

TO: FACILITIES/WATER RESOURCES COMMITTEE  
FROM: MARIO IGLESIAS  
GENERAL MANAGER  
DATE: OCTOBER 31, 2019

**AGENDA ITEM**  
**2**  
**NOVEMBER 7, 2019**

**CONSIDER UPDATE/REVISIONS TO DISTRICT ANNEXATION POLICY**

**ITEM**

Consider update/revisions to the District's annexation policy and ancillary documents and direct staff. [RECOMMEND REVIEW AND DIRECT STAFF]

**BACKGROUND**

The Board adopted Resolution 2006-981 in May 2006, revising the District's annexation policy. Since that time, the District has made improvements to its facilities and has begun to import water through the Nipomo Supplemental Water Project. Staff recommends these environmental shifts be recognized and addressed in the annexation policy. Additionally, the existing annexation policy, after being reviewed by District staff and Legal Counsel, was determined to be deficient in addressing the complexities involved in the annexation process in substance and form.

The amendments as presented to your committee, attempt to provide applicants with a clear and reasonable path through the District's annexation application process. One of the goals staff targeted to meet through these amendments and modifications, is to increase staff's efficiency in accepting and processing annexation applications by decreasing an applicant's confusion of the annexation process.

The following documents are included in the annexation review process:

- Annexation Policy [ATTACHMENTS A – C]
- Annexation Application [ATTACHMENTS D – F]
- Proposed Deposit Agreement [ATTACHMENT G]

For the documents listed above that currently exist, and where edits are being presented to your committee for consideration, three versions are included for review: the document in its current state, a blackline copy showing the proposed edits, and a clean copy of the proposed edits for ease of review. The only document not currently included in the District's annexation process is the proposed deposit agreement. This document is provided to your committee as a first draft – no other versions.

The proposed plan for adoption is as follows:

- Facilities/Water Resources Committee review and comment on draft November 7, 2019
- Board of Directors review, comment, and adopt ordinance – first reading of ordinance November 27, 2019
- Board of Directors – second reading of ordinance December 11, 2019

**FISCAL IMPACT**

Funds for staff time to support the review and revisions to the annexation policy are included in the Budget. The financial impacts to the District vary widely with regard to Board actions taken either to adopt, modify, or reject the recommended amendments to the annexation policy or the ancillary documents.

For example, there is not an annexation application fee currently established. This lends itself to a negative value exchange between the District and an applicant. Staff time spent accepting and processing the application is not recovered, should the applicant decide to end the annexation process. The amendments to the annexation policy as presented to your committee address this condition.

**STRATEGIC PLAN**

Goal 6 – GOVERNANCE AND ADMINISTRATION – Conduct District activities in an efficient, equitable and cost-effective manner.

**RECOMMENDATION**

Staff recommends that the Committee review the proposed modification and direct staff to present to the Board of Directors, the draft annexation policy and affected subordinate and supporting annexation documents as amended and meeting with your satisfaction.

**ATTACHMENT**

- A. Annexation Policy, Resolution 2006-981
- B. Draft Annexation Policy, Black-line
- C. Draft Annexation Policy, Clean Version
- D. Annexation Application, Current
- E. Draft Annexation Application, Black-line
- F. Draft Annexation Application, Clean Version
- G. Proposed Deposit Agreement

NOVEMBER 7, 2019

ITEM 2

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2006-981**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING AND RESTATING THE DISTRICT'S ANNEXATION POLICY**

**WHEREAS**, the Nipomo Community Services District ("District") last updated its Annexation Policy on or about September 10, 2003 ("Annexation Policy"); and

**WHEREAS**, the Local Agency Formation Commission ("LAFCO") is charged with the authority to review and approve all requests for sphere of influence, annexations, and other changes in organizations to the District; and

**WHEREAS**, LAFCO considers CEQA for all proposed annexations and sphere of influence changes and other changes in organizations; and

**WHEREAS**, on or about May 30, 2004, LAFCO adopted a Sphere of Influence Update ("SOI"), Municipal Service Review ("MSR") for the District. Said Sphere of Influence Update and Municipal Service Review are incorporated herein by this reference; and

**WHEREAS**, as part of the SOI and Municipal Service Review LAFCO considered and certified an Environmental Impact Report. Said Environmental Impact Report ("EIR") is incorporated herein by this reference; and

**WHEREAS**, on or about January 25, 2006, the District adopted its Urban Water Management Plan ("UWMP");

**WHEREAS**, on April 26, 2006, May 8, 2006 and May 24, 2006, the Board held public meetings related to amending the District's current Annexation Policy; and

**WHEREAS**, the District Board of Directors finds that the policies adopted herein by this Resolution do not conflict with the actions taken by LAFCO as referenced above.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT THAT:**

1. The amended and restated Annexation Policy, as referenced in Exhibit "A", are hereby approved and adopted.

2. The amended and restated Annexation Policy, Exhibit "A", applies to requests for annexations that have not previously been approved by the District Board of Directors.

3. The Board of Directors finds that the adoption of the amendments to the existing Annexation Policies constitute "general policy and procedure making" described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Further, and independently, the District Board of Directors finds that the amendments to the Annexation Policy are within the scope of the program EIR adopted by LAFCO within the meaning of CEQA Guideline §§15168 and 15162 and that no new effects could occur as a result of adopting the amendments to the District's current Annexation Policy. The District

POMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2006-981

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING AND RESTATING THE DISTRICT'S ANNEXATION POLICY

General Manager is authorized to prepare, execute and file a Notice of Exemption pursuant to the above provisions.

4. The above Recitals are true and correct and incorporated herein by reference and that the Staff Report, reference documents, public comment and Recitals constitute further findings in support of this Resolution.

5. If any section, subsection, sentence, clause or phrase in this Resolution and/or the amended Annexation Policy are for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Resolution and/or the amended Annexation Policy. The District Board of Directors hereby declares that it would have passed this Resolution and/or the amended Annexation Policy, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Upon the motion of Director Eby, seconded by Director Winn, and on the following roll call vote, to wit:

AYES: Directors Eby, Winn, Wirsing, Trotter and Vierheilig  
NOES: None  
ABSENT: None  
CONFLICTS: None

the foregoing resolution is hereby adopted this 24<sup>th</sup> day of May, 2006.



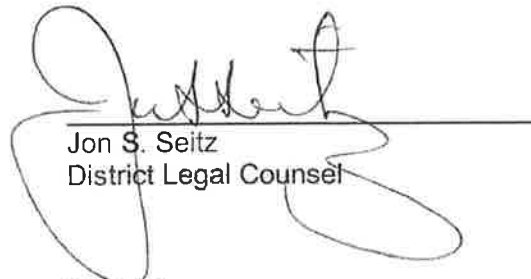
Lawrence Vierheilig,  
President, Board of Directors  
Nipomo Community Services District

ATTEST:



Donna K. Johnson  
Secretary to the Board

APPROVED AS TO FORM



Jon S. Seitz  
District Legal Counsel

**THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
EXHIBIT "A" TO RESOLUTION 2006-981**

**I. PURPOSE**

In order to promote efficient processing of requests for annexation to the Nipomo Community Services District ("District"), this policy sets forth the framework and standards upon which the Board of Directors will consider such requests and provides notice thereof to the owners of the property that is the subject of such requests.

**II. INTENT**

The Board of Directors intends to review all annexation requests with the aim of supporting the viability of the District in providing essential services. The District must be operated so as best to provide:

Good quality, economical and dependable water, sewerage and other authorized services for the residents of the Nipomo Community Services District.

The District recognizes San Luis Obispo County Department of Planning and Building's, August, 2004, Resource Capacity Study ("Water Supply in the Nipomo Mesa Area") and the recommendations contained therein and the degradation of the water resources within the Nipomo Mesa Management Area and the need for conservation of natural and environmental resources, including local resources, their availability and quality, consistent with the South County General Plan of San Luis Obispo County.

**III. GENERAL POLICIES**

- A. Annexations shall provide a reliable water source, other than water from the Nipomo Mesa Management Area also known as the Nipomo Mesa Hydrologic Sub Area. A map of the Nipomo Mesa Hydrologic Sub Area is attached hereto as Exhibit "A".
- B. In order to provide for the orderly development of public service facilities, only those properties will be considered for annexation for which the owners are willing to accept all conditions for service required by the Nipomo Community Services District. Further, requests for annexation solely for sewerage services to the exclusion of water service will be rejected by the Board of Directors, except under extraordinary circumstances.
- C. In order to evaluate the impacts of potential annexations upon the Nipomo Community Services District, the Board will only consider annexation requests that include the submittal of a layout plan, that meets the requirement of Section VI, below, and a completed Annexation application. The District reserves the discretion to require additional information from the Applicant.
- D. If the intended development within the proposed area of annexation requires further County approvals (e.g., zoning or subdivision), the District's approval of the annexation may be conditioned upon the owners obtaining such County approvals before the annexation becomes effective.

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- E. After review of the layout plan and Application, the Board of Directors will consider annexation requests where it can be demonstrated that the benefits of the proposed annexation outweigh the disadvantages of the proposed annexation.
- F. The proposed annexation area boundary shall include all properties that may receive the proposed services to be provided (i.e., use rear property lines rather than streets as boundary lines).
- G. The District is opposed to the formation of homeowners associations or mutual water companies for the operation of water and/or sewer systems in the Nipomo Mesa area.
- H. The applicant shall apply to the Local Agency Formation Commission ("LAFCO") for approval of the proposed annexation.

IV. GENERAL STANDARDS

- A. Non-Agricultural Uses of Groundwater Basin Water Prohibited:  
Applicants shall covenant, in a form acceptable to District Legal Counsel, for recording at the San Luis Obispo County Recorder's Office, not to pump from the underlying groundwater basin except for agricultural uses and or open space irrigation.
- B. Prior to final LAFCO approval the District shall adopt and forward to LAFCO a Resolution verifying the following:
  - 1. The Applicant has acquired and dedicated to the District's satisfaction, a volume of supplemental water (from a source acceptable to the District other than Nipomo Mesa Management Area groundwater), equal to that necessary to support full build-out as reflected in the Annexation Application and the Annexation Agreement.
  - 2. The Applicant has complied with the terms and conditions of the Annexation Agreement.
  - 3. That for each connection or potential connection, Applicant has deposited with the District the then current capacity and connection fees and charges for District services.
- C. California Environmental Quality Act.  
  
The Applicant shall be responsible for compliance with the California Environmental Quality Act ("CEQA") as part of the LAFCO approval process.
- D. Water Service:
  - 1. The District will not set water meters for residential and/or commercial service until such time that the dedicated source of supplemental water is delivered to the District and improvements to be dedicated to the District have been dedicated and accepted by the District.

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2. Final capacity and connection fee charges will be determined and owing at the time the water meter(s) are set by the District.

E. Customers of the District:

Subject to subparagraph D, above, upon annexation, residents and commercial users within the area of the proposed annexation shall become "regular customers" of the District, with no greater entitlements to water service than any other District customer.

F. Cluster Developments:

1. The District will only consider annexations of cluster developments that comply with County policy relating to clustering and that include the requirement for ongoing management of the open space parcel(s) for the purposes of:
  - a. Conserving water drawn from the underlying groundwater basin;
  - b. Preventing the accumulation of solid waste, litter, and construction and demolition waste; and
  - c. Preventing the accumulation of weeds and other fire hazards that would create further demand on the District's water resources.
2. A cluster division is to include at least one (1) open space parcel that may be used for one of the allowable residential units, provided that the building site does not exceed six thousand (6,000) square feet and is defined on the recorded map. Otherwise the open space parcel is not to be developed with structural uses other than agriculture accessory buildings. The open space parcel may be used for any one of the following: crop production or range land; historic site, archaeological preserve, wildlife preserve, water storage or recharge area; leach field, scenic area, protection from hazardous areas; public outdoor recreation; or other similar use.
3. The use and restrictions referenced in Paragraphs 1 and 2 above, are to be guaranteed by a "Dedication", approved in writing by the District, as a party to the "Dedication". The Dedication shall be in the form of an open space easement, recordable agreement, dedication of fee, or partial fee title to a public or quasi-public agency.
4. If the open space parcel is designated for crop production or range land, then the Dedication related to water use shall include:
  - a. Water pumped from the groundwater basin will only be used for agricultural purposes consistent with crop production and/or grazing livestock;
  - b. A reference to the ongoing groundwater adjudication shall be identified, along with a statement that Owner acknowledges that Owner is the party subject to limitations imposed by a Court or



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other agency with jurisdiction related to pumping from the underlying groundwater basin; and

- c. That Owner will not transport water from the open space parcel to other parcels that do not share a common boundary and common ownership with the open space parcel. Under no circumstances shall the Owner transport water from the open space parcel to a residential parcel.
5. If the District accepts responsibility for the open space parcel, then Applicant shall form an Assessment District, Special Tax District, or establish an endowment acceptable to District for the purposes of the operation and maintenance of the open space parcel.
6. Applicant shall establish a Homeowners Association for the purposes of assuming obligations in Subparagraph 5 above in the event the District is required to abandon the Assessment District or Special Tax District.

V. ANNEXATION AGREEMENT

All applicants for annexation shall be required to enter into an Annexation Agreement. Said Annexation Agreement shall include the following:

- A. That all infrastructure and service line extensions shall be designed and constructed at no cost to District in accordance with District's standards;
- B. Reimbursement to District for its costs in processing the annexation, including administrative costs, legal costs and engineering costs; and
- C. Payment for all applicable District capacity, meter and connection charges.
- D. Dedication to the District of a volume of supplemental water (from a source acceptable to the District other than Nipomo Mesa Management Area groundwater) equal to that necessary to support full build-out of the annexed lands.
- E. The annexation application, layout plan and the District's then current Annexation Policy shall be incorporated into the Annexation Agreement.
- F. Other terms and conditions as determined by the District.

VI. SUBMITTAL OF ANNEXATION APPLICATION AND LAYOUT PLAN

Prior to consideration by the Board of Directors, Applicants must submit an application to the District, demonstrating that the annexation will conform to these Annexation Policies and submit a layout plan for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's water distribution facilities, sewer service and other services to be provided to the area of annexation by the District.

NOVEMBER 7, 2019

ITEM 2

ATTACHMENT B

**THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
EXHIBIT "A" TO RESOLUTION 2006-984  
(Effective \_\_\_\_\_)**

I. PURPOSE

In order to promote efficient processing of requests for annexation to the Nipomo Community Services District ("District"), this policy sets forth the framework and standards upon which the Board of Directors will consider such requests and provides notice thereof to the owners of the property that is the subject of such requests.

II. INTENT

The Board of Directors intends to review all annexation requests with the aim of supporting the viability of the District in providing essential services. ~~The District must be operated so as best to provide; and adhering to the District's mission statement:~~

~~Good"Provide our customers with reliable, quality, economical and dependable water, sewerage and other authorized cost-effective services for the residents of the Nipomo Community Services District now and in the future."~~

~~The District recognizes San Luis Obispo County Department of Planning the need to preserve and Building's, August, 2004, Resource Capacity Study ("Water Supply in the Nipomo Mesa Area") and the recommendations contained therein and the degradation enhance the availability and quality of its services and of the water resources within the Nipomo Mesa Management Area and the need for conservation of natural and environmental resources, including local resources, their availability and quality, consistent with the South County General Plan of San Luis Obispo County. With this intent and within the framework of this annexation policy, the District acknowledges that, where conditions and findings will preserve and enhance District services and the water resources that support District customers, annexations may provide a greater benefit to the community than the formation of homeowners associations or mutual water companies for the operation of water and/or sewer systems in the Nipomo Mesa area.~~

III. SUBMITTAL OF ANNEXATION APPLICATION AND LAYOUT PLAN

Prior to consideration by the Board of Directors, Applicants must submit an application, and payment of the applicable application fee, to the District, demonstrating that the annexation will conform to these Annexation Policies and submit three (3) standard size (24" x 36") and one reduced copy (8½" x 11") of site plans showing the parcel layout, water and sewer laterals, and general off-site improvements, as applicable for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's water distribution facilities, sewer service, and solid waste services to be provided to the area of annexation by the District.

IV. REQUIREMENTS

A. III. GENERAL POLICIES

A. ~~Annexations shall provide a reliable water source, other than water from the Nipomo Mesa Management Area also known as the Nipomo Mesa Hydrologic~~

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EXHIBIT "A" TO RESOLUTION 2006-984

~~Sub Area. A map of the Nipomo Mesa Hydrologic Sub Area is attached hereto as Exhibit "A".~~

B. Annexation applications may only be accepted for properties within the District's sphere of influence as delineated by the San Luis Obispo County Local Agency Formation Commission ("LAFCO") at the time of application.

B. If approved, annexations will be served with water supplied through the Nipomo Supplemental Water Project in accordance with the terms of the Stipulation and Judgment entered in the Santa Maria Groundwater Litigation and with all other District policies and ordinances. Annexations may only be approved if sufficient Nipomo Supplemental Water Project water exists to serve the project.

C. In order to provide for the orderly development of public service facilities, only those properties will be considered for annexation for which the owners are willing to accept all conditions for service required by the Nipomo Community Services District. Further, requests for annexation solely for sewerage services to the exclusion of water service will be rejected by the Board of Directors, except under extraordinary circumstances.

C. D. In order to evaluate the impacts of potential annexations upon the Nipomo Community Services District, the Board will only consider annexation requests that include the submittal of a layout plan, that meets the \_\_\_\_\_ requirement of Section VI, below, and III, a completed Annexation application, and deposit agreement, and payment of the annexation application fee to cover the costs of any studies or District staff time required to fully evaluate the application as determined by the District General Manager. The District reserves the \_\_\_\_\_ discretion to require additional information from the Applicant.

E. After review of the completed application, the Board of Directors will consider annexation requests where the application demonstrates all of the following:

1. The proposed annexation area has a need for the requested services.
2. The proposed annexation area boundaries are consistent with this Policy.
3. There is no reasonable alternative manner of providing the requested services to the proposed annexation area.
4. The annexation represents a logical and reasonable expansion of the District's boundaries.
5. The proposed annexation is consistent with the District's plans and policies.
6. The District has the ability to meet the need for the requested services.

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7. The benefits of the proposed annexation outweigh the disadvantages of the proposed annexation to the District.

F. The proposed annexation area boundaries shall be definite, certain, and conform to lines of assessment whenever possible. The proposed boundary shall include the entirety of any and all properties that may receive the proposed services to be provided. Rear property lines, rather than streets, will be used for the annexation boundary. Properties on both sides of a street that may receive services as a result of annexation may be required to be included in the annexation boundary.

D. G. If the intended development within the proposed area of annexation requires further San Luis Obispo County ("County") approvals (e.g., zoning or subdivision), the District's approval of the annexation may will be conditioned upon the owners' obtaining such County approvals before the annexation becomes effective.

H. Uses of Groundwater Basin Water Prohibited:  
After review of

Applicants shall destroy any groundwater well existing on the layout plan and Application, the Board of Directors will consider annexation requests where it can be demonstrated that property as a condition of receiving water service from the District.

I. Uses of Groundwater Basin Water Prohibited:

E. Applicants shall destroy any groundwater well existing on the benefits of the proposed annexation outweigh the disadvantages property as a condition of the proposed annexation receiving water service from the District.

~~F. The proposed annexation area boundary shall include all properties that may receive the proposed services to be provided (i.e., use rear property lines rather than streets as boundary lines).~~

~~G. The District is opposed to the formation of homeowners associations or mutual water companies for the operation of water and/or sewer systems in the Nipome Mesa area.~~

H

~~J. The applicant shall apply to the Local Agency Formation Commission ("LAFCO") for and obtain approval from LAFCO for approval of the proposed annexation as required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.~~

IV. ~~GENERAL STANDARDS~~

~~A. Non-Agricultural Uses of Groundwater Basin Water Prohibited:~~

~~Applicants shall covenant, in a form acceptable to District Legal Counsel, for recording at the San Luis Obispo County Recorder's Office, not to pump from the underlying groundwater basin except for agricultural uses and or open space irrigation.~~

THE ANNEXATION POLICY OF THE  
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B. K. Prior to final LAFCO approval, the District shall adopt and forward to LAFCO a Resolution verifying the following:

- ~~1. The Applicant has acquired and dedicated to the District's satisfaction, a volume of 1. The applicant has provided all improvements, payments, fees, and charges, and met all legal requirements, necessary to enable the District to serve the annexation area, including but not limited to the provision of sufficient supplemental water (from a source acceptable to the District other than Nipomo Mesa Management Area groundwater), equal to that necessary to support full build-out of the annexation area as reflected in the Annexation Application/annexation application and the Annexation Agreement.~~
2. The Applicant/applicant has complied with the terms and conditions of the Annexation Agreement.
3. That for each connection or potential connection, Applicant/the applicant has deposited with the District the then current capacity and connection fees and charges for District services.

GL. California Environmental Quality Act.

~~The Applicant shall be responsible for compliance~~ Compliance with the California Environmental Quality Act ("CEQA") ~~as part of the LAFCO will be required before approval process.~~

~~D.~~ Water Service:

~~1. The District will not set water meters for residential and/or commercial service until such time that the dedicated source of supplemental water is delivered to the District and improvements to be dedicated to the District have been dedicated and accepted of the annexation by the District/LAFCO.~~

~~2. Final capacity and connection fee charges will be determined and owing at the time the water meter(s) are set by the District.~~

~~E.~~ M. Customers of the District:

~~Subject to subparagraph D, above, upon~~ Upon annexation, residents and commercial users within the area of the proposed annexation shall become "regular customers" of the District, with no greater entitlements to water service than any other District customer.

~~F.~~ Cluster Developments:

~~1. The District will only consider annexations of cluster developments that comply with County policy relating to clustering and that include the requirement for ongoing management of the open space parcel(s) for the purposes of:~~

~~a. Conserving water drawn from the underlying groundwater basin;~~

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- ~~b. Preventing the accumulation of solid waste, litter, and construction and demolition waste; and~~
  - ~~c. Preventing the accumulation of weeds and other fire hazards that would create further demand on the District's water resources.~~
2. ~~A cluster division is to include at least one (1) open space parcel that may be used for one of the allowable residential units, provided that the building site does not exceed six thousand (6,000) square feet and is defined on the recorded map. Otherwise the open space parcel is not to be developed with structural uses other than agriculture accessory buildings. The open space parcel may be used for any one of the following: crop production or range land; historic site, archaeological preserve, wildlife preserve, water storage or recharge area; leach field, scenic area, protection from hazardous areas; public outdoor recreation; or other similar use.~~
3. ~~The use and restrictions referenced in Paragraphs 1 and 2 above, are to be guaranteed by a "Dedication", approved in writing by the District, as a party to the "Dedication". The Dedication shall be in the form of an open space easement, recordable agreement, dedication of fee, or partial fee title to a public or quasi-public agency.~~
4. ~~If the open space parcel is designated for crop production or range land, then the Dedication related to water use shall include:~~
- ~~a. Water pumped from the groundwater basin will only be used for agricultural purposes consistent with crop production and/or grazing livestock;~~
  - ~~b. A reference to the ongoing groundwater adjudication shall be identified, along with a statement that Owner acknowledges that Owner is the party subject to limitations imposed by a Court or other agency with jurisdiction related to pumping from the underlying groundwater basin; and~~
  - ~~c. That Owner will not transport water from the open space parcel to other parcels that do not share a common boundary and common ownership with the open space parcel. Under no circumstances shall the Owner transport water from the open space parcel to a residential parcel.~~
5. ~~If the District accepts responsibility for the open space parcel, then Applicant shall form an Assessment District, Special Tax District, or establish an endowment acceptable to District for the purposes of the operation and maintenance of the open space parcel.~~
6. ~~Applicant shall establish a Homeowners Association for the purposes of assuming obligations in Subparagraph 5 above in the event the District is required to abandon the Assessment District or Special Tax District.~~

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~~EXHIBIT "A" TO RESOLUTION 2006-984~~

All applicants for annexation shall be required to enter into an annexation agreement and a deposit agreement with the District, as approved by the District Board of Directors.~~ANNEXATION AGREEMENT.~~ Said Annexation Agreement shall include, at a minimum, the following:

- A.1. That all infrastructure and service line extensions shall be designed and constructed at no cost to District in accordance with District's standards;
- B.2. Reimbursement to District for its costs in processing the annexation, including administrative costs, consultant, legal costs, and engineering costs; and
- C.3. Payment for all applicable District capacity, meter fees and connection charges.
- 4. ~~Dedication to the District of a volume of supplemental water (from a source acceptable to the District other than Nipomo Mesa Management Area groundwater) equal to that necessary to support full build-out of the annexed lands.~~
- E.4. The annexation application, layout plan, and the District's then current Annexation Policy shall be incorporated into the Annexation Agreement.
- F.5. Other terms and conditions as determined by the District.

VI. ~~SUBMITTAL OF ANNEXATION APPLICATION AND LAYOUT PLAN~~

~~Prior to consideration by the Board of Directors, Applicants must submit an application to the District, demonstrating that the annexation will conform to these Annexation Policies and submit a layout plan for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's water distribution facilities, sewer service and other services to be provided to the area of annexation by the District.~~



NOVEMBER 7, 2019

ITEM 2

ATTACHMENT C

# THE ANNEXATION POLICY OF THE NIPOMO COMMUNITY SERVICES DISTRICT

(Effective \_\_\_\_\_)

## I. PURPOSE

In order to promote efficient processing of requests for annexation to the Nipomo Community Services District ("District"), this policy sets forth the framework and standards upon which the Board of Directors will consider such requests and provides notice thereof to the owners of the property that is the subject of such requests.

## II. INTENT

The Board of Directors intends to review all annexation requests with the aim of supporting the viability of the District in providing essential services and adhering to the District's mission statement:

*"Provide our customers with reliable, quality, and cost-effective services now and in the future."*

The District recognizes the need to preserve and enhance the availability and quality of its services and of the water resources within the Nipomo Mesa Management Area. With this intent and within the framework of this annexation policy, the District acknowledges that, where conditions and findings will preserve and enhance District services and the water resources that support District customers, annexations may provide a greater benefit to the community than the formation of homeowners associations or mutual water companies for the operation of water and/or sewer systems in the Nipomo Mesa area.

## III. SUBMITTAL OF ANNEXATION APPLICATION AND LAYOUT PLAN

Prior to consideration by the Board of Directors, Applicants must submit an application, and payment of the applicable application fee, to the District, demonstrating that the annexation will conform to these Annexation Policies and submit three (3) standard size (24" x 36") and one reduced copy (8½" x 11") of site plans showing the parcel layout, water and sewer laterals, and general off-site improvements, as applicable for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's water distribution facilities, sewer service, and solid waste services to be provided to the area of annexation by the District.

## IV. REQUIREMENTS

- A. Annexation applications may only be accepted for properties within the District's sphere of influence as delineated by the San Luis Obispo County Local Agency Formation Commission ("LAFCO") at the time of application.
- B. If approved, annexations will be served with water supplied through the Nipomo Supplemental Water Project in accordance with the terms of the Stipulation and Judgment entered in the Santa Maria Groundwater Litigation and with all other District policies and ordinances. Annexations may only be approved if sufficient Nipomo Supplemental Water Project water exists to serve the project.

**THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT**

- C. In order to provide for the orderly development of public service facilities, only those properties will be considered for annexation for which the owners are willing to accept all conditions for service required by the Nipomo Community Services District. Further, requests for annexation solely for sewerage services to the exclusion of water service will be rejected by the Board of Directors, except under extraordinary circumstances.
- D. In order to evaluate the impacts of potential annexations upon the Nipomo Community Services District, the Board will only consider annexation requests that include the submittal of a layout plan that meets the requirement of Section III, a completed annexation application and deposit agreement, and payment of the annexation application fee to cover the costs of any studies or District staff time required to fully evaluate the application as determined by the District General Manager. The District reserves the discretion to require additional information from the Applicant.
- E. After review of the completed application, the Board of Directors will consider annexation requests where the application demonstrates all of the following:
1. The proposed annexation area has a need for the requested services.
  2. The proposed annexation area boundaries are consistent with this Policy.
  3. There is no reasonable alternative manner of providing the requested services to the proposed annexation area.
  4. The annexation represents a logical and reasonable expansion of the District's boundaries.
  5. The proposed annexation is consistent with the District's plans and policies.
  6. The District has the ability to meet the need for the requested services.
  7. The benefits of the proposed annexation outweigh the disadvantages of the proposed annexation to the District.
- F. The proposed annexation area boundaries shall be definite, certain, and conform to lines of assessment whenever possible. The proposed boundary shall include the entirety of any and all properties that may receive the proposed services to be provided. Rear property lines, rather than streets, will be used for the annexation boundary. Properties on both sides of a street that may receive services as a result of annexation may be required to be included in the annexation boundary.
- G. If the intended development within the proposed area of annexation requires further San Luis Obispo County ("County") approvals (e.g., zoning or

THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT

subdivision), the District's approval of the annexation will be conditioned upon the owners' obtaining such County approvals before the annexation becomes effective.

H. Uses of Groundwater Basin Water Prohibited:

Applicants shall destroy any groundwater well existing on the annexation property as a condition of receiving water service from the District.

I. Uses of Groundwater Basin Water Prohibited:

Applicants shall destroy any groundwater well existing on the annexation property as a condition of receiving water service from the District.

J. The applicant shall apply to and obtain approval from LAFCO for approval of the proposed annexation as required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

K. Prior to final LAFCO approval, the District shall adopt and forward to LAFCO a Resolution verifying the following:

1. The applicant has provided all improvements, payments, fees, and charges, and met all legal requirements, necessary to enable the District to serve the annexation area, including but not limited to the provision of sufficient supplemental water to support full build-out of the annexation area as reflected in the annexation application and the Annexation Agreement.
2. The applicant has complied with the terms and conditions of the Annexation Agreement.
3. That for each connection or potential connection, the applicant has deposited with the District the then current capacity and connection fees and charges for District services.

L. California Environmental Quality Act.

Compliance with the California Environmental Quality Act ("CEQA") will be required before approval of the annexation by LAFCO.

M. Customers of the District:

Upon annexation, residents and commercial users within the area of the proposed annexation shall become "regular customers" of the District, with no greater entitlements to water service than any other District customer.

V. ANNEXATION AGREEMENT

All applicants for annexation shall be required to enter into an annexation agreement and a deposit agreement with the District, as approved by the District Board of Directors. Said Annexation Agreement shall include, at a minimum, the following:

**THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT**

1. That all infrastructure and service line extensions shall be designed and constructed at no cost to District in accordance with District's standards.
2. Reimbursement to District for its costs in processing the annexation, including administrative, consultant, legal, and engineering costs.
3. Payment for all applicable District fees and charges.
4. The annexation application, layout plan, and the District's then current Annexation Policy shall be incorporated into the Annexation Agreement.
5. Other terms and conditions as determined by the District.

NOVEMBER 7, 2019

ITEM 2

ATTACHMENT D



# NIPOMO COMMUNITY SERVICES DISTRICT

148 SOUTH WILSON STREET  
POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326  
(805) 929-1133 FAX (805) 929-1932  
Website: nipomocsd.ca.gov

Office use only:  
Date and Time  
Complete  
Application and  
fees received:  
\_\_\_\_\_

## ANNEXATION APPLICATION

1. Property Owner: \_\_\_\_\_

2. Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Cell: \_\_\_\_\_ Work: \_\_\_\_\_

3. Agent's Information (Architect or Engineer): \_\_\_\_\_

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

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Project \_\_\_\_\_

Assessor's Parcel Number(s): \_\_\_\_\_

4. Location: \_\_\_\_\_

▪ Text/Legal Description  
\_\_\_\_\_  
\_\_\_\_\_

▪ Provide Map (attachments: of a scale that all notes can be easily read)

5. General Description of Project  
\_\_\_\_\_  
\_\_\_\_\_

6. Services Requested from NCSD (types and number of connections)

Water \_\_\_\_\_

Sewer \_\_\_\_\_

**NIPOMO COMMUNITY SERVICES DISTRICT**

6. Services Requested from NCSD [types and number of connections] (continued)  
Other (lighting, landscaping, drainage, etc.)

---

*Note: Solid Waste is a mandatory service.*

7. Current Zoning: (include map if more than one zone applies.)

8. Identify any proposed or pending zone changes on the property to be annexed:

9. Maximum number of units based on current zoning:

Maximum number of units based on proposed zoning:

Maximum number of units based on greatest potential zoning:

10. Proposed number of residential units: (Describe phased construction plan, if applicable):

11. If non-residential use, provide information as to number of plumbing fixtures, flows, loading, intended use, etc. (Describe phased construction plan if applicable):

12. Total acreage of proposed project

13. Total acreage of proposed annexation

14. If total acreage to be annexed differs from the acreage to be developed, explain the difference:



**NIPOMO COMMUNITY SERVICES DISTRICT**

15. Status of water resources available on proposed annexation acreage:

Quantity - pumping log(s) and date(s):

\_\_\_\_\_

Quality - quality test(s) and date(s):

\_\_\_\_\_

To the best of your knowledge, which of the following more accurately describes your situation?

- The parcel overlies a large and reliable supply of water.
- The parcel does not overlie a large and reliable supply of water.

Is there any existing or threatened litigation regarding the property? Y / N  
If Yes, attach explanation

Other information:

Water resources to be offered in dedication to NCSD:

16. Description of existing and proposed wastewater disposal system:

\_\_\_\_\_  
\_\_\_\_\_

17. Reason proponents are requesting annexation:

\_\_\_\_\_  
\_\_\_\_\_

18. If the annexation involves creation of an "open space" parcel, submit a description of how the open space parcel will be managed, including any plans to dedicate and funding method for sustaining the intended use:

\_\_\_\_\_  
\_\_\_\_\_

19. Who do you anticipate will provide the following services?

Lighting

\_\_\_\_\_

Drainage

\_\_\_\_\_

Landscaping

\_\_\_\_\_

\_\_\_\_\_

**NIPOMO COMMUNITY SERVICES DISTRICT**

20. District Annexation Policy (Section III. E) requires proposed annexations demonstrate that the benefits of the proposed annexation outweigh the disadvantages of the proposed annexation. Explain the advantages of the proposed annexation and how they outweigh the disadvantages.

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Note:

In its effort to make a competent and informed annexation decision, NCSD may, at its sole discretion, request additional information from the proponent(s) for the annexation and/or revise this checklist as NCSD deems necessary.

By signing below, I certify that I am the Owner of said property, or am empowered to act on the Owner's behalf, and that I understand the information provided herein by me or my representatives is true to the best of my knowledge.

---

SIGNATURE DATE

NOVEMBER 7, 2019

ITEM 2

ATTACHMENT E



# NIPOMO COMMUNITY SERVICES DISTRICT

148 SOUTH WILSON STREET  
POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326  
(805) 929-1133 FAX (805) 929-1932  
Website: nipomocsd.ca.gov

Office use only:  
Date and Time  
Complete  
Application and  
fees received:  
\_\_\_\_\_

## ANNEXATION APPLICATION



~~1~~  
~~NIPOMO COMMUNITY SERVICES DISTRICT~~  
~~148 SOUTH WILSON STREET~~  
~~POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326~~  
~~(805) 929-1133 FAX (805) 929-1932~~  
~~Website: nipomocsd.ca.gov~~

~~Office use only:  
Date and Time  
Complete Application and fees received:~~

~~Property Owner:~~ \_\_\_\_\_

## ~~ANNEXATION APPLICATION~~

9. Property Owner: \_\_\_\_\_

13. Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

FAX: \_\_\_\_\_

Cell: \_\_\_\_\_

Work: \_\_\_\_\_

14. Agent's Information (Architect or Engineer):

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

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

FAX: \_\_\_\_\_

3. Project \_\_\_\_\_

Assessor's Parcel Number(s): \_\_\_\_\_

15.

Location: \_\_\_\_\_

\* Text/Legal Description \_\_\_\_\_

Current Title Report (Provide Copy) \_\_\_\_\_

~~Provide Map (attachments: of a scale that all notes can be easily read)~~ Site Map:

\* Submit three (3) standard size (24" x 36") and one reduced (8½" x 11") copies of site plans showing the parcel layout, water and sewer laterals, and general off-site improvements, as applicable for the proposed area of annexation in sufficient detail for the District to assess

the full impact of the annexation on the District's facilities.

16. General Description of Project

---

---

17. Services Requested from NCSD (types and number of connections) **Solid Waste is a mandatory service.**

Water:

Water Connections: (example: Residential, Commercial...)

---

Sewer Connections:

---

5. Current Zoning: (include map if more than one zone applies.)

---

NIPOMO COMMUNITY SERVICES DISTRICT

6. ~~Services Requested from NCSD [types and number of connections] (continued)~~  
~~Other (lighting, landscaping, drainage, etc.)~~

---

~~Note: Solid Waste is a mandatory service.~~

~~18. Current Zoning: (include map if more than one zone applies.)~~

---

19. Identify any proposed or pending zone changes on the property to be annexed:

---

20. Maximum number of units based on current zoning: \_\_\_\_\_

Maximum number of units based on proposed zoning: \_\_\_\_\_

Maximum number of units based on greatest potential zoning: \_\_\_\_\_

40. Proposed number of residential units: (Describe phased construction plan, if applicable):

---

41. If non-residential use, provide information as to number of plumbing fixtures, flows, loading, intended use, etc. (Describe phased construction plan if applicable):

---

12. Total acreage of proposed project \_\_\_\_\_

13. Total acreage of proposed annexation \_\_\_\_\_

14. If total acreage to be annexed differs from the acreage to be developed, explain the difference:

---

---

15. ~~Status of water resources available on proposed annexation acreage:~~

~~Quantity – pumping log(s) and date(s):~~

~~Quality – quality test(s) and date(s):~~

~~To the best of your knowledge, which of the following more accurately describes your situation?~~

- ~~The parcel overlies a large and reliable supply of water.~~
- ~~The parcel does not overlie a large and reliable supply of water.~~

~~Is there any existing or threatened litigation regarding the property? Y / N~~  
~~— If Yes, attach explanation~~

7. Other information:  
Water resources to be offered in dedication to NCSD:

16.

A. Description of existing and proposed wastewater disposal system:

17. B. Reason proponents are requesting annexation:

18. C. If the annexation involves creation of an "open space" parcel, submit a description of how the open space parcel will be managed, including any plans to dedicate and funding method for sustaining the intended use:

19. ~~Who do you anticipate will provide the following services?~~

Lighting

Drainage

Landscaping

---

20.1 D. District Annexation Policy (Section III.V. E) requires proposed annexations demonstrate that the benefits of the proposed annexation outweigh the disadvantages of the proposed annexation. Explain the advantages of the proposed annexation and how they outweigh the disadvantages.

---

---

---

Note:

In its effort to make a competent and informed annexation decision, NCSD may, at its sole discretion, request additional information from the proponent(s) for the annexation and/or revise this checklist as NCSD deems necessary.

By signing below, I certify that I am the Owner of said property, or am empowered to act on the Owner's behalf, and that I understand the information provided herein by me or my representatives is true to the best of my knowledge. I affirm and acknowledge that I have reviewed the District's Annexation Policy, that a deposit agreement may be required to reimburse the District for costs associated with its review and evaluation of this application, and that an annexation agreement will be required as part of any approved annexation. I further acknowledge that the District does not provide services other than water, sewer, and solid waste services.

---

SIGNATURE

DATE



NOVEMBER 7, 2019

ITEM 2

ATTACHMENT F



# NIPOMO COMMUNITY SERVICES DISTRICT

148 SOUTH WILSON STREET  
POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326  
(805) 929-1133 FAX (805) 929-1932  
Website: nipomocsd.ca.gov

Office use only:  
Date and Time  
Complete  
Application and  
fees received:  
\_\_\_\_\_

## ANNEXATION APPLICATION

1. Property Owner:

Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Cell: \_\_\_\_\_ Work: \_\_\_\_\_

2. Agent's Information (Architect or Engineer):

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

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

3. Project

Assessor's Parcel Number(s): \_\_\_\_\_

\_\_\_\_\_

Location: \_\_\_\_\_

\_\_\_\_\_

Current Title Report (Provide Copy) \_\_\_\_\_

Site Map:

Submit three (3) standard size (24" x 36") and one reduced (8½" x 11") copies of site plans showing the parcel layout, water and sewer laterals, and general off-site improvements, as applicable for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's facilities.

General Description of Project

\_\_\_\_\_

\_\_\_\_\_

4. Services Requested (types and number of connections) **Solid Waste is a mandatory service.**

Water Connections: (example: Residential, Commercial...)

**NIPOMO COMMUNITY SERVICES DISTRICT**

---

Sewer Connections:

---

5. Current Zoning: (include map if more than one zone applies.) \_\_\_\_\_

Identify any proposed or pending zone changes on the property to be annexed:

---

Maximum number of units based on current zoning: \_\_\_\_\_

Maximum number of units based on proposed zoning: \_\_\_\_\_

Maximum number of units based on greatest potential zoning: \_\_\_\_\_

Proposed number of residential units: (Describe phased construction plan, if applicable):

---

If non-residential use, provide information as to number of plumbing fixtures, flows, loading, intended use, etc. (Describe phased construction plan if applicable):

---

6. Total acreage of proposed project \_\_\_\_\_

Total acreage of proposed annexation \_\_\_\_\_

If total acreage to be annexed differs from the acreage to be developed, explain the difference:

---

7. Other information:

A. Description of existing and proposed wastewater disposal system:

---

B. Reason proponents are requesting annexation:

**NIPOMO COMMUNITY SERVICES DISTRICT**

---

---

C. If the annexation involves creation of an "open space" parcel, submit a description of how the open space parcel will be managed, including any plans to dedicate and funding method for sustaining the intended use:

---

---

D. District Annexation Policy (Section IV. E) requires proposed annexations demonstrate that the benefits of the proposed annexation outweigh the disadvantages of the proposed annexation. Explain the advantages of the proposed annexation and how they outweigh the disadvantages.

---

---

---

Note:

In its effort to make a competent and informed annexation decision, NCSD may, at its sole discretion, request additional information from the proponent(s) for the annexation and/or revise this checklist as NCSD deems necessary.

By signing below, I certify that I am the Owner of said property, or am empowered to act on the Owner's behalf, and that I understand the information provided herein by me or my representatives is true to the best of my knowledge. I affirm and acknowledge that I have reviewed the District's Annexation Policy, that a deposit agreement may be required to reimburse the District for costs associated with its review and evaluation of this application, and that an annexation agreement will be required as part of any approved annexation. I further acknowledge that the District does not provide services other than water, sewer, and solid waste services.

---

SIGNATURE

DATE

**NIPOMO COMMUNITY SERVICES DISTRICT**

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NOVEMBER 7, 2019

ITEM 2

ATTACHMENT G

DEPOSIT AGREEMENT FOR ANNEXATION APPLICATION SUBMITTED TO  
NIPOMO COMMUNITY SERVICES DISTRICT

THIS AGREEMENT is made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the Nipomo Community Services District, a California special district (“District”) and \_\_\_\_\_, a \_\_\_\_\_ (“Applicant”).

WITNESSETH:

WHEREAS, Applicant is the legal owner of certain real property consisting of approximately \_\_\_ acres located at \_\_\_\_\_, Nipomo, San Luis Obispo County, California, identified as Assessor Parcel Number(s) \_\_\_\_\_, within the Sphere of Influence of the Nipomo Community Services District, and more particularly described in Exhibit A attached hereto; and,

WHEREAS, Applicant has submitted an application to the District requesting that the real property described in Exhibit A be annexed into the District (“Application”); and,

WHEREAS, Applicant’s request will cause the District to incur costs associated with engineering, legal, administrative, and/or consultant services in connection with its review, evaluation, and consideration of the Application (“District Services”); and,

WHEREAS, the District is willing to perform the necessary District Services, at the Applicant’s cost, and desires that the Applicant provide a deposit to cover those costs; and,

WHEREAS, Applicant is willing to provide said deposit on the terms and conditions hereinafter provided.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Recitals.

The above recitals are incorporated herein by this reference and made a part hereof.

2. Deposit for District Services.

a. Initial Deposit. Applicant shall provide the District with an initial deposit in the amount of \_\_\_\_\_ Dollars (\$) \_\_\_\_\_ at the time of execution of this Agreement. The Initial Deposit and any subsequent Replenishment Deposit(s) described in Section 2(b) below are collectively referenced herein as the “Deposit.”

b. Replenishment Deposit(s). Subject to the provisions of this Agreement, Applicant hereby agrees that whenever the amount of the Deposit declines to \$2,000 or less, the District may request an additional deposit to return the Deposit to an amount reasonably necessary to cover all anticipated District Services as District may determine in its discretion, including

amounts above the amount of the Initial Deposit (“Replenishment Deposit”). Applicant shall deliver such Replenishment Deposit to City within fifteen (15) days following such written request.

c. Suspension of Work. District shall have no obligation to continue performing District Services related to the Application at any time that the Deposit declines to \$2,000 or less and has not been replenished by Applicant following notice provided pursuant to Section 2(b) above. Any District Services performed for which the current Deposit balance is insufficient to fully reimburse the District shall be invoiced to Applicant and shall accrue interest at the rate of 10% per annum or the legal rate, whichever is less, if the invoice is not paid within fifteen (15) days of receipt.

d. Return of Deposit. Within fifteen (15) days following the termination of this Agreement, District will return any unexpended portion of the Deposit to Applicant, without interest, less any costs for District Services rendered as of the date of termination and less any amount owed to the District by Applicant.

### 3. Term of Agreement and Termination.

This Agreement shall become effective on the date first written above and shall remain in effect until the District takes final action to deny the Application, the proposed annexation is finalized by the San Luis Obispo County Local Area Formation Commission, or the Applicant withdraws its Application, whichever occurs first.

### 4. Direction of District Services.

a. Direction of Work. District has sole discretion to direct the work and to evaluate the performance of its employees, officers, agents, consultants, counsel, and representatives assigned to undertake the District Services, and District retains the absolute right to terminate or replace at any time any such person or entity. Any documents prepared hereunder shall reflect the independent judgment of the District and shall remain within the District’s control and ownership. Accordingly, even though the funds provided hereunder may be utilized to retain consultants or perform engineering, legal, or administrative costs, such individuals and organizations shall work solely for the District and shall not take direction or guidance from Applicant. Applicant acknowledges and agrees that this Agreement does not create an attorney-client relationship between legal counsel retained by District and Applicant and that it does not create any form of contractual or employment relationship between Applicant and District’s employees, officers, agents, or consultants engaged to perform the District Services.

b. Selection and Payment by District. District has sole and absolute discretion to select which of its employees, officers, agents, consultants, counsel, or representatives are assigned to undertake the District Services. District has the sole and absolute discretion to determine the amount of compensation paid to its employees, consultants, counsel, or representatives assigned to undertake the District Services.

c. District to Retain Discretion Regarding Annexation Application. Applicant acknowledges and agrees that notwithstanding Applicant’s reimbursement obligations under this



Agreement, District retains its discretion and ability to exercise its independent judgment in the processing, implementation, approval, or denial of the Application and its requirements. Applicant warrants and represents that no District official, officer, employee, agent, or attorney has represented, expressly or impliedly, that District will approve or otherwise assure any specific outcome on the Application or its conditions. Notwithstanding anything in this Agreement to the contrary, District retains all authority and discretion granted to it by law to take any action to which it is legally entitled to take regarding the Application.

5. Assignment.

The provisions of this Agreement shall apply to and bind the successors, grantees, and assigns of the respective parties, but no assignment or transfer of this Agreement, or any part hereof, or interest herein by the Applicant shall be valid until and unless approved by the District in writing. Such approval shall be conditioned on the agreement by the assignee, grantee, successor or transferee to be bound by the terms and conditions of this Agreement.

6. Jurisdiction and Venue.

This Agreement is executed and is to be performed in within the County of San Luis Obispo, and any action or proceeding brought relative to this Agreement shall be heard in the Superior Court in the County of San Luis Obispo, California. District and Applicant hereby each consent to the personal jurisdiction of the court in any such action or proceeding.

7. Attorney's Fees.

In the event of any arbitration, litigation, or other proceeding of any nature between the District and Applicant to enforce or interpret all or any portion of this Agreement, it is mutually agreed that the prevailing party therein shall receive from the other, in addition to such sums as may be awarded, an amount sufficient to reimburse such prevailing party for reasonable attorney's fees and costs paid or owing as a result of such proceeding.

8. Waiver of Rights.

Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default, or matter.

9. Remedies Not Exclusive.

The use by either party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

10. Entire Agreement; Amendment.

This Agreement is freely and voluntarily entered into by the parties after having the

opportunity to consult with their respective attorneys. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. The parties, in entering into this Agreement, do not rely on any inducements, promises, or representations made by each other, their representatives, or any other person, other than those inducements, promises, and representations contained in this Agreement. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the Applicant and the District.

11. Notices.

All notices, statements, reports, approvals, requests, invoices, or other communications that are required either expressly or by implication to be given by either party to the other under this Agreement shall be in writing and signed for each party by such officers as each may, from time to time, be authorized in writing to so act. All such notices shall be deemed to have been received: (a) on the date of delivery if delivered personally; (b) three (3) days after mailing if enclosed in a properly addressed and stamped envelope and deposited in a United States Post Office for delivery; or (c) on the next business day if transmitted by e-mail with return receipt requested and receipt confirmed. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as shown below:

Nipomo Community Services District  
Mario Iglesias  
148 S. Wilson Street  
P.O. Box 780  
Nipomo, California 93444  
miglesias@ncsd.ca.gov

Applicant: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_ email: \_\_\_\_\_

12. Severability.

If any term or provision of this Agreement is found to be invalid or unenforceable, District and Applicant both agree that they would have executed this Agreement notwithstanding the invalidity of such term or provision. The invalid term or provision may be severed from the Agreement and the remainder of the Agreement may be enforced in its entirety.

13. Headings.

The paragraph headings used in this Agreement are for reference only, and shall not in any way limit or amplify the terms and provisions hereof, nor shall they enter into the interpretation of this Agreement.

14. Cooperation.

Each party to this Agreement agrees to do all things that may be necessary, including, without limitation, the execution of all documents which may be required hereunder, in order to implement and effectuate this Agreement.

15. Representations of Authority.

Each party signing this Agreement hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that the person executing this Agreement has been authorized to sign this Agreement and bind the party on whose behalf that person signs.

16. Interpretation of this Agreement.

The parties acknowledge that each party has reviewed, negotiated and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by any party in connection with the transactions contemplated by this Agreement.

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

Nipomo Community Services District

\_\_\_\_\_  
Mario Iglesias, General Manager

\_\_\_\_\_  
Date

Approved as to form

\_\_\_\_\_  
Whitney McDonald, District Counsel

Applicant

\_\_\_\_\_  
Applicant Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Name and Title

\_\_\_\_\_  
Date

EXHIBIT A  
Legal Description