

January 22, 2016

To: Board of Directors – Los Osos Community Services District  
From: Michael W. Seitz, District Legal Counsel  
Regarding: Agenda Item 12C - Transfer of Solid Waste Contingency Funds Pursuant to Gov't Code §61112[C]

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### **BACKGROUND/INTRODUCTION**

The District has on its books in the Solid Waste Reserve Contingency Fund 650, funds in the amount of \$165,405.37. The District retains the active solid waste power. However, the solid waste franchise is presently in the County of San Luis Obispo's hands as a part of the LOCSD bankruptcy. The Board of Directors wishes to retain the solid waste power and anticipates that at some future date the franchise will be returned to the District. However, at the present time there is no need for these funds to be retained in the solid waste reserve and the Board has expressed its desire to have these funds transferred to another fund.

At the Board of Directors' meeting held on January 7, 2016, the Board directed that the funds held in the Solid Waste Reserve Contingency Fund 650, be transferred to a new fund designated as the Fire Mitigation Fund that will be a part of the budget at 301. Fund 301 would then have a new designated fund underneath its umbrella that is yet to be assigned.

### **DISCUSSION**

The Board is allowed to transfer the funds from the Solid Waste Contingency Fund 650 to the Fire Mitigation Fund 301 pursuant to Government Code §61112 which allows the Board to do so upon a finding that the designated reserve funds are no longer required for the purpose for which it was established a designated reserve. The Board may by 4-5<sup>th</sup> vote of the total membership of the Board of Directors discontinue the reserve or transfer any funds that are no longer required from the designated reserve to the District's General Fund. The Board needs to make a finding that the Solid Waste Reserves are no longer needed for that purpose as part of the Resolution and that finding is made in the Resolution that is attached

### **STAFF RECOMMENDATION**

Staff recommends that the Board adopt the attached Resolution. The vote would need to be 4-5<sup>th</sup> or greater vote in order for this action to take place. The motion should read as follows:

***Motion: I move that the Board adopt Resolution 2016-03 to transfer the Solid Waste Contingency Funds designated fund 650, to a new fund created in the Fire Fund 301, to direct staff to create such a Fire Mitigation Reserve Fund within 301, and to transfer these funds from Solid Waste Contingency Fund to that fund.***

Attachment – LOCSD Resolution 2016-03

**RESOLUTION NO. 2016-03**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT  
REGARDS TO THE TRANSFER OF SOLID WASTE RESERVES AND TO THE DISTRICT'S GENERAL FUND  
AND DETERMINING WHICH DISTRICT FUNDS WILL RECEIVE FUNDS FROM THE SOLID WASTE RESERVES**

**WHEREAS**, the Los Osos Community Services District ("District") is formed under the Community Service District Law (Government Code § 61000 et seq.); and

**WHEREAS**, the "District" has as one of its active powers, the solid waste power, pursuant to Government Code § 61100[C]; and

**WHEREAS**, the "District" retains this active power despite the fact that the solid waste franchise was sold to the County of San Luis Obispo as a part of the "District's" bankruptcy; and

**WHEREAS**, the "District" anticipates return of this power at some future date; and

**WHEREAS**, there is no present need for the reserves to be held in the solid waste, and those reserves total \$165,405.37; and

**WHEREAS**, pursuant to Government Code § 61112[C] which provides as follows:

- C. If the Board of Directors finds that the funds in a designated reserve are no longer required for the purpose for which it is established, as a designated reserve, the Board of Directors may, by 4-5ths vote of the total membership of the Board of Directors may discontinue the designated reserve or transfer any funds that are no longer required from the designated reserve to the District's general fund and;

**WHEREAS**, the Board of Directors hereby finds that the Solid Waste Fund presently has a total of \$165,405.37; and

**WHEREAS**, the Board has determined that these reserves are no longer required for the purpose of which that fund was established; and

**WHEREAS**, the Board hereby determines that said fund should be distributed to a new fund, known as the Fire Mitigation Fund, which shall be used for those purposes exclusively.

**NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT AS FOLLOWS:**

1. That the above findings are true and correct; and
2. The Board of Directors hereby orders the Solid Waste Reserve Fund, totaling \$165,405.37, is no longer needed for the purpose of solid waste and the Board of Directors hereby orders that said funds should be distributed to a new fund known as the Fire Mitigation Fund. The Board hereby directs the General Manager to create the Fire Mitigation Fund and to deposit these monies into that fund.

On the motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, and on the following roll call vote, to wit:

Ayes: \_\_\_\_\_  
Noes: \_\_\_\_\_  
Absent: \_\_\_\_\_  
Conflicts: \_\_\_\_\_

The foregoing resolution is hereby passed, approved, and adopted by the Board of Directors of the Los Osos Community Services District this 4<sup>th</sup> day of February 2016.

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Marshall E. Ochylski  
President, Board of Directors  
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

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Margaret Falkner  
Temporary General Manager and Secretary to the Board

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Michael W. Seitz  
District Legal Counsel