

**LOS TRANCOS COUNTY WATER DISTRICT  
NOTICE OF SPECIAL PUBLIC MEETING  
Thursday, November 11, 2010 7:30 PM-10:30PM**

**Toyon Cabin  
179 Los Trancos Circle  
(Between Bonita and Lake Roads)  
Portola Valley, CA 94028**

**Agenda**

- 0) **Public Comment on Issues Not on the Agenda** – Please limit comments to no more than 3 minutes.
  - 1) **Approval of Minutes** from 10-07-2010 meeting – Uridel (5 min)  
(Discussion/Decision)
  - 2) **Financials**
    - a. **Approval of Financial Report** – Tate (10 min)  
(Discussion/Decision)
  - 3) **Status Update on Dissemination of District Survey Results** – Sherman & Ward (10 min) (Discussion)
  - 4) **Program Updates** All (30 min) (Discussion/Decision)
    - a. **Fire Safety/Emergency Preparedness** – Krenz & Sherman
    - b. **Water Movement Control** – Smernoff & Uridel
    - c. **Lands** – Smernoff & Krenz
    - d. **Saving Water** – Ward
- Break – 15 minutes---**
- 5) **Adoption of new contract between LTCWD and the California Water Services Company** – Ward & Uridel (10 min) (Discussion/Decision)
  - 6) **Overview of possible District incentive program to encourage residential drainage improvements within road rights of way** – Smernoff & Uridel (15 min) (Discussion)
  - 7) **Consideration of Proposed Staff Salary Adjustment** – Uridel (5 min)  
(Discussion/Decision)
  - 8) **Correspondence and Communications** – Staff & Members (10 min)  
(Discussion)
  - 9) **Set Date, Time and Place of Next Meeting**– Uridel (1 min)  
(Discussion/Decision)



October 11, 2010

Legend: Follow up's needed  
In put/clarification needed

**DRAFT**  
**Minutes of the Regular Meeting of**  
**The Board of Directors**  
**Los Trancos County Water District**  
**October 7, 2010**

The meeting was called to order at 7:45 pm at the home of Charlie Krenz, as no access to the reserved room at Corte Madera School was possible.

**In attendance:**

Charlie Krenz, David Smernoff, Tracy Sherman, Tom Uridel, and Mike Ward. Keri Tate (Finance Manager) and Helene Zimmerman (Recording Secretary). No members of the public present.

**Agenda Item 0: Public Comment on Issues Not on the Agenda** – No comments

**Agenda Item 1: Introduction of New Recording Secretary:** Tom Uridel introduced Helene Zimmerman

**Agenda Item 2: Approval of Minutes** from 09-09-2010

- Keri Tate asked to be referred to as Financial Manager versus Treasurer. Approved.
- Ward: a valid reporting but added clarification on Cal Water discussion.
  - Additional 10cents per unit added for 1 year, then eliminated
- Uridel: Why did happen? – Because under Cal Water, they raised the rates for the Bear Gulch district, and we were no longer able to set our own water rates
- Ward: Clarified -
- Smernoff: made grammar corrections; clarified on lands issue re plants; locals interested in ways to incentivise (*get info from Charlie*)
- Ward: Cal Water Contract – 2% fees were small. \$200 was split between ???
- August's minutes still in draft form on web site
- This year's budget not yet on web site – plan to add

Smernoff made motion to accept. Ward seconded, all in favor.

**Agenda Item 3: Financials: Approval of Financial Report**

- Tate: finally received a copy of last years San Mateo Secured Tax systems. It went up a little.
  - Received \$137.29 July 2010, will be recorded as this year
  - Payments have been made on the following accounts: Emergency Preparedness, Lands, Contract services (09/10 audit), Operations (stamps, etc), and other (Insurance in last months also as check was lost; Lands = lake liability) and DNO (Director and Officer's Insurance).
  - Need to determine when payment is due on Directors and Officers Insurance
  - Tate will be out of town until Nov. 2. Will need some help from Finance Committee. Financials won't be received until Nov. 1.

Ward made motion to accept. Uridel seconded, all in favor.

#### **Agenda Item 4: Final plan for presentation/dissemination of District Survey results**

- Sherman: Asked if everyone was good with the layout and wording.
- Smernoff: In response to his addition of a “General Response,” felt that the survey responses indicated a need for clarification on a number of issues that didn’t necessarily fall into the program categories. Used “General Response” section as an opportunity to address these issues.
- Ward: Per ‘General Response’ section, commented that District cannot reduce the tax rate under any circumstances. Wording was amended to clarify.
- Uridel: Confused why there is both a letter and general survey response. Questioned if both have to be sent to the community?
- Sherman & Ward: Said one is a cover/thank you letter, while the other is mission related.
- Uridel: Wants the signature line to be more professional. **To be signed: Sincerely, The Los Trancos County Water District & NOT “Your Water Board”**
- Krenz: We never called ourselves “The Water Board”
  - We should be formal
  - Response will be posted on the website as well as mailed
- Ward: Mail is push communication: the Web is pull communication
  - Wants to include one graph from the survey on the back of the cover letter along with a few facts about the survey. **Will work with Jack Loftis on this.**
  - Wants the document to look classy
  - This is the feedback: we’re letting the community know we are responsive to their needs

Letter and General Survey Response Edits: All edits requested were captured by Sherman and entered directly into the document.

#### **Agenda Item 5: Program Updates - All**

- **Fire Safety/Emergency Preparedness**

Sherman: There were more requests for roof and gutter cleaning than slots available. Successful new pilot program.

- We are doing a second cleaning on Sunday. Oct. 9
- Much appreciation for efforts
- Very responsive crew
- About 10% of the homes (29 in total) participated in this new program

Krenz & Sherman – Regarding process required for homeowners to secure fire safety incentive monies:

- Some people have a barrier about having a Fire Marshal coming to their home
- Does there need to be an impartial person to perform this duty or can Charlie and Tracy perform the inspections?

Uridel: Need to be able to take out “Neighbors and friends” out of the interaction

- Objective criteria should be drawn up

Ward: We’ve always been a volunteer based community. Krenz, Ward, & Sherman have taken several classes/workshops on how to prioritize defensible space clearing around homes. Do have the skills to make relevant suggestions to homeowners but conceded it’s not arms length, as we do know people

Smernoff: Suggested we perhaps look into **hiring an outside person to conduct the inspections**, similar to the WaterWise consultants who did water use audits.

- Denise may have people to help implement/do this

Ward: He has prepared a list of what has to be done

- Are we concerned about criticism of Firewise Committee Workshops?

Uridel: This is not meant to be a program that we administer

- Need to take it out of the personal – as points made previously

Uridel: Over time, I would like to establish benefits to the community and have the capability to meet them – We are obligated to use public money for broadly beneficial purposes. In going to individuals, we have to be careful to provide benefits in ways that are fair & serve a legitimate public purpose.

Ward: I make decisions, do a lot of volunteer work

### **5a. Fire Safety/Emergency Preparedness, (continued)**

Ward: Need to have objective criteria; otherwise we'll be criticized for handing out funds

Krenz: Will meet with homeowners personally regarding fire safety inspections, and see how that goes

Smernoff: Are the programs oversubscribed – No

- Is there a formalization for eligibility –Yes. There may be a point when program funds are maxed out...will need to establish a clear priority system.

Krenz: He understands the concern; suggested using a consultant – but that's a barrier

Smernoff: Let's try again. If there's a problem, we will change again

Krenz: We'll try again, and give it 6 months (follow up April 2011)

Motion: No formal motion made.

### **5b. Water Movement Control**

**Smernoff:** Meeting set for Oct. 22nd with Joe Lo Coco, Director of Public Works & Anne Stillman

- They reviewed the Phase 1 report and are receptive general District goals.
- It's not just to push and help Ramona, but to make improvements overall
- The district wants to create homeowner incentives to fix culverts, etc.
- Homeowner's need to see value in day-to-day work
- Uridel and he have budgeted for water quality testing
- 
- More to report next month
- Waiting to get County's comments and will post it on the web site when available.

Ward: Wants to set objectives for this year

Uridel: Said we already have them; they're on the website

- The budget (4 – 5 items) needs to be posted
- Post 2 plans – water quality and testing
- Deliverables to come
- Contract with BAGG Engineering

Ward: Appreciates your work

Uridel: Get to meet with county people

- The gutter cleaning/roof-blowing will be in the newsletter

### **5c. Lands**

Krenz/Smernoff: Received OK from Portola Valley to do the work. After receiving the OK to proceed, we received a letter telling us to obtain encroachment permit from San Mateo County.

- Will speak with homeowners to finalize design elements.
- We're redesigning the parking to accommodate a turnaround

Ward: Get ownership of 1/3 of the turnaround

- We're dropped vehicle maintenance sign
- There are 3 parking spots on their property
- This accomplishes the public safety goals
- Because there is a "No Parking" sign we have to get Diana Shu to endorse/support the plan
- Denise Enea (WFPD) said we can put a "Fire Lane" sign and we don't have to ask permission to do this.

There is no parking in fire lanes. People will suffer the consequences if they park in a fire lane

- Will drop other signs
- We need to get the buy off from gate to chain, as long as public safety goals are met

Ward: Have stumps and coyote brush been treated along Los Trancos Road corridor? Yes  
Smernoff: Has ordered native plants for existing restoration sites.

#### **5d. Saving Water**

Ward: There will be a public relations campaign in the spring

#### **Agenda Item 6: Possible modification of contractual relationship between LTCWD and the California Water Services Company**

Uridel: No copy received

Ward: Had a conversation with Sandy. They're not done yet

- A PDF of the contract to be put on website
- Has been retyped, edited out harmful language
- And not to refund monies to homeowners

Uridel: No language about rebating of property taxes

- Do a simple press release of services
- Go to Cal Water because of need to revise agreement with them
- Easy termination – change 3 months to 1 month
- No language to not terminate
- No obligation to us – obligates them to serve us

Misc. Board. With the current contract in place for 15 years, and terms for an additional 2 or 3 5year extensions, we have to get rid of the current agreement and replace it with a “purchase of services” only statement, and remove the mention/practice of rebates of property taxes through the use of reimbursements through the water bill.

- We're not obligated
- I think we'll get what we want
- Will speak to Sandy: Will take ideas, put them into a contract for the November meeting
- Spending a little
- Replace contract, don't amend\Talked to Tony @ Bear Gulch = receptive
- How long to review? Maybe 2 -3 months
- Let the contract start Jan. 3, 2010
- Next time there's an annual review, want the document to say not we're not giving back monies (from Martha)
- Smernoff to see before the meeting/no action needed – work in progress

#### **Agenda Item 7: Review of proposed LTCWD policies and procedures**

Ward: Handed out clean copies with changes and comments visible

- Received lots of changes from Smernoff and Uridel
- Building it – says this is it
- Wants changed Mission Statement

Uridel: Wants original Mission Statement

Ward: Will change

Smernoff: - Who has the listing of resolutions?

- Sandy had asked for copies of resolutions – Mary didn't keep them

Tom: Asked who has physical custody?

- Smernoff has some; Recording Secretary to keep from now on
- Recording Secretary to check for signed resolutions at \$40 an hour rate
- Put page numbers on the packet pages for ease of reference & on agenda

- Ward: He redid section 4A

- Recording Secretary to get to know attorney's and insurance person

Asstd.:

Uridel: Sandy thinks there should be talk about the Brown Act, contracts, etc., at the November/December meeting(s)

- Cost to have her attend is \$500.00 or less. She doesn't have to stay for the full meeting.
- Re President's procedures and the Agenda: 2 people develop the agenda, although they can get input from others. (The President and VP can work together to develop the agenda for each meeting). Ultimately it's the President's prerogative to set agenda

### **Review of proposed LTCWD policies and procedures, continued**

Misc. Board: Ultimately, only 2 people decide = 1 way communication

- If we get Sandy for November, we'll be able to ask her questions
- Do we want information about the Brown Act, and legal memo's in the Policies and Procedures manual? Do it as a reference section, or could be on the internal part of the web site.
- Board meeting notices: 24 hours advance notice for a regular meeting and 72 hours for a special meeting

Uridel: Let's entertain a motion

#### **Motion:**

Smernoff: "To adapt the Policies and Procedures as presented at this meeting and make it a living document, subject to further review, revisions and additions and updates as needed."

Krenz seconds:

Uridel: As we're adopting the mission statement, Mike **will re-insert the old version**

- There has been back and forth on Policies and Procedures eg. Section 4 procedures for implementing – **Ward will change**

Misc. Board: Why are the website instructions included in the P & P manual?

- **The security questions should be blanked out**

Krenz: **Is time to change the password. Will change**

### **Agenda Item 8: Correspondence and Communications**

Uridel: Needs to answer questions for an application form for California Special Districts Association. Who should be listed as the main contact person with their contact information?

Krenz: Re district phone phone: thinks Google has something whereby you're contacted via the internet if have a message waiting

Board. Do we get mail? Yes, from the county

- Who is the main contact for the organization?

Uridel: Better to centralize information with Recording Secretary or Financial Manager

- Mary set up the current President
- Needs a procedure

Tate: Received a letter from the United States Liability Insurance Company. She believes they are "agreeable to renewing the policy."

- However, it is from a different organization than the one she was previously in touch with.
- **Recording Secretary to confirm we have insurance.**

### **Agenda Item 9: Next Meeting:**

**Special Meeting  
Thursday, November 11th, 7:30pm  
Corte Madera School**

Meeting adjourned: 10:15pm

Los Trancos County Water District  
**Balance Sheet**  
As of October 31, 2010

	<u>Oct 31, 10</u>
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
Bank of California - Checki...	6,196.72
LAIF Mutual fund	<u>151,047.81</u>
<b>Total Checking/Savings</b>	<u>157,244.53</u>
<b>Total Current Assets</b>	<u>157,244.53</u>
<b>TOTAL ASSETS</b>	<b><u>157,244.53</u></b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Equity</b>	
30000 · Opening Balance Eq...	175,649.69
32000 · Unrestricted Net Ass...	32,546.28
Net Income	<u>-50,951.44</u>
<b>Total Equity</b>	<u>157,244.53</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b><u>157,244.53</u></b>

## Los Trancos County Water District Income Statement: Actual vs Budget by Account October 2010

	Oct 10	Budget	Jul - Oct 10	YTD Budget	Annual Budget
<b>Ordinary Income/Expense</b>					
<b>Income</b>					
<b>43400 · Direct Public Support</b>					
43405 · Property Tax Revenue	37.34	26.51	174.63	969.75	259,837.80
<b>Total 43400 · Direct Public Support</b>	37.34	26.51	174.63	969.75	259,837.80
<b>45000 · Investments</b>					
45030 · Interest-Savings, Short-term CD	234.84	500.00	234.84	1,000.00	2,000.00
45000 · Investments - Other	0.00		317.10		
<b>Total 45000 · Investments</b>	234.84	500.00	551.94	1,000.00	2,000.00
<b>Total Income</b>	272.18	526.51	726.57	1,969.75	261,837.80
<b>Expense</b>					
<b>61100 · Water Use Efficiency</b>					
60904 · WUE Rebate - Exterior	0.00	1,979.17	252.37	7,916.68	23,750.00
61102 · WUE Rebate - Interior	0.00	415.00	300.00	1,660.00	4,980.00
<b>Total 61100 · Water Use Efficiency</b>	0.00	2,394.17	552.37	9,576.68	28,730.00
<b>61200 · Emergency Preparedness</b>					
61205 · Fire Safety Escape Routes	0.00	2,916.66	103.87	11,666.72	35,000.00
61207 · Fire Safety Community Buffer	0.00	1,250.00	11,750.00	5,000.00	15,000.00
61208 · Fire Safety Residential Program	2,950.00	4,416.66	7,362.50	17,666.72	53,000.00
<b>Total 61200 · Emergency Preparedness</b>	2,950.00	8,583.32	19,216.37	34,333.44	103,000.00
<b>61900 · Offset Program</b>					
61901 · Offset	0.00		13,720.00	13,720.00	29,400.00
61905 · Offset admin fee	0.00		1,960.00	280.00	600.00
<b>Total 61900 · Offset Program</b>	0.00		15,680.00	14,000.00	30,000.00
<b>62800 · Lands</b>					
62801 · Restrtn Supls, Plants Irrrgtn	0.00	250.00	0.00	1,000.00	3,000.00
62802 · Fuel load reduction/SOD treatme	0.00	166.66	0.00	666.72	2,000.00
62803 · Maintenance	0.00	666.66	2,588.28	2,666.72	8,000.00
62804 · Environmental review, document	0.00	166.66	0.00	666.72	2,000.00
62840 · Capital Projects	0.00	666.66	0.00	2,666.72	8,000.00
62850 · Contingency	0.00	83.33	0.00	333.36	1,000.00
62890 · Utilities - Water	53.00	83.33	103.00	333.36	1,000.00
<b>Total 62800 · Lands</b>	53.00	2,083.30	2,691.28	8,333.60	25,000.00
<b>62900 · Water Movement Control</b>					
62901 · Mapping, Drafting, Engineering	0.00	4,166.66	628.22	16,666.67	50,000.00
62903 · Water testing	0.00	1,833.33	0.00	7,333.36	22,000.00
62904 · Ramona Road Study	0.00	3,333.33	0.00	13,333.36	40,000.00
62905 · Residential Incentive Program	0.00	2,500.00	0.00	10,000.00	30,000.00
<b>Total 62900 · Water Movement Control</b>	0.00	11,833.32	628.22	47,333.39	142,000.00

**Los Trancos County Water District**  
**Income Statement: Actual vs Budget by Account**  
**October 2010**

	Oct 10	Budget	Jul - Oct 10	YTD Budget	Annual Budget
<b>64800 · Contract Services</b>					
64801 · Recording Secretary	400.00	433.34	1,360.00	1,733.36	5,200.00
64805 · Bookkeeping	500.00	525.00	2,100.00	2,100.00	6,300.00
64810 · Accounting Fees	0.00		4,725.00		4,500.00
64840 · Legal Fees	641.25	333.33	1,068.75	1,333.36	4,000.00
<b>Total 64800 · Contract Services</b>	1,541.25	1,291.67	9,253.75	5,166.72	20,000.00
<b>65000 · Operations</b>					
65020 · Postage, Mailing Service	0.00	2.25	44.00	9.00	26.97
65030 · Printing and Copying	0.00	191.66	0.00	766.64	2,300.00
65040 · Supplies	0.00	75.00	135.73	300.00	900.00
65050 · Telephone, Telecommunications	0.00	21.16	0.00	84.64	254.00
65060 · Technology	125.00		312.50		
<b>Total 65000 · Operations</b>	125.00	290.07	492.23	1,160.28	3,480.97
<b>65100 · Other Types of Expenses</b>					
65105 · Insurance, Liability	0.00		2,936.94	2,936.26	2,936.26
65120 · Insurance - D and O	0.00		0.00		1,195.00
65160 · Other Costs	2.00	8.34	33.00	33.36	100.00
65180 · LAFCO	136.00		136.00		130.00
<b>Total 65100 · Other Types of Expenses</b>	138.00	8.34	3,105.94	2,969.62	4,361.26
<b>68300 · Travel and Meetings</b>					
68320 · Travel	0.00	208.34	57.85	833.36	2,500.00
<b>Total 68300 · Travel and Meetings</b>	0.00	208.34	57.85	833.36	2,500.00
<b>Total Expense</b>	4,807.25	26,692.53	51,678.01	123,707.09	359,072.23
<b>Net Ordinary Income</b>	-4,535.07	-26,166.02	-50,951.44	-121,737.34	-97,234.43
<b>Net Income</b>	<b>-4,535.07</b>	<b>-26,166.02</b>	<b>-50,951.44</b>	<b>-121,737.34</b>	<b>-97,234.43</b>

**Los Trancos County Water District**  
**Income Statement: Actual vs Budget by Account**  
**October 2010**

	Oct 10	Budget	Jul - Oct 10	YTD Budget	Annual Budget
<b>Ordinary Income/Expense</b>					
<b>Income</b>					
43400 · Direct Public Support	37.34	26.51	174.63	969.75	259,837.80
45000 · Investments	234.84	500.00	551.94	1,000.00	2,000.00
<b>Total Income</b>	272.18	526.51	726.57	1,969.75	261,837.80
<b>Expense</b>					
61100 · Water Use Efficiency	0.00	2,394.17	552.37	9,576.68	28,730.00
61200 · Emergency Preparedness	2,950.00	8,583.32	19,216.37	34,333.44	103,000.00
61900 · Offset Program	0.00		15,680.00	14,000.00	30,000.00
62800 · Lands	53.00	2,083.30	2,691.28	8,333.60	25,000.00
62900 · Water Movement Control	0.00	11,833.32	628.22	47,333.39	142,000.00
64800 · Contract Services	1,541.25	1,291.67	9,253.75	5,166.72	20,000.00
65000 · Operations	125.00	290.07	492.23	1,160.28	3,480.97
65100 · Other Types of Expenses	138.00	8.34	3,105.94	2,969.62	4,361.26
68300 · Travel and Meetings	0.00	208.34	57.85	833.36	2,500.00
<b>Total Expense</b>	4,807.25	26,692.53	51,678.01	123,707.09	359,072.23
<b>Net Ordinary Income</b>	-4,535.07	-26,166.02	-50,951.44	-121,737.34	-97,234.43
<b>Net Income</b>	<b>-4,535.07</b>	<b>-26,166.02</b>	<b>-50,951.44</b>	<b>-121,737.34</b>	<b>-97,234.43</b>

**Water Movement Control Initiative**  
**Project Update – Nov. 11<sup>th</sup>, 2010**



**Initiative Purpose:**

*To help ensure water movement-related public safety and health, and environmental quality within the District through activities such as: the mapping of key surface and subsurface water movement patterns; identification and analysis of major control problems within those patterns; formulation of appropriate short and long-term mitigation strategies; and collaboration with residents and other interested agencies to cost effectively implement those strategies.*

1. **Meeting with San Mateo County** – Smernoff and Uridel met with Ann Stillman and Joe Lo CoCo, senior staff of the San Mateo County Department of Public Works (DPW). Alan O’Driscoll from BAGG Engineers also attended. Much of the discussion concerned differing legal opinions put forth by the District and LAFCo regarding the District’s currently authorized sphere of influence. Until this issue is satisfactorily resolved, a formal working relationship with the DPW is unlikely. District counsel is currently exploring resolution of this issue with a DPW counterpart. Meanwhile, the DPW is agreeable to the District working directly with its residents to repair or replace non-conforming residential driveway culverts installed within a road right of way. This would reduce the likelihood of culvert blockages and consequent runoff overflow out of DPW’s roadside drainage channels onto and across adjacent streets and properties.

Further discussion regarding specifics of the Phase I report and WMCI fiscal year objectives resulted in apparent broad conceptual agreement that well-conceived improvements to the overall water movement control system within the District could both benefit District residents and reduce County maintenance costs.

Prior to the meeting, the County representatives were provided the following documents (available upon request):

- a. WMCI Phase II Objectives and Budget
- b. District Board and Staff Contact Information
- c. LTCWD Program Overview (All Programs)

Overall, the meeting was a good initial contact, and provided a solid basis for continued dialog with the DPW concerning possible storm water movement control strategies and infrastructure that might enhance the overall functioning and utility of its roadside drainage system. However, to achieve long-term WMCI goals, outstanding sphere of influence issues must be satisfactorily resolved.

2. **Other Activities:**

- a. **Ramona Road Culvert Inspection**– Through its engineering contractor, the District will conduct an inspection of the subsurface road-crossing culvert in the 200 block of Ramona Rd. to determine its general condition and outfall location. Once located, engineered solutions to ensure that water is conveyed safely to the creek will be designed, and implemented subject to availability of necessary funding and private landowner cooperation.
- b. **Communications Enhancement** – The Phase I report and other key documents will be uploaded to the LTCWD website over the next several weeks.
- c. **Development of Culvert Repair/Replacement Incentive Program** - See above comments regarding possible culvert repair/replacement, and draft discussion document provided\_for agenda item 6.
- d. **Water Quality Testing** – The District will contract for an initial sampling of 4 locations in area creeks. The contract will allow for additional creek samplings if warranted by the initial results. The sampling will not involve individual properties.
- e. **Phase II activities** – The District continues to work on refining goals and objectives for Phase II planning, including mapping. This work has been delayed pending completion of the above tasks.

**Respectfully submitted,**

**David Smernoff and Tom Uridel**  
**WMCI Managing Co-Directors**

## **Los Trancos County Water District Service Agreement**

This Service Agreement ("**Agreement**") is entered into as of January 3rd 2011, between Los Trancos County Water District, a county water district ("**District**") and CWS Utility Services, a California corporation ("**Utility Services**"), a wholly owned subsidiary of the California Water Service Group and affiliate of the California Water Service Company ("**Cal Water**"). This agreement supersedes and replaces in its entirety the agreement dated September 14th 2005 between the same parties.

### RECITALS

WHEREAS, pursuant to the Asset Purchase Agreement, dated December 18<sup>th</sup>, 2003, Cal Water acquired all District water system assets on April 27th, 2005, and assumed system operations to provide water services to all former District customers. Cal Water received California Public Utilities Commission (the "**Commission**") approval to expand its certificated service area to incorporate District's service area (the "**Service Area**"). Former District customers will receive utility water service from Cal Water and pay Cal Water Bear Gulch tariff rates for water service;

WHEREAS, District continues to receive revenues in the form of property taxes from residents who occupy properties within the Service Area upon which property taxes are paid;

WHEREAS, District has passed Resolution #202 (attached hereto as Exhibit "A" and incorporated by this reference into this Agreement) which authorizes an incentive equivalent to the basic connection fee for qualifying water saving customers who occupy properties within the Service Area upon which property taxes are paid; and

WHEREAS, District desires Utility Services to apply credit to the bills of to District customers who occupy properties within the service area upon which property taxes are paid in accordance with its Resolution #202 and Utility Services desires to provide such service for the period and upon the other terms and conditions set forth herein;

### AGREEMENT

NOW, THEREFORE, in reliance upon the foregoing recitals, and in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, District and Utility Services hereby agree as follows:

#### **Section 1. Agreement to Provide Services**

Utility Services hereby agrees to provide billing services ("Services") as set forth herein to District, and the District hereby agrees to engage Utility Services and accept such Services for the Term (as hereinafter defined) and in accordance with the provisions of

this Agreement. It is specifically recognized and intended by the parties to this Agreement that Utility Services acts as District's agent solely to apply credit to its customers in accordance with District's Resolution #202, and such credits shall not be considered to alter, amend or modify Cal Water's tariff rates for service as approved by the Commission. By virtue of its execution of this Agreement and the performance of its obligations hereunder, Utility Services shall provide the Services set forth herein, subject to District's rights, remedies and control, pursuant to the provisions of this Agreement. Utility Services specifically does not dedicate itself or any of its properties to the District, but rather agrees to faithfully perform its obligations as set forth in the provisions of this Agreement.

## **Section 2. Term of Agreement**

2.1 The term of this Agreement ("Term") shall be ~~ten (10)~~three (3) years and may be extended for three successive terms of five (5) years each (individually an "Extended Term") if mutually agreed, upon the expiration of each prior Term, the Term shall be automatically extended for an additional Extended Term commencing immediately upon the expiration of such prior Term, unless not less than three months prior to the expiration of the then current Term, either party gives the other party written notice of its desire that this Agreement terminate at the end of the then current Term.

2.2 Notwithstanding any of the provisions of this Agreement, District may terminate this Agreement for any reason whatsoever, but the District shall notify Utility Services of its decision to terminate this Agreement not less than sixty (60) days prior to the effective date of such termination.

## **Section 3. General Obligations**

Subject to the provisions of this Agreement, Utility Services shall credit District customers in accordance with District's applicable operational rules and guidelines as set forth in Section 4.0 herein which are in effect from time to time during the Term.

## **Section 4. Deposit with Utility Services, District's Payments and Credits to Customers**

### **4.1 Customer Credits**

During the Term, on behalf of District, Utility Services shall credit monthly to customers designated by the District a an amount in accordance with District Resolution 202 however, in no event shall Utility Services be obligated to credit to customers in excess of funds District has deposited with Utility Services. Utility Services shall only refund customers, which the District designates in writing as entitled to a credit (the "Qualified Customer Listing") By resolution, District may from time to time direct in writing Utility Services to change the credit amount. District may also amend, modify or append the Refund Listing;

however, Utility Services shall not be responsible to implement changes without a minimum of one (1) month's prior notice.

## **4.2 Special Conditions**

4.2.1 Annually, by May 30th, Cal Water will furnish all information on new services in the Los Trancos Service Area to District. Cal Water will make every effort to communicate to District when new services in the Los Trancos area are established.

4.2.2 Annually, by June 15th, District will:

- a. After receiving the new service information, identify all new properties that qualify for the credit and convey this information to Cal Water.
- b. Notify Cal Water of any customers to be placed on Water Use Efficiency hold – deleting their credit until they qualify through installation of minimum Water Saving equipment.

4.2.4 District will deposit with Cal Water the amount equivalent to at least 6 months of credits, in \$10,000.00 increments.

4.2.5 The accounts to which this unregulated credits apply will be coded with the Tax Code "Los Trancos"

4.2.6 Cal Water will provide a monthly balance statement to District which will include a report showing the initial District deposit on balance, amount paid to customers as a credit, amount of fees paid to Cal Water pursuant to Section 4.3 of this Agreement, and an ending balance.

4.2.7 Monthly, Cal Water will provide a report with total water consumption by customer address and total credit, if any, to each account.

4.2.8 This credit applied only to domestic services and not to fire or irrigation services.

## **4.3 District's Deposit with Utility Services**

On a semiannual basis, District shall deposit in advance with Cal Water Utility Service's affiliate, sufficient funds to cover all estimated credits to customers and payments to Utility Services for their services for the next six-month period ("***District's Deposit***"). District shall be sole responsible to replenish on a timely basis to provide sufficient funds for Utility Services to apply customer credits. If funds are not available, Utility Services is under no obligation to apply credit to customers.

## **4.4 Payment to Utility Services**

In consideration for the services provided for the preceding month by Utility Services as the District's contractor, the District shall pay Utility Services a monthly fee of two percent (2%) of the monthly refund amount, which Utility Services may deduct from District's Deposit on a monthly basis or less frequently with no forfeiture of Utility Services' rights to payment.

#### **4.5 Excess Deposit**

Utility Services shall not be entitled to keep or retain as its property any of District's Deposit funds upon termination of this Agreement. On a periodic basis, but no less than monthly, Utility Services shall provide District with reports to show all disbursement of funds from the District's Deposit and the balance of District's Deposit funds and customer usage data. Notwithstanding, Utility Services is not responsible for determining customer's eligibility for credits, amounts of credits, or accounting for credits.

### **Section 5. Insurance**

#### **5.1 Utility Services Indemnification and Insurance**

(a) The Utility Services will indemnify, hold harmless and assume the defense of, District, its offices, employees, agents and boards from damages and losses resulting from Utility Service's operations or from any persons directly or indirectly employed by, or acting as agent for Utility Services, arising from negligence or willful misconduct or omissions. This indemnification shall extend to claims, losses, damages, injury and liability for injuries occurring during Utility Services' performance under this Agreement and for such time thereafter as any claim may be legally asserted. This indemnification clause shall apply to all damages or claims for damages suffered by District regardless if any insurance is applicable or not.

(b) Utility Services shall procure and maintain during the Term of the Agreement comprehensive general liability insurance and errors and omission insurance, with limits of not less than one million dollars (\$1,000,000) per occurrence, and Utility Services shall furnish with a certificate(s) of insurance evidencing such insurance.

#### **5.2 District Indemnification**

The District will indemnify, hold harmless and assume the defense of, Utility Services, its officers, employees, agents and boards from damages and losses resulting from District's operations or from any persons directly or indirectly employed by, or acting as agent for District, arising from negligence or willful misconduct or omissions. This indemnification shall extend to claims, losses, damages, injury and liability for injuries occurring during District's performance under this Agreement and for such time thereafter as any claim may be legally asserted. This indemnification clause shall apply to all damages or claims for damages suffered by Utility regardless if any insurance is applicable or not.

## **Section 6. District's Representation, Warranties and Covenants**

### **6.1 Right to Enter**

District represents and warrants to Utility Services that District has all necessary power and authority to execute, deliver and perform this Agreement. District has received all requisite consents and approvals with respect to its execution, delivery and performance of this Agreement. This Agreement constitutes a legal, valid and binding obligation of District enforceable in accordance with its terms, except as limited by bankruptcy and insolvency laws and by other laws affecting the rights of creditors generally. The execution, delivery and performance of this Agreement by District does not conflict with or result in a breach of or a default under any contract or other document executed by District or affecting District or any of District's properties or under any law, statute, rule, regulation or ordinance applicable to District or any of District's properties.

### **6.2 Cooperation**

District shall cooperate with Utility Services by responding in a timely and reasonable manner to its requests for meetings, reviews, negotiations, approvals and authorizations.

## **Section 7. Utility Services' Representations, Warranties and Covenants**

### **7.1 Right to Enter into Agreement**

Utility Services represents and warrants to District that Utility Services has all necessary power and authority to execute, deliver and perform this Agreement. Utility Services has received all requisite consents and approvals with respect to its execution, delivery and performance of this Agreement. This Agreement constitutes a legal, valid and binding obligation of Utility Services enforceable in accordance with its terms, except as limited by bankruptcy and insolvency laws and by other laws affecting the rights of creditors generally. The execution, delivery and performance of this Agreement by Utility Services does not conflict with or result in a breach of or default under any contract or other document executed by Utility Services or affecting Utility Services or any of Utility Services' properties or under any law, statute, rule, regulation or ordinance applicable to Utility Services or any of Utility Services' properties.

### **7.2 Cooperation**

Utility Services shall cooperate with District by responding in a timely and reasonable manner to its requests for meetings, reviews, negotiation, approvals and authorizations.

## **Section 8. Opportunity to Cure; Limitations on Remedies; Arbitration**

### **8.1 Opportunity to Cure Defaults**

(a) In the event that either party shall fail to make any payment required under this Agreement as when due, or obtain and maintain any insurance required by this Agreement, there shall be no default under or breach of this Agreement until such failure has continued for ten (10) days following receipt of notice from the other party specifying such failure.

(b) In the event that either party shall fail to perform any of its other covenants or agreements contained in this Agreement, there shall be no default under or breach of this Agreement until such failure has continued for thirty (30) days following receipt of written notice from the other party specifying such failure.

(c) Notwithstanding subsection (b) above, in the event a failure to perform cannot be reasonably cured within such thirty (30) day period, there shall be no default under or breach of this Agreement unless such party shall fail to commence and diligently proceed toward full performance of the cure within thirty (30) days following receipt of written notice from the other party specifying such failure or such party shall fail to complete the performance of such cure within a reasonable period of time.

### **8.2 Remedies**

In the event of a default under or breach of this Agreement, the injured party may pursue a claim for monetary damages against the other party in the manner set forth in Section 8.3. District may seek to terminate this Agreement, consistent with the terms set forth in Section 2.2 of this Agreement.

### **8.3 Dispute Resolution**

#### **8.3.1 Intent**

(a) Utility Services and District desire and intend to resolve all disputes or other matters arising out of or in connection with this Agreement through reasonable, business-like dispute resolution procedures without resort to litigation.

(b) Accordingly, any services related disputes shall be resolved in accordance with this section, and any construction related disputes shall be resolved in accordance with the requirements of Public Contract Code section 20104 et seq.

#### **8.3.2 Initial Meeting**

(a) As a first step, either party may call a special meeting to initially resolve a dispute.

(b) The initial meeting shall be held within three (3) working days after delivery of a written request for such a meeting.

(c) The written request shall contain a statement of the nature of the dispute.

(d) The meeting shall be attended by authorized representatives or designated consultants of Utility Services, District and any consultants.

### **8.3.3 Mediation**

(a) If the dispute has not been resolved within five (5) working days after the conclusion of the initial meeting, either party may initiate mediation by written notice to the other.

(b) All parties shall attend and participate in the mediation that shall be non-binding and without prejudice.

(c) Unless all parties agree otherwise, the mediation shall be conducted by an independent mediator from the offices of the American Arbitration Association (AAA) in San Francisco within 30 days after notice.

(d) Cost of mediation shall be borne equally by District and Utility Services.

### **8.3.4 Failure of Mediation**

(a) If mediation fails to resolve the dispute, the parties will agree either to submit to binding arbitration or to litigate.

(b) If binding arbitration is selected by the parties, arbitration will be conducted under the rules of the American Arbitration Association with three arbitrators selected from the San Francisco offices of AAA within thirty (30) days after the agreement to arbitrate.

## **Section 9. Records**

### **9.1 Audit**

Authorized representatives of the District, state and/or the federal government may inspect and/or audit Utility Services performance, place of business and/or records pertaining to this Agreement during normal business hours after a reasonable notice.

### **9.2 Confidentiality**

Throughout the Term, Utility Services shall maintain all of District's information on a confidential basis, subject to required disclosures pursuant to applicable law.

### **9.3 Return of District's Deposit**

After the expiration or termination of the Term of this Agreement, Utility Services shall deliver to District all District's Deposit funds remaining.

## **Section 10. Miscellaneous**

### **10.1 Notices**

Notices of communication with respect to technical matters and the routine performance and administration of services shall be given by such means as are appropriate to ensure adequate communication. All other notices necessary for the performance of this Agreement shall be given in writing by personal delivery or by prepaid first-class mail addressed as follows:

DISTRICT

Los Trancos County Water District  
162 Los Trancos Circle  
Portola Valley, CA  
94028

UTILITY SERVICES

CWS Utility Services  
1720 North First Street  
San Jose, CA  
95112-4598

If notice is given by personal delivery, notice is effective as of the date of personal delivery. If notice is given by mail, notice is effective as of the day following the date of mailing or the date of delivery reflected upon a return receipt, whichever occurs first.

### **10.2 Paragraph Headings**

Paragraph headings in this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

### **10.3 Governing Law**

This Agreement and its interpretation shall be governed by the laws of the State of California and the County of San Mateo. Venue shall be in the County of San Mateo.

### **10.4 Waiver of Default**

The failure of any party to enforce against other provisions of this Agreement, shall not constitute a waiver of that party's right to enforce any provisions at a later time, and shall not serve to vary the terms of this Agreement.

### **10.5 Subcontractor and Assignment**

Utility Services shall not subcontract work under this Agreement nor assign this Agreement without the prior written consent of the District; provided, however, that the District's consent shall not be required in connection with any assignment by Utility

Services of all its rights and obligations hereunder to an affiliated company which is controlled by, controls, or under common control with, Utility Services.

### **10.6 Binding Effect**

The rights and obligation of this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their permitted successors and assigns.

### **10.7 Attorney's Fees**

If legal action or other proceeding is commenced to enforce or interpret any provisions of, or is otherwise relating to, this Agreement, the losing party shall pay the prevailing party's attorney's fees and expenses. The phrase "prevailing party" shall mean the party who is determined in the proceeding to have prevailed or who prevails by dismissal, default, settlement, or otherwise.

### **10.8 Merger and Modification**

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and supersedes all other oral or written provisions. This Agreement may be modified or terminated only by a written document signed by all the parties.

### **10.9 Severability**

If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than the person as to whom it is held invalid or unenforceable shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

### **17.10 Execution**

This Agreement is effective upon full execution. It is the product of negotiation and therefore shall not be construed against any party.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement on the day and year first above written.

Los Trancos County Water District

By: \_\_\_\_\_

Title:  
President Board of Directors

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
District Counsel

Date: \_\_\_\_\_

CWS UTILITY SERVICES

By: \_\_\_\_\_

Title: President and CEO

By: \_\_\_\_\_

Title: Vice President

Date: \_\_\_\_\_