



September 22, 2014

TO: LOCSO Board of Directors
FROM: Robert Miller, District Engineer
SUBJECT: **Agenda Item 12A – 10/2/2014 Board Meeting**
Approve Contract with Bartle Wells Associates to Conduct a Water Rate Study

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Craig V. Baltimore

Vice President
R. Michael Wright

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DESCRIPTION

The purpose of this agenda item is to consider the approval of a contract with Bartle Wells Associates for the preparation of a Water Rate Study (Study).

STAFF RECOMMENDATION

Staff recommends that the Board adopt the following motion:

Motion: I move that the Board approve the contract (Exhibit A) with Bartle Wells Associates in an amount not to exceed \$32,000, establish a contingency fund for additional services in an amount not to exceed \$10,000, and authorize the General Manager to execute the contract on behalf of the District.

BACKGROUND AND DISCUSSION

The District is pursuing the preparation of a Water Rate Study in order to accomplish the following objectives:

- Provide for the prudent planning of capital infrastructure, including water supply projects and implementation of the Basin Plan, as outlined in the Capital Improvement Program approved by the Board in August, 2014
- Account for current and future operations, maintenance, and replacement expenses
- Fund reserve accounts in accordance with adopted policies, and revisit reserve policies where prudent
- Prepare for future reductions in revenue due to decreased water sales from conservation efforts and the delivery of recycled water
- Recommend emergency rates necessary to support District operations during various drought stages as defined in the Water Shortage Contingency Plan (Plan) adopted by the Board in August, 2014, or recommend changes to the Plan if necessary.
- Consider alternative rate structures that would encourage increased conservation.
- Comply with the requirements of Proposition 218

After soliciting proposals from qualified firms, the District selected Bartle Wells Associates for the completion of the work. Bartle Wells was initially retained in

July, 2014 to perform \$5,000 worth of consulting services including an initial review of the District's water fund information, Capital Improvement Plan, and Water Shortage Contingency Plan, and also to attend preliminary meetings with staff and pertinent committees. The next step in the process is to complete the formal rate study and related Proposition 218 process. A contract has been prepared and attached as Exhibit A consistent with the District's standard consultant contract. The contract contemplates completion of the Water Rate Study for an amount not to exceed \$32,000, and also established a contingency fund in the amount of \$10,000 for additional services if the Board directs staff to conduct additional committee or board meetings.

The attached presentation (Exhibit B) will be discussed in additional detail by Alex Handlers of Bartle Wells during the meeting. The presentation reflects the conclusions and considerations assembled during the initial \$5,000 work scope completed over the last two months. An extended version of the presentation was provided at a joint meeting of the Financial Advisory Committee (FAC) and Utilities Advisory Committee (UAC) on September 10, 2014. During the meeting, the committees recommended the establishment of a review process and schedule to guide the progress of the work. The following schedule is recommended:

- October 3, 2014: Issue Notice to Proceed to Bartle Wells.
- November 13, 2014: Bartle Wells to provide an interim written analysis, including identification of alternatives and decision points for consideration prior to preparation of the draft Water Rate Study for Board consideration.
- November 19, 2014: Joint Session of the FAC and UAC to discuss key decision points and make recommendations to the Board. Bartle Wells will be present to assist with the discussion and present key findings.
- December 4, 2014: Board to consider the interim analysis and FAC/UAC recommendations, and approval of the draft Water Rate Study. If approved, the Board will direct staff to provide the required Proposition 218 notice at least 45 days prior to the public hearing.
- February 5, 2015: Conduct the required public hearing consistent with Proposition 218.
- April 1, 2015 or July 1, 2015: Water rates become effective, including contingency rates consistent with the Water Shortage Contingency Plan.

FINANCIAL IMPACT

The proposed Water Rate Study is a critical step in the planning process for the District's finances. Increased revenues will be necessary to fund approved capital improvements, and rates will need to be increased to provide stable income during periods of reduced water sales. The proposed Water Rate Study will be funded from the water rate stabilization reserve, general ledger code 3163, fund 500, water. This will leave a balance of \$160,856 in the reserve account.

Attachments

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

CONTRACT SERVICE AGREEMENT

Exhibit "A" – Description of Scope of Services or Project ("Water Rate Study") to be completed by Contractor.

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

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

RECITALS

- A. In order to provide for the prudent planning of capital infrastructure, account for current and future operations and maintenance expenses, fund reserve accounts in accordance with adopted policy, prepare for future reductions in revenue due to decreased water sales, and comply with the requirements of Proposition 218, the District has elected to contract for the preparation of a Water Rate Study.
- B. After soliciting proposals from qualified firms, the District has selected Bartle Wells Associates for the completion of the work.

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

1. **DESIGNATED REPRESENTATIVES.** KATHY KIVLEY, General Manager at telephone number (805) 528-9370 is the representative of LOCSD and will administer this Agreement for and on behalf of LOCSD. Alex Handlers at telephone number (510) 653-3399x109 is the authorized representative for Contractor. Changes in designated representatives shall be made only after advance written notices to the other party.

2. NOTICES. Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first-class mail, postage prepaid, or otherwise delivered as follows:

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

CONTRACTOR: Alex Handlers
Principal/Vice President
Bartle Wells Associates
1889 Alcatraz Avenue
Berkeley, Ca 94703
Facsimile: 510-653-3769

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

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

A. Exhibit "A" – Description of "Scope of Services" or "Project" ("Water Rate Study") to be completed by Contractor.

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

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

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

6. COMPENSATION OF CONTRACTOR.

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

B. Provided Contractor is not in default of this Agreement, payment of undisputed amounts are due within sixty (60) days of receipt of invoices. Invoices shall

reflect the date the service was provided, the person or subcontractor who performed the service, the amount of time spent on the date the service was provided, a computation of compensation and a percentage of completion of the Project. Disputed amounts shall be resolved pursuant to the dispute resolution provisions of Section 25 below.

C. The contract budget of thirty two thousand dollars (\$32,000) shall not be exceeded without the prior written authorization of LOCSD.

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

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

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

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

8. ADDITIONAL SERVICES.

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

B. *The LOCSD Contract Administrator is authorized to increase the total Contract Budget to forty two thousand dollars (\$42,000), without further approval of the LOCSD Board of Directors, to facilitate Contract Amendments for Additional Services.*

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

10. PERFORMANCE STANDARDS.

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

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

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

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

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

12. TAXES. Contractor shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions,

Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Contractor

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

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

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

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

17. INDEMNIFICATION.

A. Contractor shall indemnify, defend, and hold harmless LOCSD, the LOCSD Board of Directors, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of Contractor, its officers, employees, agents, subcontractors, or vendors in performing

services pursuant to this Agreement. It is further agreed, Contractor's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of LOCSD, the LOCSD Board of Directors, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of LOCSD, its officers, employees or agents. Payment by LOCSD is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Contractor and LOCSD, as to whether liability arises from the sole negligence of the LOCSD or its officers, employees, agents, subcontractors or vendors, Contractor will be obligated to pay for LOCSD's defense until such time as a final judgment has been entered adjudicating the LOCSD as solely negligent. Contractor will not be entitled, in the event of such a determination, to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

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

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

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

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

18. INSURANCE.

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

General Liability Insurance (including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least	\$ 1 Million per occurrence. \$ 2 Million in the aggregate
(ISO Form CG001 11/85) Commercial Automobile Liability Insurance	\$ 1 Million per accident
(ISO Form CA001 12/90) Workers' Compensation Insurance	Statutory
Employer's Liability Insurance	\$ 1 Million policy limit
Professional Liability Insurance	\$ 1 Million per claim \$ 1 Million in the aggregate

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

- (1) LOCSD, its officers, directors, employees and agents shall be named as Additional Insureds; and
- (2) the coverage afforded LOCSD shall be primary and non-contributing with any other insurance maintained by LOCSD.
- (3) If not covered separately under a business automobile liability policy, the general liability policy shall also be endorsed to include non-owned and hired automobile liability.

C. Prior to commencing work under this Agreement, Contractor shall provide LOCSD with Certificates of Insurance evidencing compliance with the foregoing requirements, accompanied by copies of the required endorsements. Certificates of Insurance for commercial general liability, automobile liability, workers' compensation, employer's liability, and professional liability insurance shall specify that the insurer shall give LOCSD thirty (30) days advance written notice by the insurer prior to cancellation of the policy except ten (10) days for nonpayment of premium.

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

Contractor hereunder. Any failure to comply with this requirement shall constitute a material breach of this Agreement.

19. PERSONNEL.

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

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

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

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

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

23. TERMINATION.

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

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

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

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

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

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

- 26. LOCSD NOT OBLIGATED TO THIRD PARTIES.** LOCSD shall not be obligated or liable for payment hereunder to any party other than the Contractor.
- 27. NON-DISCRIMINATION.** Contractor shall not discriminate in any way against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with, or related to, the performance of this Agreement.
- 28. UNAUTHORIZED ALIENS.** Contractor shall comply with all the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein.
- 29. PREVAILING WAGE.** Contractor shall, be responsible for determining whether the Project to be performed under this Agreement require the payment of prevailing wages and if so, Contractor shall to the extent required by the California Labor Code, pay no less than the applicable prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the wage determination are on file at the LOCSD's office or are otherwise available on the Web at www.cslb.ca.gov.
- 30. COSTS AND ATTORNEY'S FEES.** Except for disputes that are resolved by non-binding mediation, the prevailing party in any action between the parties to this Agreement brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorney's fees expended in connection with such an action from the other party.
- 31. SECTION HEADINGS.** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.
- 32. SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.
- 33. REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to the Parties is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

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

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

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

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

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

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

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

41. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

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

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

CONTRACTOR

By: _____.

Date: _____

Name:

Title:

Date: _____

Name:

Title:

LOS OSOS COMMUNITY SERVICES DISTRICT

ATTEST:

CRAIG BALTIMORE, PRESIDENT
Los Osos Community Services District
Board of Directors

Date: _____

Date: _____

Exhibit A: Scope of Services

Scope of Services

This section presents a draft scope of services that Bartle Wells Associates believes would form a sound basis for completing a Water Rate Study for the Los Osos Community Services District. Bartle Wells Associates can work with the District to finalize a scope of services that meets the District's objectives and schedule.

TASK A. 10-YEAR FINANCIAL PLAN

1. Develop Forecasts and Projections

Based on evaluation of the data assembled and input provided by staff and other members of the project team, prepare forecasts and projections to be used in the development of financial projections for the District's water utility.

Develop projections for the following areas (and others as appropriate):

- **Capital Improvements Including Long-Term Capital Repairs & Replacements:** Identify future capital costs and alternatives to include in the financial analysis and determine a reasonable amount to include for future, ongoing capital repairs and replacements. BWA often recommends that agencies phase in funding for long-term system rehabilitation.
- **Growth and Development/Redevelopment:** Evaluate historical growth trends and develop appropriate and conservative assumptions for future development and redevelopment that can be incorporated into the financial plan/rate model.
- **Cost Escalation Factors:** Review historical cost trends and work with project team to develop reasonable cost escalation factors for both operating and capital expenditures. Work with the District to identify future changes in operating and maintenance costs that should be accounted for when developing financial projections.
- **Water Sales:** Based on analysis of historical water sales, develop "normal year" water demand estimates for base-case financial projections. Additionally, identify various levels of water sales reductions for analysis. For example, we can evaluate the financial impacts of various levels of water reduction targets identified in the Water Shortage Contingency Plan.

Review projections and alternatives with District staff for agreements on assumptions, interpretation of data, and completeness of approach.

2. Identify Capital Improvement Program Alternatives for Evaluation

Work with the District and potentially its engineering consultants to identify capital improvement program (CIP) alternatives for evaluation. The goal will be to develop schedules identifying the amount and timing of CIP funding needs and key alternatives. This will include identification of long-term funding requirements for addressing deferred maintenance and funding future repairs and replacements. Identify potential changes to operating and maintenance costs associated with capital improvements.

3. Evaluate Financing Alternatives for Capital Improvements

Evaluate options for financing proposed capital improvement projects. Our evaluation will:

- Estimate the amount and timing of any debt, if needed, to finance capital projects.
- Evaluate the alternative borrowing methods available including bonds, COPs, state and federal loan programs such as the State Revolving Fund (SRF), bank loans and lines of credit, as well as pay-as-you-go cash funding.
- If appropriate, recommend type of debt, term and structure, and estimate debt service.
- If warranted, develop projections including debt financing and no borrowing scenarios.

4. Review Fund Reserve Policies & Targets

Evaluate the District's current fund reserve policies and reserve levels. Review fund reserve targets based on the District's operating and capital funding projections. Identify potential changes to fund reserve policies if appropriate. Develop an implementation plan for achieving and maintaining the recommended reserve fund levels in future years.

5. Develop 10-Year Financial Projections

Develop cash flow projections showing the financial position of the wastewater enterprise over the next 10 years. The cash flows will project fund balances, revenues, expenses, and will incorporate the forecasts developed with staff input. After developing a base-case cash flow scenario, we can develop alternatives for additional evaluation such as capital project alternatives, project financing alternatives, the impacts of different levels of growth, and the impacts of various levels of water demand, conservation, and costs of supply, etc. During this phase, BWA will work closely with the project team to evaluate financial and rate projections under alternative scenarios and assess the impacts of changes in key assumptions.

6. Evaluate Financial Impacts of Reduced Water Sales

Evaluate the financial impact of various levels of water sales reductions, such as the various stages identified in the District's Water Shortage Contingency Plan. The District's rates disproportionately recover revenues from the water quantity charges. As such, reductions in water sales will require corresponding rate increases to support financial sustainability.

7. Evaluate Rate Increase Options

Forecast rate increases and recommended structure needed to meet operating and future capital requirements. Evaluate the financial impact of various rate increase alternatives, such as phasing in rate increases over a number of years. For each rate scenario, assess the sensitivity of the projected results to changes in key variables.

Task A Deliverables Include:

- Identification of key assumptions for development of financial plan
- Evaluation of financing alternatives for capital improvements
- Review of fund reserve policies and targets
- Development of 10-year financial projections to evaluate alternatives
- Evaluation of alternative rate increase scenarios
- Meet with the District to present findings, discuss alternatives, gain input, and develop preliminary recommendations

TASK B. WATER RATE & FEE ANALYSIS

1. Review Current Water Rates

Review the District's current water rates and discuss advantages and disadvantages compared to other rate approaches. Assess the current rate structure for conformance with Proposition 218, appropriateness of customer classes, and general rate equity.

2. Conduct Survey of Regional Rates

Review and summarize water rates of other regional and/or comparable agencies. Summarize results in easily understandable tables and/or charts.

3. Identify & Evaluate Rate Structure Modification or Alternatives

Identify potential rate structure modifications or alternatives that could help improve rate equity, or achieve other District objectives. Discuss pros and cons of different rate structure options and their general impacts on different types of customers. Work with the District's project team to evaluate and hone rate structure modifications and/or alternatives.

4. Analyze Utility Billing Data

Evaluate current and historical utility billing data and usage data obtained from the District to determine reasonable estimates of water demand to use in developing rates. Usage can fluctuate from year to year depending on various factors such as weather and local and regional conservation efforts. Ideally, we would prefer to analyze 3 years of utility billing data in order to determine slightly conservative demand projections.

5. Allocate Costs to Rate Parameters

Allocate revenue recovery targets identified in the financial plan to appropriate rate components to determine the underlying unit charges that will be used to calculate rates. Rates will be designed to ensure equity between different types of customer classes and comply with the substantive requirements of Proposition 218.

6. Develop Preliminary & Final Rate Recommendations with District Input

Based on the evaluation of rate structure alternatives and the financial plan update, develop draft rate alternatives for District input. Final rate recommendations will be designed to:

- a) fund the water utility's long-term costs of providing service,
- b) be fair and equitable to all customers,
- c) achieve District objectives,
- d) be easy to understand and administer, and
- e) comply with the substantive requirements of Proposition 218.

7. Develop Emergency Water Shortage Rates

Develop a series of escalating emergency water shortage rates, such as corresponding with the various stages of water reduction targets identified in the Water Shortage Contingency Plan. The objective will be to ultimately include these emergency rates in the Proposition 218 notice to give the District authority to implement emergency rates in response to escalating water supply emergencies, with the goal of ensuring financial stability despite reductions in water sales.

8. Evaluate Rate Impacts on a Range of District Customers

Calculate the impacts of rate alternatives on a range of District customers. Discuss additional rate structure adjustments that may reduce the impact on certain customers if warranted.

Task B Deliverables Include:

- Evaluation of current water rates and rate structure
- Survey of regional water rates and connection fees
- Identification and evaluation of rate structure alternatives and their impacts
- Analysis of utility billing data
- Detailed cost allocations supporting development of rates and/or alternatives
- Rate alternatives along with billing impacts on typical customer profiles
- Development of emergency water shortage rates
- Meet with District to present findings, discuss alternatives, gain input, and develop

TASK C. MEETINGS/PRESENTATIONS, REPORTS, & PROPOSITION 218

1. Project Team Meetings

Meet with the District's project team to present findings, discuss alternatives and their impacts, gain ongoing input, and develop and hone recommendations. This proposal assumes up to 2 progress meetings, potentially more if achievable within budget.

2. Prepare a Draft & Final Report

Develop a draft report summarizing key background issues, study objectives, findings, assumptions, draft recommendations and alternatives, impacts on ratepayers, and the rate and fee surveys. The report will clearly explain the rationale for recommendations and/or alternatives. Submit the draft report for District review and feedback. Incorporate District input into a final draft for approval. Revise as needed and provide the final report to the District with printed and electronic copies. The final report will be drafted for a non-technical audience in plain English.

3. Joint Utility/Finance Advisory Committee and Board Meetings

Develop PowerPoint presentations summarizing key study objectives, findings, draft recommendations, financial and rate alternatives, and impacts on a range of customers.

- a) Joint UAC/FAC Meeting: Present findings, key alternatives, and preliminary recommendations to a joint meeting of the Utility Advisory Committee (UAC) and Finance Advisory Committee (FAC). Incorporate UAC/FAC input and hone alternatives and recommendations.
- b) Board Meeting: Present findings and revised draft recommendations and/or key alternatives to the full Board of Directors and public. Depending on Board direction, either:
 - Incorporate Board input into revised recommendations, and move forward with the Proposition 218 process (set the date/time of the public hearing date and draft the

required Proposition 218 Notices that will need to be sent to property owners/customers)

- Optional Joint UAC/FAC Meeting: Incorporate Board input and present revised recommendations at a joint UAC/FAC meeting for final review, modification and approval of recommendations. Incorporate input as needed and subsequently move forward with the Proposition 218 rate increase process.
- c) Proposition 218 Rate Hearing: Present a summary of findings and recommendations at the required Proposition 218 rate hearing. Assist staff in responding to questions as directed by the Board.

4. Proposition 218 Assistance

Identify substantive and procedural requirements for Proposition 218 and discuss requirements and options with District staff. As directed by the District, draft or assist in drafting the required Proposition 218 notice. BWA recommends the notice go beyond the minimum legal requirements and provide clear and concise explanation of the reasons for any rate adjustments as well as any actions the District has taken to help reduce costs. BWA has helped many agencies adopt rates via the Proposition 218 process. We have found that ratepayers are more accepting of rate increases or rate structure modifications when they understand the reasons underlying the adjustments.

Optional Service – Coordination of Proposition 218 Notice Printing & Mailing:

As an optional service, BWA will remain available to assist the District in coordinating the printing and mailing of the Proposition 218 notices at direction of the District. This optional task would be considered additional services and would have a separate fee based on the level of services requested by the District. Most agencies handle the printing and mailing internally but BWA has provided this service to a number of agencies upon request.

5. Public Education and Consensus-Building

Rate and fee adjustments are often controversial. BWA has extensive experience developing clear presentations that facilitate public understanding of the need for rate increases. We understand the importance of building consensus and public acceptance for our recommendations and can assist the District in developing public education materials.

Task C Deliverables Include:

- Attendance at meetings with the District's project team as needed
- Board and/or Finance Advisory Committee Workshops as needed
- Participation at the Proposition 218 rate hearing
- PowerPoint presentations summarizing key findings, alternatives, and recommendations for meetings and/or public presentations
- Draft and final reports summarizing key findings, alternatives, and recommendations
- Assistance with Prop. 218 notice, public education and/or outreach efforts

Exhibit B: Hourly Rates and Project Budget

Draft Not-To-Exceed Budget

PROJECT TASK	COST
10-Year Water Enterprise Financial Plan	\$10,000
Water Rate Analysis	8,000
Meetings/Presentations, Report, Proposition 218	12,000
Subtotal	30,000
Estimated Direct Expenses	2,000
Total Estimated Project Budget	\$32,000
Contingency for Additional Analysis and/or Meetings (Optional)	\$10,000

Note: The final budget can be revised based on consultation with the District.

Draft Project Schedule

PROJECT TASK	OCT-14	NOV-14	DEC-14	JAN-15	FEB-15
10-Year Water Enterprise Financial Plan	■	■	■		
Water Rate Analysis	■	■	■		
Draft & Final Reports		■	■		
Project Team Meetings		■	■		
UAC/FAC Meeting		■			
Board Meetings & Prop. 218 Hearing		■	■		■

Note: The schedule can be revised and finalized based on input from the District.

Availability & Fees

1. Bartle Wells Associates is prepared to begin work upon the Los Osos Community Services District's authorization to proceed.
2. During the project development period, we will be available at all reasonable times and on reasonable notice for meetings and for consultation with District staff, its attorneys, and others as necessary.
3. Bartle Wells Associates will perform all work related to the assignment. Alex Handlers, a firm principal and vice president will be assigned as project leader on this assignment. He will serve as the lead contact person for BWA and will be involved with the project a day-to-day basis.
4. The fees for services outlined in this proposal will not exceed \$30,000 plus direct expenses estimated not to exceed \$2,000. The proposal also includes an optional contingency of \$10,000 to be used solely at the District's direction to account for potential additional meetings, presentations, analysis, coordination of printing and mailing of the Proposition 218 Rate Notices, or other additional services.

The fee is based on the following assumptions:

- a. The project will be completed by July 1, 2015 or other mutually agreeable date preferred by the District. BWA will work to meet all District scheduling requirements and deadlines.
 - b. All necessary information will be provided by the District and/or its other consultants in a timely manner.
 - c. Development of an administrative draft, a final draft, and a final version of tables and report. Time and expenses involved in revising tables and assumptions and additional report revisions may constitute additional services if not achievable within the budget.
 - d. The fee is based on a total of up to 5 meetings and/or presentations at the District.
5. Progress payments and direct expenses are payable monthly on a time and materials basis as the work proceeds as provided in our Billing Rate Schedule 2014, which will remain in effect for the duration of this project.
 6. In addition to the services provided under this proposal, the City may authorize Bartle Wells Associates to perform additional services for which the City will compensate us based on consultants' hourly rates at the time the work is performed, plus direct expenses. Additional services may include, but are not limited to:
 - Changes in project scope
 - Delays in project schedule resulting in additional revisions
 - Additional meetings or presentations
 - Any other services not specified
 7. Bartle Wells Associates will maintain in force, during the full term of the assignment, insurance as provided in the Certificate of Insurance attached.
 8. If the project is terminated for any reason, Bartle Wells Associates is to be reimbursed for professional services and direct expenses incurred up to the time notification of such termination is received.
 9. This proposal may be withdrawn or amended if not accepted within 120 days of its date.

BARTLE WELLS ASSOCIATES
BILLING RATE SCHEDULE 2014

Rates Effective 1/1/2014

Professional Services

Financial Analyst I.....	\$95 per hour
Financial Analyst II.....	\$135 per hour
Senior Financial Analyst.....	\$165 per hour
Senior Consultant	\$195 per hour
Principal Consultant.....	\$235 per hour

The professional time rates include all overhead and indirect costs. Bartle Wells Associates does not charge for secretarial support services and internal computer time. Expert witness, legal testimony or other special limited assignment will be billed at one and one-half times the consultant's hourly rate.

The above rates will be in effect through December 31, 2014 at which time they will be subject to change.

Direct Expenses

Subconsultants will be billed at cost plus ten percent. Word processing and computer-assisted services related to official statement production are charged as direct expenses at \$60 per hour. Other reimbursable direct expenses incurred on behalf of the agency will be billed at cost plus ten percent. These reimbursable costs include, but are not limited to:

- Travel, meals, lodging
- Long distance telephone and fax
- Printing and report binding
- Special statistical analysis
- Outside computer services
- Bond ratings
- Automobile mileage
- Messenger services & mailing
- Photocopying
- Graphic design and photography
- Special legal services
- Legal advertisements

Insurance

Bartle Wells Associates maintains insurance in the amounts and coverage as provided in the attached schedule of insurance. Additional or special insurance, licensing, or permit requirements beyond what is shown on the schedule of insurance are billed in addition to the contract amount.

Payment

Fees will be billed monthly for the preceding month, and will be payable within 30 days of the date of the invoice. A late charge of 1.0 percent per month may be applied to balances unpaid after 60 days.

Los Osos Community Services District



Water Rate Study Introduction

October 2, 2014



BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS



Presentation Overview

- Background
- Water Finances
- Water Rates
- Rate Study
- Next Steps
- Questions/Discussion



**Goal: Discuss initial observations
and obtain preliminary input**





Bartle Wells Associates

- Independent rate and financial consultants
- Founded in 1964; advised 500+ California agencies
- Professional services: 1) utility rate & fee studies, 2) financial plans, 3) project financing
- Conducted over 2,000 water & sewer rate & fee studies
- Helped public agencies obtain over \$5 billion of financing via bonds, bank loans, and various state and federal funding programs
- Charter Member: *National Association of Independent Public Finance Advisors*



BWA specializes in water & sewer rates & finance

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LOCSD Overview

- Community-owned & governed public agency
- Water enterprise serves a population of over 7,000
- Approx. 2,760 mostly residential water accounts
- Water facilities include 5 active wells, 27 miles of water mains, 3 storage tanks, over 550 valves
- Groundwater is sole source of water supply
- Regional groundwater basin in overdraft since the late 1970s



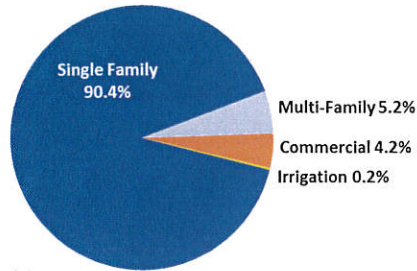
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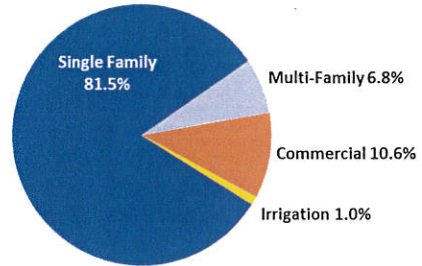


Customer Base

Water Accounts



Water Use



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WATER FINANCES



6





Water Finances

- Water utility is a financially self-supporting enterprise
- Service charges are the main source of revenues (85% - 90%)
- Rates need to be set at levels adequate to fund the costs of providing service
- In recent years, LOCSD has done a good job of keeping water rates moving in the right direction
- However, LOCSD is facing a number of financial challenges in upcoming years that will put upward pressure on rates



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Financial Challenges

- Long-term water supply & Basin Plan
 - Overdraft of regional groundwater aquifers
 - Cost of new wells, distribution pipelines, & nitrate removal
- Capital improvements: updated CIP totals \$24.3 million
 - High-priority immediate needs: \$4.9 million
 - Longer-term needs: \$19.5 million
- Reduced water sales = reduced revenues
 - Water sales have declined in recent years & may continue to decrease
 - Customers who conserve buy less water and mitigate rate impact
- Ongoing operating cost inflation



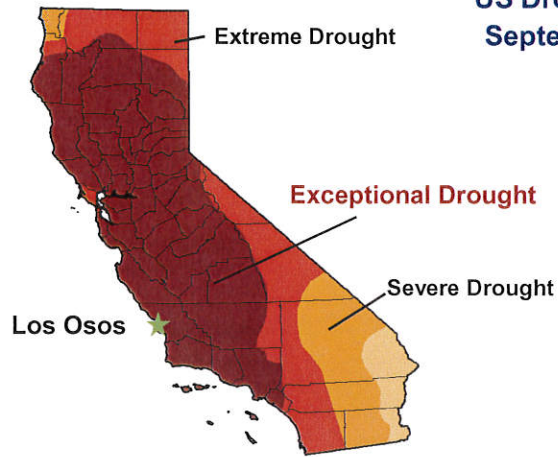
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California Drought

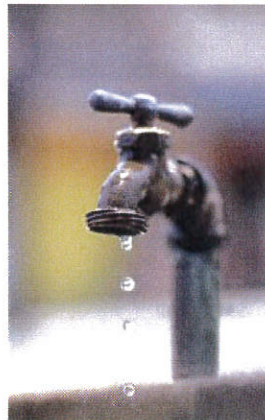
US Drought Monitor
September 2, 2014



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Water Rates



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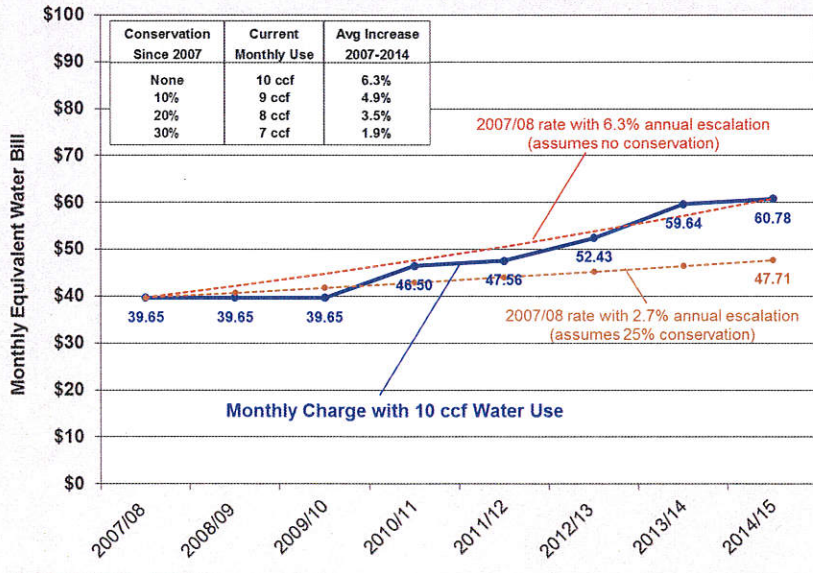


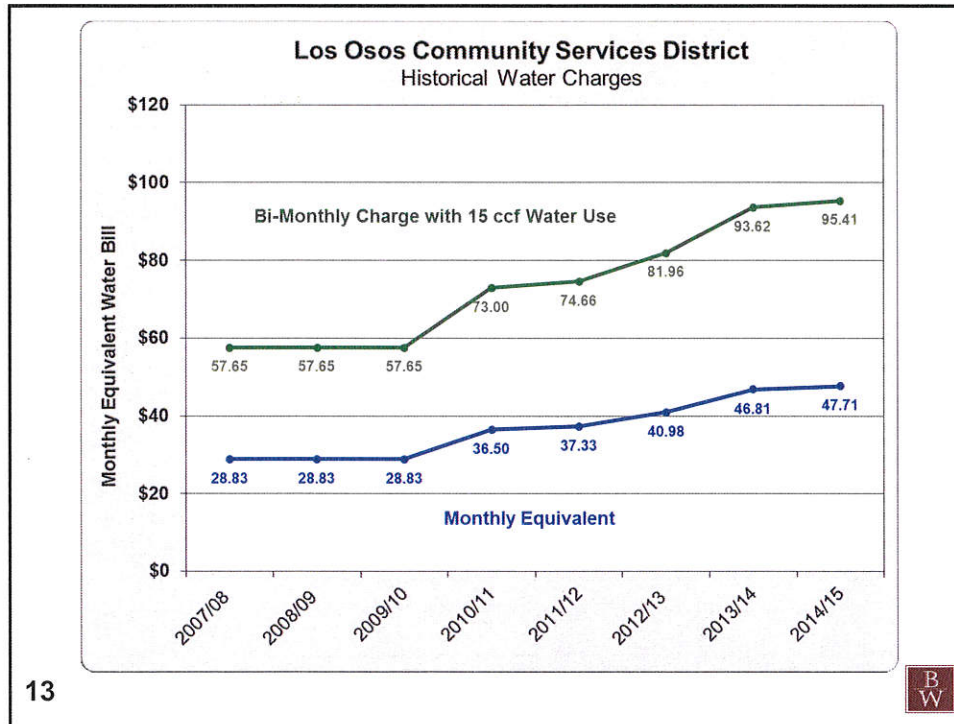
Water Rate History

- Last rate study completed in 2009
- Previously only implemented 3 rate increases from 2000 - 2010
- Revised rate structure in 2010
 - Eliminated “free” water allowance provided with fixed service charge
 - Added 4th tier & revised tier rates and breakpoints
- Last increases adopted in 2012
 - 2 initial rate increases (Sept 2012 & July 2013) with authority to implement inflationary adjustments up to CPI for 3 add'l years
 - Rates most recently adjusted July 1, 2014 by a little under 2%



Los Osos Community Services District Historical Monthly Water Charges





Current Water Rates

Fixed Bi-Monthly Service Charge	\$45.76	<i>\$22.88 per month \$0.75 per day</i>
Water Consumption Charges (\$/ccf)		
<u>Tier</u>	<u>Bi-Monthly Usage</u>	<u>Rate (\$/ccf)</u> <u>\$/100 gallons</u>
Tier 1	0 - 5 ccf	\$1.63 \$0.22
Tier 2	6 - 10 ccf	3.07 0.41
Tier 3	11- 20 ccf	5.23 0.70
Tier 4	>20 ccf	7.20 0.96

Note: 1 ccf = 100 cubic feet or approximately 748 gallons.

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Rate Structure Observations

- Fixed charges generate roughly 40% of total rate revenues
 - Reasonable balance of revenue stability and conservation incentive
 - Appears to be in line with CUWCC BMP 1.4
- Current tier breakpoints look logical & appropriate for typical residential water consumption patterns
- Same fixed charge for all accounts regardless of meter size
- Same tier breakpoints for all accounts
- Historically, tiered rates were justified for conservation incentive, but now tiers may also need a cost basis (pending legal case)

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WATER RATE STUDY



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Study Overview

- **Financial Plan:**
 - Develop 10-year financial projections to determine annual revenue needs
 - Evaluate CIP and financing alternatives
 - Evaluate financial scenarios and rate increase alternatives
- **Water Rate Analysis:**
 - Evaluate rate structure alternatives or modifications
 - Analyze customer & usage data
 - Develop new rates based on a cost-of-service approach
 - Develop emergency water shortage rates to support financial stability
- **Build consensus & public acceptance for final recommendations**
- **Phase in rate adjustments over time to minimize the annual impact on ratepayers**



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Key Issues

- **CIP alternatives & timeframe for addressing capital needs**
- **Potential use of debt financing (e.g. for highest-priority capital needs)**
- **Water demand projections & cutback scenarios for evaluation**
- **Potential rate structure alternatives or modifications**
- **Process for receiving District & community input**



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Next Steps

- Oct-2: Obtain preliminary input; initiate water rate study
- Nov-13: Board Meeting
- Nov-19: Joint UAC/FAC Meeting
- Dec-4: Board Meeting
- Initiate Prop. 218 process
 - Mail notices of proposed rates to all affected parcels
 - ❖ Notices mailed by Dec-19
 - Hold public hearing at least 45 days after mailing notices
 - Rate increases subject to majority protest
- Feb-5: Board Meeting / Public Rate Hearing



Questions / Discussion

