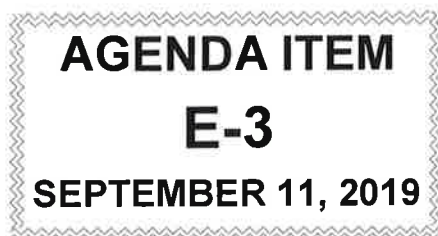


TO: BOARD OF DIRECTORS

FROM: WHITNEY McDONALD
DISTRICT COUNSEL

REVIEWED BY: MARIO IGLESIAS
GENERAL MANAGER

DATE: SEPTEMBER 6, 2019



APPROVE AMENDED GENERAL MANAGER EMPLOYMENT CONTRACT

ITEM

Approve Amended General Manager Employment Contract [RECOMMEND ORALLY REPORT THE RECOMMENDED COMPENSATION ADJUSTMENT AND APPROVE GENERAL MANAGER EMPLOYMENT CONTRACT]

BACKGROUND

Following the favorable annual performance review of the General Manager concluded in August 2019, your Board entered into negotiations with the General Manager to consider a potential increase in compensation. Those negotiations resulted in a recommendation that the General Manager's existing Employment Contract be amended to increase the annual compensation paid to the General Manager by a total of 6.87%, representing a 3% merit increase and a 3.87% cost-of-living increase. This will raise the General Manager's salary from \$160,635 to \$171,671 per year, effective July 1, 2019.

Other changes are proposed to the contract to remove provisions that are no longer applicable (e.g. pre-employment requirements, moving expenses), as depicted in the attached redline version of the agreement (Attachment A).

It is recommended that your Board approve the amended General Manager Employment Contract, after making an oral report of the recommended compensation adjustment pursuant to Government Code § 54953.

FISCAL IMPACT

The proposed amended General Manager Employment Contract will result in an increase of \$11,036 paid as annual compensation to the General Manager. The approved 2019-2020 budget will accommodate this change without requiring an amendment.

STRATEGIC PLAN

Goal 3. PERSONNEL AND ORGANIZATION. Maintain a qualified, long-term and productive workforce to assure an effective organization

3.b. ONGOING ACTIVITIES

B.1. Ensure the District is adequately staffed with high quality, long-term employees...

RECOMMENDATION

It is recommended that your Board orally report the recommended compensation adjustment for the General Manager and approve the attached Amended General Manager Employment Contract (Attachment B).

ATTACHMENTS

- A. Proposed General Manager Employment Contract (Redline)
- B. Proposed General Manager Employment Contract (Clean)

SEPTEMBER 11, 2019

ITEM E-3

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

Attachments:

Exhibit "A" - General Manager Job Description

THIS AMENDED CONTRACT, is made and entered into by and between the Nipomo Community Services District (herein referred to as "District"), and Mario Iglesias (herein also referred to as "General Manager" or "Iglesias"), with reference to the following recitals:

RECITALS

A. District is a Community Services District organized and operating pursuant to 61000 et seq., of the California Government Code.

B. District desires to continue its employment relationship with Mario Iglesias as General Manager of the District;

C. Mario Iglesias desires to continue his employment relationship as General Manager of the District.

D. It is the purpose of this Amended Contract to define the employment relationship of Mario Iglesias and the District during the terms of this Contract. All references to General Manager in this Contract refer to Mario Iglesias.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

SECTION 1 - EMPLOYMENT OF GENERAL MANAGER

District hereby agrees to continue employing Mario Iglesias as District General Manager and Secretary to the Board of Directors (collectively "General Manager").

SECTION 2 - DUTIES

A. The duties of the General Manager are generally described in Exhibit "A", attached hereto and incorporated herein by this reference, and Government Code Section 61051 which provides as follows:

The General Manager shall be responsible for all of the following:

- (a) The implementation of the policies established by the board of directors for the operation of the district.
- (b) The appointment, supervision, discipline, and dismissal of the district's employees, consistent with the employee relations system established by the board of directors.
- (c) The supervision of the district's facilities and services.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

(d) The supervision of the district's finances.

B. The General Manager shall also act as the Secretary to the Board of Directors and shall be responsible for:

- (a) Maintaining accurate records of the proceedings of the Board of Directors.
- (b) Maintaining a book of District Ordinances or Codes with his/her attestation.
- (c) Maintaining District records including original Ordinances, Resolutions and Contracts and attest to the originals and true and correct copies of the same.
- (d) Administering Oaths or Affirmations and certifying affidavits and depositions pertaining to District affairs and business which may be used in any court or proceeding in the State.

The General Manager may deputize other District employees to perform the duties in sub-paragraph (a) above and deputize the Finance Director/Assistant General Manager to perform the duties referenced in paragraphs (b), (c) and (d) above in the absence of the General Manager

C. Iglesias agrees to perform the functions and duties specified in Subsections A. and B. above, in Government Code Section 61051 and the duties described in the District's General Manager job description attached hereto as Exhibit "A" and incorporated herein by this reference, and to perform other legally permissible and proper duties and functions as the District Board of Directors shall from time to time assign without additional compensation.

D. Both parties acknowledge that specific duties of the position may vary from time to time.

SECTION 3 - TERM

Subject to ~~paragraph C below and Sub~~Section 14, Paragraph C, and the approval by the Board of Directors, this Contract shall take effect on July 1, 2019~~8~~, ("Effective Date"), and shall remain in effect until terminated as provided in the following provisions:

A. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of District to terminate the services of General Manager at any time, subject only to the provisions set forth in Section 4, paragraphs A, B and C of this Contract.

B. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of General Manager to resign at any time from his/her position with District, subject only to the provisions set forth in Section 4, paragraph D, of this Contract.

~~C. Prior to the Effective Date, and as a condition of employment, General Manager shall:~~

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

- ~~1. Successfully complete and pass a physician's examination and a drug test as referenced in District Employee Handbook, Policy 2014.~~
- ~~2. Successfully complete background and credit checks;~~
- ~~0. Provide confirmation of PERS eligibility, if applicable.~~

SECTION 5 -- SECTION 4 - TERMINATION AND SEVERANCE PAY

A. General Manager understands and expressly agrees that he/she has no constitutionally protected property right or interest in his/her employment as General Manager.

B. The General Manager shall serve at the will and pleasure of the District Board of Directors and may be terminated without cause.

1. In the event the General Manager is terminated without cause on or before the three hundred sixty-fifth (365th) day from the Effective Date, the General Manager shall receive a lump sum cash payment ("Severance Pay") equal to three (3) months base salary. In addition to Severance Pay, District shall pay General Manager for his/her accrued but unused vacation time, but not sick leave nor administrative leave, if any. The District shall deduct all normal withholdings required by law with respect to any amounts paid under this paragraph.
2. In the event the General Manager is terminated without cause from and after the three hundred sixty-fifth (365th) day from the Effective Date, the General Manager shall receive a lump sum cash payment ("Severance Pay") equal to five (5) months base salary. In addition to Severance Pay, District shall pay General Manager for his/her accrued but unused vacation time, but not sick leave nor administrative leave, if any. The District shall deduct all normal withholdings required by law with respect to any amounts paid under this paragraph.

C. In the event General Manager is terminated for good cause, the General Manager shall be entitled only to salary earned, but not paid as of the date of termination; and payment for any accrued vacation, but not sick leave or administrative leave, if any. Additionally, the General Manager would receive any benefits that are lawfully required to be continued for the duration required by law. General Manager shall not be entitled to any other compensation, including, without limitation, any severance compensation. For purpose of this Contract, "good cause" shall include, but not necessarily be limited to, any of the following:

1. Any material breach by the General Manager of any term or provision of this Contract;
2. General Manager's failure to perform his/her duties in a professional and responsible manner consistent with generally accepted standards of the profession;
3. General Manager's misfeasance;
4. General Manager's malfeasance;

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
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5. Conduct unbecoming the position of General Manager or likely to bring discredit or embarrassment to District;
6. Insobriety while representing the District;
7. Conviction of a misdemeanor involving moral turpitude;
8. Conviction of a felony;
9. Engaging in illegal business practices in connection with the District's business;
10. Misappropriation of the District's assets;
11. Excessive unexcused absences of the General Manager from his/her employment during usual working hours; or
12. Failure to perform or habitual neglecting the duties which he/she is required to perform under this Contract.

D. In the event General Manager voluntarily resigns his/her position with District, General Manager shall give District forty-five (45) calendar days written notice in advance, unless the parties otherwise agree in writing. In the event General Manager voluntarily resigns his/her position with District, the General Manager shall be entitled only to all salary earned, but not paid as of the effective date of resignation, and payment for any accrued vacation.

E. If this Contract is terminated by District for cause pursuant to paragraph C above and it is later determined that the termination was wrongful, such termination automatically shall be converted and treated as a Termination Without Cause under Section 4B above, and the General Manager shall be entitled to receive only amounts payable as referenced in Section 4B above.

SECTION 6 -- SECTION 5 - SALARY

A. District agrees to pay the General Manager for his/her services rendered pursuant hereto an annual salary of one-hundred ~~seventy-one~~ seventy- ~~sixty~~ onethirty-five thousand, six hundred ~~seventy-~~ onethirty-five dollars (\$~~171,671~~160,635) payable in equal installments at the same time as other employees of the District are paid. The annual salary shall be subject to normal withholdings with respect to amounts paid.

B. District will perform a salary review and consider adjustments in compensation annually based upon the results of an annual performance evaluation and/or any significant changes in duties and responsibilities.

C. The District Board of Directors may increase the compensation provisions of this Contract without amending this Contract. Any increases to the General Manager's salary that may be reflected in this Amended Contract shall not be deemed a commitment to any future increases.

SECTION 7 -- SECTION 6 - HOURS OF WORK

The General Manager is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the General Manager's position. The General Manager does not have set hours of work as the General Manager is expected to be available at all times.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

SECTION 8 -- SECTION 7 - PERFORMANCE REVIEW

- A. The General Manager shall receive an annual performance review.
- B. The Board of Directors reserves the right, in its discretion, to review General Manager's performance at any time.

SECTION 9 -- SECTION 8 - OUTSIDE PROFESSIONAL ACTIVITIES

General Manager, with prior written approval of the District Board of Directors, may undertake outside professional activities for compensation, including teaching, speaking, and writing, provided such activities do not interfere with General Manager's normal duties and are not performed for any existing vendors or contractors of District. Under no circumstances shall such outside activities create a conflict of interest with the duties of General Manager and the interests of District.

SECTION 10 -- SECTION 9 - PROFESSIONAL DEVELOPMENT

A. As part of its normal budget process and reserving the right to establish appropriate priorities and funding amounts, District shall consider requests for funds for certain items, activities and materials deemed necessary and desirable for the General Manager's continued professional development, participation, growth and advancement. Those items, activities and materials may include:

1. Professional dues and subscriptions necessary for full participation in appropriate and relevant associations and organizations;
2. Travel and subsistence expenses for professional meetings and similar functions (e.g., short courses, conferences, seminars) to foster professional development;
3. Other items, activities and materials, as shall be agreed upon from time to time between General Manager and Board President.

B. Expenditures for items in this Section shall be within the District's budgeted amounts for the appropriate category unless otherwise pre-approved by Board President. All books, subscriptions and other items obtained pursuant to paragraph A above shall be in the name of the District and at all times shall remain the exclusive property of the District.

C. General Manager shall receive prior Board approval for travel and subsistence expenses to courses, conferences, and seminars conducted outside the State of California.

SECTION 11 -- SECTION 10 - BENEFITS

A. Subject to District Resolution 2005-959, District agrees to provide health, dental and vision insurance for the General Manager at the same rate as other District employees.

B. General Manager may elect to participate in District's 457 Deferred Compensation Plan.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

C. District agrees to pay employer portion of the PERS contribution based on the current PERS Retirement Plan. If the District Board of Director's amends the Retirement Plan for existing employees, then the amended plan shall apply to the General Manager.

~~D. District agrees to pay up to a maximum of \$10,000 for Iglesias to relocate to the Nipomo area. Allowable expenses include cost of moving personal belongings to Nipomo area, mileage reimbursement for one trip from current residence to Nipomo area, and temporary living accommodations in the Nipomo area.~~

~~E. General Manager shall submit an expense claim form on a monthly basis for expenses referenced in paragraph D above, which shall be considered for approval as part of the monthly Warrant Register prior to payment.~~

SECTION 12 - SECTION 11 - CELL PHONE REIMBURSEMENT

General Manager shall be reimbursed monthly at the rate of \$65.00 per month for maintaining a working cell phone, provided that said cell phone facilitates "24-7" District employee access to the General Manager.

SECTION 13 - SECTION 12 - LEAVES

A. Vacations:

1. Paid vacations shall accrue at the rate of 1 and 114th of a working day per month of paid employment (15 days/year).
2. The General Manager shall not take accrued vacation days until after the fifth (5th) month of employment
3. The General Manager shall not carry over more than one hundred twenty (120) hours of vacation leave per calendar year. Once the maximum vacation accrual is reached, (120 hours) vacation time will no longer be accumulated. Once the vacation accrual is below the maximum, vacation accrual will again start to accumulate.
4. General Manager shall not schedule more than two (2) weeks of vacation (fourteen (14) successive calendar days) during any thirty (30) day period without prior approval of the Board President.
5. The General Manager's vacation shall not be scheduled when it would leave the District without appropriate management.

B. Sick Leave: General Manager shall accrue, and have credited to his/her personal account, sick leave at the rate of one (1) working day per month cumulative to a maximum accrual of one hundred eighty (180) working days.

C. Holidays: Subject to job constraints, the General Manager may take the following days as holidays: New Year's Day, Martin Luther King, Jr. Birthday, President's Day (third Monday in February), Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day,

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

the Friday in November immediately following the day designated as Thanksgiving Day, the four (4) regularly scheduled District hours immediately preceding the day designated as Christmas Day, Christmas Day, and the four (4) regularly scheduled District hours immediately preceding the day designated as New Year's Day. The General Manager is not entitled to the floating holiday.

D. Bereavement Leave: The General Manager may use accumulated vacation time and administrative leave for Bereavement Leave.

E. Administrative Leave: The General Manager shall be entitled to eight (8) administrative leave days with pay per year. Administrative leave cannot be accumulated or carried over one calendar year to the next. Administrative leave shall not be scheduled when it would leave the District without appropriate management.

SECTION 14 – SECTION 13 - AUTOMOBILE

A. For District related uses the District shall make available an automobile/vehicle for the General Manager.

B. When the District's automobile/vehicle is not available the General Manager shall be reimbursed for the use of General Manager's personal vehicle at the prevailing IRS per diem mileage rate for mileage incurred in performing services for the benefit of the District excluding travel to and from work.

C. General Manager shall submit an expense claim form on a monthly basis for expenses referenced in paragraph B above, which shall be considered for approval as part of the monthly Warrant Register prior to payment.

SECTION 15 – SECTION 14 - AUTOMOBILE INSURANCE

A. General Manager shall procure and maintain motor vehicle liability insurance coverage, on an "occurrence basis", with companies authorized to do business in the State of California, with coverage of no less than five-hundred thousand dollars (\$500,000) per accident.

B. The automobile insurance policy shall be endorsed to include the District, its officers, directors, employees and agents as Additional Insureds.

C. General Manager shall provide District with a Certificates of Insurance evidencing compliance with the foregoing requirements, accompanied by copies of the required endorsements. Certificates of Insurance shall specify that the insurer shall give District thirty (30) days advance written notice by the insurer prior to cancellation of the policy except ten (10) days for nonpayment of premium.

D. The automobile insurance coverage required hereunder shall be kept in full force and effect for the term of this Contract. Certificates of Insurance evidencing renewal of the required coverage shall be provided within ten (10) days of the expiration of any policy at any time during the period such policy is required to be maintained by General Manager hereunder. Any failure to comply with this requirement shall constitute a material breach of this Contract.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

SECTION 16 -- SECTION 15 - OTHER CONDITIONS OF EMPLOYMENT

The District may set other terms and conditions of employment as it may determine from time to time, relating to performance of General Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Contract, or any Federal, State or local law.

SECTION 17 -- SECTION 16 - JURY DUTY

The District General Manager will receive full pay and benefits while serving on a trial jury. Any court derived compensation for such Jury Duty (except travel pay) shall be returned to the District.

SECTION 18 -- SECTION 17 - NOTICES

Notices pursuant to this Am ended Contract shall be in writing given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

1. Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444-0326
Attn: President of the Board of Directors

2. Mario Iglesias
958 Vista Verde Ln.
Nipomo, CA 93444
805.931.4287
mario2cu@aol.com

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

SECTION 19 -- SECTION 18 - INDEMNIFICATION

A. In accordance with and to the extent provided by California's Tort Claims Act (Government Code Section 825 et seq. and Government Code Sections 995-996.5), the District shall defend and indemnify the General Manager against any and for all losses sustained by the General Manager in direct consequences of the discharge of the General Manager's duties on the District's behalf for the period of the General Manager's employment.

B. Nothing in this Amended Contract shall expand the District's defense and indemnification obligations beyond those provided in the Government Code Tort Claims Act (Government Code Section 825, et seq.) and Government Code Sections 995-996.5.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

SECTION 20 -- SECTION 19 - GENERAL PROVISIONS

A. General Manager shall comply with all local and state requirements regarding conflicts of interest and shall avoid personal involvement in a situation which is inconsistent or incompatible with a position of General Manager or give rise to the appearance of impropriety.

B. The terms of Amended Contract are intended by the parties as a final expression of their Contract and may not be contradicted by evidence of any prior Contract or contemporaneous oral Contract. The parties further intend that this Contract constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding, if any, involving this Contract. Any amendments to this Contract must be in writing and executed by both parties.

C. In the event of General Manager's death, General Manager's heirs, legatees, devisees, executors or legal representatives shall be entitled to (a) all salary earned, but not paid; and (b) payment for any accrued vacation. General Manager's heirs, legatees, devisees, executors or legal representatives shall not be entitled to any other compensation, including, without limitation, any severance compensation.

D. If any term, covenant, condition or provision of this Amended Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

E. This Amended Contract shall be governed by the laws of the State of California. The parties agree that in the event any legal action is taken to enforce/interpret any provisions of this Contract, said action shall be filed in the court of proper jurisdiction within the County of San Luis Obispo.

F. The parties acknowledge that they understand the significance and consequences of this Contract. The parties also acknowledge that they have been given full opportunity to review and negotiate this Contract and execute it only after full reflection and analysis, and that they have had an opportunity to review this document and its application and meaning with their respective attorneys and advisors. This Contract shall not be interpreted against the party who prepared the initial draft, because all parties participated in the drafting of this Contract by having ample opportunity to review and submit suggested changes or corrections for incorporation into the final version of this Contract.

G. This Amended Contract shall be binding upon and shall inure to the benefit of the prospective heirs, executors, administrators, successors and assigns of the parties, provided however that the District General Manager may not assign obligations hereunder.

H. General Manager shall not assign this Amended Contract in whole or in part.

I. The above Recitals are true and correct and incorporated herein by reference.

J. This Amended Contract may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument, and shall be governed by the laws of the State of California.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

IN WITNESS WHEREOF, the parties hereto have executed this Amended Contract on the below identified dates.

GENERAL MANAGER

DISTRICT

Mario Iglesias

Ed Eby, President

DATE: _____, 20198

DATE: _____, 20198

APPROVED AS TO FORM:

Whitney McDonald, District Legal Counsel

SEPTEMBER 11, 2019

ITEM E-3

ATTACHMENT B

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

Attachments:
Exhibit "A" - General Manager Job Description

THIS AMENDED CONTRACT, is made and entered into by and between the Nipomo Community Services District (herein referred to as "District"), and Mario Iglesias (herein also referred to as "General Manager" or "Iglesias"), with reference to the following recitals:

RECITALS

A. District is a Community Services District organized and operating pursuant to 61000 et seq., of the California Government Code.

B. District desires to continue its employment relationship with Mario Iglesias as General Manager of the District;

C. Mario Iglesias desires to continue his employment relationship as General Manager of the District.

D. It is the purpose of this Amended Contract to define the employment relationship of Mario Iglesias and the District during the terms of this Contract. All references to General Manager in this Contract refer to Mario Iglesias.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

SECTION 1 - EMPLOYMENT OF GENERAL MANAGER

District hereby agrees to continue employing Mario Iglesias as District General Manager and Secretary to the Board of Directors (collectively "General Manager").

SECTION 2 - DUTIES

A. The duties of the General Manager are generally described in Exhibit "A", attached hereto and incorporated herein by this reference, and Government Code Section 61051 which provides as follows:

The General Manager shall be responsible for all of the following:

- (a) The implementation of the policies established by the board of directors for the operation of the district.
- (b) The appointment, supervision, discipline, and dismissal of the district's employees, consistent with the employee relations system established by the board of directors.
- (c) The supervision of the district's facilities and services.

**NIPOMO COMMUNITY SERVICES DISTRICT
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(d) The supervision of the district's finances.

B. The General Manager shall also act as the Secretary to the Board of Directors and shall be responsible for:

- (a) Maintaining accurate records of the proceedings of the Board of Directors.
- (b) Maintaining a book of District Ordinances or Codes with his/her attestation.
- (c) Maintaining District records including original Ordinances, Resolutions and Contracts and attest to the originals and true and correct copies of the same.
- (d) Administering Oaths or Affirmations and certifying affidavits and depositions pertaining to District affairs and business which may be used in any court or proceeding in the State.

The General Manager may deputize other District employees to perform the duties in sub-paragraph (a) above and deputize the Finance Director/Assistant General Manager to perform the duties referenced in paragraphs (b), (c) and (d) above in the absence of the General Manager

C. Iglesias agrees to perform the functions and duties specified in Subsections A. and B. above, in Government Code Section 61051 and the duties described in the District's General Manager job description attached hereto as Exhibit "A" and incorporated herein by this reference, and to perform other legally permissible and proper duties and functions as the District Board of Directors shall from time to time assign without additional compensation.

D. Both parties acknowledge that specific duties of the position may vary from time to time.

SECTION 3 - TERM

Subject to Section 14, Paragraph C, and the approval by the Board of Directors, this Contract shall take effect on July 1, 2019, ("Effective Date"), and shall remain in effect until terminated as provided in the following provisions:

A. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of District to terminate the services of General Manager at any time, subject only to the provisions set forth in Section 4, paragraphs A, B and C of this Contract.

B. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of General Manager to resign at any time from his/her position with District, subject only to the provisions set forth in Section 4, paragraph D, of this Contract.

SECTION 4 - TERMINATION AND SEVERANCE PAY

A. General Manager understands and expressly agrees that he/she has no constitutionally protected property right or interest in his/her employment as General Manager.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
EMPLOYMENT CONTRACT**

B. The General Manager shall serve at the will and pleasure of the District Board of Directors and may be terminated without cause.

1. In the event the General Manager is terminated without cause on or before the three hundred sixty-fifth (365th) day from the Effective Date, the General Manager shall receive a lump sum cash payment ("Severance Pay") equal to three (3) months base salary. In addition to Severance Pay, District shall pay General Manager for his/her accrued but unused vacation time, but not sick leave nor administrative leave, if any. The District shall deduct all normal withholdings required by law with respect to any amounts paid under this paragraph.
2. In the event the General Manager is terminated without cause from and after the three hundred sixty-fifth (365th) day from the Effective Date, the General Manager shall receive a lump sum cash payment ("Severance Pay") equal to five (5) months base salary. In addition to Severance Pay, District shall pay General Manager for his/her accrued but unused vacation time, but not sick leave nor administrative leave, if any. The District shall deduct all normal withholdings required by law with respect to any amounts paid under this paragraph.

C. In the event General Manager is terminated for good cause, the General Manager shall be entitled only to salary earned, but not paid as of the date of termination; and payment for any accrued vacation, but not sick leave or administrative leave, if any. Additionally, the General Manager would receive any benefits that are lawfully required to be continued for the duration required by law. General Manager shall not be entitled to any other compensation, including, without limitation, any severance compensation. For purpose of this Contract, "good cause" shall include, but not necessarily be limited to, any of the following:

1. Any material breach by the General Manager of any term or provision of this Contract;
2. General Manager's failure to perform his/her duties in a professional and responsible manner consistent with generally accepted standards of the profession;
3. General Manager's misfeasance;
4. General Manager's malfeasance;
5. Conduct unbecoming the position of General Manager or likely to bring discredit or embarrassment to District;
6. Insobriety while representing the District;
7. Conviction of a misdemeanor involving moral turpitude;
8. Conviction of a felony;
9. Engaging in illegal business practices in connection with the District's business;
10. Misappropriation of the District's assets;
11. Excessive unexcused absences of the General Manager from his/her employment during usual working hours; or
12. Failure to perform or habitual neglecting the duties which he/she is required to perform under this Contract.

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GENERAL MANAGER
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D. In the event General Manager voluntarily resigns his/her position with District, General Manager shall give District forty-five (45) calendar days written notice in advance, unless the parties otherwise agree in writing. In the event General Manager voluntarily resigns his/her position with District, the General Manager shall be entitled only to all salary earned, but not paid as of the effective date of resignation, and payment for any accrued vacation.

E. If this Contract is terminated by District for cause pursuant to paragraph C above and it is later determined that the termination was wrongful, such termination automatically shall be converted and treated as a Termination Without Cause under Section 4B above, and the General Manager shall be entitled to receive only amounts payable as referenced in Section 4B above.

SECTION 5 - SALARY

A. District agrees to pay the General Manager for his/her services rendered pursuant hereto an annual salary of one-hundred seventy-one thousand, six hundred seventy-one dollars (\$171,671) payable in equal installments at the same time as other employees of the District are paid. The annual salary shall be subject to normal withholdings with respect to amounts paid.

B. District will perform a salary review and consider adjustments in compensation annually based upon the results of an annual performance evaluation and/or any significant changes in duties and responsibilities.

C. The District Board of Directors may increase the compensation provisions of this Contract without amending this Contract. Any increases to the General Manager's salary that may be reflected in this Amended Contract shall not be deemed a commitment to any future increases.

SECTION 6 - HOURS OF WORK

The General Manager is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the General Manager's position. The General Manager does not have set hours of work as the General Manager is expected to be available at all times.

SECTION 7 - PERFORMANCE REVIEW

A. The General Manager shall receive an annual performance review.

B. The Board of Directors reserves the right, in its discretion, to review General Manager's performance at any time.

SECTION 8 - OUTSIDE PROFESSIONAL ACTIVITIES

General Manager, with prior written approval of the District Board of Directors, may undertake outside professional activities for compensation, including teaching, speaking, and writing, provided such activities do not interfere with General Manager's normal duties and are not performed for any existing vendors or contractors of District. Under no circumstances shall

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such outside activities create a conflict of interest with the duties of General Manager and the interests of District.

SECTION 9 - PROFESSIONAL DEVELOPMENT

A. As part of its normal budget process and reserving the right to establish appropriate priorities and funding amounts, District shall consider requests for funds for certain items, activities and materials deemed necessary and desirable for the General Manager's continued professional development, participation, growth and advancement. Those items, activities and materials may include:

1. Professional dues and subscriptions necessary for full participation in appropriate and relevant associations and organizations;
2. Travel and subsistence expenses for professional meetings and similar functions (e.g., short courses, conferences, seminars) to foster professional development;
3. Other items, activities and materials, as shall be agreed upon from time to time between General Manager and Board President.

B. Expenditures for items in this Section shall be within the District's budgeted amounts for the appropriate category unless otherwise pre-approved by Board President. All books, subscriptions and other items obtained pursuant to paragraph A above shall be in the name of the District and at all times shall remain the exclusive property of the District.

C. General Manager shall receive prior Board approval for travel and subsistence expenses to courses, conferences, and seminars conducted outside the State of California.

SECTION 10 - BENEFITS

A. Subject to District Resolution 2005-959, District agrees to provide health, dental and vision insurance for the General Manager at the same rate as other District employees.

B. General Manager may elect to participate in District's 457 Deferred Compensation Plan.

C. District agrees to pay employer portion of the PERS contribution based on the current PERS Retirement Plan. If the District Board of Director's amends the Retirement Plan for existing employees, then the amended plan shall apply to the General Manager.

SECTION 11 - CELL PHONE REIMBURSEMENT

General Manager shall be reimbursed monthly at the rate of \$65.00 per month for maintaining a working cell phone, provided that said cell phone facilitates "24-7" District employee access to the General Manager.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
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SECTION 12 - LEAVES

A. Vacations:

1. Paid vacations shall accrue at the rate of 1 and 1/14th of a working day per month of paid employment (15 days/year).
2. The General Manager shall not take accrued vacation days until after the fifth (5th) month of employment
3. The General Manager shall not carry over more than one hundred twenty (120) hours of vacation leave per calendar year. Once the maximum vacation accrual is reached, (120 hours) vacation time will no longer be accumulated. Once the vacation accrual is below the maximum, vacation accrual will again start to accumulate.
4. General Manager shall not schedule more than two (2) weeks of vacation (fourteen (14) successive calendar days) during any thirty (30) day period without prior approval of the Board President.
5. The General Manager's vacation shall not be scheduled when it would leave the District without appropriate management.

B. Sick Leave: General Manager shall accrue, and have credited to his/her personal account, sick leave at the rate of one (1) working day per month cumulative to a maximum accrual of one hundred eighty (180) working days.

C. Holidays: Subject to job constraints, the General Manager may take the following days as holidays: New Year's Day, Martin Luther King, Jr. Birthday, President's Day (third Monday in February), Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday in November immediately following the day designated as Thanksgiving Day, the four (4) regularly scheduled District hours immediately preceding the day designated as Christmas Day, Christmas Day, and the four (4) regularly scheduled District hours immediately preceding the day designated as New Year's Day. The General Manager is not entitled to the floating holiday.

D. Bereavement Leave: The General Manager may use accumulated vacation time and administrative leave for Bereavement Leave.

E. Administrative Leave: The General Manager shall be entitled to eight (8) administrative leave days with pay per year. Administrative leave cannot be accumulated or carried over one calendar year to the next. Administrative leave shall not be scheduled when it would leave the District without appropriate management.

SECTION 13 - AUTOMOBILE

A. For District related uses the District shall make available an automobile/vehicle for the General Manager.

**NIPOMO COMMUNITY SERVICES DISTRICT
GENERAL MANAGER
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B. When the District's automobile/vehicle is not available the General Manager shall be reimbursed for the use of General Manager's personal vehicle at the prevailing IRS per diem mileage rate for mileage incurred in performing services for the benefit of the District excluding travel to and from work.

C. General Manager shall submit an expense claim form on a monthly basis for expenses referenced in paragraph B above, which shall be considered for approval as part of the monthly Warrant Register prior to payment.

SECTION 14 - AUTOMOBILE INSURANCE

A. General Manager shall procure and maintain motor vehicle liability insurance coverage, on an "occurrence basis", with companies authorized to do business in the State of California, with coverage of no less than five-hundred thousand dollars (\$500,000) per accident.

B. The automobile insurance policy shall be endorsed to include the District, its officers, directors, employees and agents as Additional Insureds.

C. General Manager shall provide District with a Certificates of Insurance evidencing compliance with the foregoing requirements, accompanied by copies of the required endorsements. Certificates of Insurance shall specify that the insurer shall give District thirty (30) days advance written notice by the insurer prior to cancellation of the policy except ten (10) days for nonpayment of premium.

D. The automobile insurance coverage required hereunder shall be kept in full force and effect for the term of this Contract. Certificates of Insurance evidencing renewal of the required coverage shall be provided within ten (10) days of the expiration of any policy at any time during the period such policy is required to be maintained by General Manager hereunder. Any failure to comply with this requirement shall constitute a material breach of this Contract.

SECTION 15 - OTHER CONDITIONS OF EMPLOYMENT

The District may set other terms and conditions of employment as it may determine from time to time, relating to performance of General Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Contract, or any Federal, State or local law.

SECTION 16 - JURY DUTY

The District General Manager will receive full pay and benefits while serving on a trial jury. Any court derived compensation for such Jury Duty (except travel pay) shall be returned to the District.

SECTION 17 - NOTICES

Notices pursuant to this Am ended Contract shall be in writing given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

**NIPOMO COMMUNITY SERVICES DISTRICT
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1. Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444-0326
Attn: President of the Board of Directors

2. Mario Iglesias
958 Vista Verde Ln.
Nipomo, CA 93444
805.931.4287
mario2cu@aol.com

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

SECTION 18 - INDEMNIFICATION

A. In accordance with and to the extent provided by California's Tort Claims Act (Government Code Section 825 et seq. and Government Code Sections 995-996.5), the District shall defend and indemnify the General Manager against any and for all losses sustained by the General Manager in direct consequences of the discharge of the General Manager's duties on the District's behalf for the period of the General Manager's employment.

B. Nothing in this Amended Contract shall expand the District's defense and indemnification obligations beyond those provided in the Government Code Tort Claims Act (Government Code Section 825, et seq.) and Government Code Sections 995-996.5.

SECTION 19 - GENERAL PROVISIONS

A. General Manager shall comply with all local and state requirements regarding conflicts of interest and shall avoid personal involvement in a situation which is inconsistent or incompatible with a position of General Manager or give rise to the appearance of impropriety.

B. The terms of Amended Contract are intended by the parties as a final expression of their Contract and may not be contradicted by evidence of any prior Contract or contemporaneous oral Contract. The parties further intend that this Contract constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding, if any, involving this Contract. Any amendments to this Contract must be in writing and executed by both parties.

C. In the event of General Manager's death, General Manager's heirs, legatees, devisees, executors or legal representatives shall be entitled to (a) all salary earned, but not paid; and (b) payment for any accrued vacation. General Manager's heirs, legatees, devisees, executors or legal representatives shall not be entitled to any other compensation, including, without limitation, any severance compensation.

D. If any term, covenant, condition or provision of this Amended Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions

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hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

E. This Amended Contract shall be governed by the laws of the State of California. The parties agree that in the event any legal action is taken to enforce/interpret any provisions of this Contract, said action shall be filed in the court of proper jurisdiction within the County of San Luis Obispo.

F. The parties acknowledge that they understand the significance and consequences of this Contract. The parties also acknowledge that they have been given full opportunity to review and negotiate this Contract and execute it only after full reflection and analysis, and that they have had an opportunity to review this document and its application and meaning with their respective attorneys and advisors. This Contract shall not be interpreted against the party who prepared the initial draft, because all parties participated in the drafting of this Contract by having ample opportunity to review and submit suggested changes or corrections for incorporation into the final version of this Contract.

G. This Amended Contract shall be binding upon and shall inure to the benefit of the prospective heirs, executors, administrators, successors and assigns of the parties, provided however that the District General Manager may not assign obligations hereunder.

H. General Manager shall not assign this Amended Contract in whole or in part.

I. The above Recitals are true and correct and incorporated herein by reference.

J. This Amended Contract may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument, and shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Amended Contract on the below identified dates.

GENERAL MANAGER

DISTRICT

Mario Iglesias

Ed Eby, President

DATE: _____, 2019

DATE: _____, 2019

APPROVED AS TO FORM:

Whitney McDonald, District Legal Counsel

TO: BOARD OF DIRECTORS
 FROM: MARIO IGLESIAS
 GENERAL MANAGER
 DATE: September 6, 2019



**AGENDA ITEM
 F
 SEPTEMBER 11, 2019**

GENERAL MANAGER'S REPORT

ITEM

Standing report to your Honorable Board -- *Period covered by this report is August 25, 2019 through September 7, 2019.*

DISTRICT BUSINESS

Administrative

The District encourages residents to provide reports of any observed water waste. The District keeps an accounting of leak adjustments as a measure of non-revenue water lost to leaks as well as tracking late fee waivers. The table below provides up-to-date data on these items.

Office Activities

	<u>Aug-19</u>	<u>July 19 - Aug 2019</u>
Reports of Water Waste	0	0
Leak Adjustments	1	2
Leak Adjustment Amount	\$136	\$362
Late Fee Waivers (April through August)	15	22
Late Fee Waiver Adjustment Amount	\$585	\$880

Water Resources

Table 1. Total Production Acre Feet (AF)

	<u>Aug-19</u>	<u>Jul 19 - Aug 19</u>
Groundwater Production	119.7	241.5
Supplemental Water Imported	<u>85.0</u>	<u>170.1</u>
Total Production	<u>204.7</u>	<u>411.6</u>

NCSD imported 85 AF of water over the 31 day period in August averaging 622 gallons per minute for an average total of 895,004 gallons per day. For fiscal year 2019-20 the District must import at least 800 AF of supplemental water to meet its contractual obligation with the City of Santa Maria.

The District's total production, including groundwater wells and imported water measured at the Joshua Road Pump Station, registered 204.7 AF for the month and 411.6 AF for the Fiscal Year 2020.

Table 2 compares the District's total water production for the month of August and the fiscal year (July 2019 through August 2019) total against the same period for 2013 (pre-drought

production). The Department of Water Resources (“DWR”) designated 2013 as the pre-drought production year. The pre-drought production data is included in the monthly water production report and compared to current usage, all of which is submitted by water purveyors statewide to DWR. There is no mandated by DWR at this time for the District to reach a particular conservation level. For August 2019, the community’s water conservation effort reached approximately 25.4% compared to August 2013. The District’s year-to-date conservation effort reached 26.1 % for the fiscal year and will continue to be monitored.

Table 2. FY 2020 Total Demand To-date Compared to 2013

	Aug-19	July 1 – Aug 2019
Total Production (AF) for FY 2019-20	204.7	411.6
Total Production (AF) for 2013	<u>274.4</u>	<u>556.8</u>
Reduction (AF)	<u>69.7</u>	<u>145.2</u>
Percentage Reduction	<u>25.4%</u>	<u>26.1%</u>

NCSD GW Reduction

The District’s purveyor customers, Golden State Water Company and Woodlands Mutual Water Company, each claim 16.66% (cumulatively 33.33%) of the imported water NCSD brings onto the basin through the NSWP. Of the 800 AF minimum imported water from the City of Santa Maria, 266.6 AF will be credited to these two purveyor customers. The credited amount must be added to the District’s groundwater pumping total every month to reflect the groundwater pumped by these customers in-lieu of taking imported water from the District. Table 3 below demonstrates the calculus for determining the District’s groundwater pumping reduction.

Table 3. NCSD GW Production (NCSD GW Well Production plus Purveyor Credit)

	Aug-19	Jul 19 - Aug 19
NCSD GW Well Production	119.8	241.5
Purveyor Customer Credit (33.3% of Import Water)	<u>28.3</u>	<u>56.7</u>
NCSD Total Calculated GW Production	148.0	298.2
Average GW Production for 2009-2013	<u>284.7</u>	<u>575.9</u>
NCSD Percentage of GW Reduction	48.0%	48.2%

Taking into consideration the above referenced purveyor customer credit, the District can claim a groundwater pumping reduction of 48% for the month of August compared to the 5-year average from 2009 to 2013 (NMMA-TG assigned comparator). For Fiscal Year 2020, the total groundwater pumping reduction for the District is 48.2%. At the current Stage IV level of NMMA’s Water Shortage Condition and Response Plan, the District is short of achieving its targeted groundwater pumping reduction level of 50% for the year. However, July and August are typically higher water use months and it is not uncommon to balance out water use in winter months and, by the end of the fiscal year, have the District’s groundwater reduction reach its targeted level of 50%.

2020 Fiscal Year Groundwater Pumping

Table 4 projects the District's groundwater pumping reduction effectiveness for Fiscal Year 2020. The targeted groundwater pumping reduction as stated above is 50%. At current usage through in August 2019, and with the last year's production values for the remaining 10 months inserted, the District is on-track to reach its pumping reduction goals for the fiscal year. The exercise demonstrates that there would be 21.76 AcFt of water available for use before the District exceeded its 50% target. Each year, water use trends slightly differ depending upon the weather – a major factor that drives consumer water demand. Table 4 is an estimating tool.

Table 4. Groundwater Pumping

	Aug-19	Jul-Jun 2020	Target	Over/(Under)
NCSW GW Well Production	119.7	870.9		
Purveyor Customer Credit (33.3% of Import Water)	28.3	323.3		
NCSW Total Calculated GW Production	148.0	1,244.2	1,266.0	21.76 AcFt
Average GW Production for 2009-2013	284.7	2,533.3	2,533.3	
NCSW Percentage of GW Reduction	48%	51%	50.0%	

Table 5. FY 2019 v. FY 2020 Groundwater Pumping

	Aug-19	Jul 19-Aug 19	Aug-18	Jul 18-Aug 18
NCSW GW Well Production	119.7	241.5	123.1	250.6
Purveyor Customer Credit (33.3% of Import Water)	28.3	56.7	28.4	56.7
NCSW Total Calculated GW Production	148.0	298.2	151.5	307.3
Average GW Production for 2009-2013	284.7	575.9	284.7	575.9
NCSW Percentage of GW Reduction	48.0%	48.2%	46.8%	46.6%

Table 5 compares the previous year's groundwater pumping with the current year's groundwater pumping for the same period. The District achieved a slightly greater level of groundwater pumping reduction, 48.2%, for the current fiscal year as compared to the same period, 46.6%, for Fiscal Year 2018-19. This indicator supports staff's conclusion that, all things equal, the District will reach its groundwater pumping reduction target for the fiscal year.

Rainfall Gauge

(Reported in inches)	Nipomo East (Dana Hills Reservoirs)	Nipomo South (Southland Plant)
August 2019 Total	0	0
July-2019 through August-2019 (Seasonal Total)	0	0
July 1, 2019 to August 6, 2019	0	0
Total Rainfall to date	0	0
Average Annual Year Rainfall	18.0 ¹	14.0 ²

Note 1: SLO County Website

https://wr.slocountywater.org/site.php?site_id=3&site=935e7af7-0e94-4042-bc11-e02906d5ba44

Note 2: SLO County Website

https://wr.slocountywater.org/site.php?site_id=2&site=878bfdbf-5c40-4398-8226-418372e4039b

Safety Program

No items to report.

Other Items and News of Interest

The last payment for Assessment District 93-1 has been made (Summit Station).
 Annexation #28 was completed – West Gate Development at Via Conha and Willow.
 10-year Water & Sewer Assessments on Blacklake Customers is completed.
 Blacklake Sewer Regionalization Review Scheduled for September

Supplemental Water Capacity Accounting

Summary Since January 25, 2008

		Number of Equivalent Meters	AFY
Supplemental Water Available for Allocation		947	500
Supplemental Water Reserved (Will Serve Letter Issued)	116	120	-63.4
Subtotal Net Supplemental Water Available for Allocation	831	827	436.6
Supplemental Water Assigned (Intent-to-Serve Issued)	51.6	54.4	-28.7
Total Remaining Supplemental Water Available for Allocation	779.4	772.6	407.9

As of September 6, 2019 (no change from August 8, 2019)

Connection Report

Nipomo Community Services District
 Water and Sewer Connections

	END OF MONTH REPORT							
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19
Water Connections (Total)	4434	4434	4437	4437	4437	4437	4438	4438
Sewer Connections (Total)	3197	3197	3199	3199	3200	3201	3206	3206
New Water Connections	0	0	3	0	0	0	1	0
New Sewer Connection	0	0	2	0	1	1	5	0
Galaxy & PSHH at Orchard and Division Sewer Connections billed to the County	475	475	475	475	475	475	472	472

The Connection Report is current through August 1, 2019.

Meetings (August 24, through September 7)

Meetings Attended (telephonically or in person):

- Aug 27, Eng/Admin Meeting
- Aug 28, Rotary
- Aug 28, Regular NCSD Board Meeting
- Aug 28, Exec. Team After Board Meeting
- Aug 28, City of Santa Maria – Prop 218 Public Hearing (Water Rates)
- Aug 29, SP Maintenance – Admin Building Review
- Aug 29, NMMA Water Purveyors – Santa Barbara
- Sept 2, Labor Day Holiday
- Sept 3, Management Team
- Sept 3, Board Officer Meeting
- Sept 3, BLMA Meeting
- Sept 4, Rotary
- Sept 5, Chamber of Commerce
- Sept 5, County of SLO – PW Director & Dep. Director System Tour
- Sept 5, CSDA Quarterly Meeting

Meetings Scheduled (August 25 through August 31):

Upcoming Meetings (telephonically or in person):

- Sept 9, Sedaru Integration
- Sept 10, NMMA-TG Meeting
- Sept 10, Eng/Admin Meeting
- Sept 11, Rotary
- Sept 11, Regular NCSD Board Meeting
- Sept 12, Developer Tract 2312
- Sept 13, Santa Barbara County – Flood Control

Upcoming Water Resource and Other Meetings

Upcoming Standing Meetings:

- NMMA-TG: September 10th (Tuesday) @ 10:00 AM, NCSD Board Room
- RWMG: October 1st @ 10:00 AM, SLO Library
- WRAC: October 1st @ 1:30 PM, SLO Library
- NMMA Purveyor Meeting: September 26th @ 11:00 AM, NCSD Conf. Rm

RECOMMENDATION

Staff seeks direction and input from your Honorable Board

ATTACHMENTS

No attachments