



# OJAI VALLEY SANITARY DISTRICT

A Public Agency

1072 Tico Road, Ojai, California 93023  
(805) 646-5548 • FAX (805) 640-0842  
www.ojaisan.org

## MEETING OF THE EXECUTIVE COMMITTEE

Date & Time:  
March 10, 2016  
Thursday, 3:30 p.m.

Location  
OVSD Board Room  
1072 Tico Road, Ojai

Committee Members:  
John R. (Randy) Burg  
William M. Stone  
John R. (Jack) Curtis, Chairman

## AGENDA

1. Public Comment - (Items not on the agenda - 3 minute limit)

### FOR DISCUSSION & RECOMMENDATION

2. Independent Audit Services - Contract Expiration
3. District Legal Counsel Services Review

### FOR DISCUSSION & REVIEW

4. Prohibitions – Disposal of Surplus Property
5. Discussion
  - a. Audience
  - b. Committee Members
  - c. General Manager

A staff report providing more detailed information is available for most agenda items, and may be reviewed in the District office during regular business hours. Copies of individual reports may be requested from Brenda Krout (646-5548).

### **ATTEST TO POSTING:**

**Brenda Krout – Clerk of the Board**

**March 7, 2016 @ 3:30 p.m.**

**Date & Time Posted At District Office**


ITEM

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Memorandum

**Ojai Valley Sanitary District**

March 7, 2016

To: Executive Committee – Jack Curtis, Bill Stone & Randy Burg  
From: Jeff Palmer, General Manager   
Subject: Independent Audit Services – Contract Expiration

Each public agency in the state is required by law to have an annual independent audit of the records reporting its financial condition. The purpose is to assure the general public and other parties who rely on those financial reports that the underlying details are reported in accordance with generally accepted accounting principles.

Until recently there was no legal requirement as to how often (if ever) an agency changed the auditing firm conducting their independent audits; however, effective January 1, 2013 with the passage of AB 1345 there are restrictions.

Now an agency is not allowed to employ an accounting firm to provide audit services if the lead audit partner or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for the agency for six consecutive fiscal years. AB 1345 states that calculating the six consecutive fiscal years shall not take into account any time that the accounting firm was employed by the agency prior to the 2013-14 fiscal year.

Poindexter and Company will complete his fourth 3-year contract with the completion of the audit for the Fiscal Year ending June 30, 2016. The scope of work included the annual audit, preparation and filing of the State Controller's Report.

Upon the completion of the 2015-16 fiscal year audit Poindexter and Company will have performed audit services for the District for 12 consecutive fiscal years; however, only the last 3 of those years count in the calculation of the allowable six consecutive fiscal years under AB 1345 regulations. Consequently, it would be allowable for the District to enter into another 3-year contract with Poindexter and Company.

The Board could decide to extend the contract with Poindexter and Company another 3 years, direct staff to send out a Request for Proposal (RFP) including Poindexter in the firms to receive the RFP or direct staff to send out a RFP excluding Poindexter and Company from submitting a proposal.

The task of an auditor is to act as a third set of eyes to evaluate the District's overall financial record keeping process; the first set of eyes (District management) monitors the financial records & process on a daily basis and the second set of eyes is the District's contracted outside accountant (Shalene Hayman) who provides monthly oversight.

Ideally, in addition to possessing the skills and ability to perform a legally acceptable audit, an auditor should be consistently thorough in their review of District records & proce-

dures, located locally for ease of accessibility and interact well with staff. The District's present auditor, Poindexter and Company, meets this profile.

Poindexter's office is located in Ventura. Mark Poindexter is a sole proprietor office with extensive experience with public agency audits. Typically, the larger accounting firms send their junior accounting personnel to perform the field work and interact with District staff so they can obtain auditing experience. The audits performed by Poindexter and Company are completed from start to finish by Mark Poindexter with his extensive governmental auditing experience.

Poindexter and Company has done an excellent job over the past years in working with staff to complete the necessary tasks required to perform an appropriate audit.


ITEM

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Memorandum

**Ojai Valley Sanitary District**

March 7, 2016

To: Executive Committee – Jack Curtis, Bill Stone & Randy Burg  
From: Jeff Palmer, General Manager   
Subject: District Legal Counsel Services Review

The purpose of this agenda item is for the Executive Committee to review the District's current agreement for legal services.

Attached is a copy of the current Agreement For Legal Services Between Ojai Valley Sanitary District and Arnold, Mathews, Wojkowski & Zirbel, LLP(A to Z Law) signed November 14, 2000.

Also attached for your information is the February 23, 2016 letter from A to Z Law announcing their 2016 adjustment of hourly rates for legal services.

**AGREEMENT FOR LEGAL SERVICES  
BETWEEN  
OJAI VALLEY SANITARY DISTRICT  
AND  
ARNOLD, MATHEWS, WOJKOWSKI & ZIRBEL, LLP**

COPY

THIS AGREEMENT is made and entered into this 14<sup>th</sup> day of November, 2000, by and between the OJAI VALLEY SANITARY DISTRICT (hereinafter "District") and ARNOLD, MATHEWS, WOJKOWSKI & ZIRBEL, LLP (hereinafter "Law Firm").

**1. Legal Services.** Law Firm shall provide to District general counsel legal services as requested by District and keep District informed of progress on any projects assigned to Law Firm by District. District shall cooperate with Law Firm in Law Firm's provision of legal services.

**2. Term of Contract.**

**a.** Unless otherwise earlier terminated, this Agreement shall continue in full force until the services specified herein have been fully performed. District may discharge Law Firm at any time, for any reason whatsoever, upon providing written notice to Law Firm. Law Firm may, upon written notice, withdraw from representation with District's consent or for good cause consistent with its ethical obligations to District.

**b.** In the event that District and/or Law firm terminate this Agreement, Law Firm shall, upon District's request, deliver to District the file or files relating to Law Firm's representation of District, along with any funds or property of District in Law Firm's possession. If District does not request a file or files for any matter, Law Firm shall retain all files for a period of four years after Law Firm's representation is terminated. If District does not request delivery of the file or files before the end of said four year period, Law Firm will have no further obligation to retain the files.

**3. Fees and Payment of Fees.**

**a.** The legal fees District will be charged are based on the number of hours of attorney time expended on District's behalf, multiplied by the appropriate hourly rate for each attorney involved in the matter. The hourly rate for the partners of Law Firm is \$192.00, the hourly rate for associates is \$150.00, and the hourly rate for legal assistants is \$85.00. These rates are subject to annual review and revision by Law Firm, with any increase not to exceed the increase in the Consumer Price Index in the previous year without Board approval.

b. In addition to paying legal fees, District shall reimburse Law Firm for all costs and expenses charged by third parties to Law Firm, including, but not limited to, fees fixed by law or assessed by courts or other agencies, messenger and other delivery fees, off-site photocopying, investigation expenses, consultants' fees, expert witness fees, and other similar items. District will not be charged separately for those items Law Firm considers to be part of its general overhead, such as in-office photocopying, ordinary secretarial time, postal fees, telephone expenses, and the like.

c. District shall approve the hiring of any expert consultant and any consultant's fees will be billed directly to District and District will pay such statements promptly within 30 days of receipt. Subject to District's pre-approval, costs may also include expenses related to out-of-town travel by Law Firm's legal personnel.

d. Law Firm shall send District periodic statements for fees and costs incurred which will show all services rendered and costs incurred. District shall pay Law Firm's statements within 30 days after receipt of each statement.

**4. Independent Contractor Relationship.**

a. It is expressly understood between the parties that no employee/employer relationship is intended and the relationship of Law Firm to District shall be that of an independent contractor. District shall not be required to make any payroll deductions or provide Workers Compensation Insurance coverage or health benefits to Law Firm.

b. Law Firm is solely responsible for selecting the means, methods and procedures for performing its services hereunder as assigned by District, and for coordinating all portions of the work so the results will meet the requirements of this Agreement, but shall not be responsible for the means, methods and procedures of District's other consultants. Law Firm will supply all equipment and instrumentalities required to perform its services under this Agreement.

**5. Confidential Relationship/Title to Documents.** Law Firm agrees that all dealings of the parties under this Agreement shall be confidential, and no report, data, information or communication developed, prepared or assembled by Law Firm under this Agreement or any information made available to Law Firm by District shall be revealed, disseminated or made available by Law Firm to any person or entity other than District without the consent of District. All data and other documents developed, prepared, completed or acquired by Law Firm during the



performance of its services hereunder shall be turned over to District upon termination of this Agreement.

6. **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

7. **Terms.** No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein shall be binding on any of the parties.

8. **California Law.** This Agreement shall be interpreted and construed pursuant to the laws of the State of California. The parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction in the County of Ventura.

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

OJAI VALLEY SANITARY DISTRICT

By  "District"

ARNOLD, MATHEWS, WOJKOWSKI &  
ZIRBEL, LLP

By   
Mark A. Zirbel, Partner "Law Firm"



February 23, 2016

Jeff Palmer  
General Manager  
Ojai Valley Sanitary District  
1072 Tico Road  
Ojai, CA 93032

COPY

**Re: 2016 Adjustment of Hourly Rates for Legal Services**

Dear Jeff:

Our firm has completed its annual review of hourly rates charged for legal services pursuant to the November 14, 2000, Agreement for Legal Services between OVSD and our law firm ("Firm). This Agreement provides that these rates are subject to annual review and revision by the Firm, with any increase not to exceed the increase in the Consumer Price Index in the previous year without Board approval.

As we recently discussed, our Firm has deferred rate adjustments for several years. The last rate adjustment was effective July 1, 2012. We are now compelled to bring forward the delayed adjustments in accordance with the Agreement.

Effective April 1, 2016, the Firm's hourly rates will be increased from \$262 to \$275 for partners, from \$235 to \$246 for senior associates, and from \$231 to \$242 for associates. This increase is consistent with the total CPI adjustment over the last three and one-half years. This increase partially offsets the increases the Firm has experienced in staff compensation, rent, insurance, information technology, supplies and other expenses.

The Firm's hourly rate rolls up and includes all of the Firm's in-house expenses and overhead including, but not limited to, all personnel expenses, photocopying, telephone, fax, information technology and other technical functions.

GARY D. ARNOLD | DENNIS LAROCHELLE | JOHN M. MATHEWS | KENDALL A. VANCONAS\* | ROBERT N. KWONG  
SUSAN L. MCCARTHY | STUART G. NIELSON | MARIA L. CAPRITTO | MELISSA H. SAYER | ANDREAS L. BOOHER  
OF COUNSEL MARK A. ZIRBEL | DEAN W. HAZARD

300 ESPLANADE DR. SUITE 2100 | OXNARD, CA 93036  
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*\*Certified Specialist, Estate Planning, Trust & Probate Law  
State Bar of California, Board of Legal Specialization*

Jeff Palmer  
Ojai Valley Sanitary District  
February 23, 2016  
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The Firm's new rates continue to provide a substantial discount to OVSD compared to rates charged to the Firm's private clients.

The Firm will continue to strive to provide the most efficient and effective legal services as directed by OVSD.

If you have any questions or comments regarding these matters, please do not hesitate to call me. On behalf of the Firm, I want to take this opportunity to thank you and the Board for allowing us to serve OVSD. We are proud of our association with you.

Very truly yours,

ARNOLD LAROCHELLE MATHEWS  
VANCONAS & ZIRBEL LLP



Mark A. Zirbel

MAZ:jm


ITEM

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Memorandum

**Ojai Valley Sanitary District**

March 7, 2016

To: Executive Committee – Jack Curtis, Bill Stone & Randy Burg  
From: Jeff Palmer, General Manager   
Subject: Prohibitions – Disposal of Surplus Property

On May 13, 2011 the Board adopted Ordinance No. OVSD-65 District Contacting & Purchasing Policy. Section 6 of this policy addresses Disposal of Surplus Property.

The purpose of this agenda item is to review and discuss Section 6.9 – Prohibitions.

A copy of Section 6.9 is attached for your reference.

- 6.6. Procedures for Disposal.** The District may dispose of Surplus Property in any manner deemed appropriate by the General Manager, including, without limitation, the following:
- 6.6.1. Public Auction.** In accordance with applicable law, the disposal of District owned Surplus Property may be accomplished through public auction. Public auctions may include the use of electronic commerce (online) or on-site auctions.
- 6.6.2. Private Sale by Competitive Bid.** Disposal of District owned Surplus Property may be accomplished through private sale by competitive bid. The procedures by which private sales of Surplus Property are to be conducted shall be determined by the General Manager.
- 6.6.3. Charitable Donation.** District owned Surplus Property deemed to have no market value after an attempt at sale through prescribed procedures may be donated to a charitable organization in lieu of lawfully discarding the property. For purposes of this policy, charitable organizations shall mean a nonprofit organization exempt from taxation under the provisions of the Internal Revenue Code, 26 U.S.C. 501 (C)(3), whose primary purpose is public service.
- 6.6.4. Trade-In.** Disposal of District owned Surplus Property may be accomplished by trading-in the Surplus Property towards a new acquisition.
- 6.6.5. Transfer to Federal, State or Local Governmental Entities.** District owned Surplus Property deemed to have no market value after an attempt at sale through the procedures described herein may be donated to any governmental agency in lieu of discarding such property.
- 6.6.6. Sale for Scrap or Salvage Value.** Disposal of District owned Surplus Property may be accomplished by selling the property for its scrap or salvage value.
- 6.7. Disposal of Information Technology Equipment.** In addition to all the other applicable requirements of this Ordinance, the General Manager or designee shall require all proprietary information to be removed from information technology equipment before disposal. Any disposal of such equipment as waste shall conform to current environmental regulations. The District shall retain records of all Information Technology Equipment disposed of under this Ordinance.
- 6.8. Proceeds.** Proceeds from the auction or sale of District owned Surplus Property will be deposited to the District's general fund or other special fund owning the personal property.
- 6.9. Prohibitions.** No director, officer, agent or employee of the District shall either directly or indirectly (including by action of any immediate family member of such individual) submit a bid for, purchase or in any other manner take possession of District owned Surplus Property.