephone number (805) 528-9370 or (559) 261-9555 is the authorized representative for Consultant. Changes in designated representatives shall be made only after advance written notices to the other party.

2. NOTICES. Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first-class mail, postage prepaid, or otherwise delivered as follows:

LOCSO: Los Osos Community Services District
P.O. Box 6064
Los Osos, CA 93412
Attn: Bruce Buel, District General Manager
Facsimile: (805) 528-9377

CONSULTANT: MONTGOMERY WATSON AMERICAS, INC.
516 West Shaw Ave., Suite 200
Fresno, CA 95204
Attn: Mark Ysusi
Facsimile: (805) 528-9377 and (559)
261-9688

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. ATTACHMENTS. Attached to this Agreement are the following Exhibits. Said Exhibits shall be initiated by Consultant upon request of LOCSD or by LOCSD directly. Said Exhibits are incorporated herein by reference:

A. Description of scope of services (the Project) to be performed by Consultant, including a timeline for Project completion..

B. A listing of hourly rates of Consultant's personnel and Consultant's agents and contractors applicable to providing services under this Agreement, a definition of reimbursable costs with a maximum limit for reimbursable costs, along with a contract budget for the services described in Exhibit "A".

4. SCOPE OF SERVICES.

A. Consultant agrees to provide the services to LOCSD in accordance with Exhibit "A".

B. The Consultant shall perform its services in character, sequence and timing so that they will be coordinated with the requirements of LOCSD and other consultants of LOCSD for the Project and so that Consultant's services shall conform to LOCSD's original or revised schedule and budget for the Project. Except as authorized by LOCSD in writing, LOCSD shall be informed of all substantive communications between the Consultant and contractors or other consultants of LOCSD for the Project, and shall be copied with all written communications between Consultant and other contractors and consultants.

5. TERM. Consultant shall commence performance within 365 days of LOCSD's Notice to Proceed, and end performance upon completion, as provided in Exhibit "A", unless otherwise directed by LOCSD or unless earlier terminated.

6. COMPENSATION OF CONSULTANT.

A. The Consultant will be paid for services provided to LOCSD on a time and material basis in accordance with the schedule set forth in Exhibit "B".

B. Payment of undisputed amounts are due within 60 days of receipt of invoices. Invoices shall reflect the phase to which the request for payment is being invoiced in accordance with the "Scope of Service" (Exhibit "A") and the percentage of completion of each phase.

C. The contract budget, as stated in Exhibit "B" shall not be exceeded without the written authorization of LOCSD.

D. Payment to Consultant shall be considered as full compensation of all personnel, materials, supplies, and equipment used in carrying out the services as stated in Exhibit "A".

E. LOCSD's failure to discover or object to any unsatisfactory work or billing prior to payment will not constitute a waiver of LOCSD's right to:

1. Require Consultant to correct such work or billings; or
2. Seek any other legal remedy.

7. REIMBURSABLE COSTS. Consultant shall be reimbursed at cost for reimbursable costs as provided in Exhibit "B".

8. EXTRA SERVICES. Should services be requested by Consultant which are considered to be beyond the scope of Basic Services in this Agreement by the Consultant, the Consultant shall provide a written request for consideration of Additional Services to the LOCSD Contract Administrator.. The LOCSD Contract Administrator will make due consideration of this request for Additional Services and will forward his/her recommendation to the LOCSD Board of Directors for approval. Consultant shall not provide any Additional Services until Consultant has received written approval by the LOCSD to perform same. Should the Consultant elect to proceed prior to receiving written approval by the LOCSD for Additional Services, the Consultant does so at Consultant's own risk.

9. INDEPENDENT CONTRACTOR. Consultant, its agents and contractors, are independent contractors, responsible for all methods and means used in performing the Consultant's services under this agreement, and are not employees, agents or partners of LOCSD.

10. PERFORMANCE STANDARDS.

A. Compliance with laws.

(1) Consultant shall (and shall cause its agents and contractors), at its sole cost and expense, to comply with all District, County, State and Federal ordinances, regulations and statutes now in force or which may hereafter be in force with regard to the Project and this Agreement. The judgment of any court of competent jurisdiction, or the admission of Consultant in any action or proceeding against Consultant, whether LOCSD be a party thereto or not, that Consultant has violated any such ordinance or statute, shall be conclusive of that fact as between Consultant and LOCSD. Any corrections to Consultant's instruments of professional service which

become necessary as a result of the Consultant's failure to comply with these requirements shall be made at the Consultant's expense.

(2) Should these requirements change after the date of design or drawing preparation, Consultant shall be responsible for notifying LOCSD of such change in requirements. Consultant will bring the instruments of professional service into conformance with the newly issued requirements at the written direction of LOCSD. Consultant's costs for providing services pursuant to this paragraph shall be submitted to LOCSD as Additional Services..

B. **Standard of Performance.** Consultant represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, Consultant shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Consultant is engaged. All products of whatsoever nature which Consultant delivers to LOCSD pursuant to this Agreement shall conform to the standards of quality normally observed by a person practicing in Consultant's profession. Consultant shall correct or revise any errors or omissions at LOCSD's request without additional compensation. Permits and/or licenses shall be obtained and maintained by Consultant without additional compensation throughout the term of this Agreement.

C. **Professional Seal.** Consultant shall have documents stamped by registered professionals, at Consultant's cost, for the disciplines covered by Consultant's instruments of professional service when required by prevailing law, usual and customary professional practice, by LOCSD, or by any governmental agency having jurisdiction over the Project.

11. TAXES. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant

12. CONFLICT OF INTEREST. Consultant covenants that Consultant presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under the Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by Consultant.

13. RESPONSIBILITIES OF LOCSD. LOCSD shall provide all information reasonably necessary by Consultant in performing the services provided herein.

14. OWNERSHIP OF DOCUMENTS. All drawings, specifications, data, and other instruments of professional service prepared by Consultant during the performance of this Agreement shall become the property of LOCSD. However, Consultant shall not be

liable for LOCSD's use of documents and instruments of professional service if used for other than the Project or scope of services contemplated by this Agreement.

15. RECORDS, AUDIT AND REVIEW. Consultant shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Consultant's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. LOCSD shall have the right to audit and review all such documents and records at any time during Consultant's regular business hours or upon reasonable notice.

16. INDEMNIFICATION.

A. Consultant shall defend, indemnify and save harmless LOCSD, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of the negligent performance or attempted performance of this Agreement or occasioned by the negligent performance or attempted performance of the other independent contractors and consultants directly responsible to Consultant; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting solely from the negligence or willful misconduct of LOCSD.

B. Neither termination of this Agreement or completion of the Project under this Agreement shall release Consultant from its obligations referenced in subsections A, above, as to any claims, so long as the event upon which such claims is predicated shall have occurred prior to the effective date of any such termination or completion and arose out of or was in any way connected with performance or operations under this Agreement by Consultant, its employees, agents or consultants, or the employee, agent or consultant of any one of them.

C. Submission of insurance certificates or submission of other proof of compliance with the insurance requirements in the Agreement does not relieve Consultant from liability referenced in subsection A, above. The obligations of this article shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

17. INSURANCE.

A. Consultant shall procure and maintain, in insurance companies authorized to do business in the State of California and assigned an A.M. Best's rating of no less than A-(IX), the following insurance coverage, written on the ISO form shown below (or its equivalent) at the limits of liability specified for each:

Commercial General Liability Insurance	\$ 1 Million per occurrence
(ISO Form CG 0001 10/93)	\$ 2 Million in the aggregate

Commercial Automobile Liability Insurance (ISO Form CA 0001 6/92 or 12/93)	\$ 1 Million per accident
Workers' Compensation Insurance	Statutory
Employer's Liability Insurance	\$ 1 Million policy limit
Professional Liability Insurance	\$ 1 Million per claim \$ 1 Million in the aggregate

B. The Commercial General and Commercial Automobile liability policies shall be endorsed to include the following:

(1) LOCSD, its officers, directors, employees and agents shall be named as Additional Insureds under ISO Form CG 2010 11/85 or its equivalent; and

(2) the coverage afforded LOCSD shall be primary and non-contributing with any other insurance maintained by LOCSD.

(3) If not covered separately under a business automobile liability policy, the general liability policy shall also be endorsed to include non-owned and hired automobile liability.

C. Prior to commencing work under this Agreement, Consultant shall provide LOCSD with Certificates of Insurance evidencing compliance with the foregoing requirements, accompanied by copies of the required endorsements. Certificates of Insurance for automobile liability, workers' compensation/ employer's liability, and professional liability insurance shall specify that the insurer shall give LOCSD an unqualified thirty (30) days advance written notice by the insurer prior to any cancellation of the policy.

D. All insurance coverage required hereunder shall be kept in full force and effect for the term of this Agreement. Professional liability insurance shall be maintained for an additional, uninterrupted period of three (3) years after termination of this agreement, provided such insurance is commercially available at rates reasonably comparable to those currently in effect. Certificates of Insurance evidencing renewal of the required coverage shall be provided within ten (10) days of the expiration of any policy at any time during the period such policy is required to be maintained by Consultant hereunder. Any failure to comply with this requirement shall constitute a material breach of this Agreement.

18. PERSONNEL. The Consultant represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by the Consultant or under

Consultant's supervision, and all personnel engaged in the work shall be qualified to perform such services.

19. NONEXCLUSIVE AGREEMENT. Consultant understands that this is not an exclusive Agreement and that LOCSD shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Consultant as the LOCSD desires.

20. ASSIGNMENT. Consultant shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of LOCSD and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

21. TEMPORARY SUSPENSION. The LOCSD's Contract Administrator shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as he/she deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement. Consultant will be paid for services performed through the date of temporary suspension. In the event that Consultant's services hereunder are delayed for a period in excess of six (6) months due to causes beyond Consultant's reasonable control, Consultant's compensation shall be subject to renegotiation.

22. TERMINATION.

A. Right to terminate. LOCSD retains the right to terminate this Agreement for any reason by notifying Consultant in writing thirty (30) days prior to termination. Upon receipt of such notice, Consultant shall promptly cease work and notify LOCSD as to the status of its performance. LOCSD shall pay Consultant for its reasonable costs and expenses through the date of termination. However, if this Agreement is terminated for fault of Consultant, then LOCSD shall be obligated to compensate Consultant only for that portion of Consultant services which are of benefit to LOCSD, up to and including the day Consultant receives notice of termination from LOCSD.

B. Return of materials. Upon such termination, Consultant shall immediately turn over to the District copies of studies, drawings, mylars, computations, computer models and other instruments of professional services, whether or not completed, prepared by Consultant, or given to Consultant in connection with this Agreement. Consultant, however, shall not be liable for LOCSD's use of incomplete materials or for LOCSD's use of complete documents if used for other than the project or scope of services contemplated by this Agreement.

C. Should LOCSD fail to pay Consultant undisputed payments set forth in Section 6, above, Consultant may, at Consultant's options, suspend its services or terminate this agreement if such failure is not remedied by LOCSD within thirty (30) days of written notice to LOCSD of such late payment.

23. DISPUTE RESOLUTION. The following procedures apply only to disputes where the amount in controversy is less than \$50,000.00.

A. LOCSD and Consultant agree that disputes between them arising out of or relating to this Agreement where the amount in controversy is less than \$50,000.00 shall be submitted to nonbinding mediation, unless the parties mutually agree otherwise. If the dispute is not settled by mediation, then the parties agree to submit the dispute to binding arbitration as provided in subsection B, below.

B. Either party may demand arbitration by filing a written demand with the other party within thirty (30) days from the date of final mediation, in accordance with the prevailing provisions of the California Arbitration Act at the time of written demand. The arbitration procedures are as follows:

(1) The parties may agree on one arbitrator. If they cannot agree on one arbitrator, there shall be three: one named in writing by each of the parties within five days after demand for arbitration is given, and a third chosen by the two appointed. Should either party refuse or neglect to join in the appointment of the arbitrator(s) or to furnish the arbitrator(s) with any papers or information demanded, the arbitrator(s) may proceed ex parte.

(2) A hearing on the matter to be arbitrated shall take place before the arbitrator(s) within the County of San Luis Obispo, state of California, at the time and place selected by the arbitrator(s). The arbitrator(s) shall select the time and place promptly and shall give each party written notice of the time and place at least sixty (60) days before the date selected. The procedures of the California Arbitration Act are incorporated herein by reference.

(3) If there is only one arbitrator, his or her decision shall be binding and conclusive on the parties, and if there are three arbitrators, the decision of the two shall be binding and conclusive. The submission of a dispute to the arbitrator(s) and the rendering of a decision by the arbitrator(s) shall be binding on the parties. A judgment confirming the award may be given by any Superior Court having jurisdiction, or that Court may vacate, modify, or correct the award in accordance with the prevailing provision of the California Arbitration Act.

(4) If three arbitrators are selected, but no two of the three are able to reach an agreement regarding the determination of the dispute, then the matter shall be decided by three new arbitrators who shall be appointed and shall proceed in the same manner, and the process shall be repeated until a decision is agreed on by two of the three arbitrators selected.

(5) The costs of the arbitration shall be borne by the losing party or shall be borne in such proportions as the arbitrator(s) determine(s).

24. LOCSD NOT OBLIGATED TO THIRD PARTIES. LOCSD shall not be obligated or liable for payment hereunder to any party other than the Consultant.

25. NON-DISCLOSURE AGREEMENT. Unless waived in writing by District, prior to commencing work, Consultant shall enter into a non-disclosure agreement with Oswald Engineering regarding proprietary technology of Oswald Engineering.

26. COSTS AND ATTORNEY'S FEES. The prevailing party in any action between the parties to this Agreement brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorney's fees expended in connection with such an action from the other party.

27. SECTION HEADINGS. The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

28. SEVERABILITY. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

29. REMEDIES NOT EXCLUSIVE. Except as provided in Sections 22 and 23, no remedy herein conferred upon or reserved to LOCSD is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

30. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement and each covenant and term is a condition herein.

31. NO WAIVER OF DEFAULT. No delay or omission of LOCSD to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default of an acquiescence therein; and every power and remedy given by this Agreement to LOCSD shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of LOCSD.

32. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended

or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

33. SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

34. CALIFORNIA LAW. This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of San Luis Obispo, if in state court, or in the federal court nearest to San Luis Obispo County, if in federal court.

35. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

36. AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Consultant hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Consultant is obligated, which breach would have a material effect hereon.

37. PRECEDENCE. In the event of conflict contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

38. FORCE MAJEURE. Neither party shall hold the other responsible for damages or delays in performance caused by force majeure (acts of nature) or other events beyond the reasonable control of either party.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by the LOCSD.

CONSULTANT

By: Carol H. Tate

Name: Carol H. Tate

Title: Vice President

Date: 9/1/99

LOS OSOS COMMUNITY SERVICES DISTRICT

[Signature]

General Manager

Date: 9/1/99

ATTEST:

[Signature]

Date: 9/1/99

form consultant agree 7-30-99
File 57

EXHIBIT A

SCOPE OF WORK

Los Osos Community Services District Wastewater Project Management

Introduction

The Los Osos Community Services District (LOCSD) is embarking upon a major capital project to provide wastewater treatment and disposal facilities for the community. This project will be consistent with the vision established in the Comprehensive Resource Management Plan prepared by The Solutions Group.

To assist in delivering the project LOCSD has retained Montgomery Watson (MW) to be the Wastewater Project Manager (WPM). The key functions of the WPM will be to provide leadership and to coordinate the activities of the various project participants including the LOCSD, design consultant, environmental, financial and other consultants and regulatory and funding agencies. The goal of this coordination is to aid the LOCSD in ensuring that the project proceeds on schedule and budget and that effective reporting and communication are maintained among all project participants through project completion.

Mark Ysusi will serve as MW's WPM. The WPM will serve as the project focal point and will be the LOCSD's agent during the planning and design phases of the project. He will also coordinate and determine with the LOCSD the need for MW's support staff as required for project assignments.

LOCSD has retained the firm of Oswald Engineering, Inc. (Design Engineer) to provide design-engineering services for the project. The initial design engineering services include preparation of a Facilities Plan to be submitted to the State Regional Water Quality Control Board in January 2000. It is understood and agreed that the Design Engineer will be solely responsible for the completeness and accuracy of its own activities and work products including reports, technical memoranda, facilities plans, preliminary designs, designs, estimates, schedules and other items. Similarly, the LOCSD's other consultants shall be responsible for the completeness and accuracy of their own work products. Project communication and management direction (chain of command) is generally shown on Attachment "A" – Los Osos Community Services District, Chain of Command, Management Direction.

The WPM's time commitment to the Los Osos wastewater project and MW's commitment for the WPM to be in Los Osos is generally detailed in Attachment "B" – Los Osos Wastewater Project, Project Management Commitment.

MW will perform the following project management services.

Task 1 – Administration

Task 1.1 - Project Management

Task includes work related to the management, administration and coordination of activities for the project management contract.

- Prepare Project Management Plan including organization, schedule, communications, reporting, documentation and project procedures.
- Prepare Work Plans for each work order as it is authorized, including work tasks, labor required, individuals responsible for each task and the budget by task.
- Track and document work progress and budget expenditures for MW and its subconsultants efforts.
- Track and document work progress and budget expenditures for LOCSD in-house and LOCSD consultants efforts.
- Administer the contract by providing assistance with monthly status reports, invoices, and managing LOCSD consultants and MW subconsultants.
- Attend and provide minutes for regular project management meetings with the LOCSD related to management of this contract.
- Prepare cost proposals for change orders and amendments to this contract.

Task 1.2- Monthly Status Report

Using the information developed under Task 1.1 as well as supplemental information, MW will prepare a detailed Monthly Status Report for the LOCSD. Master schedule and budget status will be reported. The report will include progress and budget status information for the WPM, MW subconsultants and each LOCSD consultant. Key Project Journal information including action items completed will also be provided. Problem areas and suggested solutions will be included. Key upcoming activities and milestones will be identified. Agency contacts and status will be summarized. An executive summary of each Monthly Status Report will be provided on the Project Journal.

Task 1.3 - Program Assistance Services

As requested, assist LOCSD staff in management of contracts and project issues. This would include the WPM attending project coordination meetings, preparation of analyses of technical issues, assistance in developing construction contract packages, preparation of a construction management plan, and related services. This assistance will also include development of a master project schedule and budget. Assist the LOCSD in reviewing LOCSD consultants scopes of work and budgets. Assist the LOCSD in assessing the quality of progress and completed work products. The consultant will also prepare level of effort estimates for engineering change orders and contracts for work to be performed under LOCSD consultant contracts, as necessary. MW will assist LOCSD staff as requested during the preparation of construction contract documents and the bidding process.

Task 1.4 – Permit and Easement Acquisition Support and Agency Coordination

Our team will coordinate work performed by the environmental, permitting and easement consultants. We will review the documents and assist in gathering drawings as needed and provide input based on experience to assist in expediting permits and easements. Maintain regular liaison with all affected regulatory and funding agencies including SWRCB, RWQCB, Department of Fish and Game and DOHS. Prepare a project binder containing all permitting and approval documents.

Task 1.5 – Inter/Intranet Site (Project Journal)

Establish and maintain an inter/intranet Project Journal that can be accessed by LOCSD and other project participants. The Journal will include e-mail, general project information, project directory, project calendar, meeting minutes, status reports, technical issue discussions and related materials. As part of

community outreach, this site may also be expanded to provide public access to general project information.

Task 1.6 – Master Filing System/Document Control

Prepare a master filing system to organize all project documents to and from the LOCSD. MW will review a selection of commercial document control products and recommend a document control system to provide document retention and tracking for appropriate documents during the design period. MW can also provide it's own Access-based document control system.

Task 1.7 – Technical Focus Workshops/Liaison

Working in close conjunction with LOCSD staff and the design team, involve MW's and subconsultant resources with specific experience in needed areas in focused workshops. Suggested subject areas are listed below. These areas can be modified during the initial project meetings.

- Design Criteria
- Effluent Disposal/Groundwater Quality
- Permits and Easements
- Project Financing
- Cost Estimating
- Scheduling and Construction Packaging
- Constructability/Biddability
- Community Outreach Strategy

Brief meeting minutes and/or technical memoranda will be prepared.

Maintain regular contact and dialog with the project design team so that appropriate questions are asked and issues raised in a timely manner in order to maintain progress and the project schedule.

Task 1.8-Master Consultants Budget, Schedule and Deliverables

Prepare a master budget and schedule showing all LOCSD consultant services including those of the WPM. This will facilitate proper consultant services tracking and coordination. The schedule will also show all major deliverables to be provided by each consultant. Identify all deliverables required from each consultant. Consultants invoices/expenditures will be tracked under Task 1.1 and reported under Task 1.2.

Task 1.9- Action Items Calendar

Prepare an action items calendar for LOCSD and consultants efforts. This will be based upon the master schedule generated under Task 1.8 and will be included in the Project Journal so that all parties will be able to assess the progress of each participant and tasks that need to be completed prior to the next milestone.

Task 1.10- Assessment District Engineering Coordination and Funding Considerations

Maintain regular contact and coordinate with the project Assessment District Engineering consultant. Assist the LOCSD and Assessment District Engineer in conducting public meetings required for the assessment district process. Assist the LOCSD in assessing the adequacy of overall project funding, coordination with State Revolving Fund loan requirements and other associated considerations. Assist the LOCSD in assessing the viability of alternative funding sources. Assist the LOCSD in developing project cash flow requirements consultant services and construction.

Task 2 – Review Existing Information

Montgomery Watson will establish a project library so that project team members can become familiar with existing project planning and environmental documents, regulatory and permitting agency requirements and other pertinent existing information. The library will incorporate existing documents compiled by the LOCSD.

Task 3- Project Facilities Plan and Environmental Documentation Coordination

Task 3.1- Coordinate Draft Facilities Plan and Environmental Document Preparation

MW will meet with the project design consultant to assist in developing a Facilities Plan table of contents acceptable to the LOCSD, the SWRCB and the RWQCB. MW will assist the LOCSD in reviewing the draft Facilities Plan. MW will also meet with the project environmental consultant to assist in developing a table of contents for necessary environmental documentation acceptable to regulatory and permitting agencies and will assist in reviewing the draft document. MW will track the progress of each effort to monitor compliance with the master schedule milestones. MW will assist the LOCSD and design and environmental consultants in responding to SWRCB and RWQCB review comments. Following draft Plan acceptance, MW will assist the LOCSD and design consultant in developing additional design consultant scope necessary to complete the facilities planning predesign process.

Task 3.2- Coordinate Final Facilities Plan and Environmental Documentation Preparation

MW will track the progress of the final Facilities Plan and final environmental documentation preparation to monitor compliance with the master schedule milestones. MW will monitor Facilities Plan project scope changes and environmental mitigation requirements to assess impacts upon the project estimated construction cost. MW will assist the LOCSD in reviewing the final Facilities Plan and the final environmental documentation prior to their submittal to the SWRCB and the RWQCB.

Task 4-Assess Design-Build Approach (Optional Service)

At the LOCSD's request, MW would assess the appropriateness of employing the design-build delivery system for one or more project elements. Compatibility with project funding and LOCSD institutional requirements would also be assessed.

Task 5 -Design Quality Monitoring

Task 5.1 – Technical Reviews

As appropriate, perform technical reviews of design phase work completed by the design consultant. The intent of these reviews is not to duplicate the design consultant's own QA/QC reviews, but to supplement reviews by LOCSD staff to address project-wide issues, interfaces between construction contracts, consistency (e.g., specifications, standard details), and related issues such as system hydraulics, construction contract packaging, etc. Reviews will consider overall consistency of the documents with particular consideration to minimizing exposure to potential construction claims. Technical reviews will be conducted at the preliminary design (Facilities Plan preparation), mid-point design and 90 percent design completion steps for each contract. Review comments will be documented along with agreed upon resolution and circulated to the design teams and LOCSD staff. An operability review would also be completed in conjunction with the LOCSD's Utilities Manager.

Task 5.2 – Value Engineering Services/Constructability Review

Under this task, MW will plan, organize, facilitate, and document a value engineering/constructability review workshop focusing on the preliminary design for each contract. These workshops will address the preliminary design work. At the 90 percent level of design, the consultant will plan, organize, facilitate and document a constructability review.

Task 6 – Construction Cost Estimates and Schedules

Task 6.1 – Design and Construction Schedule

Coordinate with the design team and LOCSD staff to create a comprehensive design schedule. The design team is responsible for its own schedule commitments within the established project milestones. This schedule will be used to coordinate information and permitting/approvals needs and identify interdependencies between project elements. Our team will manage the schedule to minimize schedule impacts due to informational needs.

Prepare a comprehensive construction schedule at the preliminary, midpoint, and 90 percent levels of design. Scheduling will be performed with Primavera Project Planner for Windows.

Task 6.2 – Construction Cost Estimate

Prepare a comprehensive construction cost estimate at the preliminary, midpoint, and 90 percent levels of design. Unit prices, estimating methods and related information will be provided. Cost estimates will conform to a standardized work breakdown structure/cost code to be determined. Cost estimates at each milestone will be prepared in a format that facilitates comparison between the current estimate and all previous estimates, so that major differences between the estimates can be identified. Prepare an engineer's estimate for each contract package, based on the 90 percent design estimate with any final review comments and market adjustments, prior to advertisement for bids.

To facilitate the tracking of changes between estimates, the cost estimator will perform estimates of the work, including possible design alternatives, and work with the design consultants to identify likely cost impacts from each design change. Major changes beyond a cost or schedule impact threshold (to be determined) will be documented and presented to the LOCSD and design consultants. The LOCSD will make the decision whether or not to approve such changes and "trend" them into the baseline estimate as part of the ongoing design.

Task 7 – Bid Period Assistance (Optional Service)

Provide assistance during bid period including coordinating advertisement, conducting prebid conferences, fielding bidders telephone calls, soliciting input from the design engineer, coordinating responses and coordinating preparation of addenda to the Contract Documents. Such assistance will be provided for each bid package.

Assist the LOCSD in determining the apparent low bidder(s) and in preparing the package(s) for submittal to the SWRCB. Assist the LOCSD in receiving SWRCB approval to award (ATA) to enable LOCSD execution of each construction contract.

Task 8- Construction Management Services (Optional Service)

At the LOCSD's request, MW will submit a scope of work and budget estimate to perform construction management services. These services would consist of construction contract administration and inspection and materials testing.

Task 9 – O&M Manual Quality Assurance (Optional Service)

Provide quality assurance for operations and maintenance (O&M) manuals prepared by the design team for the new facilities. Check the manuals for conformance with the project documents and with any agreed upon O&M procedures from project workshops. Also check for compliance with LOCSD

standards and NPDES permit requirements. Coordinate with LOCSD's Utilities Manager. Upon the LOCSD's request, as an optional service MW could also prepare the O&M manual.

Task 10 – Record Drawings Quality Assurance (Optional Service)

At the completion of construction, provide quality assurance for the preparation of Record Drawings. Actual Record Drawings preparation will be by the design team. This will include all changes to the contract documents resulting from addendum items, change orders and other changes made during construction.

Task 11 – Community Relations Program (Optional Service)

Upon the LOCSD's request, using a public relations/information firm or individual acceptable to the LOCSD, MW would prepare a community relations/information plan. The community outreach staff will coordinate, prepare and distribute materials to keep the public informed about the project and to maintain community support. MW would also assist the LOCSD in preparing for and conducting public meetings.

Task 12- Additional Services (Optional Service)

Upon the LOCSD's request MW would meet with the LOCSD to identify additional services to address project needs. MW would then develop scopes of work and budgets necessary to provide those services. These would be added to the existing agreement by contract amendment.

END OF EXHIBIT A

EXHIBIT B

COMPENSATION FOR SERVICES

Los Osos Community Services District Wastewater Project Management

This Exhibit B is attached to, and made a part of and incorporated by reference with, the Agreement for Services of Independent Consultant (with its exhibits and attachments, all as defined therein, the "Agreement"), made between the Los Osos Community Services District (LOCSD) and Montgomery Watson America's, Inc. (Consultant), providing wastewater project management services.

1. Amount of Compensation for Services.

1.1. Consultant shall be paid for its services rendered based upon:

- 1.1.1. Billing Rates of personnel employed directly on the project shall be calculated on the basis of Actual salary (raw salary excluding all other salary related and/or fringe benefit costs of any type, nature or description) times a multiplier of 2.97 (The multiplier includes 130.8% overhead for costs such as indirect labor, employee fringe benefits, occupancy, non-project related travel, and training; 15.7% general and administrative expenses such as corporate management, professional liability insurance, legal, marketing, bad debt, and interest charges; and 10% profit. The multiplier also includes interest on invested capital, readiness to serve, and all other contingencies and other considerations for the work of this agreement).
- 1.1.2. Consultant shall also receive an allowance for "Associated Project Costs" (APC) of \$7.25 times each direct labor hour of Consultant's professional staff, times 115.7% (= \$8.39/direct labor hour).
- 1.1.3. Consultant shall be reimbursed for subconsultant costs times 115.7%. Subconsultant cost is the reimbursable cost invoiced to Consultant at a multiplier basis or an hourly rate dependent on the subconsultant's established billing structure. Subconsultants' billing rates or multiplier must be approved writing in, in advance by both Consultant and LOCSD.
- 1.1.4. Consultant shall be reimbursed for Reimbursable Expenses at cost times 115.7%.
- 1.1.5. Consultant shall be reimbursed for eligible mileage at a rate of \$0.32/mile times 115.7% (= \$0.37/mile).

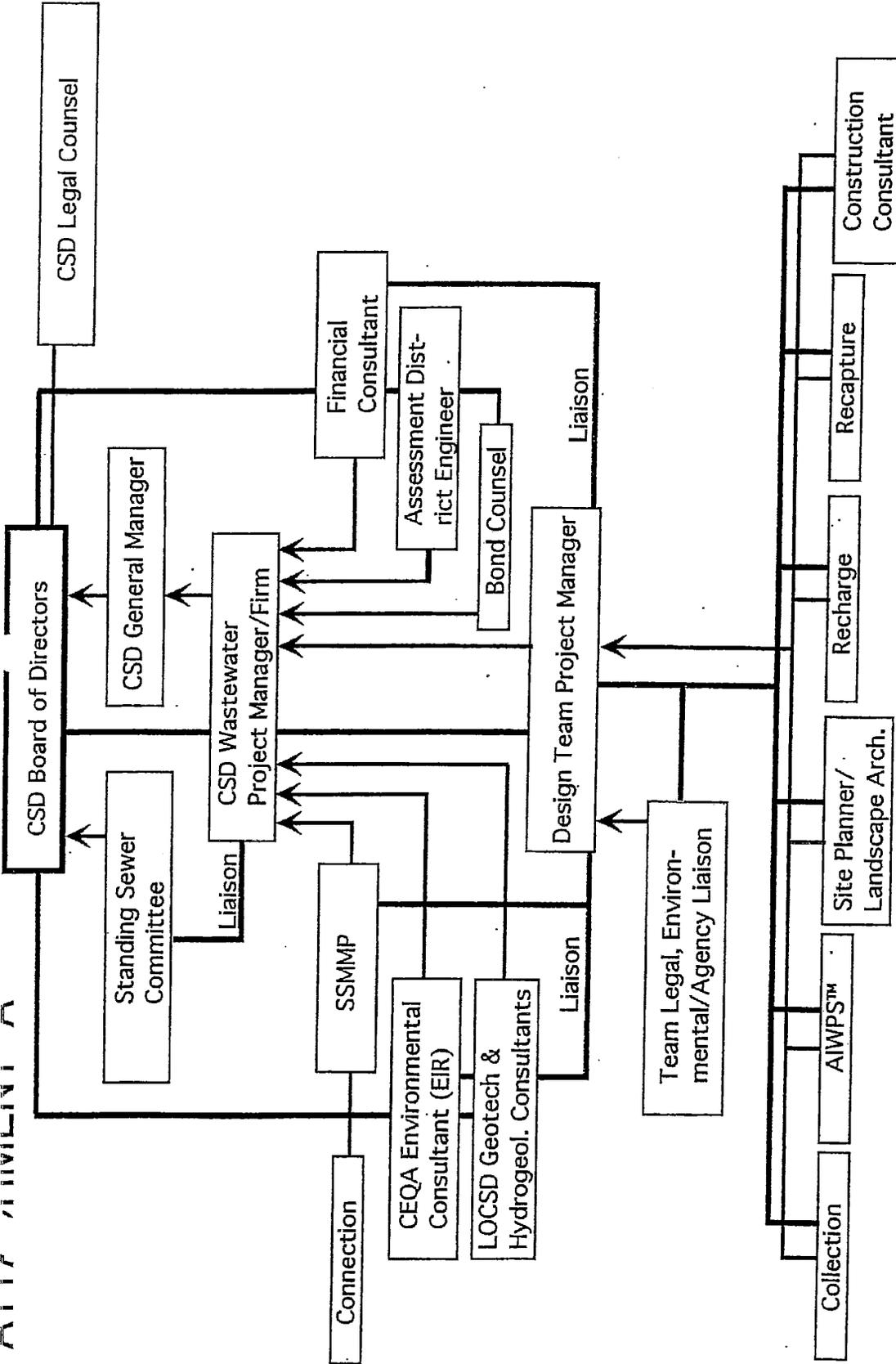
2. Contract Budget.

- 2.1. The contract budget for the services, described in the agreement, is hereby established at \$288,145. The contract budget includes all costs, including Reimbursable Expenses (as described below) and shall not be exceeded without the written authorization of LOCSD.

3. Methods of Payment for Services and Expenses of Consultant.
 - 3.1. For Basic Services on the project, Consultant shall submit monthly invoices with reasonable detail of the time incurred by personnel assigned to the project, along with a schedule of Reimbursable Expenses incurred, supported by invoices and appropriate backup documentation in a form acceptable to the LOCSD. Each invoice shall report on Consultant's total billings and Reimbursable Expenses to date.
 - 3.2. For Extra Services as defined below, the LOCSD shall pay Consultant as follows:
 - 3.2.1. General. For Extra Services of Consultant's professional staff engaged directly on the project, on the basis of a lump sum negotiated between the parties, or at LOCSD's option, at Consultant's billing rates.
 - 3.2.2. Subconsultants and Subcontractors. For Extra Services of subconsultants or subcontractors employed by Consultant to render Extra Services, the amount billed to Consultant therefore times 115.7%.
 - 3.2.3. For Extra Services on an hourly basis, Consultant agrees that all subconsultant and subcontractor billing will be limited to a not-to-exceed amount upon prior written approval of the LOCSD.
 - 3.2.4. For Reimbursable Expenses, LOCSD shall pay Consultant the actual cost of all Reimbursable Expenses times 115.7%.
4. Definitions.
 - 4.1. "Extra Services" means services beyond the scope of services defined in this agreement.
 - 4.2. The Billing Rates used as a basis for payment apply to all of Consultant's professional personnel (including with limitation project managers, estimators, schedulers, support staff, and field personnel) engaged directly on the project. Billing Rates may increase up to 4% per year maximum consistent with Consultant's established salary review schedule, subject to written approval by the LOCSD in advance of any adjusted billing rate adjustment.
 - 4.3. "Reimbursable Expenses" means actual expenses incurred by Consultant for only the following costs: 1) reasonable and necessary project-related travel expenses, while travelling on behalf of the Project beyond a 30-mile radius of Los Osos, for trips authorized in advance by LOCSD; 2) mileage costs for automobile use by Mr. Ysusi between Fresno and Los Osos ("commute"); 3) other Reimbursable Expenses not included in "APC" which are authorized in advance in writing by LOCSD.
 - 4.4. "Associated Project Costs" or "APC" include telecommunications, postage/express mail, convenience copying (in-house printing, printing for communication between LOCSD and between LOCSD consultants, and printing other than for bid packages or major printing efforts), Consultant's network, standard personal computers and software, faxes and general office supplies.

END OF EXHIBIT B

ATTACHMENT "A"



= Management Path (Chain of Command)
 = Contractual Path for CSD commitments
 = Contractual Path for Design Team
 = Liaison

Los Osos Community Services District
 Chain of Command
 Management Direction
 Recommendations by Standing Comm.
 3/23/99 Rev: 10/28/99

ATTACHMENT B

PROJECT MANAGEMENT COMMITMENT

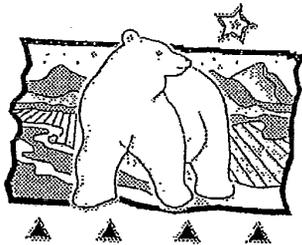
Los Osos Community Services District Wastewater Project Management

The following statements describe Montgomery Watson's project management time commitment to the Los Osos Wastewater Project. Specific items, relating to working conditions and eligible reimbursable costs, are also described.

1. The weekly workload is anticipated to vary between 3 and 5 days per week, depending on project requirements at the time. The project budget has been developed assuming that the Wastewater Project Manager (WPM) will, on average, devote 3-1/2 days per week working on the Los Osos Wastewater Project.
2. In general, the WPM will be in Los Osos two or more days per week. Monday and Tuesday are the regular days for the WPM to be in residence in Los Osos.
3. The WPM will customarily attend the meetings of the LOCSD Wastewater Committee and report project status and provide project information to committee members. The LOCSD Wastewater Committee currently convenes the second and fourth Tuesday of each month.
4. The WPM's daily location will be posted on the project management journal to facilitate contacting him when he is not working in the LOCSD office. The WPM's anticipated working locations will be posted one week in advance. The LOCSD office staff will be notified of the communication location and phone number of the WPM when not in residence in Los Osos. WPM will provide for project and public contact access at his location(s) during the work week.
5. The LOCSD will provide office space in the CSD offices at 2122 9th Street, Los Osos, California. The LOCSD will also provide a phone for project-related business. Montgomery Watson will pay long distance phone costs, not related to the Los Osos Wastewater Project.
6. The WPM's time commuting between Montgomery Watson's Fresno office and Los Osos is not chargeable. Travel time required for other project-related business is chargeable.
7. Mileage reimbursement between Fresno and Los Osos will be limited to one round trip per week, or more if pre-approved by LOCSD's General Manager.
8. Mileage costs within a 30-mile radius of LOCSD offices will not be charged.

END OF ATTACHMENT B

Attachment B



Los Osos Community Services District

P.O. Box 6064 • Los Osos, California 93412 • Phone 805/528-9370 • Fax 805/528-9377

President: Rosemary Bowker
Vice-President: Pandora Nash-Karner
Directors: Stan Gustafson, Gordon Hensley, Sylvia Smith
Interim General Manager: Paavo A. Ogren
Utilities Manager: George Milanés

November 4, 1999

Board of Directors
Los Osos Community Services District

**Subject: Agenda Item No. 13:
 Consideration and approval of Montgomery Watson's contract for Wastewater
 Project Management Services in an amount not to exceed \$288,145.00.**

Summary

Attached are recommendations developed by the District's wastewater committee for inclusion in the Los Osos Community Services District Wastewater Project Management Agreement with Montgomery Watson. These recommendations result from a meeting of the ad-hoc subcommittee appointed by the Standing Sewer Committee and Mark Ysusi, District Wastewater Project Manager on October 28, 1999.

Recommendation

That after discussion and public comment, your Board

1. Review the recommendations of the Advisory Committee and adopt them, or in the alternative, modify and adopt the recommendations.
2. Authorize the District's President to execute an agreement with Montgomery Watson upon final preparation by legal counsel.

Sincerely,

Paavo A. Ogren
Interim General Manager

GARY E. KARNER, FASLA
CA Landscape Architect #1175
350 Mitchell Drive, Los Osos, CA 93402
(805) 528-7014 • FAX (805) 528-7033
email: <gkarner@calpoly.edu>

FAX MEMO: 5 pp. total including this page

Date: October 29, 1999

To: Paavo Ogren - CSD Gen Mgr
Jon Seitz - CSD Counsel
Mark Ysusi - WWT PM
Frank Freiler
Bob Semenson

cc: Pandora Nash-Karner, Chair, Standing Sewer Committee
✓ Stan Gustafson - Standing Sewer Committee

Re: WPM Agreement Review

Frank, Bob and I met with Mark Ysusi yesterday and reviewed aspects of the Agreement for WPM (Montgomery Watson). Our recommendations are attached.

I have revised the "Chain of Command" chart, adding coordination of the geotech and hydrogeology consultants as part of the WPM's duties. This chart is in color and I will leave copies at the CSD office for reproduction and inclusion in the Agreement. The chart was created in Canvas.

I am sending this to all parties identified above. If there are questions or if I have not recorded the meeting accurately, please call.

I will attempt to email this to all concerned with the documents attached as files. Hope they get through.

Best,
Gary

This FAX and the information it contains is intended to be a confidential communication only to the person or entity to whom it is addressed. If you have received this FAX in error, please notify us by telephone and return the original to this office by mail. We will reimburse any costs incurred in complying with this request.

LOCSD WWT PM Agreement Review and Recommendations
October 28, 1999

! Following is a summary of recommendations for inclusion in the Los Osos Community Services District Wastewater Project Management Agreement between Montgomery Watson and the LOCSD. These recommendations result from a meeting of the ad-hoc subcommittee appointed by the Standing Sewer Committee (Frank Freiler, Gary Karner and Bob Semenson) and Mark Ysusi, LOCSD WWT Project Manager ("WPM") on October 28, 1999.

1) The Agreement is to be on an hourly-maximum basis, not to exceed the cost projections in the Montgomery Watson proposal for the Los Osos Wastewater Project Manager dated July, 1999, under "Fees and Expenses".

2) The Agreement is to be for one year, retroactive to the date services were initially provided, and subject to annual extensions by mutual agreement by the parties.

3) The Scope of Work (Exhibit "A") for Los Osos Community Services District Wastewater Project Management was reviewed and approved for inclusion in the Agreement.

4) The Terms and Conditions to be included in the Agreement were reviewed and approved with minor changes. Mr. Ysusi is to clarify these modifications with LOCSD legal counsel.

5) The chart entitled "Chain of Command, Management Direction" (Recommendations by Standing Committee, 3/23/99), revised 10/28/99 is to be attached to the Project Manager Scope of Services as Attachment "A". This chart was revised by the ad-hoc committee and WPM to reflect that the geotechnical and hydrogeology consultants retained directly by the LOCSD would report to and be coordinated by the WPM.

6) The WPM is to prepare Attachment "B" to the Project Manager Scope of Services to define the WPM's time commitment to be in residence in Los Osos and to define communication procedures both while in residence in Los Osos and away. Generally, the WPM's commitment is for four days per week devoted to the Los Osos WWT Project, with a minimum of two days per week in residence in Los Osos. This attachment is subject to approval by the parties and may be

modified by mutual consent.

- 7) It is recommended that this document (LOCSD WWT PM Agreement Review and Recommendations, October 28, 1999) be attached to the Scope of Services as Attachment "C" in the Agreement.
- 8) Billing Procedures: It was agreed that:
 - a) Mr. Ysusi would be billed at a flat hourly rate of \$140. per hour. Mr. Ysusi's time "commuting" between Fresno and Los Osos is not chargeable.
 - b) All other MW personnel would be billed in general accordance with the document entitled "MWA Cost Recovery", June 14, 1999 prepared by Rick Frank. (See Reimbursable Expenses, below.)
 - c) In addition, we agreed that a profit margin of 10% would be acceptable.

Effectively, personnel will be billed according to the following formula (numbers are for illustration only):

Item:	Example
Direct Salary:	\$40.00
Overhead (130.8% x \$40)	52.32
APC (flat charge per direct labor hour)	<u>7.25</u>
subtotal	99.57
G&A (15.7% x \$99.57)	<u>15.63</u>
Subtotal	\$115.20
Profit (10% x \$115.20)	<u>11.52</u>
Billing Rate	\$126.72

Personnel will be billed by classification and by person and services charges allocated to "project billing sectors".

- d) The WPM is to establish project billing sectors, generally to account for expenditures attributable to:

SSMMP
Collection System
Treatment System

Recharge/discharge System
Harvesting System
(Others, as required for clarity)

9) Reimbursable Expenses: With the exception of the following, all expenses are included in the billing formula described above.

Exceptions:

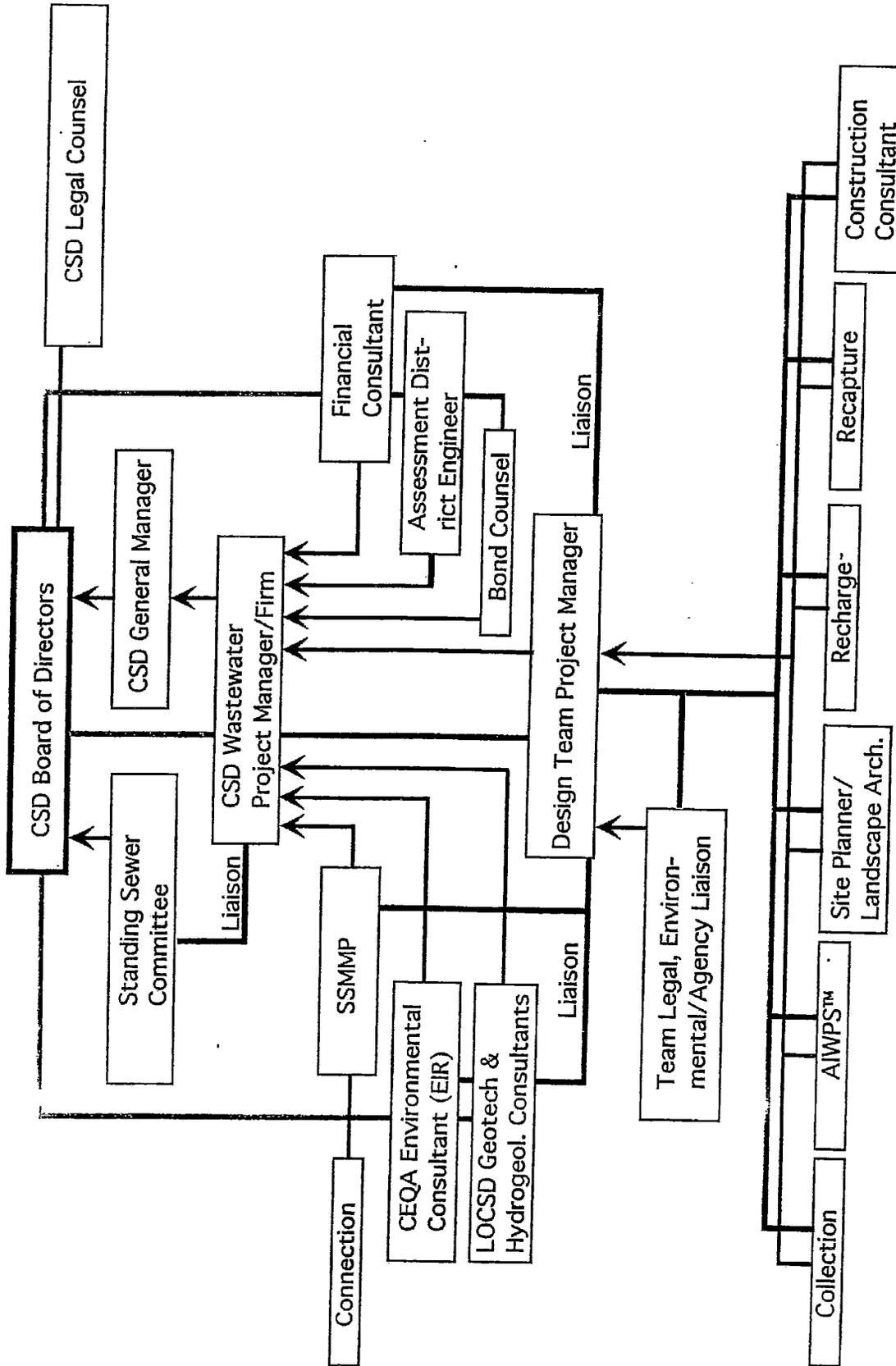
a) The LOCSO will provide office space in the CSO offices in Los Osos for the WPM, at the pleasure and direction of the CSO.

b) Reasonable and necessary project-related travel expenses, while travelling on behalf of the Project beyond a 30-mile radius of Los Osos, are chargeable at cost + 15.7%.

c) Mileage costs for automobile use by WPM between Fresno and Los Osos ("commute"), and for reasonable and necessary Project travel, are chargeable at \$0.31/mile + 15.7%. (= \$.36/mile). Note: WPM's time in "commuting" between Fresno and Los Osos is not chargeable. Non-project automobile use is not chargeable.

10) It was agreed that the ad-hoc subcommittee would review Montgomery Watson's billings compared to the proposed cost projections in the MW proposal on a quarterly basis. It is the WPM's responsibility to control expenditures in accordance with the proposal.

END



= Management Path (Chain of Command)
 = Contractual Path for CSD commitments
 = Contractual Path for Design Team
 = Liaison

Los Osos Community Services District
 Chain of Command
 Management Direction
 Recommendations by Standing Comm.
 3/23/99 Rev: 10/28/99

Fees and Expenses

First Year Project Management Costs			
Staff Member	Estimated Hours	Hourly Rate	Amount (\$)
WPM			
Ysusi	1400	140	\$196,000
Labor Subtotal	1400		\$196,000
APC			\$10,150
Other Direct Costs			\$20,000
Reimbursable Subtotal			\$30,150
Estimated First Year WPM Cost			\$226,150
Additional Staff (as determined by CSD)			
Bergen	16	140	\$2,240
Creager	16	135	\$2,160
Monroe	16	135	\$2,160
Gellerman	24	135	\$3,240
Vause	16	135	\$2,160
Erskine	24	75	\$1,800
Middlebrooks	16	125	\$2,000
Richardson	60	140	\$8,400
Smith	32	125	\$4,000
Zurawski	40	115	\$4,600
Hasan	40	100	\$4,000
Administrative Aid	288	60	17,280
Clerk	32	60	\$1,920
Labor Subtotal	620		\$55,960
APC			\$4,495
Other Direct Costs			\$1,500
Reimbursable Subtotal			\$5,995
Estimated Cost of Additional Staff			\$61,955

Post-It® Fax Note	7671	Date	11/1/99	# of pages	1
To	KAREN VEGIA	From	MARK YUSI		
Co./Dept.		Co.			
Phone #		Phone #			
Fax # (805) 528-9277		Fax #			

EXHIBIT A

SCOPE OF WORK

Los Osos Community Services District Wastewater Project Management

Introduction

The Los Osos Community Services District (DISTRICT) is embarking upon a major capital project to provide wastewater treatment and disposal facilities for the community. This project will be consistent with the vision established in the Comprehensive Resource Management Plan prepared by The Solutions Group.

To assist in delivering the project DISTRICT has retained Montgomery Watson (MW) to be the Wastewater Project Manager (WPM). The key functions of the WPM will be to provide leadership and to coordinate the activities of the various project participants including the DISTRICT, design consultant, environmental, financial and other consultants and regulatory and funding agencies. The goal of this coordination is to aid the DISTRICT in ensuring that the project proceeds on schedule and budget and that effective reporting and communication are maintained among all project participants through project completion.

Mark Ysusi will serve as MW's WPM. The WPM will serve as the project focal point and will be the DISTRICT's agent during the planning and design phases of the project. He will also coordinate and determine with the DISTRICT the need for MW's support staff as required for project assignments.

DISTRICT has retained the firm of Oswald Engineering, Inc. (Design Engineer) to provide design engineering services for the project. The initial design engineering services include preparation of a Facilities Plan to be submitted to the State Regional Water Quality Control Board in January 2000. It is understood and agreed that the Design Engineer will be solely responsible for the completeness and accuracy of its own activities and work products including reports, technical memoranda, facilities plans, preliminary designs, designs, estimates, schedules and other items. Similarly, the DISTRICT's other consultants shall be responsible for the completeness and accuracy of their own work products.

MW will perform the following project management services.

Task 1 – Administration

Task 1.1 - Project Management

Task includes work related to the management, administration and coordination of activities for the project management contract.

- Prepare Project Management Plan including organization, schedule, communications, reporting, documentation and project procedures.

- Prepare Work Plans for each work order as it is authorized, including work tasks, labor required, individuals responsible for each task and the budget by task.
- Track and document work progress and budget expenditures for MW and its subconsultants efforts.
- Track and document work progress and budget expenditures for DISTRICT in-house and DISTRICT consultants efforts.
- Administer the contract by providing assistance with monthly status reports, invoices, and managing DISTRICT consultants and MW subconsultants.
- Attend and provide minutes for regular project management meetings with the DISTRICT related to management of this contract.
- Prepare cost proposals for change orders and amendments to this contract.

Task 1.2- Monthly Status Report

Using the information developed under Task 1.1 as well as supplemental information, MW will prepare a detailed Monthly Status Report for the DISTRICT. Master schedule and budget status will be reported. The report will include progress and budget status information for the WPM, MW subconsultants and each DISTRICT consultant. Key Project Journal information including action items completed will also be provided. Problem areas and suggested solutions will be included. Key upcoming activities and milestones will be identified. Agency contacts and status will be summarized. An executive summary of each Monthly Status Report will be provided on the Project Journal.

Task 1.3 - Program Assistance Services

As requested, assist DISTRICT staff in management of contracts and project issues. This would include the WPM attending project coordination meetings, preparation of analyses of technical issues, assistance in developing construction contract packages, preparation of a construction management plan, and related services. This assistance will also include development of a master project schedule and budget. Assist the DISTRICT in reviewing DISTRICT consultants scopes of work and budgets. Assist the DISTRICT in assessing the quality of progress and completed work products. The consultant will also prepare level of effort estimates for engineering change orders and contracts for work to be performed under DISTRICT consultant contracts, as necessary. MW will assist DISTRICT staff as requested during the preparation of construction contract documents and the bidding process.

Task 1.4 – Permit and Easement Acquisition Support and Agency Coordination

Our team will coordinate work performed by the environmental, permitting and easement consultants. We will review the documents and assist in gathering drawings as needed and provide input based on experience to assist in expediting permits and easements. Maintain regular liaison with all affected regulatory and funding agencies including SWRCB, RWQCB, Department of Fish and Game and DOHS. Prepare a project binder containing all permitting and approval documents.

Task 1.5 – Inter/Intranet Site (Project Journal)

Establish and maintain an inter/intranet Project Journal that can be accessed by DISTRICT and other project participants. The Journal will include e-mail, general project information, project directory, project calendar, meeting minutes, status reports, technical issue discussions and related materials. As part of community outreach, this site may also be expanded to provide public access to general project information.

Task 1.6 – Master Filing System/Document Control

Prepare a master filing system to organize all project documents to and from the DISTRICT. MW will review a selection of commercial document control products and recommend a document control system to provide document retention and tracking for appropriate documents during the design period. MW can also provide it's own Access-based document control system.

Task 1.7 – Technical Focus Workshops/Liaison

Working in close conjunction with DISTRICT staff and the design team, involve MW's and subconsultant resources with specific experience in needed areas in focused workshops. Suggested subject areas are listed below. These areas can be modified during the initial project meetings.

- Design Criteria
- Effluent Disposal/Groundwater Quality
- Permits and Easements
- Project Financing
- Cost Estimating
- Scheduling and Construction Packaging
- Constructability/Biddability
- Community Outreach Strategy

Brief meeting minutes and/or technical memoranda will be prepared.

Maintain regular contact and dialog with the project design team so that appropriate questions are asked and issues raised in a timely manner in order to maintain progress and the project schedule.

Task 1.8-Master Consultants Budget, Schedule and Deliverables

Prepare a master budget and schedule showing all DISTRICT consultant services including those of the WPM. This will facilitate proper consultant services tracking and coordination. The schedule will also show all major deliverables to be provided by each consultant. Identify all deliverables required from each consultant. Consultants invoices/expenditures will be tracked under Task 1.1 and reported under Task 1.2.

Task 1.9- Action Items Calendar

Prepare an action items calendar for DISTRICT and consultants efforts. This will be based upon the master schedule generated under Task 1.8 and will be included in the Project Journal so that all parties will be able to assess the progress of each participant and tasks that need to be completed prior to the next milestone.

Task 1.10- Assessment District Engineering Coordination and Funding Considerations

Maintain regular contact and coordinate with the project Assessment District Engineering consultant. Assist the DISTRICT and Assessment District Engineer in conducting public meetings required for the assessment district process. Assist the DISTRICT in assessing the adequacy of overall project funding, coordination with State Revolving Fund loan requirements and other associated considerations. Assist the DISTRICT in assessing the viability of alternative funding sources. Assist the DISTRICT in developing project cash flow requirements consultant services and construction.

Task 2 – Review Existing Information

Montgomery Watson will establish a project library so that project team members can become familiar with existing project planning and environmental documents, regulatory and permitting agency requirements and other pertinent existing information. The library will incorporate existing documents compiled by the DISTRICT.

Task 3- Project Facilities Plan and Environmental Documentation Coordination

Task 3.1- Coordinate Draft Facilities Plan and Environmental Document Preparation

MW will meet with the project design consultant to assist in developing a Facilities Plan table of contents acceptable to the DISTRICT, the SWRCB and the RWQCB. MW will assist the DISTRICT in reviewing the draft Facilities Plan. MW will also meet with the project environmental consultant to assist in developing a table of contents for necessary environmental documentation acceptable to regulatory and permitting agencies and will assist in reviewing the draft document. MW will track the progress of each effort to monitor compliance with the master schedule milestones. MW will assist the DISTRICT and design and environmental consultants in responding to SWRCB and RWQCB review comments. Following draft Plan acceptance, MW will assist the DISTRICT and design consultant in developing additional design consultant scope necessary to complete the facilities planning predesign process.

Task 3.2- Coordinate Final Facilities Plan and Environmental Documentation Preparation

MW will track the progress of the final Facilities Plan and final environmental documentation preparation to monitor compliance with the master schedule milestones. MW will monitor Facilities Plan project scope changes and environmental mitigation requirements to assess impacts upon the project estimated construction cost. MW will assist the DISTRICT in reviewing the final Facilities Plan and the final environmental documentation prior to their submittal to the SWRCB and the RWQCB.

Task 4-Assess Design-Build Approach (Optional Service)

At the DISTRICT's request, MW would assess the appropriateness of employing the design-build delivery system for one or more project elements. Compatibility with project funding and DISTRICT institutional requirements would also be assessed.

Task 5 –Design Quality Monitoring

Task 5.1 – Technical Reviews

As requested, perform technical reviews of design phase work completed by the design consultant. The intent of these reviews is not to duplicate the design consultant's own QA/QC reviews, but to supplement reviews by DISTRICT staff to address project-wide issues, interfaces between construction contracts, consistency (e.g., specifications, standard details), and related issues such as system hydraulics, construction contract packaging, etc. Reviews will consider overall consistency of the documents with particular consideration to minimizing exposure to potential construction claims. Technical reviews will be conducted at the preliminary design, mid-point design and 90 percent design completion steps for each contract. Review comments will be documented along with agreed upon resolution and circulated to the design teams and DISTRICT staff. An operability review would also be completed in conjunction with the DISTRICT's Utilities Manager.

Task 5.2 – Value Engineering Services/Constructability Review

Under this task, MW will plan, organize, facilitate, and document a value engineering workshop focusing on the preliminary design for each contract. These workshops will address the preliminary design work. At the 90 percent level of design, the consultant will plan, organize, facilitate and document a constructability review.

Task 6 – Construction Cost Estimates and Schedules

Task 6.1 – Design and Construction Schedule

Coordinate with the design team and DISTRICT staff to create a comprehensive design schedule. The design team is responsible for its own schedule commitments within the established project milestones. This schedule will be used to coordinate information and permitting/approvals needs and identify

interdependencies between project elements. Our team will manage the schedule to minimize schedule impacts due to informational needs.

Prepare a comprehensive construction schedule at the preliminary, midpoint, and 90 percent levels of design. Scheduling will be performed with Primavera Project Planner for Windows.

Task 6.2 – Construction Cost Estimate

Prepare a comprehensive construction cost estimate at the preliminary, midpoint, and 90 percent levels of design. Unit prices, estimating methods and related information will be provided. Cost estimates will conform to a standardized work breakdown structure/cost code to be determined. Cost estimates at each milestone will be prepared in a format that facilitates comparison between the current estimate and all previous estimates, so that major differences between the estimates can be identified. Prepare an engineer's estimate for each contract package, based on the 90 percent design estimate with any final review comments and market adjustments, prior to advertisement for bids.

To facilitate the tracking of changes between estimates, the cost estimator will perform estimates of the work, including possible design alternatives, and work with the design consultants to identify likely cost impacts from each design change. Major changes beyond a cost or schedule impact threshold (to be determined) will be documented and presented to the DISTRICT and design consultants. The DISTRICT will make the decision whether or not to approve such changes and "trend" them into the baseline estimate as part of the ongoing design.

Task 7 – Bid Period Assistance

Provide assistance during bid period including coordinating advertisement, conducting prebid conferences, fielding bidders telephone calls, soliciting input from the design engineer, coordinating responses and coordinating preparation of addenda to the Contract Documents. Such assistance will be provided for each bid package.

Assist the DISTRICT in determining the apparent low bidder(s) and in preparing the package(s) for submittal to the SWRCB. Assist the DISTRICT in receiving SWRCB approval to award (ATA) to enable DISTRICT execution of each construction contract.

Task 8- Construction Management Services (Optional Service)

At the DISTRICT's request, MW will submit a scope of work and budget estimate to perform construction management services. These services would consist of construction contract administration and inspection and materials testing.

Task 9 – O&M Manual Quality Assurance

Provide quality assurance for operations and maintenance (O&M) manuals prepared by the design team for the new facilities. Check the manuals for conformance with the project documents and with any agreed upon O&M procedures from project workshops. Also check for compliance with DISTRICT standards and NPDES permit requirements. Coordinate with DISTRICT's Utilities Manager. Upon the DISTRICT's request, as an optional service MW could also prepare the O&M manual.

Task 10 –Record Drawings Quality Assurance (Optional Service)

At the completion of construction, provide quality assurance for the preparation of Record Drawings. Actual Record Drawings preparation will be by the design team. This will include all changes to the

contract documents resulting from addendum items, change orders and other changes made during construction.

Task 11 – Community Relations Program (Optional Service)

Upon the DISTRICT's request, using a public relations/information firm or individual acceptable to the DISTRICT, MW would prepare a community relations/information plan. The community outreach staff will coordinate, prepare and distribute materials to keep the public informed about the project and to maintain community support. MW would also assist the DISTRICT in preparing for and conducting public meetings.

Task 12- Additional Services (Optional Service)

Upon the DISTRICT's request MW would meet with the DISTRICT to identify additional services to address project needs. MW would then develop scopes of work and budgets necessary to provide those services. These would be added to the existing agreement by contract amendment.

Attachment C

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**Los Osos Community Services District
Board of Directors
Minutes of the November 4, 1999 Meeting**

AGENDA ITEM	DISCUSSION OR ACTION	FOLLOW-UP										
Call to Order	The meeting was called to order at 6:30 p.m. by President Bowker.											
Roll Call	<table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Director Smith</td> <td style="width: 20%;">Present</td> </tr> <tr> <td>Director Hensley</td> <td>Present</td> </tr> <tr> <td>Director Gustafson</td> <td>Present</td> </tr> <tr> <td>Vice President Nash-Karner</td> <td>Present</td> </tr> <tr> <td>President Bowker</td> <td>Present</td> </tr> </table>	Director Smith	Present	Director Hensley	Present	Director Gustafson	Present	Vice President Nash-Karner	Present	President Bowker	Present	
Director Smith	Present											
Director Hensley	Present											
Director Gustafson	Present											
Vice President Nash-Karner	Present											
President Bowker	Present											
Adjourn to Closed Session	<p>President Bowker announced that the meeting would adjourn to closed session for the following: Pursuant to Section 54957 for the following: Public Employment of Utilities Manager</p> <p>Pursuant to Subsection c of Section 54956.9 for the following: Conference with Legal Counsel, Existing Litigation:</p> <p>Re: In real property, APN 074-221-089 Owner: Morro Palsades, a general partnership</p> <p>Re: In real property, APN 074-221-092 Owner: Morro Shores Company</p>											
Reopening to Public Session	The meeting reopened to public session at 7:00 p.m.											
Report on Closed Session	<p>Legal Counsel Jon Seitz reported on the following: No action was taken pursuant to Section 54957.</p> <p>Pursuant to Subsection c of Section 54956.9, the Board discussed the court order that was obtained by the District to obtain permission to enter APN 074-221-089 and APN 074-221-092 to determine their feasibility as sites for the wastewater treatment plant.</p>											
Pledge of Allegiance												

AGENDA ITEM	DISCUSSION OR ACTION	FOLLOW-UP
Public Comment	<p><u>Lisa Gonzales, 1297 15th Street</u>: She spoke for herself, and also read letters from Mary Teft, 1285 15th Street, and Carolyn Niblick, 1288 15th Street, requesting assistance in controlling traffic speeds on 15th Street near the intersection of Santa Maria.</p> <p><u>George Taylor, 423 Mitchell Drive</u>: He spoke in opposition to the proposed tenancy of Hollywood Video in the Ralphs complex, both from an aesthetic standpoint and the potential loss of business for the three existing video rental stores in Los Osos.</p> <p><u>Pandora Nash-Karner, Chair, County Parks and Recreation Commission</u>: She gave an update on the progress for the new swimming pool.</p> <p><u>Sylvia Smith</u>: She reported that the South Bay Library book sale and event was a huge success. She thanked Fire Chief Bruce Pickens, Utilities Manager George Milanés, and sound technician Hunter Kilpatrick for their help.</p> <p><u>Rosemary Bowker</u>: She invited the community to the Los Osos CSD Independence Day celebration and open house on November 14th.</p>	
1. Report from Sheriff's Department	<p>Sergeant Hodgkin reported on the following:</p> <ul style="list-style-type: none"> • The CSD must get the encroachment permit for the skateboard park construction to move forward. • The Sheriff's Department will participate in the Veteran's Day ceremony on 11/12 and the CSD celebration on 11/14. • Halloween was relatively quiet with no major incidents to report. 	
2. Report from Utilities Systems Manager	<p>George Milanés reported on the following:</p> <ul style="list-style-type: none"> • The FLOHelp volunteers have requested the District research possible insurance coverage. Staff is currently researching the options and costs for this type of coverage. • He met last week with the State Department of Health Services for the annual inspection of the Baywood Park water system. The District's operating permit is forthcoming. • The utility crews are cleaning up the drainage basins and culverts before the storm season. • As of November 1, 1999, the District has assumed responsibility for the well sites. A standby schedule is in place to respond to alarms. • The first water billing has been mailed out. 	

AGENDA ITEM	DISCUSSION OR ACTION	FOLLOW-UP
3. Report from Fire Chief	Chief Pickens submitted a warrant in the amount of \$1,221.50 to WPC for work on the station remodel. This contract had been previously approved by the Board.	
4. Report from Legal Counsel	Jon Seltz reported that he is working on a District e-mail policy to present for the next meeting.	
5. Report from Interim General Manager	<p>Interim General Manager Ogren reported on the following:</p> <ul style="list-style-type: none"> • November 11th is the first meeting with bond counsel. • Request for discussions on fire employees MOU will be postponed until the bargaining unit is formed. • Information on Social Security will be distributed to employees tomorrow. • This is the last pay period for County employees prior to their transition to the District. 	
Consent Agenda		
<p>6. Approval of Warrants</p> <p>7. Approval of Previous Meeting Minutes of October 21, 1999</p> <p>8. Approval of a Revision of the District Personnel Policies to Reflect Various Benefits, Rights, and Responsibilities for Exempt Employees</p> <p>9. Approval of Modifications to the Fire Chief and Fire Captain/Fire Marshal Job Specifications</p> <p>10. Approval of an Increase in the Section 125 Cafeteria Plan of \$19.04 Per Month Per Employee By the District</p> <p>11. Approval of a Resolution Authorizing the Establishment of a District Bank Account for Employee Payroll</p> <p>12. Approval of a 3.3% Cost of Living Adjustment to the District Salary Schedule for Administrative Secretary and Fire Chief Positions, Retroactive to June 26, 1999</p>	<p>Interim General Manager Ogren announced that Agenda Item No. 9 would be pulled from the consent agenda and placed on the regular agenda.</p> <p>A motion was introduced by Director Smith to approve Agenda Items 6,7,8,10,11, and 12. The motion was seconded by Vice President Nash-Karner.</p> <p>The motion was approved unanimously by voice vote.</p> <p>District Legal Counsel Jon Seltz reported that additional changes to the Fire Chief position should be approved as follows: Under "Typical Tasks": "Plans, organizes, and directs all employees of all classifications, including volunteer firefighters, if any, assigned to the District's fire department..." In addition, under the fifth bulletin item, "and good morale" should be stricken. Under the Fire Captain/Fire Marshal job description, "Definition", sixth line, delete "and Fire Captain/Paramedic".</p> <p>A motion was introduced by Director Gustafson to approve modifications to the Fire Chief and Fire Captain/Fire Marshal job specifications as amended. The motion was seconded by Director Smith.</p> <p>The motion was approved unanimously by voice vote.</p>	

AGENDA ITEM	DISCUSSION OR ACTION	FOLLOW-UP
Regular Agenda		
<p>13. Consideration and Approval of Montgomery Watson's Contract for Wastewater Project Management Services in an Amount Not To Exceed \$288,145.00.</p>	<p>A motion was introduced by Director Hensley to approve the contract with Montgomery Watson for Wastewater Project Management Services in an amount not to exceed \$288,145, with the conditions that the District charge the appropriate rent, that no mileage charges be reimbursed. The motion was seconded by Director Smith.</p> <p>Roll Call Vote: Director Smith Yes Director Hensley Yes Director Gustafson No Vice President Nash-Karner No President Bowker No</p> <p>The motion failed to pass with three (3) negative votes.</p> <p>A motion was introduced by President Bowker to accept staff recommendation to approve the contract with Montgomery Watson for Wastewater Project Management Services in an amount not to exceed \$288,145, with the condition that Mr. Ysusi does not charge the District his hourly rate for travel time, that mileage reimbursement between Fresno and Los Osos be limited to one round trip per week, or more if pre-approved by the District's General Manager, and that Montgomery Watson not be charged rent. The motion was seconded by Director Gustafson.</p> <p>Roll Call Vote: Director Smith No Director Hensley No Director Gustafson Yes Vice President Nash-Karner Yes President Bowker Yes</p> <p>The motion passed with three (3) affirmative votes.</p>	
<p>14. Consideration and Approval of Technical Corrections to Section 4020 of the District Personnel Policies, Sick Leave, To Eliminate Payment of Accrued Leave Upon Termination of Employment by the Fire Captain/Fire Marshal, Fire Captain/Paramedics, Fire Engineer/Paramedics, and Fire Engineer</p>	<p>A motion was introduced by Vice President Nash-Karner to approve the attached technical corrections to Section 4020 of the District Personnel Policies, Sick Leave, to eliminate payment of accrued leave upon termination of employment by the Fire Captain/Fire Marshal, Fire Captain/Paramedics, Fire Engineer/Paramedics, and Fire Engineer. The motion was seconded by Director Hensley.</p> <p>The motion passed unanimously by voice vote.</p>	

AGENDA ITEM	DISCUSSION OR ACTION	FOLLOW-UP
15. Consideration and Approval of Group Life Insurance and Group Long-Term Disability Plans, At an Estimated Annual Cost of \$6,720.00	A motion was introduced by Director Hensley to approve group life insurance and group long-term disability plans, at an estimated annual cost of \$6,720.00, and to authorize the Interim General Manager to submit payment with the applications. The motion was seconded by Director Gustafson. The motion passed unanimously by voice vote.	
16. Consideration of a Request for Funding Up To \$15,000.00 of a Joint Project of the Army Corps of Engineers Feasibility Study to Determine Further Action By the Corps To Solve the Problems of Morro Bay, At Total Study Cost of \$1.6 million	No action was taken on this item.	
17. Consideration and Approval of a Staff Recommendation For the Board To Set Up an Ad Hoc Committee To Review Bids Received For Purchase of Utilities Vehicles, To Authorize This Committee To Execute the Necessary Documents, and That After Review By Legal Counsel, This Committee Be Authorized To Purchase the Equipment That Meets the Bid Specifications and Is Within the Budgeted Amounts Previously Approved By the Board	A motion was introduced by Director Hensley to approve staff recommendation for the Board to set up an Ad Hoc Committee Composed of Directors Gustafson and Smith to review bids received for purchase of utilities vehicles, to authorize the committee to execute the necessary documents, including any necessary deposits, and that after review by legal counsel, this committee be authorized to purchase the equipment that meets the bid specifications and is within the budgeted amounts previously approved by the Board. The motion was seconded by Vice President Nash-Karner. The motion passed unanimously by voice vote.	
Committee Reports		
a. Ad Hoc Identity/Outreach	Vice President Nash-Karner thanked several people who have volunteered their time and talents for the CSD Independence Day on 11/14.	
b. Ad Hoc Environmental	<ul style="list-style-type: none"> • Deadline for Board comment on the draft Comprehensive Conservation Management Plan is imminent. A special Board meeting is scheduled for November 14, 1999 at 12:00 p.m. to approve a letter of comments to be sent. • Inquiries on the habitat conservation plan, which the District is negotiating with Fish and Wildlife, need to be addressed. 	Ogren to respond to Mr. Bob Robertson of Los Osos Auto Body regarding status of habitat conservation plan.
c. Ad Hoc Mission Statement	No report.	
d. Wastewater	Written report submitted.	
e. Drainage	Committee met on 11/2. Written minutes will be submitted.	
f. Water Operations	Committee met 11/3. The District needs to address a policy for removal of meters from abandoned properties. County Planning needs to notify the District on permits issued in Los Osos.	
g. Finance & Budget	Committee will meet Monday, 11/8 at 9:30 a.m.	

AGENDA ITEM	DISCUSSION OR ACTION	FOLLOW-UP
Directors' Comments	<p>Director Gustafson suggested that the new General Manager will take over more of the staff functions, and that committees will become more advisory in nature.</p> <p>Vice President Nash-Karner wanted the wastewater committee minutes amended to reflect that Rick Hernandez was present at the last meeting, not absent.</p> <p>Director Hensley is concerned that the Ralphs project may not reflect the proper "gateway to Los Osos".</p> <p>Director Smith reported that the Chamber of Commerce Board would meet with the real estate negotiator for Ralphs regarding the potential tenancy of Hollywood Video.</p>	
Adjournment	The meeting was adjourned at 9:20 p.m.	

Attachment D