

TO: BOARD OF DIRECTORS

FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER

DATE: JULY 3, 2013

**AGENDA ITEM**

**D**

**JULY 10, 2013**

**CONSENT AGENDA**

The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item removed. If discussion is desired, the item may be removed from the Consent Agenda by a Board member and will be considered separately at the conclusion of the Administrative Items. Individual items on the Consent Agenda are approved by the same vote that approves the Consent Agenda, unless an item is pulled for separate consideration. The recommendations for each item are noted in bracket. Members of the public may comment on the Consent Agenda items.

**Questions or clarification may be made by the Board members  
without removal from the Consent Agenda.**

- D-1) WARRANTS [RECOMMEND APPROVAL]
- D-2) APPROVE JUNE 26, 2013 REGULAR BOARD MEETING MINUTES:
- D-3) APPROVE AMENDED CONTRACT WITH GENERAL MANAGER [RECOMMEND APPROVE CONTRACT]
- D-4) AUTHORIZE PURCHASE OF REPLACEMENT UTILITY TRUCK [RECOMMEND AUTHORIZE STAFF TO PURCHASE REPLACEMENT UTILITY TRUCK FROM MULLAHEY FORD AT A COST OF \$19,027]

TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: JULY 9, 2013

**AGENDA ITEM**  
**D-1**  
**JULY 10, 2013**

**WARRANTS LIST WILL BE DISTRIBUTED ON TUESDAY, JULY 9, 2013.**

TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: JULY 5, 2013



**APPROVE MINUTES OF PREVIOUS BOARD MEETINGS**

**ITEM**

Approve action minutes from previous Board meetings. [RECOMMENDED APPROVE MINUTES]

**BACKGROUND**

The draft minutes are a written record of the previous Board Meeting action.

**RECOMMENDATION**

Approve minutes as part of Consent Agenda.

**ATTACHMENT**

- A. June 26, 2013 draft Regular Board Meeting Minutes

JULY 10, 2013

ITEM D-2

ATTACHMENT A

# NIPOMO COMMUNITY SERVICES DISTRICT

*Serving the Community Since 1965*

## REGULAR MINUTES

**JUNE 26, 2013, AT 9:00 A.M.**

BOARD ROOM 148 SOUTH WILSON STREET, NIPOMO, CA

### **BOARD of DIRECTORS**

JAMES HARRISON, **PRESIDENT**  
LARRY VIERHEILIG, **VICE PRESIDENT**  
DAN GADDIS, **DIRECTOR**  
BOB BLAIR, **DIRECTOR**  
CRAIG ARMSTRONG, **DIRECTOR**

### **PRINCIPAL STAFF**

MICHAEL S. LEBRUN, **GENERAL MANAGER**  
LISA BOGNUDA, **FINANCE DIRECTOR**  
MIKE SEITZ, **GENERAL COUNSEL**  
PETER SEVCIK, **DIRECTOR OF ENG. & OPS.**  
MERRIE WALLRAVIN, **BOARD CLERK**

Mission Statement: The Nipomo Community Services District's mission is to provide its customers with reliable, quality, and cost-effective services now and in the future.

00:00:00  
A. CALL TO ORDER AND FLAG SALUTE

*President Harrison called the Regular Meeting of June 26, 2013, to order at 9:00 a.m. and led the flag salute.*

00:00:40  
B. ROLL CALL

*At roll call, all Board members were present.*

*There was no public comment.*

*President Harrison considered public comment on closed session items next.*

*Eva Moss, NCSO customer, commented on leaks at her property due to high pressure and asked the Board to bear the responsibility.*

*President Harrison closed public comment on closed session items.*

*Michael LeBrun, General Manager, announced that amendments to the packet were placed at the back of the room.*

00:05:06  
C. PRESENTATIONS AND PUBLIC COMMENT

C-1) DIRECTOR OF ENGINEERING AND OPERATIONS  
Receive Update Report regarding recent activities

*Peter Sevcik, Director of Engineering and Operations, reviewed the report as presented in the Board packet. Mr. Sevcik answered questions from the Board. The Board thanked Mr. Sevcik for his report.*

C-2) DIRECTORS' ANNOUNCEMENTS OF DISTRICT & COMMUNITY INTEREST AND REPORTS ON ATTENDANCE AT PUBLIC MEETINGS, TRAINING PROGRAMS, CONFERENCES, AND SEMINARS.  
Receive Announcements and Reports from Directors

Director Armstrong

- ◇ *June 24, Attended (with the General Manager) the South County Advisory Council meeting and updated them on the Supplemental Water Project. The Council also reviewed the recommendations Supplemental Water Alternatives Evaluation Committee and agreed to submit a letter supporting those recommendations to the San Luis Obispo County Board of Supervisors.*

SUBJECT TO BOARD APPROVAL

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

00:17:27

- C-3) RECEIVE PUBLIC COMMENT ON PRESENTATIONS AND REPORTS PRESENTED UNDER ITEM C AND BY MOTION RECEIVE and FILE PRESENTATIONS AND REPORTS

*There was no public comment.*

*Upon the motion of Director Vierheilg and seconded by Director Blair, the Board unanimously approved to receive and file the presentations and reports as submitted. Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Vierheilg, Blair, Armstrong, Gaddis, and Harrison</i>	<i>None</i>	<i>None</i>

00:26:50

D. CONSENT AGENDA

- D-1) WARRANTS

- D-2) APPROVE BOARD MEETING MINUTES:  
JUNE 12, 2013 REGULAR MEETING  
JUNE 20, 2013 SPECIAL MEETING

- D-3) APPROVE AMENDED CONTRACT WITH DISTRICT LEGAL COUNSEL

*Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Peter Sevcik, Director of Engineering and Operations, and Mr. LeBrun answered questions from the Board.*

*Director Gaddis had a minor change to the June 12, 2013 Regular Board Meeting Minutes.*

*There was no public comment.*

*Upon the motion of Director Gaddis and seconded by Director Armstrong, the Board unanimously approved Items D-1, June 20, 2013 Special Meeting Minutes, and D-3 as submitted. Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Gaddis, Armstrong, Blair, Vierheilg, and Harrison</i>	<i>None</i>	<i>None</i>

**ITEM D-2 June 12, 2013 Regular Board Meeting Minutes**

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Gaddis, the Board unanimously approved the Regular Board Meeting Minutes of June 12, 2013, as amended.*

*Vote 4-0. (Director Vierheilg was not qualified to vote.)*

YES VOTES	NO VOTES	ABSENT
<i>Directors Armstrong, Gaddis, Blair, and Harrison</i>	<i>None</i>	<i>None</i>

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

E. ADMINISTRATIVE ITEMS

00:33:21 E-1) CONSIDER SERVICE REQUEST JIM O. MILLER PARK

*Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Kathy Kubiak, President of Olde Towne Nipomo Association, and Mr. LeBrun answered questions from the Board.*

*The following members of the public spoke:*

*Peg Miller, NCS D customer, thanked the Board members that were in support of the Jim O. Miller Park.*

*Rudy Stowell, NCS D customer, spoke in support of issuing an Intent-to-Serve letter for Jim O. Miller Park.*

*Mr. Stowell answered questions from the Board.*

*Ruth Brackett, NCS D customer, spoke in support of issuing the Intent-to-Serve letter for Jim O. Miller Park and supported the idea of a joint meeting with NCS D, Olde Towne Nipomo Association, and the County.*

*Upon the motion of Director Harrison and seconded by Director Vierheilig, the Board unanimously approved to delay this item until after the County, Olde Towne Nipomo Association, and NCS D have met.*

*Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Harrison, Vierheilig, Blair, Armstrong, and Gaddis</i>	<i>None</i>	<i>None</i>

**The Board took a break from 10:05 to 10:15 a.m.**

*Director Gaddis was not present after the break.*

01:03:26 E-2) CONSIDER GRANT REQUEST FROM NIPOMO CHAMBER OF COMMERCE IN AMOUNT OF \$10,230 FOR SOLID WASTE REMOVAL IN NIPOMO COMMUNITY COMMON AREAS

*President Harrison introduced the item. Rudy Stowell, Nipomo Chamber of Commerce President, reviewed the report as presented in the Board Packet. Mr. Stowell answered questions from the Board.*

*Director Gaddis joined the meeting at 10:20 a.m.*

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Vierheilig, the Board unanimously approved the grant request and directed staff to execute a Grant Agreement with Nipomo Chamber of Commerce for not to exceed amount of \$10,230.*

*Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
<i>Directors Armstrong, Vierheilig, Blair, Gaddis, and Harrison</i>	<i>None</i>	<i>None</i>

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

01:10:50

E-3) CONSIDER REQUEST BY DEVELOPER OF HILLSIDE TERRACE APARTMENT PROJECT, APN 092-577-002, 530 HILL STREET, NIPOMO FOR INTENT-TO-SERVE LETTER EXTENSION

*Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Peter Sevcik, Director of Engineering and Operations, answered questions from the Board.*

*The following member of the public spoke:*

*Bill Kengel, NCSD customer and project developer, handed the Board a stack of project information documents (documents available at the District office). He commented on the hard economic times and asked the Board to transfer his water allocation so he can apply for a new Intent-to-Serve letter.*

*Upon the motion of Director Armstrong and seconded by Director Vierheilig, the Board unanimously directed staff to work with Mr. Kengel, after receiving his Intent-to-Serve application, and bring back his application to the Board on the second meeting in July. Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Vierheilig, Blair, Gaddis, and Harrison	None	None

01:26:56

E-4) CONSIDER SERVICE REQUEST – 164 S. MALLAGH STREET NIPOMO, MULTIFAMILY RESIDENTIAL DEVELOPMENT

*Peter Sevcik, Director of Engineering and Operations, reviewed the report as presented in the Board packet. Mike Peachy, Project Developer, answered questions from the Board. Mr. Peachy handed the Board a copy of the conceptual duplex plan (See Exhibit "A").*

*There was no public comment.*

*Upon the motion of Director Armstrong and seconded by Director Blair, the Board unanimously approved the Intent-to-Serve letter including all terms and conditions. Vote 5-0.*

YES VOTES	NO VOTES	ABSENT
Directors Armstrong, Blair, Gaddis, Vierheilig, and Harrison	None	None

01:42:37

F. GENERAL MANAGER'S REPORT

*Michael LeBrun, General Manager, reviewed the report as presented in the Board packet. Mr. LeBrun answered questions from the Board. There was no public comment.*

G. COMMITTEE REPORT

*There were no committee reports.*

01:46:50

H. DIRECTORS' REQUESTS TO STAFF AND SUPPLEMENTAL REPORTS

Director Blair

- ◇ *Questioned staff about the progress on the plaque to honor the founding Board members of NCSD.*

SUBJECT TO BOARD APPROVAL



Nipomo Community Services District  
REGULAR MEETING  
MINUTES

01:48:24

I. CLOSED SESSION ANNOUNCEMENTS

- 1. CONFERENCE WITH DISTRICT LEGAL COUNSEL RE: PENDING LITIGATION PURSUANT TO GC §54956.9 SMVWCD VS. NCSD (SANTA CLARA COUNTY CASE NO. CV 770214, SIXTH APPELLATE COURT CASE NO. H032750 AND ALL CONSOLIDATED CASES).
- 2. CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVT. CODE §54956.9(a):  
Existing litigation - 1 case: Mesa Community Alliance Vs. District, Case No. CV 130222
- 3. CONFERENCE WITH LEGAL COUNSEL RE: LIABILITY CLAIM PURSUANT TO GC SECTION 54956.95; EVA MOSS CLAIM AGAINST NCSD
- 4. ANNUAL PERFORMANCE REVIEW OF DISTRICT GENERAL MANAGER PURSUANT TO GOVERNMENT CODE SECTION 54957

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

*Ed Eby, NCSD customer, made supportive comments on the job the General Manger is doing. He also stated that NCSD should keep the General Manager.*

K. ADJOURN TO CLOSED SESSION

*President Harrison adjourned to closed session at 11:05 a.m.*

L. OPEN SESSION  
ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

*The Board came back into Open Session at 1:00 p.m.*

*Mike Seitz, District Legal Counsel, announced that the Board discussed Items One and Two listed above under closed session announcements, but took no reportable action.*

*Regarding Item Three listed above under closed session announcements, the Board discussed the item and on a 5-0 vote, the Board rejected the claim and directed staff to notice claimant.*

*Regarding Item Four listed above under closed session announcements, the Board completed the evaluation of the General Manager, and agreed to retain his services and to increase his base salary to \$150K and to provide an additional 5 days of administrative leave per year. The General Manager's revised contract will be scheduled for approval at the next regular Board meeting.*

ADJOURN

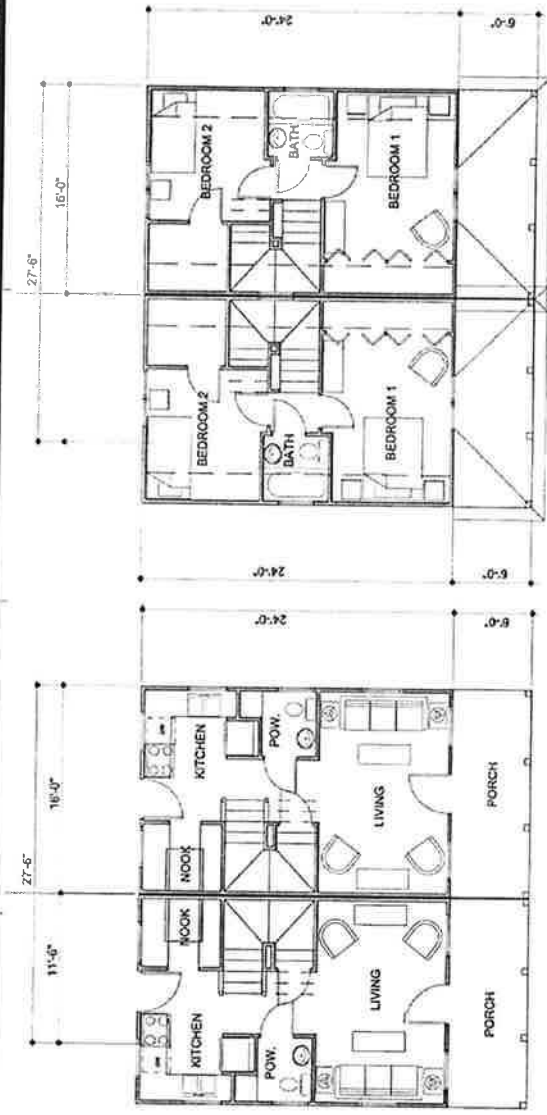
*President Harrison adjourned the meeting at 1:04 p.m.*

MEETING SUMMARY	HOURS & MINUTES
Regular Meeting	2 hours 9 minutes
Closed Session	1 hour 55 minutes
TOTAL HOURS	4 hours 4 minutes

JUNE 26, 2013

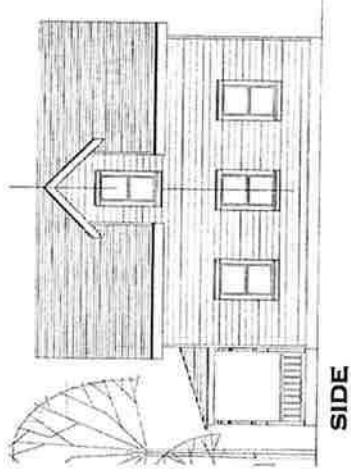
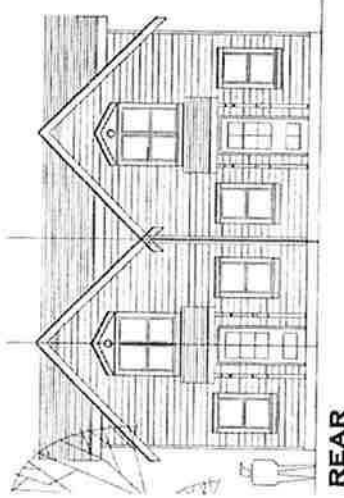
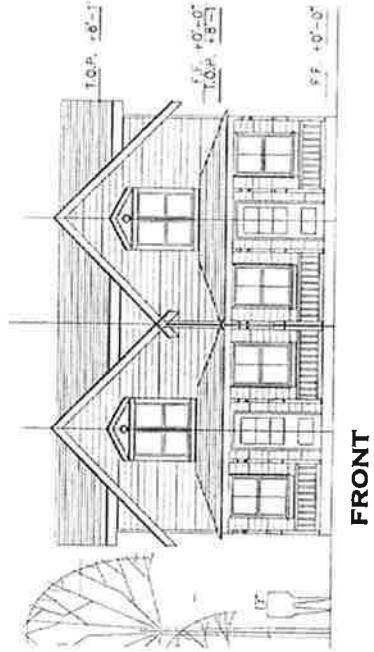
REGULAR BOARD MEETING MINUTES

EXHIBIT "A"



FIRST FLOOR PLAN

SECOND FLOOR PLAN



CONCEPTUAL DUPLEX PLAN

TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: JULY 3, 2103



**APPROVE AMENDED CONTRACT WITH  
DISTRICT GENERAL MANAGER**

**ITEM**

Approve revised contract with General Manager [RECOMMEND APPROVE]

**BACKGROUND**

On June 26, your Board concluded an evaluation of General Manager and agreed to retain the General Manager. The Board and General Manager agreed to increase base salary from \$142,783 to \$150,000 (5% increase) and amend the Manager's contract to include five additional days of Administrative Leave.

Your Board directed staff to schedule approval of amendments to the General Manager's contract for Board consideration at the next Regular Meeting.

**FISCAL IMPACT**

General Manager compensation is in the District's approved 2013-2014 budget.

**RECOMMENDATION**

By motion and roll call vote, approve revised contract with General Manager

**ATTACHMENT**

- A. Revised contract with proposed changes shown

JULY 10, 2013

ITEM D-3

ATTACHMENT A

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

**As amended July 1, 2013**

Attachments:

Exhibit "A" - General Manager Job Description

Exhibit "B" - District Resolution 2005-959

**THIS CONTRACT**, is made and entered into by and between the Nipomo Community Services District (herein referred to as "District"), and Michael LeBrun (herein referred to as "General Manager" or "Michael LeBrun"), 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 enter into an employment relationship with Michael LeBrun as General Manager of the District;

C. Michael LeBrun desires to enter into an employment relationship as General Manager of the District.

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

**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 employ Michael LeBrun as the District's General Manager and Secretary to the Board of Directors (collectively "General Manager").

**SECTION 2 - DUTIES**

A. General Manager shall devote his full energy, skill and ability, and productive time to the performance of General Manager's duties. General Manager understands that the management of the District requires that the

General Manager devote his entire work time to the discharge of the duties of the office.

B. 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:

1. The implementation of the policies established by the Board of Directors for the operation of the District.
2. The appointment, supervision, discipline, and dismissal of the District's employees, consistent with the employee relations system established by the Board of Directors.
3. The supervision of the District's facilities and services.
4. The supervision of the District's finances.

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

1. Maintaining accurate records of the proceedings of the Board of Directors.
2. Maintaining a book of District Ordinances or Codes with his\her attestation.
3. Maintaining District records including original Ordinances, Resolutions and Contracts and attest to the originals and true and correct copies of the same.
4. 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 1 above and deputize the Finance Director\Assistant General Manager to perform the duties referenced in paragraphs 2, 3 and 4 above in the absence of the General Manager.

D. Michael LeBrun agrees to perform the functions and duties specified in Subsections A, B, and C (above) and to perform other legally permissible and proper duties and functions as a District Board of Director's shall from time to time assign without additional compensation.

E. Both parties acknowledge that specific duties of the General Manager may vary from time to time.

### **SECTION 3 - TERM**

This Contract shall take effect on July 12, 2011, ("Effective Date"), and shall remain in effect, as amended from time to time, until terminated as provided herein.

### **SECTION 4 - TERMINATION AND SEVERANCE PAY**

A. General Manager understands and expressly agrees that he has no constitutionally protected property right or interest in his 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 with or without cause.

C. In the event the General Manager is terminated without cause by the District Board of Directors during such time that the General Manager is willing and able to perform the General Manager's duties under this Contract, then in that event the District Board of Directors agrees to pay the General Manager a lump sum cash payment ("Severance Pay") equal to six (6) months base salary then in effect. In addition to Severance Pay, District shall pay General Manager for his accrued but unused vacation time, but not sick leave. The District shall deduct all normal withholdings required by law with respect to any amounts paid under this paragraph.

D. 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, plus benefits that are lawfully required to be continued. 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 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 District 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.

E. In the event General Manager voluntarily resigns his/her position with District, General Manager shall give District sixty (60) 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 date of resignation, and payment for any accrued vacation.

#### **SECTION 5 - SALARY**

A. District agrees to pay General Manager for his services rendered pursuant this Contract an annual salary of ~~one hundred forty two thousand seven hundred eighty three~~ one hundred fifty thousand dollars (\$~~142,783~~150,000.00) payable in equal installments at the same time as other employees of District are paid. The annual salary shall be subject to normal withholdings with respect to amounts paid.

B. Commencing on the 366<sup>th</sup> day from the Effective Date, and upon a successful evaluation evidencing that the General Manager meets or exceeds the Board's expectations, the annual base salary shall be adjusted, on a one time basis, to 5% greater than the base salary (unweighted) of the then highest paid District employee, other than the General Manager.

C. District will consider adjustments in compensation based upon performance.

D. The District Board of Directors may increase the compensation provisions of this Contract without amending this Contract.

## **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. During the first twelve (12) months of employment, the General Manager and District shall participate in a minimum of two (2) performance reviews (evaluations) as follows:

1. On or before the sixth (6<sup>th</sup>) month from the Effective Date;  
and
2. On or before June 30<sup>th</sup>, 2012.

B. From and after the evaluation referenced in paragraph A (2) above, the General Manager shall receive an annual performance review no later than the end of June of each succeeding year.

C. 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 such outside activities create a conflict of interest with the duties of General Manager and/or 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, the District will consider requests to budget 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 District.

B. Expenditures for items in subparagraph A (above) shall be deemed pre-approved, if the expenditures are within the District's budgeted amounts for the appropriate category. All other expenditures shall be pre-approved by District Board of Directors. General Manager shall keep District informed on at least a monthly basis, as part of the General Managers Report (on the Board of Directors meeting agenda) of all expenditures incurred in connection with professional development and a summary of educational conferences and seminars attended during the previous 30 days. 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 of Director approval for:

1. Travel and subsistence expenses to courses, conferences, and seminars conducted outside the State of California; and
2. Air travel.

## **SECTION 10 - BENEFITS**

A. Subject to District Resolution 2005-959 (attached hereto as Exhibit "B" and incorporated herein by this reference) District agrees to provide health, dental and vision insurance for the General Manager at the same rate as other District employees. If the District Board of Director's amends the health, dental and vision insurance plan for existing employees, then the amended plan shall apply to the General Manager.

B. District agrees to pay employer and 50% of the employee (General Manager's) 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.

## **SECTION 12 - LEAVES**

### A. Vacations:

1. Paid vacations shall accrue at the rate of one and one-fourth (1 and 1/4<sup>th</sup>) working days per month of paid employment (15 days/year).
2. Commencing on the 5<sup>th</sup> year after the Effective Date, paid vacation shall accrue at the rate of 1 and two-thirds (1 and 2/3rds) working days per month of paid employment (20 days per year).
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) at a time without prior approval of the Board of Directors.
5. The General Manager's vacation shall not be scheduled when it would leave the District without appropriate management.

B. Sick Leave: Commencing on the Effective Date of employment, General Manager shall accrue, and have credited to his 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, 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. Commencing on the Effective Date, the General Manager shall be entitled to ~~five~~ ten (510) administrative leave days with pay per year. Administrative leave cannot be accumulated or carried over. Administrative leave shall not be scheduled when it would leave the District without appropriate management.

### **SECTION 13 - AUTOMOBILE**

A. For District related uses, including travel to and from the General Manager's residence, 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 reimbursement for the use of General Manager's personal vehicle at the prevailing IRS per diem mileage rate for expenses incurred in performing services for the benefit of the District excluding travel to and from work.

C. General Manager shall invoice District 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 ON PERSONAL VEHICLES USED FOR DISTRICT BUSINESS**

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 for personal vehicles used for District business.

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

C. Prior to commencing work under this Contract, General Manager shall provide District with a Certificate 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 non-payment 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 compensation for such Jury Duty (except travel pay) shall be returned to the District.

### **SECTION 17 - NOTICES**

Notices pursuant to this 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. Michael LeBrun  
2268 Callender Road  
Arroyo Grande, CA 93420

Alternatively, notices required pursuant to this 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 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 situations which are inconsistent or incompatible with a position of General Manager or give rise to the appearance of impropriety.

B. The terms of this 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 and his 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 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 effected, impaired or invalidated thereby.

E. This 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 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 Contract in whole or in part.

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

J. This 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 Contract on the below identified dates.

GENERAL MANAGER:

DISTRICT:

\_\_\_\_\_  
MICHAEL LEBRUN

\_\_\_\_\_  
JAMES HARRISON, President

| DATE: \_\_\_\_\_, 20123

DATE: \_\_\_\_\_, 20123

Approved as to form:

\_\_\_\_\_  
MICHAEL W. SEITZ,  
District Legal Counsel

| DATE: \_\_\_\_\_, 20123



TO: MICHAEL S. LEBRUN *M.S.L.*  
GENERAL MANAGER

FROM: PETER V. SEVCIK, P.E. *P.V.S.*  
DIRECTOR OF ENGINEERING  
AND OPERATIONS

DATE: JULY 5, 2013

**AGENDA ITEM**  
**D-4**  
**JULY 10, 2013**

**AUTHORIZATION TO PURCHASE  
REPLACEMENT UTILITY TRUCK**

**ITEM**

Consider authorizing purchase of replacement utility truck [RECOMMEND AUTHORIZE STAFF TO PURCHASE REPLACEMENT UTILITY TRUCK FROM MULLAHEY FORD AT A COST OF \$19,027].

**BACKGROUND**

The District's FY 2013-2014 budget allocated funding for the purchase of a replacement utility truck. The new truck will replace a 2002 Toyota Tacoma pickup truck with 87,000 miles.

District staff solicited bids for similarly equipped utility trucks from several local dealers including Mullahey Ford, Paso Robles Ford and Santa Maria Ford as well as the National Joint Powers Alliance (NJPA), a national government purchasing cooperative that the District belongs to, and received two (2) bids as follows:

Dealer	Total Cost
Mullahey Ford	\$19,027
NJPA	\$20,051

The vehicle quoted by both vendors meets District specifications.

**FISCAL IMPACT**

Funding in the amount of \$25,000 was allocated in the FY 2013-2014 District budget for a replacement utility pickup truck.

**STRATEGIC PLAN**

Strategic Plan Goal 4.3 – Continue commitment to a safe workplace environment

**RECOMMENDATION**

Staff requests Board approval to purchase a new replacement pickup truck from the lowest, most responsive bidder, Mullahey Ford, in the amount of \$19,027.