



Agenda Date: March 19, 2015
Agenda Placement: Admin.
Estimated Time: N/A
Continued Item: No

A - 4

Board Agenda Item

TO: Air Pollution Control District Board

FROM: William M. Dillon, Senior Deputy County Counsel
568-2950

SUBJECT: Contract for Executive Officer Services

RECOMMENDATION:

Approve contract with Dave Van Mullem for Executive Officer services from August 20, 2015 to and including January 21, 2016.

DISCUSSION:

The existing contract with Control Officer Dave Van Mullem expires on August 20, 2015. The Board is asked to extend that contract for services to and including January 21, 2016.

If approved by the Board, the agreement will be effective August 20, 2015.

SPECIAL INSTRUCTIONS: After the contract is approved, Chair signature is requested.

AMENDMENT TO AGREEMENT OF EMPLOYMENT
BETWEEN THE
SANTA BARBARA COUNTY AIR POLLUTION CONTROL DISTRICT BOARD
AND
LOUIS D. VAN MULLEM, JR., AIR POLLUTION CONTROL OFFICER

This is an Amendment to the Agreement made on August 17, 2012 between the Santa Barbara County Air Pollution Control District Board, ("District Board,") and Louis D. Van Mullem, Jr., hereinafter referred to as "Control Officer" or Mr. Van Mullem, collectively referred to as "the Parties."

WHEREAS, the Parties wish to extend the term of the Agreement by approximately 5 months from the current expiration date of August 20, 2015 to and including January 21, 2016.

NOW, THEREFORE, the Parties hereby agree to amend the Agreement as follows:

1. Paragraph A(1) of Section 2 "Term" of the Agreement is amended to read as follows:

A. The term of this contract shall be as follows:

1. Appointment. The term of this contract shall be from August 20, 2012 and expire at the close of business on January 21, 2016.

2. In all other respects, the Agreement shall remain in full force and effect.


This Amendment of Agreement is entered into on March 19, 2015 in Santa Barbara County, California.

SANTA BARBARA COUNTY AIR
POLLUTION CONTROL DISTRICT

Chairperson,
March 19, 2015

ATTEST:
CLERK OF THE BOARD

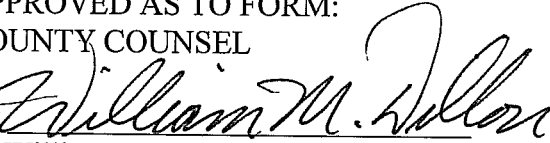
By _____
Sara Hunt



Louis D. Van Mullem, Jr.
March 16, 2015

APPROVED AS TO FORM:
COUNTY COUNSEL

By



William M. Dillon
Deputy County Counsel

APPROVED AS TO
ACCOUNTING FORM:



Robert W. Geis
Auditor-Controller

AGREEMENT OF EMPLOYMENT

BETWEEN THE

SANTA BARBARA COUNTY AIR POLLUTION CONTROL DISTRICT BOARD

AND

LOUIS D. VAN MULLEM, JR., AIR POLLUTION CONTROL OFFICER

This Agreement made between the Santa Barbara County Air Pollution Control District Board, hereinafter referred to as "District Board," and Louis D. Van Mullem, Jr., hereinafter referred to as "Control Officer" or Mr. Van Mullem.

Section 1. Duties

The District Board agrees to employ Louis D. Van Mullem, Jr. as the Control Officer of the Santa Barbara County Air Pollution Control District to perform the functions and duties of the Control Officer of the District (including those specified in Health & Safety 40751 through 40753), and to perform such other legally permissible and proper duties and functions as the Governing Board shall from time to time assign. The Control Officer agrees that to the best of his ability and experience, he will at all times loyally and conscientiously perform all of the duties and obligations required of him either expressly or implicitly by the terms of this Agreement.

Section 2. Term

A. The term of this contract shall be as follows:

1. Three-Year Appointment. The term of this contract shall be from August 17, 2012, and expire on the date of the regular District Board meeting in August 2015, or if for any reason there is no such meeting, as soon thereafter that the next regular or special meeting of the District Board occurs.
2. Reappointment. The Board may, in its discretion, reappoint Mr. Van Mullem to another term as control officer, subject to the acceptance of such appointment by Mr. Van Mullem.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the District Board to terminate the services of the Control Officer at any time, with or without cause, subject only to the provisions set forth in Section 3, Paragraphs C and D, of this Agreement. Termination shall require a majority vote of the full District Board.

- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Control Officer to resign at any time from his position with the Santa Barbara County Air Pollution Control District, subject only to the provisions set forth in Section 3, Paragraph E of this Agreement.
- D. The Control Officer agrees to remain in the exclusive employ of the Santa Barbara County Air Pollution Control District and neither to accept other employment nor to become employed by any other employer until said termination date, unless said termination date is affected as hereinafter provided. The term "exclusive employ" shall not be construed to include occasional teaching or writing, performed on the Control Officer's personal time.

Section 3. Termination and Severance Pay

- A. The Control Officer may be removed from office with or without cause. Either party may terminate this agreement on 60 days written notice, subject to the right of the District Board to terminate this agreement for malfeasance under Section 3, Paragraph B of this agreement.
- B. The District Board reserves the right to terminate this agreement at any time for employee malfeasance, breach or habitual neglect of duties under this agreement, commission of a crime or offense punishable under state law by removal from office, or commission of acts of moral turpitude, including acts of dishonesty, fraud, or misrepresentation.
- C. In the event the Control Officer is terminated by the District Board, then in that event the District agrees to pay the Control Officer a cash payment equal to three months aggregate salary; provided, however, that in the event the Control Officer is terminated for any reason stated in Section 3(B), then, in that event, the District shall have no obligation to pay the aggregate severance sum designated in this paragraph. Said cash payments may be paid, at the option of the Control Officer, in (a) lump sum upon date of the termination; (b) lump sum on January 1 of the year following termination; or (c) three equal monthly payments.
- D. In the event the District Board at any time during the term of this Agreement reduces the salary or other financial benefits of the Control Officer in a greater percentage than an applicable across-the-board reduction for all employees of the District, or in the event the District Board refuses, following written notice, to comply with any other provision benefiting the Control Officer herein, or the Control Officer resigns following a suggestion, whether formal or informal, by the Governing Board that he resigns, then, in that event, the Control Officer may, at his option, be deemed to be "terminated" at the date such reduction or such refusal to comply within the meaning and context of the herein severance pay provision.
- E. In the event the Control Officer voluntarily resigns his position with the District, he shall give the District Board sixty (60) days notice in advance, unless the parties otherwise

agree. In this event, the Control Officer shall be compensated for any accrued vacation, holidays, compensatory time and other accrued benefits.

Section 4. Disability

If the Control Officer is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, beyond any accrued sick leave period, the District Board shall have the option to terminate this Agreement, subject to the limitations of the Family Leave Act and any other applicable ordinances and laws and subject to the severance pay requirements of Section 3, Paragraph A. However, the Control Officer shall be compensated for any accrued vacation, holidays, compensatory time and other accrued benefits.

Section 5. Salary

The District Board agrees to pay the Control Officer a salary at approximately \$12,500 monthly.

The District Board agrees to increase said base salary and/or other benefits by resolution, in such amounts and to such extent as the District Board may determine that it is desirable to do so on the basis of an annual salary review of the Control Officer made at the same time as similar consideration is given other employees generally.

Section 6. Performance Evaluation

- A. The District Board shall evaluate the performance of the Control Officer in June of each year during the term of this agreement. Said evaluation shall be in accordance with specific criteria developed jointly by the Board and the Control Officer. Said criteria may be added to or deleted from as the Board may from time to time determine, in consultation with the Control Officer. An Executive Committee may be appointed to draft the performance criteria and evaluation. Prior to the evaluation, the Control Officer may submit a report of accomplishments for consideration in developing the annual evaluation. The Executive Committee shall provide the Control Officer with a summary written statement of the draft evaluation findings and provide an adequate opportunity for the Control Officer to discuss his evaluation with the Board. The Board shall approve the evaluation findings and specific performance criteria.
- B. Annually, the District Board and the Control Officer shall define such goals and performance objectives which they determine necessary for the proper operation of the District, and in the attainment of the District Board's policy objectives and shall further establish a relative priority among those various goals and objectives. Said goals and objectives shall be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

Section 7. Benefits

The Control Officer shall receive those benefits set forth in the "Management Personnel Benefits Policy for Management and Confidential-Unrepresented Employees," Resolution 11-07 of the District Board. All provisions of the resolutions of the District as they now exist or hereafter may be amended, also shall apply to the Control Officer as they would to other employees of the District in addition to benefits enumerated specifically for the benefit of the Control Officer. Notwithstanding the foregoing to the extent that such provisions are inconsistent with this agreement, the provisions of this agreement shall prevail.

Section 8.

- A. Extra Cash Allowance. In addition to the regular employer contributions to the cafeteria dollars authorized in the Management Personnel Benefits Policy Resolution, the District shall pay to the Control Officer an extra fifty dollars (\$50.00) per pay period.
- B. Retirement Contribution. The District shall maintain benefit provisions of the Santa Barbara County Employees' Retirement System, a 1937 Act system. In addition to the regular employer contributions to said retirement system, the District shall contribute towards the Control Officer's employee contribution one hundred and fifty dollars (\$150.00) per pay period. This later contribution includes the fifty dollars (\$50.00) per pay period authorized in the Management Personnel Benefits Policy Resolution. Such contribution shall be subject to the provisions of Government Code section 31630.
- C. Deferred Compensation Contribution. The District shall contribute \$635.66 bi-weekly to the Control Officer's deferred compensation account.
- D. Vacation, Holidays & Leave. The Control Officer shall be entitled to accrue 185 hours annually in vacation, which may be used according to the accrual and use requirements of the District. This shall be increased to 210 hours annually after four years of service. The Control Officer shall be entitled to other time off, such as holidays, sick leave and administrative time, as provided in the District Management Personnel Benefits Policy Resolution.

Section 9. Automobile and Phone

- A. Automobile. The Control Officer shall receive a taxable automobile compensation allowance of three hundred dollars (\$300.00) per month plus a non-taxable fifty-five and one half cents (\$0.555.) per mile business reimbursement for travel, or as increased or updated annually by the Santa Barbara County Auditor Controller pursuant to guidelines of the Internal Revenue Service. The Control Officer shall obtain and maintain general

liability automobile insurance and provide proof of insurance to the District Fiscal Officer within sixty (60) days of execution of this agreement.

B. Phone. The Control Officer shall receive a non-taxable phone allowance of eighty-five dollars (\$85.00) per month.

Section 10. Bonding

The District shall bear the full cost of any fidelity or other bonds required of the Control Officer pursuant to duties to the District under any law or ordinance.

Section 11. Other Terms and Conditions of Employment

The Executive Committee of the District Board, in consultation with the Control Officer, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Control Officer, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, any applicable resolution or any law.

Section 12. No Reduction of Benefits

The District Board shall not at any time during the term of this Agreement reduce the salary, compensation or other financial benefits of the Control Officer, except to the degree of such a reduction across-the-board for all employees of the District and except pursuant to the terms and conditions of Section 7.

Section 13. Notices

Notices pursuant to this Agreement may be given by mail first class postage prepaid to the respective parties at the following addresses:

To Control Officer: 425 Tallyho Road
Santa Maria, CA. 93455

To District Board: Clerk of the Board
260 N. San Antonio Road, Ste. A
Santa Barbara, CA 93110

and

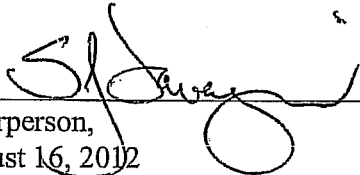
County Counsel
105 E. Anapamu Street, Suite 201
Santa Barbara, CA. 93101

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice, postage prepaid, in the course of transmission in the United States Postal Service.

Section 14. General Provisions

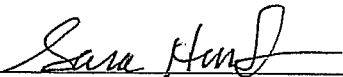
- A. The text herein shall constitute the entire agreement between the parties.
- B. This Agreement shall be effective on August 17, 2012.
- C. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

SANTA BARBARA COUNTY AIR
POLLUTION CONTROL DISTRICT




Chairperson,
August 16, 2012

ATTEST:
CLERK OF THE BOARD

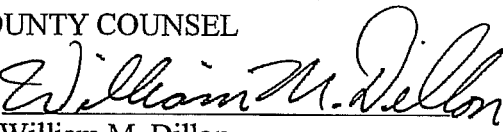
By 

Sara Hunt



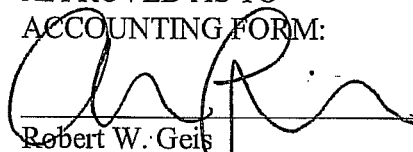
Louis D. Van Mullem, Jr.
July 19, 2012

APPROVED AS TO FORM:
COUNTY COUNSEL

By 

William M. Dillon
Deputy County Counsel

APPROVED AS TO
ACCOUNTING FORM:



Robert W. Geis
Auditor-Controller
Deputy Auditor-Controller
Gregory Eric Levin
Advanced and Specialty Accounting