



February 6, 2020

**TO:** LOCSO Board of Directors  
**FROM:** Ron Munds, General Manager  
**SUBJECT:** **Agenda Item 7F – 2/06/2020 Board Meeting**  
Approve the Termination of the 2001 Affection Real Property Sewer Service Restrictions Agreement associated with real property located at 1380 Santa Ynez Avenue.

**President**  
Marshall E. Ochylski

**Vice President**  
Charles L. Cesena

**Directors**  
Matthew D. Fourcroy  
Vicki L. Milledge  
Christine M. Womack

**General Manager**  
Ron Munds

**District Accountant**  
Robert Stilts, CPA

**Unit Chief**  
Scott M. Jalbert

**Battalion Chief**  
George Huang

**Mailing Address:**  
P.O. Box 6064  
Los Osos, CA 93412

**Offices:**  
2122 9<sup>th</sup> Street, Suite 110  
Los Osos, CA 93402

**Phone:** 805/528-9370  
**FAX:** 805/528-9377

[www.losososcsd.org](http://www.losososcsd.org)

## **DESCRIPTION**

In 2001, a self-storage facility was proposed, permitted and under construction at the time benefit units were being established for individual properties as part of the District's proposed wastewater project. As a result, the property owner at the time, Morro Bay Mini Storage Inc., executed an Agreement Affecting Real Property Sewer Service Restrictions (Agreement) to reflect the actual use of the parcel instead of the more expensive multi-family zoning assessment proposed for the property. The current property owner is requesting the termination of this agreement.

## **SUMMARY OF 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 motion:

***Motion: I move that the Board approve an agreement terminating a 2001 Agreement affecting real property sewer service restrictions.***

## **DISCUSSION**

In 2001, a self-storage facility was proposed, permitted and under construction at the time benefit units were being established for individual properties as part of the District's proposed wastewater project. As a result, the property owner at the time, Morro Bay Mini Storage Inc., executed an Agreement Affecting Real Property Sewer Service Restrictions (attached). In the absence of this Agreement, an assessment would have been established to reflect the residential multiple-family zoning of the property which would have allowed approximately 75 units. The monetary assessment for this use would have been about \$150,000 which wouldn't be a reflective assessment for a mini storage facility.

Since 2001, the County Board of Supervisors and the California Coastal Commission approved San Luis Obispo County LCP Amendment Number LCP-3-SLO-15-0013-1 Part D (Warehousing). The effect of this amendment prohibited mini-storage development on the subject property, making the subject development legal non-conforming. In the event of a catastrophic fire or other disaster impacting the development, it may not be possible to rebuild the mini-storage. As a result, the only conforming project would be residential.

The current owner of the property is now requesting a termination of this old deed restriction and Agreement given the restrictive nature of the agreement and the fact that the District has no authority or involvement in the current Los Osos Wastewater Project.

## **CONCURRENCE**

District Counsel has reviewed the request and agreements and concurs with the recommendation made in this report.

## **FINANCIAL IMPACT**

If the Board approves the termination of the Agreement, the re-conveyance of the deed restriction will have no effect on continued payments and obligations associated with the current assessment on the property. There are no fiscal impacts directly associated with the recommended action.

Attachments

**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

November 19, 2019

Los Osos Community Services District  
2122 9<sup>th</sup> Street  
Los Osos, CA 93402  
Attention: General Manager, Ron Munds

RE: 1380 Santa Ynez Ave., Los Osos, Main Mini Storage

Dear Mr. Munds,

By way of background, the Los Osos Community Services District (LOCSO) was the proponent of a wastewater project for the community between 1999 and 2006. During that time, the LOCSO sold bonds to raise capital. Benefit units were established on a per parcel bases with a resulting monetary assessment.

In 2001, a self-storage facility was proposed, permitted and under construction at the time benefit units were being established for individual properties. As a result, the property owner at the time, Morro Bay Mini Storage Inc., executed an Agreement Affection Real Property Sewer Service Restrictions, attached. In the absence of this agreement, an assessment would have been established to reflect the residential multiple-family zoning of the property which would have allowed approximately 75 units. The monetary assessment for this use would have been about \$150,000.

Given the development of the property as a mini-storage, an assessment for residential multi-family development would have been inappropriate. Consequently, the above referenced agreement was executed for the benefit of all parties.

Complicating matters, in 2015-2016 the County Board of Supervisors and the California Coastal Commission approved San Luis Obispo County LCP Amendment Number LCP-3-SLO-15-0013-1 Part D (Warehousing). The effect of this amendment prohibited mini-storage development on the subject property, rendering the subject development legal non-conforming. In the event of a catastrophic fire or other disaster impacting the development, it may not be possible to rebuild the mini-storage. As a result, the only conforming project would be residential.

Given the restrictive nature of the Agreement Affection Real Property Sewer Service Restrictions which would limit any development on the subject three acre parcel (parcel map attached) to a single dwelling unit. Clearly, this is untenable.

**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

At this time the Agreement Affecting Real Property Sewer Service Restrictions is not relevant given the County of San Luis Obispo has assumed responsibility for the community wastewater facility. The LOCSO no longer has authority or involvement of any kind in connection with sewer service and as a consequence, the Agreement is no longer applicable.

Therefore, the property owner respectfully requests the LOCSO reconvey the existing deed restriction. To that end, the property owner has prepared a draft (attached) Termination of Agreement Affecting Real Property Sewer Service Restrictions which would remove the deed restriction in question from the title to the property.

By way of clarification, the reconveyance of the deed restriction has no effect on continued payments and obligations associated with the current assessment on the property. Please see the attached tax bill for the subject property.

In conclusion, please consider the subject request at your earliest convenience. It appears this is a matter that could be considered as a consent item on an upcoming LOCSO board meeting agenda, likely in January. Please let me know if you have any questions or are in need of additional information.

Sincerely,

*Jeff Edwards*

Jeff Edwards

C: John McGrath

Attachments

*chicago*

Recording Requested By:  
**AND MAILED!**  
Los Osos Community Services District  
P.O. Box 6064  
Los Osos, CA 93412

Doc No: 2001-043963

Rpt No: 00055734

Official Records  
San Luis Obispo Co.  
Julie L. Rodewald  
Recorder  
Jun 19, 2001  
Time: 08:00

RF -1 25.00

[ 7 ]

TOTAL 25.00

APN: 074-263 094

AGREEMENT AFFECTING REAL PROPERTY  
SEWER SERVICES RESTRICTIONS

THIS AGREEMENT is entered into this 5 day of  
JUNE, 2001, by and between the Los Osos Community Services  
District an Independent Special District organized pursuant to  
61000 et seq. of the Government Code ("District") and  
MOREO BAY MARINE STORAGE AND MAINTENANCE CORP., INC. ("Owners") as  
the Owners of the real property more particularly described in  
Exhibit "A" (the Property) with respect to the following  
Recitals.

RECITALS

WHEREAS, the District proposes to establish Assessment  
District #1 to partially finance wastewater treatment facilities  
within the District; and

WHEREAS, the District has adopted Resolution #2001-11  
establishing an assessment change request policy (Policy). Said  
Policy provides in relevant part:

A. Any residential property owner within the District's

wastewater project assessment district boundary has standing to request a change in regards to the assessment proposed for their property in the "Engineer's Report".

B. Where an owner requests a smaller assessment prior to June 11, 2001, the Board may reduce the assessment if the property owner records a District approved deed restriction on the title of that lot in favor of the District limiting future development on said property to the number of Dwelling Unit Equivalents underlying the revised assessment request; and

WHEREAS, Owner(s) desire to enter into this agreement to reduce the assessment on the Property;

NOW THEREFORE FOR VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, Owner(s) and District agree as follows:

1. Owner(s) hereby restrict/limit the Owner's and the Property's entitlement to sewer service to 1 DUC.
2. The District agrees to release (fully or partially) the restrictions referenced in Paragraph 1 above upon the following conditions:
  - A. The District, in its sole discretion, finds that there exists sufficient sewer capacity to provide additional sewer service to the Property; and
  - B. Owner(s) payment of an in-lieu fees equal to the relevant assessment adjusted to reflect inflation and all other District fees and charges in effect on the date the District

makes the findings referenced in Subparagraph A above; and

C. The Owner(s) comply with all District Rules and Regulations relating to District Services.

3. The Owner(s) shall protect, indemnify and hold the District harmless from any and all claims, damages, causes of action, demands or charges and from any loss or liability, including all costs, penalties, expenses, attorneys fees, litigation costs and other fees arising out of or in any way connected with this Agreement or the limitations imposed on the Property by this Agreement.

4. The obligations of Owner(s) are joint and several and shall run with the land and will be binding on the successors and assigns of the Owner(s) and shall inure to the benefit of District and its successors and assigns.

5. Owner(s) and District intend and consent to the recordation of this Agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation shall serve as constructive notice to all future owner(s) of this Agreement and the restrictions on sewer service to the Property.

6. This Agreement is freely and voluntarily entered into by the parties after having the opportunity to consult with their respective attorneys. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. The parties, in entering into this Agreement, do not rely on any inducements, promises, or representations made by each other, their representatives, or any

other person, other than those inducements, promises, and representations contained in this Agreement. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the Owner(s) and the District.

7. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. The duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

8. The Recitals 1 through 3 of this Agreement are incorporated herein by this reference and made a part hereof.

9. The parties hereby represent that the parties executing this Agreement are expressly authorized to do so for and on behalf of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

AGREED:

OWNERS: MORANO BAY MINI STORAGE INC.,  
A MISSOURI CORP.

Dated: 6-5-01

By: AJ Wright  
Vice-President

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

By: \_\_\_\_\_



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

APPROVED AND ACCEPTED BY THE LOS OSOS COMMUNITY SERVICES DISTRICT  
BY RESOLUTION ADOPTED ON May 17, 2001, AND CONSENTS TO  
THE RECORDATION THEREOF BY IT DULY AUTHORIZED OFFICER:

Dated: June 7 2001

By: Rosemary Bowker  
Rosemary Bowker, President,  
Board of Directors, Los Osos  
Community Services District

ATTESTED:

Bruce Buel  
Bruce Buel, General Manager and  
Secretary to the Board

APPROVED AS TO FORM:

Jon S. Seitz  
JON S. SEITZ  
General Counsel

\* Owners' signatures to be notarized.

**EXHIBIT "A"**

**LEGAL DESCRIPTION:**

Those portions of Lots A and B of the Slack Tract, in the County of San Luis Obispo, State of California, according to map filed November 21, 1887 in Book B at Page 87 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at the intersection of the North line of Santa Ynez Avenue with the East line of 12th Street as shown on the map of the Town of El Moro, filed in Book A, Page 81 of Maps, in the Office of the County Recorder of said County; Thence North  $89^{\circ} 59'$  East 1150.84 feet to the Southeasterly corner of the land described in the deed to Robert A. Stark and wife, recorded June 9, 1964 in Book 1301, Page 6 of Official Records, in the Office of the County Recorder of said County, said Southeasterly corner being the TRUE POINT OF BEGINNING; Thence continuing North  $89^{\circ} 59'$  East 415.27 feet; Thence Northeasterly along a tangent curve, concave Northwesterly, having a radius of 20 feet; through a central angle of  $90^{\circ} 04'$ , an arc distance of 31.44 feet; Thence North  $0^{\circ} 04'$  West 279.98 feet; Thence South  $89^{\circ} 59'$  West to the Northeasterly corner of said land of Stark; Thence along the Easterly line of said land of Stark, South  $0^{\circ} 01'$  East 300 feet to the TRUE POINT OF BEGINNING.

EXCEPT THEREFROM any portion of said land included within the lines of Mountain View Avenue, as shown on the map of Tract No. 70, recorded in Book 5 Page 83 of Maps, in the Office of the County Recorder of said County.

074,223,004

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF SAN LUIS OBISPO )

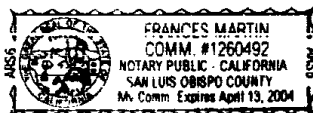
On June 5, 2001 before me, THE UNDERSIGNED

a Notary Public in and for said County and State, personally appeared A. J. WRIGHT

~~personally known to me (or proved to me on the basis of satisfactory evidence)~~ to be the person(s) whose name(s)  
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the  
entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

  
Signature of Notary



STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, the undersigned

a Notary Public in and for said County and State, personally appeared \_\_\_\_\_

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s)  
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the  
entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

Central Coast Storage I LLC  
5580 La Jolla Blvd., #613  
La Jolla, CA 92037

APN: 074-223-004

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**TERMINATION OF  
AGREEMENT AFFECTING REAL PROPERTY  
SEWER SERVICES RESTRICTIONS**

This TERMINATION OF AGREEMENT AFFECTING REAL PROPERTY SEWER SERVICES RESTRICTIONS ("**Termination Agreement**") is dated as of \_\_\_\_\_, 2020 for reference purposes only and is entered into by and between the Los Osos Community Services District, an Independent Special District organized pursuant to 61000 et seq. of the Government Code ("**District**") and Central Coast Storage I LLC, a Delaware limited liability company as successor-in-interest to Morro Bay Mini Storage, Inc., a Missouri corporation ("**Owner**"). District and Owner are sometimes individually referred to herein as "**Party**" and, collectively, as "**Parties.**"

**RECITALS**

A. This Termination Agreement concerns and affects that certain real property commonly known as 1380 Santa Ynez Avenue, Los Osos, California 93402 ("**Property**") upon which a storage facility has been constructed and which is fully described in Exhibit "A" attached hereto and incorporated herein by reference.

B. Former owner in fee of the Property, Morro Bay Mini Storage, a Missouri corporation ("**Former Owner**"), caused to be recorded that certain Agreement Affecting Real Property Sewer Services Restrictions dated June 1, 2001 ("**Agreement**") respecting the Property. Said Agreement was recorded in Official Records of San Luis Obispo County, California on June 19, 2001 under Document No. 2001-043963.

C. Pursuant to the Agreement, the Property was made subject to certain restrictions as more fully set forth therein, which ran with the land and are binding upon all parties having or acquiring any right, title or interest in the Property.

E. Owner is the current owner in fee of the Property and Former Owner's successor in interest to the Property.

F. Pursuant to the Agreement, any amendment or cancellation thereof must be approved by the Parties.

G. The Parties now desire to terminate the Agreement and expunge same from title to the Property.

NOW, THEREFORE, in consideration of the above facts and for the covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Termination of Agreement.** Upon the recordation of this Termination Agreement in the Official Records of San Luis Obispo County, California, the Agreement shall:

- a. Terminate in its entirety;
- b. Be of no further force and effect with respect to the Property; and
- c. Be expunged from title to the Property.

2. **Successors and Assigns.** This Termination Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

3. **Counterparts.** This Termination Agreement may be executed in several counterparts each of which when executed and delivered is an original, but all of which together shall constitute as one instrument.

[signatures on following page(s)]

SIGNATURE PAGE TO  
TERMINATION OF  
AGREEMENT AFFECTING REAL PROPERTY  
SEWER SERVICES RESTRICTIONS

DISTRICT:

LOS OSOS COMMUNITY SERVICES  
DISTRICT, an Independent Special District

By: \_\_\_\_\_

Name: Ron Munds

Title: General Manager

ATTEST:

By: \_\_\_\_\_

Name: Laura Durban

Title: Administrative Services Manager

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_

Name: Jeffrey Minnery

Title: Legal Counsel

SIGNATURE PAGE TO  
TERMINATION OF  
AGREEMENT AFFECTING REAL PROPERTY  
SEWER SERVICES RESTRICTIONS

OWNER:

CENTRAL COAST STORAGE I, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:

**NOTARY ACKNOWLEDGMENT**  
**(California All-Purpose Acknowledgment)**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
--

State of California )

County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
(here insert name and title of the officer)

personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
(Seal)



**NOTARY ACKNOWLEDGMENT**  
**(California All-Purpose Acknowledgment)**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
(here insert name and title of the officer)

personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**EXHIBIT “A”**

Legal Description