

**Board of Directors  
San Simeon Community Services District**



**SPECIAL BOARD MEETING  
PACKET  
August 23, 2022  
Meeting Start Time 5:00 pm**

**Virtual Board Meeting via Zoom Webinar**

**Prepared by:**



**GRACE**  
ENVIRONMENTAL SERVICES

**SPECIAL MEETING AGENDA  
SAN SIMEON COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS REGULAR BOARD MEETING  
Tuesday, August 23, 2022  
5:00 pm**

Pursuant to San Simeon CSD Resolution 22-455 and in compliance with AB 361 this meeting shall occur as a virtual teleconference using the Zoom app.

**Internet Meeting Location – Via ZOOM**

**Join Zoom for Special Board Session:**

<https://us02web.zoom.us/j/87307810050>

**Or One tap mobile:**

**US: +16699009128, 87307810050#**

**Or Telephone:**

**Dial (for higher quality, dial a number based on your current location):**

**US: +1 669 900 9128**

The following commands can be entered via DTMF tones using your **phone's** dial pad while in a **Zoom meeting**: \*6 - Toggle mute/unmute. \*9 - **Raise hand**.

**Webinar ID: 873 0781 0050**

PUBLI

**NOTE:** On the day of the meeting, the virtual meeting room will be open 30 minutes prior to the meeting start time. If you wish to submit public comment in the written format you can email Cortney Murguia at [admin@sansimeoncsd.org](mailto:admin@sansimeoncsd.org). Members of the public can also contact the District office at (805) 927-4778 or (805) 400-7399 with any questions or concerns related to this agenda or accessing the meeting.

**1. SPECIAL SESSION:**

A. Roll Call

**2. PUBLIC HEARING:**

**Public Comment** – This public comment period provides an opportunity for members of the public to address the Board on matters discussed during Agenda Item #2 – Public Hearing items. If a member of the public wishes to speak at this time, Public Comment is limited to three (3) Minutes.

**A. INTRODUCTION AND FIRST READING ORDINANCE NO. 124 OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT TO ADOPT AND MODIFY THE WATER MORATORIUM.**

### **3. BUSINESS ACTION ITEMS:**

**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 – Business Action Items. If a member of the public wishes to speak at this time, Public Comment is limited to three (3) Minutes.

**A. DIRECTION TO STAFF REGARDING RELEASE OF UN-REDACTED LEGAL INVOICES.**

**B. DISCUSSION REVIEW AND APPROVAL OF DRAFT FINANCIAL POLICY / RESERVE FUND BALANCES.**

**C. DISCUSSION REVIEW AND APPROVAL OF PROPOSAL FROM PADRE ASSOCIATES, INC. FOR THE DISTRICT OCEAN OUTFALL LINE MAINTENANCE PROJECT – PERMITTING SUPPORT (\$32,980).**

**D. ADOPTION OF RESOLUTION 22-456 TO CONTINUE VIRTUAL MEETINGS PURSUANT TO THE PROVISIONS OF AB 361.**

### **4. ADJOURNMENT –**

All staff reports or other written documentation, including any supplemental material distributed to a majority of the Board within 72 hours of a regular meeting, relating to each item of business on the agenda are available for public inspection during regular business hours in the District office, 111 Pico Avenue, San Simeon. 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, contact the District Administrator at 805-927-4778 as soon as possible and at least 48 hours prior to the meeting date. This agenda was prepared and posted pursuant to Government Code Section 54954.2.



## **PUBLIC HEARING ITEM STAFF REPORT**

---

### **ITEM 2.A. INTRODUCTION AND FIRST READING OF ORDINANCE NO. 124 OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT TO ADOPT AND MODIFY THE WATER MORATORIUM.**

#### **SUMMARY:**

The District provides water to its customers from the Pico Creek Valley Groundwater Basin, which has not been adjudicated. The District has a water license (License 12272, Permit 12465) issued from the State Water Board and has a right to the maximum production of 140 acre-feet per year (“AFY”) from Pico Creek underflow. There currently exists a moratorium on the issuance of new water connections within the District originally established by Ordinance No. 61 and extended by Ordinance No. 63, Ordinance No. 66 and Ordinance No. 102.

The District's moratorium on new water connections was implemented due primarily to water quality problems - which were, at least in part, the result of seawater intrusion leading to high chloride concentrations in the water pumped from the Pico Creek Groundwater Basin. After the District's moratorium on new water connections was implemented, the District also established a wait list for property owners that wanted to place a deposit with the District for a new water connection, despite the moratorium being in place.

The “Waiting List” was defined and referenced in the District's Ordinance Nos. 74, 101, 108 and 115, among others. Ordinance 115 required the District to adopt the Waiting List by Board resolution. The Board adopted Resolution 14-369 on or about November 12, 2014, which established the “Waiting List”. On or about October 14, 2020, the District adopted Resolution 20-426, which repealed and superseded Resolution 14-369. Resolution 20-426 included an updated Waiting List and allowed District Staff to amend the Waiting List from time to time.

On or about March 7, 2022, the District staff updated the Waiting List in accordance with Resolution 20-426 (the “Current Waiting List”). Since the moratorium was implemented, the District has taken steps to address its water quality and quantity issues, including, but not limited to, installing a reverse osmosis water filtration system that is used to treat brackish and mineral heavy water pumped from the groundwater basin.

In or around March of 2022, the District retained Akel Engineering Group, Inc. to perform a Water Supply Assessment (the "Akel Assessment") which found, among other things that the groundwater supply for the proposed future developments within the area of the District is expected to meet certain future demands. Specifically, the Akel Assessment determined that during a normal year, the supply of water is projected to exceed demand in 2025 by 37.4 AFY. The Water Supply Assessment also found that the groundwater level was consistent from 2016 to 2020 based on historical metered depths and was not significantly affected by the District's water production - which is historically at 80 AFY. The District's available supply of water and the impact of the District's current water production on District water resources was not fully known or understood until the completion of the Akel Assessment.

The District's Ordinance No. 66, which implemented the moratorium on new water connections on a permanent basis, made the finding that "until the time when such [water] supply is available, it is necessary to continue the existing moratorium." The District concludes that the water quality and quantity issues resulting in the need for the implementation of the current moratorium restrictions on water connections, no longer exists as is currently provided by ordinance. The District finds and determines that, in reliance on the data provided in the Akel Assessment, the District has a sufficient water supply for certain proposed developments on its Waiting List as it existed on the date of the Akel Assessment.

The District also concludes that it can allow for a limited number of additional water connections without a threat to the health, safety and well-being of the people and businesses of San Simeon. Therefore, the water quality and quantity problems necessitating a total moratorium on the issuance of new water connections have been partially alleviated, prompting the Board to amend the water connection moratorium to allow for the issuance of a limited number of new water connections.

If the proposed Ordinance No. 124 is approved by the Board, the District shall allow an additional 37.4 acre-feet of water connections or services on or to properties located within the boundaries of the District to serve those property owners identified on the District's Current Waiting List. In addition, Ordinance No. 61, Ordinance No. 63, Ordinance No. 66, and Ordinance No. 102 will be replaced and repealed in their entirety. The District will also need to develop policies and procedures concurrently with the final adoption of Ordinance No. 124, to regulate and manage the Current Waiting List, any future waiting list, and take any other action reasonable and/or necessary in the management of District water resources.

Ordinance No. 124 is not intended to modify the duties, rights and obligations of the District, or property owners within the District boundaries, with respect to the District's Water Conservation Plan, as it may be amended from time to time.

Recommendation:

It is recommended the Board (1) Introduce ORDINANCE NO. 124, AN ORDINANCE AMENDING AND MODIFYING THE MORATORIUM OF THE ISSUANCE OF WATER CONNECTIONS WITHIN THE BOUNDARIES OF THE DISTRICT; (2) waive the first reading of the Ordinance following a reading of the title in full; and (3) set a public hearing on August \_\_\_\_\_, 2022, to consider the adoption of Ordinance No. 124.

## ORDINANCE NO. 124

### AN ORDINANCE OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT AMENDING AND MODIFYING THE MORATORIUM OF THE ISSUANCE OF WATER CONNECTIONS WITHIN THE BOUNDARIES OF THE DISTRICT

**BE IT ORDAINED** by the Board of Directors of the San Simeon Community Services District (“District”) as follows:

#### **SECTION I. FINDINGS.**

The Board of Directors of the District does hereby find, determine, and declare as follows:

A. The District provides water to its customers from the Pico Creek Valley Groundwater Basin, which has not been adjudicated. The District has a water license (License 12272, Permit 12465) issued from the State Water Board and has a right to the maximum production of 140 acre-feet per year (“AFY”) from Pico Creek underflow;

B. There currently exists a moratorium on the issuance of new water connections within the District originally established by Ordinance No. 61 and extended by Ordinance No. 63, Ordinance No. 66 and Ordinance No. 102;

C. The District's moratorium on new water connections was implemented due primarily to water quality problems - which were, at least in part, the result of seawater intrusion leading to high chloride concentrations in the water pumped from the Pico Creek Groundwater Basin;

D. After the District's moratorium on new water connections was implemented, the District also established a wait list for property owners that wanted to place a deposit with the District for a new water connection, despite the moratorium being in place;

E. The “Waiting List” was defined and referenced in the District's Ordinance 74, 101, 108 and 115, among others. Ordinance 115 required the District to adopt the Waiting List by Board resolution. The Board adopted Resolution 14-369 on or about November 12, 2014, which established the “Waiting List”;

F. On or about October 14, 2020, the District adopted Resolution 20-426, which repealed and superseded Resolution 14-369. Resolution 20-426 included an updated Waiting List and allowed District Staff to amend the Waiting List from time to time;

G. On or about March 7, 2022, the District staff updated the Waiting List in accordance with Resolution 20-426, which is attached hereto as Exhibit A and incorporated herein by this reference (the “Current Waiting List”);

H. Since the moratorium was implemented, the District has taken steps to address its water quality and quantity issues, including, but not limited to, installing a reverse osmosis water filtration system that is used to treat brackish and mineral heavy water pumped from the groundwater basin;

I. In or around March of 2022, the District retained Akel Engineering Group, Inc. to perform a Water Supply Assessment (the Akel Assessment,") which found, among other things that the groundwater supply for the proposed future developments within the area of the District is expected to meet certain future demands. Specifically, the Akel Assessment determined that 112 AFY of water is available for water supply and water demand is 74.63 AcFt based on the 2022 water supply assessment such that water supply exceeds water demand by 37.4 AFY.

J. The Water Supply Assessment also found that the groundwater level was consistent from 2016 to 2020 based on historical metered depths and was not significantly affected by the District's water production - which is historically at 80 AFY. The District's available supply of water and the impact of the District's current water production on District water resources was not fully known or understood until the completion of the Water Supply Assessment;

K. The District's Ordinance No. 66, which implemented the moratorium on new water connections on a permanent basis made the following finding, that "until the time when such [water] supply is available, it is necessary to continue the existing moratorium";

L. The District concludes that the water quality and quantity issues resulting in the need for the implementation of the current moratorium restrictions on water connections, no longer exists as is currently provided by ordinance. The District hereby finds and determines that, in reliance on the data provided in t the Water Supplement Assessment, the District has a sufficient water supply for certain proposed developments on its waitlist as it existed on the date of the Water Supply Assessment;

M. The District also concludes that it can allow for a limited number of additional water connections without a threat to the health, safety and well-being of the people and businesses of San Simeon;

N. Therefore, the water quality and quantity problems necessitating a total moratorium on the issuance of new water connections have been partially alleviated, prompting the Board to amend the water connection moratorium to allow for the issuance of a limited number of new water connections;

O. District Ordinance No. 61, Ordinance No. 63, Ordinance No. 66 and Ordinance No. 102 and hereby replaced and repealed in their entirety;

P. The District shall implement policies and procedures concurrently with the effective date of this Ordinance, which may be amended from time to time, to regulate and manage the Current Waiting List, any future waiting list, and any other policy deemed reasonable and/or necessary in the management of District water resources.



## **SECTION II. AMENDMENT TO MORATORIUM ON WATER CONNECTION.**

A. Except as otherwise provided in this Ordinance, the District shall allow an additional 37.4 acre-feet of water connections or services on or to properties located within the boundaries of the District to serve those property owners identified on the District's Current Waiting List. This amount of additional acre-feet has been established by the Water Assessment Study and is deemed accurate and reliable for purposes of adopting this Ordinance and managing water resources.

B. District Staff is directed to implement policies and procedures concurrently with the effective date of this Ordinance, which may be amended from time to time, to regulate and manage the Current Waiting List and water supply availability for other rate-payers of the District.

C. District Staff is directed to implement policies and procedures deemed necessary and/or appropriate for the management of District water resources.

D. This Ordinance is not intended to modify the duties, rights and obligations of the District, or property owners within the District boundaries, with respect to the District's Water Conservation Plan, as it may be amended from time to time.

E. This Ordinance is not intended to modify the duties, rights and obligations of the District, or property owners within the District boundaries, with respect to the District's water, sewer and service allocation transfer requirements (and related rules and regulations) as discussed in District Ordinance 115 and/or other District policies.

## **SECTION III. DURATION OF ORDINANCE.**

The provisions of this Ordinance shall remain in effect until terminated/ revoked by future ordinance or other Board action.

## **SECTION IV. NO TAKING OF PROPERTY INTENDED**

Nothing in this chapter shall be interpreted to affect an unconstitutional taking of property of any person. If the Board determines, based on specific evidence in the administrative record, that the application of one or more of the provisions of this chapter to a proposed project would effect an unconstitutional taking of private property, the Board shall disregard such provision or provisions to the extent necessary to avoid such unconstitutional taking.

## **SECTION V. CONSTITUTIONALITY.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a Court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this Ordinance. The Board of Directors of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION VI. NOTICE OF EXEMPTION.**

This ordinance is exempt from the California Environmental Quality Act (CEQA) under 14 CCR § 15268. The Board directs staff to file a Notice of Exemption with the San Luis Obispo County Clerk's office.

**SECTION VII. EFFECTIVE DATE OF ORDINANCE.**

The Ordinance shall be in full force and effect in thirty (30) days from passage. Within fifteen (15) days of passage, this Ordinance shall be published at least once in a newspaper of general circulation in the County of San Luis Obispo, together with the names of the members of the Board of the Directors of the District voting for and against the Ordinance.

**INTRODUCED** at a regular meeting of the Board of Directors of the San Simeon Community Services District held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022

**AND ADOPTED** at a regular meeting of the Board of Directors of the San Simeon Community Services District held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and on the following roll call vote, to wit:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
President, Board of Directors

ATTEST:

\_\_\_\_\_  
Secretary, Board of Directors

APPROVED AS TO FORM:

\_\_\_\_\_  
District Counsel

Exhibit A

Current Waiting List

(attached as separate spreadsheet)

DRAFT

## San Simeon CSD Water Sewer Connection Waitlist

### Exhibit "A" Hook Up Waiting List

Position Number	APN Number	Name	Deposit Amount	Date Added	EDU	AKEL AFY 3/8/22
1		Cavalier Inn Inc. <sup>1</sup>	<sup>2</sup> 0.00	<sup>3</sup> 1/25/1972	<sup>4</sup> 145 Motel & 2400 sq ft restaurant	11.81
2	013-071-018	Evans	\$425.00	11/16/1975	Retail	0.38
3	013-391-001	Mouchawar	\$30,445.00	6/1/1979	35 Motel	2.58
4	013-031-022	V&H Holdings <sup>5</sup>	\$1,200.00	11/21/2013	1 Residence	0.10
5	013-402-012	Hurlbert Tides San Simeon	\$2,280.00	9/6/1990	6 Condos + 1 irrigation meter	0.65
6	013-402-013	Seifert <sup>7</sup>	\$2,280.00	3/9/2001	6 Condos	0.61
7	013-402-006	Tyo <sup>6</sup>	\$6,840.00	12/11/2013	3 Residences	0.30
8	013-071-009	Hather and/or Hulbert <sup>9</sup>	\$3,420.00	10/8/2014	10 Residences	1.01
9	013-091-030	Sansone, Inc. <sup>8/10</sup>	\$6,552.00	7/11/2018	30.5 (30 Multi-Family EDU + .5 Irrigation)	3.07
10	013-091-032, 013-071-023/024/025	Sansone, Inc.	\$14,706.00	7/11/2018	64.5 (64 Multi-Family EDU + .5 Irrigation)	6.51
11	013-031-049	Sansone, Inc.	\$2,796.00	7/11/2018	10.5 (10 Multi-Family EDU + .5 Irrigation)	1.05
12	013-071-009	Hather and/or Hulbert <sup>9</sup>		11/1/2019	5 EDU Residences	0.51
13	013-071-016	Marcum, Lloyd	\$9,154.60	5/14/2021	13 Residential & 13 retail / mixed Use EDU	6.3
14	013-031-022/013-031-045	V&H Holdings	\$14,050.00	2/22/2022	25 Residential EDU	2.53
* Total AFY demand on the above wait list						37.41
15	013-071-017	Sherry Brajcich	\$1,124.00	7/14/2022	2 Residential EDU	0.20

<sup>1</sup> Cavalier Inn Inc. acquired the rights and obligations of Dalton through bankruptcy proceedings in July 1989.

<sup>2</sup> The deposit of Dalton was forfeited when he failed to comply with the Terms of Agreement with the District.

<sup>3</sup> The Date of the agreement between the District and Dalton.

<sup>4</sup> Per agreement, remaining balance of project after Mouchawar foreclosure on 105 units.

<sup>5</sup> V&H Holdings purchased property and wait list position #4 From Raymond Long.

<sup>6</sup> John & Ann Tyo Purchased property and wait list position #7 from Eva Redwood-Chavez

<sup>7</sup> Seifert purchased the property from Ramirez in 2004.

<sup>8</sup> Sansone, Inc submitted one payment in the amount of \$24,000.00 for positions 9,10 & 11

<sup>9</sup> Hather added 5 edus w/ a deposit in the amount of \$1140 on 11/2019

<sup>10</sup> Sansone submitted payment in the amount of \$54.00 EDU adjust based on previous overpayment

\* Akel Engineering WSA 3/8/2022 determined 37.4 AFY available water capable of serving positions 1 through 14



## **BUSINESS ACTION ITEM STAFF REPORT**

---

### **ITEM 3.A. DIRECTION TO STAFF REGARDING RELEASE OF UN-REDACTED LEGAL INVOICES.**

#### Summary:

This item was placed on the agenda at the request of Director Donahue. Director Donahue has suggested that he would like the Board to review the current processes related to redacted legal invoices.



## **BUSINESS ACTION ITEM STAFF REPORT**

---

### **ITEM 3.B. DISCUSSION, REVIEW, AND APPROVAL OF THE DISTRICTS RESERVE POLICY AND CAPITAL IMPROVEMENT POLICY.**

#### Summary:

A draft version of the capitalization policy was presented to the Board at the April 12, 2022 Board meeting. During this meeting, the Board asked that these policies be returned to the Budget Committee for their input and review. Unfortunately, due to time restraints, these policies were not placed in front of the Budget Committee for a second time.

These policies were placed in front of the District's auditor and in front of Anthony Elowsky (Contractor working on the Rate Study for the District) for their input and review.

#### Recommendation:

There are two possible outcomes:

- 1) The Board can provide edits and feedback to the policy.
- 2) The Board can approve the polices "as-is".

Enc: Draft Reserve Policy  
Draft Capital Improvement Policy

AGENDA ITEM: Ver. 2  
DATE: 6/03/22  
ACTION: DRAFT

San Simeon Community  
Services District  
Financial Policy

### Cash Reserve Fund Balances

The Board of Directors wishes to use this tool to ensure the adequacy of the short and long-term cash resources of the District to meet and minimize the adverse impact of unanticipated expenses and shortfalls in District revenues. This will result in the ability to stabilize the District's rates structures, while providing the financial resources to meet the commitments necessary during unexpected events.

With proper use, the district's liquid resources can be allocated to sustain the District and comply with GASB 54 requirements.

### Fund Types

- **Nonspendable Fund Balance** – represents an amount that cannot be spent because it is either not in spendable form or legally required to remain intact.
- **Restricted Fund Balance** – represents amounts that are constrained by external parties, constitutional provisions or enabling legislations.
- **Committed Fund Balance** - represents amounts that can only be used for a specific purpose because of a formal action by the District's governing board. Committed amounts cannot be used for any other purpose unless the governing board removes those constraints by taking the same type of formal action.
- **Assigned Fund Balance** – represents amounts which the district intends to use for a specific purpose, but that do not meet the criteria to be classified as restricted or committed. Intent may be stipulated by the governing board or by an official or body to which the governing board delegates the authority.
- **Unassigned Fund Balance** – represents amounts which are unconstrained in that they may be spent for any purpose.

Due to the limited number of customers and resources, the Board of Directors has directed the use of the least restrictive appropriate fund classification to best meet the unanticipated needs of the District. When an expenditure is eligible for both a restricted and unrestricted reserve balance, the expenditure is to be charged to the most restrictive reserve first.

The District shall establish and maintain a financial structure that provides for adequate and predictable revenues to meet the forecasted requirement or obligations and operational, administrative and policy objectives of the District's Funds. Each fund will be separate, and management of the reserves will be independent of one another.

Based upon prudent financial management practices and required by legal, legislative and

contractual obligations, the appropriate level and separation of cash reserves is critical to the financial health of the San Simeon Community Services District. This policy defines required fund types for segregation purposes for the required funding of the District's Operations. The policy is designed to identify District operations and functions for which reserves should be established and maintained, including risk from unexpected events and expenses, and are detailed as follow:

### **Operating Reserves:**

#### **Assigned Wastewater Operating Reserves**

**Target Criteria Amount: Three (3) months operating costs \$150,000.**

**Timeline: By FYE 2021-22**

#### **Justification:**

- The goal is to mitigate the effects of rate volatility & unexpected events. The majority of the District's revenue is provided by seasonal tourist oriented business that are subject to disruptions by: natural disasters, weather, road closures, pandemics, etc.
- The rate structure is variable in nature to coincide with the business cycle to improve the collectability, etc. It also is a very objective way of measuring actual usage as it is based upon water meter reading.
- Funding will be provided by user fees that are scheduled to increase yearly with the use of the Average Annual Consumer Price Index.

#### **Assigned Water Operating Reserves**

**Target Criteria Amount: Three (3) months operating costs \$150,000.**

**Timeline: By FYE 2021-22**

#### **Justification:**

- The goal is to mitigate the effects of rate volatility & unexpected events. The majority of the District's revenue is provided by seasonal tourist-oriented business that are subject to disruptions by: natural disasters, weather, road closures, pandemics, etc.
- The rate structure is variable in nature to coincide with the business cycle to improve the collectability, etc. It also is a very objective way of measuring actual usage as it is based upon water meter reading.
- Funding will be provided by user fees that are scheduled to increase yearly with the use of the Average Annual Consumer Price Index.

#### **Assigned General Fund Operating Reserves**

**Target Criteria Amount: Four (4) months operating costs \$40,000.**

**Timeline: By FY 2021-22**

#### **Justification:**



- The goal is to ensure adequate cash resources to provide for the General fund's operations including streets, street lighting, weed abatement, and garbage due to any disruption of the cash flow or unforeseen major expenses or events.
- Funding is provided by taxes, a fixed account service fee and anticipated garbage franchise fees.

### **Capital Rehabilitation & Replacement Reserves**

#### **Assigned Wastewater R &R Reserve**

**Target Criteria Amount: When Fund balance equals 100% of Accumulated Depreciation (Current balance \$155,505.)**

**Timeline: Ongoing**

#### **Justification:**

- The goal is to aid in providing capital funding for the rehabilitation and replacement of the existing wastewater treatment facility and upgrades to the collection system to the greatest extent possible.
- The current wastewater treatment facility is believed to have adequate capacity for buildout, but because of a directive by the California Coastal Commission relating to climate change and rising sea levels it is approaching the end of its expected life cycle, the facility must be moved within ten-fifteen years.
- Limited liquid reserves will be provided by future capacity fees, as set forth in the current capacity fee study, (Previously connection fees) due to the remaining life of the existing facility. This coupled with limited demand after the current waitlist is satisfied. (Estimated 85% of buildout will be completed) will require creative and aggressive solutions.
- Funding will be provided annually by contributing into the Wastewater R &R Reserve an amount equal to 100% of the wastewater fund's previous years audited depreciation. In addition, earned capacity fees will also be contributed to this reserve.

#### **Assigned Water R &R Reserves**

**Target Criteria Amount: When Fund balance equals 100% of Accumulated Depreciation (Current balance \$155,785.)**

**Timeline: Ongoing**

#### **Justification:**

- The goal is to aid in providing capital funding for the rehabilitation and replacement of the existing freshwater storage facility and upgrades to the distribution system to better provide adequate fire protection and safety to the greatest extent possible.
- The water system is composed of three components: production, storage, and distribution. Our systems production facilities are at the beginning of their life cycle with the well field facilities having been rehabilitated in the last 10 years and a new RO

facility in the last 5 years. The storage facility is an unground gravity fed storage that is approaching the end of its life cycle. The distribution system is a mixed bag with critical choke points that limit fire flow and need attention.

- With the new upgraded production facilities, the capacity fee study shows a substantial contribution from the waitlist that should provide adequate liquid resources to help move the current storage project forward.
- Funding will be provided annually by contributing into the Water R & R Reserve an amount equal to 100% of the water fund's previous year's audited depreciation ~~minus \$5,000 which will be allocated to the Short Lived Reserve~~. In addition, earned capacity fees will also be contributed to this reserve.

#### **Assigned General Fund R & R Reserves**

**Target Criteria Amount: When Fund balance equals 100% of Accumulated Depreciation (Current Balance \$43,295.)**

**Timeline: Ongoing**

**Justification:**

- The goal is to provide capital funding for the rehabilitation and replacement of the street improvements and other capital assets of the General Fund.
- Funding will be provided annually by contributing into the General Fund R & R Reserve an amount equal to 100% of the General Fund's previous year's audited depreciation.

#### **Debt Service Reserves**

**Restricted Wellhead Project Debt Reserves: USDA Rural Utilities Services Loan Dated Sept. 23, 2013**

**Target Criteria Amount: \$20,650. (minimum – Board may wish two years over a longer time)**

**Timeline: by FY 2022-23 and throughout the term of the loan**

**Justification:**

- This is a covenant of the Wellhead USDA Loan Agreement and is to be maintained during the life of the loan as per the covenant.

**Restricted Wellhead Project Short-Lived Assets Reserves: USDA Rural Utilities Services Loan Dated Sept. 23, 2013**

**Target Criteria Amount: \$5,000.**

**Timeline: by FY 2022-23 and throughout the term of the loan**

- Amount is set aside for short-lived asset replacement as per covenant.

**Conclusion:**

The Cash Reserve Policy should be maintained, regularly updated, and adhered to as a good business practice. The District' Master Plans should be reevaluated every 5-7 years or as items are identified that might impact the reserve policy's ability to fund the future projects.

The adoptive board realizes that this is a small District and liquid resources are limited. Further they understand that their responsibility is to administer and oversee a holistic system to provide services and safety for all.

Therefore, they wish to provide for procedures to allow one fund's reserve to borrow from another as unexpected events occur. To provide for this process they are adopting Exhibit A to this policy to establish a simple and fair way to reimburse funds for the loans that might be approved in the future. They are based upon the amount of the loan and the time expected for its repayment and are offer here as a guidance for Board actions. These fees may be modified or overridden from time to time as the Board deems appropriate and circumstance justify.

**EXHIBIT "A"**  
**LOAN FEE GUIDANCE**

<p>AGENDA ITEM: Ver. 2 DATE: 6/03/22 ACTION: DRAFT</p>
--

<u>Loan Term</u>	<u>Amount of Loan</u>	<u>Fees Due at End</u>
One Year or less	Less than or equal to \$50,000.	\$5.00 per \$1,000.
One to Three Years	Less than or equal to \$150,000.	\$5.00 per year*- per \$1,000. *Rounded to nearest ½ year
Three Years or more	\$150,000. Or more	Simple Interest using LAIF's average rate for the term Rounded to nearest month

# DRAFT

Cash Reserves

Allocated:		2019	2020	2021	Total	Audit YE 21 Totals	Audit YE 21 Totals	Transfer Unallocated	Before 2022 Y/E Adjust
Type									
Water Capital Imp	Assigned	\$53,618	\$55,655	\$43,406	\$153,679	\$155,505	\$155,505		\$155,505 ✓
Wastewater Cap Imp	Assigned	\$53,315	\$55,341	\$42,744	\$151,400	\$155,785	\$155,785		\$155,785 ✓
General Fund Imp	Assigned	\$15,065	\$15,637	\$7,342	\$38,044	\$43,295	\$43,295		\$43,295 ✓
Contingence Reserves	Assigned	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000			
Operational Water	Assigned						\$125,000	\$25,000	\$150,000 ✓
Operational Waste	Assigned						\$125,000	\$25,000	\$150,000 ✓
Operational General	Assigned							\$40,000	\$40,000 ✓
USDA Debt Loan Water	Restricted							\$20,690	\$22,650 ✓
USDA Short Life Asset	Restricted					\$5,000	\$5,000		\$5,000 ✓
Unallocated/Restricted		\$576,332	\$915,299	\$776,189	\$548,237	\$548,237	\$548,237	-110690	\$437,547 ✓
		\$948,330	\$1,291,932	\$1,119,681	\$1,140,360	\$1,152,822	\$1,152,822	\$0	\$1,159,782 ✓

Divide Contingence Reserves between Sewer & Water Operations  
 Transfer unallocated to operations & USDA Covenants

**Capital Improvement Projects  
FY 2022-2023**

**DRAFT**

**Wastewater Treatment Plant**

- **Ocean Outfall Repair** **\$120,000**  
 This is the repair of the outfall line as determined previous inspections involving the loss of support.
- **WWTP Composite Samplers** **\$12,000**  
 These are needed for testing and reporting purposes and we need two at approx. \$6,000 ea.
- **Pipe Bridge Design** ~~\$37,500~~ 114,555 (CR)  
 This is a joint project with the Water Fund for design of a new bridge to support the water & sewer line over Padre de Juan creek.

**Sub Total - \$169,500**

**Water Storage and Distribution**

- **Pipe Bridge Design** ~~\$37,500~~ 114,555 (CR)  
 This is a joint project with the Sewer Fund for design of a new bridge to support the water & sewer line over Padre de Juan creek.
- **Disposal of Transite Pipe** **\$15,000**  
 This was extra replacement pipe that will no longer be used, might be class as hazardous material for disposal.
- **Paint Elevated Wall on Reservoir** **\$10,000**  
 This major repair may be expensed but is listed here for Review.
- **Tank Reservoir Easement** **\$60,000**  
 This project will complete the easement acquisition, design for the water storage, bid package and project management.
- **Residential Meter Replacement** **\$90,000**  
 This project is necessary to replace the residential meter.

**Sub Total - \$212,500**

**Capital Improvement Projects  
Continued  
FY 2022-2023**

**General Fund**

• <b>Pico Stair Repair</b>	\$30,000
This project is to further stabilize the stairway at Pico Beach access. (Included in future Projects Gen on 22-23 Budget)	
• <b>Accounting Software Package</b>	\$25,000
This bookkeeping software is necessary to complete the transition to complete enterprise fund accounting	
	<u>Sub Total - \$25,000</u>
<b>Total Project Cost FY 2022-23</b>	<u>\$407,000</u>



## **BUSINESS ACTION ITEM STAFF REPORT**

---

**ITEM 3.C. DISCUSSION REVIEW AND APPROVAL OF PROPOSAL FROM PADRE ASSOCIATES, INC. FOR THE DISTRICT OCEAN OUTFALL LINE MAINTENANCE PROJECT – PERMITTING SUPPORT (\$32,980).**

Summary:

Attached is a proposal from Padre Associates, Inc. to provide permitting support for the Ocean Outfall Line Maintenance Project.

Outcome:

- 1) The Board can approve the proposal and direct the GM to enter into a contract for these services.
- 2) The Board can direct GES Staff to create a Request for Proposal for this scope of work.

Enc: Proposal from Padre Associates, Inc.





ENGINEERS, GEOLOGISTS & ENVIRONMENTAL SCIENTISTS

August 8, 2022

Project No. 2202-1401

San Simeon Community Services District

111 Pico Avenue

San Simeon, California 93452

Attention: Charles Grace, General Manager

Subject: Proposal for the San Simeon Community Services District Outfall Pipeline Maintenance Project – Permitting Support

Dear Mr. Grace:

Padre Associates, Inc. (Padre) is pleased to submit this proposal to provide permitting support for the San Simeon Community Services District (SSCSD) Outfall Maintenance Project (Project). The proposal includes a scope of work and budget for preparation of the required permit application materials for the Project and coordination with Federal and State agencies during the permit application review process.

It is Padre's understanding that the Project will include an inspection of the outfall, replacement of anodes on exposed portions of the pipeline, placement of bags of marine grout under unsuspected spans of the pipeline, and the installation of Fabiform grout bag mattresses on the end cap of the outfall pipeline to stabilize the offshore end of the outfall. These activities will trigger permits from the California Coastal Commission (CCC), U.S. Army Corps of Engineers (ACOE), and the Regional Water Quality Control Board (RWQCB). The Project is within the Monterey Bay National Marine Sanctuary and the Cambria State Marine Conservation Area/State Marine Park (SMCA/SMP); therefore, Federal and State consultation will be required for the Project.

Below is a summary of the tasks included in this proposal:

### **SCOPE OF WORK**

#### **TASK 1 – TECHNICAL STUDIES**

##### **Task 1.1 – Biological Assessment**

Padre anticipates use of Nationwide Permit 3 – Maintenance (Task 3). Nationwide Permit 3 requires submittal of a Preconstruction Notification, which will also require a Biological Assessment and Essential Fish Habitat Assessment. The Biological Assessment will provide a summary of biological conditions on and around the outfall structure based on any available inspection video or reports and will identify any Project-related affects to Federal threatened or endangered species. The Biological Assessment is required for the ACOE Federal Endangered Species Act Section 7 Consultation for authorization of the Nationwide Permit and will be included in the Preconstruction Notification application.

### **Task 1.2 – Essential Fish Habitat Assessment**

Padre anticipates use of Nationwide Permit 3 – Maintenance (Task 3). Nationwide Permit 3 requires submittal of a Preconstruction Notification, which will also require an Essential Fish Habitat Assessment. The Essential Fish Habitat Assessment will provide a summary of essential fish habitat and conditions on and around the outfall structure based on any available inspection video or reports and will identify any Project-related affects to Federal threatened or endangered species. The Essential Fish Habitat Assessment is required for the ACOE Federal Endangered Species Act Section 7 Consultation for authorization of the Nationwide Permit and will be included in the Preconstruction Notification application.

### **Task 1.3 – Marine Biological Study**

Padre will prepare a Marine Biological Study that will be used during consultation with State agencies, including California State Parks and the California Department of Fish and Wildlife (CDFW) for potential access agreements or use permits regarding the Cambria SMCA/SMP (Task 5). The Marine Biological Study will provide a brief summary of biological conditions on and around the outfall structure based on any available inspection video or reports and will identify any Project-related affects to State threatened or endangered species.

### **TASK 2 – CALIFORNIA COASTAL COMMISSION COASTAL DEVELOPMENT PERMIT (IMMATERIAL AMENDMENT)**

Pursuant to email correspondence received from the CCC, an Immaterial Amendment to the existing Coastal Development Permit (CDP) 3-19-0020. Padre will prepare the Immaterial Amendment application and will submit it to the CCC.

### **TASK 3 – U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT AUTHORIZATION**

Implementation of the Project will result in the dredged and/or fill material within the Pacific Ocean, which is waters of the United States and within ACOE jurisdiction. Padre will prepare the Preconstruction Notification application and supporting materials to request a Nationwide Permit Authorization and submit the application package to the ACOE.

In order for the ACOE to issue a Nationwide Permit Authorization, they will need to consult with other Federal agencies regarding the Project, including, but not limited to National Marine Fisheries Service (NMFS) and the State Historic Preservation Officer (SHPO). Because the Project is considered a maintenance activity, and impacts to ACOE jurisdiction will be minimal, Padre does not expect that the ACOE will initiate formal consultation with NMFS pursuant to Section 7 the Federal Endangered Species Act. ACOE will also consult with the Monterey Bay Marine National Sanctuary regarding the Project. In addition, Padre does not expect ACOE will initiate consultation with SHPO regarding cultural resources.

### **TASK 4 – REGIONAL WATER QUALITY CONTROL BOARD WATER QUALITY CERTIFICATION**

Implementation of the Project will result in the dredged and/or fill material within the Pacific Ocean, which is waters of the States and within RWQCB jurisdiction. Under the new Federal 401 Rules, Padre will request a Pre-Filling Meeting Request prior to issuance of the Water Quality Certification application. After the Pre-Filling Meeting Request or after 30 days of the request,

Padre will prepare the Water Quality Certification application and submit the application package to the RWQCB.

Prior to issuance of a Water Quality Certification, the RWQCB requires compliance with the California Environmental Quality Act (CEQA). The Project qualifies for a Categorical Exemption, 15301. Existing Facilities. Padre will prepare the Notice of Exemption for approval by the District as lead agency under CEQA.

A Water Quality Certification requires an application fee, which is dependent on the Project impact and fill quantities. The Project impacts are unknown at this time; therefore, Padre is not able to calculate the application fee, and it is not included in our budget for this task.

**TASK 5 – STATE AGENCY CONSULTATION**

Padre will contact California State Parks and the CDFW to determine if access agreements and/or use permits are required for the Project pursuant to the Cambria SMCA/SMP. If access agreements and/or use permits are required, Padre will work with the State agency to obtain all requirements.

**COST ESTIMATE**

Costs associated with obtaining the required permits for the Project are included in Table 1. Padre will complete the above scope of work on a time and materials basis invoiced in accordance with Padre’s 2021 fee schedule. Padre will not exceed the total amount without written approval from the SSCSD.

**TABLE 1. COST ESTIMATE**

Personnel/Item	Rate	Hours/Unit	Cost
<b>TASK 1. TECHNICAL STUDIES</b>			
<b>Task 1.1 Biological Assessment</b>			
Principal Professional II	\$210	2	\$420.00
Senior Professional II	\$160	2	\$320.00
Project Professional II	\$130	20	\$2,600.00
Staff Professional	\$95	20	\$1,900.00
Senior GIS Specialist	\$110	4	\$440.00
<i>Task 1.1 Subtotal</i>			\$5,680.00
<b>Task 1.2 Essential Fish Habitat Assessment</b>			
Principal Professional II	\$210	2	\$420.00
Senior Professional II	\$160	2	\$320.00
Project Professional II	\$130	4	\$520.00
Staff Professional	\$95	24	\$2,280.00
Senior GIS Specialist	\$110	4	\$440.00
<i>Task 1.2 Subtotal</i>			\$3,980.00
<b>Task 1.3. Marine Biological Study</b>			
Principal Professional II	\$210	2	\$420.00
Senior Professional II	\$160	2	\$320.00

Personnel/Item	Rate	Hours/Unit	Cost
Project Professional II	\$130	16	\$520.00
Staff Professional	\$95	16	\$1,520.00
Senior GIS Specialist	\$110	4	\$440.00
<i>Task 1.3 Subtotal</i>			\$4,780.00
<i>Task 1 Subtotal</i>			\$14,440.00
<b>TASK 2. CALIFORNIA COASTAL COMMISSION COASTAL DEVELOPMENT PERMIT (IMMATERIAL AMENDMENT)</b>			
Principal Professional II	\$210	2	\$420.00
Senior Professional II	\$160	8	\$1,280.00
Project Professional II	\$130	8	\$1,040.00
Staff Professional	\$95	24	\$2,280.00
Senior GIS Specialist	\$110	2	\$220.00
<i>Task 2 Subtotal</i>			\$5,240.00
<b>TASK 3. U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT AUTHORIZATION</b>			
Senior Professional II	\$160	8	\$1,280.00
Project Professional II	\$130	8	\$1,040.00
Staff Professional	\$95	24	\$2,280.00
Senior GIS Specialist	\$110	4	\$440.00
<i>Task 3 Subtotal</i>			\$5,040.00
<b>TASK 4. REGIONAL WATER QUALITY CONTROL BOARD WATER QUALITY CERTIFICATION</b>			
Senior Professional II	\$160	10	\$1,600.00
Project Professional II	\$130	8	\$1,040.00
Staff Professional	\$95	24	\$2,280.00
Senior GIS Specialist	\$110	4	\$440.00
<i>Task 4 Subtotal</i>			\$5,360.00
<b>TASK 5. STATE AGENCY CONSULTATION</b>			
Senior Professional II	\$160	10	\$1,600.00
Project Professional II	\$130	10	\$1,300.00
<i>Task 5 Subtotal</i>			\$2,900.00
<b>TOTAL</b>			<b>\$32,980.00</b>

An Immaterial Amendment requires an application fee of \$1,291.00. This fee is not included in our budget for this task.

## SCHEDULE AND ASSUMPTIONS

Several assumptions have been made in developing this proposal and cost estimate and, if not valid, will constitute a change in the scope of services, requiring an adjustment in Project cost and schedule. Padre will notify the SSCSD of any such changes in writing. Assumptions and limitations to our scope of services are presented below:

- The Biological Assessment and Essential Fish Habitat Assessment tasks will be based on existing literature and available inspection video or reports provided by the Client. Field surveys are not included in the budget for these tasks;
- The ACOE will request informal consultation from NMFS; therefore, formal Section 7 consultation is not anticipated;
- Padre does not expect ACOE will initiate consultation with SHPO regarding cultural resources; and
- Permit application fees are not included in the budget for Tasks 2 through 5.

## CLOSING

If you should have any questions regarding Padre's proposal and/or require additional information for review purposes, please contact Crystahl Taylor at (805) 786-2650, ext. 111.

Sincerely,



Crystahl Taylor  
Senior Project Manager



## **BUSINESS ACTION ITEM STAFF REPORT**

---

### **ITEM 3.D. ADOPTION OF RESOLUTION 22-456 TO CONTINUE VIRTUAL MEETINGS PURSUANT TO THE PROVISIONS OF AB 361.**

#### Summary:

At a Special Meeting on September 30, 2021, the Board approved District Resolution 21-433 to continue virtual meetings of the Board of Directors and District committees pursuant to AB 361. AB 361 requires periodic review of the determination for a legislative body to continue to meet via teleconference, and if a state of emergency remains active, then no later than 30 days after meeting via teleconference, the body must make a subsequent finding that it “has reconsidered the circumstances of the state of emergency” and determined that in-person meetings continue to pose a risk to public health. During the August 9, 2022 Regular meeting, the Board approved Resolution 22-455 which extended the “state of emergency” for an additional 30 days. Resolution 22-456 extends the “state of emergency” for an additional 30 days to allow continued virtual meetings.

#### Possible Options:

- 1) The Board may direct the meetings be held in person.
- 2) The Board may direct that the meetings remain being held via teleconference.

**RESOLUTION NO. 22-456**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT PROCLAIMING A LOCAL EMERGENCY PERSISTS, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR ISSUED ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT FOR THE PERIOD OF AUGUST 23, 2022, TO SEPTEMBER 22, 2022, PURSUANT TO BROWN ACT PROVISIONS**

**Recitals**

WHEREAS, the San Simeon Community Services District ("District") is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the District's legislative bodies are open and public, as required by the Ralph M. Brown Act (Gov. Code, §§ 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the District's boundaries, caused by natural, technological or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the Board of Directors previously adopted a Resolution, Number 21-433 on September 30, 2021, finding that the requisite conditions exist for the legislative bodies of the District to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District, and the Board of Directors has done so; and

WHEREAS, emergency conditions persist in the District, specifically, the State of Emergency declared by Governor Newsom on March 4, 2020, due to COVID-19, and strong recommendations by the California Department of Public Health that all persons, regardless of vaccination status, continue to undertake social distancing measures including wearing masks while in indoor public settings; and

WHEREAS, the Board of Directors does hereby find that the rise in SARS-CoV-2 Delta and Omicron variants have caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to affirm a local emergency exists and re-ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the legislative bodies of the District shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the Board of Directors will ensure that the public has access to meetings and the opportunity to participate in meetings in the interest of transparency and as required by AB 361.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Directors of the San Simeon Community Services District, as follows:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
2. Affirmation that Local Emergency Persists. The Board of Directors hereby considers the conditions of the state of emergency in the District and proclaims that a local emergency persists throughout the District, and COVID-19 has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District.
3. Re-ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.
4. Remote Teleconference Meetings. The General Manager and Staff of the District are hereby authorized and directed to take all actions necessary to carry out the



intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

- 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) September 22, 2022, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

**ADOPTED** by the Board of Directors of the San Simeon Community Services District on August 23, 2022, by the following roll call votes:

AYES:  
NOES:  
ABSENT:  
ABSTAINED:

\_\_\_\_\_  
President, Board of Directors of the  
San Simeon Community Services District

**ATTEST:**

\_\_\_\_\_  
Charles Grace, General Manager of the  
San Simeon Community Services District

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeffrey A. Minnery, District Counsel