



September 17, 2018

TO: LOCSO Board of Directors
FROM: Renee Osborne, General Manager

SUBJECT: **Agenda Item 2A – 9/19/2018 Board Meeting**
Board Recommendation Regarding the "Right of Entry" Permit with New Terms for the Los Osos Community Park Playground Rubber Chip Removal

President
Vicki L. Milledge

Vice President
Marshall E. Ochylski

Directors
Charles L. Cesena
Louis G. Tornatzky
Christine M. Womack

General Manager
Renee Osborne

District Accountant
Robert Stilts, CPA

Unit Chief
Scott M. Jalbert

Battalion Chief
Greg Alex

DESCRIPTION

Nick Franco, County Parks and Recreation Director, is in receipt of the letter sent by the District. The District's right of entry permit has additional language that conflicts with the Board's direction from the September 6th Board of Director's meeting. Staff is requesting direction.

MOTION

I move that staff sign the right of entry permit, continue with the removal of the rubber chips from the Los Osos Community Park Playground and installation of the Fibar Chips.

OR

I move that staff not sign the right of entry permit and put the rubber chip removal project on hold.

OR

(Alternate motion).

SUMMARY

Since receiving the LOCSO Board of Directors letter dated September 12, 2018, the County felt it was necessary to add additional language to the "right of entry" permit for the removal of the rubber chips at the Los Osos Community Park Playground to include the following under Item #5 Permit Fee;

"Permittee is responsible for all costs associated with the Project. The County will not reimburse Permittee for any costs incurred as a result of the Project."

The Board gave clear instructions to staff and the Parks and Recreation Committee to seek reimbursement from the County. The new language added to the permit states that the District is doing this project with no intention of receiving reimbursement from the County.

Because of the change to the permit language, staff would like direction on whether or not the Board would like the General Manager to sign the permit and continue with the removal of the rubber chips project.

Mailing Address:
P.O. Box 6064
Los Osos, CA 93412

Offices:
2122 9th Street, Suite 102
Los Osos, CA 93402

Phone: 805/528-9370
FAX: 805/528-9377

www.losososcscsd.org

Staff has an update for the Board on a cost change. The new supplier, Jet Mulch, shorted the request for 240 yards of material by 15 yards. This cost will be an additional \$735 to the project. This amount is still \$528 under the original quote. The County would also like to increase the Fibar Chip yardage to 300 yards. Since the County originally told the District 240 yards, they will pay for the additional Fibar Chip delivery. The updated quotes from Jet Mulch are attached. Total cost of project, with Supervisor Gibson's donation, is \$13,341.

Attachments



September 12, 2018

Nick Franco
County of San Luis Obispo Parks & Recreation Department
1144 Monterey Street
San Luis Obispo, CA 93408

President
Vicki L. Milledge

Subject: South Bay Community Park Playground Chip Removal and Replacement, Los Osos, California

Vice President
Marshall E. Ochylski

Dear Mr. Franco:

Directors
Charles L. Cesena
Louis G. Tornatzky
Christine M. Womack

As you have previously discussed with Renee Osborne, the General Manager of the Los Osos Community Services District, we as Board Members and individuals are very concerned about the rubber tire chips currently being used in the Playground area of the South Bay Community Park. As a County maintained Park, the safety of the users of that park should be a primary consideration of the County Park's Department and quite frankly we do not understand why the removal of those chips is not one of your Department's highest priorities.

General Manager
Renee Osborne

However, since the County is unwilling to remove these rubber tire chips our District has agreed to spearhead the volunteer effort to remove the rubber tire chips and replace them with Engineered Wood Fiber in the County's owned and maintained park.

District Accountant
Robert Stilts, CPA

Unit Chief
Scott M. Jalbert

In order to implement that project on a timely basis, the District is fronting the cost of purchasing the County's approved Engineered Wood Fiber replacement material which is being provided by a supplier approved by the County, and installed under direct supervision of County staff. In addition, the District is coordinating the recruitment of volunteer labor. This project will remain the full responsibility of the County and the District is not assuming any liability.

Battalion Chief
Greg Alex

The District has requested reimbursement from your Department and Supervisor Gibson for its expenses and unfortunately neither have agreed to cover all of these costs despite the fact that our area has significantly less County parks and County recreational programs than almost any other area of the County. This letter will serve as a formal request for that reimbursement. Certainly there must be contingency funds available in the County budget that could be allocated to this project. The District is reserving the right to address the Board of Supervisors to request these expenses be reimbursed and to coordinate private fundraising efforts.

Mailing Address:
P.O. Box 6064
Los Osos, CA 93412

Offices:
2122 9th Street, Suite 102
Los Osos, CA 93402

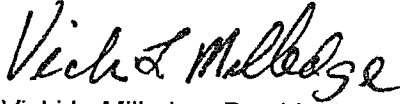
Phone: 805/528-9370
FAX: 805/528-9377

Finally, the District wants to make it expressly clear that this is a one-time project and the District is not committing to any further expenditures or work efforts towards projects or maintenance for the County's Park Department.

www.losososcscsd.org

Please feel free to contact Ms. Osborne directly if you would like to set up a meeting to address our concerns.

Sincerely,



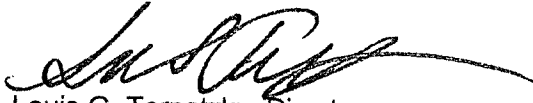
Vicki L. Milledge, President
LOCSD Board of Directors



Marshall E. Ochylski, Vice President
LOCSD Board of Directors



Charles L. Cesena, Director
LOCSD Board of Directors



Louis G. Tornatzky, Director
LOCSD Board of Directors



Christine M. Womack, Director
LOCSD Board of Directors

Copy to: Wade Horton, Administrative Officer
San Luis Obispo County
1055 Monterey Street D430
San Luis Obispo, CA 93408

John Peschong, District 1, Chairperson
San Luis Obispo County Board of Supervisors
1055 Monterey Street Suite D430
San Luis Obispo, CA 93408

Debbie Arnold, District 5, Vice Chairperson
San Luis Obispo County Board of Supervisors
1055 Monterey Street Suite D430
San Luis Obispo, CA 93408

Bruce Gibson, District 2
San Luis Obispo County Board of Supervisors
1055 Monterey Street Suite D430
San Luis Obispo, CA 93408

Adam Hill, District 3
San Luis Obispo County Board of Supervisors
1055 Monterey Street Suite D430
San Luis Obispo, CA 93408

Lynn Compton, District 4
San Luis Obispo County Board of Supervisors
1055 Monterey Street Suite D430
San Luis Obispo, CA 93408



**COUNTY OF SAN LUIS OBISPO
PARKS & RECREATION DEPARTMENT**

Nick Franco *Director*

September 17, 2018

Los Osos Community Services District
Board of Directors
P. O. Box 6064
Los Osos, CA 93412

Dear Board Members,

Thank you for your letter of September 12, 2018 regarding the rubber tire chips at the Los Osos Community Park playground. The existing rubber tire chips currently meet all safety standards for playgrounds and will not be replaced by the County until it reaches the end of its useful life – likely in five to ten years. I understand that there are a number of community members who would like to see the material replaced earlier. That is certainly an option available, but not an expense that the County will reimburse.

My understanding is that the Community Services District has decided via Board action on September 6, 2018 to fund the replacement of the existing rubber tire chips with engineered wood fiber. We have prepared a Right of Entry for the Community Services District to accomplish this project. The Community Services District should understand that the decision to expend these funds comes with no provision for reimbursement.

I do understand that this is a one-time project and there is no commitment for further funding. I also understand that the County will continue to maintain the facility to the same standards we maintain all our playgrounds in the County both prior to and after any replacement of the surface materials. We will also provide a Certified Playground Safety Inspector to assist with verifying that the material is placed in a manner to meet all safety standards.

Sincerely,

Nick Franco
Director

cc: San Luis Obispo County Board of Supervisors
Wade Horton, County Administrative Officer
Renee Osborne, LOCSD General Manager



**COUNTY OF SAN LUIS OBISPO
PARKS & RECREATION DEPARTMENT**

Nick Franco Director

Date: 09-17-18

Renee Osborne
Los Osos CSD, General Manager
2180 Palisades Ave.
Los Osos, CA 93402
805.528.9379
rosborne@losososcsd.org

PERMIT FOR RIGHT OF ENTRY

Enclosed, please find two copies of the Permit for Right of Entry for the Los Osos Community Park for a Playground Safety Surface Replacement Project. Please sign the permits, provide certificate of insurance (including sub-contractors) and return them to Ken Klis, Parks Superintendent. Once we are in receipt of the signed permit you will receive a written notice to proceed. If you have any questions, please give me a call at (805) 781-5930.

Ken Klis
Parks Superintendent
805-781-5930

TEMPORARY RIGHT OF ENTRY PERMIT

TITLE: – Playground Safety Surface Replacement Project, Los Osos Community Park

This Temporary Right of Entry Permit ("Permit") is dated as of this 7th day of September 2018 and is made by and between the County of San Luis Obispo ("County") and The Los Osos Community Service District ("Permittee").

- 1) Premises. The County is the legal owner of that certain property known as Los Osos Community Park located in Los Osos, California (the "Premises").
- 2) Use. Permittee has requested permission (and the County hereby grants to Permittee) to use, on a non-exclusive basis, a portion of the Premises for the purpose of removing the existing playground safety surface material that currently meets all safety standards established by the Consumer Product Safety Commission and/or the American Society for the Testing of Materials (ASTM) and replacing the playground surface with a Certified Engineered Wood Fiber (EWF) that meets the standards established by the Consumer Product Safety Commission and/or the American Society for the Testing of Materials (ASTM) (hereinafter, "the Project"). The EWF shall meet the following ASTM standards required for playground use including F1292 for impact absorption, F2075 for material purity, and F1951 for wheelchair access.
- 3) Project Plan. Prior to commencing the Project, Permittee shall provide the County with a schedule of when the work will be performed, including the hours of work, and start and completion dates for the Project. The schedule must be approved by the County Department of Parks and Recreation ("County Parks") prior to starting the Project. The Supervising Ranger for the Pecho District, Bob Yetter (805-781-1196) shall be your County Parks contact for this Project. Permittee shall furnish to the County, prior to start of the Project, the names and addresses of all persons who will be working on the Project at the Premises. Permittee solely is responsible for managing the Project and persons through completion of the work. All unusable materials and debris shall be removed from the Premises by the end of the Project, and disposed of, off site, in an appropriate manner. Once the Project is complete, County will maintain the playground surface which is the subject of the Project.
- 4) Term: The term of this Permit shall be from September 7, 2018 until and including January 1, 2019. This Permit may be extended upon mutual written agreement of the parties. The County may terminate this Permit at any time by giving Permittee written notice of such termination, specifying the date of termination within the notice.
- 5) Permit Fee. There shall be no fee associated with this Permit. Permittee is responsible for all costs associated with the Project. The County will not reimburse Permittee for any costs incurred as a result of the Project.
- 6) Relationship. Permittee agrees and understands that the Project is being done solely by Permittee with volunteer labor and materials at no cost or expense to County. The Project is not being done under contract with the County and no public funds are being expended. The County will not be directly or specifically involved in the day-to-day management of the

Project or direct supervision of the volunteers. The parties intend by this Permit to establish the relationship of permittor and permittee only, and do not intend to create a partnership, joint venture, joint enterprise, or any business relationship other than that of permittor and permittee. Permittee agrees to be responsible for the monitoring of all activity during Permittee's use of the Premises, including monitoring the volunteers and other persons on the Project, and shall comply with all such rules and regulations necessary to protect the health, safety, and welfare of the public at the Premises. Accepting this permit or starting the work hereunder shall constitute acceptance and agreement to all of the conditions and requirements of this Permit.

- 7) Inspection. Permittee agrees that County may monitor and inspect the Project for safety purposes. County will provide a Certified Playground Safety Inspector on site to verify that all safety standards are met. Permittee further agrees to coordinate with County Parks so as to minimize any impact to the public use of the Premises and any adjacent facilities. The playground will need to be closed, and all other safety precautions must be implemented, to protect the public and facilities to the satisfaction of County Parks staff.
- 8) Indemnity/Insurance. To the fullest extent permitted by law, Permittee shall indemnify, defend, and hold harmless the County and its officers, agents, employees, and volunteers from and against all claims, demands, damages, liabilities, loss, costs, and expense (including attorney's fees and costs of litigation) of every nature arising out of or in connection with Permittee's performance or attempted performance of work under this Permit, all liability associated with the Project, and/or or Permittee's failure to comply with any of its obligations contained in this Permit, except such loss or damage which was caused by sole negligence or willful misconduct of the County. Permittee, or Permittee's contractor(s), will be required to provide proof of \$1,000,000 of liability insurance naming the county officers and employees with the appropriate hold harmless clause relinquishing the county, its officers and employees of any liability related to this project.
- 9) No Assignment. This Permit is of a personal nature and assignment or transfer by Permittee of this Permit, or any privileges given hereunder, shall not be permitted without the prior written consent of the County.
- 10) No Property Rights. This Permit does not represent or give Permittee any right or interest of title in or to the Premises, but only represents a temporary right to use the Premises, as described herein. All land, structures and fixtures shall remain the property of County.
- 11) Permits. It shall be Permittee's responsibility to secure any other permits, licenses, or approvals required by any and all local, state, and federal governments and appropriate departments, commissions, boards and officers thereof related to the Project.
- 12) Notice. The following persons are designated as contact persons for purposes of notice and communications under this Permit. All notices shall be in writing, either personally served or delivered by U.S. Mail Postage prepaid and addressed as follows:

PERMITTEE: Renee Osborne
 Los Osos CSD, General Manager

2180 Palisades Ave.
Los Osos, CA 93402
805.528.9379
rosborne@losososcscsd.org
Los Osos CSD, General Manager
805.528.9379

COUNTY: Ken Klis, Parks Superintendent
County of San Luis Obispo
Department of Parks & Recreation
1144 Monterey Street
San Luis Obispo, CA 93408
(805) 781-5930, kklis@co.slo.ca.us

13) Integration & Counterparts. This Permit represents the entire understanding of the parties regarding the Project. This Permit may be executed in counterparts.

COUNTY OF SAN LUIS OBISPO

PERMITTEE

By: _____
Nick Franco, Director

By: _____
Renee Osborne,
Los Osos CSD General Manager

APPROVED AS TO FORM AND LEGAL EFFECT:

Rita Neal
County Counsel

By: _____
Deputy County Counsel

JetMulch Inc
 PO Box 1667
 Capitola, CA 95010
 (866) 306-8524
 jetmulch@gmail.com
 www.jetmulch.com

Estimate



License #C27-800650
 DGS SBE #4245
 DIR #100006584

ADDRESS

Renee Osborne
 Los Osos CSD
 PO Box 6064
 Los Osos, CA 93412

SHIP TO

RENEE OSBORN (805) 528-9379
 Ken Klis <kklis@co.slo.ca.us
 Los Osos Community Park
 2180 Palisades Ave,
 Los Osos, CA 93402

ESTIMATE #

10139-OL

DATE

09/07/2018

DATE	ACTIVITY	QTY	RATE	AMOUNT
09/07/2018	EWF-I:Engineered Wood Fiber Installed PLAYGROUND: ASTM Certified Engineered Wood Fiber with BLOWN IN Installation - CEDAR CHIP IF AVAILABLE	240	48.95	11,748.00
09/07/2018	NEED FIRST WEEK OF OCTOBER October 3rd-5th			
09/07/2018	191 MILES ONE WAY			
09/07/2018	Sales Tax Local Sales Tax 7.25%	1	375.19	375.19
TOTAL				\$12,123.19

Accepted By

Accepted Date

09/10/2018

JetMulch Inc
 PO Box 1667
 Capitola, CA 95010
 (866) 306-8524
 jetmulch@gmail.com
 www.jetmulch.com

Estimate



License #C27-800650
 DGS SBE #4245
 DIR #1000006584

ADDRESS
 Lasca Gaylord
 County of San Luis Obispo - Park
 Ranger Lasca Gaylord
 1055 Monterey Street
 San Luis Obispo, CA 93408

SHIP TO
 Lasca Gaylord 805-781-4417
 Los Osos Community Park
 2180 Palisades Ave,
 Los Osos, CA 93402

ORDER #	DATE
10149-OL	09/11/2018

DATE	ACTIVITY	QUANTITY	RATE	AMOUNT
09/11/2018	EWf-I:Engineered Wood Fiber Installed EXTRA IF NEEDED: PLAYGROUND: ASTM Certified Engineered Wood Fiber with BLOWN IN Installation - CEDAR CHIP IF AVAILABLE NEED FIRST WEEK OF OCTOBER October 3rd-5th	60	48.95	2,937.00
09/11/2018	191 MILES ONE WAY - MUST BE COMPLETED WITH JOB BY PARK DISTRICT OR ADDITIONAL FEES WILL APPLY.			
09/11/2018	Sales Tax Local Sales Tax 7.25%	1	119.63	119.63
TOTAL				\$3,056.63

Accepted By

Accepted Date

09/14/2018