



November 13, 2018

**TO:** LOCSD Board of Directors

**FROM:** Renee Osborne, General Manager  
Adrienne Geidel, District Bookkeeper

**Subject: Agenda Item 11H – 12/6/2018 Board Meeting**  
Review of Board Item Regarding Transfer of Wastewater Lien  
Funds to the US Bank Redemption Account

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### SUMMARY

The District has \$106,768.62 of wastewater liens comingled with Water Reserves. In order to begin separating the funds, staff would like to move the \$106,768.62 to the US Bank Redemption Account. The 10.31.18 Money Market balance was \$2,074,676.53 and the Water Reserve Fund total is \$2,072,898.54.

### STAFF RECOMMENDATION

***Motion: I move that the Committee recommend that the Board direct staff to move the \$106,768.62 wastewater liens from the Rabobank Money Market account to the US Bank Redemption account to help pay off the wastewater bonds and that all interest from the Rabobank Money Market account go directly to Water Reserves.***

### DISCUSSION

There is currently \$106,768.62 of wastewater liens in our Rabobank Money Market Account comingled with Water Reserves. These liens have been collected and been accumulating to this balance since 2001.

In order to start separating the funds, staff would like to move the \$106,768.62 to the US Bank Redemption Account which will go towards paying the wastewater bonds. This will allow for simpler bookkeeping of the funds and interest recording from the Rabobank Money Market Account (RMMA).

Our Auditor feels this would be a prudent move, and District Legal Counsel and our bankruptcy lawyer have both agreed that this is legal within the bankruptcy agreement.

This item will be head at the Finance Advisory Committee's December 3, 2018 meeting and a verbal report will be provided.

### FINANCIAL IMPACT

The Rabobank Money Market Account accumulates .2% (approximately \$350) in interest every month. Per staff's request, this interest would all go towards Water revenue.

Attachments

## Renee Osborne

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**From:** Joseph Sholder <sholder@g-tlaw.com>  
**Sent:** Wednesday, October 17, 2018 12:10 PM  
**To:** Renee Osborne; Roy Hanley  
**Cc:** Adam Guise  
**Subject:** RE: Bond Money in Los Osos, blind to board of directors

Roy and Renee:

I spoke to Adam about the prepaid assessments.

LOCSD's Second Amended Plan and Second Amended Disclosure Statement classified the holders of the bonds under Class 5(A). The plan treats the bondholders as unimpaired, meaning that whatever pre-bankruptcy rights they had under the bond documents was not altered in any way by the plan. Plan page 25. That means the bondholders are entitled to whatever legal, contractual and equitable rights they have under the bond documents as if no bankruptcy case had been filed. Id. ("The Holders will retain unaltered all legal, equitable and contractual rights under the Bonds and the Bond Documents and all security interests securing the Bonds pursuant to the Bond Documents will remain in place.")

The plan and disclosure statement do not discuss prepaid assessments held by LOCSD. That is because LOCSD represented to the court that all those prepaid assessments had been spent on the old wastewater project. Pages 25-26 of the disclosure statement describe the bankruptcy litigation LOCSD had with the property owners who sought to recover their prepaid assessments because the old wastewater project had been discontinued. Page 25, lines 23-25 of the disclosure statement says that "Those funds [the prepaid assessments] were then used by LOCSD to pay for the designing and beginning construction on the Old Project." At page 26, lines 6-9, a similar point was made in describing why LOCSD contended the property owners weren't entitled to a return of the prepaid assessments: "the Proposition 218 voting material distributed to the voters along with the resolutions of LOCSD's then-board and other materials did not promise the voters a completed project, but only that their assessments would be used the initial work on the Old Project."

Since the plan and disclosure statement don't say what is to be done with the prepaid assessments — much less even disclose that LOCSD still had some of the prepaid assessment money — and since the rights of the bondholders are unaffected by the plan, if the bondholders would be entitled to be paid from the prepaid assessments under the bond documents, then those assessments can be used to pay the bonds. You should review the bond documents and should also check with the bond trustee to confirm this.

Best regards,

Joseph M. Sholder, Esq.

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Los Osos CSD  
 Prepaid Wastewater Tax Assessment Reserve Reconciliation  
 June 30, 2017

**A10013**  
 Prepared by: AG 11/2/17

**Note:** Cash balance is offset with a reserve account (3159 Prepaid Assessment Reserve).

		<u>Fund 602 Cash</u>
<b>Balance at July 1, 2015</b>	<b>PY, A10013.1</b>	142,669.62
<b>Collections:</b>		
8/18/15 - 038-272-039 1454 5th St:	2,946.15	
8/18/15 - Lien Release Collections:	15.00	
1/19/16 - WW Assessment (Lewis - 2):	5,892.30	
1/19/16 - Lien Release Collections:	30.00	
2/3/16 - WW Assessment (Mihaylov):	2,946.15	
2/3/16 - Lien Release Collections:	<u>15.00</u>	
Total:		11,844.60
<b>Payments from Prepaid Assessments to US Bank Redemption Acct:</b>		
Check 25101: Payment for FY 14-15	6,192.18	
Check 25140: Catch-up payment for 2003-04 through 2013-14 and for 2015-16:	41,600.98	
Lien Release Fees:	<u>60.00</u>	
Total:		47,853.16
Interest Allocated for PIMMIA balance:		8.96
<b>Balance at 6/30/16:</b>	<b>PY</b>	<u><u>106,670.02</u></u>
Interest Allocated for PIMMIA balance:	<b>UL</b>	98.60
<b>Balance at 6/30/17:</b>	<b>PY</b>	<u><u>106,768.62</u></u> <b>TB</b>

**LOS OSOS COMMUNITY SERVICES DISTRICT**

Balance Sheet  
As of 10/31/2018

		<u>Current Period Balance</u>
LIABILITIES & EQUITY		
CURRENT LIABILITIES		
Trust Liability		
Water Quality Trust Reserve	3050	
500 - Water	500	<u>91,517.27</u>
Total Trust Liability		<u>91,517.27</u>
Total CURRENT LIABILITIES		91,517.27
Other Liabilities		
Other Liabilities		
Replacement Reserve - Vehicle, Equip & Fire Engines	3110	
500 - Water	500	144,644.25
General Contingency Reserve	3111	
500 - Water	500	414,183.00
Capital Outlay Reserve	3160	
500 - Water	500	1,214,296.29
Water Stabilization Reserve	3163	
500 - Water	500	190,456.00
Basin Management Reserve	3165	
500 - Water	500	50,031.00
Water Conservation Reserve	3167	
500 - Water	500	<u>59,288.00</u>
Total Other Liabilities		<u>2,072,898.54</u>
Total Other Liabilities		<u>2,072,898.54</u>
Total LIABILITIES & EQUITY		<u><u>2,164,415.81</u></u>