



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

## AGENDA BOARD OF DIRECTORS MEETING

1655 Front Street  
6:30 P.M.

July 23, 2008

Oceano  
Wednesday

### BOARD MEMBERS

Jim Hill, President

Vern Dahl, Director

Barbara J. Mann, Director

Bill Bookout, Vice President

Pamela Dean, Director

### SECRETARY TO THE BOARD

Patrick J. O'Reilly, General Manager

### DEPUTY SECRETARY TO THE BOARD

Gina A. Davis, Administrative Assistant

### FIRE CHIEF

Chief Mike Hubert

### UTILITY OPERATIONS SUPERVISOR

Philip T. Davis

### ALL ITEMS APPEARING ON THE AGENDA ARE SUBJECT TO BOARD ACTION

1. Roll Call
2. Flag Salute
3. Public Comment \*  
Any member of the public may address the Board on any item of interest within the jurisdiction of the Board. The Board will listen to all communications; however, in compliance with the Brown Act, the Board cannot act on items not on the agenda.
4. Board Member Items/Discussion \*
5. Review and Approval of Minutes  
(a) July 9, 2008
6. Reports
  - a. Reports of District Department Heads
    - (1) Report of Administrative Assistant
    - (2) Report of Utility Operations Supervisor
    - (3) Report of Fire Department Operations
7. Fire Items
  - a. OCSD Board of Directors' Acknowledgement of Contributions Made by District Firefighters as Recognized by Members of the OCSD Fire Department for the Year 2007

### RULES FOR PRESENTING TESTIMONY

All persons who wish to present testimony to the Board of Directors in a public hearing must observe the following rules:

1. When beginning to speak, first identify yourself and place of residence. This is required for the public record. Board of Directors' meetings are tape recorded.
2. All remarks must be addressed to the Chair. Conversation or debate between the speaker at the podium and a member of the audience is not permitted.
3. Please keep your remarks as brief as possible. Focus your testimony on the most important facts you wish to be considered. Avoid duplicating testimony provided by others.
4. It is important that all participants conduct themselves with courtesy, dignity and respect.
5. Whenever possible, written testimony should be presented as well as oral. Written testimony can be submitted in advance of the actual hearing date.

1. Firefighter of the Year - 2007/Resolution 2008-19  
Consideration of the General Manager's recommendation to adopt OCSD Resolution 2008-19, A RESOLUTION OF CONGRATULATIONS TO PAUL KALATA FOR HIS SELECTION AS OCSD FIREFIGHTER OF THE YEAR - 2007.
  2. Rookie of the Year/ Resolution 2008-18  
Consideration of the General Manager's recommendation to adopt OCSD Resolution 2008-18, A RESOLUTION OF CONGRATULATIONS TO SHAUN WATHAN FOR HIS SELECTION AS ROOKIE OF THE YEAR - 2007.
  3. Recipient Manuel Vargas Award/ Resolution 2008-20  
Consideration of the General Manager's recommendation to adopt OCSD Resolution 2008-20, A RESOLUTION OF CONGRATULATIONS TO BRIAN FUKAHARA FOR HIS SELECTION AS THE RECIPIENT OF THE MANUEL VARGAS AWARD - 2007.
  4. Recipient Chief's Dedication Award - Resolution 2008-21  
Consideration of the General Manager's recommendation to adopt OCSD Resolution 2008-21, A RESOLUTION OF CONGRATULATIONS TO BRIAN FUKAHARA FOR HIS SELECTION AS THE RECIPIENT OF THE CHIEF'S DEDICATION AWARD - 2007.
- b. Agreement for Joint Fire Management, Administrative, and Training Services and Equipment  
Consideration of General Manager's recommendation to extend agreement.
8. Utility Items
- a. Cleaning and Inspection of District Sewer and Water Lines  
Continual Disclosure of the Emergency declared by the Board of Directors concerning the Cleaning and Inspection of the District Sewer and Water Mains.
  - b. Water Reliability Agreement with County of San Luis Obispo  
Consideration of General Manager's recommendation to participate in the water reliability agreement.
  - c. Proposal for the preparation of a Restoration Plan for Segments 3 and 15 of the Oceano Sewer Repair Project  
Consideration of General Manager's recommendation to approve a Services Agreement with the Morro Group for preparation of a Restoration Plan for Segments 3 and 15 of the Oceano Sewer Project.
9. Administrative Items
- a. Employee Vacation Accrual  
Consider recommendation of General Manager to amend Personnel Policies and Procedures to consider "Prior Service" when calculating vacation accrual.

b. Committee Assignments

Consider recommendation of Ad Hoc Committee to change the District Rules of Order regarding committee assignments.

10. CONFERENCE WITH DISTRICT'S DESIGNATED REPRESENTATIVE REGARDING THE COMPENSATION PAID TO ITS REPRESENTED EMPLOYEES.\*

**CLOSED SESSION** – A closed session pursuant to Government Code Section 54957.6 to meet with District's Designated Representative regarding compensation paid to its represented employees. The District's designated representative for negotiations with the represented employees is Patrick O'Reilly.

11. Reports of District Representatives \*

This item gives the President and Board Members the opportunity to present reports to other members regarding committees, commissions, boards, or special projects on which they may be participating.

a. **PRESIDENT JIM HILL**

- (1) Fire Committee 07 11 2008
- (2) Personnel Committee 07 15 2008
- (3) SSLOCSD 07 16 2008
- (4) Fire Committee 07 22 2008
- (5) Other

b. **VICE PRESIDENT BILL BOOKOUT**

- (1) Local Chapter of CSDA Annual Meeting 07 11 2008
- (2) Water and Sewer Committee 07 15 2008
- (3) Other

c. **DIRECTOR VERN DAHL**

- (1) Water and Sewer Committee 07 15 2008
- (2) OAC 07 21 2008
- (3) Zones 1/1A 07 22 2008
- (4) Other

d. **DIRECTOR PAMELA DEAN**

- (1) Personnel Committee 07 15 2008
- (2) Zone 3 07 17 2008
- (3) Other

e. **DIRECTOR BARBARA MANN**

- (1) Fire Committee 07 11 2008
- (2) Local Chapter of CSDA Annual Meeting 07 11 2008
- (3) Fire Committee 07 22 2008
- (4) Other



12. General Manager Items/Discussion\*
  - a. Other
13. Board Member Discussion\*
14. Consideration of Warrants
15. Public Comment \*
16. Written Communications  
(Correspondence for the Board Received After Preparation of this Agenda is Presented by the General Manager)

Adjournment

\* Oral Presentation/Discussion

**ALL ITEMS APPEARING ON THE AGENDA ARE SUBJECT TO BOARD ACTION**

**Consistent with the American with Disabilities Act and California Government Code §54954.2 requests for disability related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires the modification or accommodation in order to participate at the referenced public meeting by contacting the District General Manager or Administrative Assistant at 805-481-6730.**

**P.O. Box 599/Oceano, CA 93475  
1655 Front Street/Oceano, CA 93445  
(805) 481-6730 / FAX (805) 481-6836  
[www.oceanocsd.org](http://www.oceanocsd.org) [ocsd@oceanocsd.org](mailto:ocsd@oceanocsd.org)**



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### FIRE CHIEF

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1. Roll Call

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3. Public Comment \*

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4. Board Member Items/Discussion \*

5. Review and Approval of Minutes

(a) July 9, 2008

6. Reports

a. Reports of District Department Heads

(1) Report of Administrative Assistant

(2) Report of Utility Operations Supervisor

(3) Report of Fire Department Operations

7. Fire Items

a. OCSD Board of Directors' Acknowledgement of Contributions Made by District Firefighters as Recognized by Members of the OCSD Fire Department for the Year 2007

**OCEANO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS MEETING MINUTES**

**WEDNESDAY**

**July 9, 2008**

**OCEANO**

The meeting was called to order by President Hill at 6:30 P.M.

1. Roll Call  
Present: President Hill, Vice President Bookout, Director Dahl, Director Mann,  
Absent: Director Dean  
Staff Present: Patrick O'Reilly, Secretary to the Board/ General Manager, Gina A. Davis, Deputy Secretary to the Board/ Administrative Assistant, Philip T. Davis, Utility Operations Supervisor, John Bova, Fire Captain, Ryan Fothergill, District Legal Counsel  
Staff Absent: None
2. Flag Salute  
President Hill led the flag salute.
3. Public Comment  
None
4. Board Member Items/Discussion  
None
5. Review and Approval of Minutes
  - a. June 11, 2008
  - b. June 25, 2008
  - c. June 30, 2005

For clarification, President Hill read the budget amounts authorized June 25th by Resolution 2008-11 as follows:

General Fund	\$651,650
Street Lighting	\$52,706
Fire Department	\$795,075
Water Fund	\$1,938,962
Sewer Fund	\$1,723,151
Garbage Fund	\$70,222
Litigation Fund	\$20,000
Sheriff's Facility	\$5,900

President Hill then asked District Legal Counsel if it is appropriate for Director Bookout to vote on the budget since he is involved in a lawsuit with the District. Ryan Fothergill said he would research the matter and get back to the Board.

**After a request for public comment, there being none, on motion by Director Mann, and second by President Hill, the Minutes of June 11<sup>th</sup>, June 25<sup>th</sup> and June 30<sup>th</sup> were approved by unanimous voice vote (Director Dean absent).**

**OCEANO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS MEETING MINUTES**

**WEDNESDAY**

**July 9, 2008**

**OCEANO**

**6. Reports**

**a. Brian Hascall, Commander, Sheriff's South Station**

Commander Hascall reported the arrest of two people for theft of copper wire. The South Station made 10 arrests and issued 6 citations on July 4<sup>th</sup>. There has been an increase in vehicle thefts in Oceano with 8 occurring last weekend; he encourages people to lock their car doors or park in garages.

After a request for public comment, none being given, President Hill thanked Commander Hascall for his report.

**7. Fire Items**

**a. Weed Abatement Public Hearing**

GM O'Reilly reported that Weed Abatement has been completed by the contractor. 25 properties were abated at a cost of \$4,948. The property owners were invoiced \$8,175.

President Hill opened the Public Hearing. He asked three times if anyone wanted to contest an invoice and no one responded at any time. President Hill then closed the Public Hearing.

Vice President Bookout recused himself because his Oceano Nursery is within 500 feet of APN 62118005.

Director Dahl asked staff if all the affected property owners had been notified about their right to protest at tonight's meeting and staff replied that all property owners had been notified.

**Thereafter, upon motion by Director Dahl, second by Director Mann, and on the following roll call vote, to wit:**

**AYES: Director Dahl, Director Mann, President Hill**

**NOES: None**

**ABSENT: Director Dean**

**RECUSED: Vice President Bookout**

**THE BOARD APPROVED OCSD RESOLUTION 2008-15 CONFIRMING THE COSTS ASSOCIATED WITH THE REMOVAL OF WEEDS FROM VARIOUS PARCELS OF LAND AND DIRECTING STAFF TO FORWARD THE CHARGES TO THE COUNTY AUDITOR FOR COLLECTION.**

Vice President Bookout resumed his position on the dais.

**OCEANO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS MEETING MINUTES**

**WEDNESDAY**

**July 9, 2008**

**OCEANO**

**8.     Utility Items**

**a.     Cleaning and Inspection of District Sewer and Water Lines.**

President Hill introduced this continuing item.

**Thereafter, after a request for public comment, (none being given), upon motion by Vice President Bookout, second by Director Mann, and on the following roll call vote, to wit:**

**AYES:       Vice President Bookout, Director Mann, Director Dahl,  
              President Hill**

**NOES:       None**

**ABSENT:     Director Dean**

**The Board approved the continuance of the declaration of emergency.**

**b.     Delinquent Garbage Collection / Resolution 2008-16**

GM O'Reilly reported that 37 properties were delinquent in payments for Solid Waste Collection totaling \$6,604. He reported that OCSD Ordinance 1999-1 authorizes delinquent charges to be added to the property tax roles.

President Hill opened the Public Hearing. He asked three times if anyone wanted to contest an invoice and no one responded at any time. President Hill then closed the Public Hearing.

**Thereafter, upon motion by Vice President Bookout , second by Director Mann, and on the following roll call vote, to wit:**

**AYES:       Vice President Bookout, Director Mann, Director Dahl,  
              President Hill**

**NOES:       None**

**ABSENT:     Director Dean**

**THE BOARD APPROVED OCSD RESOLUTION 2008-16 CONFIRMING THE CHARGES AGAINST PROPERTY OWNERS FOR THE COLLECTION OF DELINQUENT SOLID WASTE COLLECTION CHARGES AND DIRECTING STAFF TO FORWARD THE CHARGES TO THE COUNTY AUDITOR FOR COLLECTION.**

**OCEANO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS MEETING MINUTES**

**WEDNESDAY**

**July 9, 2008**

**OCEANO**

- c. Proposed Monitoring Program for the Northern Cities Management Area  
GM O'Reilly reported that Todd Engineers have produced a Monitoring Program for the Northern Cities Management Area that complies with the requirements of the "Judgment after Trial" for the Santa Maria Groundwater Basin Lawsuit. The monitoring program must be submitted to the Court no later than July 23, 2008.

**Thereafter, upon motion by Vice President Bookout , second by Director Dahl, and on the following roll call vote, to wit:**

**AYES:** Vice President Bookout, Director Dahl, Director Mann,  
President Hill

**NOES:** None

**ABSENT:** Director Dean

**THE BOARD APPROVED THE MONITORING PROGRAM FOR THE NORTHERN CITIES MANAGEMENT AREA.**

9. Administrative Items

a. Committee Assignments

GM O'Reilly presented the changes to the Rules of Order proposed by the Ad Hoc Committee on Committee Assignments comprised of Directors Dahl and Dean.

Vice President Bookout felt that the motion should be tabled until both members of the sub-committee could be present to discuss their recommendations. Director Mann and President Hill felt the item should be voted on at the current meeting.

Director Mann stated that she felt the majority of the Directors were being manipulated by the General Manager specifically to get her removed from her committees. She stated that a staff member had told her that he had said that. The General Manager responded that he had not said any such thing.

During Public Comment, Jeanette Padilla, owner of Oceano Market & Gas, and Lin Hill, Oceano resident, spoke against the recommended changes.

President Hill stated that he is resigning from the three "Core" committees that he currently serves on.

District Legal Counsel Ryan Fothergill clarified that if the motion resulted in a split vote (2 for and 2 against), it would be considered a failed motion. The only Directors who could bring the item back for consideration would be the two Directors who voted against the motion or the absent Director.

No action was taken on this item.



**OCEANO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS MEETING MINUTES**

**WEDNESDAY**

**July 9, 2008**

**OCEANO**

b. Claim

Director Bookout recused himself because he filed the subject claim concerning his Oceano Nursery property.

District Legal Counsel Fothergill presented an amended claim filed by attorney John W. Belsher, acting on Bill Bookout's behalf, on June 27, 2008. The amended claim adds five new "incident" dates to the previous claim. The California Tort Claims Act provides procedures for handling claims against public agencies. Previous claims and amended claims submitted by Mr. Bookout were all rejected in a timely manner.

During Public Comment, Jeanette Padilla, owner of Oceano Market & Gas, and Silvia Martinez, Oceano resident, spoke in support of rejecting the claim.

**Thereafter, upon motion by Director Mann, second by Director Dahl, and on the following roll call vote, to wit:**

**AYES: Director Mann, Director Dahl, President Hill**

**NOES: None**

**ABSENT: Director Dean**

**RECUSED: Vice President Bookout**

**The Board took the following action:**

**As to the untimely claims (February 22, 2007 and December 18, 2007), instructed staff to send the statutory notice regarding presentation of the late claim; and**

**As to the timely claims (January 4, 2008; January 24, 2008 and February 3, 2008), rejected the claims and instructed staff to send the statutory rejection notice.**

10. Reports of District Representatives

a. President Hill

President Hill reported on the SSLOCSD meeting of 7/2/2008; that the Fire Committee meeting scheduled for 7/8/2008 had been cancelled; on the Coastal Commission meeting of 7/9/2008 and on the OCSD Board Special meeting on 6/30/2008.

b. Vice President Bookout

None

c. Director Dahl

None

**OCEANO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS MEETING MINUTES**

**WEDNESDAY**

**July 9, 2008**

**OCEANO**

d. Director Dean  
Director Dean was absent.

e. Director Mann  
None

President Hill opened the floor to Public Comment. There was none.

11. General Manager Items/ Discussion

GM O'Reilly reported that San Luis Obispo County had recently entered into a contract to have all streets in Oceano with curbs swept on a monthly basis.

12. Board Member Items/ Discussion

Director Mann pointed out that the amounts had not been read in public at the previous Board meeting when the Resolution adopting the budget was approved.

Vice President Bookout stated that he felt comments or questions about staff should be sent to the Personnel Committee.

President Hill asked if staff had contacted Rich McKleeney about his concerns expressed at the Board meeting of June 11<sup>th</sup> that he was charged excessively for weed abatement of his property last year. Staff responded that he had been contacted.

13. Consideration of Warrants

President Hill presented the warrants for consideration.

AA Davis clarified one line of the description on the warrant for Director Mann.

**Thereafter, after a request for public comment, (none being given), upon motion by Director Mann, second by Director Dahl, the Board approved the warrants by unanimous voice vote (4-0)(Director Dean absent).**

14. Public Comment  
None

16. Written Communication  
None

The meeting was adjourned by President Hill at 8:58 pm.

Patrick O'Reilly, Secretary to the Board



# Oceano Community Services District

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July 23, 2008

**TO:** Patrick J. O'Reilly, General Manager

**FROM:** Gina A. Davis, Administrative Assistant

**SUBJECT: DEPARTMENT REPORT FOR THE MONTH OF JUNE, 2008**

Administrative staff assisted with the preparation of agendas for two regular and one special OCSD Board meetings, one Fire Committee meeting, and one Finance Committee meeting. Routine tasks completed during the month included regular and firefighter payrolls; warrants; and monthly nitrate and selenium reports. Staff also assisted with the monthly DMV process.

Many hours were spent at the counter and on the telephone with customers calling about and/or paying their utility bills which were mailed on May 31. We mailed 474 late notices on June 24<sup>th</sup>, 2008. On June 28<sup>th</sup>, 4,267 Annual Water Quality/Consumer Confidence Reports were mailed. The monthly nitrate reports was processed and sent to the State and County Environmental Health Departments. After the Report was researched, prepared, published, and submitted to the State Department of Health Services, it was duplicated, folded, bound, addressed, presorted, counted, and mailed to every resident in Oceano and to all absentee owners.

The Proposed Budget for the Fiscal Year 2008-2009 was prepared, reviewed with the Board Directors as well as with the general public, edited, printed and reprinted, and adopted by the Board on June 25<sup>th</sup>. Certain pages of the Final Budget were edited, and delivered to the Directors.

The inspection forms and permits were prepared in order for the Fire Department to approve the sales of fireworks at each of the five booths within the Community. The Weed Abatement program continued, with staff finalizing the abatement list and preparing the work orders for the contractor, and fielding phone calls regarding requirements. The contractor finished mowing/clearing all the lots and submitted his billing. Administration prepared and sent out the billings on July 1<sup>st</sup>. The public hearing regarding these charges was held on July 9, 2008. A second public hearing was held on July 9, regarding the delinquent garbage accounts which will be placed on the Tax Rolls.

Paperwork was completed and submitted regarding the Sheriff's Alternative Work Program; and the bi-monthly billing was mailed to Canyon Crest and the Christy Family for the wheeling charges. Regarding the CDBG-funded sewer project, staff transmitted the necessary agreements with California Fish & Game to the appropriate parties. Staff is currently working on the annual projects required to be completed at the end of the fiscal year.



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July 23, 2008

**TO:** Patrick O'Reilly, General Manager  
**FROM:** Gina A. Davis, Administrative Assistant  
**SUBJECT: SUPPLEMENTAL INFORMATION - MONTH OF JUNE, 2008**

During the month of June, 2008, Administrative staff processed the following letters prepared by the Utility Operations Supervisor:

**WILL SERVE LETTERS**

BRYKSLSKI

Rochelle Way

Convert Garage to Apartment

**FIRE SAFETY PLAN LETTERS**

BRYKSLSKI

Rochelle Way

Convert Garage to Apartment

BULTMAN

Nipomo

Woodshop & Detached SFR

**FEE LETTERS**

GRIGG

Paso Robles

2<sup>nd</sup> SFR

**COUNTY PROJECT REFERRALS**

None

**OTHER CORRESPONDENCE**

SCHIEFFER

Cienaga

Re all-weather road materials

Agenda Item 07 23 2008 6. a.(1)&(2)

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# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

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July 23, 2008

**TO:** Patrick J. O'Reilly, General Manager

**FROM:** Philip T. Davis, Utility Operations Supervisor

**SUBJECT: REPORT FOR THE MONTH OF JUNE, 2008**

There were no failures reported in the Sewer system last month. The District crew jet cleaned some of the troublesome sewer mains. The State Parks Department completed the installation of the new sand trap on their lateral that serves the restroom. After the sand trap was installed, we hired FRM's Vactor truck to clean the sand out of the sewer main on Pier Avenue.

We attended a pre-project meeting with representatives from the Wallace Group, San Luis Obispo County Public Works Department, the Sanitation District and Video Inspection Specialists. The meeting was primarily to keep everyone informed about video taping project of the Sanitation District's trunk lines. The District crew did assist the contractor one afternoon by locating a couple of manholes that were buried.

In a separate project, OCSD also videoed several of the District's sewer mains that were missed during the last video and sewer cleaning project. Doug Groshart with The Wallace Group coordinated that project.

In the Water Department we had 3 leaks reported during the month, each of which was in a service line. The District crew repaired these 3 leaks. They also spent 2 days working on the fire hydrant maintenance program. The crew spent time prepping and painting the pipes, electrical cabinets and buildings in the Well 8 yard. During that project it was noted that the roof on one of the electrical cabinets, was in bad shape and will need to be replaced. Other jobs completed during the month included maintenance on the chlorinator at Well 8, maintenance on the vehicles, repairing the wood fence beside the hose rack at the Fire Station, and permanently patching a hole in Pier Avenue, where we had repaired a water line leak in May.

Because of damages to the curbs and pavement, we hired a tree surgery company to cut down and remove pine trees in the front and back parking lots of the Fire Station/Office Complex. We had some additional issues with the #5 Waukesha engine. The magneto had to be sent in for repairs, (we have a spare), and the starter had to be rebuilt (we don't have a spare for that).

We completed the Annual Water Quality Report to Consumers and mailed it to all the District residents. We prepared the Monthly Nitrate/Selenium Report and submitted it to the State Department of Health Services and the County of San Luis Obispo. We prepared two Will-Serve letters and one Fee letter.

*T:\Agenda\BdMtgAgenda\2008\2008 07 23 UOS Report*

Agenda Item 2008 07 23 6. a. (2)

Patrick J. O'Reilly  
July 23, 2008  
Page Two

The District produced 92.64 acre feet of water during June, 2008. This was calculated as 55 acre feet of State Project water, 16.67 acre feet of Lopez project water, and we pumped 20.97 acre feet of ground water. The total amount of water produced in June, 2008 was 2.9 % more than was produced in May, 2008 and it was 5.0 % more that was produced in June, 2007.





## Oceano Fire Department



### REPORT For JUNE 2008

During the month of June, the department responded to a total of 69 calls. 34 were in Oceano, 17 were in Grover Beach, 6 were in Arroyo Grande, 10 were with Cal Fire and 2 were on the beach. Of the 34 calls in Oceano, 26 were EMS related, 2 were fire related and 6 were miscellaneous calls. This put the total as of the end of June at 381.

All budgeted fixed asset items for FY 07-08 have been ordered and most have been received. The total budgeted was \$18,726 and the total spent was \$17,432. Also, all items for the 2007 VFA Grant have been ordered.

Cooperative training between the three departments for the month was focused on commercial structure fire attack and strategies and tactics. Training between the three agencies continues to progress well and we are continuing with the training of our new cross staffing reserves.

Copies of the new 2007 California Fire Code based on the 2006 International Fire Code were ordered and received. The Fire Department will be working on the adoption process and determining how we need to adopt it as it relates to amendments.



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July 23, 2008

TO: Board of Directors, OCSD

FROM: Patrick J. O'Reilly, General Manager *PJO*

**SUBJECT: OCSD BOARD OF DIRECTORS' ACKNOWLEDGMENT OF CONTRIBUTIONS MADE BY DISTRICT FIREFIGHTERS AS RECOGNIZED BY THE MEMBERS OF THE OCSD FIRE DEPARTMENT FOR THE YEAR 2007**

It is tradition for the Board of Directors to recognize the Firefighters who, in the opinion of the Community's Firefighters, have contributed the most to the Department during the course of the year. Annually, the OCSD Board of Directors has acknowledged and recognized major award recipients.

District Fire Captains recommend to the Board of Directors the adoption of Resolutions honoring the Firefighter of the Year for 2007, the OCSD Fire Department Rookie of the Year, the Recipient of the Manuel Vargas Award, and the Recipient of the Chief's Dedication Award. Once adopted, the Resolutions will be framed in accordance with OCSD tradition and presented to the Firefighters at a subsequent Board meeting.

**THE RECOMMENDED ACTION BEFORE YOUR BOARD is to:** by Board discussion, public comment, motion, second, and **roll call vote**, adopt,

1. OCEANO COMMUNITY SERVICES DISTRICT RESOLUTION NO. 2008-19, A RESOLUTION OF CONTRATULATIONS TO PAUL KALATA FOR HIS SELECTION AS "OCSD FIREFIGHTER OF THE YEAR;"
2. OCEANO COMMUNITY SERVICES DISTRICT RESOLUTION NO. 2008-18, A RESOLUTION OF CONGRATULATIONS TO SHAUN WATHAN FOR HIS SELECTION AS "ROOKIE OF THE YEAR;"
3. OCEANO COMMUNITY SERVICES DISTRICT RESOLUTION NO. 2008-20, A RESOLUTION OF CONGRATULATIONS TO BRIAN FUKAHARA FOR HIS SELECTION AS THE RECIPIENT OF "THE MANUEL VARGAS AWARD;" AND
4. OCEANO COMMUNITY SERVICES DISTRICT RESOLUTION NO. 2008-21, A RESOLUTION OF CONGRATULATIONS TO BRIAN FUKAHARA FOR HIS SELECTION AS THE RECIPIENT OF "THE CHIEF'S DEDICATION AWARD."

Agenda Item 07 23 2008 7.a.

T:\Agendas\BOARD MEETING AGENDAS\2008\07 23 2008\2008 07 23 Firefighter Awards.rtf

**OCEANO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2008-19**

**A RESOLUTION OF CONGRATULATIONS TO  
PAUL KALATA  
FOR HIS SELECTION AS "OCSD FIREFIGHTER OF THE YEAR"**

**WHEREAS**, Paul Kalata has served on the Oceano Community Services District Fire Department since January 7, 2003; and,

**WHEREAS**, as a Firefighter, Paul Kalata has served the District well, discharging his duties in a capable and competent manner; and,

**WHEREAS**, Paul Kalata has been selected by the members of the Oceano Fire Department as FIREFIGHTER OF THE YEAR; and,

**WHEREAS**, the Oceano Community Services District Board of Directors wishes to recognize Paul Kalata for his faithful service to the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE OCEANO COMMUNITY SERVICES DISTRICT THAT:**

The Board of Directors of the Oceano Community Services District extends to Paul Kalata its expression of esteem and gratitude for performing his job well and being selected as "Firefighter of the Year" and looks forward to a continuing a mutually beneficial relationship in the future.

Upon the motion of \_\_\_\_\_, seconded by \_\_\_\_\_ and upon the following roll call vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAINING:

the foregoing Resolution is hereby adopted this 23rd day of July, 2008.

\_\_\_\_\_  
Jim Hill, President

ATTEST:

\_\_\_\_\_  
Patrick J. O'Reilly, Secretary

**OCEANO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2008-18**

**A RESOLUTION OF CONGRATULATIONS TO  
SHAUN WATHAN  
FOR HIS SELECTION AS "ROOKIE OF THE YEAR"**

**WHEREAS**, Shaun Wathan has served on the Oceano Community Services District Fire Department since January 23, 2007; and,

**WHEREAS**, as a Firefighter, Shaun Wathan has served the District well, discharging his duties in a capable and competent manner; and,

**WHEREAS**, Shaun Wathan has been selected by the members of the Oceano Fire Department as ROOKIE OF THE YEAR; and,

**WHEREAS**, the Oceano Community Services District Board of Directors wishes to recognize Shaun Wathan for his faithful service to the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE OCEANO COMMUNITY SERVICES DISTRICT THAT:**

The Board of Directors of the Oceano Community Services District extends to Shaun Wathan its expression of esteem and gratitude for performing his job well and being selected as "Rookie of the Year" and looks forward to a continuing a mutually beneficial relationship in the future.

Upon the motion of \_\_\_\_\_, seconded by \_\_\_\_\_ and upon the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted this 23rd day of July, 2008.

\_\_\_\_\_  
Jim Hill, President

ATTEST:

\_\_\_\_\_  
Patrick J. O'Reilly, Secretary

**OCEANO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2008-20**

**A RESOLUTION OF CONGRATULATIONS TO  
BRIAN FUKAHARA  
FOR HIS SELECTION AS THE RECIPIENT OF "THE MANUEL VARGAS AWARD"**

**WHEREAS**, Brian Fukahara has served on the Oceano Community Services District Fire Department since April 12, 2005; and,

**WHEREAS**, as a Firefighter, Brian Fukahara has served the District well, discharging his duties in a capable and competent manner; and,

**WHEREAS**, Brian Fukahara has been selected by the members of the Oceano Fire Department as FIREFIGHTER OF THE YEAR; and,

**WHEREAS**, the Oceano Community Services District Board of Directors wishes to recognize Brian Fukahara for his faithful service to the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE OCEANO COMMUNITY SERVICES DISTRICT THAT:**

The Board of Directors of the Oceano Community Services District extends to Brian Fukahara its expression of esteem and gratitude for performing his job well and being selected as the Recipient of "The Manuel Vargas Award" and looks forward to a continuing a mutually beneficial relationship in the future.

Upon the motion of \_\_\_\_\_, seconded by \_\_\_\_\_ and upon the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted this 23rd day of July, 2008.

\_\_\_\_\_  
Jim Hill, President

ATTEST:

\_\_\_\_\_  
Patrick J. O'Reilly, Secretary

**OCEANO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2008-21**

**A RESOLUTION OF CONGRATULATIONS TO  
BRIAN FUKAHARA  
FOR HIS SELECTION AS THE RECIPIENT OF "THE CHIEF'S DEDICATION AWARD"**

**WHEREAS**, Brian Fukahara has served on the Oceano Community Services District Fire Department since April 12, 2005; and,

**WHEREAS**, as a Firefighter, Brian Fukahara has served the District well, discharging his duties in a capable and competent manner; and,

**WHEREAS**, Brian Fukahara has been selected by the members of the Oceano Fire Department as FIREFIGHTER OF THE YEAR; and,

**WHEREAS**, the Oceano Community Services District Board of Directors wishes to recognize Brian Fukahara for his faithful service to the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE OCEANO COMMUNITY SERVICES DISTRICT THAT:**

The Board of Directors of the Oceano Community Services District extends to Brian Fukahara its expression of esteem and gratitude for performing his job well and being selected as the Recipient of "The Chief's Dedication Award" and looks forward to a continuing a mutually beneficial relationship in the future.

Upon the motion of \_\_\_\_\_, seconded by \_\_\_\_\_ and upon the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted this 23rd day of July, 2008.

\_\_\_\_\_  
Jim Hill, President

ATTEST:

\_\_\_\_\_  
Patrick J. O'Reilly, Secretary



ambiguities in the Agreement against the Party that has drafted the applicable provision, is not applicable and is waived. The provisions of the Agreement shall be interpreted in a reasonable manner to effect the purpose and intent of the Parties.

20. Execute in Counterparts. The Parties hereto agree that there shall be three originals of this Agreement which shall be identical in all respects. The Parties may execute this Agreement in three or more counterparts, which shall, in the aggregate, be deemed an original, but all of which, together, shall constitute one and the same instrument.

21. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

22. Prior Agreements. This Agreement shall replace and supercede prior agreements entered into by and between Arroyo Grande, Grover Beach and OCSD on March 1, 2008 and May 1, 2007 and entered into by and between Arroyo Grande and Grover Beach on July 1, 2007.



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

July 23, 2008

TO: Board of Directors, OCSD

FROM: Patrick J. O'Reilly, General Manager

**SUBJECT: JOINT FIRE SERVICES AGREEMENT**

1. At its meeting on February 27, 2008, the Board approved the Agreement for Joint Fire Management, Administrative, and Training Services and Equipment Sharing (the "Agreement"). A copy of that agreement is provided as Attachment 1. The principal components of the agreement are discussed below.

- a. The agreement provides that Arroyo Grande will provide the management and training services of a Fire Chief and Battalion Chief to Grover Beach and OCSD.
- b. The agreement was effective March 1, 2008.
- c. The cost to OCSD for March 1 through June 30, 2008 was \$16,700.
- d. The previous Equipment Sharing Agreement between the three agencies was incorporated into this agreement.
- e. The agreement was to be in force until June 30, 2008 and may be extended by mutual consent of all three agencies for a period of three years. The agreement will automatically renew on an annual basis after three years.

3. The Fire Oversight Committee, comprised of representatives from OCSD and the Cities of Grover Beach and Arroyo Grande, met on June 20, 2008 and reviewed performance under the agreement during the four month trial period. It was determined that performance under the agreement was meeting expectations. There has been an increase in efficiency and effectiveness for all three departments since all three departments are currently providing coordinated emergency response. Additionally there is an increase in service redundancy with all three agencies available for back up. Training is being coordinated and is often provided to all three agencies' department members and is often provided at the same time and place. Finally a Joint Reserve Program has been created providing a common personnel pool for the participating agencies to draw from and recruitments through this program have been successful. The Committee unanimously recommended extending the agreement for three years. A copy of the first two pages of the minutes from that meeting is provided as Attachment 2.

Agenda Item 7 23 2008 7.b.

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The proposed amended agreement is provided as Attachment 3. The only substantial changes from the original agreement are as follows:

- paragraph 7 has been changed to eliminate reference to the cost of the four month trial period;
- paragraph 13 has been changed to show the new term of the agreement beginning July 1, 2008; and
- paragraph 22 has been changed to reflect past agreements.

Paragraph 7e of the existing Agreement (Attachment 1) specifies that if the agreement is extended, OCSD will pay 15% of the actual cost of salary and benefits of the Fire and Battalion Chiefs. That provision is included as Paragraph 7a of the proposed Agreement (Attachment 3). \$50,200 was included in the Fire Department budget for Fiscal Year 2008-09 to fund this agreement.

5. Since the agreement has only been in effect for four months, many details are still being worked out between the agencies. However, District Fire Department staff benefit substantially from having access to and getting direction from Fire Chief Hubert and Battalion Chief Heath and from participating in joint training efforts and the equipment sharing aspects of the agreement. The Fire Committee reviewed the proposed agreement on July 11, 2008 and recommends approval. If, after further experience, it turns out that the relationship is not actually beneficial to the District, paragraph 13 (page 12) of the proposed Agreement (Attachment 3) specifies that the Agreement may be terminated at any time upon thirty days notice.

**THE RECOMMENDED ACTION BEFORE YOUR BOARD is to:** by Board discussion, public comment, motion, second and roll call vote, approve an extension of the AGREEMENT FOR JOINT FIRE MANAGEMENT, ADMINISTRATIVE, AND TRAINING SERVICES AND EQUIPMENT for three years.

Agenda Item 7 23 2008 7.b.

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**AGREEMENT FOR JOINT FIRE MANAGEMENT, ADMINISTRATIVE,  
AND TRAINING SERVICES AND EQUIPMENT SHARING**

This Agreement for Joint Fire Management, Administrative, and Training Services and Equipment Sharing ("Agreement") is entered into by and between the City of Grover Beach, a municipal corporation ("Grover Beach"), the City of Arroyo Grande, a municipal corporation ("Arroyo Grande"), and Oceano Community Services District, a California special district ("OCSD") collectively or individually referred to as "Parties" or "Party".

**RECITALS**

WHEREAS, Arroyo Grande provides fire protection and emergency medical services (EMS) as provided for in California Government Code § 38600 et seq. within the jurisdictional boundaries of the City of Arroyo Grande, California; and

WHEREAS, Grover Beach provides fire protection and EMS as provided for in California Government Code § 38600 et seq. within the jurisdictional boundaries of the City of Grover Beach, California; and

WHEREAS, OCSD provides fire protection and EMS as provided for in California Government Code § 61100 et seq. within the jurisdictional boundaries of Oceano, California; and

WHEREAS, due to the proximity of Arroyo Grande, Grover Beach, and Oceano, mutual cost savings and enhanced services are available to each of the agencies by sharing certain specified fire protection and EMS services; and

WHEREAS, on July 1, 2004, Arroyo Grande and Grover Beach entered into an agreement to provide joint administration of fire services; and

WHEREAS, on May 1, 2007, Arroyo Grande, Grover Beach and OCSD entered into an agreement to share certain fire equipment; and

WHEREAS, on July 1, 2007, Arroyo Grande and Grover Beach entered into a revised agreement to provide joint fire management, administration and training services; and

WHEREAS, Arroyo Grande, Grover Beach and OCSD have approved proposals to jointly fund Fire Chief and Battalion Chief positions;

WHEREAS, by this Agreement the Parties desire to set forth the terms and conditions of the jointly funded Fire Chief and Battalion Chief positions and the sharing of certain fire suppression and safety equipment;

NOW, THEREFORE, in consideration of the mutual covenants herein made, the Parties agree as follows:

1. Purpose. This Agreement shall constitute an engagement of Arroyo Grande by Grover Beach and OCSD in providing the management and training services of a Fire Chief and Battalion Chief to Grover Beach and OCSD for the operation and training of their Fire Departments, as described herein.
2. Management Services for Grover Beach. Arroyo Grande shall furnish the management services of a Fire Chief to Grover Beach in order to operate its Fire Departments. Said management services shall include the following:
  - a. Under the direction and supervision of the City Manager of Grover Beach, provide broad policy guidance, fire management expertise and leadership to Grover Beach fire personnel.
  - b. Confer with Grover Beach Fire Department personnel when required to ascertain the needs and evaluate the efficiency of the services provided by the Grover Beach Fire Department to its citizens.



- c. Respond to citizen complaints regarding personnel or services, requests for services, and inquires.
  - d. Provide support to major incidents.
  - e. Promote a harmonious working relationship between fire prevention and suppression personnel of each respective agency while striving to uphold each Fire Department's Mission Statements.
  - f. Coordinate assignment of fire apparatus under the equipment sharing terms set forth in this Agreement.
  - g. Supervise and provide direction when needed for fire prevention and suppression activities and EMS of Grover Beach.
  - h. Supervise adherence to Grover Beach's policies and procedures (i.e., personnel rules, administrative policies, purchasing and budget policies, budget administration, department emergency operation policies, memorandum of understanding, vacation and sick leave policies, etc.).
  - i. Attend and represent the Grover Beach Fire Department and implement Grover Beach's policies and directives at various local and regional meetings [i.e., City Council (when required), City Manager staff meetings, schools, and County Fire Chiefs, etc.].
  - j. Supervise personnel of the Grover Beach Fire Department.
  - k. Supervise the purchasing of materials and equipment within the budgetary constraints of Grover Beach.
  - l. Provide overhead supervision for safety, command and control functions on an as needed basis as outlined in the Five Cities Automatic Aid Operational Response Plan.
3. Management Services for OCSD. Arroyo Grande shall furnish the management services of a Fire Chief to OCSD in order to operate its Fire Department. Said management services shall include the following:
- a. Under the direction and supervision of the OCSD General Manager, provide broad policy guidance, fire management expertise and leadership to OCSD fire personnel.



- b. Confer with OCSD Fire Department personnel when required to ascertain the needs and evaluate the efficiency of the services provided by the OCSD Fire Department to its citizens.
- c. Respond to citizen complaints regarding personnel or services, requests for services, and inquires.
- d. Provide support to major incidents.
- e. Promote a harmonious working relationship between fire prevention and suppression personnel of each respective agency while striving to uphold each Fire Department's Mission Statements.
- f. Coordinate assignment of fire apparatus under the equipment sharing terms set forth in this Agreement.
- g. Provide direction when needed for fire prevention and suppression activities and EMS of OCSD.
- h. Attend OCSD Fire Committee or Board meetings on an as needed basis.
- i. OCSD shall perform all routine administrative functions associated with management and operation of the Fire Department. Those administrative functions include, but are not limited to, record keeping and reporting, fire code enforcement, budget development and management, grant processing, equipment management, staff scheduling, training administration, payroll, and human resource management. In addition, the OCSD General Manager will be the day-to-day fire liaison with the OCSD Board of Directors, will coordinate policy and political issues, and will handle any OCSD disciplinary issues that may arise.
- j. Provide overhead supervision for safety, command and control functions on an as needed basis as outlined in the Five Cities Automatic Aid Operational Response Plan.

4. Administrative and Training Services for Grover Beach. Arroyo Grande shall furnish the administrative and training services of a Battalion Chief to Grover Beach in order to train, and assist in the management and administration of Grover Beach's Fire Department. Said administrative and training services shall include the following:

- a. Under direction of the Fire Chief, coordinate the training program for the members of the Grover Beach Fire Department.
- b. Prepare and oversee said training program.
- c. Monitor required annual training attendance records.
- d. Ensure annual state and federal training mandates are met.
- e. Serve as the Fire Chief in his or her absence.
- f. Ensure that all firefighters in all three departments are instructed in the same firefighter techniques.
- g. Provide training guidance and management to Grover Beach fire personnel.
- h. Establish training standards and develop curriculum and lesson plans.
- i. Develop a master training schedule including multi-company drills on a regular basis.
- j. Training shall include the development of a training academy for new hires.
- k. Evaluate training effectiveness and periodically review training records for completeness.
- l. Represent Grover Beach at County training activities.
- m. Develop and maintain the Grover Beach's emergency plans and coordinate training for Grover Beach staff.
- n. Provide direct supervision and administrative support for members of the Grover Beach Fire Department.
- o. Maintain regular office hours at the Grover Beach Fire station, to initially include a minimum of 50% of the position's staff time, but may be adjusted as recommended by the Fire Chief and agreed by mutual consent of the Arroyo Grande and Grover Beach City Managers.
- p. Provide overhead supervision for safety, command and control functions on an as needed basis as outlined in the Five Cities Automatic Aid Operational Response Plan.

5. Administrative and Training Services for OCSD. Arroyo Grande shall furnish the administrative and training services of a Battalion Chief to OCSD in order to train, and assist in the management and administration of OCSD's Fire Department. Said administrative and training services shall include the following:

- a. Under direction of the Fire Chief, coordinate the training program for the members of the OCSD Fire Department.
- b. Prepare and oversee said training program.
- c. Monitor required annual training attendance records.
- d. Ensure annual state and federal training mandates are met.
- e. Serve as the Fire Chief in his or her absence.
- f. Ensure that all firefighters in all three departments are instructed in the same firefighter techniques.
- g. Provide training guidance and management to OCSD fire personnel.
- h. Establish training standards and develop curriculum and lesson plans.
- i. Develop a master training schedule including multi-company drills on a regular basis.
- j. Training shall include the development of a training academy for new hires.
- k. Evaluate training effectiveness and periodically review training records for completeness.
- l. Represent OCSD at County training activities.
- m. Provide overhead supervision for safety, command and control functions on an as needed basis as outlined in the Five Cities Automatic Aid Operational Response Plan.
- n. OCSD will perform all routine administrative functions associated with training including, but not limited to, maintenance of all training records.

6. Employees.

- a. All personnel hired by Grover Beach for its Fire Department shall be employees of Grover Beach, and shall at all times be subject to the direction, supervision, and control of Grover Beach directly or by the Fire Chief acting on behalf of Grover Beach pursuant to this Agreement. Grover Beach shall have the sole

responsibility of paying the salaries, payroll taxes, including, but not limited to, Federal Social Security taxes, Federal and California Employment taxes, and all other employee-related expenses, including but not limited to Workers' Compensation Insurance and Retirement Benefits for the employees of Grover Beach.

- b. All personnel hired by OCSD for its Fire Department shall be employees of OCSD, and shall at all times be subject to the direction, supervision, and control of OCSD directly or by the Fire Chief acting on behalf of OCSD pursuant to this Agreement. OCSD shall have the sole responsibility of paying the salaries, payroll taxes, including, but not limited to, Federal Social Security taxes, Federal and California Employment taxes, and all other employee-related expenses, including but not limited to Workers' Compensation Insurance and Retirement Benefits for the employees of OCSD.
- c. All personnel hired by Arroyo Grande for its Fire Department shall be employees of Arroyo Grande, and shall at all times be subject to the direction, supervision, and control of Arroyo Grande. Arroyo Grande shall have the sole responsibility of paying the salaries, taxes, including, but not limited to, Federal Social Security taxes, Federal and California Employment taxes and all other employee-related expenses, including, but not limited to, Workers' Compensation Insurance and Retirement Benefits regarding the employees of Arroyo Grande utilized by Arroyo Grande to provide the services under this Agreement.

7. Costs

- a. For the period of March 1, 2008 through June 30, 2008, Arroyo Grande shall provide the services of the Fire Chief at its sole expense.
- b. For the period of March 1, 2008 through June 30, 2008, Grover Beach shall pay to the City of Arroyo Grande a total of seventy-nine percent (79%) of the total actual cost of salary and benefits for the Battalion Chief position.
- c. For the period of March 1, 2008 through June 30, 2008, OCSD shall pay to Arroyo Grande a total of eleven thousand, two hundred dollars (\$11,200) and to Grover Beach a total of five thousand, five hundred dollars (\$5,500).

- d. Arroyo Grande and Grover Beach shall invoice OCSD by June 30, 2008, which shall be due and payable within thirty (30) days of the date of the invoice.
- e. If the Agreement is extended by mutual consent of all three jurisdictions, the total actual cost of salary and benefits for the Fire Chief and Battalion Chief positions shall be paid by each of the three jurisdictions as follows:

Arroyo Grande	57%
Grover Beach	28%
OCSD	15%
- f. Arroyo Grande shall invoice the Grover Beach and OCSD on a semi-annual basis for said payments of salary and benefit costs, which shall be due and payable within thirty (30) days of the date of the invoice.

8. Equipment

- a. Arroyo Grande shall provide, at its sole expense, an assigned emergency vehicle for use by the Fire Chief.
- b. Grover Beach shall provide, at its sole expense, an assigned emergency vehicle for use by the Battalion Chief.
- c. The Grover Beach or Arroyo Grande 1996 backup fire engine, vehicle identification numbers E-1208922 and 4S7AT9D08TC016426 will be sold pursuant to Government Code 37350 et seq. (the fire engine selected to be sold shall be referred to as the "Surplus Fire Engine"). The determination of which Fire Engine is to be sold will be made by mutual agreement by the City Managers of Grover Beach and Arroyo Grande based on a report and recommendation issued by the Fire Chief. The net revenue from the sale of the Surplus Fire Engine shall be shared equally between Grover Beach and Arroyo Grande.
- d. Title to the remaining backup fire engine (the "GB/AG Back-up Fire Engine") will be modified to reflect joint ownership by Grover Beach and Arroyo Grande.
- e. Grover Beach and Arroyo Grande shall share equally all maintenance costs of the GB/AG Back-up Fire Engine, including in-house maintenance and the costs for any contract maintenance for the GB/AG Back-up Fire Engine.

- f. The Office of Emergency Services ("OES") fire engine (the "OES Fire Engine") provided to Arroyo Grande will be used as an ongoing secondary back-up fire engine for Grover Beach and Arroyo Grande.
- g. If the OES Fire Engine is unavailable and the GB/AG Backup Fire Engine is out of service, the OCSD backup fire engine will be promptly transferred to the Grover Beach or Arroyo Grande fire station, as determined by the Fire Chief.
- h. If the OCSD primary and backup fire engines are both unavailable, the GB/AG Backup Fire Engine will be transferred to the OCSD fire station.
- i. Each Party will insure each engine that could be used by that Party under their current existing policies and will add the other Parties as additional insureds, if not already so listed. Joint training will be provided to ensure that all personnel are knowledgeable in operation of all apparatus prior to any potential use of equipment from another agency. The training officer responsible for the training program in both departments will be responsible to make certain that all appropriate new personnel are adequately trained on the apparatus. Additionally, the Battalion Chief will be responsible for providing an annual report to the Fire Oversight Committee on the annual training associated with the apparatus.

9. Compliance with Applicable Statutes, Ordinances and Regulations. In performing the services of a Fire Chief and a Battalion Chief required under this Agreement, employees of Arroyo Grande shall comply with all applicable Federal, State, and County statutes, ordinances, and regulations.

10. Insurance.

- a. Arroyo Grande shall furnish and keep in full force and effect during the term of this Agreement the following insurance:
  - 1) Workers' Compensation Insurance or self-insurance covering workers' compensation claims of all Arroyo Grande employees providing services on behalf of Grover Beach and OCSD pursuant to this Agreement.

- 2) Liability Insurance or self-insurance to include general liability and automotive liability for any and all property claims or suits for damages arising out of Arroyo Grande's performance under this Agreement by Arroyo Grande's elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees. The policy shall provide coverage for bodily injury and property damage in an amount not less than one million dollars (\$1,000,000.00) combined single limit per occurrence and shall name "The City of Grover Beach" and "The Oceano Community Services District" as an additional insured. No cancellation or change of coverage shall be effective until thirty (30) days' written notice has been given to Grover Beach and OCSD and an endorsement verifying such coverage shall be provided to Grover Beach and OCSD upon execution of this Agreement by both Parties.
  - 3) Automobile Coverage with limits of not less than \$1,000,000 per occurrence.
- b. Grover Beach shall furnish and keep in full force and effect during the term of this Agreement the following insurance:
- 1) Workers' Compensation Insurance or self-insurance covering workers' compensation claims of all Grover Beach employees providing services to Arroyo Grande and OCSD pursuant to this Agreement.
  - 2) Liability Insurance or self-insurance to include general liability and automotive liability for any and all property claims or suits for damages arising out of Grover Beach's performance under this Agreement by Grover Beach's elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees. The policy shall provide coverage for bodily injury and property damage in an amount not less than one million dollars



(\$1,000,000.00) combined single limit per occurrence and shall name "The City of Arroyo Grande" and "Oceano Community Services District" as an additional insured. No cancellation or change of coverage shall be effective until thirty (30) days' written notice has been given to Arroyo Grande and OCSD and an endorsement verifying such coverage shall be provided to Arroyo Grande and OCSD upon execution of this Agreement by both Parties.

- 3) Automobile Coverage with limits of not less than \$1,000,000 per occurrence.

c. OCSD shall furnish and keep in full force and effect during the term of this Agreement the following insurance:

- 1) Workers' Compensation Insurance or self-insurance covering workers' compensation claims of all OCSD employees providing services on behalf of Arroyo Grande and Grover Beach pursuant to this Agreement.
- 2) Liability Insurance or self-insurance to include general liability and automotive liability for any and all property claims or suits for damages arising out of OCSD's performance under this Agreement by OCSD's elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees. The policy shall provide coverage for bodily injury and property damage in an amount not less than one million dollars (\$1,000,000.00) combined single limit per occurrence and shall name "The City of Arroyo Grande" and "The City of Grover Beach" as an additional insured. No cancellation or change of coverage shall be effective until thirty (30) days' written notice has been given to Arroyo Grande and Grover Beach and an endorsement verifying such coverage shall be provided to Arroyo Grande and Grover Beach upon execution of this Agreement by both Parties.

- 3) Automobile Coverage with limits of not less than \$1,000,000 per occurrence.

11. Benefit, Expectations, and Performance Based Measurements. The benefits of this Agreement, including outlined work outputs, cost-avoidance issues, and related service enhancements shall be monitored bi-monthly by the Fire Oversight Committee. The Committee will consist of agreed upon representatives from each Party. Specific benefits of this Agreement include, but are not limited to:

- a. A reciprocal arrangement to assist the other Party;
- b. The opportunity to take advantage of each Party's qualified personnel;
- c. The opportunity to take advantage of each Party's response areas and leading to the reduction of response times;
- d. The possibility of achieving economies of scale;
- e. The possibility of eliminating duplicate services and the opportunity to share existing programs;
- f. An opportunity to better serve each community without constraints of boundary limits;
- g. The opportunity to reflect well on community policy makers and gain community support;
- h. The improvement of citizen's demands or expectations for services, utilizing the closest resources;
- i. The possibility of cost avoidance in acquisition of new personnel and equipment;
- j. The assurance of continued local control;
- k. The assurance of each agency's ability to maintain its local identity;
- l. The potential pathway for future cost saving programs such as: dispatching services, vehicle maintenance, and the like;
- m. The sharing of specialized equipment and personnel for specialized services; and
- n. The immediate access to neighboring resources for planned or un-planned incidents.

12. Future Planning. Each of the Parties agrees to work towards the identification and development of a common organizational structure capable of providing services to each of the member jurisdictions covered by this Agreement and that such common organization will be equitably funded and administered.

13. Term of this Agreement. The term of this Agreement shall commence on March 1, 2008, and shall continue in full force and effect for a period of four (4) months. At the end of the initial four (4) month period, the Agreement may be extended by mutual consent of Parties for a period of up to three (3) years. This Agreement shall automatically renew on an annual basis after the (3) year period. Either Party may terminate this Agreement at any time, with or without cause, upon thirty (30) days' prior written notice.

14. Non-assignability. This Agreement shall not be assigned by any Party without first obtaining the express written consent of the other Parties.

15. Notices. Any notice which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

- a. Grover Beach  
Bob Perrault  
City Manager  
154 S. 8th Street  
Grover Beach, CA 93433

b. Arroyo Grande  
Steven Adams  
City Manager  
214 E. Branch Street  
Arroyo Grande, CA 93420

c. OCSD  
Patrick O'Reilly  
General Manager  
P.O. Box 599  
Oceano, CA 93445

16. Mutual Indemnification.

- a. Arroyo Grande agrees to and shall indemnify, defend and hold Grover Beach and OCSD and their elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees harmless from and against all reasonable expenses including without limitation reasonable attorney's fees and disbursements, losses or any liability arising out of or alleged to have arisen out of the negligent operations of the Arroyo Grande Fire Department during the term of this Agreement. This indemnity provision shall survive the expiration or termination of the Agreement.
- b. Grover Beach agrees to and shall indemnify, defend and hold Arroyo Grande and OCSD and their elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees harmless from and against all reasonable expenses including without limitation reasonable attorney's fees and disbursements, losses or any liability arising out of or alleged to have arisen out of the negligent operations of the Grover Beach Fire Department during the term of this Agreement. This indemnity provision shall survive the expiration or termination of the Agreement.
- c. OCSD agrees to and shall indemnify, defend and hold Arroyo Grande and Grover Beach and their elected and appointed officials, officers, agents,

representatives, subcontractors, volunteers or employees harmless from and against all reasonable expenses including without limitation reasonable attorney's fees and disbursements, losses or any liability arising out of or alleged to have arisen out of the operations of the OCSD Fire Department during the term of this Agreement. This indemnity provision shall survive the expiration or termination of the Agreement.

17. Entire Agreement. Grover Beach, Arroyo Grande and OCSD agree that this Agreement constitutes the sole and only Agreement between them representing the fire protection and EMS management, administrative and training services and equipment and correctly sets forth their obligations and duties with respect to each other.

18. Amendment. Any amendments to this Agreement must be in writing and subject to the consent of all parties.

19. No Interpretation Against Drafting. This Agreement has been negotiated at arm's length between the Parties hereto. Accordingly, any rule or law (including California Civil Code § 1635 et seq.) or legal decisions that would require interpretation, or any ambiguities in the Agreement against the Party that has drafted the applicable provision, is not applicable and is waived. The provisions of the Agreement shall be interpreted in a reasonable manner to effect the purpose and intent of the Parties.

20. Execute in Counterparts. The Parties hereto agree that there shall be three originals of this Agreement which shall be identical in all respects. The Parties may execute this Agreement in three or more counterparts, which shall, in the aggregate, be deemed an original, but all of which, together, shall constitute one and the same instrument.

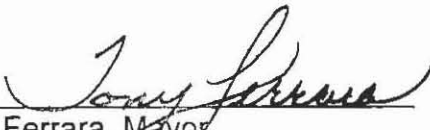
21. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

22. Prior Agreements. This Agreement shall replace and supercede the prior agreement for joint fire management, administration and training services entered into by and between Arroyo Grande and Grover Beach on July 1, 2007 and the agreement to share fire equipment by and between Arroyo Grande, Grover Beach and OCSD entered into on May 1, 2007.

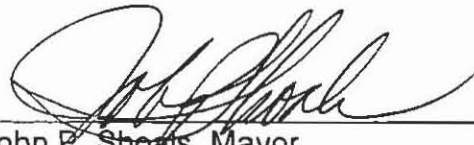


Executed at Arroyo Grande, California, on the date and year first appearing above.

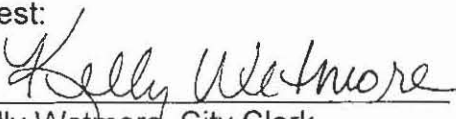
**CITY OF ARROYO GRANDE**

  
\_\_\_\_\_  
Tony Ferrara, Mayor

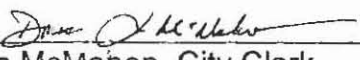
**CITY OF GROVER BEACH**

  
\_\_\_\_\_  
John P. Shoals, Mayor

Attest:

  
\_\_\_\_\_  
Kelly Wetmore, City Clerk

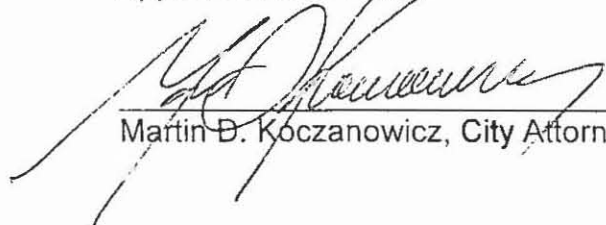
Attest:

  
\_\_\_\_\_  
Donna McMahon, City Clerk

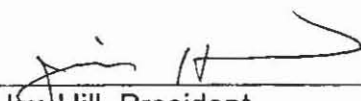
Approved As To Form:

  
\_\_\_\_\_  
Timothy J. Carmel, City Attorney

Approved As to Form:

  
\_\_\_\_\_  
Martin D. Koczanowicz, City Attorney

**OCEANO COMMUNITY SERVICES DISTRICT**

  
\_\_\_\_\_  
Jim Hill, President

Attest:

  
\_\_\_\_\_  
Patrick J. O'Reilly, Board Secretary

Approved As to Form:

  
\_\_\_\_\_  
Alex Simas, District Legal Counsel



## MINUTES

**ARROYO GRANDE / GROVER BEACH / OCEANO  
FIRE OVERSIGHT COMMITTEE**

Oceano Community Services District

1655 Front St.

Oceano, CA

**FRIDAY, JUNE 20, 2008 ~ 3:00 P.M.****Attendance:**

Joe Costello

Steve Adams

Stephen Lieberman

Bob Perrault

Bill Bookout

Patrick O'Reilly

Mike Hubert

Nancy Haglund

Council Member, City of Arroyo Grande – Committee Chair

City Manager, City of Arroyo Grande

Council Member, City of Grover Beach

City Manager, City Of Grover Beach

Director, Oceano Community Services District

General Manager, Oceano Community Services District

Fire Chief, Cities of Arroyo Grande, Grover Beach &amp; Oceano

Executive Secretary, City of Arroyo Grande

AGENDA ITEM	DESCRIPTION	ACTION TAKEN
<b>CALL TO ORDER:</b>	3:00 p.m.	
<b>ATTENDANCE:</b>	<p>Introductions were given - audience members present:</p> <p><u>Arroyo Grande Fire:</u> Division Chief Joel Shennum, Battalion Chief Riki Heath, and Administrative Officer David Mathe.</p> <p><u>Grover Beach Fire:</u> Administrative Secretary Lynn Pearson</p> <p><u>Oceano Fire Department:</u> Captain Craig Angello and Firefighter Jim Rodlin.</p>	
<b>AGENDA REVIEW:</b>	Chair Costello asked if the Committee would like to make any changes to the order of the day.	The Agenda was accepted as presented. <b>M/Lieberman; S/Bookout</b>
<b>OLD BUSINESS:</b>	<p>1. <b>Minutes of the April 18, 2008 Fire Oversight Committee Meeting.</b></p> <p>2. <b>Overview of Recent Activity of Fire Companies.</b></p>	<p>The minutes from the April 18, 2008 meeting were approved as submitted. <b>M/Costello; S/Bookout</b></p> <p>Chief Hubert reported on a commercial structure fire that all agencies responded to on May 9<sup>th</sup> at 933 S. 4<sup>th</sup> Street in Grover Beach. Truck 66, and Engines 68, 61, 62 and 64 were on scene. The firefighters did a great job in knocking down the fire quickly. Chief Heath was the Incident Commander and made all the appropriate notifications. County Environmental Health was called out to determine the type of product the structure housed. Fire Investigator Kevin McBride determined that the fire was accidental in nature.</p>

AGENDA ITEM	DESCRIPTION	ACTION TAKEN
<b>OLD BUSINESS -</b> <i>continued:</i>	<p>3. Cooperative Efforts.</p>	<p>Chief Hubert discussed the idea of moving the OES engine between Grover Beach and Arroyo Grande. The Five Cities Reserve Firefighter Program has proved to be successful so far. We would have adequate staffing to potentially send out two engines at the same time and backfill the stations. The OES engine will typically go out first responding with the on duty crew. Arroyo Grande's type 3 is the only engine in the county equipped with the Compressed Air Foam (CAF) system. Cambria has a water tender that has a CAF system.</p> <p>The training schedule for the next three months is being put together for the three agencies.</p>
<b>NEW BUSINESS:</b>	<p>4. Agreement for Joint Fire Management, Administrative, and Training Services and Equipment Sharing for Oceano Community Services District.</p>	<p>City Manager Adams stated that the City of Arroyo Grande is pleased and would like to extend the Agreement for three years.</p> <p>Chief Hubert stated that Chief Heath checks in every day with Oceano and frequently stops by the station. Everything seems to be working well.</p> <p>General Manager O'Reilly reported that Oceano is still working out the Administrative tasks and that everything else is working well with the Agreement. Director Bookout agreed with General Manager O'Reilly's comments. He stated that since the Agreement was for a four month period, we would need to recalculate the costs Oceano will pay Arroyo Grande and Grover Beach for their services.</p> <p>City Manager Perrault stated he would like the committee to aggressively work on fulfilling the terms stated in Item 12 of the Agreement, which reads: <u>Future Planning</u>. Each of the Parties agrees to work towards the identification and development of a common organizational structure capable of providing services to each of the member jurisdictions covered by this Agreement and that such common organization will be equitably funded and administered.</p> <p>The Committee agreed to make a motion to take the Joint Fire Management, Administrative, and Training Services and Equipment Sharing Agreement to their City Councils and Board of Directors for approval to extend the Agreement for an additional three year period.</p> <p><b>M/Bookout; S/Lieberman; Motion approved.</b></p>
<b>COMMITTEE REPORTS:</b>	<p><b>Apparatus</b></p>	<p>Captain Angello reported on the status of the following apparatus:</p> <p>Grover Beach Engine 68 returned June 13<sup>th</sup> from Hi-Tech with repairs made to the Ladder Rack, Foam Pro, Air Conditioner, PTO, Power Cord Reel and Pressure Relief Valve. All repairs appear to have been successful. Reserve Engine</p>

**AGREEMENT FOR JOINT FIRE MANAGEMENT, ADMINISTRATIVE,  
AND TRAINING SERVICES AND EQUIPMENT SHARING**

This Agreement for Joint Fire Management, Administrative, and Training Services and Equipment Sharing ("Agreement") is entered into by and between the City of Grover Beach, a municipal corporation ("Grover Beach"), the City of Arroyo Grande, a municipal corporation ("Arroyo Grande"), and Oceano Community Services District, a California special district ("OCSD") collectively or individually referred to as "Parties" or "Party".

**RECITALS**

WHEREAS, Arroyo Grande provides fire protection and emergency medical services (EMS) as provided for in California Government Code § 38600 et seq. within the jurisdictional boundaries of the City of Arroyo Grande, California; and

WHEREAS, Grover Beach provides fire protection and EMS as provided for in California Government Code § 38600 et seq. within the jurisdictional boundaries of the City of Grover Beach, California; and

WHEREAS, OCSD provides fire protection and EMS as provided for in California Government Code § 61100 et seq. within the jurisdictional boundaries of Oceano, California; and

WHEREAS, due to the proximity of Arroyo Grande, Grover Beach, and Oceano, mutual cost savings and enhanced services are available to each of the agencies by sharing certain specified fire protection and EMS services; and

WHEREAS, on July 1, 2004, Arroyo Grande and Grover Beach entered into an agreement to provide joint administration of fire services; and

WHEREAS, on May 1, 2007, Arroyo Grande, Grover Beach and OCSD entered into an agreement to share certain fire equipment; and

WHEREAS, on July 1, 2007, Arroyo Grande and Grover Beach entered into a revised agreement to provide joint fire management, administration and training services; and

WHEREAS, Arroyo Grande, Grover Beach and OCSD have approved proposals to jointly fund Fire Chief and Battalion Chief positions;

WHEREAS, by this Agreement the Parties desire to set forth the terms and conditions of the jointly funded Fire Chief and Battalion Chief positions and the sharing of certain fire suppression and safety equipment;

NOW, THEREFORE, in consideration of the mutual covenants herein made, the Parties agree as follows:

1. Purpose. This Agreement shall constitute an engagement of Arroyo Grande by Grover Beach and OCSD in providing the management and training services of a Fire Chief and Battalion Chief to Grover Beach and OCSD for the operation and training of their Fire Departments, as described herein.
2. Management Services for Grover Beach. Arroyo Grande shall furnish the management services of a Fire Chief to Grover Beach in order to operate its Fire Departments. Said management services shall include the following:
  - a. Under the direction and supervision of the City Manager of Grover Beach, provide broad policy guidance, fire management expertise and leadership to Grover Beach fire personnel.
  - b. Confer with Grover Beach Fire Department personnel when required to ascertain the needs and evaluate the efficiency of the services provided by the Grover Beach Fire Department to its citizens.

- c. Respond to citizen complaints regarding personnel or services, requests for services, and inquires.
  - d. Provide support to major incidents.
  - e. Promote a harmonious working relationship between fire prevention and suppression personnel of each respective agency while striving to uphold each Fire Department's Mission Statements.
  - f. Coordinate assignment of fire apparatus under the equipment sharing terms set forth in this Agreement.
  - g. Supervise and provide direction when needed for fire prevention and suppression activities and EMS of Grover Beach.
  - h. Supervise adherence to Grover Beach's policies and procedures (i.e., personnel rules, administrative policies, purchasing and budget policies, budget administration, department emergency operation policies, memorandum of understanding, vacation and sick leave policies, etc.).
  - i. Attend and represent the Grover Beach Fire Department and implement Grover Beach's policies and directives at various local and regional meetings [i.e., City Council (when required), City Manager staff meetings, schools, and County Fire Chiefs, etc.].
  - j. Supervise personnel of the Grover Beach Fire Department.
  - k. Supervise the purchasing of materials and equipment within the budgetary constraints of Grover Beach.
  - l. Provide overhead supervision for safety, command and control functions on an as needed basis as outlined in the Five Cities Automatic Aid Operational Response Plan.
3. Management Services for OCSD. Arroyo Grande shall furnish the management services of a Fire Chief to OCSD in order to operate its Fire Department. Said management services shall include the following:
- a. Under the direction and supervision of the OCSD General Manager, provide broad policy guidance, fire management expertise and leadership to OCSD fire personnel.



- b. Confer with OCSD Fire Department personnel when required to ascertain the needs and evaluate the efficiency of the services provided by the OCSD Fire Department to its citizens.
  - c. Respond to citizen complaints regarding personnel or services, requests for services, and inquires.
  - d. Provide support to major incidents.
  - e. Promote a harmonious working relationship between fire prevention and suppression personnel of each respective agency while striving to uphold each Fire Department's Mission Statements.
  - f. Coordinate assignment of fire apparatus under the equipment sharing terms set forth in this Agreement.
  - g. Provide direction when needed for fire prevention and suppression activities and EMS of OCSD.
  - h. Attend OCSD Fire Committee or Board meetings on an as needed basis.
  - i. OCSD shall perform all routine administrative functions associated with management and operation of the Fire Department. Those administrative functions include, but are not limited to, record keeping and reporting, fire code enforcement, budget development and management, grant processing, equipment management, staff scheduling, training administration, payroll, and human resource management. In addition, the OCSD General Manager will be the day-to-day fire liaison with the OCSD Board of Directors, will coordinate policy and political issues, and will handle any OCSD disciplinary issues that may arise.
  - j. Provide overhead supervision for safety, command and control functions on an as needed basis as outlined in the Five Cities Automatic Aid Operational Response Plan.
4. Administrative and Training Services for Grover Beach. Arroyo Grande shall furnish the administrative and training services of a Battalion Chief to Grover Beach in order to train, and assist in the management and administration of Grover Beach's Fire Department. Said administrative and training services shall include the following:

- a. Under direction of the Fire Chief, coordinate the training program for the members of the Grover Beach Fire Department.
- b. Prepare and oversee said training program.
- c. Monitor required annual training attendance records.
- d. Ensure annual state and federal training mandates are met.
- e. Serve as the Fire Chief in his or her absence.
- f. Ensure that all firefighters in all three departments are instructed in the same firefighter techniques.
- g. Provide training guidance and management to Grover Beach fire personnel.
- h. Establish training standards and develop curriculum and lesson plans.
- i. Develop a master training schedule including multi-company drills on a regular basis.
- j. Training shall include the development of a training academy for new hires.
- k. Evaluate training effectiveness and periodically review training records for completeness.
- l. Represent Grover Beach at County training activities.
- m. Develop and maintain the Grover Beach's emergency plans and coordinate training for Grover Beach staff.
- n. Provide direct supervision and administrative support for members of the Grover Beach Fire Department.
- o. Maintain regular office hours at the Grover Beach Fire station, to initially include a minimum of 50% of the position's staff time, but may be adjusted as recommended by the Fire Chief and agreed by mutual consent of the Arroyo Grande and Grover Beach City Managers.
- p. Provide overhead supervision for safety, command and control functions on an as needed basis as outlined in the Five Cities Automatic Aid Operational Response Plan.

5. Administrative and Training Services for OCSD. Arroyo Grande shall furnish the administrative and training services of a Battalion Chief to OCSD in order to train, and assist in the management and administration of OCSD's Fire Department. Said administrative and training services shall include the following:

- a. Under direction of the Fire Chief, coordinate the training program for the members of the OCSD Fire Department.
- b. Prepare and oversee said training program.
- c. Monitor required annual training attendance records.
- d. Ensure annual state and federal training mandates are met.
- e. Serve as the Fire Chief in his or her absence.
- f. Ensure that all firefighters in all three departments are instructed in the same firefighter techniques.
- g. Provide training guidance and management to OCSD fire personnel.
- h. Establish training standards and develop curriculum and lesson plans.
- i. Develop a master training schedule including multi-company drills on a regular basis.
- j. Training shall include the development of a training academy for new hires.
- k. Evaluate training effectiveness and periodically review training records for completeness.
- l. Represent OCSD at County training activities.
- m. Provide overhead supervision for safety, command and control functions on an as needed basis as outlined in the Five Cities Automatic Aid Operational Response Plan.
- n. OCSD will perform all routine administrative functions associated with training including, but not limited to, maintenance of all training records.

6. Employees.

- a. All personnel hired by Grover Beach for its Fire Department shall be employees of Grover Beach, and shall at all times be subject to the direction, supervision, and control of Grover Beach directly or by the Fire Chief acting on behalf of Grover Beach pursuant to this Agreement. Grover Beach shall have the sole

responsibility of paying the salaries, payroll taxes, including, but not limited to, Federal Social Security taxes, Federal and California Employment taxes, and all other employee-related expenses, including but not limited to Workers' Compensation Insurance and Retirement Benefits for the employees of Grover Beach.

- b. All personnel hired by OCSD for its Fire Department shall be employees of OCSD, and shall at all times be subject to the direction, supervision, and control of OCSD directly or by the Fire Chief acting on behalf of OCSD pursuant to this Agreement. OCSD shall have the sole responsibility of paying the salaries, payroll taxes, including, but not limited to, Federal Social Security taxes, Federal and California Employment taxes, and all other employee-related expenses, including but not limited to Workers' Compensation Insurance and Retirement Benefits for the employees of OCSD.
- c. All personnel hired by Arroyo Grande for its Fire Department shall be employees of Arroyo Grande, and shall at all times be subject to the direction, supervision, and control of Arroyo Grande. Arroyo Grande shall have the sole responsibility of paying the salaries, taxes, including, but not limited to, Federal Social Security taxes, Federal and California Employment taxes and all other employee-related expenses, including, but not limited to, Workers' Compensation Insurance and Retirement Benefits regarding the employees of Arroyo Grande utilized by Arroyo Grande to provide the services under this Agreement.

7. Costs

- a. The total actual cost of salary and benefits for the Fire Chief and Battalion Chief positions shall be paid by each of the three jurisdictions as follows:

Arroyo Grande	57%
Grover Beach	28%
OCSD	15%
- b. Arroyo Grande shall invoice the Grover Beach and OCSD on a semi-annual basis for said payments of salary and benefit costs, which shall be due and payable within thirty (30) days of the date of the invoice.

8. Equipment

- a. Arroyo Grande shall provide, at its sole expense, an assigned emergency vehicle for use by the Fire Chief.
- b. Grover Beach shall provide, at its sole expense, an assigned emergency vehicle for use by the Battalion Chief.
- c. The Grover Beach or Arroyo Grande 1996 backup fire engine, vehicle identification numbers E-1208922 and 4S7AT9D08TC016426 will be sold pursuant to Government Code 37350 et seq. (the fire engine selected to be sold shall be referred to as the "Surplus Fire Engine"). The determination of which Fire Engine is to be sold will be made by mutual agreement by the City Managers of Grover Beach and Arroyo Grande based on a report and recommendation issued by the Fire Chief. The net revenue from the sale of the Surplus Fire Engine shall be shared equally between Grover Beach and Arroyo Grande.
- d. Title to the remaining backup fire engine (the "GB/AG Back-up Fire Engine") will be modified to reflect joint ownership by Grover Beach and Arroyo Grande.
- e. Grover Beach and Arroyo Grande shall share equally all maintenance costs of the GB/AG Back-up Fire Engine, including in-house maintenance and the costs for any contract maintenance for the GB/AG Back-up Fire Engine.
- f. The Office of Emergency Services ("OES") fire engine (the "OES Fire Engine") provided to Arroyo Grande will be used as an ongoing secondary back-up fire engine for Grover Beach and Arroyo Grande.
- g. If the OES Fire Engine is unavailable and the GB/AG Backup Fire Engine is out of service, the OCSD backup fire engine will be promptly transferred to the Grover Beach or Arroyo Grande fire station, as determined by the Fire Chief.
- h. If the OCSD primary and backup fire engines are both unavailable, the GB/AG Backup Fire Engine will be transferred to the OCSD fire station.
- i. Each Party will insure each engine that could be used by that Party under their current existing policies and will add the other Parties as additional insureds, if not already so listed. Joint training will be provided to ensure that all personnel are knowledgeable in operation of all apparatus prior to any potential use of

equipment from another agency. The training officer responsible for the training program in both departments will be responsible to make certain that all appropriate new personnel are adequately trained on the apparatus. Additionally, the Battalion Chief will be responsible for providing an annual report to the Fire Oversight Committee on the annual training associated with the apparatus.

9. Compliance with Applicable Statutes, Ordinances and Regulations. In performing the services of a Fire Chief and a Battalion Chief required under this Agreement, employees of Arroyo Grande shall comply with all applicable Federal, State, and County statutes, ordinances, and regulations.

10. Insurance.

- a. Arroyo Grande shall furnish and keep in full force and effect during the term of this Agreement the following insurance:
  - 1) Workers' Compensation Insurance or self-insurance covering workers' compensation claims of all Arroyo Grande employees providing services on behalf of Grover Beach and OCSD pursuant to this Agreement.
  - 2) Liability Insurance or self-insurance to include general liability and automotive liability for any and all property claims or suits for damages arising out of Arroyo Grande's performance under this Agreement by Arroyo Grande's elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees. The policy shall provide coverage for bodily injury and property damage in an amount not less than one million dollars (\$1,000,000.00) combined single limit per occurrence and shall name "The City of Grover Beach" and "The Oceano Community Services District" as an additional insured. No cancellation or change of coverage shall be effective until thirty (30) days' written notice has been given to Grover Beach and OCSD and an endorsement verifying such coverage shall be provided to Grover



Beach and OCSD upon execution of this Agreement by both Parties.

- 3) Automobile Coverage with limits of not less than \$1,000,000 per occurrence.
- b. Grover Beach shall furnish and keep in full force and effect during the term of this Agreement the following insurance:
  - 1) Workers' Compensation Insurance or self-insurance covering workers' compensation claims of all Grover Beach employees providing services to Arroyo Grande and OCSD pursuant to this Agreement.
  - 2) Liability Insurance or self-insurance to include general liability and automotive liability for any and all property claims or suits for damages arising out of Grover Beach's performance under this Agreement by Grover Beach's elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees. The policy shall provide coverage for bodily injury and property damage in an amount not less than one million dollars (\$1,000,000.00) combined single limit per occurrence and shall name "The City of Arroyo Grande" and "Oceano Community Services District" as an additional insured. No cancellation or change of coverage shall be effective until thirty (30) days' written notice has been given to Arroyo Grande and OCSD and an endorsement verifying such coverage shall be provided to Arroyo Grande and OCSD upon execution of this Agreement by both Parties.
  - 3) Automobile Coverage with limits of not less than \$1,000,000 per occurrence.
- c. OCSD shall furnish and keep in full force and effect during the term of this Agreement the following insurance:
  - 1) Workers' Compensation Insurance or self-insurance covering workers' compensation claims of all OCSD employees providing

services on behalf of Arroyo Grande and Grover Beach pursuant to this Agreement.

- 2) Liability Insurance or self-insurance to include general liability and automotive liability for any and all property claims or suits for damages arising out of OCSD's performance under this Agreement by OCSD's elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees. The policy shall provide coverage for bodily injury and property damage in an amount not less than one million dollars (\$1,000,000.00) combined single limit per occurrence and shall name "The City of Arroyo Grande" and "The City of Grover Beach" as an additional insured. No cancellation or change of coverage shall be effective until thirty (30) days' written notice has been given to Arroyo Grande and Grover Beach and an endorsement verifying such coverage shall be provided to Arroyo Grande and Grover Beach upon execution of this Agreement by both Parties.
- 3) Automobile Coverage with limits of not less than \$1,000,000 per occurrence.

11. Benefit, Expectations, and Performance Based Measurements. The benefits of this Agreement, including outlined work outputs, cost-avoidance issues, and related service enhancements shall be monitored bi-monthly by the Fire Oversight Committee. The Committee will consist of agreed upon representatives from each Party. Specific benefits of this Agreement include, but are not limited to:

- a. A reciprocal arrangement to assist the other Party;
- b. The opportunity to take advantage of each Party's qualified personnel;
- c. The opportunity to take advantage of each Party's response areas and leading to the reduction of response times;
- d. The possibility of achieving economies of scale;
- e. The possibility of eliminating duplicate services and the opportunity to share existing programs;

- f. An opportunity to better serve each community without constraints of boundary limits;
- g. The opportunity to reflect well on community policy makers and gain community support;
- h. The improvement of citizen's demands or expectations for services, utilizing the closest resources;
- i. The possibility of cost avoidance in acquisition of new personnel and equipment;
- j. The assurance of continued local control;
- k. The assurance of each agency's ability to maintain its local identity;
- l. The potential pathway for future cost saving programs such as: dispatching services, vehicle maintenance, and the like;
- m. The sharing of specialized equipment and personnel for specialized services; and
- n. The immediate access to neighboring resources for planned or un-planned incidents.

12. Future Planning. Each of the Parties agrees to work towards the identification and development of a common organizational structure capable of providing services to each of the member jurisdictions covered by this Agreement and that such common organization will be equitably funded and administered.

13. Term of this Agreement. The term of this Agreement shall commence on July 1, 2008 and shall be for a period of three (3) years, subject to earlier termination as set forth below. This Agreement shall automatically renew on an annual basis after the (3) year period. Either Party may terminate this Agreement at any time, with or without cause, upon thirty (30) days' prior written notice.

14. Non-assignability. This Agreement shall not be assigned by any Party without first obtaining the express written consent of the other Parties.

15. Notices. Any notice which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

- a. Grover Beach  
Bob Perrault  
City Manager  
154 S. 8th Street  
Grover Beach, CA 93433
- b. Arroyo Grande  
Steven Adams  
City Manager  
214 E. Branch Street  
Arroyo Grande, CA 93420
- c. OCSD  
Patrick O'Reilly  
General Manager  
P.O. Box 599  
Oceano, CA 93445

16. Mutual Indemnification.

- a. Arroyo Grande agrees to and shall indemnify, defend and hold Grover Beach and OCSD and their elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees harmless from and against all reasonable expenses including without limitation reasonable attorney's fees and disbursements, losses or any liability arising out of or alleged to have arisen out

of the negligent operations of the Arroyo Grande Fire Department during the term of this Agreement. This indemnity provision shall survive the expiration or termination of the Agreement.

- b. Grover Beach agrees to and shall indemnify, defend and hold Arroyo Grande and OCSD and their elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees harmless from and against all reasonable expenses including without limitation reasonable attorney's fees and disbursements, losses or any liability arising out of or alleged to have arisen out of the negligent operations of the Grover Beach Fire Department during the term of this Agreement. This indemnity provision shall survive the expiration or termination of the Agreement.
- c. OCSD agrees to and shall indemnify, defend and hold Arroyo Grande and Grover Beach and their elected and appointed officials, officers, agents, representatives, subcontractors, volunteers or employees harmless from and against all reasonable expenses including without limitation reasonable attorney's fees and disbursements, losses or any liability arising out of or alleged to have arisen out of the operations of the OCSD Fire Department during the term of this Agreement. This indemnity provision shall survive the expiration or termination of the Agreement.

17. Entire Agreement. Grover Beach, Arroyo Grande and OCSD agree that this Agreement constitutes the sole and only Agreement between them representing the fire protection and EMS management, administrative and training services and equipment and correctly sets forth their obligations and duties with respect to each other.

18. Amendment. Any amendments to this Agreement must be in writing and subject to the consent of all parties.

19. No Interpretation Against Drafting. This Agreement has been negotiated at arm's length between the Parties hereto. Accordingly, any rule or law (including California Civil Code § 1635 et seq.) or legal decisions that would require interpretation, or any

ambiguities in the Agreement against the Party that has drafted the applicable provision, is not applicable and is waived. The provisions of the Agreement shall be interpreted in a reasonable manner to effect the purpose and intent of the Parties.

20. Execute in Counterparts. The Parties hereto agree that there shall be three originals of this Agreement which shall be identical in all respects. The Parties may execute this Agreement in three or more counterparts, which shall, in the aggregate, be deemed an original, but all of which, together, shall constitute one and the same instrument.

21. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

22. Prior Agreements. This Agreement shall replace and supercede the prior agreements for joint fire management, administration and training services entered into by and between Arroyo Grande, Grover Beach and OCSD on March 1, 2008; between Arroyo Grande and Grover Beach on July 1, 2007; and to share fire equipment by and between Arroyo Grande, Grover Beach and OCSD entered into on May 1, 2007.



Executed at Arroyo Grande, California, on the date and year first appearing above.

**CITY OF ARROYO GRANDE**

**CITY OF GROVER BEACH**

\_\_\_\_\_  
Tony M. Ferrara, Mayor

\_\_\_\_\_  
John P. Shoals, Mayor

Attest:

Attest:

\_\_\_\_\_  
Kelly Wetmore, City Clerk

\_\_\_\_\_  
Donna McMahon, City Clerk

Approved As To Form:

Approved As to Form:

\_\_\_\_\_  
Timothy J. Carmel, City Attorney

\_\_\_\_\_  
Martin D. Koczanowicz, City Attorney

**OCEANO COMMUNITY SERVICES DISTRICT**

\_\_\_\_\_  
Jim Hill, President

Attest:

\_\_\_\_\_

Approved As to Form:

\_\_\_\_\_



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

July 23, 2008

TO: Board of Directors, OCSD

FROM: Patrick J. O'Reilly, General Manager 

SUBJECT: **CLEANING AND INSPECTION OF DISTRICT SEWER AND WATER LINES**

1. Public Contracts Code Section 22050(c)(1) requires that if the governing body orders any action after the emergency has been declared, the governing body shall review the emergency action at its next regularly-scheduled meeting and at every regularly-scheduled meeting thereafter until the action is terminated, to determine, by four-fifths vote, that there is need to continue the action.

**THE RECOMMENDED ACTION BEFORE YOUR BOARD is to:** by Board discussion, public comment, motion, second, and roll call vote, determine, by four-fifths vote, that there is a need to continue the action.

Agenda Item 07 23 2008 8.a.



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

July 23, 2008

TO: Board of Directors, OCSD

FROM: Patrick J. O'Reilly, General Manager *PJO*

**SUBJECT: Proposal for the Preparation of a Restoration Plan for Segments 3 and 15 of the Oceano Sewer Repair Project**

The California Department of Fish and Game has authorized the repair of Segments 3 and 15 of the Earthquake Sewer Repair Project with a Stream Alteration Agreement. A copy of the Stream Alteration Agreement is provided as Attachment 1. Segment 3 crosses the airport runway just west of Railroad Avenue and south of the Oceano Lagoon. Segment 15 runs along Palace Avenue from a manhole at Airpark Drive to a manhole at the southernmost portion of Palace. The repairs to Segment 3 will be accomplished using trenchless methods while the repair to Segment 15 will be done with open trench excavation.

The approval is contingent upon development of a Restoration Plan for the area. The Restoration Plan must be approved by Fish and Game prior to the beginning of construction. The District Engineer, Wallace Group, has recommended that the Morro Group be utilized to develop the Restoration Plan. A copy of the proposed Services Agreement submitted by the Morro Group is provided as Attachment 2. Morro Group has extensive experience in this type of project.

**THE RECOMMENDED ACTION BEFORE YOUR BOARD is to:** by Board discussion, public comment, motion, second and roll call vote, approve the Services Agreement with Morro Group for Development of a Restoration Plan that addresses the Fish and Game requirements listed in Condition 34 of the Stream Alteration Agreement.

Agenda Item 7 23 2008 8.c.

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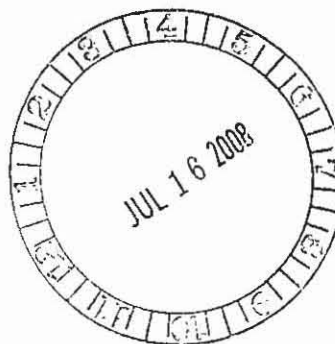
DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

Central Region  
1234 East Shaw Avenue  
Fresno, CA 93710  
(559) 243-4005



July 10, 2008



Patrick O'Reilly, General Manager  
Oceano Community Services District  
Post Office Box 599  
Oceano, California 93445-0599

Subject: Stream Alteration Agreement No. 2007-0008-R4  
Oceano Lagoon – San Luis Obispo County

Dear Mr. O'Reilly:

The Department of Fish and Game has completed the agreement process. A Notice of Determination will be filed with the Office of Planning and Research, in accordance with California Environmental Quality Act (CEQA).

Your copy of the signed agreement is enclosed. You may proceed with your Project according to the terms and provisions of your Stream Alteration Agreement, if you have obtained all other permits required by local, other state, and federal agencies. The Department's determination may be legally challenged within 30 days following the filing of the Notice of Determination. As a result, you may wish, but are not required, to delay commencement of your Project until after the 30-day period expires.

If you have any questions regarding this matter, please contact Julie Means, Senior Environmental Scientist, at the above letterhead address or by telephone at (559) 243-4014, extension 240. Thank you for your cooperation.

Sincerely,

  
Julie Means  
W. E. Loudermilk  
Regional Manager

Enclosure

## NOTICE OF DETERMINATION

**TO:** Office of Planning and Research  
Post Office Box 3044  
Sacramento, California 95814

**FROM:** California Department of Fish and Game  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710

**cc:** County Clerk  
San Luis Obispo County

**SUBJECT:** Filing of Notice of Determination in compliance with Section 21108 or 21152 of the  
Public Resources Code

**PROJECT TITLE:** Oceano Sewer Repair Project, Agreement No. 2007-0008-R4

**STATE CLEARINGHOUSE NUMBER:** NA

**LEAD AGENCY:** San Luis Obispo County, Department of Public Works  
**CONTACT:** Patrick O'Reilly, General Manager (805) 481-6730

**RESPONSIBLE AGENCY:** California Department of Fish and Game  
**CONTACT:** Brian Erlandsen (559) 243-4014

**PROJECT LOCATION:** Within or adjacent to the Oceano Lagoon, tributary to Arroyo Grande Creek (Figure 1), in unsectioned land of Township 32 South, Range 13 East, MDB&M. More specifically, work will occur in the community of Oceano, San Luis Obispo County.

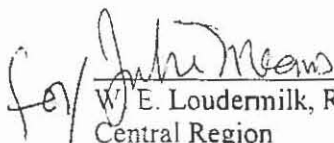
**PROJECT DESCRIPTION:** The California Department of Fish and Game is executing a Lake and Streambed Alteration Agreement pursuant to Section 1602 of the Fish and Game Code to the project applicant, Oceano Community Services District. The applicant proposes to repair 26 segments of damaged sewer pipeline, two of which fall under the Department's jurisdiction under Fish and Game Code Section 1600 et. seq.

This is to advise that the California Department of Fish and Game as a Responsible Agency approved the project described above on 7-11-08 and has made the following determinations regarding the above described project.

The project [ will ☒ will not ] have a significant effect on the environment.  
A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.  
Mitigation measures [ ☒ were were not ] made a condition of the approval of the project.  
Findings [ ☒ were were not ] made pursuant to the provisions of CEQA.

This is to certify that a copy of the Mitigated Negative Declaration prepared for this project is available to the general public and may be reviewed at: the County of San Luis Obispo, Department of Planning and Building, 976 Osos Street, Room 300. San Luis Obispo, CA 93408. Please contact the person specified above.

Date: 7-11-08

  
\_\_\_\_\_  
W. E. Loudermilk, Regional Manager  
Central Region  
California Department of Fish and Game

Date received for filing at OPR: \_\_\_\_\_



# AGREEMENT

**California Fish and Game Code Section 1602  
Stream Alteration Agreement No. 2007-0008-R4  
Oceano Lagoon - San Luis Obispo County**

**Parties:**

**California Department of Fish and Game  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710**

**Patrick O'Reilly, General Manager  
Oceano Community Services District  
Post Office Box 599, 1655 Front Street  
Oceano, California 93445-0599**

1 **WHEREAS:**

2  
3 1. Mr. Patrick O'Reilly, representing the City of Oceano Community Services District (herein  
4 referred to as the "Operator"), on January 10, 2007 notified ("Notification" No. 2007-0008-R4)  
5 the Department of Fish and Game (Department) of its intent to divert or obstruct the natural flow  
6 of, or change the bed or banks of, or use materials from Oceano Lagoon in San Luis Obispo  
7 County, waters over which the Department asserts jurisdiction pursuant to Division 2, Chapter 6  
8 of the California Fish and Game Code.

9  
10 2. The Operator may not commence any activity that is subject to Fish and Game Code  
11 Sections 1600 et seq. until the Department has found that such Project shall not substantially  
12 adversely affect an existing fish or wildlife resource or until the Department's proposals, or the  
13 decisions of a panel of arbitrators, have been incorporated into such projects.

14  
15 3. Fish and Game Code Sections 1600 et seq. make provisions for the negotiation of  
16 agreements regarding the delineation and definition of appropriate activities, Project  
17 modifications and/or specific measures necessary to protect fish and wildlife resources.

18  
19 4. The Department has determined that without the mitigative features identified in this  
20 Agreement, the activities proposed in the Notification could substantially adversely affect fish  
21 and wildlife.

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County



1 **NOW THEREFORE, IT IS AGREED THAT:**

2  
3 1. The receipt of this document ("Agreement"), by the Operator, satisfies the Department's  
4 requirement to notify the Operator of the existence of an existing fish and wildlife resource that  
5 may be substantially adversely affected by the Project as described in the Notification.

6  
7 2. The contents of this Agreement constitute the Department's proposals as to measures  
8 necessary to protect fish and wildlife resources, and satisfy the Department's requirement to  
9 submit these proposals to the Operator.

10  
11 3. The signature of the Operator's representative on this Agreement constitutes the Operator's  
12 commitment to incorporate the Department's proposals into the Project that is described in the  
13 Notification.

14  
15 4. This Agreement does not exempt the Operator from complying with all other applicable  
16 local, State and Federal law, or other legal obligations.

17  
18 5. This Agreement, alone, does not constitute or imply the approval or endorsement of a  
19 Project, or of specific Project features, by the Department of Fish and Game, beyond the  
20 Department's limited scope of responsibility, established by Code Sections 1600 et seq. This  
21 Agreement does not therefore assure concurrence, by the Department, with the issuance of  
22 permits from this or any other agency. Independent review and recommendations shall be  
23 provided by the Department as appropriate on those projects where local, State or Federal  
24 permits or environmental reports are required.

25  
26 6. This Agreement does not authorize the "take" (hunt, pursue, catch, capture, kill, or attempt)  
27 of State-listed threatened or endangered species. If the Operator, in the performance of the  
28 agreed work, discovers the presence of a listed species in the Project work area, work shall stop  
29 immediately. The Operator shall not resume activities authorized by this Agreement until such  
30 time as valid "take" permits are obtained from the Department pursuant to Fish and Game Code  
31 Sections 2081(a) and 2081(b) as appropriate.

32  
33 7. To the extent that the Provisions of this Agreement provide for the diversion of water, they  
34 are agreed to with the understanding that the Operator possesses the legal right to so divert such  
35 water.

36  
37 8. To the extent that the Provisions of this Agreement provide for activities that require the  
38 Operator to trespass on another owner's property, they are agreed to with the understanding that  
39 the Operator possesses the legal right to so trespass.

40  
41 9. To the extent that the Provisions of this Agreement provide for activities that are subject to  
42 the authority of other public agencies, said activities are agreed to with the understanding that all  
43 appropriate permits and authorizations shall be obtained prior to commencing agreed activities.

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County

1 10. All Provisions of this Agreement remain in force throughout the term of the Agreement.  
2 Any Provision of the Agreement may be amended at any time, provided such amendment is  
3 agreed to in writing by both parties. Mutually approved amendments become part of the original  
4 Agreement and are subject to all previously negotiated Provisions. The Agreement may be  
5 terminated by either party, subject to 30 days written notification.

6  
7 11. The Operator shall provide a copy of the Agreement to the Project supervisors and all  
8 contractors and subcontractors. Copies of the Agreement shall be available at work sites during  
9 all periods of active work and shall be presented to Department personnel upon demand.

10  
11 12. The Operator agrees to provide the Department access to the Project site at any time to  
12 ensure compliance with the terms, conditions, and Provisions of this Agreement.

13  
14 13. The Operator and any contractor or subcontractor, working on activities covered by this  
15 Agreement, are jointly and separately liable for compliance with the Provisions of this  
16 Agreement. Any violation of the Provisions of this Agreement is cause to stop all work  
17 immediately until the problem is reconciled. Failure to comply with the Provisions and  
18 requirements of this Agreement may result in prosecution.

19  
20 14. The Operator assumes responsibility for the restoration of any fish and wildlife habitat  
21 which may be impaired or damaged either directly or, incidental to the Project, as a result of  
22 failure to properly implement or complete the mitigative features of this Agreement, or from  
23 activities which were not included in the Operator's Notification.

24  
25 15. It is understood that the Department enters into this Agreement for purposes of establishing  
26 protective features for fish and wildlife, in the event that a Project is implemented. The decision  
27 to proceed with the Project is the sole responsibility of the Operator, and is not required by this  
28 Agreement. It is agreed that all liability and/or incurred costs, related to or arising out of the  
29 Operator's Project and the fish and wildlife protective conditions of this Agreement, remain the  
30 sole responsibility of the Operator. The Operator agrees to hold harmless and defend the  
31 Department of Fish and Game against any related claim made by any party or parties for personal  
32 injury or other damage.

33  
34 16. The terms, conditions, and Provisions contained herein constitute the limit of activities  
35 agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the  
36 Operator is precluded from doing other activities at the site. However, activities not specifically  
37 agreed to and resolved by this Agreement are subject to separate notification pursuant to Fish and  
38 Game Code Sections 1600 et seq. The Operator shall notify the Department regarding  
39 subsequent necessary maintenance of the installed culverts or affected streams and obtain a  
40 maintenance agreement prior to any additional work not covered by this Agreement.

41  
42 **California Environmental Quality Act (CEQA) Compliance:** The Operator's concurrence  
43 signature on this Agreement serves as confirmation to the Department that the activities

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County

1 conducted under the terms of this Agreement are consistent with the Project as described in the  
2 Mitigated Negative Declaration prepared by the County of San Luis Obispo (County) for the  
3 Oceano Sewer Reconstruction and Replacement Project. A Mitigated Negative Declaration  
4 (ED07-011) regarding the Project was approved by the County as Lead Agency, on February 26,  
5 2008. A copy of the Proposed Mitigated Negative Declaration and Notice of Determination for  
6 the Project was provided with the Section 1602 Notification. The Department, as a CEQA  
7 Responsible Agency, shall make findings and submit a Notice of Determination to the State  
8 Clearinghouse upon signing this Agreement. This Agreement contains a Monitoring and  
9 Reporting Program (MRP), to incorporate monitoring and reporting requirements for the  
10 activities authorized in this Agreement.

11  
12 **Project Location:** The work authorized by this Agreement will occur within or adjacent to  
13 Oceano Lagoon, tributary to Arroyo Grande Creek, at two (2) locations (Figure 1). The specific  
14 locations are: **Site 1.)** Segment 3: crossing the airport runway, just west of Railroad Avenue,  
15 south of Oceano Lagoon-35° 06' 14.84" North Latitude and 120° 37' 19.63" West Longitude;  
16 **Site 2.)** Segment 15: Along Palace Avenue from a manhole in Airpark Drive extending to a  
17 manhole at the southernmost portion of Palace Avenue-35° 06' 14" N and 120° 37' 23" W; in an  
18 unsectioned area of Township 32 South, Range 13 East MDB&M (Figure 1), in the community  
19 of Oceano in San Luis Obispo County. Unless changes are submitted and approved by the  
20 Department, the Project shall be built in the location indicated on the maps/drawings that were  
21 submitted with the Notification.

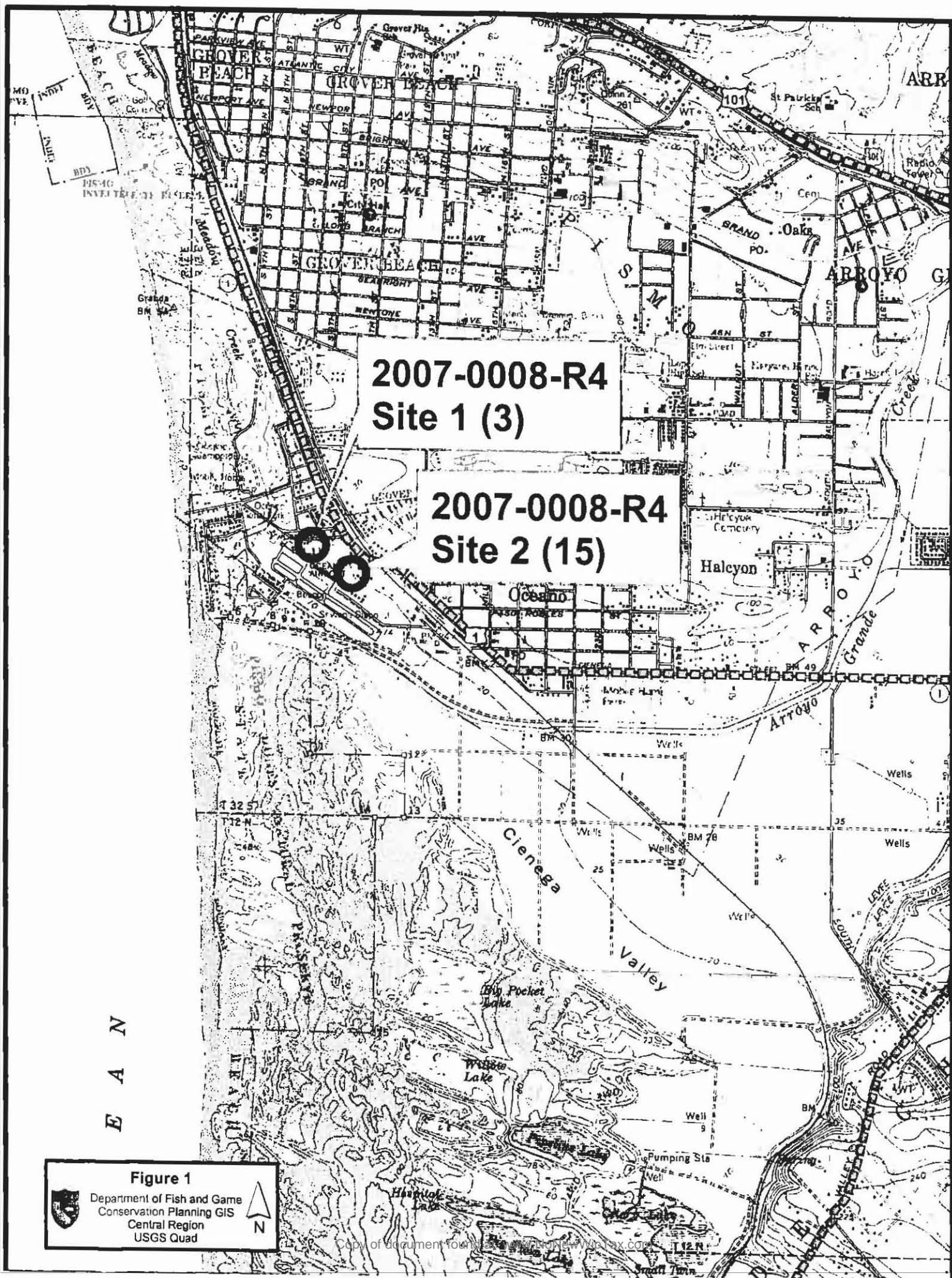
22  
23 **Project Description:** The Operator's Notification includes Fish and Game Notification Form  
24 FG2023, description including location map, photographs, plan drawings, technical study reports,  
25 and other submitted information. The Notification comprises the Operator's Project description,  
26 and it is used as the basis for establishing the protective Provisions that are included in this  
27 Agreement. Any changes or additions to the Project as described in the Notification shall require  
28 additional consultation and protective Provisions. The Department's CEQA Determination is  
29 based upon the Operator's commitment to full implementation of the Provisions of this  
30 Agreement.

- 31  
32 • Replacing 26 segments of sewer lines in the community of Oceano; two (2) of which –  
33 segments 3 and 15, comprise the activities authorized by this Agreement  
34  
35 • Repairing segment 3 by trenchless methods by relining the existing pipe to avoid permanent  
36 impacts to jurisdictional areas  
37  
38 • Replacing segment 15 by open trench excavation, and minimizing temporary disturbance to  
39 jurisdictional areas  
40

41 **Plant and Animal Species of Concern:** This Agreement is intended to minimize and mitigate  
42 adverse impacts to the wildlife resources that may occupy the affected waterbody and the  
43 immediate adjacent habitat. Special-status species that could potentially be impacted are the

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County





**2007-0008-R4  
Site 1 (3)**

**2007-0008-R4  
Site 2 (15)**

E  
A  
N

**Figure 1**

Department of Fish and Game  
Conservation Planning GIS  
Central Region  
USGS Quad



1 California red-legged frog (*Rana aurora draytonii*), steelhead-south central coast evolutionary  
2 significant unit (ESU) (*Ocorhynchus mykiss irideus*), marsh sandwort (*Arenaria paludicola*), La  
3 Graciosa thistle (*Cirsium loncholepsis*), as well as other birds, mammals, fish, reptiles,  
4 amphibians, invertebrates and plants that comprise the local ecosystem.

## 5 6 PROVISIONS:

### 7 8 General

9  
10 1. Agreed activities within the stream may commence after the Department has signed this  
11 Agreement and pre-Project Provisions and protective features are implemented. This Agreement  
12 shall remain in effect for five (5) years beginning on the date signed by the Department. If the  
13 Project is not completed prior to the expiration date defined above, the Operator shall contact the  
14 Department to negotiate a new expiration date and any new requirements.

15  
16 2. When known, the Operator shall provide a construction/work schedule to the Department  
17 (mail, or fax to (559) 243-4020, with reference to Agreement 2007-0008-R4) prior to beginning  
18 any activities covered by this Agreement. The Operator shall also notify the Department upon  
19 the completion of the activities covered by this Agreement.

20  
21 3. Prior to starting any construction activity, all workers shall have received training from the  
22 Operator on the contents of this Agreement, the resources at stake, and the legal consequences of  
23 non-compliance.

### 24 25 Flagging/Fencing

26  
27 4. Adjacent to the Oceano Lagoon, the Operator shall identify the limits of the minimum  
28 required work area, the Project footprint, and any required vehicle access corridors. These limits  
29 shall be identified by the Operator prior to construction. All areas adjacent to the Oceano  
30 Lagoon, excluding the identified work area limits, shall be considered Environmentally Sensitive  
31 Areas (ESA) and shall not be disturbed. Flagging/fencing shall be maintained in good repair for  
32 the duration of the Project.

### 33 34 Listed/Sensitive Species

35  
36 5. This Agreement does not allow for the "take," or "incidental take," of any State- or Federal-  
37 listed threatened or endangered species.

38  
39 6. The Operator affirms that no "take" of listed species will occur as a result of this Project  
40 and will take prudent measures to ensure that all "take" is avoided. The Operator acknowledges  
41 that they fully understand that they do not have State "incidental take" authority. If any State- or  
42 Federal-listed Threatened or Endangered species occur within the proposed work area or could  
43 be impacted by the work proposed, and thus "taken" as a result of Project activities, the Operator

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County

1 is responsible for obtaining and complying with required State and Federal threatened and  
2 endangered species permits or other written authorization before proceeding with this Project.

3  
4 7. Liability for any "take," or "incidental take," of such listed species remains the separate  
5 responsibility of the Operator for the duration of the Project.

6  
7 8. The Operator shall immediately notify the Department of the discovery of any such rare,  
8 threatened, or endangered species prior to and/or during construction.

9  
10 Wildlife

11  
12 9. If any wildlife is encountered during the course of construction, said wildlife shall be  
13 allowed to leave the construction area unharmed.

14  
15 10. Construction excavations greater than 2 feet deep shall be covered at the end of each work  
16 day to prevent entrapment, or shall be furnished with wooden or earthen escape ramps having a  
17 slope of 3:1 or less to allow wildlife to escape.

18  
19 11. All pipes or similar structures that cannot be inspected (due to bends, etc.) shall be capped  
20 or otherwise covered prior to being left overnight. If an animal is found in a pipe, the pipe will  
21 be avoided and the animal left to leave of its own accord.

22  
23 California red-legged frog

24  
25 12. Ground disturbing activities in potential California red-legged frog (CRLF) habitat shall be  
26 conducted when the channel is dry, or shall be restricted to the period between July 1 and  
27 October 15. The Operator shall minimize instream construction activities to the maximum extent  
28 while still allowing the completion of Project goals.

29  
30 Birds

31  
32 13. To protect nesting birds, no tree removal shall occur from March 1 through August 1 unless  
33 the following are completed.

34  
35 Raptors: Survey for nesting activity of raptors (e.g., hawks, falcons, eagles, etc.) within 50  
36 feet of the construction site. If any active nests are observed, these nests and nest trees  
37 shall be designated an ESA and protected from disturbance during Project construction.

38  
39 Other Avian Species: Survey for nesting activity within the defined work area no more  
40 than two (2) weeks prior to construction. If any nesting activity is observed (including  
41 cavity nesting), the nests and trees shall not be damaged or removed until the young have  
42 fledged and left the nest. The Operator shall obtain Department approval prior to removing  
43 nesting trees. Project activities not requiring tree removal may proceed without nesting  
44 bird surveys.

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County



1 Vegetation

2  
3 14. A qualified botanist shall survey the entire area of potential effect for special-status plant  
4 species including marsh sandwort (*Arenaria paludicola*) and La Graciosa thistle (*Cirsium*  
5 *loncholepsis*). If any such plants are observed in the construction area, they shall be surrounded  
6 by ESA fencing, excluded from construction activities, and the Department consulted for  
7 additional necessary protective provisions.

8  
9 15. The disturbance or removal of vegetation shall not exceed the minimum necessary to  
10 complete operations and shall only occur within the defined work area. Precautions shall be  
11 taken to avoid other damage to vegetation by people or equipment. The disturbed portions of the  
12 stream bed, banks or channel shall be restored to as near their original condition as possible (see  
13 Restoration below).

14  
15 16. Native riparian shrubs and trees, and oak trees with trunks greater than or equal to four (4)  
16 inches diameter at breast height (DBH), if removed during Project activities shall be mitigated  
17 for by implementation of a Revegetation Plan described in Restoration below.

18  
19 Vehicles

20  
21 17. Vehicles shall not be operated in areas where surface water is present. Vehicles shall only  
22 operate in the channel during naturally dry conditions or while the affected section of stream is  
23 dewatered (see Diversion and Dewatering).

24  
25 18. Vehicles operated in or adjacent to the stream channel shall be limited to the minimum  
26 necessary to complete Project activities. Ingress and egress corridors shall be minimized and  
27 restricted to predetermined locations where impacts to vegetation are minimal. All other areas  
28 adjacent to the work site shall be considered an ESA and shall remain off-limits to construction  
29 equipment. Vehicle corridors and the ESA shall be identified by the Operator and shall be  
30 fenced/flagged as described above.

31  
32 19. Any equipment or vehicles driven and/or operated within or adjacent to the stream shall be  
33 checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic  
34 and terrestrial life.

35  
36 20. Fueling and maintenance of vehicles, other equipment, and staging areas shall occur at least  
37 75 feet from any riparian habitat or water body. The Operator shall ensure contamination of  
38 habitat does not occur during such operations.

39  
40 Erosion

41  
42 21. The Operator shall develop plans to control erosion and stabilize areas subject to ground  
43 disturbance during construction. A Construction Period Erosion Prevention and Contingency  
44 Plan shall be prepared and implemented prior to commencement of Project activities. The Plan

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County

1 may include or be comprised of a statement of Best Management Practices (BMPs), winterization  
2 plan, etc. used to prevent pollution of surface water.

3  
4 22. All disturbed soils within the Project site shall be stabilized to reduce erosion potential,  
5 both during and following construction. Planting, seeding with native species, and mulching is  
6 conditionally acceptable. Where suitable vegetation cannot reasonably be expected to become  
7 established, non-erodible material shall be used for such stabilization. Installation of non-  
8 erodible material, not included in the original Project description, shall be coordinated with the  
9 Department (see Restoration below).

#### 10 11 Pollution

12  
13 23. Raw cement, concrete or washings thereof, asphalt, drilling fluids or lubricants, paint or  
14 other coating material, oil or other petroleum products, or any other substances which could be  
15 hazardous to fish or wildlife resulting from or disturbed by Project-related activities, shall be  
16 prevented from contaminating the soil and/or entering the stream.

17  
18 24. Staging and storage areas for equipment, materials, fuels, lubricants, and solvents shall be  
19 located at least 75 feet from the stream channel and banks. Stationary equipment such as motors,  
20 pumps, generators, compressors and welders, located within or adjacent to the stream, shall be  
21 positioned over drip-pans.

22  
23 25. All Project-generated debris, materials and rubbish shall not be deposited in the stream and  
24 shall be removed from areas where such materials could be washed into the stream.

#### 25 26 Diversion and Dewatering

27  
28 26. All instream Project activities must be performed in isolation from surface water flow. In  
29 the event, sheet-piles, cofferdams or other diversion of water flow will be necessary to complete  
30 Project activities, the Operator shall prepare and submit for Department approval a Surface  
31 Water Diversion Plan. Upon Project completion, diversion structures shall be removed from the  
32 stream in such a manner as to allow for the least amount of disturbance to the substrate.

33  
34 27. Any equipment or structures placed in the active channel for water drafting, pumping or  
35 diversion shall be done in a manner that a) prevents pollution and/or siltation, b) provides flows  
36 to downstream reaches at all times to support aquatic life; c) provides flows of sufficient quality  
37 and quantity, and of appropriate temperature to support aquatic life, both above and below the  
38 diversion; and d) restores normal flows to the affected stream immediately upon completion of  
39 work at each location.

#### 40 41 Structures

42  
43 28. The Operator confirms that all structures and other constructed features will be properly  
44 aligned and otherwise engineered, installed, and maintained, to assure resistance to washout and

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County

erosion, and that they will not cause long-term changes in water flows that adversely modify the existing upstream or downstream stream bed/bank contours or increase sediment deposition.

#### Fill/Spoil

29. Spoil storage sites shall not be located where these materials may be washed into the Oceano Lagoon or where they may cover aquatic or riparian vegetation.

30. Rock, gravel, and/or other materials shall not be imported into or moved within surface waters. Only on-site materials and clean imported fill shall be used to complete the Project.

31. Fill shall be limited to the minimal amount necessary to accomplish the agreed-to activities. Excess fill material shall be moved off-site at Project completion.

#### Restoration

32. Restoration shall commence immediately upon completion of proposed structure installation activities. All areas temporarily disturbed shall be returned to pre-Project conditions, including original grade and substrate composition.

33. Project-generated material and debris shall be removed from the Project site immediately upon Project completion. All Project-generated debris shall be disposed of in a legal manner.

34. Restoration shall include the revegetation of all disturbed soils and new fill, including recontoured slopes and all other cleared areas, with riparian vegetation or other plants as appropriate. The Operator shall develop a Revegetation Plan for the site and submit it to the Department for approval prior to commencement of the proposed work. The Plan shall include:

- Compensation for removed trees by:
  - Identifying species damaged or removed during Project activities
  - Describing, how, where, and when replacement shrubs and trees will be planted
    - Riparian trees (i.e., willow, cottonwood, poplar, alder, ash, etc.) and shrubs shall be replaced in-kind and on-site, at a ratio of 4:1, and planted in the nearest suitable location to the area where they were removed
    - Oaks having a DBH of greater than four (4) inches shall be replaced in-kind, at a ratio of 3:1, and planted during the winter dormancy period in the nearest suitable location to the area where they were removed
  - Proposing measures to be taken (i.e., irrigation methods if necessary, and maintenance) to ensure a performance criteria of 70 percent survival of planted trees for a period of three (3) consecutive years, and an additional two (2) years without assistance
- Seeding and mulching exposed slopes, or stream banks not revegetated with riparian shrubs or trees, with a blend of a minimum of three (3) locally native grass species

- One or two sterile non-native perennial grass species may be added to the seed mix provided that amount does not exceed 25 percent of the total seed mix by count
- Locally native wildflower and/or shrub seeds may also be included in the seed mix
- Seeding shall be completed as soon as possible, but no later than November 15 of the year construction ends

35. A seed mixture shall be submitted to the Department for approval prior to application. At the discretion of the Department, all exposed areas where seeding is considered unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.

36. Where suitable vegetation cannot be reasonably expected to become established, non-erodible materials shall be used for such stabilization. Any installation of non-erodible materials not described in the original Project description shall be coordinated with the Department. Coordination may include the negotiation of additional Agreement Provisions for this activity.

37. Operator shall submit annually a Restoration Monitoring Report as described in the MRP below.

## **MONITORING AND REPORTING PROGRAM (MRP):**

### **PURPOSE OF THE MRP**

The purpose of the MRP is to ensure that the protective measures required by the Department are properly implemented, and to monitor the effectiveness of those measures.

### **OBLIGATIONS OF THE OPERATOR**

The Operator shall have primary responsibility for monitoring compliance and effectiveness for all protective measures included as "Provisions" in this Agreement. Protective measures must be implemented within the time periods indicated in the Agreement and the program described below.

The Operator shall submit the following to the Department:

- Construction/work schedule (Provision 2).
- If necessary, a Diversion and Dewatering Plan (Provision 26).
- Revegetation Plan (Provision 34)
- Seed mixture to be used to control erosion (Provision 35)

Agreement No. 2007-0008-R4  
Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County

- 1 • Restoration Monitoring Report (Provision 37) for planted trees and shrubs shall be  
2 submitted to the Department in December of each year until the performance criteria  
3 described in Provision 34 is met. The report shall assess the revegetation status,  
4 effectiveness of maintenance methods, whether or not the revegetation is expected to  
5 achieve the performance criteria, and shall propose additional measures that will be taken  
6 to achieve the performance criteria during the next year. Photo documentation of  
7 monitoring and maintenance for each year shall be part of the annual reports.  
8
- 9 • Final Project Report shall be submitted within 30 days after the Project is completed. The  
10 final report shall summarize the Project construction, including any problems relating to the  
11 protective measures of this Agreement. "Before and after" photo documentation of the  
12 Project site shall be required.  
13

14 In addition to the above monitoring and reporting requirements, the Department requires as part  
15 of this MRP that the Operator:

- 16
- 17 • Immediately notify the Department in writing if monitoring reveals that any of the  
18 protective measures were not implemented during the period indicated in this program, or if  
19 it anticipates that measures will not be implemented within the time period specified.  
20
- 21 • Immediately notify the Department if any of the protective measures are not providing the  
22 level of protection that is appropriate for the impact that is occurring, and  
23 recommendations, if any, for alternative protective measures. This includes any erosion  
24 detected in the Project area.  
25

#### 26 **VERIFICATION OF COMPLIANCE:**

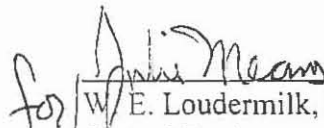
27

28 The Department shall verify compliance with management compliance measures to ensure the  
29 accuracy of the Operator's monitoring and reporting efforts. The Department may, at its sole  
30 discretion, review relevant Project documents maintained by the Operator, interview the  
31 Operator's employees and agents, inspect the Project area, and take other actions to assess  
32 compliance with or effectiveness of management compliance measures for the Project.

1 CONCURRENCE:  
2  
3  
4  
5

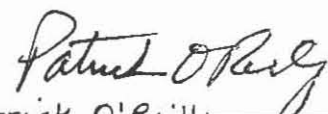
6 APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME

7  
8 on 7-11, 2008.  
9


10  
11   
12 for W. E. Loudermilk, Regional Manager  
13 Central Region  
14  
15  
16  
17

18 ACKNOWLEDGMENT  
19

20 The undersigned acknowledges receipt of this Agreement and, by signing, accepts and agrees to  
21 comply with all terms and conditions contained herein. The undersigned also acknowledges that  
22 adequate funding shall be made available to implement the measures required by this Agreement.  
23  
24  
25

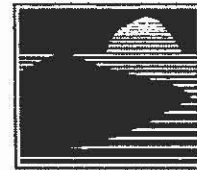
26   
27 By: Patrick O'Reilly  
28 Francis M. Cooney, General Manager  
29 Oceano Community Services District  
30

Date: 6-23-08

 Agreement No. 2007-0008-R4  
~~Francis M. Cooney~~ Patrick O'Reilly  
Oceano Lagoon - San Luis Obispo County







**MORRO  
GROUP, INC.**  
A DIVISION OF  
**SWCA**  
ENVIRONMENTAL CONSULTANTS

June 20, 2008

Mr. Patrick O'Reilly  
Oceano Community Services District  
PO Box 599, 1655 Front Street  
Oceano, Ca. 93445

SUBJECT: *Proposal to prepare a Restoration Plan for Segments 3 and 15 of the Oceano Sewer Repair Project (SLO 101)*

Dear Mr. O'Reilly:

Per my recent discussions with Jeremy Freund at Wallace Group, we are pleased to provide this brief proposal to prepare a Restoration Plan for select segments of the Oceano Sewer Repair Project. Condition 34 of the California Department of Fish and Game (CDFG) Streambed Alteration Agreement (SAA) requires the Oceano Community Services District to provide a Restoration Plan that addresses impacts to vegetation within CDFG jurisdiction. The following briefly discusses Morro Group/SWCA proposed methods for addressing Condition 34 of the SAA.

### **SCOPE OF WORK**

As discussed above, the focus of this proposal is to prepare a Restoration Plan that addresses the CDFG requirements as listed in Condition 34 of the SAA. The Restoration Plan must address methods for revegetating impacted wetland vegetation, proposed success criteria for revegetated areas, and a monitoring and maintenance plan to ensure success of the restoration. In addition, the Restoration Plan should include proposed contingency measures to be implemented in the event that the initial restoration is deemed unsuccessful. Condition 34 clearly requires the preparation and implementation of a Restoration Plan that focuses on the restoration of tree and shrub species. Project activities are not anticipated to impact tree and shrub species; consequently, we will focus the Restoration Plan on replacing the impacted wetland species. Methods proposed to restore the impacted wetland species will be consistent with Wallace Group's proposed methods.

### **COST ESTIMATE**

A fixed fee cost of \$3200.00 will be required for Morro Group/SWCA to prepare the required Restoration Plan. It is important to note that the project has yet to receive a permit from the California Coastal Commission (CCC). The above stated cost does not include any activities associated with restoration that CCC may require. Morro Group/SWCA anticipates that the construction contractors or the Oceano Community Services District will be responsible for implementing the restoration activities (plant salvage, installation, watering, weeding, etc.). This proposal or the Restoration Plan does not guarantee success of the restoration activities and does not include implementation of any contingency measures that would be required in the event of an unsuccessful restoration.

Please review and sign the attached "Services Agreement". Please keep a signed copy of the Services Agreement for your records and return the signed original to Morro Group (faxed, e-mailed, or mailed). Your submittal of the signed Services Agreement will authorize us to proceed with tasks included in this proposal. Should you have any questions regarding this proposed scope of work, please contact Travis Belt at (805) 543-7095, extension 108.

Sincerely,

MORRO GROUP/SWCA



Travis Belt  
Associate Biologist

cc: Jeremy Freund  
John Wallace & Associates  
612 Clarion Court  
San Luis Obispo, CA. 93401



**MORRO  
GROUP**

A DIVISION OF SWCA

**SERVICES AGREEMENT**

San Luis Obispo Office  
1422 Monterey Street, Suite C200  
San Luis Obispo, California 93401  
Tel 805 543 7095 Fax 805 543 2367  
Tax I.D. Number 860483317

**Project Title:** Oceano Sewer Revegetation Plan

**Project Number:**

**Date:** June 23, 2008

**Company Name:** Oceano Community Services District

**Client Contact Person:** Patrick O'Reily

**State of Incorporation/Organization:** Ca

**Street Address or P.O. Box:** PO Box 599, 1655 Front Street

**City:** Oceano

**State:** Ca

**Zip:** 93445

**Telephone No:** (805) 481-6730

**Fax No:** (805) 481-6836

**SWCA Project Manager:** Travis Belt

**Scope of Services (check one):**

- ☐ Services to be performed are:
- ☒ Scope of services is described in a separate document prepared or approved by SWCA (such document is incorporated herein and may be attached).

**Fees for SWCA Services (check one):**

- ☒ \$3,200.00 on a Fixed Fee basis.
- ☐ Time and Materials basis\* \$
- ☐ Time and Materials basis\* not-to-exceed (NTE) \$3,850.00
- \*SWCA rate schedule to be attached for Time and Materials/NTE contracts

**Reimbursement of Other Direct Costs (ODCs) (check one):**

- ☒ ODCs are included in Professional Services Fees.
- ☐ ODCs not to exceed \$ without Client approval.

**Retainer:** A retainer of \$0.00 must be received by , 20 . SWCA may delay work until receipt of retainer. Retainer will be applied to fees/costs incurred. SWCA reserves right to apply retainer to final invoice.

**Payment Terms:** Unless otherwise agreed to in writing by SWCA, Client will be invoiced monthly for services rendered and costs incurred (based on percentage of completion/hours expended, as applicable). All billed amounts not covered by a retainer are due and payable upon presentation of the invoice and become overdue if payment is not received within thirty (30) days after the date of the invoice. In no event shall payment to SWCA be withheld pending Client's receipt of payment by a third-party. Overdue amounts bear interest at the rate of 1.5% per month until paid and are subject to a monthly late-payment service charge equal to the greater of \$200 or 1% of the overdue balance. **Payment should be remitted to: P.O. Box 92170, Elk Grove, IL 60009.**

Prices and terms quoted are subject to Client's acceptance within thirty (30) days of the date set forth above.

☐ Special terms:

**SWCA®**  
ENVIRONMENTAL CONSULTANTS SWCA Incorporated, an Arizona corporation

By:   
(signature)

**Name:** Bill Henry, AICP

**Title:** Office Director

**Date:** May 2, 2008

**Client:**

**a(n):**

By:

(signature)

**Name:**

**Title:**

**Date:**

*Attached Terms (including disclaimers) are a part of this Agreement*

## **SWCA Standard Terms of Service**

**1. Scope of Services.** Subject to the terms set forth on the face hereof and those contained herein (collectively "this Agreement"), SWCA shall provide those services that SWCA has agreed in writing to provide under this Agreement ("the Services"). Any other services provided by SWCA in connection with this Agreement shall constitute "Additional Services". Any Additional Services are to be authorized on SWCA's standard Change Order form, which shall be incorporated herein, describing changes in the scope of work and any adjustment in pricing and terms. Unless otherwise agreed in writing by SWCA, Client shall pay for any Additional Services at SWCA's standard hourly rates, and fees for Additional Services shall be due and payable as incurred and invoiced.

**2. Payment.** In the event of late payment, the failure to provide a retainer or other breach of this Agreement by Client, SWCA reserves the right to (i) stop work; and/or (ii) apply any existing retainer and condition the performance of further services on obtaining payment in full of any unpaid balance and an additional retainer; and/or (iii) terminate this Agreement; and/or (iv) pursue all other rights and remedies available under this Agreement or applicable law. SWCA reserves the right to withhold its work product pending payment in full. Unless Client objects in writing to any charges set forth in an invoice within 10 days of receipt of the invoice, such invoice shall be deemed accepted. Client shall be responsible for any sales tax, transaction privilege tax, use tax, excise tax or similar taxes, if applicable, on the work performed under this Agreement.

**3. Termination.** In the event that this Agreement is terminated and the Services are priced on a fixed fee basis SWCA shall be entitled to payment from Client based on the percentage of work completed as reasonably estimated by SWCA, and in the event that this Agreement is terminated and the Services are priced on a Time and Materials basis, SWCA shall be entitled to payment based on the number of hours worked at the applicable rate, and in all events SWCA shall be entitled to reimbursement of costs incurred prior to termination. All provisions of this Agreement that expressly or by their nature continue in effect (such as warranty disclaimers and remedy limitations) shall survive termination.

**4. Client Cooperation and Compliance.** Client shall fully cooperate with SWCA as requested by SWCA and as necessary or appropriate to facilitate the completion of the Services. Client is responsible for providing SWCA with all information relevant to the Services available to Client and for complying with all applicable laws and requirements in connection with this Agreement. The Client Contact identified on the face hereof shall have complete authority on behalf of Client with respect to this Agreement and the Services, including the authority to provide or obtain any necessary information and approvals, and SWCA may rely on such authority. In the event that a Client Contact is not identified, SWCA may treat any representative of the Client that communicates with SWCA with respect to this Agreement or the Services as the Client Contact.

**5. Third-Party Services and Costs.** SWCA may, at its discretion, use subcontractors to complete the Services. SWCA shall not be responsible for acts or omissions of subcontractors and Client hereby releases SWCA from any claims related thereto. Client shall reimburse SWCA for costs incurred in connection with the Services as provided in this Agreement. Unless otherwise agreed by SWCA in writing, subcontractor costs shall be subject to a 20% administrative fee and other costs shall be subject to a 15% administrative fee.

**6. Delays.** In the event that SWCA provides an estimated completion date, SWCA will use reasonable efforts to complete the Services on or prior to that date subject to Client's compliance with this Agreement and other factors beyond SWCA's reasonable control. SWCA is not responsible for delays or other circumstances caused by the unavailability of third-party services, delays in government approvals, or other factors beyond SWCA's reasonable control.

**7. Limited Warranty; Disclaimer.** SWCA warrants that the Services performed by its employees will be performed substantially in conformance with the standard of care observed by similarly situated companies providing services under similar conditions. In the event of a breach of the foregoing warranty, SWCA's sole obligation shall be to use commercially reasonable efforts to re-perform the Services in compliance with such warranty, if possible, or at SWCA's option, refund the fees paid by Client for the Services. EXCEPT FOR THE FOREGOING WARRANTY, THE SERVICES AND INFORMATION PROVIDED UNDER THIS AGREEMENT ARE PROVIDED "AS-IS" AND SWCA DISCLAIMS TO THE MAXIMUM EXTENT PERMITTED BY LAW ALL WARRANTIES RELATING TO SUCH SERVICES AND INFORMATION INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Client understands that for various reasons investigations conducted by SWCA may not uncover all relevant information and that reports generated by SWCA may rely on various third-party information which SWCA may assume to be accurate without independent verification. Any maps or similar materials provided by SWCA are for illustration only and should not be relied on as surveys. No opinions are intended to be expressed by SWCA for matters that require legal expertise or other specialized knowledge beyond that customarily possessed by similarly situated environmental consulting companies.

**8. Limitation of Remedies.** In the event that Client incurs any damages in connection with this Agreement or the Services, SWCA's liability shall in no event exceed the amount actually paid by Client to SWCA for the Services. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SWCA SHALL HAVE NO OTHER LIABILITY TO CLIENT FOR ANY DAMAGES, WHETHER GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL, INCLUDING ANY LOST PROFITS OR LOST SAVINGS, WHETHER OR NOT FORESEEABLE. CLIENT EXPRESSLY ACKNOWLEDGES AND AGREES THAT SWCA IS ENTERING INTO THIS AGREEMENT IN RELIANCE ON THE DISCLAIMERS AND LIMITATIONS SET FORTH HEREIN.

**9. Choice of Law and Forum; Attorneys' Fees.** This Agreement shall be governed exclusively by its terms and by the laws of the State of Arizona as applied to contracts entered into in Arizona between Arizona residents without regard to the State's rules concerning choice of law. Client hereby consents and agrees to exclusive jurisdiction and venue in Maricopa County, Arizona, provided that SWCA may pursue collection efforts for any amounts payable under this Agreement in any forum having jurisdiction. Client shall reimburse SWCA on demand for all attorneys' fees, costs and expenses incurred by SWCA (including any commissions payable to collection agencies) in seeking to collect amounts payable under this Agreement (including fees, costs and interest) or otherwise seeking to enforce its rights under this Agreement.

**10. Severability.** In the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, and the provision held to be invalid or unenforceable shall be automatically amended to most closely approximate the original provision on terms that are valid and enforceable and the court or other adjudicating authority shall make such amendment accordingly.

**11. Assignment; Successors; Third-Parties.** Client may not assign its rights under this Agreement without SWCA's written consent and, unless otherwise expressly agreed by SWCA in writing, Client shall in all events remain responsible for the performance of its obligations hereunder notwithstanding any such assignment. This Agreement shall be binding upon assignees and other successors. Any services and information provided by SWCA are being furnished solely for Client's benefit and only with respect to the project that is the subject of this Agreement and no third-party may rely thereon and no third-party shall be construed to be a beneficiary of this Agreement.

**12. Integration; Modification; Waiver.** This Agreement reflects the entire agreement of the parties relating to the subject matter hereof, and any prior understandings, agreements or representations related to such subject matter are hereby superseded. This Agreement shall control over any conflicting documents and shall be the sole source of any obligations of SWCA. No provision of this Agreement shall be deemed amended or waived by SWCA unless a written amendment or a form of waiver is signed by SWCA. All attachments authorized by SWCA are hereby incorporated into this Agreement. This Agreement may be executed in counterparts and delivered by any reasonable means including facsimile.

**13. Interpretation; Notices.** The terms of this Agreement constitute the written expression of the mutual agreement of the parties and shall be construed neutrally and not for or against either party. When used in this Agreement the term "include" or "including" shall be construed as illustrative and not exhaustive. The headings in this Agreement are inserted for convenience; the provisions of this Agreement shall control. Periods of time established by this Agreement in days shall be calculated using calendar days and not business days unless otherwise specified. Notices and communications given and made in connection with this Agreement may be given and made by any reasonable means including facsimile or email if reasonable in the circumstances.

**14. Relationship; Authority.** The relationship of the parties hereunder is that of independent contractors and not principal-agent, partners, or otherwise. Except as expressly provided under this Agreement, neither party shall have any authority to act on behalf of or bind the other party. Only SWCA's project manager or an officer of SWCA shall be authorized to bind SWCA.

**15. Non-Discrimination.** SWCA shall not discriminate or allow parties under its control to discriminate in violation of the Rehabilitation Act, 29 U.S.C. § 793, the Vietnam Era Readjustment Assistance Act, 38 U.S.C. § 4212 or Executive Order 11246 or similar requirements to the extent applicable, and shall, to the extent required, take affirmative action to employ and advance in employment qualified individuals.





# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

July 23, 2008

TO: Board of Directors, OCSD

FROM: Patrick J. O'Reilly, General Manager 

SUBJECT: Employee Vacation Accrual

1. District employees earn two weeks of paid vacation each year for the first five years of employment. Paid vacation increases to three weeks during the sixth year of employment and to four weeks during the tenth year of employment. The existing policy refers to periods of continuous employment.
2. In order to encourage previous employees to return to work for the District when the opportunity presents itself, staff recommends that District policy be changed to consider all periods of District employment when determining eligibility for vacation accrual. Staff believes this is a very cost efficient method to encourage prior employees to return to work for the District and to reward them if they do return. The Personnel Committee considered this issue on July 15, 2008 and recommends approval of the change in policy.
3. The District currently has an employee who worked for the District approximately four years and then left District employment for a while. That employee returned to work for the District a little over a year ago. If a change in policy is adopted, that employee will immediately begin accruing three weeks of vacation instead of two weeks.

**THE RECOMMENDED ACTION BEFORE YOUR BOARD is to:** by Board discussion, public comment, motion, second and roll call vote, establish a District policy that recognizes all periods of employment when determining the number of days of vacation employees will be entitled to each year.

Agenda Item 7 23 2008 9.a.

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# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

July 23, 2008

TO: Board of Directors, OCSD

FROM: Patrick J. O'Reilly, General Manager *PJO*

## **SUBJECT: CHANGE TO PROCEDURE FOR COMMITTEE ASSIGNMENTS**

1. At the meeting of the District Board of Directors on June 11, 2008, President Hill appointed an Ad Hoc Committee to review the process for assigning Directors to various committees. The Ad Hoc Committee was comprised of Directors Dahl and Dean. The recommendations were provided to the District Board on July 9, 2008 but one committee member (Director Dean) was absent so no action was taken.

2. The Ad Hoc Committee met on June 19, 2008 and made the following recommendations at the meeting of the District Board of Directors on June 25, 2008:

- The committee recommended that more Directors be involved in the core committees of the District and recommended the following changes to the Rules of Order to accomplish that objective;
- Define "Core" committees as the Finance, Fire and Personnel Committees and representation on the SSLOCSD Board;
- Require that every Director be assigned to at least one "Core" committee;
- Require that no Director can serve on more than two "Core" committees;
- Require that a member of the Fire Committee be assigned to the Fire Oversight Committee unless both decline the appointment;
- Require that no Director can serve on the same Committee two years in a row unless approved by a majority vote of all Directors;
- Require that "non-Core" committee assignments be rotated each year if a Director requests assignment to a specific committee; and
- Require the President to appoint committee members for each year in January based on written requests from each Director;

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Agenda Item 07 23 2008 Item 9.b.

- Require committee assignments for the current year to be changed in accordance with these revised rules as soon as possible considering the first six months of the year to be the same as a previous year.
- 3. The procedures for making committee assignments are included in the District Rules of Order. A draft of proposed changes to the paragraph 1.4 of the Rules of Order which incorporate the above recommendations is provided as Exhibit "A" to Attachment 1.
- 4. If the Board elects to change the Rules of Order, the adopted changes should be adopted by Resolution 2008-17 provided as Attachment 1.

**THE RECOMMENDED ACTION BEFORE YOUR BOARD is to:** by Board discussion and public comment, determine if the recommended changes are desirable; and if desirable, by motion, second, and roll call vote, adopt OCSD Resolution 2008-17, **A RESOLUTION OF THE OCEANO COMMUNITY SERVICES DISTRICT AMENDING RULES OF ORDER TO GOVERN CERTAIN OPERATIONS AND FUNCTIONS OF THE BOARD OF DIRECTORS.**

**ATTACHMENT 1**

**OCEANO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2008 - 17**

**A RESOLUTION OF THE OCEANO COMMUNITY SERVICES DISTRICT AMENDING  
RULES OF ORDER TO GOVERN CERTAIN OPERATIONS AND FUNCTIONS OF THE  
BOARD OF DIRECTORS**

**WHEREAS**, the Oceano Community Services District (the "District") Board of Directors (the "Board") has adopted Rules of Order (the "Rules") to govern certain Board operations and functions; and

**WHEREAS**, a specially appointed Ad Hoc Committee recommended that Paragraph 1.4 of the Rules be modified to the form and content contained in the attached Exhibit "A"; and

**WHEREAS**, the Board has reviewed and approves the form of Paragraph 1.4 of the Rules contained in the attached Exhibit "A";

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED** by the District Board of Directors, Oceano Community Services District, San Luis Obispo County, California, that paragraph 1.4 of the Rules of Order is amended in the form attached. For purposes of effectuating a transition and anything in the adopted Rules notwithstanding, committee assignments shall be realigned and reappointed in accordance with the revised rule within 30 days after adoption of this resolution.

Upon motion of \_\_\_\_\_, second by \_\_\_\_\_, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

the foregoing resolution is hereby adopted this 23rd day of July, 2008.

\_\_\_\_\_  
James Hill  
President

ATTEST:

\_\_\_\_\_  
Patrick O'Reilly  
Board Secretary

1.4 The President and Vice President of the Board shall be elected annually at the last regular meeting of each calendar year as follows.

(a) The determination and seating of the President and Vice President shall be the first order of business after the call to order, roll call, flag salute, and if appropriate, certification of election and seating of new board members.

(b) The call for nominations for President shall be opened by the President and nominations shall be received by voice. No nomination needs to be seconded.

(c) Nominations shall be closed upon an approved motion.

(d) An absent candidate may not be nominated and elected unless such candidate has submitted in writing his/her desire to serve.

(e) Nothing herein shall prohibit a Board member from declining to serve as a Board officer, in which case, the determination of the officer in question shall be made without regard to the declining person.

(f) The elected President takes possession of his/her office immediately and his/her term commences immediately.

(g) After the President is determined, the Vice President shall be determined in the same manner as the President. The elected Vice President takes possession of his/her office immediately and his/her terms commences immediately.

(h) Committee, interagency, and other third party body appointments shall be made by the new President during the first meeting in January **or when requested by a majority of the Directors**, subject to approval of the Board.

(1) No committee shall include in its membership more than two (2) Board members.

(2) **“Core” appointments shall be to the Finance Committee, the Fire Committee, the Personnel Committee and the representative to the South San Luis Obispo County Sanitary District (SSLOCS).**

(3) **At least one “Core” appointment will be made to each Director unless a Director declines the appointment.**

(4) **No more than two “Core” appointments will be made to any one Director.**

**(5) "Core" appointments will be rotated annually with no Director assigned to the same "Core" committee or the SSLOCSD two years in a row unless approved by a majority of the Directors.**

**(6) Other appointments will be rotated on an annual basis if a Director requests assignment to a specific committee.**

**(7) Assignment to the Fire Oversight Committee will be made to a member of the Fire Committee unless both primary members of the Fire Committee decline appointment.**

(8) The President shall be appointed as an alternate member to all standing committees. The Vice President shall be appointed as an alternate for those meetings where the President serves as a regular member or where the President is unable, due to scheduling or other conflicts, to attend a committee meeting as an alternate.

(9) The General Manager, or his/her designee, shall be an ex-officio member of all committees.





# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730

FAX (805) 481-6836

July 23, 2008

TO: Board of Directors, OCSD

FROM: Patrick J. O'Reilly, General Manager 

**SUBJECT: State Water Project (SWP) Reliability Program for 2008-2009**

The California Department of Water Resources (DWR) operates and administers the State Water Project (SWP), through the San Luis Obispo County Flood Control District (SWP Contractor) of which OCSD is a participant (SWP Subcontractor). San Luis Obispo County has been in negotiations with the Central Coast Water Authority (CCWA) to implement a program that would allow the OCSD and other SWP subcontractors to transfer their surplus 2008-2009 SWP Allocation to CCWA in order to assist CCWA (Santa Barbara County) with drought level deliveries of State Water and to generate additional revenue for the subcontractors' unused SWP entitlements. The proposed program would also allow SWP Subcontractors to purchase temporary transfers of "program water" under this agreement in order to improve their 2008-2009 water supply reliability. The SWP Subcontractors would have the first option to purchase excess water prior to it being offered to CCWA.

In January, the District Board reviewed a previous version of the attached Agreement and elected to transfer any "excess" water available under the program. The changes to the Agreement will be summarized by a representative from our District Engineer during the Board meeting.

In January, there was concern that due to drought conditions existing in the State, there would be reduced deliveries of SWP this year. However, deliveries so far this year have been exactly what we have requested.

In order for the District to participate in this agreement, the County has requested that all participants execute the State Water Subcontractors Participation Contract (attached). Once the County determines which subcontractors will participate (to buy or sell water), the actual amount of water available for transfer to SWP Subcontractors or for sale to CCWA will be determined.

**THE RECOMMENDED ACTION BEFORE YOUR BOARD is to:** by Board discussion, public comment, motion, second and roll call vote, authorize the Board President to sign the SUBCONTRACTOR PARTICIPATION CONTRACT for 2008-2009.

Agenda Item 7 23 2008 8.b.

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## **SUBCONTRACTOR PARTICIPATION CONTRACT**

The parties to this Subcontractor Participation Contract ("Contract") are \_\_\_\_\_ (hereafter "Participating District Subcontractor") and the San Luis Obispo County Flood Control and Water Conservation District (hereafter the "District").

The parties hereby agree as follows:

1. **Participation in 2008 And 2009 Central Coast Water Reliability Agreement.**

(a) This Contract is based upon Attachment A of the 2008 and 2009 Central Coast Water Reliability Agreement (hereafter "2008/2009 Agreement") between the District and the Central Coast Water Authority ("Authority"), a copy of which has been provided to the Participating District Subcontractor. By signing this Contract, the Participating District Subcontractor accepts the District's offer to become a "Participating District Subcontractor" and a "Participant" under the 2008/2009 Agreement. By signing this Contract, the Participating District Subcontractor and the District accept all of the terms and conditions of the 2008/2009 Agreement applicable to Participants, District Subcontractors, and/or Participating District Subcontractors, and incur all said obligations and duties set forth in the 2008/2009 Agreement. All said terms and conditions of the 2008/2009 Agreement are hereby incorporated herein by reference as though fully set forth herein. When incorporating said terms and conditions, the word "Agreement" shall include both the 2008/2009 Agreement and this Contract.

(b) In the event the District and Authority ever amend the 2008/2009 Agreement, the District shall promptly notify the Participating District Subcontractor of any such amendments in writing. The terms and conditions of any such amendments shall automatically be incorporated by reference into this Contract unless the Participating District Subcontractor terminates this Contract within five business days of the District's written notice setting forth the text of the amendments.

(c) The District and the Participating District Subcontractor agree that the 2008/2009 Agreement, this Contract, and the contemplated temporary water transfers contemplated therein, are consistent with the "Excess Entitlement Policy" adopted by the District on January 14, 2003, which allows for temporary transfers of the District's SWP Allocation to other local water users under specific conditions.

Attachment B to the 2008 and 2009 Central Coast Water Reliability Agreement

2. Term Of Contract.

This Contract goes into effect once this Contract has been executed by the parties hereto and the 2008/2009 Agreement has been executed by the District and the Authority. This Contract shall remain in effect only until December 31, 2009, unless terminated at some earlier date pursuant to the provisions herein. No right of renewal or right to enter extensions of this Contract, or to enter into any new water transfer agreements is granted or implied.

3. Request For Program Water.

As a Participant in the 2008/2009 Agreement, the Participating District Subcontractor understands that it is limited to receiving Program Water only up to 100% of its allowed Delivery Request for each calendar year this Contract is in effect. The Participating District Subcontractor shall make Water Payments to the District for delivered Program Water at the Program Water Rate set forth in Section 4.2 of the 2008/2009 Agreement, plus applicable Delivery Charges as set forth below. The District shall make deliveries of Program Water to Participating District Subcontractors in the same way that the District delivers District Subcontractor Allocation and District Subcontractor Drought Buffer Allocation water to District Subcontractors.

4. Transfer Of District Subcontractor Allocation And/Or Drought Buffer Allocation.

(a) By checking one or both of the boxes below, the Participating District Subcontractor hereby agrees to convert the following portions of its District Subcontractor Allocation and/or Drought Buffer Allocation to "Program Water" under the 2008/2009 Agreement so that said Water may be transferable to other Participant(s) under the 2008/2009 Agreement:

- ☐ The portion of our District Subcontractor Allocation not needed to deliver 100% of our 2008 and 2009 Delivery Requests shall be made available for transfer as Program Water pursuant to Section 2.1 of the 2008/2009 Agreement.
- ☐ The portion of our District Subcontractor Drought Buffer Allocation not needed to deliver 100% of our 2008 and 2009 Delivery Requests shall be made available for transfer as Program Water pursuant to Section 2.1 of the 2008/2009 Agreement.

The Participating District Subcontractor understands that any proportionate revenue credit it may be entitled to by checking one or both of the boxes above will be in accordance with Section 4.9 of the Agreement.

(b) The Participating District Subcontractor hereby delegates and/or assigns to the District any and all rights necessary for the District to transfer any of the above-designated portions of the District Subcontractor Allocation or Drought Buffer Allocation to other Participant(s) as Program Water under the 2008/2009 Agreement.

5. District Subcontractors' Delivery Charges.

In addition to Water Payments, Participating District Subcontractors shall be individually responsible for all SWP variable operation, maintenance, power, and replacement component charges and all off aqueduct power facilities reimbursement charges for the delivery of all Program Water transferred to it as those charges are applied in the District's SWP Contract (consistent with Article 14(a)(2)(iii, iv) of the Water Supply Agreement (hereafter "Delivery Charges")). Said Delivery Charges owed by Participating District Subcontractors for Program Water requested and received from the District will be incorporated into and paid to the District through the normal SWP billing process used for District Subcontractors.

6. Participating District Subcontractor Water Payments, Credits.

Water Payments owed by any Participating District Subcontractor for Program Water received from the District will be incorporated into and paid to the District through the normal SWP billing process used for District Subcontractors. Any credits owed to Participating District Subcontractors for transfers of District Subcontractor Allocation or Drought Buffer Allocation under this Program, or for adjustments for actual deliveries, will also be accounted for during the normal SWP billing process used for District Subcontractors. If a Participation Contract (Attachment A) indicates that portions of the Participating District Subcontractor's Allocation or Drought Buffer Allocation should be made available for transfer under this Agreement as Program Water, said Participating District Subcontractor will be credited for such water transferred to the Authority or another Participating District Subcontractor under this Agreement at the Program Water Rate.

7. Termination of Contract.

(a) This Contract shall only remain in effect as long as the 2008/2009 Agreement is still in effect, and shall terminate simultaneously with any valid termination of the 2008/2009 Agreement. The District and the Participating District Subcontractor each also have the unilateral right to terminate this Contract for any reason upon providing the other party 30 days advance written notice of such termination.

(b) In the event of a termination of this Contract, the "non-refundable payments" and "refundable payment" provisions of Section 7.3 and 7.4 of the 2008/2009 Agreement are herein incorporated herein by reference (with the word "Authority" being replaced with "Participating District Subcontractor," and the word "Agreement" being replaced with the word "Contract.") The obligations of the parties incurred pursuant to this Contract prior to the termination of this Contract shall survive the termination.

8. Indemnity.

(a) Definitions.

(i) "Claim" means any liability, loss, damages (including punitive damages), claim (including, but not limited to, CEQA claims), cause of action, petition, settlement payment, cost, expense, interest, award, judgment, diminution in value, fine,



fee, and penalty, or other charge, including any Litigation Expense (as defined below) regardless of whether the Claim relates to an informal claim, court action, arbitration, or other proceeding; and

(ii) "Litigation Expense" means any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any Claim, including, without limitation, in each case, attorneys' fees, other professionals' fees, and disbursements.

(b) General Indemnity and Hold Harmless. At all times after execution of this Agreement, the Participating District Subcontractor shall indemnify, defend, and hold harmless the District and its directors, officers, agents, servants, and employees against any and all Claim(s) arising out of or relating to this Contract (regardless of whether or not the Claim(s) arises out of a third-party Claim), including, but not limited to any Claim(s) that the execution or performance of this Contract violates any applicable law or regulation, or that the execution or performance of this Contract is inconsistent with, or in violation of the 2008/2009 Agreement, or that the execution or performance of the 2008/2009 Agreement is inconsistent with, or in violation of, this Contract.

#### 9. Other Terms And Conditions.

(a) All of the terms and conditions in Sections 9.1 through 9.17 are hereby incorporated by reference with the word "Authority" replaced with the words "Participating District Subcontractor," and with the word "Agreement" replaced with the word "Contract."

(b) Pursuant to Section 9.17 (entitled "Notice") of the 2008/2009 Agreement, any "Notice" to the Participating District Subcontractor under this Contract shall be at the address listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) A refund of any Water Payments made under this Contract shall be the Participating District Subcontractor's sole remedy for any breach of this Contract. The District shall not be liable for any other incidental, compensatory, consequential, or other damages caused to the Participating District Subcontractor or any other entity by breach of this Contract.

(d) No Construction Against Drafter. It is agreed by the parties that this Contract has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Contract. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Contract.

SAN LUIS OBISPO COUNTY FLOOD  
CONTROL AND WATER CONSERVATION  
DISTRICT

PARTICIPATING DISTRICT  
SUBCONTRACTOR

By \_\_\_\_\_  
Paavo Ogren, Director of Public Works

Date \_\_\_\_\_

\_\_\_\_\_  
Name of District Subcontractor

By \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_

APPROVED AS TO FORM AND LEGAL EFFECT:

R. WYATT CASH  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Dated: \_\_\_\_\_

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