



# Memorandum

## MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

DATE: June 12, 2009  
TO: Board of Directors  
FROM: General Manager  
SUBJECT: Economic Stimulus Funds

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**RECOMMENDATION:** That the Board delay entering into a contract with consultant Troutman Sanders Strategies (TSS) and direct staff to continue to evaluate programs and projects to increase recycling efforts and renewable energy production and report back to the Board at the December 2009 meeting.

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### BACKGROUND

As reported at the May 2009 Board Meeting, District staff has investigated potential opportunities for pursuing federal funds under the American Recovery and Reinvestment Act (ARRA) of 2009 over the last several months. At the May meeting, the Board received and discussed a proposal from TSS (enclosed), and then directed staff to request advice from TSS regarding the viability of ARRA funds for District projects. A number of different avenues have been pursued and there appears to be funding available on several fronts, including renewable energy production, recycling, conservation and public education and outreach related to recycling. However, the link between the funds and the District has been a challenge to locate, if it exists at all. In order to confirm these conclusions, the District engaged Meyers, Nave, Riback, Silver & Wilson (Meyers Nave) to provide advice on grant programs available under AARA.

### ANALYSIS

Staff provided Meyers Nave with the list of eight projects previously identified for ARRA funding for their review. Their analysis indicated that while the District projects would potentially qualify for funding under one or more of the ARRA programs, it was their conclusion that ARRA funding had been reserved primarily for cities and counties, through State funding programs (funding deadlines have already passed), or grants which would be highly competitive. In addition to being highly competitive, the grants are limited in size and would not likely be sufficient to cover the anticipated expenses of the District's proposed projects.

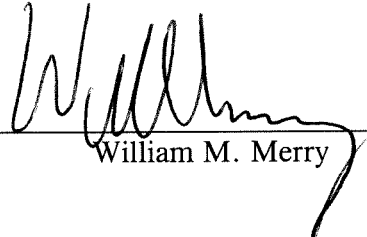
Meyers Nave concluded that ARRA funds seem to be difficult to obtain for this District. There may be a few opportunities for the District to obtain partial funding for some of the proposed projects. District chances to obtain funding will likely increase if partnerships can be developed with other local public agencies and if other funding sources can be identified to leverage any federal funding in order to complete one or more of the proposed projects.

**NEED FOR AN OUTSIDE CONSULTANT**

Staff had discussions with TSS to assist the District in securing federal funding for one or more of the proposed listed projects. TSS has not revised their original proposal to the District. Based on the information provided by Meyers Nave, and based on other information and discussions to date, staff has concluded that ARRA funding will be difficult to obtain since the District projects do not fall clearly into their definitions and/or may not be well enough developed at this time. As an output of the District's on-going strategic planning process, staff believes that the need for services of a firm such as TSS will become more apparent and may be more productive in the future.

**CONCLUSION**

At this time, staff believes that further research is needed to determine whether ARRA funding may be available for District projects in the future through partnerships with other local agencies and recommends the Board delay retention of a consultant such as TSS pending further evaluation. Staff will report back to the Board at the December 2009 meeting.



William M. Merry

Enclosure

May 6, 2009

Mr. William M. Merry, P.E., DEE  
General Manager/District Engineer  
Monterey Regional Waste  
Management District  
14201 Del Monte Blvd.  
P.O. Box 1670  
Marina, CA 93933-1670

**RE: Retention of Troutman Sanders Strategies**

Dear Mr. Merry:

This letter will constitute an engagement for the provision of consultant services by Troutman Sanders Strategies (“TSS”) to Monterey Regional Waste Management District (“MRWMD”) and to secure your approval of the fee arrangement and other conditions of this representation. We are very pleased that you have retained us and will, of course, answer any questions that you may have about these arrangements.

TSS has been retained by MRWMD to provide consultant services in connection with federal governmental affairs services (hereinafter the “Engagement”). The Engagement shall be for a period of eight (8) months beginning May 2009. You may limit or expand the scope of our representation at any time, provided that any expansion is by mutual consent. With regard to the Engagement, TSS shall make its best effort to achieve your objectives. You shall determine the nature of these objectives with our advice and assistance.

### **Need for Representation**

The District’s primary purpose is to manage the Monterey Peninsula area’s solid wastestream. In recent years, the District’s role has expanded to include the recovery of recyclable materials in the wastestream, including cardboard, paper, glass, wood, yard waste, plastics, metals, sheetrock, concrete, asphalt, reusable building materials, and resale items. The District is also the recipient of most of Monterey County’s sewage sludge. In addition, the first landfill gas-to-electrical energy system in Central California was installed at the site in 1983. More than 4,000 kW of continuous power is currently being generated. The District also accepts and safely recycles or manages household hazardous waste.

During the eight months of this agreement, TSS will assist MRWMD to establish a voice in Washington, D.C. MRWMD seeks assistance in developing a federal affairs strategy emphasizing obtaining federal funding that will enable them to understand the playing field and stay ahead of the curve with regard to environmental policy. By establishing lines of communication with decision makers in Congress and the Administration, MRWMD would be better positioned to take proactive steps towards achieving its priorities. TSS understands that MRWMD's funding priorities currently include:

- Landfill composite liner
- Renewable electric generation, landfill gas
- Public education on recycling and reuse of waste materials
- Renewable electric generation, biomass gasification
- Renewable electric generation, photovoltaic panes 2.0 megawatts
- Air quality compliant and fuel efficient heavy equipment—tier 3 compliant engines
- Retrofitting District equipment with diesel particulate filters
- Material recovery facility expansion

### **Scope of Representation**

Both parties agree that the initial scope of service is as follows:

TSS will provide general federal affairs representation and assistance in seeking federal funding for MRWMD before Congress and the Executive Branch. TSS will advise MRWMD on matters involving federal-level political, legislative, and policy initiatives with a specific focus on issue branding. With the cooperation of MRWMD, TSS will create a theme and comprehensive plan for promoting MRWMD's federal funding requests; develop meetings with Members of Congress, staff, congressional committees, and federal agency personnel; serve as a liaison to Congress and government agencies as necessary; and monitor and report on government issues and programs relevant to MRWMD interests.

### **Payment Provision**

A monthly fee of five thousand dollars (\$5,000), plus reasonable and customary out-of-pocket expenses shall be paid to TSS for a period of eight (8) months beginning May 1, 2009 through December 31, 2009. You will be billed on a monthly basis for the services at the beginning of the month. Out-of-pocket expenses include travel, lodging, dining, and other expenses incurred directly by outside sources in support of our work for you. You will not be billed for our internal costs, such as telephone, teletype, reproduction or postage costs. We will endeavor to contact you in advance of incurring significant out-of-pocket expenses. At this time we anticipate one trip to your facility in California. TSS shall report out-of-pocket expenses to you on a monthly basis and such expenses will be billed separately from the fee arrangement.

### **Staffing and Experience**

John Freshman, Principal at Troutman Sanders Strategies, has been assisting public agencies in the Monterey area for twenty years. His first projects were maintaining funds for the original wastewater recycling plant at the wastewater treatment plant and the attendant distribution system to retard saltwater intrusion. The first Bush administration wanted to eliminate the small loan program at the Bureau of Reclamation. Working with others, Mr. Freshman was able to extend the program until the two projects were completed.

The highly treated wastewater from this plant and the distribution system now form the bases for augmenting the region's water supply through the Marina Coast suite of projects. Mr. Freshman is actively working to help fund these projects for the Marina Coast Water District. Thus, Mr. Freshman has worked on all aspects of funding for Monterey water and wastewater and assisted in bringing well over twenty five million dollars into the area in loans and grants. He also has successfully brought funding to the recycling plant in Watsonville via the Bureau of Reclamation's Title XVI program.

Mr. Freshman has also represented the Los Angeles County Sanitation Districts since 1981 and has covered many solid waste issues including assisting with the waste to energy projects and the energy recovery projects. While in the Senate, Mr. Freshman worked on the original Resource Conservation and Recovery Act.

He is supported in these efforts by Patrick Anderson who is working effectively on all the projects in the Monterey area. Mr. Anderson has a history of success in seeking federal appropriations for clients and previously worked for an Appropriations Subcommittee Chairman.

### **References**

Per our previous discussions where I suggested contacting Grace Chan, Assistant Chief Engineer of the Los Angeles County Sanitation Districts, and Curtis Weeks, General Manager of the Monterey Water Resources Agency, I would suggest the following additional references:

Steve Maguin, Chief Engineer and General Manager of LACSD  
Worked closely with Mr. Freshman when he was head of the Solid Waste Department  
562-699-7411  
smaguin@lacsds.org

Dave Brent, City of Sacramento Department of Utilities  
Works with Mr. Freshman on all infrastructure issues  
916-808-1420  
dbrent@cityofsacramento.org

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Mike Dobler, Board Member, Pajaro Valley Water Management Agency  
Works with Mr. Freshman on City of Watsonville Water Recycling Project  
831-722-3057 x210  
Mdobler@doblerandsons.com

### **Relationship to Troutman Sanders LLP**

TSS is a full-service government relations and issue management firm. We advocate our clients' public policy issues through a broad array of contacts at the federal, state, and local levels in order to build better partnerships among governments and business. Our core goal is to solve problems and produce results for clients.

TSS is an independent, ancillary business of Troutman Sanders LLP, a law firm. While TSS is not subject to the rules of professional conduct for lawyers, TSS agrees to keep its strategic communications with you confidential.

TSS is a limited liability company existing under Georgia law and registered and certified to transact business in the Commonwealth of Virginia and the District of Columbia. Although Troutman Sanders LLP has an economic interest in the success of TSS, TSS is a separate, distinct legal entity. The actions and responsibility for actions of TSS should not be attributed to Troutman Sanders LLP.

### **Conflicts Provision**

MRWMD understands that TSS may provide lobbying and governmental affairs representation for other persons, corporations, and trade associations. TSS agrees, however, that it will not knowingly engage in the performance of lobbying and other governmental affairs services which are in conflict with TSS's obligations to MRWMD, or in conflict with the goals of MRWMD in connection with the Engagement. At your request, TSS will disclose all clients for whom it registers and performs lobbying and other governmental affairs services.

Should we become aware of any conflicts with regard to our representation of you, we will notify you and discuss with you options for resolving the matter.

### **Acceptance**

This letter constitutes the entire understanding between MRWMD and TSS. If this letter correctly reflects your understanding of the terms and conditions of the agreement, we request that you have an appropriate representative of MRWMD provide your consent by having duplicate originals of this letter executed in the space provided below. You should retain one of the duplicate originals for your records and return the other to TSS for our records.

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We look forward to working with you. I hope that you will let me know at any time how we can improve our service to you. On behalf of TSS, I want to thank you sincerely for the opportunity to be of service.

Very truly yours,

TROUTMAN SANDERS STRATEGIES

By:   
John D. Freshman  
Principal

Monterey Regional Waste Management District agrees to the foregoing terms:

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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