



Costa Mesa Sanitary District

August 10, 2005

... an Independent Special District

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PUBLIC SERVICES

Board of Directors
Arlene Schuster
Greg Woodside
James Ferryman
Art Perry
Dan Worthington

The Honorable Mayor and City Council
Allan Roeder, City Manager
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Re: **City/District Operating Agreement**

Dear Mayor, Council Members and Allan:

Staff
Robin B. Hamers
Manager
District Engineer
(949) 631-1731

In January 2005, the District apprised the City Council of the status of the City/District operating agreement through the enclosed correspondence. The letter stated the unresolved issue for the new agreement was the indemnification language and requested City Council consideration in the matter.

Thomas A. Foub
Business Manager

Unfortunately, both agencies have been unable to resolve the contract language and it has been 13 months without an agreement in place. The District's insurance carrier, General Counsel, Manager/District Engineer and Board of Directors have thoroughly discussed the City Attorney's comments regarding indemnification language and believe these provisions are not appropriate for the District. Therefore, an impasse is at hand, and consequently, based on Board of Directors action on August 9, 2005, this letter constitutes 120 days notice that the District will no longer use the City field crews.

Juan Revak
Board Secretary
Program Manager

Barring a change in the City's position, the District will utilize alternate means of field crew services beginning December 15, 2005. The District plans on relocating its equipment from the City Yard by this same date.

Alan R. Bares
Legal Counsel

Please consider the District is very appreciative of the many fine years the City crews have dedicated themselves to the betterment of the Sanitary District. There has been a great spirit of cooperation and camaraderie that has benefited both agencies and the District plans on continuing its goodwill to the fine staff members in City Hall and the residents of the City.

Wendy Hooper Davis
Executive

Sincerely,

Phone
(949) 635-8100
Fax
(949) 631-1733

James M. Ferryman
President

Address
625 B. 19th Street
Costa Mesa, CA
92627-7718

Enclosure

cc: Board
Staff
William J. Morris, Director of Public Services, City of Costa Mesa



Protecting our community's health by providing solid waste and sewer collection services.
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Costa Mesa Sanitary District

... an Independent Special District

January 13, 2005

Board of Directors

*Arlene Schafer
Greg Woodside
James Fairman
Art Perry
Dan Worthington*

Staff

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Manager
District Engineers
(949) 631-1711*

*Thomas A. Finah
Systems Manager*

*Jean Revak
Board Secretary
Program Manager*

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The Honorable Mayor and City Council
Allan Roeder, City Manager
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Re: **New City/District Operating Agreement**

Dear Mayor, Council Members and Allan:

City and District staffs have been working closely together to finalize the proposed operating agreement between the agencies that covers sharing the five-person City field crew. The proposed agreement appears ready for recommendation for execution by the Council and Board except for the issue of indemnification.

The five-person field crew performs operations and maintenance services for the District's sewer system and also performs storm drain cleaning and maintenance for the City. The supervisor and one two-man crew work full time on the sewer system while the second field crew works two-thirds of their time on the sewer system. The remaining one-third is allocated to storm drain operations.

Both the City and District enjoy the flexibility of having the proper amount of manpower for their respective needs while also being able to easily utilize extra services in the event of an emergency such as a sewer spill or large rainstorm. The five field crew members have been career City employees and one of the goals of continuing the sharing arrangement is to allow the five members to reach retirement age before the District retains its own field crews.

In simplified terms, the issue of indemnification mainly concerns the ability of the field crew workers to bring a lawsuit against the District for injury based on unsafe working conditions. The field crew is currently covered for worker's compensation through coverage provided by the City that is funded from the District. The funds paid from the District for the field crews also covers OSHA training and equipment. The OSHA training is intended to educate and train the field crews on working in a safe and effective manner as well as how to approach various situations. The Board of Directors of the District does not believe it is fair to have the District

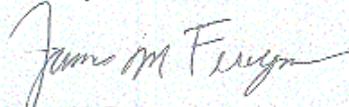
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become liable for an unsafe work place or unsafe working conditions since the City is training the workers to continue properly performing the jobs they have been performing for years.

The District requests the City hold the District harmless "for all work arising out of the performance of the agreement" as is standard for all contracts with the District. Without a hold harmless clause substantially in this form, the District will be unable to reach agreement with the City. Because the City and District do not have a formal agreement in place for sharing the field crews and because both parties are actively preparing their 2005-2006 budgets, please respond to this request by February 8, 2005.

Staffs of the City and District work well together and the District desires to continue the mutually beneficial relationship.

Sincerely,



James M. Ferryman
President

cc: Board
Staff
William J. Morris, Director of Public Services, City of Costa Mesa