

**NOTICE AND CALL OF A SPECIAL MEETING:
San Simeon Community Services**



I, Gwen Kellas, Chairperson of the San Simeon Community Services District Board of Directors, hereby call a Special Meeting of the Board of Directors, pursuant to California Government Code Section 54956. The Special Meeting will be held: November 19, 2020 at 10:00 am.

Internet Meeting Location

Pursuant to Governor Gavin Newsom's Executive Order N-29-20 dated March 17, 2020 and the San Luis Obispo County Local Emergency Order and Regulation regarding COVID-19 dated March 18, 2020, this meeting shall occur as a virtual teleconference using the Zoom app.

Join Zoom Meeting

<https://zoom.us/j/9270537206?pwd=RDNNcTErb2E1TmswRG51WGNEZVJLQT09>

Meeting ID: 927 053 7206

Password: 114376

One tap mobile

+16699009128, 9270537206# US (San Jose)

+13462487799, 9270537206# US (Houston)

NOTE: On the day of the meeting, the virtual meeting room will be open beginning at 9:30 AM. If you are unable to access the meeting please contact the District office at (805) 927-4778 prior to the 10:00 AM meeting start time and staff can assist you in accessing the meeting. Should you have any questions related to the information on this agenda or if you wish to submit public comment in the written format you can email Cortney Murguia at admin@sansimeoncsd.org. Members of the public can also contact the District office at (805) 927-4778 with any questions or concerns related to this agenda or accessing the meeting.

The purpose of the Special Meeting is to discuss or transact the following business:

1. REGULAR SESSION: 10:00 AM

A. Roll Call

2. PUBLIC COMMENT

This public comment period provides an opportunity for members of the public to address the Board on matters discussed during Agenda Item #3. If a member of the public wishes to speak at this time, Public Comment is limited to three (3) minutes.

3. BUSINESS ITEMS:

- A. Authorization for Legal Counsel to retain a consultant, Paavo Ogren, to provide services related to the water moratorium.**

4. ADJOURNMENT

If requested, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. To make a request for a disability-related modification or accommodation, or to be able to participate in this Special meeting, please email Cortney Murguia at cmurguia@graceenviro.com and the District will work with you on your accommodation.



BUSINESS ACTION ITEM STAFF REPORT

Item 3.A. Authorization for Legal Counsel to retain a consultant, Paavo Ogren, to provide services related to the water moratorium.

Need for Consulting Services:

During the October Board meeting, staff provided a list of eleven (11) items related to removing the existing water moratorium. Many of the items, for example the development of an Instream Flow Management (“IFM”) plan are not covered under the current management contract that the District has with Grace Environmental Services (“GES”). Due to the complexity of the Board’s consideration of lifting the moratorium and the various oversight agencies that must also be involved, legal counsel are suggesting that the Board consider contracting with Mr. Ogren as an independent third-party to ensure the Board makes decisions on a sound understanding of facts and law. The recent request for a hardship exemption for one rate payer will also be considered.

Purchasing Policy:

Due to the unique circumstances in lifting a 20+ year water moratorium and the interagency involvement, it appears that the hiring of Mr. Ogren would fall within the “Special Circumstances” section of the District’s purchasing policy. Section 8 of the District purchasing policy provides the following:

8. Special Circumstances

These professional consultant selection procedures are not applicable when three (3) qualified professional service firms or individuals are unavailable or if it is appropriate and in the best interest of the District under the specific circumstances of the project at issue to limit the number of consultants solicited. Examples of such specific circumstances may include the following: the need to take immediate action on a project precludes the District's ability to follow these procedures; the absence of any fiscal or competitive advantage in following these procedures; only one consultant is known to be available and capable of providing needed services within the required time; the services to be provided are so unique that only one known consultant is qualified and available to perform them; or the terms of a legal mandate or negotiated agreement require the use of a particular consultant. The basis for such action shall be documented in writing and noted in the contract and approved by the General

Manager. When Board approval is required, the documented basis for such action shall be included in the report to the Board.

Mr. Ogren's experience in the County of San Luis Obispo and his broad range of experience in a variety of local water rights matters would qualify him to meet the special circumstances anticipated by Section 8.

Direct project efforts include 1) initial review; 2) strategy, budget and schedule recommendations for Board consideration; 3) manage technical work efforts; 4) prepare legal ordinances and resolutions, with findings resulting from technical work; 5) manage work involved in County and Coastal Commission hearings, and determinations by other agencies.

Scope of Work:

Anticipated tasks for Mr. Ogren include, but are not limited to, the following:

- Review of background and how the District arrived at where it is today - historical ordinances and reports, water license & water resource data, North Coast Plan, and other relevant documentation.
- Develop strategy recommendations to Board of Directors, including needed technical work and consideration of an ad-hoc committee.
- Prepare draft RFQ/RFP's for Board review on necessary technical work.
- Meet with County, Coastal Commission and other agencies, as needed, to review strategies and draft RFQ/RFP's. Anticipate discussion on approaches to instream flow analysis.
- Develop project workflow diagram and schedule.
- Release/distribute and review responses to RFQ's/RFP's.
- Prepare project budget and seek Board approval for funding and consultant contracts.
- Initiate technical work, manage consultants, and review consultant work products.
- Prepare ordinances and other action items for Board consideration and final actions.
- Other efforts:
 - Provide monthly updates to Board.

- Act as liaison and maintain communications with other agencies.
- Organize community outreach and workshops with Board coordination.

Qualifications:

Mr. Ogren has spent a substantial portion of his career with the County Public Works Department where he managed approximately 180 employees. In this role, he was responsible for leading a number of water resource projects including the Nacimiento Water Project, the Los Osos Wastewater Reclamation Project, the Lopez Dam Seismic Remediation Project, and the Lopez Water Treatment Plant. Mr. Ogren has experience managing utility operations including two water treatment facilities, two dams and reservoirs, water delivery to seven cities, two wastewater treatment facilities, seven small community water and wastewater systems, State Water Project, Nacimiento Water and Lopez Water Projects. Mr. Ogren's experience also includes significant work with special districts in our County. He was the General Manager for the Oceano Community Services District from 2014 – 2019, and he has worked as the interim General Manager for Cambria Community Services District, Los Osos Community Services District, and San Miguel Community Services District. While employed with the County, Mr. Ogren led the efforts associated with the Cayucos water moratorium and, after implementation of the Nacimiento Water Project, the lifting of that moratorium. Mr. Ogren's resume is included in this Board packet.

Recommendations:

District Legal Counsel is suggesting that based on the complexity involved in lifting the water moratorium, the District consider authorizing District Counsel to engage Mr. Ogren on a consulting basis. Counsel recommends an initial limit of 100 hours at \$175 an hour, with a total cost not to exceed the amount of \$17,500.00.

Enc: Resume Paavo Ogren
Section 19.00 Policy and Procedures Manual Purchasing Policy

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Paavo Ogren



For more than 30 years, Mr. Ogren has led numerous capital project efforts totaling approximately \$500 million. He has overseen and managed advanced planning for capital projects with extensive permitting requirements and has obtained approvals from the California State Water Board, the California Coastal Commission, and local agencies including cities, special purpose districts and county governments.

Mr. Ogren is an expert on water rights on the Central Coast of California having served in litigation support in Santa Barbara County, as the Director of Public Works for the County of San Luis Obispo and its Flood Control and Water Conservation District and as a Member of the Reservoir Operations Committee for the Monterey County Water Resources Agency. He spoke at numerous pre-legislative conferences throughout California leading to the development of California's landmark legislation on groundwater management in 2014 – the Sustainable Groundwater Management Act. He has also led State and Federal legislative efforts that supported infrastructure development and has spoken at conference committees while collaborating with sponsoring legislators.

Mr. Ogren's technical efforts include utility rate reviews and governmental fee analysis including statutory requirements of Propositions 13, 218, 62 and others that affect project development costs and costs paid by landowners and project beneficiaries. His work includes problem solving and strategy development for complex fiscal and budget issues, contract review and development, easements, interagency agreements, community presentations, written and verbal reports to State agencies, the County Board of Supervisors, local cities, and other public entities. His financial and accounting expertise has resulted in numerous favorable outcomes on construction claims and resolution of other construction-related disputes.

Mr. Ogren's management style is to recognize opportunities that lead to solutions. He led the successful resolution, after decades of controversy that preceded his work, for the Los Osos Wastewater Project. He also led the Lopez Dam Seismic Remediation Project and the Nacimiento Water Project. His work includes extensive experience with the State Water Project and numerous local projects involving public agencies and private development. He has established an accomplished legacy in capital project management, resulting in regional, statewide, and national merit awards from the American Public Works Association and American Society of Civil Engineers.

His experience also includes the development of the Integrated Regional Water Management Program – County of San Luis Obispo as well as the start-up of two special districts and general management of two others. Mr. Ogren led County efforts in Cayucos that resulted in the Board of Supervisors establishing Water Code 350 restrictions on issuing will-serve letters (moratorium), which was subsequently lifted with the implementation of the Nacimiento Water Project.

Mr. Ogren has managed teams that have obtained funding from private bond markets and state and federal programs, including the US EPA SRF program, the USDA Rural Development program, Community Development Block Grants and other state and federal programs. His experience with the Los Angeles office of Deloitte included substantial work on real estate partnerships including both private placements and those regulated by the Security and Exchange Commission.

Credentials and Certifications

- CUCCAC
Commissioner,
California – Public
Contract Code 22010
- Senior Executive –
Association of
Counties, California
- Certified Public
Accountant, California,
No. 48914

Education

- Bachelor of Science,
Business
Administration -
Accounting, California
Polytechnic State
University, San Luis
Obispo, California

Professional Affiliations

- American Public
Works Associations
- State Society of CPA's

Formal Presentations/ Panelist

- NOAA's Coastal
Forum Conference,
Charleston SC (2016) -
Plenary speaker on
California's drought
- Pre-legislative
conferences -
Sustainable
Groundwater
Management Act,
California (2013/2014)
- International
Conference –
American Public
Works Association –
Boston, MA – (2010)

Summary of Previous Positions

In the following professional roles, Mr. Ogren was continuously employed on a full-time basis since graduating from Cal Poly, San Luis Obispo in 1984 with a Bachelor of Science Degree in Business Administration, with a concentration in Accounting. He obtained his license as a Certified Public Accountant in 1987 and reactivated the license in 2020. At Cal Poly, he obtained Dean's honors from the School of Math and Science, the School of Architecture and Environmental Design and the School of Economics and Business while completing his academic endeavors in four years. His work in private industry included Chief Financial Officer positions with multi-disciplinary Civil Engineering firms that support public and private construction projects.

The following list also includes supplemental work for public agencies that were either performed while consulting or on an adjunct basis. The list is not chronological – additional details on positions, dates and salaries are available upon request along with references.

Full-Time

- Director of Public Works, County of San Luis Obispo
- Deputy Director of Public Works, County of San Luis Obispo
- Chief Financial Officer / Consultant – Cannon Corp, San Luis Obispo
- Chief Financial Officer / Consultant – Wallace Group, San Luis Obispo
- General Manager, Oceano Community Services District, Oceano, California
- Staff Accountant, Deloitte, Los Angeles
- Staff Accountant, Glenn, Burdette Phillips and Bryson, San Luis Obispo
- Division Manager – Finance, Accounting & Administration, Engineering Department, County of San Luis Obispo
- Finance & Accounting Manager, Engineering Department, County of San Luis Obispo

Adjunct and/or Consulting Work

- Strategic and Organizational Advisor, Cambria Community Services District, Cambria, California
- Interim General Manager, Cambria Community Services District, Cambria, California
- Interim General Manager for the Los Osos Community Services District, Los Osos, California
- Interim General Manager for the San Miguel Community Services District, San Miguel, California

19.04. Exceptions to Standard Purchasing Procedures.

A. Public Projects.

On June 11, 2014, the District passed Resolution No. 14-363 adopting the Uniform Public Construction Cost Accounting Procedures (California Public Contract Code § 22000 *et seq.*) in the contracting for construction of “public projects.” The District is therefore subject to the uniform construction cost account procedures set forth in Pub. Con. Code § 22000 *et seq.* and incorporates the procedures set forth therein to this policy manual. “Public project” means any of the following: (1) construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility; (2) painting or repainting of any publicly owned, leased, or operated facility.

B. Emergency Conditions

An emergency is defined as a breakdown in machinery and/or equipment resulting in the inability of the District to provide essential services or a threat to public health, safety, or welfare, including, but not limited to, threatened damage to natural resources or an imminent threat of injury or damage to any person or property.

In the case of such an emergency, the formal RFP process is suspended. The General Manager, or said designee, shall secure, in the open market at the lowest obtainable price, any services, supplies, material, or labor required to respond to the emergency. The Purchase Order should indicate "Emergency Conditions" with written documentation of the nature of the emergency and lowest obtainable price information. The General Manager shall consult with two Board members prior to taking significant action.

In the case of a natural disaster or for civil defense, nothing contained in this Policy shall limit the authority of the General Manager to make purchases and take necessary emergency steps.

C. Limited Availability/Sole Source

Occasionally, necessary supplies, material, equipment, or services are of a unique type, are of a proprietary nature, or are otherwise of such a specific design or construction, or are specifically necessary for purposes of maintaining cost-effective system consistency so as to be available from only one source. The General Manager may dispense with the requirement of competitive bids and recommend negotiating a fair price and making the purchase from a sole source if, after reasonable efforts by District staff to find alternative suppliers, there exists only a single source. Alternatively, if reasonable efforts by District staff to identify three (3) vendors or contractors as applicable under this policy are unsuccessful, the General Manager may authorize a limited availability bidding process with fewer than three (3) vendors or contractors. The basis for the sole source

recommendation shall be documented in writing on the contract or purchase order and approved, in advance, by the Board for purchases exceeding \$10,000 and the General Manager, or other authorized District staff, under this policy for purchases not exceeding \$10,000.

D. Cooperative Purchasing

The District shall have the authority to join in cooperative purchasing agreements with other public agencies (e.g. the State of California or other counties, cities, or special districts) to purchase goods or services at a price established by that agency through a competitive bidding process consistent with California public bidding requirements. The Board may authorize participation in cooperative purchasing agreements.

E. Professional Consultant Services

1. Definition and Restrictions

Professional consultant services are of a technical nature and, due to the type of services to be provided, do not readily fall within the "low bid" competitive bidding process. California Government Code Section 4525 *et. seq.* requires that selection of professional consultants in the categories of architects, landscape architects, engineers, surveyors, and environmental consulting be made on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the required services. Professional consultants should be individually selected for a specific project or problem with the objective of selecting the most qualified consultant at a price that is fair and reasonable. Professional service agreements shall not be split into smaller units, nor shall contract amendments be used, for the purpose of circumvention of the expenditure limits of this Policy.

As used in this Policy, "professional consultant service agreement" shall mean and include all professional services provided by the same consultant that are provided as part of or related to the same project or program for which the consultant is being retained. Consultants who are retained to provide services on an ongoing basis, such as geotechnical peer reviews of District projects, shall be retained by means of an annual service agreement unless an agreement providing for renewal or extension of services has been approved.

- a. For selection of architects, landscape architects, engineers, surveyors, and environmental consultants, the following procedures shall apply unless the services needed from such consultants are of a technical nature or involve professional judgment.

Cost is not to be included in the Request for Proposal (RFP). Only after a firm is selected, is compensation negotiated. The scope of work is the basis for negotiations for payment. If the parties cannot agree on fair compensation, negotiations may be formally terminated with the firm considered most qualified

and may be commenced with the second highest-rated firm. Such procedure may be repeated until an agreement is reached with a qualified firm.

Alternatively, a fee or cost estimate can be requested at the time of the RFP by requiring it to be provided in a separate, sealed envelope. The fee estimate will only be opened after selecting the successful consulting firm.

- b. For consultants who do not fall under the qualifications-based selection method described above, or where the services needed from the vendors listed above are of a technical nature and involve professional judgment, cost can be included in the RFQ/RFP and used in ranking the consultants for selection. Examples of such consultants include, but are not limited to: training, safety, recruitment, personnel services, economic analysis, city and regional planning, property appraisals/analysis, property acquisition, title insurance, facilitators, legal services, financial services, and data processing.

2. Selection Procedures for Professional Services in Excess of \$50,000

When the cost for professional services is expected to be in excess of \$50,000, the District shall prepare a Request for Proposal (RFP) which should request the professional's qualifications, relevant experience, described approach, staffing, and support. The proposal should outline the terms, conditions, and specifications of the services required by the District. District staff will review the proposals received, rank the consultants based upon the following criteria, and invite the most qualified firms for interviews:

- a. ability of the consultants to perform the specific tasks outlined in the RFP,
- b. qualifications of the specific individuals who will work on the project,
- c. quantity and quality of time key personnel will be involved in their respective portions of the project,
- d. reasonableness of the fee requested to do the work; comparability of fee to similar services offered by other qualified consultants (except where fee is to be negotiated later),
- e. demonstrated record of success by the consultant on work previously performed for the District or for other public agencies or enterprises,
- f. the specific method and techniques to be employed by the consultant on the project or problem,
- g. ability of the consultant to provide appropriate insurance in adequate amounts, including errors and omissions if applicable, and
- h. responsiveness to the RFP.

The report to the Board shall summarize the basis for staff's consultant selection recommendation and the ranking of the consultants based upon these criteria. Following Board approval, the General Manager and one Board member shall then execute the contract.

3. Selection Procedures for Professional Services in Excess of \$10,000 but Not Exceeding \$50,000

District staff shall solicit written proposals from a minimum of three (3) qualified consultants. A formal RFP is not required. There may be special circumstances, however, when fewer than three (3) vendors are available to submit a proposal or fewer than three (3) vendors submit proposals. In such cases, the General Manager shall justify the reason(s) three (3) vendors could not be solicited with written documentation retained in the project file.

The selection shall be based upon the criteria noted in Section 2 above. The General Manager, or said designee, may approve the selection and execute the agreement. The ranking and selection recommendation, based upon these criteria and the written proposal information, shall be documented in the project file. Following Board approval, the General Manager shall then execute the contract.

4. Selection Procedures for Professional Services in Excess of \$5,000 Not Exceeding \$10,000

Formal RFP's are not required for professional services in excess of \$5,000 and not exceeding \$10,000. District staff may select a consultant from a pre-qualified consultant file if available. District staff shall contact at least three (3) qualified consultants and request an informal written proposal or verbal proposal. There may be special circumstances, however, when fewer than three (3) vendors are available to submit a proposal or fewer than three (3) vendors submit proposals. In such cases, the General Manager shall justify the reason(s) three vendors could not be solicited with written documentation retained in the project file.

The selection shall be based upon the criteria noted in Section 2 above. Notations documenting the proposals and reasons for selection shall be made in the project file. Following Board approval, the General Manager shall then execute the agreement.

5. Selection Procedure for Professional Services Not Exceeding \$5,000

Formal RFP's are not required for professional services \$5,000 or under. District staff may select a consultant from a prequalified consultant file if available. The General Manager shall approve the selection.

6. Renewal of Contracts with Professional Consultants

The District may, after following required consultant selection procedures, enter into consultant agreements which contain provisions authorizing their extension or renewal. Recommendations to extend or renew an existing contract with a professional consultant should include a written evaluation of the work performed by the consultant as well as a determination that the rationale for providing for the renewal option in the existing contract remains valid and that the fees being charged are comparable to fees

for similar services offered by other consultants at the time of renewal or extension. If the total amount of the contract renewal does not exceed \$5,000, the General Manager, or said designee, may execute a contract amendment to formalize the renewal. If the total amount of the original agreement and any amendments exceed \$5,000, prior Board approval must be obtained.

7. Conflict of Law

These procedures are not applicable where superseded by local, state, or federal law; where the terms of grant funding provide for the use of other consultant selection procedures; or where the District is obligated to select consultants through the use of different procedures, such as the requirements of an insurance or self-insurance program.

8. Special Circumstances

These professional consultant selection procedures are not applicable when three (3) qualified professional service firms or individuals are unavailable or if it is appropriate and in the best interest of the District under the specific circumstances of the project at issue to limit the number of consultants solicited. Examples of such specific circumstances may include the following: the need to take immediate action on a project precludes the District's ability to follow these procedures; the absence of any fiscal or competitive advantage in following these procedures; only one consultant is known to be available and capable of providing needed services within the required time; the services to be provided are so unique that only one known consultant is qualified and available to perform them; or the terms of a legal mandate or negotiated agreement require the use of a particular consultant. The basis for such action shall be documented in writing and noted in the contract and approved by the General Manager. When Board approval is required, the documented basis for such action shall be included in the report to the Board.

9. Prequalified Consultant File

District staff may maintain a current file of consultants in their appropriate professional services categories after the selection procedures have been followed in this policy and a determination made that a consultant is qualified and competent. District staff may maintain this "prequalified consultant" file for a period of two (2) years from determination of the qualification of such consultant. The District may select a prequalified consultant from this file for services.

F. Open Purchase Orders for Routine and Repetitive Supplies and Services

Open purchase orders may be entered into with vendors who are expected to supply routine services, supplies, materials, or labor to the District on a regular basis throughout the fiscal year (such as gasoline, disking, road maintenance, vehicle maintenance, printing, office supplies, office machinery maintenance, computers, ergonomic equipment, field hardware,

resource management supplies). Such open purchase orders should normally be closed at the conclusion of each fiscal year.

1. Competitive Bidding Procedures

Vendors of repetitive supplies and services shall be selected through the competitive procedures set out above, based upon the anticipated or budgeted cumulative cost of the supply or service. When competitive bidding procedures cannot feasibly be done due to the nature of the product to be purchased, a comparison of vendors' prices on representative sample items will be made and staff will provide written documentation of the price quotations used to select the vendor with the lowest cost. In the event that the vendor selected for repetitive supplies and services ceases to provide competitive costs for supplies or adequate services during the fiscal year, the District may replace that vendor with the next lowest cost vendor who participated in the cost comparison.

2. Multi-year Contracts

Multi-year contracts shall be selected through the competitive procedures set out above, based upon the anticipated or budgeted cumulative cost of the supply or service over the course of the contract. Multi-year contracts can be let only when it is documented that it is appropriate and necessary to secure the best pricing or to assure continuity of service. Whenever feasible, multi-year contracts for service or supplies shall provide that the option to renew or extend the contract is at the District's sole discretion.