



Montecito Sanitary District

1042 Monte Cristo Lane
Santa Barbara, CA 93108

A Public Service Agency

Phone: (805) 969-4200
www.montsan.org

BOARD PACKET

For the Regular Board Meeting of

Thursday, July 13, 2023

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AGENDA

For the General Meeting of the Board on:

July 13, 2023

The regular meeting of the Governing Board will begin at **12:00 p.m. on July 13, 2023** in the District's Board Room at 1042 Monte Cristo Lane.

The public may attend the meeting in person or participate remotely via Zoom using the following virtual meeting details:

By visiting: <https://us02web.zoom.us/j/86118975917>

Or by calling: 1-669-900-6833

Meeting ID: 861 1897 5917

1. CALL TO ORDER

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. PRESIDENT'S REPORT

D. AGENDA CHANGES/DELETIONS

2. PUBLIC COMMENT

Public comment on items not on the agenda is **limited to 3 minutes** and is at the discretion of the Board President. For further instructions, see please see [Instructions for Public Comment](#) on the District's website.

3. REGULAR BUSINESS

A. EASEMENTS (DISTRICT RIGHT-OF-WAYS)

It is recommended that the Board:

- i) Discuss and consider actions for structures built on District Easements/Right-of-Ways; and
- ii) Taking any such additional, related action that may be desirable.

B. DISCUSSION ON BOARD ROOM DESIGN

It is recommended that the Board:

- i) Discuss and consider scope for a redesign of the District's Board Room; and
- ii) Taking such additional, related action that may be desirable.

C. DISCUSSION ON SOLAR OPTIONS FOR THE DISTRICT

It is recommended that the Board:

- i) Discuss the District's opportunities to utilize solar power to help offset its electricity requirements; and
- ii) Taking such additional, related action that may be desirable.

D. DISCUSSION ON CONNECTION FEES FOR ACCESSORY DWELLING UNITS (ADU)

It is recommended that the Board:

- i) Discuss the District's options and approach to implementing a separate connection fee for Accessory Dwelling Units (ADUs); and
- ii) Taking such additional, related action that may be desirable.

E. DISCUSSION ON SALARY SURVEY

It is recommended that the Board:

- i) Discuss the Request for Proposals (RFP) to conduct a District-wide Salary Study; and
- ii) Taking such additional, related action that may be desirable.

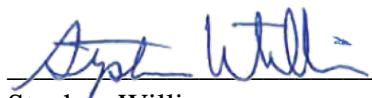
4. ITEMS FOR FUTURE AGENDAS

The next regularly scheduled Board meeting will be held on July 27, 2023 at 12:00 pm. There will also be Special Meeting of the Board of Directors on July 26, 2023 at 12:00 pm.

5. ADJOURNMENT

The Montecito Sanitary District has resumed in-person meetings in accordance with the Brown Act. In accordance with the State of Emergency declaration issued on March 4, 2020 by the Governor of the State of California in response to COVID-19 and Government Code 54953(e), the District also provides alternative methods of remote participation which permit members of the public to observe and address public meetings remotely via telephone or Zoom. These methods of participation can be accessed through the internet link provided at the top of this agenda.

This agenda was posted on the District website, and at the Montecito Sanitary District Bulletin Board in accordance with the requirements of the Brown Act. Attested by:



Stephen Williams
District Administrator/Clerk of the Board

ADA – The Americans with Disabilities Act provides that no qualified individual with a disability shall be excluded from participation in, or denied the benefits of, the District's programs, services or activities because of any disability. If you need special assistance to participate in this meeting, please contact the District Office at 969-4200. Notification at least twenty-four (24) hours prior to the meeting will enable the District to make appropriate arrangements.



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MONTECITO SANITARY DISTRICT

STAFF REPORT – 3A

DATE: July 13, 2023
TO: BOARD OF DIRECTORS
FROM: John Weigold, General Manager
Aleks R. Giragosian, General Counsel
SUBJECT: Establishing Policies and Standards for District Easements and
Regulating Easement Encroachments

RECOMMENDATION:

It is recommended the Board review the attached materials and provide staff with direction regarding whether to agendize the adoption of an ordinance to establish policies and standards for District easements and regulating easement encroachments.

DISCUSSION:

At a prior meeting, the Board discussed the different methods of enforcing easements. This staff report is in furtherance of that discussion and proposes specific procedures.

The District has an administrative citation process. Ordinance No. 10, adopted on November 8, 2005 and attached hereto as Exhibit A, authorizes the District to impose fines for violations of District ordinances. Section IV(A) of Ordinance No. 10 references a resolution of the Board that provides a schedule of fines. ~~There is no record of the referenced resolution being adopted.~~ **Resolution 2005-826; Establishing the Fee Schedule for Civil Fines for Violation of District Ordinances was adopted by the Board on November 8, 2005.**

To ensure the enforceability of Ordinance No. 10, General Counsel proposes the adoption of Exhibit B attached hereto. Exhibit B amends Section IV(A) to provide a schedule of fines as prescribed by statute. Exhibit B is provided for discussion only. The Board may not act on the Ordinance until it has been properly noticed.

The General Counsel also proposes Exhibit C, which is an ordinance establishing policies and standards for District easements and regulating easement encroachments. The ordinance includes definitions, describes authorized and unauthorized encroachments, and explains who bears the cost of the removal and restoration of improvements disturbed by

District activities. Violations of Exhibit C will be punishable under Exhibits A & B. Exhibit C is provided for discussion only. The Board may not act on the Ordinance until it has been properly noticed.

Exhibit D is the template for the license agreement referred to in Exhibit C. The license agreement may be used to authorize the encroachment of those improvements that do not pose a significant interference with the District's easement rights, subject to its removal at the property owner's expense upon termination of the license agreement. Exhibit D is provided for discussion only. No action by the Board is required.

Lastly, Exhibit E is a concise outline of the proposed method of enforcing easements. It begins with the discovery of a potential encroachment upon the District's easement. Staff then conducts a survey to confirm the location of the easement. Once the bounds of the easement are determined, staff issues a notice of easement encroachment. In non-emergency scenarios or where the need is not urgent, staff may 1) enter into a license agreement with the property owner, 2) issue administrative citations, 3) seek a permanent restraining order in court, or 4) refer to the matter to the district attorney for criminal prosecution. In an emergency scenario or where the need is urgent, staff may 1) seek removal of the encroachment, 2) discontinue service to the property, 3) file for a temporary restraining order in court, or 4) refer to the matter to the district attorney for criminal prosecution. Exhibit E is provided for discussion only. No action by the Board is required.

Attachments:

Exhibit A- Ordinance No. 10

Exhibit B- Ordinance of the Board of Directors of the Montecito Sanitary District Amending Section IV(A) of Ordinance No. 10 to Include a Schedule of Fines

Exhibit C- Ordinance of the Board of Directors of the Montecito Sanitary District Establishing Policies and Standards for District Easements and Regulating Easement Encroachments

Exhibit D- License Agreement Template

Exhibit E- Policy Options for Easement Enforcement

ORDINANCE NO. 10

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
MONTECITO SANITARY DISTRICT**

**ESTABLISHING CIVIL FINES FOR VIOLATIONS OF
ORDINANCES ENACTED BY THE DISTRICT**

WHEREAS, Government Code section 53069.4 authorizes the Governing Board of the Montecito Sanitary District to adopt an ordinance making any violation of any ordinance enacted by the Governing Board of the Montecito Sanitary District subject to an administrative fine; and

WHEREAS, the Board of Directors of the Montecito Sanitary District finds that an administrative fine ordinance will assist the Montecito Sanitary District in ensuring that the ordinances of the District are complied with; and

WHEREAS, the adoption of such an ordinance is exempt from the California Environmental Quality Act ("CEQA") in accordance with Section 15308 of the State CEQA Guidelines that exempts actions taken by regulatory agencies as authorized by State law or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment.

NOW, THEREFORE, the Board of Directors of the Montecito Sanitary District does ordain as follows:

Section 1. The following is hereby adopted to read as follows:

I. Application.

A. This ordinance makes a violator of any ordinance enacted by the District subject to a civil fine.

B. By adopting this ordinance, the Board does not intend to limit the discretion of an enforcement officer to impose any remedy available, civil or criminal, for violations of District's rules and regulations and other ordinances.

C. The issuance of a civil citation shall be solely at the discretion of the enforcement officer and shall be one of several remedies available to the enforcement officer.

D. Notwithstanding any lease, license or any other instrument or agreement, the owner of real property has the right to enter upon his or her own property to the extent reasonably necessary to correct any violation of an ordinance of the District existing thereon.

E. The provisions of this ordinance shall be an implied term of any instrument affecting the right to possession of real property located in the District.

MSD Ordinance No. 10
Re: Establishing Civil Fines for Violations

F. Because violations of any ordinance of the District may seriously impact the safe and efficient operation of the District's sewer system, this ordinance imposes strict civil liability upon violators of ordinances of the District.

G. There shall be a rebuttable presumption that the record owners of a parcel according to the last equalized assessment roll and a lessee or sublessee of a parcel have notice of any ordinance violation existing on the parcel.

II. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A. Board is the Board of Directors of the Montecito Sanitary District.

B. Civil citation is a notice issued by an enforcement officer pursuant to this ordinance that there has been a violation of an ordinance of the District.

C. District is the Montecito Sanitary District.

D. Enforcement officer is an individual designated by the General Manager to enforce the provisions of this ordinance.

E. General Manager is the General Manager of the District or his or her designee.

F. Hearing officer is the individual designated by the board to serve as the hearing officer for administrative hearings.

G. Issuance date is the day a civil citation is personally served on a responsible person, is mailed to a responsible person, or is posted on real property where a property related violation occurs.

H. Issued is the giving, mailing, or posting of a civil citation.

I. Notice of decision is a notice that informs a responsible person of a decision made regarding provisions of this ordinance.

J. Ordinance violation is any violation of any ordinance adopted by the Board of the District.

K. Responsible person is any of the following:

(1) An individual causing an ordinance violation.

(2) An individual, by his or her action or failure to act, maintains or allows an ordinance violation to continue.

MSD Ordinance No. 10
Re: Establishing Civil Fines for Violations

- (3) An individual whose agent, employee, or independent contractor causes an ordinance violation by his or her action or failure to act.
- (4) An owner of or a lessee or sublessee with the current right of possession of real property on which an ordinance violation occurs.
- (5) An on-site manager of a business normally working daily at the site when the business is open and responsible for the activities at such business.
- (6) A natural person or legal entity, and the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.

III. Issuance of Civil Citation.

A. Civil citation

- (1) After determining that a responsible person has violated a provision of a District ordinance, an enforcement officer may issue a civil citation to that person.
- (2) If, following an investigation, the enforcement officer has determined that a responsible person committed an ordinance violation, an enforcement officer may issue a civil citation for a violation the officer did not see occur.
- (3) A responsible person receiving a civil citation shall be liable for and shall pay to the District the fine imposed in the civil citation on the date specified in the civil citation.
- (4) Every individual who applies for and receives a permit, license, or other approval, shall comply with all conditions imposed upon the issuance of the permit, license or other approval that benefits District. If an individual violates any condition of such permit, license or other approval, an enforcement officer may issue such individual a civil citation and that individual shall be liable for payment of any civil fines.
- (5) Each day a responsible person allows an ordinance violation to exist shall be a separate violation and that person shall be subject to a separate fine.
- (6) A civil citation may charge an ordinance violation for one or more days on which a violation exists and for violation of one or more ordinance sections.

B. Contents of civil citation.

- (1) Every civil citation shall contain the following:
 - (a) Name of the responsible person.
 - (b) Date on which an inspection established the ordinance violation.

MSD Ordinance No. 10
Re: Establishing Civil Fines for Violations

- (c) Ordinance section violated.
- (d) Address where the ordinance violation occurred.
- (e) Description of the ordinance violation.
- (f) The amount and effective date of the fine.
- (g) Procedures to pay the fine.
- (h) Description of the procedure for requesting a waiver of fine deposit and administrative hearing to contest a civil citation.
- (i) Hearing date, time and location in the event that a responsible person requests a hearing regarding the waiver of fine deposit and/or an administrative hearing.
- (j) Signature of the enforcement officer issuing the civil citation.
- (k) Date of issuance.
- (l) Any other information deemed necessary by the District's counsel for enforcement or collection purposes.

2. A self-addressed envelope in which the responsible person may mail to the District the fine or request a hearing regarding the waiver of fine deposit and/or an administrative hearing shall accompany any civil citation.

C. Service.

A civil citation may be served as follows:

- (1) An enforcement officer may personally serve the civil citation on the responsible person. The responsible person is required to sign a copy of the civil citation showing his or her receipt.
- (2) An enforcement officer may mail the civil citation by first class mail, if the responsible person is not present for personal service when the enforcement officer determines there has been a ordinance violation. The civil citation shall be mailed to the responsible person's address shown on the last equalized assessment roll for property related violations of District ordinances or to any address known for the responsible person for all other violations.

IV. Civil Fine Amount and Payment.

A. Amount.

(1) The amount of the fines imposed for violating provisions of any District ordinance shall be established in a schedule of fines adopted by resolution of the board. The schedule of fines may include escalating fine amounts for repeat ordinance violations occurring within specified periods of time.

(2) The schedule of fines may specify the amount of interest and penalties owed for any fine not timely paid.

B. Payment.

(1) Fines are due on the day specified in the civil citation or, in the event of an appeal, on the date specified by the hearing officer.

(2) Fines shall be paid to the District. Payment shall be made by mailing the envelope attached to the civil citation and enclosing the fine amount paid by check or money order.

(3) Payment of a fine shall not excuse the responsible person from correcting the ordinance violation. The issuance of a civil citation and/or payment of a fine does not bar the District from pursuing any other enforcement action regarding an ordinance violation that is not corrected, including issuing additional civil citations and/or criminal complaints.

V. Administrative Hearings.

A. Administrative hearings.

(1) A responsible person receiving a civil citation may request an administrative hearing.

(2) A request for an administrative hearing shall be made on an administrative hearing request form and shall include the grounds for requesting an administrative hearing.

(3) Any request for an administrative hearing shall be filed with the General Manager within 30 days of the issuance of the civil citation. The request shall be accompanied by a deposit equal to the fine amount imposed in the civil citation.

(4) Unless the hearing was otherwise continued, a responsible person requesting an administrative hearing shall attend the hearing on the date, time and location specified in the civil citation. Failure to attend the hearing shall constitute an abandonment of the request for an administrative hearing.

MSD Ordinance No. 10
Re: Establishing Civil Fines for Violations

B. Hearing procedures.

(1) The administrative hearing shall be conducted by a hearing officer on the date, time and location specified in the civil citation.

(2) The General Manager shall ensure that all information relevant to the civil citation is provided to the hearing officer prior to the hearing date. The General Manager shall provide the responsible person with a copy off all information provided to the hearing officer.

(3) The responsible person shall be allowed to testify and to present evidence relevant to any ordinance violation specified in the civil citation.

(4) The civil citation and any other reports prepared by the enforcement officer concerning the ordinance violation shall be accepted by the hearing officer as prima facie evidence of the ordinance violation and of the facts stated in such documents.

(5) Neither the enforcement officer nor any other representative of the District shall be required to attend an administrative hearing. The hearing officer shall not require that the enforcement officer submit any evidence other than a copy of the civil citation. The enforcement officer may, in his or her discretion, appear at an administrative hearing and/or submit additional evidence.

(6) If a request is made by the responsible person or a representative of the District setting forth good cause for a continuance, the hearing officer may continue an administrative hearing.

(7) If a continuance is granted, a new hearing date shall be set within 45 days and shall be specified in the notice of continuance. If a continuance is denied, the administrative hearing shall proceed as scheduled. The decision of the hearing officer to grant or deny a continuance shall be final and is not subject to judicial review.

(8) An administrative hearing shall be conducted informally without strict adherence to the legal rules of evidence.

(9) Failure of the responsible person to appear at a hearing shall constitute an abandonment of the hearing and a failure to exhaust administrative remedies concerning the violation set forth in the civil citation. Failure to appear by the responsible person shall be noted on the notice of decision by the hearing officer and which will be mailed to the responsible person.

C. Decision.

(1) The hearing officer shall issue a notice of decision within five working days of the conclusion of the administrative hearing either upholding or dismissing the civil citation. The decision of the hearing officer shall be final.

(2) The hearing officer may not increase or reduce any fine specified in a civil citation.

MSD Ordinance No. 10
Re: Establishing Civil Fines for Violations

(3) The notice of decision shall be personally delivered or mailed to the responsible person.

(4) If the hearing officer dismisses the civil citation, the District shall, within 30 days of the date of the notice of decision, refund to the responsible person any fine deposited with the District.

VI. Judicial review.

A. The responsible person may seek judicial review of the hearing officer's decision by filing an appeal with the Santa Barbara County Superior Court Clerk within 20 calendar days after the responsible person receives a copy of the notice of decision in accordance with Government Code section 53069.4. Any appeal filed with the superior court shall contain a proof of service showing that a copy of the appeal was served upon the District. The responsible person must pay the appropriate filing fees.

B. Judicial review is not available for an abandonment of an administrative hearing by a responsible person by failing to appear at the administrative hearing or failing to deposit the appropriate fine amount.

C. Within 15 days of any request, the District's legal counsel or designee shall forward to the superior court, the appropriate notice of decision and civil citation for any matter appealed to the superior court. If the superior court reverses any decision of the hearing officer, the District shall refund the superior court filing fee and any fine deposit paid by a responsible person.

VII. Collection of delinquent fines.

A. The General Manager may pursue any and all legal and equitable remedies for the collection of delinquent fines, including interest and penalties.

B. The District may request the Santa Barbara District Attorney to issue a criminal citation or complaint against any responsible person not timely paying any fine due to the District.

Section 2. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons. The District Board hereby declares that it would have adopted this ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more chapters, articles, sections, subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this ordinance shall supersede any local, State, or federal law, regulation, or code.


MSD Ordinance No. 10
Re: Establishing Civil Fines for Violations

Section 3. Immediately following adoption, the Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the District. Ordinance No. 10 was adopted on November 8, 2005, to become effective following its publication in a newspaper of general circulation.

AYES: Arnold, Begley, Cannata and McKenzie


NAYS: None

ABSENT: Tmur

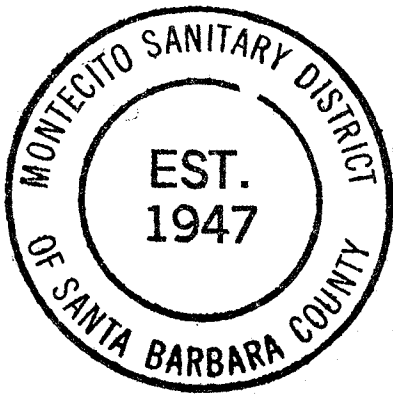


President

ATTEST:



Secretary



ORDINANCE NO. XX

ORDINANCE OF THE BOARD OF DIRECTORS
OF THE MONTECITO SANITARY DISTRICT
AMENDING SECTION IV(A) OF ORDINANCE
NO. 10 TO INCLUDE A SCHEDULE OF FINES

WHEREAS, the Montecito Sanitary District (“District”) is a sanitary district duly organized and existing pursuant to the Sanitary District Act of 1923 codified in Health and Safety Code section 6400 et seq; and

WHEREAS, Health and Safety Code sections 6521 and 6491.3 authorize the Board of the District to make and enforce all necessary and proper regulations and ordinances for all other sanitary purposes not in conflict with the laws of the state of California; and

WHEREAS, on November 8, 2005, the Board of the Montecito Sanitary District adopted Ordinance No. 10 to establish civil fines for violations of ordinances enacted by the District, but did not include a schedule of fines; and

WHEREAS, the Board of the District desires to adopt a schedule of fines consistent with Government Code sections 53069.4, subdivision (a)(1), 25132, subdivision (b), and 36900, subdivision (b); and

WHEREAS, the adoption of such an amendment to Ordinance No. 10 is exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15308 and 15321 of the State CEQA Guidelines that exempts actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment and the enforcement of its laws.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO
SANITARY DISTRICT DOES ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Ordinance Amendment. Subsection A (Amount) of Section IV (Civil Fine Amount and Payment) of Ordinance No. 10 is hereby amended to read as follows, with underlined text denoting additions and strike through text denoting deletions:

IV. Civil Fine Amount and Payment.

A. Amount.

- (1) The amount of the fines imposed for violating provisions of any District ordinance shall ~~be established in a schedule of fines adopted by resolution of the board. The schedule of fines may include escalating fine amounts for repeat ordinance violations occurring within specified periods of time.~~ be punishable by the following:
 - a. A fine not exceeding one hundred dollars (\$100) for a first violation.
 - b. A fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year of the first violation.
 - c. A fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year of the first violation.

MSD Ordinance No. XX
Re: Establishing Civil Fine Schedule for Violations

- (2) The schedule of fines may specify the amount of interest and penalties owed for any fine not timely paid.

SECTION 3. Publication & Effective Date. Under Health and Safety Code section 6490, immediately following adoption, the Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the District, and the ordinance will take effect upon expiration of the week of publication.

SECTION 4. Severability. If any section of this ordinance is held to be invalid or unconstitutional, the remaining sections shall remain valid. The Board hereby declares that it would have adopted this ordinance regardless of whether particular sections may be declared invalid or unconstitutional.

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on this [DAY]th day of [MONTH], 2023, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

Woody Barrett
President of the Board of Directors of the
MONTECITO SANITARY DISTRICT

ATTEST:

Stephen Williams
Clerk of the Board of Directors of the
MONTECITO SANITARY DISTRICT

ORDINANCE NO. XX

**ORDINANCE OF THE BOARD OF DIRECTORS
OF THE MONTECITO SANITARY DISTRICT
ESTABLISHING POLICIES AND STANDARDS
FOR DISTRICT EASEMENTS AND REGULATING
EASEMENT ENCROACHMENTS**

WHEREAS, the Montecito Sanitary District (“District”) is a sanitary district duly organized and existing pursuant to the Sanitary District Act of 1923 codified in Health and Safety Code section 6400 et seq;

WHEREAS, under Health and Safety Code section 6514, the District may acquire “such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the board are necessary or proper to the exercise of its powers, and particularly for the purpose of permitting ingress to and egress from such real or personal property, ... ”;

WHEREAS, Health and Safety Code sections 6521 and 6491.3 authorize the Board of the District to make and enforce all necessary and proper regulations and ordinances for all other sanitary purposes not in conflict with the laws of the state of California; and

WHEREAS, the Board of the District desires to adopt regulations to protect its easements.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO
SANITARY DISTRICT DOES ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Definitions. For purposes of this Ordinance, the following terms have the meaning specified below:

2.1 “District facilities” means pipelines, pump stations, or any other structures, equipment and machinery, including appurtenances to them, which are used to collect, convey, treat, dispose of and reuse wastewater.

2.2. “Easement” means a property right, however created, by which the owner of the right is entitled to make specified uses of the real property of another person; “easement” includes, “reserve,” “right of way,” “sewer reserve,” and “utility reserve.”

2.3. “Property Owner” means the fee owner or leaseholder of the servient tenement to the District’s easement.

2.4. “Significant interference” means, with respect to encroachments on District easements, a use or condition that does or has the potential to damage or to inhibit access to District facilities or that does or has the potential to negatively impact the District’s use of the easement for its intended purposes. Some uses and conditions that do not pose a significant interference include lawns, flowerbeds, loose paving stones, and similar landscaping features. Some uses or conditions that do pose a significant interference include swimming pools, permanent decks, retaining walls, trees, heavy brush and vegetation, gates, fences, and paving. The determination regarding whether an activity or condition constitutes a significant interference shall be made by the General Manager, which shall be consistent with this Ordinance.

SECTION 3. Unauthorized Encroachments. It is unlawful for any person to:

MSD Ordinance No. XX
Re: Easements and Easement Encroachments

3.1. Cause, permit, or maintain an unauthorized encroachment on a District easement that results in a significant interference with the District's easement rights or District's facilities;

3.2. Cause, permit, or maintain any activity or condition off or outside a District easement that causes, whether directly or indirectly, a significant interference with the District's easement rights.

SECTION 4. Authorized Encroachments.

4.1. A property owner may make use of the land over which the District has an easement if the use or condition does not violate Section 3 of this Ordinance.

4.2. Notwithstanding Section 4.1, the District may enter into a license agreement with a property owner whereby the use or condition may be maintained for a limited duration or indefinitely, subject to its removal at the property owner's expense upon the termination of the license agreement.

SECTION 5. Removal & Restoration of Improvements Disturbed by District Activities.

Whenever the District's reasonable use of the easement to construct, reconstruct, renew, alter, operate, maintain, inspect, repair, and replace District facilities results in the need for the property owner's improvements to the real property to be removed or disturbed, the following provisions apply:

5.1. The District shall, at the expense of the District, replace or restore the improvements in kind which are not prohibited by this Ordinance, upon the completion of the District's activities.

5.2. If the encroachment is authorized pursuant to a license agreement and the license agreement does not specify otherwise, the property owner shall, at no expense to the District, be responsible to restore the encroaching improvements.

5.3. Unauthorized encroachments shall be removed by the property owner at his or her expense and shall not be restored by the District. Removal shall be performed promptly after notice from the District. If the encroachment has not been removed with a reasonable time after notice, or if the urgency of the District's easement activities requires, the District may remove the encroachment itself, and the removal costs may be charged to the property owner.

SECTION 6. District Remedies. The remedies granted to the District in this Ordinance are in addition to any other rights and remedies that are available under prior regulations or otherwise afforded by law, and the District is entitled to exercise any and all such rights and to charge property owners for the costs of such remedies either serially or cumulatively, as determined by the District.

SECTION 7. CEQA. This action is not a project for purposes of 15 CCR 15378(b)(5) in that It is an administrative activity that will not result in direct or indirect physical changes in the environment.

SECTION 8. Publication & Effective Date. Under Health and Safety Code section 6490, immediately following adoption, the Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the District, and the ordinance will take effect upon expiration of the week of publication.

SECTION 9. Severability. If any section of this Ordinance is held to be invalid or unconstitutional, the remaining sections shall remain valid. The Board hereby declares that it would have adopted this ordinance regardless of whether any particular section is held invalid or unconstitutional.

MSD Ordinance No. XX
Re: Easements and Easement Encroachments

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on this [DAY]th day of [MONTH], 2023, by the following vote:

AYES:
NAYS:
ABSTAIN:
ABSENT:

Woody Barrett
President of the Board of Directors of the
MONTECITO SANITARY DISTRICT

ATTEST:

Stephen Williams
Clerk of the Board of Directors of the
MONTECITO SANITARY DISTRICT

Recording Requested By &
When Recorded Return To:
MONTECITO SANITARY DISTRICT
1042 Monte Cristo Lane
Santa Barbara, CA 93108
(805) 969-4200

Exempt from Recording Fee
Government Code sections 6103 & 27383

LICENSE AGREEMENT

This License Agreement (“Agreement”) is made as of the [NUMBER] day of [MONTH], [YEAR] by and between the **MONTECITO SANITARY DISTRICT** (“District”), a California special district formed under the Sanitary District Act of 1923, and [NAME OF INDIVIDUAL], a private individual (“Licensee”).

RECITALS:

- A. Licensee is the owner of certain improved real property located at [ADDRESS], Assessor’s Parcel Number [APN], and as more particularly described in “**Exhibit “A”**” attached hereto (“Property”).
- B. An easement for sewer purposes over and under the Property was granted to the District by Instrument No. [Number] recorded in Book [Number], Page [Number] of the records of Santa Barbara County, State of California (“Easement”).
- C. Pursuant to the Easement, District constructed a [DESCRIPTION] in said Easement (“Facilities”), which is part of District’s collection system.
- D. Licensee desires to encroach upon a portion of the Easement for the purpose of constructing a [DESCRIBE PROJECT] (“Project”) located across the Easement near station [NUMBER] and adjacent to the property line from station [NUMBER] to station [NUMBER] of District mainline [NUMBER], as depicted in Exhibit B attached hereto.
- E. Under Ordinance No. [NUMBER], the District may enter into a license agreement with a property owner whereby the use or condition may be maintained for a limited duration or indefinitely, subject to its immediate removal upon a written demand by the District finding that the use or condition constitutes a significant interference.

In consideration of the foregoing recitals, the District and Licensee agree as follows:

- 1. LICENSE: District hereby grants to Licensee a revocable license to encroach upon its Easement as depicted in Exhibit B to the extent and for the purpose of constructing the Project.
- 2. TERM: The term of this Agreement shall be the Effective Date until the earlier of
 - a. [DATE];
 - b. Licensee’s removal of the Project; or
 - c. District’s termination of this License at any time upon 30 days written notice finding that the encroachment constitutes a significant interference, as defined under Ordinance No. [NUMBER].

LICENSE AGREEMENT

APN:

3. NOTICE OF EXERCISE OF RIGHTS: Pursuant to the terms and provisions of the Easement, Licensee agrees that District has certain rights, included among which is the right of ingress to and egress from the Property to construct, operate, maintain, inspect, repair, and replace the Facilities and appurtenances in the Easement. The District will strive to provide Licensee with notice prior to exercising its rights.
4. REMOVAL OF ENCROACHMENT DURING TERM OF AGREEMENT: To the extent the District is required to remove the encroaching improvements in its reasonable use of the easement to construct, reconstruct, renew, alter, operate, maintain, inspect, repair, and replace District Facilities and appurtenances, the Licensee, at its sole expense, may replace or restore the improvements upon the completion of the District's activities.
5. REMOVAL OF ENCROACHMENT AFTER TERM OF AGREEMENT: Licensee shall bear the full expense of removing any encroachment after the termination of this Agreement. If Licensee fails to completely remove said encroachment within the time set forth in the termination notice provided pursuant to Section 2, District may, without further notice to Licensee, remove said encroachment at Licensee's expense.
6. REIMBURSEMENT: Licensee shall reimburse the District for any and all extra expenses which District may hereinafter incur resulting from the Project, including the cost to realign the sewer system if additional easement are required or to repair any damage to the District's Facilities and appurtenances. Licensee shall promptly remit to District the amount thereof within thirty (30) days of receipt of the District's written demand.
7. ADDITIONAL EASEMENTS: Licensee shall also grant District such additional easements as may be required for any realignment of the sewer system on account of this License, and the exercising by District of its easement rights.
8. RELEASE: Notwithstanding anything contrary contained in the Easement, Licensee hereby releases and holds District harmless from any and all claims, demands, actions, or liability for damages to the Property which may result from the construction, reconstruction, renewal, alteration, operation, maintenance, inspection, repair, and replacement of the District Facilities or appurtenances, or any other activity allowed the District pursuant to the terms of said Easement. Licensee shall protect, indemnify and hold District harmless for any injuries or claims of injuries arising out of Licensee's construction of the Project and the subsequent use and maintenance of the Project.
9. NOTICE: Notice shall be deemed complete when it has either been delivered personally to Licensee or placed in the United States mail addressed to Licensee at the current address of the Property.
10. SCOPE OF LICENSE AGREEMENT: This is the whole License Agreement of the parties. This agreement may not be modified except in writing executed by both parties.
11. INSURANCE: District may, at any time and at District's sole option, require Licensee to maintain adequate liability insurance in order to protect District from all claims.
12. SEVERABILITY: If any part of this Agreement is declared invalid for any reason, such invalidity shall not affect the validity of the remainder of the Agreement.
13. SUCCESSOR AND ASSIGNS: All of the terms, covenants and conditions of this Agreement shall be binding upon the parties and their respective successors and assigns.

LICENSE AGREEMENT

APN:

- 14. EFFECTIVE DATE: This Agreement shall be effective as of the date of the last signature below.
- 15. RECORDATION: Upon the execution of this Agreement, Licensee shall pay to District a processing fee of five thousand seven hundred fifty dollars (\$5,750.00) for the administrative handling of this Agreement. District shall place this license Agreement of record in the Official Records of the County of Santa Barbara, California.

Executed in counterparts as of the date hereinbelow set forth.

MONTECITO SANITARY DISTRICT:

LICENSEE:

Signed: _____

Signed: _____

By: _____

By: _____

Its: _____

Its: _____

Dated: _____

Dated: _____

ATTEST:

Signed: _____

By: _____

Its: _____

Dated: _____

APPROVED AS TO FORM:

Signed: _____

By: _____

Its: _____

Dated: _____

LICENSE AGREEMENT

APN:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

STATE OF CALIFORNIA _____)

COUNTY OF _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY, under the laws of the State of California, that the foregoing paragraph is true and correct.

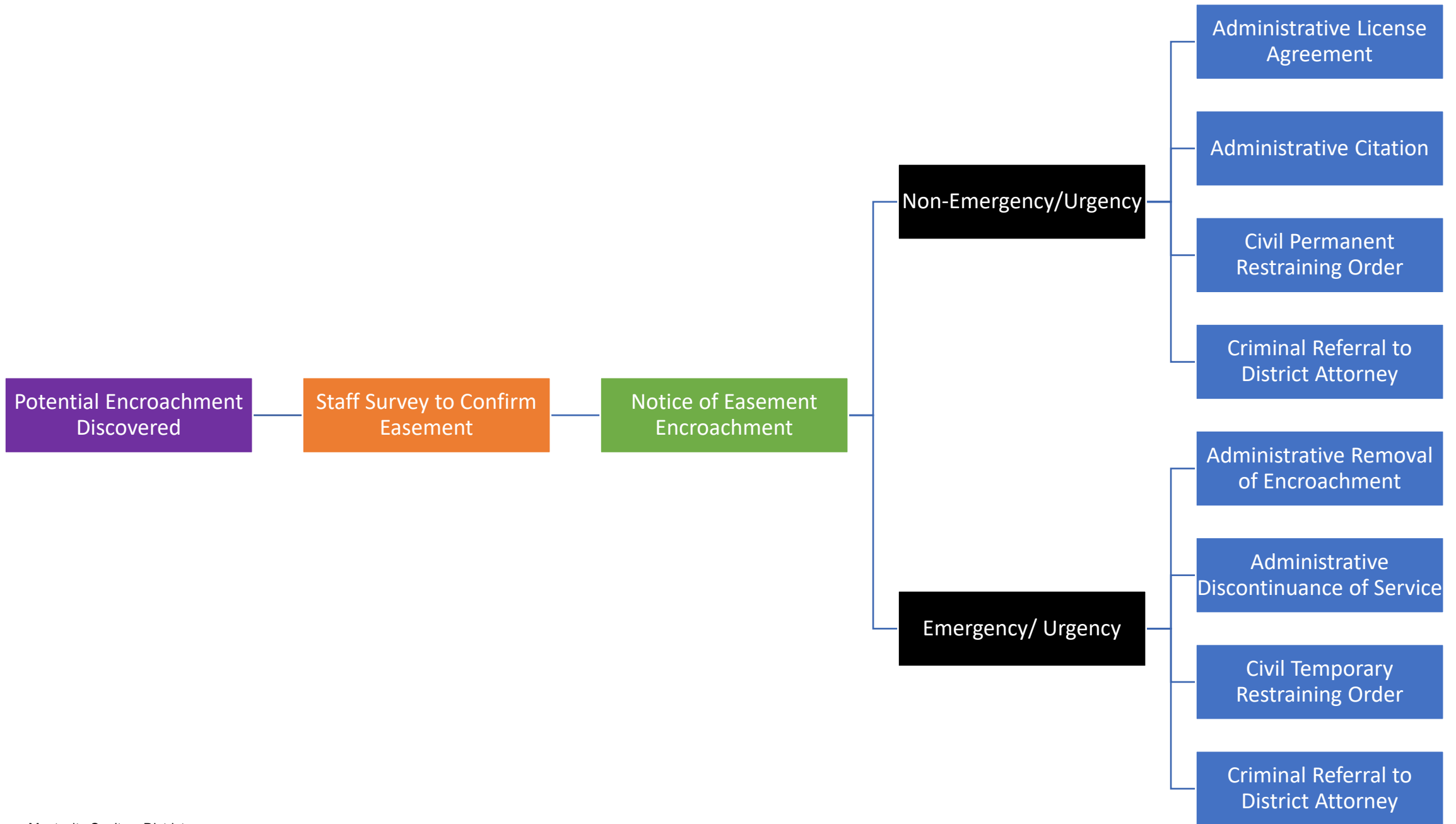
WITNESS my hand and official seal.

Signature

(Seal)

EXHIBIT A

EXHIBIT B





Montecito Sanitary District

1042 Monte Cristo Lane *A Public Service Agency*
Santa Barbara, CA 93108

Phone: (805) 969-4200
www.montsan.org

MONTECITO SANITARY DISTRICT STAFF REPORT – 3B

DATE: July 13, 2023
TO: Board of Directors
FROM: John Weigold, General Manager
SUBJECT: Discussion on Board Room Design

RECOMMENDATION

It is recommended that the Board:

- i) Discuss and consider the scope for a redesign of the District’s Board Room; and
- ii) Taking such additional, related action that may be desirable.

ANALYSIS

None.

FISCAL IMPACT

The Fiscal Year 2023-24 Budget was developed with \$10,000 for Account 7610 – Furniture & Fixtures.

ATTACHMENTS:

1. Montecito Sanitary District Board Room Renderings – Tri County Office Furniture

Montecito Sanitation District, Boardroom Furniture

Hon Omnia Contract

3qty 60" W x 24" D x 30"H tables in Florence Walnut and Charcoal legs/casters

2 qty 60" W x 30" D x 30"H tables in Florence Walnut and Charcoal legs/casters

7 qty Cofi chairs

Side table 24" square x 35" H

Credenza with 1 top

Total before sales tax and installation \$7,147.93



Cofi Chair Specifications

Overall:

Width 26" Depth 26" Height 36 1/4" – 41 1/4"

Advanced Synchro Tilt with seat slider to fit a wide variety of body types. Fixed arms.

Shown in Fog with black contrast stitching and black frame. Other colorways available.



Herman Miller Omina Contract

3qty 60" W x 24" D x 30"H tables in Warm Grey Teak (rendering software is off on color) and graphite legs/casters

2 qty 60" W x 30" D x 30"H tables in Warm Grey Teak and graphite legs/casters

7 qty Setu chairs, Slate Grey and Graphite

Side table 36" W x 24"D x 30" H

Credenza

Total before sales tax and installation \$8,281.97



Setu Chair Specifications

Overall:

Height (in): 37.125

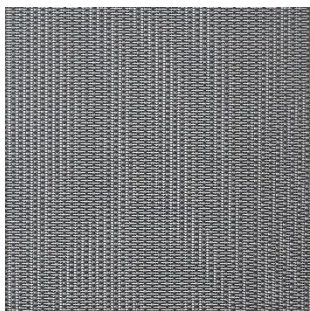
Width (in): 25

Depth (in): 17.25

Fixed arms.

Shown in Slate Grey and Graphite.

Other colorways available.



Finish
Graphite, G1





Montecito Sanitary District

1042 Monte Cristo Lane *A Public Service Agency*
Santa Barbara, CA 93108

Phone: (805) 969-4200
www.montsan.org

MONTECITO SANITARY DISTRICT STAFF REPORT – 3C

DATE: July 13, 2023
TO: Board of Directors
FROM: John Weigold, General Manager
SUBJECT: Discussion on Solar Options for the District

RECOMMENDATION

It is recommended that the Board:

- i) Discuss the District's opportunities to utilize solar power to help offset its electricity requirements; and
- ii) Taking such additional, related action that may be desirable.

ANALYSIS

None.

FISCAL IMPACT

None.

ATTACHMENTS: None



Montecito Sanitary District

1042 Monte Cristo Lane *A Public Service Agency*
Santa Barbara, CA 93108

Phone: (805) 969-4200
www.montsan.org

MONTECITO SANITARY DISTRICT STAFF REPORT – 3D

DATE: July 13, 2023
TO: Board of Directors
FROM: John Weigold, General Manager
SUBJECT: Discussion on Connection Fees for Accessory Dwelling Units (ADU)

RECOMMENDATION

It is recommended that the Board:

- i) Discuss the District's options and approach to implement a separate connection fee for Accessory Dwelling Units (ADUs); and
- ii) Taking such additional, related action that may be desirable.

BACKGROUND

The Board requested to discuss its options as it relates to Connection Fees for Accessory Dwelling Units.

Legal Counsel has prepared a PowerPoint presentation to review the relevant government codes and options the District has available to them on the subject.

FISCAL IMPACT

None

ATTACHMENTS:

1. Accessory Dwelling Unit Fee Presentation
2. Resolution 2022-947 – Housing Development Review Policy
3. Resolution 2022-944 – Amending and Establishing Fee Schedules



Accessory Dwelling Units & Junior Accessory Dwelling Units Fees & Charges

Montecito Sanitary District Board Meeting

July 13, 2023

Presented by

Aleks R. Giragosian, General Counsel



COLANTUONO
HIGHSMITH
WHATLEY, PC

Definition: Accessory Dwelling Unit (ADU)

- “[A]n attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons.”
- Must include facilities for:
 - Living & sleeping (bed);
 - Eating & cooking (stove, kitchen sink, and counter); and
 - Sanitation (toilet and shower)
- On same parcel as primary unit

7/10/2023

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Examples of Accessory Dwelling Units (ADUs)

ADUs in blue; main residence in white

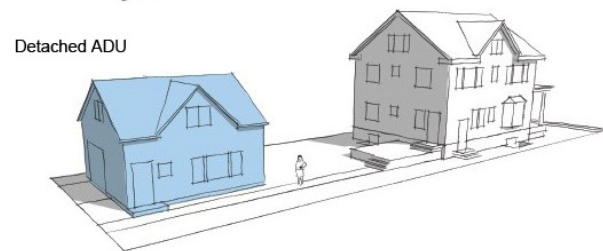
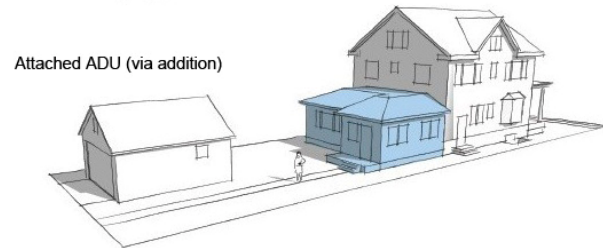
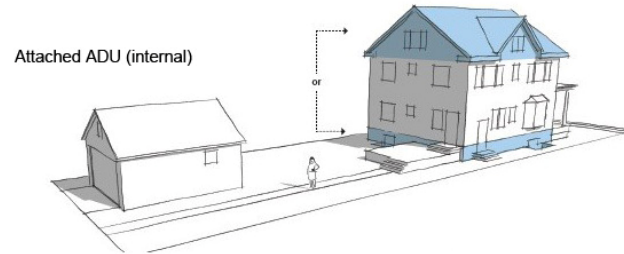


Image credit: City of Saint Paul, MN

Definition (GC 65852.22: Junior Accessory Dwelling Unit (JADU)

- “Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

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Permitted/Unpermitted ADUs/JADUs

Legend

• Multi-Family Unit:



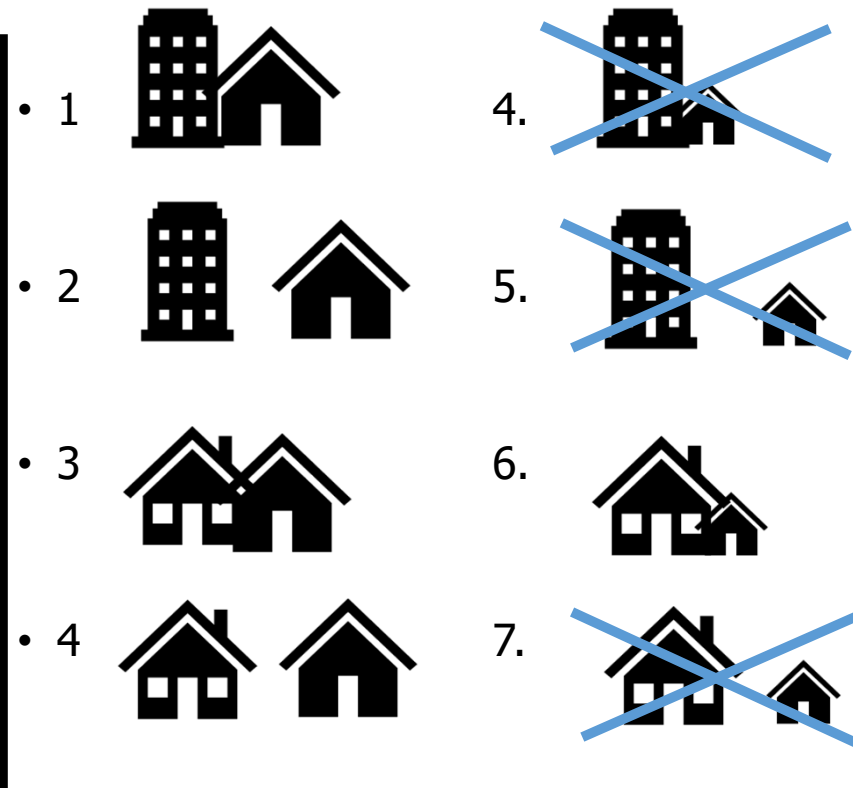
• Single-Family Unit:



• ADU:



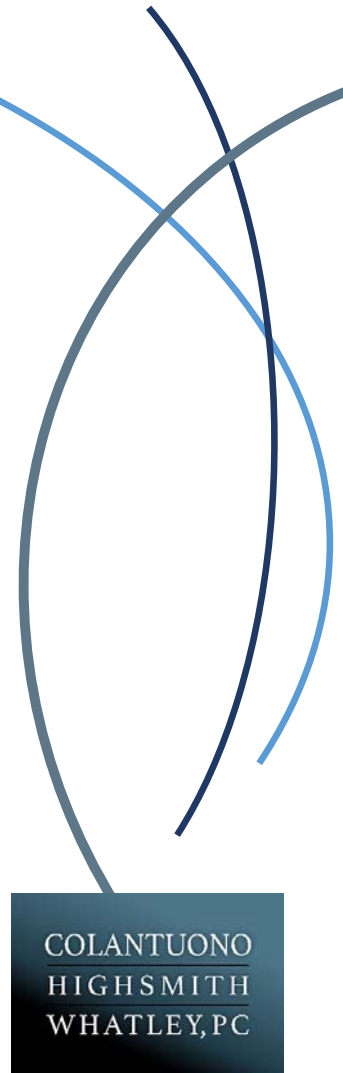
• JADU



COLANTUONO
HIGHSMITH
WHATLEY, PC

Recap: ADU vs. JADU

	ADU	JADU
Configuration	Attached or Detached	Attached & Within Residence
Minimum Size	150-220 sq ft	150-220 sq ft
Maximum Size	850-1200 sq ft Max 50% of residence if attached	500 sq ft
Cooking	Building Code Kitchen	Efficiency Kitchen
Use	Single-Family or Multi-Family	Single-Family
Entrance	Separate	Separate
Sanitation	Independent Required	Shared Permitted



ADU Law: Connection Fee & Capacity Charges

- ADUs cannot be considered “a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the [ADU] was constructed with a new single-family dwelling.”
- “For purposes of providing service for water, sewer, or power, including a connection fee, a [JADU] unit shall not be considered a separate or new dwelling unit.”

7/10/2023

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ADU Law: Connection Fee & Capacity Charges

- For conversions of existing spaces in a single-family home to an ADU, the District cannot “require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the [ADU] was constructed with a single-family dwelling.”
- For all other ADUs, the District “may require a new or separate utility connection directly between the accessory dwelling unit and the utility.”

7/10/2023

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MSD Housing Development Review Policy



Resolution No. 2022-947 adopted on April 14, 2022 (included in agenda packet)



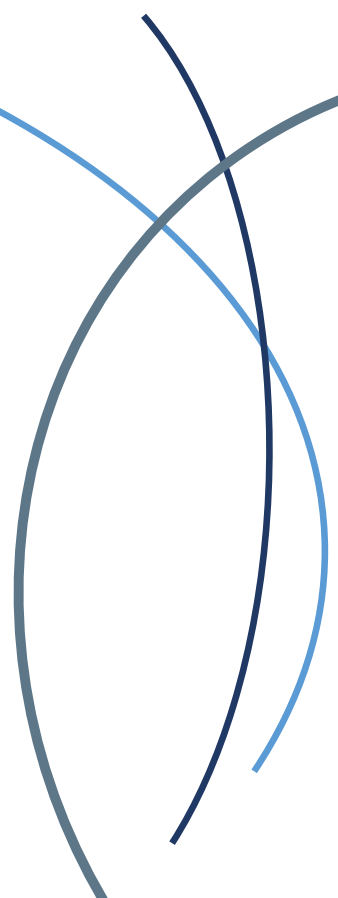
District connection fee not imposed for certain ADUs/JADUs



District administrative, inspection, and performance deposit fees are always imposed



Occupant of ADU/JADU still pays sewer rates



COLANTUONO
HIGHSMITH
WHATLEY, PC

RESOLUTION NO. 2022-947

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTECITO
SANITARY DISTRICT PROMULGATING A HOUSING DEVELOPMENT
REVIEW POLICY**

WHEREAS, Government Code Section 65852.2 regulates accessory dwelling units and Government Code Section 65852.22 regulates junior accessory dwelling units (collectively, “ADU”);

WHEREAS, in 2017, the ADU laws were substantially amended when Governor Brown signed into law Senate Bill 1069 and Assembly Bills 2299 and 2406 to promote ADUs to increase the State’s housing supply;

WHEREAS, in 2019, the ADU laws were further amended when Governor Newsom signed into law Senate Bill 13 and Assembly Bills 68 and 881, introducing new development and utility standards;

WHEREAS, in 2021, Governor Newsom signed into law Senate Bill 9, titled “The California H.O.M.E. Act” and codified at Government Code Sections 65852.21 and 66411.7, and Assembly Bill 803, titled “The Starter Home Revitalization Act of 2021” and codified at Government Code Section 66499.40;

WHEREAS, Senate Bill 9 requires cities to ministerially approve a parcel map for an urban lot split and/or a proposed housing development containing a maximum of two residential units within a single-family residential zone;

WHEREAS, Assembly Bill 803 requires cities and counties to ministerially approve a tentative map and a proposed housing development (called a “small home lot development”) within a multi-family residential zone; and

WHEREAS, the Montecito Sanitary District desires to adopt a housing development policy consistent with new state laws.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO SANITARY DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Housing Development Policy. The Housing Development Policy attached as Exhibit A is adopted.

Section 3. Delegation of Authority. The District’s General Manager is authorized to amend the Housing Development Policy to ensure consistency with state laws.

Section 4. CEQA. Pursuant to Government Code section 65852.2, subdivision (a)(3), section 65852.22, subdivision (c), section 65852.21, subdivision (a), section 66411.7, subdivision (a), and section 66499.40, the approval of ADUs is a ministerial action, not discretionary, and is therefore not a project for purposes of the California Environmental Quality Act (CEQA). Further, under Public Resources Code section 21080.17 and Government Code section 65852.21, subdivision (j), and section 66411.7, subdivision (n), CEQA does not apply to the adoption of this resolution, and it is statutorily exempt.

Section 5. Severability. If any sections, subsections, subdivisions, paragraph, sentence, clause or phrase of this Resolution or any part hereof or exhibit hereto is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Resolution or any part thereof or exhibit thereto. The Board of Directors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that anyone or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

Section 6. Publication. Pursuant to Health and Safety Code sections 6521 and 6490, subdivision (a), the General Manager shall prepare a summary of this resolution and shall publish the summary once in a newspaper of general circulation in the District.

Section 7. Effective Date of Resolution. Pursuant to Health and Safety Code section 6490, subdivision (d), this Resolution shall take effect upon the expiration of the week of publication.

Section 8. Certification. The Secretary of the Montecito Sanitary District shall attest to the passage and adoption of this Resolution by the Board of Directors and shall cause the same to be listed in the records of the District.

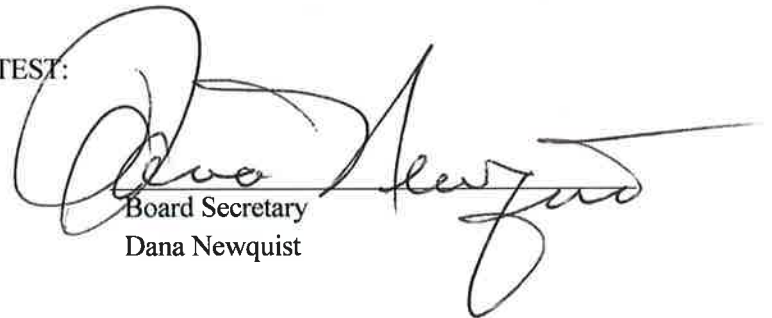
PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District this Fourteenth day of April 2022, by the following vote:

AYES: Directors Barrett, Eversoll, Johnson and Newquist
NAYS: None
ABSENT: None
ABSTAIN: None



Board President
Dorinne Lee Johnson

ATTEST:



Board Secretary
Dana Newquist

(SEAL)





Housing Development Review Policy

Background: The District provides sanitary sewer service which includes collection, treatment and disposal of treated wastewater for the entire Montecito Community. As part of proposed building or development plans, District staff is charged with the responsibility to review County of Santa Barbara Building Permit application materials to verify the proposed development complies with applicable District standards, resolutions and ordinances

Purpose: The purpose of this Housing Development Review Policy (HDRP) is to provide objective standards, which comply with all State Housing Development laws and prevent adverse impacts to District facilities.

Definitions: Unless specifically defined below, words or phrases used in this HDRP shall be interpreted so as to give them the meaning they have in common usage and to give this HDRP its most reasonable application. Some definitions provided below are referenced from Ordinance 12 (2007) which governs Connections to Sewer and Video Inspections.

- A. **“Auxiliary Structure”** is any structure that is intended for any use other than a dwelling unit (e.g. pool house)
- B. **“Accessory Dwelling Unit” (ADU)** is an attached or detached residential unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residential unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and be located on the same lot that the primary residential unit is or will be situated.
- C. **“Board”** is the Board of Directors of the Montecito Sanitary District
- D. **“Certification Letter”** is a District letter addressed to the County containing the conditions and requirements for building permit approval.
- E. **“Connection”** is the point of connection of the private sewer lateral to District sewer facilities, commonly a fitting or “wye”.
- F. **“District”** is the Montecito Sanitary District
- G. **“Dwelling Unit”** is defined as any structure/unit equipped with both food preparation (e.g. oven, cooking surface, microwave, etc.) and bathroom facilities that allows for independent living accommodations for one or more persons. Such units may exist as a house divided into more than one residence, a guest house, an attached or detached residential second unit, a studio, an apartment, a converted garage and/or any other structure attached to or separate from the principal dwelling unit on any parcel.
- H. **“Junior Accessory Dwelling Units” (JADU)** is a unit that is no more than 500 square feet in size and contained entirely within the structure of an existing or proposed single residential unit. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing or proposed single residential unit.
- I. **“General Manager”** is the General Manager of the District or his or her designee.

Exhibit A

- J. **“Lot”** is any piece or parcel of land bounded and defined or shown upon a plot or deed recorded in the Office of the Recorder of the County, as a separate or individual parcel, except that in the event any building or structure covers more than a lot, the word “lot” shall include all such pieces or parcels of land upon which such building or structure is wholly or partly located.
- K. **“Owner”** is the property owner of records at the time of application
- L. **“District Sewer”** is any main line sewer constructed in any street, public right-of-way, or easement and owned and operated by the Montecito Sanitary District
- M. **“Pump Variance Agreement”** is an agreement between the owner and the Montecito Sanitary District
- N. **“Sewer Lateral”** is a the privately owned pipe connecting a dwelling unit to the District’s public sewer system for the purposes of conveying domestic sewage, including that portion extending into the right-of-way or easement and the point of connection to the public sewer. Sewer lateral, private sewer lateral, house connection, building sewer lateral and private force main all have the same meaning.
- O. **“Sewer Service Availability Letter”** provides the District’s understanding of the proposed alteration or lot split and establishes process for obtaining District approval.
- P. **“Sewer System”** is any portion of the District’s collection system, treatment works and/or disposal system.

Underlying Principals:

1. Each Lot or parcel shall have a dedicated sewer lateral and connection for providing District sewer service to any permitted Dwelling Unit or Accessory Dwelling Unit.
2. Each Owner shall maintain the Sewer Lateral serving each Dwelling Unit on the Owner’s Lot in good working condition, free of displaced joints, open joints, root intrusion, substantial deterioration of the line, cracks, leaks, infiltration, grease and sediment deposits, or conditions likely to cause or increase the likelihood for blockage of the sewer lateral or intrusion into District sewer main.

Appeals: An owner may appeal the General Manager’s determination or application of this Policy by requesting a review of the Board. At the Board hearing, the owner may present evidence to the Board as to why objective standards do not apply to a specific building permit application. Any hearing before the Board will require the preparation of written request for a hearing within 15 days after the date of the Certification Letter. If the owner does not request the hearing within the time allowed, the right to appeal the General Manager’s determination shall be deemed waived.

The District will provide a final notice of determination explaining the decision of the Board and any conditions for approval.

Exhibit A

Objective Standards for Approving ADUs and JADUs Building Permits

For proposed ADUs (regardless of attached or detached) or JADUs, plans shall indicate how ADU/JADU will be connected to District Sewer, either via connecting to the existing sewer lateral or installing a separate sewer lateral and connection to District Sewer. At a minimum, plans shall show alignment, connection point, and reference District Standard Details.

The property owner may elect to install a separate lateral to allow a separate gravity connection. Whenever possible, the District encourages gravity sewer laterals which may result in installing a separate sewer lateral and acquiring easements to connect if the lateral traverses another lot to connect to the District sewer main.

Topographic challenges and elevation of proposed ADU/JADU sometimes necessitate the installation of a private sewer pump station (also known as lift station or ejector pump). When proposed ADUs/JADUs require a pump to convey sewage from the new development, the Applicant shall complete a District Pump Variance Agreement and provide information on the emergency power source (generator, battery) and pump station sizing (wet well detention time).

Utilizing Existing Sewer Lateral to Serve ADU/JADU

Existing sewer lateral shall be inspected and the lateral shall be brought up to good working condition per Montecito Sanitary District standards (Ord. 12)

Application submittal shall include a Drainage Fixture Unit Calculation to demonstrate the existing lateral has capacity to serve both the existing primary residential unit and proposed ADU/JADU.

Fees: For conversion of existing Auxiliary Structure to ADU or Contained within the Existing Space of a Single-Family Residence, a connection fee will not be assessed.

District Administrative, Inspection and Performance Deposit fees shall be required at time of District permit issuance.

Installing a Separate Sewer Lateral and Connection

A new sewer lateral and connection shall be constructed per District Standard Details.

Fees: A connection fee (per current Fee Schedule) shall only be assessed if the proposed ADU is detached from the primary Dwelling Unit AND a separate dedicated sewer lateral and connection is installed. The connection fee shall be proportionate to the burden of the proposed ADU, based upon either its size or the number of its plumbing fixtures.

District Administrative, Inspection and Performance Deposit fees shall be required at time of District permit issuance.

Exhibit A

Objective Standards for Approving Lot Splits or Lot Line Adjustments

For proposed lot splits or lot line adjustments (via SB9 or AB803), District staff will review plans to verify dwelling units on each proposed Lot shall have a dedicated sewer lateral and connection to District sewer. If one of the resulting lots does not have a dwelling unit at the time of the lot split, the District will note this finding in the Certification Letter to the County of Santa Barbara. Any future development on the Lot will be subject to permitting and installing a separate sewer lateral and connection through County Building Permit process. The applicant would need to obtain a District Connection Permit at that time.

In the event that an existing sewer lateral must traverse another parcel as a result of the lot split or lot line adjustment, an easement agreement between the two property owners shall be recorded with the County of Santa Barbara. A copy of the recorded easement shall be provided to the District at the time of the permit application.

A connection fee in accordance with the District’s current fees will be assessed at the time a new Dwelling Unit is proposed for vacant Lot.

Effective Date of this Policy

Once approval by the Board of Directors, this policy and the terms within it will be effective April 14, 2022. Any County of Santa Barbara building permit applications or developments currently under review or submitted after the effective date will be subject to the conditions included within this policy. the Montecito Sanitary District for review

Applicable Laws and Regulations:

- Government Code Section 65852.2
- Government Code Section 65852.22
- Senate Bill 1069
- Assembly Bill 2299
- Assembly Bill 2406
- Senate Bill 13
- Assembly Bill 68
- Assembly Bill 881
- Senate Bill 9 – The California H.O.M.E. Act
- Assembly Bill 803 – The Starter Home Revitalization Act of 2021 (Government Code 66499.40)

Revision Log:

Date	Version/Revisions
April 2022	Initial Adoption

RESOLUTION NO. 2022-944

**RESOLUTION OF THE GOVERNING BOARD
OF THE MONTECITO SANITARY DISTRICT
AMENDING SECTION VIII OF RESOLUTION 2017-906 AND
REPEALING ALL PRIOR BOARD ACTION RELATED
TO ESTABLISHING FEE SCHEDULES**

WHEREAS the Governing Board of the Montecito Sanitary District adopted Resolution No. 1961-44 on May 29, 1961, titled “Standard Requirements for the Design and Processing of Private Contract Sewer Plans” (hereafter “the Standard Requirements”); and

WHEREAS the Standard Requirements include Section VIII (Fees); and

WHEREAS Section VIII (Fees) of the Standard Requirements has been revised by Board action in resolutions numbered 1982-610, 1985-642, 1990-675, 2004-816, 2010-861, and 2017-906 and other action as may be reflected in Board Minutes; and

WHEREAS the Governing Board desires to amend Section VIII (Fees) of Resolution No. 2017-906 and to repeal all prior Board action related to establishing fee schedules; and

WHEREAS this Resolution is not subject to the requirements of Government Code section 66016 or the requirements of Articles XIII C and XIII D of the California Constitution because it proposes only a decrease in the existing residential sewer connection fees, and all other existing residential and non-residential fees otherwise remain the same;

WHEREAS the Governing Board has heard and considered all objections and comments related to the information establishing the basis for changing said fees.

NOW, THEREFORE, BE IT RESOLVED:

1. That all of the recitals contained in the preamble to this Resolution are true;
2. That the fee changes allowed and established by this Resolution are exempt from the California Environmental Quality Act, because they comply with subdivision (b)(8) of section 21080 of the Public Resources Code;
3. That as required by sections 50076 and 66016 of the Government Code, the Governing Board has determined that each fee prescribed in this Resolution does not exceed the estimated reasonable cost to provide the service for which the fee is charged and that no fee is levied for general revenue purposes; and
4. That Section VIII of Resolution No. 2017-906 is amended to read as hereinafter stated:

SECTION VIII – FEES

1. **Sewer Main Extension – Design Review and Plan Checking Fees** – Montecito Sanitary District (District) costs for design review, plan check, and site investigation shall be reimbursed by an applicant requiring a sewer extension permit. An applicant requiring these services shall make a deposit with the District in the following amount, based on the total lineal feet (L.F.) of the extension proposed for construction:

Less than 1,000 L.F.	\$1,725
1,000 L.F. to 3,000 L.F.	\$2,875
3,001 L.F. to 5,000 L.F.	\$4,025
Greater than 5,000 L.F.	\$5,175

Any unused amount of the deposit will be refunded to the applicant. A “per-hour rate” shall be charged against the deposit based on the District’s current hourly rate for staff member(s) assigned to the work. If total charges for actual District costs exceed the deposit, the applicant will be required to pay the additional costs before the permit is issued.

2. **Administrative Review Fees** – An applicant seeking review of a property or properties for a District “Sewer Availability” or “Letter of Certification” required by the County of Santa Barbara Planning and Development Department will pay these administrative fees:

Administrative Review – No MSD permit(s) required	\$ 85
Administrative Review – MSD permit(s) required	\$175

3. **Engineering Review Fees** – Engineering Review Fees must be paid by any applicant requiring an Engineering Review. Engineering Reviews may be required by the District or of the District by the County of Santa Barbara for a project, including, but not limited to, a lot line adjustment, condo conversion, subdivision, development of commercial property, and review of encroachment into a District easement. These review fees are:

Engineering Review – No MSD permit(s) required	\$175
Engineering Review – MSD permit(s) required	\$345

4. **Construction Inspection Fees** – Before granting a permit for the construction of a main line sewer and appurtenances, the District shall collect a deposit from an applicant to cover the actual cost to provide field inspection of the proposed construction. The amount of the deposit will be based on the estimated number of days of construction multiplied by the daily cost to the District to provide full time inspection.

Any unused amount of the deposit will be refunded to the applicant. If the deposit is exceeded by actual District costs, the applicant will be required to pay the additional costs before the permit is issued.

5. **Sewer Easement Processing Fee** – A privately constructed sewer main to be dedicated to the District must be located within an easement dedicated to the District. Said dedication requires payment of a sewer easement processing fee of \$2,300 for the first parcel and \$1,150 for each additional parcel.

Resolution No. 2022-944**Establishing Fee Schedules**

6. **Reimbursement Project / Reimbursement Agreement Processing Fee** – When private construction of a sewer main to be dedicated to the District includes a request for a reimbursement agreement, said agreement is subject to an administrative processing fee deposit of \$865 and a deposit of adequate funds to reimburse the District the cost of a reimbursement analysis that is performed by an independent engineering firm.

7. **Agreement Processing Fees** – The District incurs costs to process customer agreements. These administrative fees apply to processing agreements between the District and a property owner:

Dedication Agreement for Sewer Facilities (<i>for the construction of sewer mains</i>)	\$2,300
License Agreement (<i>for encroachment into a District easement</i>)	\$5,750
Agreement for the Construction of Private Building Sewer	\$1,150
Crossing Two Adjacent Properties Agreement for Service to Condominiums	\$1,150
Residential Sewer Service Agreement for Private Pumping Station and Pressure Line Building Sewer	\$1,150
Residential Sewer Service Agreement (<i>For <u>existing</u> and <u>new</u> auxiliary structures/buildings</i>)	\$230
Accessory Dwelling Unit (ADU) Sewer Service Agreement	\$230
Termination of Residential Sewer Service Agreement (<i>For existing auxiliary structures that are converted into an ADU</i>)	\$115

8. **Connection Fees** – An owner seeking a connection of a parcel, building, or facility to the District’s sanitary sewer system (“System”) shall pay to the District a one-time connection fee based on the specifics of the connection, as defined in this section. The fee calculations are divided between new sewer connections and property improvements on connected parcels.

8.1 **New Sewer Connections** – Payments for new connections are required when a new connection to the System is established. The payment is based on the connecting customer type, and is divided between residential and non-residential customer classes. All connection fees are based on equivalent residential units (ERUs) or established as a flat fee. **The charge per 1.0 ERU is set at \$8,400.**

8.1.1 **Residential Sewer Connections** – A connection fee of 1.0 ERU is charged per residential dwelling unit of any type. A residential dwelling unit is defined as an independent living quarter with sleeping, bathroom, and cooking facilities, without regard for the number of bedrooms.

Resolution No. 2022-944

Establishing Fee Schedules

Auxiliary structures are buildings on single family dwelling parcels with indoor plumbing facilities, but without the capability of providing cooking facilities. An auxiliary structure is typically a guest house, pool cabana, art studio, workshop, gym, office, or similar use. Auxiliary structures connected to the System shall pay a connection fee of 0.31 ERU.

Residential dwellings include multi-family dwellings, such as apartments and condominium units. A single parcel may have residential and non-residential uses.

Connection fees for a parcel complex with multi-family dwellings and common areas are calculated as a combination of separate residential dwelling units, with each charged 1.0 ERU, plus non-residential common areas charged as described below.

8.1.2 **Non-Residential Sewer Connections** – The connection fee for all non-residential connections is calculated using a pro-rata 1.0 ERU, as specified herein and in accompanying tables.

The Montecito Water District (“MWD”) assigns a water base allotment to each parcel in the District’s service area. The calculation of the District connection fee shall be based on MWD’s Base Allotment¹ and the sewage strength classification associated with the customer class specified in Table 1 of this section, plus an administrative facility fee for the non-residential connection.

The connection fee for a non-residential sewer connection equals the calculated ERU for the parcel multiplied by the charge in dollars per ERU (\$8,400 per ERU).

The calculated ERU is determined by using MWD’s Water Base Allotment in HCF per month or gallons per day multiplied by the appropriate figure from Table 2 for the customer’s sewage strength provided in Table 1.

¹ The Base Allotment defines the basic water supply allocation to each MWD account.

Resolution No. 2022-944**Establishing Fee Schedules****TABLE 1****Categorical Sewage Discharge Strengths**

Billing Classification	Strength Class (a)
Residential Dwelling Unit (1.0 ERU)	
Non-Residential	
Church	Low
Clubs	Low
Offices	Low
Laboratory or Doctor's Office	Med
Food Market	High
Barber and Beauty Shop	Low
Fire Station	Med
Other Commercial / Governmental	Low
Meeting / Convention Hall	Low
Hotel / Motel without Laundry	Low
Hotel / Motel with Laundry	Med
Park	Low
Food Serving Facility (restaurant, etc.)	High
School and Colleges without Residential Living	Low
Resident School Attendance (w/ living facilities)	Med
Auxiliary Structures	Varies
Service Station/Garage	Low
Water Treatment Process Wastewater	High

Med: Medium; Res: Residential; ERU: Equivalent Residential Unit

(a): The sewage strength assignments are based on California SWRCB guidelines

The District Engineer shall determine the sewage strength class for any parcel not provided in this Table.

TABLE 2**Wastewater Connection Fees per Unit of Water Demand**

Customer Sewage Strength	ERU per GPD of Water Allocation	ERU per HCF/month of Water Allocation
Low Strength	0.0038	0.0941
Residential Strength	0.0047	0.1160
Medium Strength	0.0043	0.1049
High Strength	0.0047	0.1140
Administrative Facility Fee* (ERU per connection)		0.0064

ERU: Equivalent Residential Unit; GPD: Gallon Per Day; HCF: Hundred Cubic Feet.

Fees are based on a water use return to sewer ratio typical of the commercial and multi-family dwelling sewer connections.

There are 24.5 GPD to 1.0 HCF per month.

*\$8400 per ERU multiplied by 0.0064 ERU per connection equals \$53.76.

Resolution No. 2022-944**Establishing Fee Schedules**

8.2 **Connection Fees for Property Improvements on Connected Parcels** – Any connected parcel with a building or facility remodel, improvement, tear-down and rebuild, construction, expansion or new facility, or change in customer classification is deemed to be and defined as a property improvement. Whereas the District’s service capacity is determined by the land uses within its service area and the use of the District’s facilities may be affected by changes in existing customer property improvements, adjustments to the connection fee may be required when there is a property improvement to a connected parcel.

On any parcel connected to the System, any property improvement that results in (1) at least one additional plumbing “fixture unit”², and/or (2) an increase in bedrooms, and/or (3) an increase in the building area of more than 350 square feet shall first obtain a District connection permit and pay the connection fee to the District required by this section.

All building improvements requiring a connection permit shall pay a pro-rata connection fee equal to the fee for a new connection to the System of all existing and planned buildings and facilities on the parcel, less a credit for the amount in dollars of the sum of all previous connection fees paid to the District, based on District records.

8.3. **No Refund of Connection Fees** – If the District revokes a connection permit for failure to comply with permit conditions or requirements, the permit holder is not entitled to a refund or reimbursement of fees paid. No credit or refund will be made for any reduction in the number or type of connected buildings or facilities on any parcel. No credit or refund will be made for any reduction in the strength of the discharged sewage.

9. **Inflationary Adjustments to Section VIII - Fees** – Unit fees specified in Section VIII – Fees (excluding annual sewer service charges) shall be adjusted for inflation, from time to time.

The adjustment shall be made by multiplying each fee by a ratio of the Construction Cost Indexes applicable to the City of Los Angeles, as reported by *Engineering News-Record*, a McGraw-Hill periodical. The ratio of Indexes shall be determined by the percentage increase in the ratio between the year of the enactment of the existing fee and the current year. The product shall be rounded to the nearest five dollar increment.

Other adjustments of fees to recover District costs shall be made at the discretion of the Governing Board.

² “Fixture unit” is as defined by the Uniform Plumbing Code (UPC) for Drainage Fixture Unit Values (DFU).

Resolution No. 2022-944**Establishing Fee Schedules**

10. **Inspection Fees** – A connection of any category requires payment of an inspection fee specified herein:

New/Replacement of Property Line Clean Out to Existing Lateral	\$175
Capping off (for demolition projects)	\$175
Reconnecting to Existing Lateral (for reconstruction projects)	\$175
Replacement of Existing Lateral within private property	\$345
Replacement of Existing Lateral up to the District main	\$575
New Lateral Connection/Construction to District Mainline	\$635

11. **Refundable Performance Deposits** – Work on a private lateral from the property line clean-out to the District’s mainline for any length lateral requires payment of a refundable performance deposit specified herein:

Replacement of only an existing property line clean out	No Cost
Repair to existing lateral and/or cap-off and reconnection of existing lateral within private property	\$1,150
Replacement and/or cap-off and reconnection of existing lateral within roadway	\$2,300
New lateral construction	\$3,450

12. **Annual Sewer Service Charges** – Annual sewer service charges are pro-rated and based on current approved annual service charge amounts from July 1 to date of issuance of a District connection permit or as appropriate for the type of connection. District Resolution No. 2016-897 (Sewer Service Charge), as amended, specifies applicable sewer service charges.

The District shall start collecting annual sewer service charges under Resolution 2016-897, as amended, when project construction is underway and staff has made the tie-in inspection of the lateral connection to the District mainline.

13. **Illegal/Non-Permitted Connections to District System** – The owner of a property with private facilities connected to the System without a District connection permit shall pay all applicable fees at a rate of one and a half times the current connection fee and two times the current inspection fee, which charges include the regular fee rates plus a penalty.

Resolution No. 2022-944**Establishing Fee Schedules**

14. **Finalization of Connection Permits** – An applicant failing to finalize a connection permit as required by District rules and regulations is subject to these fees:

Final Inspection Not Performed <i>(District was not called out for final inspection)</i>	\$175
No Inspections Performed <i>(Work completed without inspection by District staff)</i>	\$575

If a permit is three or more years old and has not been finalized because of “no-response” from the property owner or contractor and if the construction is completed, the owner shall forfeit the entire amount of the Refundable Performance Deposit. If the lateral tie-in does not comply with District’s Standard Specifications, the District shall hire a contractor to complete and/or repair the work. If the deposit is exceeded by actual District cost, the owner shall pay the additional cost.

15. **Extension/Cancellation of Connection Permits** – District connection permits are valid for one year from date of issuance. The Permit will remain open during the time of the construction project. If no work has begun on a property after one year, the property owner may submit a written request to extend or cancel the connection permit and pay these fees from the Refundable Performance Deposit to process the request:


First request for a one-year extension of a connection permit	\$115
Second and Final Request for a one-year extension of a connection permit	\$230
Request for cancellation of connection permit	\$575

Resolution No. 2022-944

Establishing Fee Schedules

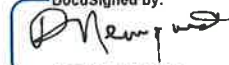
PASSED AND ADOPTED by the Governing Board of the Montecito Sanitary District this 13th day of January 2022, to become effective January 13, 2022, by the following vote:

- AYES:** Directors Barrett, Eversoll, Fuller, Newquist, and Johnson
- NAYS:** None
- ABSTAIN:** None
- ABSENT:** None



 Board President
 Dorinne Lee Johnson

ATTEST:

DocuSigned by:


 Board Secretary
 Dana Newquist

(SEAL)





Montecito Sanitary District

1042 Monte Cristo Lane
Santa Barbara, CA 93108

A Public Service Agency

Phone: (805) 969-4200
www.montsan.org

MONTECITO SANITARY DISTRICT STAFF REPORT – 3E

DATE: July 13, 2023
TO: Board of Directors
FROM: John Weigold, General Manager
SUBJECT: Salary Study Request for Proposals (RFP)

RECOMMENDATION

It is recommended that the Board:

- i) Discuss the Request for Proposals (RFP) to conduct a District-wide Salary Study; and
- ii) Taking Such additional, related action that may be desirable.

BACKGROUND

At the May 17, 2023 Regular Board Meeting the Board of Directors authorized staff to seek outside consultants to provide a Salary Survey for the Montecito Sanitary District. Staff incorporated this project into the Fiscal Year 2023-24 Budget that was passed at the June 22, 2023 meeting.

Once the budget was approved, staff started work on developing the RFP. The RFP was developed by utilizing examples from recently completed RFPs from other agencies (City of Santa Barbara, City of Laguna Beach, and Santa Clarita Valley Water Agency) and incorporating the specific needs of the District.

SCHEDULE

The District is looking to send out the RFP to vendors on Friday July 14th, 2023, with a submission deadline of July 28th, 2023 at 5:00pm.

Staff is unaware of any formal salary study that has been performed by the District in the past. Various internal salary studies were performed in the past, specifically for the General Manager back in FY 2015-16 and one for all positions during Fiscal Year 2022-23.

FISCAL IMPACT

The Fiscal Year 2023-24 Budget was developed with \$20,000 to conduct this study.

ATTACHMENTS:

1. Request For Proposals – Salary Study



Montecito Sanitary District

1042 Monte Cristo Lane
Santa Barbara, CA 93108

A Public Service Agency

Phone: (805) 969-4200
www.montsan.org

Request for Proposal (RFP)

Salary Study for the Montecito
Sanitary District

Issued: July 14, 2023

Proposals Due: Friday July 28, 2023 by 5 PM

I. INTRODUCTION

The Montecito Sanitary District (the District) is seeking proposals from qualified consultants to conduct a comprehensive salary study.

The objective of the study is to assess the current total compensation paid to District staff and ensure it is in alignment with comparable agencies.

The District strives to strike a balance between providing a high level of service coupled with rate sensitivity. The Study shall propose findings and recommendations as to where the District falls in total compensation with its identified comparable agencies.

II. BACKGROUND

The Montecito Sanitary District (www.montsan.org) is an independent special district voted into existence in 1947 by the residents of Montecito to provide for the collection, treatment and disposal of wastewater. Since its inception, the District's mission has been to protect public health and safety and to preserve the natural environment through the collection, treatment and disposal of wastewater in the most cost-effective way possible.

The District provides service to approximately 9,000 people through approximately 3,100 service connections. Eighteen (18) full time dedicated employees (see **Attachment A – Montecito Sanitary District Organizational Chart**) strive to uphold the District's mission "to protect the public health and safety and to preserve the natural environment through the collection, treatment, and disposal of wastewater in the most cost-effective way possible." This is done operationally through the District's three departments with an annual Operations and Maintenance budget of approximately \$5.5M and a Capital Improvement Program Budget of approximately \$7.1M.

The District has one labor agreement with the Service Employees International Union Local 620 (SEIU), which currently represents twelve (12) of the District's staff and is effective through Fiscal Year 2025-26. Five (5) managers are currently operating under terms agreed upon by themselves and the Board at the May 26th, 2023, Board Meeting and runs through Fiscal Year 2025-26. The General Manager is a contract employee whose salary and/or benefits adjustments may be considered by the Board of Directors annually in conjunction with the Employees' Annual Review.

The District is a participant of the California Public Employees' Retirement System (CalPERS) as well as participates in Social Security.

III. STUDY GOALS

The purpose of the salary study is to address the key goals that are outlined below:

- A. Attract and retain qualified employees by ensuring compensation is competitive in the market.
- B. Maintain competitive salaries and benefits in comparison to other regional governmental wastewater entities.
- C. Offer recommendations as to how the District can better align its compensation and associated system with industry best practices, where applicable.

IV. PROJECT DESCRIPTION

The purpose of this project is to conduct a comprehensive total compensation survey for District classifications and positions utilizing as many comparable agencies as deemed appropriate. Of those agencies selected, the following agencies shall be included as they have had former staff depart the District for them: City of Santa Barbara, County of Ventura Wastewater, Goleta Sanitary District, and Ojai Valley Sanitary District. Consultant is tasked with gathering and analyzing the data and providing a compensation study for all 20 positions (see **Attachment B – Job Series and Classification Table**).

The study shall consider all forms of compensation, including, but not limited to, regular salaries, medical benefits, vacation accruals, sick leave accruals, personal time accruals, on call/standby pay, pension contributions, OPEB, and other employee compensation to reflect the total agency cost of the employee.

V. SERVICES TO BE PROVIDED BY CONSULTANT

The services to be provided by the Consultant shall include, but no limited, to the following:

- A. Review of Classification Plan and Positions
 - a. Review of current Job Descriptions.
 - b. Review of current Salary and Benefit items pursuant to the Memorandum of Understanding with SEIU (Represented Staff), Employee Handbook (Managers), and General Manager’s Contract (General Manager).
 - c. Conduct interviews with appropriate staff, supervisors, and managers as needed to supplement the Consultant’s understanding.
 - d. Gather accurate, current job content in a succinct format and recommend additional classification titles/revise classification titles/eliminate/decrease the number of classification titles/ensure titles and classifications align with other comparable agencies.
- B. Market Study
 - a. Compare current compensation to pay and benefit levels in the current market. This should take into consideration differences between the job requirements of the selected comparable agencies to ensure as much as possible that an appropriate and just comparison is performed. This may require conducting interviews with supervisors and/or managers to ensure differences in comparable agency job descriptions are identified and considered.
 - b. Recommend and describe to the District the process and the number of comparative agencies that are incorporated into the Salary Study. The District will rely on the Consultant’s expertise to determine which job classes are compared to which agencies and will defer to the Consultant’s best judgment.
 - c. Establish appropriate benchmarking standards and conduct salary surveys for similar positions with comparable organizations, considering region, types of services offered, and geography.
 - d. Analyze, document and summarize the total compensation package of the District compared to the selected comparable agencies in a succinct and understandable format.
- C. Study Communications
 - a. Prepare a written report of study, including discussion of methods, techniques, and data used to support the Salary Study. This report should also communicate any findings and recommendations to salary/benefit/classification modifications, as well as implementation

- recommendations, if necessary.
- b. Work with the District Administrator to develop any necessary updated Salary Range Tables and/or Benefit documents for consideration by the District's Board of Directors and the SEIU.
 - c. Present the results of the Salary Study to the District's Board of Directors, the District General Manager, and the management team for discussion.

VI. SERVICES TO BE PROVIDED BY THE DISTRICT

- A. Provide general direction through the District General Manager and District Administrator.
- B. Provide all available District records and information as may be required, including, but not limited to, financial reports, administrative records, prior salary surveys, memorandums of understanding, and management labor terms.

VII. PROJECT SCHEDULE

The Board of Directors have identified this project as a priority for District staff, so please include an estimate of the time required to complete and document a thorough salary study.

VIII. RESPONSES

Responses to this RFP shall be received no later than 5:00 p.m. on Friday, July 28th, 2023. The response shall include at a minimum the information listed herein; incomplete or unclear information may be grounds for rejection. The response shall be organized as follows:

A. Project Understanding and Qualifications

Provide a statement demonstrating the Consultant's understanding of the project and proposed approach to the project scope of work, broken down by tasks and subtasks. Proposals shall identify specific milestones and deliverables for each task. Consultant may revise the scope of services in this RFP and should call out the proposed revisions in their proposal. Please submit an explanation of their qualifications which may include resumes or examples of prior salary studies or similar work. Please also provide references.

B. Methodology for Determining Comparable Agencies and/or a List of Comparable Agencies

The proposal must include a summary of the methodology utilized to determine a) the number of comparable agencies to be studied and b) the selection criteria for the comparable agencies.

C. Estimated Completion Timeframe

The proposal shall include an estimated timeframe to complete the Salary Study beginning with an anticipated start date of August 7th, 2023 (one business week after Proposals are due to allow for contract negotiation/completion).

D. Estimated Cost

Proposals shall include a table summarizing the estimated cost of the Salary Study pursuant to the Services to be Provided by Consultant, based on the Consultant's understanding of the project's scope of work.

E. Contract Requirements

Montecito Sanitary District will be utilizing the Professional Services Agreement (PSA) included as **Attachment C – Sample Professional Services Agreement (PSA)** for your review. Please identify any issues related to the Professional Services Agreement in your proposal. The consultant must comply with applicable local, State, and Federal laws including prevailing wage rates and their payment in accordance with California Labor Code, Section 1775.

IX. SELECTION CRITERIA

From the proposals received, the District will select the most qualified firms to field questions from our General Manager and District Administrator. Selection will be based on information provided in the proposal and discussed during the meeting and will be based on the following criteria:

- A. Qualifications: The Consultant's relevant experience and ability to perform the scope of work as outlined above, based on information provided by the Consultant and client references.
- B. Approach: The Consultant's understanding of the Project as demonstrated by their approach to completing the Services requested above.
- C. References: The consultant's client references, the Consultant's performance on similar studies, and their knowledge of, and familiarity with, the District's geographic region.
- D. Cost: The District is seeking the best value in terms of delivering the services listed in the RFP for a reasonable cost.

The District will enter into negotiations with the firm receiving the highest rating following interviews. If such negotiations are unsuccessful, the District may proceed with negotiations with the firm or firms receiving the next highest rating.

X. RESERVATION OF RIGHTS

- A. The Montecito Sanitary District reserves the right to:
 - a. Reject any and all responses received.
 - b. Issue a subsequent RFP.
 - c. Cancel the entire RFP.
 - d. Remedy technical errors in the RFP process.
 - e. Negotiate with any, all, or none of the Respondents to the RFP.
 - f. Waive informalities and irregularities.
 - g. Make multiple recommendation(s) to the District's Board of Directors.
 - h. Request additional information or clarification.
 - i. All responses and their contents will become the property of the District.
- B. The District will not reimburse Consultants or sub-consultants for any costs associated with any travel and/or per diem incurred in any presentations or for any costs in preparing and submitting the responses.
- C. The District reserves the right to end, in its sole discretion, negotiations at any time with any or all Consultants. This RFP does not commit the District to enter into a contract, nor does it obligate it to pay any costs incurred in the preparation and submission of responses or in anticipation of a contract.
- D. Failure to respond to the requirements outlined in this RFP shall result in the Consultant's disqualification as non-responsive to the RFP.

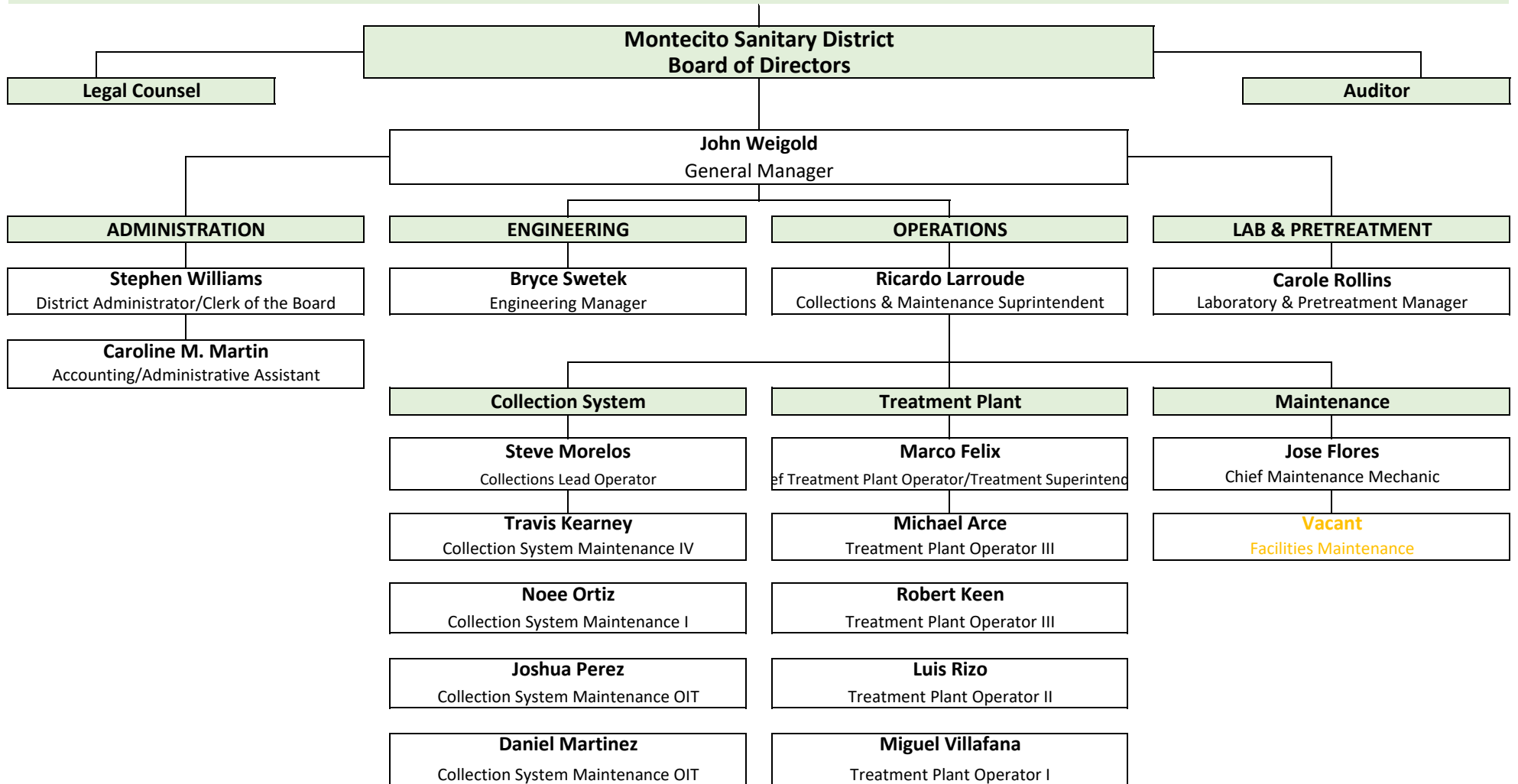
XI. INQUIRIES

All inquiries related to this RFP shall be sent to Stephen Williams, District Administrator at swilliams@montsan.org.

XII. ATTACHMENTS

- A. Montecito Sanitary District Organizational Chart
- B. Montecito Sanitary District Job Series and Classification Table
- C. Sample Professional Services Agreement (PSA)

Montecito Sanitary District Property Owners



Montecito Sanitary District Job Series Fiscal Year 2023-24

<u>Division</u>	<u>Role</u>	<u>EMPLOYMENT CLASSIFICATION</u>
Admin	Admin Asst	Accounting/Admin. Assistant

Maint	Line	Facilities Maintenance
Maint	Supv	Chief Maintenance Mechanic

Collections	Trainee	Collections Operator in Training (OIT)
Collections	Line	Collections I
Collections	Line	Collections II
Collections	Line	Collections III
Collections	Line	Collections IV
Collections	Supv	Collections Lead Operator

Ops	Trainee	Operations Operator in Training (OIT)
Ops	Line	Operator I
Ops	Line	Operator II
Ops	Line	Operator III
Ops	Line	Operator IV
Ops	Line	Operator V

<u>MANAGERS</u>		
Ops	Manager	Laboratory & Pretreatment Manager
Collections	Manager	Chief Plant Operator/Treatment Superintendent
Ops	Manager	Operations Manager (Vacant)
Admin	Manager	District Administrator
Collections/Ops	Manager	Collections & Maintenance Superintendent
Admin	Manager	Engineering Manager

<u>EXECUTIVE</u>		
Admin	Executive	General Manager

**PROFESSIONAL SERVICES AGREEMENT
FOR CONSULTANT SERVICES
2023-PSA-00_**

1. IDENTIFICATION

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into by and between the **Montecito Sanitary District**, a California Independent Special District (“District”), and _____, a _____ (“Consultant”).

2. RECITALS

- 2.1. The District has determined that it requires the following professional services from a consultant: **[enter description of consultant’s services]**
- 2.2. Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.
- 2.3. Consultant represents that it has no known relationships with third parties, board members, or employees of the District which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent Consultant from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.

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

3. DEFINITIONS

- 3.1. “Scope of Services”: Such professional services as are set forth in Consultant’s **[enter consultant’s proposal date]** proposal to the District attached hereto as Exhibit A and incorporated herein by this reference.
- 3.2. “Agreement Administrator”: The Agreement Administrator for this project is John Weigold, General Manager. The Agreement Administrator shall be the principal point of contact at the District for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. The District reserves the right to change this designation upon written notice to Consultant.

- 3.3. “Approved Fee Schedule”: Consultant’s compensation rates are set forth in the fee schedule attached hereto as Exhibit B and incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.
- 3.4. “Maximum Amount”: The highest total compensation and costs payable to Consultant by the District under this Agreement. The Maximum Amount under this Agreement is _____ Dollars (\$_____).

4. TERM

Extension of the Agreement will be by written agreement of the parties or if terminated under Section 16 (“Termination”) below. Consultant may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by the District in writing and incorporated in written amendments to this Agreement.

5. CONSULTANT’S DUTIES

- 5.1. **Services.** Consultant shall perform the services identified in the Scope of Services. The District shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 5.2. **Coordination with the District.** In performing services under this Agreement, Consultant shall coordinate all contact with the District through its Agreement Administrator.
- 5.3. **Budgetary Notification.** Consultant shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Consultant shall concurrently inform the Agreement Administrator, in writing, of Consultant’s estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.
- 5.4. **Business License.** Consultant shall obtain and maintain in force a City of Santa Barbara business license for the duration of this Agreement.
- 5.5. **Professional Standards.** Consultant shall perform all work to the standards of Consultant’s profession and in a manner reasonably satisfactory to the District. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the conflict of interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).

- 5.6. **Avoid Conflicts.** During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if such work would present a conflict interfering with performance under this Agreement. However, the District may consent in writing to Consultant's performance of such work.
- 5.7. **Campaign Contributions.** This Agreement is subject to Government Code Section 84308, as amended by SB 1439. Contractor shall disclose any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party or the party's agent. Contractor shall provide a signed copy of the attached Campaign Contribution Disclosure Form to the District prior to, or concurrent with, the Contractor's execution of this Agreement.
- 5.8. **Appropriate Personnel.** Consultant has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. No change shall be made in Consultant's project administrator without the District's prior written consent.
- 5.9. **Substitution of Personnel.** Any persons named in the proposal or Scope of Services constitutes a promise to the District that those persons will perform and coordinate their respective services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of the District. If the District and Consultant cannot agree as to the substitution of key personnel, the District may terminate this Agreement for cause.
- 5.10. **Permits and Approvals.** Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.
- 5.11. **Notification of Organizational Changes.** Consultant shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Consultant's firm or of any subcontractor. Change of ownership or control of Consultant's firm may require an amendment to this Agreement.
- 5.12. **Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the District under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the District.

- 5.13. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of the District or as part of any audit of the District, for a period of three (3) years after final payment under this Agreement.
- 5.14. **Skilled and Trained Workforce Requirement.** When the use of a skilled and trained workforce is required to complete a contract pursuant to existing law, this contract is subject to such requirement and Contractor agrees to use a skilled and trained workforce.

6. SUBCONTRACTING

- 6.1. **General Prohibition.** This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 6.2. **Consultant Responsible.** Consultant shall be responsible to the District for all services to be performed under this Agreement.
- 6.3. **Identification in Fee Schedule.** All subcontractors shall be specifically listed and their billing rates identified in the Approved Fee Schedule, Exhibit B. Any changes must be approved by the Agreement Administrator in writing as an amendment to this Agreement.
- 6.4. **Compensation for Subcontractors.** The District shall pay Consultant for work performed by its subcontractors, if any, only at Consultant's actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. The District shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

7. COMPENSATION

- 7.1. **General.** The District agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept payment in accordance with the Fee Schedule in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Consultant shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by the District in advance.
- 7.2. **Invoices.** Consultant shall submit to the District an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services

rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification/position with the firm, the corresponding hourly rate, the hours worked, a description of each labor charge, and the total amount due for labor charges.

- 7.3. **Taxes.** The District shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall be solely responsible for calculating, withholding, and paying all taxes.
- 7.4. **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Consultant.
- 7.5. **Additional Work.** Consultant shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by the District through a fully executed written amendment. Consultant shall not undertake any such work without prior written approval of the District.
- 7.6. **District Satisfaction as Precondition to Payment.** Notwithstanding any other terms of this Agreement, no payments shall be made to Consultant until the District is satisfied that the services are satisfactory.
- 7.7. **Right to Withhold Payments.** If Consultant fails to provide a deposit or promptly satisfy an indemnity obligation described in Section 11, the District shall have the right to withhold payments under this Agreement to offset that amount.

8. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material, and all electronic files, including computer-aided design files, developed by Consultant in the performance of this Agreement (such written material and electronic files are collectively known as “written products”) shall be and remain the property of the District without restriction or limitation upon its use or dissemination by the District except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

9. RELATIONSHIP OF PARTIES

- 9.1. **General.** Consultant is, and shall at all times remain as to the District, a wholly independent contractor.
- 9.2. **No Agent Authority.** Consultant shall have no power to incur any debt, obligation, or liability on behalf of the District or otherwise to act on behalf of the District as an agent. Neither the District nor any of its agents shall have control over the conduct of Consultant or any of Consultant’s employees, except as set forth in this Agreement.

Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of the District.

- 9.3. **Independent Contractor Status.** Under no circumstances shall Consultant or its employees look to the District as an employer. Consultant is an independent contractor and shall not be entitled to any employment benefits.

10. INDEMNIFICATION

- 11.1 **Definitions.** For purposes of this Section 11, “Consultant” shall include Consultant, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement. “District” shall include the District, its officers, agents, employees and volunteers.
- 11.2 **Consultant to Indemnify District.** To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and defend the District from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Consultant’s alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or failure to comply with any provision in this Agreement.
- 11.3 **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, Property damage shall include injury to any personal or real property. Consultant shall not be required to indemnify the District for such loss or damage as is caused by the sole active negligence or willful misconduct of the District.
- 11.4 **Attorneys Fees.** Such costs and expenses shall include reasonable attorneys’ fees for counsel of the District’s choice, expert fees and all other costs and fees of litigation. Consultant shall not be entitled to any refund of attorneys’ fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.
- 11.5 **Defense Deposit.** The District may request a deposit for defense costs from Consultant with respect to a claim. If the District requests a defense deposit, Consultant shall provide it within 15 days of the request.
- 11.6 **Waiver of Statutory Immunity.** The obligations of Consultant under this Section 11 are not limited by the provisions of any workers’ compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to the District.
- 11.7 **Indemnification by Subcontractors.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Consultant’s behalf.

11.8 **Insurance Not a Substitute.** The District does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Consultant's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

11. INSURANCE

11.1. **Insurance Required.** Consultant shall maintain insurance as described in this section and shall require all of its subcontractors, consultants, and other agents to do the same. Approval of the insurance by the District shall not relieve or decrease any liability of Consultant Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

11.2. **Documentation of Insurance.** The District will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. Consultant shall file with the District:

- Certificate of Insurance, indicating companies acceptable to the District, with a Best's Rating of no less than A:VII showing. The Certificate of Insurance must include the following reference: [insert project name]
- Documentation of Best's rating acceptable to the District.
- Original endorsements effecting coverage for all policies required by this Agreement.
- Complete, certified copies of all required insurance policies, including endorsements affecting the coverage.

11.3. **Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

- Professional Liability Insurance: \$1,000,000 per occurrence,
\$2,000,000 aggregate
- General Liability:
 - General Aggregate: \$2,000,000
 - Products Comp/Op Aggregate \$2,000,000
 - Personal & Advertising Injury \$1,000,000
 - Each Occurrence \$1,000,000
 - Fire Damage (any one fire) \$ 50,000
 - Medical Expense (any 1 person) \$ 5,000
- Workers' Compensation:
 - Workers' Compensation Statutory Limits
 - EL Each Accident \$1,000,000

- EL Disease - Policy Limit \$1,000,000
- EL Disease - Each Employee \$1,000,000
- Automobile Liability:
 - Any vehicle, combined single limit \$1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

- 11.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.
- 11.5. **Worker’s Compensation Insurance.** Consultant is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers’ Compensation (or to undertake equivalent self-insurance), and Consultant will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.
- 11.6. **Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.
- 11.7. **Professional Liability Insurance or Errors & Omissions Coverage.** The deductible or self-insured retention may not exceed \$50,000. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work. Coverage shall be continued for two years after the completion of the work by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- 11.8. **Claims-Made Policies.** If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

- 11.9. **Additional Insured Endorsements.** The District and its board members, officers, employees, and consultants must be endorsed as an additional insured for each policy required herein, other than Professional Errors and Omissions and Worker's Compensation, for liability arising out of ongoing and completed operations by or on behalf of the Consultant. Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the District, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 11.10. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Consultant does not furnish a new certificate of insurance prior to cancellation, the District has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Consultant under this Agreement. Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.
- 11.11. **Notices.** Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Consultant shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Consultant shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: Montecito Sanitary District, Attn: John Weigold, General Manager, 1042 Monte Cristo Lane, Santa Barbara, CA 93108.
- 11.12. **Consultant's Insurance Primary.** The insurance provided by Consultant, including all endorsements, shall be primary to any coverage available to the District. Any insurance or self-insurance maintained by the District and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 11.13. **Waiver of Subrogation.** Consultant hereby waives all rights of subrogation against the District. Consultant shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.

11.14. **Report of Claims to District.** Consultant shall report to the District, in addition to the Consultant's insurer, any and all insurance claims submitted to Consultant's insurer in connection with the services under this Agreement.

11.15. **Premium Payments and Deductibles.** Consultant must disclose all deductibles and self-insured retention amounts to the District. The District may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, the District must approve all such amounts prior to execution of this Agreement.

The District has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Consultant shall be responsible for all premiums and deductibles in all of Consultant's insurance policies. The amount of deductibles for insurance coverage required herein are subject to the District's approval.

11.16. **Duty to Defend and Indemnify.** Consultant's duties to defend and indemnify the District under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration or early termination of this Agreement.

12. MUTUAL COOPERATION

12.1. **District Cooperation in Performance.** The District shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.

12.2. **Consultant Cooperation in Defense of Claims.** If any claim or action is brought against the District relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that the District may require in the defense of that claim or action.

13. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and the District's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to the District:

John Weigold
General Manager
1042 Monte Cristo Lane
Santa Barbara, CA 93108
Telephone: (805) 969-4200
jweigdol@montsan.org

If to Consultant:

[Name]
[Address]
[Address]
Telephone:

With courtesy copy to:

Aleks R. Giragosian, Esq.
General Counsel
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd., Ste. 850
Pasadena, CA 91101
Telephone: (213) 542-5700
Aleks R. Giragosian
agiragosian@chwlaw.us

14. SURVIVING COVENANTS

The parties agree that the covenants contained in Section 5.12 (Records), Section 10.4 (Indemnification of CalPERS Determination), Section 11 (Indemnification), Section 12.8 (Claims-Made Policies), paragraph 12.13 (Waiver of Subrogation), Section 13.2 (Consultant Cooperation in Defense of Claims), Section 15 (Surviving Covenants), Section 17 (Interpretation of Agreement), and Section 18 (General Provisions) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

15. TERMINATION

- 15.1. **District Termination.** The District may terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All the District data, documents, objects, materials or other tangible things shall be returned to the District upon the termination or expiration of this Agreement.
- 15.2. **Consultant Termination.** Consultant may terminate this Agreement for a material breach of this Agreement by the District upon 30 days' notice.

- 15.3. **Compensation Following Termination.** Upon termination, Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement. The District shall have the benefit of such work as may have been completed up to the time of such termination.
- 15.4. **Remedies.** The District retains any and all available legal and equitable remedies for Consultant's breach of this Agreement.

16. INTERPRETATION OF AGREEMENT

- 16.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 16.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the provisions of this Agreement and its exhibits, the provisions of this Agreement shall prevail. In the event of any material discrepancy between the express provisions of this Agreement and the exhibits of this Agreement, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between the District and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by the District and Consultant.
- 16.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.
- 16.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 16.5. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

- 16.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

17. GENERAL PROVISIONS

- 17.1. **Confidentiality.** All data, documents, discussion, or other information developed or received by Consultant for performance of this Agreement are deemed confidential and Consultant shall not disclose it without prior written consent by the District. The District shall grant such consent if disclosure is legally required. All the District data shall be returned to the District upon the termination or expiration of this Agreement.
- 17.2. **Conflicts of Interest.** Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the District's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, the District shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of the District, during the term of his or her service with the District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 17.3. **Non-assignment.** Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without the District's prior written consent, and any attempt to do so shall be void and of no effect. The District shall not be obligated or liable under this Agreement to any party other than Consultant.
- 17.4. **Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 17.5. **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 17.6. **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 17.7. **Non-Discrimination.** Consultant shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical

condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.

- 17.8. **Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by the District or Consultant unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by the District or Consultant of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 17.9. **Excused Failure to Perform.** Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in the District's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.
- 17.10. **Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.
- 17.11. **Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs expended in the action.
- 17.12. **Venue.** The venue for any litigation shall be Los Angeles County, California and Consultant hereby consents to sole jurisdiction in Los Angeles County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.
- 17.13. **Counterparts; Electronic Signatures.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument. The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed or emailed versions of an original signature, electronically scanned and transmitted versions (e.g., via pdf) of an original signature, or a digital signature.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement as approved by the Board of Directors on:

_____.

“DISTRICT”
Montecito Sanitary District

“CONSULTANT”
[Name of Company or Individual]

Signature: _____

Signature: _____

Printed: John F. Weigold IV

Printed: _____

Title: General Manager

Title: _____

Date: _____

Attest:

Signature: _____

Printed: Bryce Swetek

Title: Engineering Manager

Approved as to form:

Signature: _____

Printed: Aleks R. Giragosian, Esq.

Title: General Counsel, Colantuono, Highsmith & Whatley, PC