



August 26, 2014

TO: LOCSD Board of Directors
FROM: Jason Zatt, Utility Compliance Technician *JZ*
SUBJECT: **Agenda Item 111 – 09/04/2014 Board Meeting**
Adopt Outdoor Water Conservation Program and Approve
Contract with Barnett, Cox & Associates for a Dual Phase Public
Outreach Campaign

President
Craig V. Baltimore

Vice President
R. Michael Wright

Directors
Leonard A. Moothart
Marshall E. Ochylski
Jon-Erik G. Storm

General Manager
Kathy A. Kivley

**Temporary District
Accountant**
Michael L. Doyel

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DESCRIPTION

The Outdoor Water Conservation Plan based on recommendation of the Utilities Advisory Committee (UAC) is attached for adoption. Additionally, a contract with Barnett, Cox & Associates for a Dual Phase Public Outreach Campaign for water conservation is attached for your approval.

STAFF RECOMMENDATION

This item will be approved along with the Consent Calendar unless it is pulled by a Director for separate consideration. If so, Staff recommends that the Board adopt the following motions:

Motion 1: I move that the Board adopt Resolution 2014-22 approving the implementation of the LOCSD Outdoor Water Conservation Plan.

Motion 2: I move that the Board approve a contract with Barnett, Cox & Associates for a Dual Phase Public Outreach Campaign and authorize the General Manager to execute the document.

DISCUSSION

In February 2014, based on Board direction, a subcommittee was formed to focus on an outdoor water conservation plan. The subcommittee consisted of UAC Committee Member Munds and staff. The draft outdoor plan was presented to the UAC at their March 12, 2014 meeting. The committee decided to recommend to the Board that with the County focused on indoor conservation, the District should focus on outdoor water conservation. The UAC believes it is important to make a significant impact by noticing the community of the severe drought conditions and the drought's impact on our single water supply. As recommended by the UAC, this information was presented to the Board of Directors. District Engineer Miller was authorized to issue a Request for Qualifications (RFQ) for marketing services for a Public Outreach Campaign. Two responses to the RFQ were received by the District. Barnett, Cox & Associates was selected by a subcommittee consisting of Director Moothart, UAC Committee Member Munds, and District Engineer Miller.

At the June 11, 2014 UAC meeting, a draft of the Outdoor Water Conservation Plan was presented by staff and discussed by the Committee with input from the

public. At the July 9, 2014 UAC meeting, staff again reported on a draft Public Outreach Campaign for Water Conservation developed by Barnett Cox and comments were received. District Engineer and staff met to discuss the additional comments received from the UAC and public and this information was forwarded to the consultant. Based on suggestions from the public, staff believes a Public Outreach Program must address water conservation and is an important tool regarding community drought education and notification.

At the August 13, 2014 UAC meeting, the recommended Dual Phase Public Outreach Campaign, including outdoor water conservation and cost estimates, was presented by David Cox of Barnett, Cox & Associates. This dual campaign approach was received favorably by the UAC Committee and the public. The UAC Committee recommends to the Board that the Dual Phase Public Outreach Campaign be presented to the other water purveyors in the Interlocutory Stipulated Judgment (ISJ) to share the cost of the program if interested. In an effort to maximize time and by agreement of the Board Executive Committee, Staff presented the campaign at the ISJ meeting on August 26, 2014. Further discussions will follow with the other purveyors.

FINANCIAL IMPACT

Funding for this item will come from the Water Conservation Reserve, General Ledger Code 3167, Fund 500. This Reserve has a balance of \$25,000. The current cost for Phase 1 and Phase 2 Option A is \$13,484 and Option B is \$17,821. Staff believes both phases are important to the success of the message.

Attachments

RESOLUTION NO. 2014-22

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
LOS OSOS COMMUNITY SERVICES DISTRICT
ADOPTING OUTDOOR WATER CONSERVATION PLAN
PURSUANT TO WATER CODE § 375**

WHEREAS, the LOS OSOS COMMUNITY SERVICES DISTRICT ("District") provides water service within the District's water service area pursuant to § 61100 (a) of the Community Services District Law which provides:

"(a) Supply water for any beneficial uses, in the same manner as a municipal water district, formed pursuant to the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code. In the case of any conflict between that division and this division, the provisions of this division shall prevail"; and

WHEREAS, § 61060 (b) of the Community Services District Law provides in relevant part:

"A district shall have and may exercise all rights and powers, expressed and implied, necessary to carry out the purposes and intent of this division, including, but not limited to, the following powers:

(b) To adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Part 3 (commencing with Section 61100)"; and

WHEREAS, California Water Code Section 375 States in pertinent part:

(a) Notwithstanding any other provision of the law, any public entity which supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity may, by ordinance or **resolution** adopted by a majority of the members of the governing body after holding a public hearing upon notice and making appropriate findings of necessity for the adoption of a water conservation program, adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity; and

WHEREAS, it is essential for the protection of the health, welfare, and safety of the residents of the District and the public benefit of the State of California ("State"), that the groundwater resources of the Los Osos Groundwater Basin be conserved; and

WHEREAS, Governor Jerry Brown on January 17, 2014, proclaimed that the entire State of California to be in a drought state of emergency and the State Water Board has issued Emergency Water Shortage Regulations; and

WHEREAS, the District has adopted regulations in compliance with the State Water Board regulations; and

WHEREAS, the Board of Supervisors has amended the Health and Sanitation Ordinance, Title 8 of the San Luis Obispo County Code as follows (in part):

The Board of Supervisors determined that overall water use in the Los Osos Groundwater Basin has surpassed a sustainable capacity:

1. The consumption of water in the Los Osos Groundwater Basin has resulted in seawater intrusion into the Los Osos Groundwater Basin. In response to this threat to groundwater, the community's only fresh potable water source, the Board of Supervisors has certified a Level of Severity III for the Los Osos Groundwater Basin; this is the highest severity level in the County General Plan's Resource Management System.

WHEREAS, Water Code § 71640 of the Municipal Water Service District Law provides:

"A district may restrict the use of district water during any emergency caused by drought, or other threatened or existing water shortage, and may prohibit the wastage of district water or the use of district water during such periods for any purpose other than household uses or such other restricted uses as the district determines to be necessary. A district may also prohibit use of district water during such periods for specific uses which it finds to be nonessential"; and

WHEREAS, the District Board of Directors has considered the Staff Report and public testimony regarding the adoption of this Resolution; and

WHEREAS, the District Board of Directors wishes to set forth an Outdoor Water Conservation Plan that provides a range of alternative actions that allows for flexibility in responding to a water shortage and drought emergency; and

WHEREAS, based on the Staff Report, staff presentation, the reports and studies referenced in this Resolution and public comment, the District Board of Directors find that:

- (a) It is necessary for the District to adopt an Outdoor Water Conservation Plan to be able to respond to the lack of available groundwater for the purpose of serving District residents.

WHEREAS, based on the Staff Report, staff presentation and public comment, the Board further finds:

- A. That adoption of the Outdoor Water Conservation Plan will provide greater assurances that there will be adequate groundwater to meet the present needs of District residents consistent with District Code §3.28.020 and the resource protection goals of the San Luis Obispo County Estero Area Plan; and
- B. That adopting this Resolution will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection; and
- C. That this Resolution adopts Rules and Regulations for the administration, operation and use of District services.

WHEREAS, based on the staff report, staff presentation and public comment, the District Board of Directors further finds this Resolution is adopted for the protection of the health, safety and welfare of District water customers who depend on the underlying groundwater basin as their source of water supply.

NOW, THEREFORE BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the LOS OSOS COMMUNITY SERVICES DISTRICT, as follows:

- 1. That the above recitals are true and correct.
- 2. The Board adopts the Outdoor Water Conservation Plan attached as Exhibit "A" to this Resolution.

Upon motion of Director _____, seconded by Director _____ and on the following roll call vote, to wit:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

The foregoing resolution is hereby passed and adopted this 4th day of September, 2014.

Craig V. Baltimore
President of the Board of Directors
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

Kathy A. Kivley
General Manager and Secretary to the Board

Michael W. Seitz
District Legal Counsel



OUTDOOR WATER
CONSERVATION
PLAN

1. **Program Element:** Target top 100 water users with outdoor water conservation information.

Program Description: Each month top water user reports will be generated using the District's new billing software. Monthly monitoring of water usage is already being conducted by District Staff. Staff determines if high usage is a spike or is habitual, based on prior usage. Staff shall develop a form letter to notify customers of the high water use. Top users will be direct mailed water conservation information along with the form letter.

Implementation Schedule: This element has been partially implemented. Unusually high and low meter reads are monitored by the District's Administrative Accounting Assistant.

Cost: The largest cost of this element will be Staff time. Printing costs and postage would be minimal. See attached cost estimate spreadsheet.

2. **Program Element:** Landscape and irrigation workshops.

Program Description: Local nurseries currently conduct landscape and irrigation workshops. The District will partner with these nurseries, encourage use of drought tolerant plants, and advertise workshops on the District's website, Channel 20, and at the District office.

Implementation Schedule: The District shall reach out to local nurseries and create a schedule of when and where such workshops will be conducted.

Cost: The District can minimize costs by allowing local nurseries to conduct landscape and irrigation workshops. Minimal staff time will be needed to advertise the workshops on the District's website, channel 20, and the District office.

3. **Program Element:** Develop seasonal irrigation messaging and direct mail water customers with information.

Program Description: A seasonal irrigation schedule was created by District staff and is mailed out to water customers on an annual basis. This schedule is also available at the District office.

Implementation Schedule: This element has been implemented. Irrigation schedules are mailed out to customers at least once per year.

Cost: This element was and continues to be a minimal cost to the District. See attached spreadsheet for cost estimate.

4. **Program Element:** Analyze water consumption and track per capita water use.

Program Description: Water consumption is measured on a monthly basis by District personnel. Unusually high or low meter reads are compared to past reads. Any suspected inaccuracy results in a reread of the meter.

Implementation Schedule: This element is currently implemented. District personnel measure consumption on a monthly basis.

Cost: This element's cost is incorporated into duties already performed by District Staff.

5. Program Element: Purchase or develop landscape brochures.

Program Description: The District will consult with an outside marketing firm to create a water wise landscape brochure encouraging the use of drought tolerant/native plants, drip irrigation, and replacing older timer based irrigation controllers with “smart” controllers. A native plant brochure and irrigation schedules are currently available at the District office.

Implementation Schedule: District staff is currently in the process of requesting qualifications from outside marketing agencies.

Cost: Actual costs will not be available until the District receives proposals from the marketing agencies (information pending).

6. Program Element: Attend public events and encourage water conservation to the public.

Program Description: District Staff attends different public events such as Farmer’s Market, Earth Day Festival, South Bay Business Expo, and Oktoberfest handing out water conservation items such as low flow showerheads and sink aerators, low flow hose nozzles, shower timers and toilet leak detection tablets. Water conservation literature is also provided. A gardening with native plants brochure, irrigation schedules, and coloring books for kids are also available at these events. All of these items are free to the public. District Staff encourages water conservation to members of the public at these events.

Implementation Schedule: This element is currently implemented. District staff attends farmers market on a monthly basis and other public events as they are scheduled.

Cost: Costs will vary due to the times and days of the week when public events are scheduled. Farmer’s Market is held during normal District business hours and does not require Staff overtime. This event only requires one staff member, while other events require the setup, operation, and breakdown of displays, shade structures, heavy or bulky items and require two staff members. Several of the above listed events are held outside of normal District business hours and incur overtime costs. In addition, the District purchases the water efficient fixtures and literature which are made available to the public at no cost to encourage water conservation. See attached cost estimate spreadsheet.

7. Program Element: Speaker’s bureau

Program Description: The speaker’s bureau will consist of Board members utilizing speaking opportunities to promote water conservation. Staff shall develop a speaking points reference bulletin for water conservation which Board members will present to service groups or clubs, as well as to the public.

Implementation Schedule: This element is partially implemented. Board members already present water conservation information to groups and clubs when asked. A reference bulletin will be created by Staff in a relatively short amount of time.

Cost: This element is one of the most cost effective measures of the water conservation plan. Aside from a short period of Staff time to create a reference bulletin, there should be no other costs incurred.

8. Program Element: Water waste ordinance.

Program Description: This element is a regulatory measure which will require Board approval and District Code amendment prior to implementation. It would be used as a, “tool of last resort” only used when a customer is disregarding the information and assistance offered by the District. It would create an ordinance to limit water runoff caused by inefficient or over irrigation, and prohibit the blatant wasting of water.

Implementation Schedule: This measure is not currently implemented. It will require Board approval and an amendment to District Code.

Cost: Actual enforcement of this element would require additional staff time (pending rate study).

9. Program Element: Water conservation consultation

Program Description: This program element will provide a one on one consultation either in person or by telephone for irrigation scheduling and system troubleshooting. This element will restart the residential water audit program, focusing on outdoor water conservation and irrigation system troubleshooting and efficiency. Properly trained and experienced personnel would need to be hired to implement this element which will require Board approval.

Implementation Schedule: This measure is not yet implemented and would involve hiring additional personnel, requiring Board approval.

Cost: This element would require the hiring of a properly trained irrigation system technician. This could be a part time position, which would save on personnel costs. The District could also hire a consultant who would be paid on a “per consultation” basis. This would also save on costs.

10. Program Element: Outdoor Water Conservation Incentives

Program Description: This element will provide monetary incentives to District customers to replace or upgrade irrigation systems to become more efficient. Upgrades include replacing old timer based irrigation controllers with weather based irrigation controllers, and replacing old sprinkler systems with drip irrigation or high efficiency sprinklers. Staff will work with local nurseries to develop a voucher program where customers will receive a discount voucher from the District to purchase drought tolerant or native plants from local nurseries. Although a cash for turf program was initially part of this element, it has been determined not to be cost effective.

Implementation Schedule: This measure is not implemented. It was recommended that incentives only be considered if the Board determines that the Outreach & Education and Technical Assistance components of the plan are proven to reduce outdoor water use.

Cost: The Board would need to approve funding for the incentive programs prior to implementation. Refer to attached estimate spreadsheet.

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

CONTRACT SERVICE AGREEMENT

Exhibit "A" – Description of Scope of Services or Project ("Water Conservation Campaign Proposal") to be completed by Contractor.

Exhibit "B" – A listing of hourly rates of Contractor's personnel, a schedule of direct costs, a budget for subcontractors, and a total Project budget.

THIS AGREEMENT (hereinafter referred to as "Agreement") is made by and between the Los Osos Community Services District, a Community Services District duly existing and operating pursuant to the provisions of Government Code Section 61000 et seq. (hereinafter referred to as "LOCSD" or "District") and Barnett Cox & Associates, a California corporation (herein referred to as "Contractor"), with reference to the following recitals:

RECITALS

- A. The District intends to execute a comprehensive public information campaign to inform the public regarding the critical state of water resources in Los Osos and the need to immediately conserve water.
- B. Barnett Cox & Associates has prepared a phased implementation plan for the water conservation campaign that includes the elements desired by the LOCSD.

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

- 1. **DESIGNATED REPRESENTATIVES.** KATHY KIVLEY, General Manager at telephone number (805) 528-9370 is the representative of LOCSD and will administer this Agreement for and on behalf of LOCSD. Dave Cox at telephone number 805-545-8887 is the authorized representative for Contractor. Changes in designated representatives shall be made only after advance written notices to the other party.
- 2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first-class mail, postage prepaid, or otherwise delivered as follows:

LOCSD: Los Osos Community Services District
P.O. Box 6064
Los Osos, CA 93412
Attn: Kathy Kivley
Facsimile: (805) 528-9377

CONTRACTOR: Barnett Cox and Associates
711 Tank Farm Road, Suite 210
San Luis Obispo, Ca 93401
Attn: David Cox
Facsimile: 805-545-0860

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

3. ATTACHMENTS. Attached to this Agreement are the following Exhibits that are incorporated herein by reference.

A. Exhibit "A" – Description of "Scope of Services" or "Project" to be completed by Contractor.

B. Exhibit "B" – A listing of hourly rates of Contractor's personnel, a schedule of direct costs, a budget for subcontractors, and a total Project budget.

4. SCOPE OF SERVICES. Contractor agrees to provide the services to LOCSD in accordance with Exhibits "A" and "B" (herein the "Project").

5. TERM. Contractor shall commence performance within five (5) days of LOCSD's Notice to Proceed, and unless otherwise directed in writing by LOCSD or unless earlier terminated as provided in this Agreement, shall complete performance on or before March 1, 2015.

6. COMPENSATION OF CONTRACTOR.

A. The Contractor will be paid for services provided to LOCSD on a time and material basis in accordance with the schedule set forth in Exhibit "B". Contractor shall invoice the LOCSD in accordance with subparagraph B, below.

B. Provided Contractor is not in default of this Agreement, payment of undisputed amounts are due within sixty (60) days of receipt of invoices. Invoices shall reflect the date the service was provided, the person or subcontractor who performed the service, the amount of time spent on the date the service was provided, a computation of compensation and a percentage of completion of the Project. Disputed amounts shall be resolved pursuant to the dispute resolution provisions of Section 25 below.

C. The contract budget of seventeen thousand, eight hundred, twenty one (\$17,821) shall not be exceeded without the prior written authorization of LOCSD.

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

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

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

7. RETENTION OF FUNDS. Contractor authorizes LOCSD to deduct from any amount payable to Contractor any amounts the payment of which may be in dispute or that are necessary to compensate LOCSD for any losses, costs, liabilities, or damages suffered by LOCSD, and all amounts for which LOCSD may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness exists that appears to be the basis for a claim of lien, LOCSD may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of LOCSD to exercise the right to deduct or to withhold will not, however, affect the

obligations of the Contractor to insure, indemnify, and protect LOCSD as elsewhere provided in this Agreement.

8. ADDITIONAL SERVICES.

A. Should services be requested by LOCSD which are considered to be beyond the Scope of Services referenced in Exhibit "A" to this Agreement, the Contractor shall provide LOCSD with a Contract Budget and a timeline for completion of such Additional Services to LOCSD's Contract Administrator. Contractor shall not provide Additional Services until Contractor has received written approval from the LOCSD Contract Administrator to perform the same. Should the Contractor elect to proceed prior to receiving written approval from the LOCSD Contract Administrator for Additional Services, the Contractor does so at Contractor's own risk.

B. *The LOCSD Contract Administrator is authorized to increase the total Contract Budget to twenty thousand (\$20,000), without further approval of the LOCSD Board of Directors, to facilitate Contract Amendments for Additional Services.*

9. INDEPENDENT CONTRACTOR. Contractor, its agents and contractors, are independent contractors, responsible for all methods and means used in performing the Contractor's services under this Agreement, and are not employees, agents or partners of LOCSD. Further, all subcontractors and subconsultants listed in Exhibits are subcontractors and/or subconsultants of Contractor and are not employees, agents or subcontractors of the LOCSD. The Contractor may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of LOCSD.

10. PERFORMANCE STANDARDS.

A. Compliance with laws. Contractor shall (and shall cause its employees, agents and subcontractors), at its sole cost and expense, to comply with all LOCSD, County, State and Federal laws, ordinances, regulations and statutes now in force or which may hereafter be in force with regard to the Project and this Agreement.

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

C. Permits and/or licenses, required to undertake the Project contemplated by this Agreement shall be obtained and maintained, at Contractor's sole cost, and without additional compensation throughout the term of this Agreement.

D. It is understood and agreed that the LOCSD relies upon the professional skills of Contractor to do and perform the services in a skillful and professional manner without errors and omissions.

11. FAMILIARITY WITH SERVICES TO BE PERFORMED. By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the Scope of Services to be performed; (b) has carefully considered how the services should be performed; and (c) fully understands the difficulties and restrictions attending performance of the services under this Agreement.

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

13. CONFLICT OF INTEREST. Contractor covenants that neither it, nor any officer or principal of its firm, or subcontractors retained by Contractor has, or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of LOCSD or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the LOCSD Manager. Contractor agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the LOCSD in the performance of this Agreement.

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

15. OWNERSHIP OF DOCUMENTS. All specifications, data, reports and other instruments of professional service prepared by Contractor and of Subcontractors during the performance of this Agreement shall become the property of LOCSD, except one copy of Contractor's work product may be kept in the files of Contractor. However, Contractor shall not release its work product/instruments of professional services to any other person or organization without the prior written consent of LOCSD.

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

17. INDEMNIFICATION.

A. Contractor shall indemnify, defend, and hold harmless LOCSD, the LOCSD Board of Directors, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of Contractor, its officers, employees, agents, subcontractors, or vendors in performing services pursuant to this Agreement. It is further agreed, Contractor's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of LOCSD, the LOCSD Board of Directors, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of LOCSD, its officers, employees or agents. Payment by LOCSD is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Contractor and LOCSD, as to whether liability arises from the sole negligence of the LOCSD or its officers, employees, agents, subcontractors or vendors, Contractor will be obligated to pay for LOCSD's defense until such time as a final judgment has been entered adjudicating the LOCSD as solely negligent. Contractor will not be entitled, in the event of such a determination, to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

B. Nothing contained in the foregoing indemnity provisions shall be construed to require Contractor to indemnify LOCSD, against any responsibility or liability in contravention of Civil Code 2782.

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

D. Submission of insurance certificates or submission of other proof of compliance with the insurance requirements in the Agreement does not relieve Contractor from the obligations of this Section 17. The obligations of this Section shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

E. In the event the provisions of this Section conflict with the provisions contained in the Exhibits, the language of this Section shall prevail over the provisions in the Exhibits.

18. INSURANCE.

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

General Liability Insurance

(including coverage for premises, products and completed operations, independent contractors/ vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1 Million per occurrence.

\$2 Million in the aggregate (ISO Form CG001 11/85)

Commercial Automobile Liability Insurance

\$1 Million per accident (ISO Form CA001 12/90)

Workers' Compensation Insurance

Statutory Employer's Liability Insurance

\$1 Million policy limit

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

(1) LOCSD, its officers, directors, employees and agents shall be named as Additional Insureds; and

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

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

C. Prior to commencing work under this Agreement, Contractor shall provide LOCSD with Certificates of Insurance evidencing compliance with the foregoing requirements, accompanied by copies of the required endorsements. Certificates of Insurance for commercial general liability, automobile liability, workers' compensation, employer's liability, and professional liability insurance

shall specify that the insurer shall give LOCSD thirty (30) days advance written notice by the insurer prior to cancellation of the policy except ten (10) days for nonpayment of premium.

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

19. PERSONNEL.

A. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by the Contractor or under Contractor's supervision, and all personnel engaged in the work shall be qualified to perform such services.

B. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's employees, associates and subcontractors assigned to perform the services required under this Agreement.

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

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

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

23. TERMINATION.

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

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

24. BREACH OF LAW. In the event the Contractor or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraphs 13, 26, 27, or 28 of this Agreement; or for any other cause the District determines to be so serious and compelling as to affect Contractor's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the District reserves the unilateral right to terminate this Agreement, seek indemnification and/or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper.

25. DISPUTE RESOLUTION CLAIMS UNDER \$50,000.

A. Prior to seeking any other relief permitted by law, LOCSD and Contractor agree that disputes between them arising out of or relating to this Agreement where the amount in controversy is less than fifty thousand dollars (\$50,000) shall be submitted to Non-Binding Mediation, unless the parties mutually agree otherwise. If the parties are unable to agree on a mediator, then either party can request the Presiding Judge of the San Luis Obispo County Superior Court to appoint a mediator. Said appointment shall be binding on the parties. The cost of mediation shall be borne equally by LOCSD and Contractor.

B. If the parties are unable to resolve the dispute through mediation, the parties shall resolve the dispute through binding arbitration pursuant to Section 1280 et seq. of the California Code of Civil Procedure, with an arbitrator mutually acceptable to the parties. If the parties are unable to agree on an arbitrator, then either party can request the Presiding Judge of San Luis Obispo Superior Court to appoint an arbitrator. Said appointment shall be binding on the parties. The cost of the arbitrator shall be borne equally by the parties. The arbitrator shall have the authority to include in his award the payment of the prevailing parties attorney's fees.

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

27. NON-DISCRIMINATION. Contractor shall not discriminate in any way against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with, or related to, the performance of this Agreement.

28. UNAUTHORIZED ALIENS. Contractor shall comply with all the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein.

29. PREVAILING WAGE. Contractor shall, be responsible for determining whether the Project to be performed under this Agreement require the payment of prevailing wages and if so, Contractor shall to the extent required by the California Labor Code, pay no less than the applicable prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the wage determination are on file at the LOCSD's office or are otherwise available on the Web at www.cslb.ca.gov.

30. COSTS AND ATTORNEY'S FEES. Except for disputes that are resolved by non-binding mediation, the prevailing party in any action between the parties to this Agreement brought to enforce

the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorney's fees expended in connection with such an action from the other party.

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

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

33. REMEDIES NOT EXCLUSIVE. No remedy herein conferred upon or reserved to the Parties is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

34. NON-LIABILITY OF DISTRICT OFFICERS AND EMPLOYEES. No officer or employee of District will be personally liable to Contractor, in the event of any default or breach by the District or for any amount that may become due to Contractor.

35. INTERPRETATION OF THIS AGREEMENT. The parties acknowledge that each party and its attorney had the opportunity to review, negotiate and revise this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by any party in connection with the obligations contemplated by this Agreement.

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

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

38. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

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

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

41. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all

such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

42. CONTRACTOR'S AUTHORITY TO EXECUTE. The persons executing this Agreement on behalf of the Contractor warrant that; (i) the Contractor is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the Contractor; (iii) by so executing this Agreement, the Contractor is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Contractor is bound.

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

CONTRACTOR

By: _____

Date: _____

Name:

Title:

Date: _____

Name:

Title:

LOS OSOS COMMUNITY SERVICES DISTRICT

ATTEST:

Kathy A. Kivley
General Manager
Los Osos Community Services District

Michael W. Seitz
District Legal Counsel

Date: _____

Date: _____

Los Osos CSD Water Conservation Campaign Proposal

Goal: BCA has been invited by LOCSD to design a water conservation campaign to educate community consumers about the urgent importance of saving water on an indoor and outdoor basis, as well as informing consumers about the opportunities and benefits available to them if they do so. LOCSD would like to see further water conservation, indoor water-saving retrofits, and outdoor water conservation measures.

Campaign approach: The campaign is two phases to ensure short and long-term goals are met.

Phase 1: Includes BCA services to develop media message, collateral material, and direct mail pieces for billing inserts. Coordination with countywide effort will emphasize indoor conservation and water conservation resources and rebates, as well as cost savings to consumers for purchasing energy efficient appliances.

Phase 2: Includes BCA services to maintain community-wide campaign, with development of owned properties including Farmer's Market booth redesign, website landing page development, Facebook page setup and maintenance, and ongoing stakeholder engagement.

Success Metrics

News Coverage	Obtain third-party focus on Los Osos water issues; expanded coverage in print, television, radio advertising
Internet/Social Media	Documentation of visits, page views on website; Establish Facebook presence and increased followers
Community Participation	Distribution of outdoor materials, anecdotal observation of lawn signs, participation in county retrofit program with local retailers, outreach through local participating nursery and landscape businesses
Reduced Water Usage	Monthly documentation of water use; published results.

See detailed cost breakdown and deliverables on next page.

Phase 1

Service	Cost
Graphic Design (11 hours)	\$1,485
Coordination (20 hours)	\$2,000
Copywriting (2 hours)	\$270
Account Management (15 hours)	\$2,025
Phase 1 Project Elements	
Media Relations	
Poster development/printing	
- <i>Printing OPTION A: (full color, 1-sided, 11x17, Gloss Book) QTY: 1000</i>	<i>Add \$459</i>
- <i>OPTION B: (full color, 1-sided, 24x36 Gloss Book) QTY: 1000</i>	<i>Add \$1,556</i>
	<i>\$1,055</i>
Insert development for distribution in billing (does not include postage)	
- <i>Printing (full color, front/back) QTY: 5,000</i>	
Ad design for use in sponsorship for MBHS, Bay News	
Press release development/distribution	
Channel 20 slide	
Account management and coordination (partnerships, stakeholder engagement, meetings, client services, event strategy)	
Phase 1 Total w/option A	\$7,294
Phase 1 Total w/option B	\$8,391

Phase 2

Service	Cost
Graphic Design (9 hours)	\$1,215
Web Development (6 hours)	\$810
Copywriting (3 hours)	\$405
Coordination (16 hours)	\$1,600

Account Management ((12 hours) \$2,160

Phase 2 Project Elements

- Website landing page development
- Farmer's Market booth design
- Collateral design – table tents, stickers, new signage with landing page
- Development of partnerships, stakeholder engagement, student contesting coordination, meetings, client services)

Optional:

- Facebook page set up and maintenance for 6 months Add \$3,240

Phase 2 Total / optional \$6,190

3 Phase 2 Total w/optional 6-month social media package \$9,430
