




# Costa Mesa Sanitary District

...an Independent Special District

## Memorandum

**To:** Board of Directors

**From:** Scott Carroll, General Manager 

**Date:** April 28, 2015

**Subject:** **Extension and Amendment to Employee Lending Agreement with Orange County Sanitation District (OCSD)**

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### **Summary**

On December 18, 2014 the Board of Directors adopted Resolution No. 2015-855 appointing Rudy Davila from the Orange County Sanitation District as the Alternate District Engineer (See Attachment A). In March 2015, CMSD and OCSD entered into an agreement for alternate district engineer services. The agreement has expired and an extension is required.

### **Staff Recommendation**

That the Board of Directors approves the Agreement with OCSD.

### **Analysis**

Section 3.01.045(a) of the Operations Code allows a private civil engineer to serve as District Engineer. Rob Hamers, of Robin B. Hamers & Associates, Inc. (RBH) is a private civil engineer who is serving as District Engineer.

Section 3.01.045(b) of the Operations Code requires the Alternate District Engineer to review and approve plans when the District Engineer is the engineer of record for private development within CMSD service area.



Protecting our community's health and the environment by providing solid waste and sewer collection services.

[www.cmsdca.gov](http://www.cmsdca.gov)

Rudy Davila, from OCSD has been providing alternate district engineer services for CMSD for the past year. The agreement has expired and an extension is now required. OCSD legal staff was still working on the new agreement during the time this staff report is being prepared, which is why the agreement is not attached hereto. The agreement will be presented tonight at the Board meeting. Staff is recommending the Board approve the agreement with OCSD. In addition, the hourly rate is increasing from \$66.00 to \$70 an hour.

### **Strategic Element & Goal**

This item complies with Strategic Element 3.0, *Partnerships* and Strategic Goal No.3.2, *Strengthen our ties with local governments, special districts and educational institutions.*

This item also complies with the objective and strategy of Strategic Element 5.0, *Administrative Management*, which states:

***“Objective:*** *To create, maintain and implement policies and procedures to ensure sound management of the District.*

***Strategy:*** *We will conduct periodic reviews, refine and implement policies and procedures, and assure the General Manager has the direction and tools necessary for successful District operations.”*

### **Legal Review**

District Counsel has reviewed and approved the agreement.

### **Environmental Review**

The determination of who performs services for the District as the Alternate District Engineer is an administrative matter and is not a disturbance of the environment similar to grading or construction and is not a project under CEQA or the District's CEQA Guidelines.

### **Financial Review**

There are sufficient funds budgeted to cover increased cost for alternate district engineer contract.

### **Public Notice Process**

Copies of this report are on file and will be included with the entire agenda packet for the April 28, 2016 Board of Directors meeting at District Headquarters and on the District's website.

### **Alternative Actions**

1. Direct staff to seek proposals from private engineering firms to serve as the District's Alternate District Engineer.

2. Direct staff to report back with more information.

Reviewed by:

  
Wendy Davis  
Finance Manager

Attachments A: Resolution No. 2015-855

**RESOLUTION NO. 2014-855**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
COSTA MESA SANITARY DISTRICT APPOINTING RUDY DAVILA  
FROM ORANGE COUNTY SANITATION DISTRICT AS  
ALTERNATE DISTRICT ENGINEER**

**WHEREAS**, the District Engineer is responsible for designing and approving various sewer-related projects within the boundaries of the District; and

**WHEREAS**, the District Engineer has a private engineering firm and does work on private projects that occasionally will create a conflict of interest with his District work and require that the District Engineer disqualify himself from the District approval process; and

**WHEREAS**, the Board of Directors has recognized said potential for conflict and adopted an ordinance providing a procedure for the appointment of an Alternate District Engineer to provide such approvals when conflicts arise; and

**WHEREAS**, said ordinance is codified at Section 3.01.045 of the District's Operations Code; and

**WHEREAS**, the Board of Directors has considered Rudy Davila, P.E., an employee of the Orange County Sanitation District as Alternate District Engineer and found his qualifications appropriate to provide such services; and

**WHEREAS**, the Board of Directors of the Orange County Sanitation District has consented for its employee to provide such services pursuant to an employee loan agreement; and

**NOW, THEREFORE**, the Board of Directors of the Costa Mesa Sanitary District does hereby RESOLVE and DETERMINE as follows:

1. Rudy Davila of the Orange County Sanitation District is hereby appointed Alternate District Engineer and has been provided with the power to approve engineering matters whenever the District Engineer has declared a conflict of interest.
2. That Rudy Davila's approvals shall be entitled the same authority under Government Code Section 830.06 (design immunity) as the District Engineer's.

3. That Rudy Davila shall be subject to the same discretionary and other Government Code immunities as an officer of the District as the District Engineer might enjoy.
4. That should Rudy Davila be unwilling or unable to act and there is a need for action that cannot await a formal appointment of a new Alternate District Engineer by the Board of Directors, that the General Manager of this District shall be authorized to appoint a temporary Alternate District Engineer from a public agency or private practice who is a civil engineer experienced in sewer engineering whose appointment shall not be effective for longer than 60 days without formal Board approval.

PASSED AND ADOPTED by the Board of Directors of the Costa Mesa Sanitary District at a regular meeting thereof held on the 18<sup>th</sup> day of December, 2014.



Secretary



President

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF COSTA MESA )

I, NOELANI MIDDENWAY, Clerk of the Costa Mesa Sanitary District, hereby certify that the above and foregoing Resolution No. 2014-855 was duly and regularly passed and adopted by said Board of Directors at a regular meeting thereof, held on the 18<sup>th</sup> day of December, 2014 by the following votes:

AYES: FERRYMAN, SCHEAFER, PERRY, OOTEN, SCHAFER

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Costa Mesa Sanitary District, this 18<sup>th</sup> day of December, 2014.

  
Clerk of the Costa Mesa Sanitary District