

**OCEANO COMMUNITY SERVICES DISTRICT
RESOLUTION NO: 2018 - 5**

**A RESOLUTION PURSUANT TO CALIFORNIA PUBLIC CONTRACT CODE 22050
DELEGATING TO THE GENERAL MANAGER THE AUTHORITY TO TAKE ANY
DIRECTLY RELATED AND IMMEDIATE ACTION AND TO ORDER ACTION TO
PROCURE THE NECESSARY EQUIPMENT, SERVICES, AND SUPPLIES FOR
EMERGENCY REPLACEMENT OF THE FAILED WATERLINE UNDER THE OCEANO
LAGOON BETWEEN UTAH AVENUE AND MAUI CIRCLE, OCEANO CALIFORNIA**

WHEREAS, on March 24, 2018 at approximately 5:00 a.m., the District's on-call operator received a call-out for low water pressure at a property on McCarthy Avenue and upon responding determined that a waterline under the Oceano Lagoon (the "Oceano Lagoon Waterline") had failed. The operator isolated the waterline by turning off valves, terminated the "looped" flow of water, and notified the State Water Board, the San Luis Obispo County Office of Emergency Services and the San Luis Obispo County Office of Environmental Health; and

WHEREAS, Exhibit "A" illustrates the location of the failed Oceano Lagoon Waterline; and

WHEREAS, in response to the unexpected failure of the Oceano Lagoon Waterline, the District staff immediately embarked on efforts to identify actions that would be needed to repair or replace the Oceano Lagoon Waterline, including but not limited to action needed by the District Board of Directors as may be required by the California Public Contracts code, requirements of state and federal environmental resource agencies, and options to repair or replace the Oceano Lagoon Waterline; and

WHEREAS, on March 28, 2018, the District Board of Directors authorized the District Manager to initiate certain emergency actions; and

WHEREAS, on or about March 28, 2018, the District General Manager contacted the San Luis Obispo County Public Works Department, Environmental Division, seeking assistance on determining and complying with requirements of state and federal environmental resource agencies; and,

WHEREAS, the Environmental Division Manager indicated that staffing could not be provided and informed the General Manager that Terra Verde Environmental Consulting (Terra Verde Inc.) had previously consulted on environmental resources of the Oceano Lagoon; and

WHEREAS, on April 6, 2018 the General Manager approved a proposal from Terra Verde Environmental Consulting (Terra Verde Inc.) for the purpose of assisting the District in addressing requirements of state and federal environmental resource agencies; and

WHEREAS, on April 10, 2018, the General Manager, the District's Utility Operations Supervisor, a representative of Terra Verde, and a professional engineer of Cannon Associates made a site visit to the location of the Oceano Lagoon Waterline; and

WHEREAS, during the site visit, the individuals present identified what appeared to be a segment of the Oceano Lagoon Waterline that failed, as depicted in Exhibit "A," which created substantial doubt regarding repairing the waterline through in-situ or other construction methodologies and essentially eliminated further consideration of repair options; and

WHEREAS, on April 11, 2018, Terra Verde Inc. provided the District with a Technical Memorandum (Technical Memorandum) titled "Regulatory Agency Permitting Summary for the Oceano Community Service District Emergency Waterline Replacement Project"; and

WHEREAS, on April 12, 2018, the General Manager approved a proposal from Cannon Associates to assist in engineering and surveying services that are needed to replace the failed Oceano Lagoon Waterline; and

WHEREAS, on April 16, 2018, Cannon Associates provide the District with a survey indicating the public right of way was substantial on both sides of existing paved roads observed during the site visit of April 10, 2018, which together indicate that the District could utilize a construction methodology described as Horizontal Directional Drilling (HDD) to replace the failed Oceano Lagoon Waterline and avoid direct construction activities in the Oceano Lagoon or adjacent environment; and

WHEREAS, the HDD construction methodology does have a potential to frac-out, which is described in the Terra Verde Technical Memorandum along with recommendations for addressing requirements of state and federal environmental resource agencies and mitigation of a potential frac-out; and

WHEREAS, the failure of the Oceano Lagoon Waterline necessitates emergency replacement as it represents a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services; and

WHEREAS, Exhibit "B" illustrates the District's water system in the vicinity of the failed Oceano Lagoon Waterline; and

WHEREAS, two areas exist within the District's water system that require immediate replacement of the Oceano Lagoon Waterline to prevent and mitigate loss of essential public services including potable water service necessary for health and well being, and water that is needed for fire and emergency services to protect life and property; and

WHEREAS, the Oceano Lagoon Waterline requires immediate replacement because the single remaining District waterline depicted in Exhibit "B" that is serving the area generally described as the "Island" is located within property owned by the County of San Luis Obispo's Oceano Airport, and in the event of a failure, would result in an extended period that potable water service and water for fire and other emergency services would not be available since access to the waterline that transverses airport property is inaccessible while the airport is operating; and

WHEREAS, the Oceano Lagoon Waterline requires immediate replacement because the single remaining District waterline depicted in Exhibit "B" that is serving the area generally described as the "Island" also serves water to the South San Luis Obispo County Sanitation District, which owns and

operates a regional wastewater treatment plant at that location, and which provides an essential public service whose operations would be impaired if potable water service and/or water that is needed for fire and emergency services is interrupted; and

WHEREAS, the Oceano Lagoon Waterline requires immediate replacement because a separate and single remaining District waterline depicted in Exhibit "B," that is serving the area generally described as "Beach Properties," has undersized waterlines that are subject to flow reductions and impaired ability to respond to fires and other emergencies while the Oceano Lagoon Waterline is out of service; and,

WHEREAS, the District's estimated cost of the emergency project is less than \$175,000 and the District may utilize provisions of the Uniform Public Construction Cost Accounting Act, which are incorporated in California Public Contract Code 22000 et seq. to procure the necessary equipment, services, and supplies for replacement of the Oceano Lagoon Waterline; and

WHEREAS, California Public Contract Code 22050 (a) authorizes a public agency to take any directly related and immediate action required to replace a public facility in the case of an emergency and to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts provided that the governing board of the public agency finds that, based on substantial evidence, that the emergency will not permit a delay resulting from a competitive solicitation of bids and that the action is necessary to respond to the emergency; and

WHEREAS, California Public Contract Code 22050 (b) authorizes the governing body of a public agency to delegate to the District's General Manager the authority to order any action to replace the public facility as authorized by Public Contract Code 22050 (a); and

WHEREAS, the time required to obtain emergency permits and provide emergency notifications to environmental resource agencies is imminent and additional time to solicit competitive bids will unduly delay the replacement of the Oceano Lagoon Waterline; and

WHEREAS, the availability of contractors to immediately perform the required work, and timing requirements that would be included in bid documents, may result in inflated bids and conflict with low-bid requirements as compared to contractor procurement that is authorized by Public Contract Code 22050 (a); and,

WHEREAS, serving the public interest demand immediate action to prevent and mitigate loss of essential public services including potable water service necessary for health and well being, and water that is needed for fire and emergency services to protect life and property as a result of the sudden unexpected failure of the Oceano Lagoon Waterline.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Oceano Community Services District that:

1. The foregoing recitals are true and correct.
2. That the failure of the Oceano Lagoon Waterline at a location illustrated in Exhibit "A" was a sudden and unexpected failure.
3. The Oceano Lagoon Waterline requires emergency replacement to prevent or mitigate loss or damage to life, health, property or essential public services, including but not limited to the following:
 - a. Potable water service and water service for fire flows to the wastewater treatment facilities of the South San Luis Obispo County Sanitation District, an essential public service provided by a governmental agency that is independent from the District.
 - b. Potable water service and water service for fire flows to the area described as the "Island" and illustrated in Exhibit "B."
 - c. Potable water service and water service for fire flows to the area described as the "Beach Properties" and illustrated in Exhibit "B."
4. Pursuant to Public Contract Code 22050 (a), substantial evidence supports the conclusions that the need for emergency actions cannot be delayed, that the District has and must continue to act as expeditiously as possible to replace the failed Oceano Lagoon Waterline, and delays resulting from a competitive solicitation of bids will unduly impact the need to prevent or mitigate loss or damage to life, health, property or essential public services.
5. Pursuant to Public Contract Code 22050 (b), the District General Manager is authorized to take any directly related and immediate action required to replace the Oceano Lagoon Waterline and to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.
6. Pursuant to Public Contract Code 22050 (b), this resolution must be approved by at least of 4/5ths vote.
7. Pursuant to Public Contract Code 22050 c), the General Manager shall report to the Board of Directors at each subsequent regular meeting so that the Board can review the emergency action to determine, by a 4/5ths vote, that there is a need to continue the emergency action.

PASSED AND ADOPTED by the Board of Directors of the Oceano Community Services District on April 25, 2018 by the following vote:

AYES: Director Angello, President White, Director Brunet, Vice President Austin

NOES: None

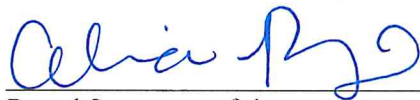
ABSTAIN: None

ABSENT: Director Coalwell



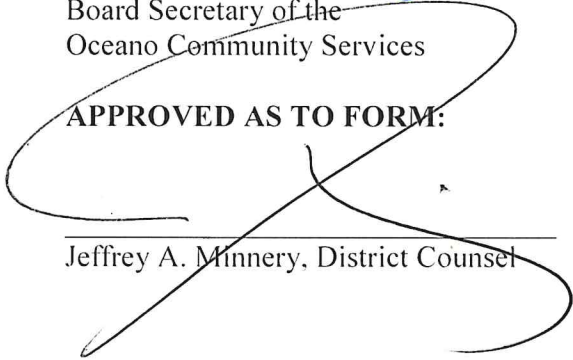
President, Board of Directors
of the Oceano Community Services District

ATTEST:



Board Secretary of the
Oceano Community Services

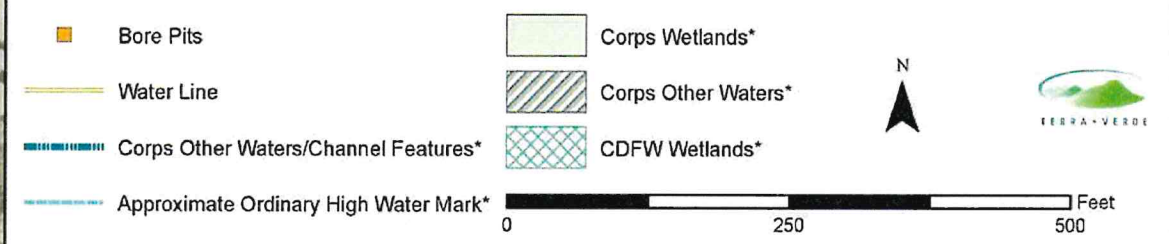
APPROVED AS TO FORM:



Jeffrey A. Minnery, District Counsel



Oceano Lagoon Emergency Water Line Replacement
Figure 1 - Project Overview



*data collected by Terra Verde for An Analysis of the Geographic Extent of Regulated Waters and Wetlands in the Meadow Creek Lagoon (2012)

11 Apr 2018

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroX, Geomapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

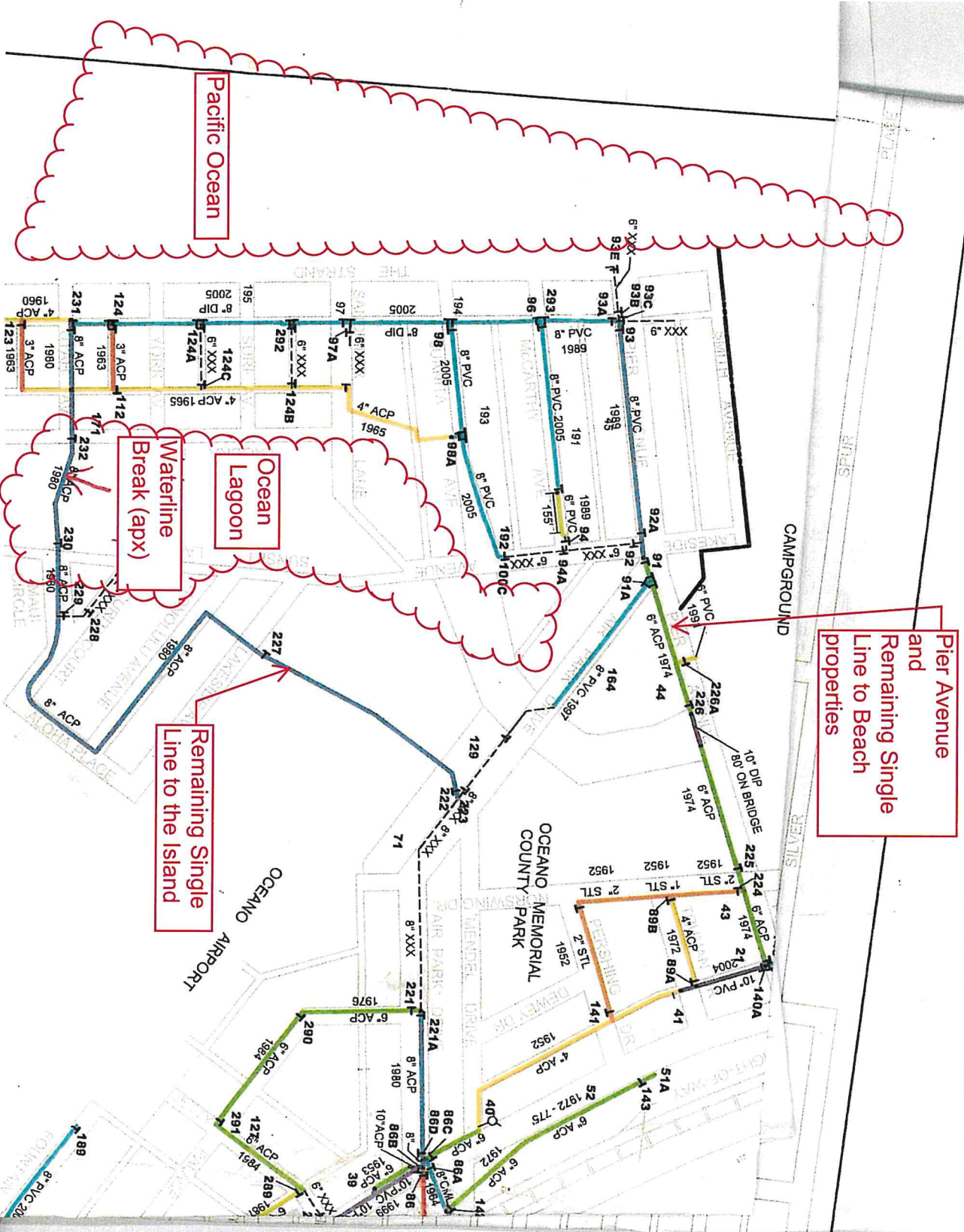


EXHIBIT - ITEM 9(C)
OCEANO CSD
BOARD MEETING DATE MARCH 28, 2018
(PROPOSED ADDITION TO AGENDA)