

E-5
June 11, 2014

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2014-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING WATER AND SEWER IMPROVEMENTS AND EASEMENT FOR COUNTY
PARCEL MAP 06-0225, A TWO PARCEL DEVELOPMENT**

WHEREAS, William Kengel (herein the "Owner") is the owner of certain real property identified as Assessor Parcel Number 092-577-001 (herein the "Property"). The Property is situated within the Nipomo Community Services District (the "District") and is located at 719 West Tefft Street at future Blume Street, Nipomo, California; and

WHEREAS, Owner has offered to the District water pipeline and sewer pipeline easement ("Easement") for CO 06-0225 (EXHIBIT A); and

WHEREAS, the District approved the construction plans for County Parcel Map 06-0225 on November 16, 2009, for the water and sewer improvements to be constructed; and

WHEREAS, the water and sewer improvements have been constructed in accordance with approved changes shown on record drawings dated May 19, 2014; and

WHEREAS, on May 20, 2014, the Owner offered the water and sewer improvements to the Nipomo Community Services District; and

WHEREAS, the District can accept such offer without obligation except as required by law; and

WHEREAS, all water and sewer capacity fees for service, required in conformance with District ordinances, have not been paid for CO 06-0225.

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

1. Upon Owner's satisfaction of pending requirements including but not limited to CCTV inspection video of the sanitary sewer in accordance with District standards, specifications, ordinances and regulations.
2. Upon District acceptance of the water and sewer improvements to serve 697 West Tefft Street, APN 092-577-008 in Nipomo.
3. That the attached easement dated XXXXXXXXXX for a waterline easement and sewer easement over and under future Blume Street is hereby accepted and staff is ordered to record the attached easement (EXHIBIT A).
4. That the General Manager is directed to sign and record Notice of Property Owners failure to Comply with District Rules and Regulations (EXHIBIT B).
5. That staff is authorized to set water meters to serve the project once all pending requirements are satisfied, and all Capacity and Plan Check and Inspection Agreement costs, including but not limited to legal and engineering consulting costs, have been paid by the Owner.

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OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ACCEPTING WATER AND SEWER IMPROVEMENTS AND EASEMENT FOR COUNTY PARCEL MAP 06-0225, A TWO
PARCEL DEVELOPMENT

On the motion by Director _____, seconded by Director _____, and on the following roll
call vote, to wit:

AYES:
NOES:
ABSENT:
CONFLICT:

the foregoing resolution is hereby adopted this 25th day of June 2014.

CRAIG ARMSTRONG
President, Board of Directors

ATTEST:

APPROVED AS TO FORM:

MICHAEL S. LEBRUN
General Manager and Secretary to the Board

MICHAEL W. SEITZ
District Legal Counsel

EXHIBIT "A"

RECORDING REQUESTED BY:
Nipomo Community Services District

WHEN RECORDED RETURN TO:
Nipomo Community Services District
P. O. Box 326
Nipomo, CA 93444

APN 092-577-001

Parcel Map CO 06-0225

EASEMENT AND AGREEMENT AFFECTING REAL PROPERTY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Mesa Dunes Investments, A California Corporation referred to hereinafter as "Owner(s) or Grantor(s)", hereby grants to the NIPOMO COMMUNITY SERVICES DISTRICT, referred to hereinafter as "District", a utility easement herein "Easement or Easement Area" over and under the below described private streets:

BLUME STREET AS SHOWN ON FINAL MAP FOR PARCEL MAP CO 06-0225

The location of the easement is further described in the drawing attached hereto as Exhibit "A."

The Easement granted herein shall be subject to the following:

PURPOSE

The purpose of the Easement is the present and future construction, reconstruction, operation, repair, and maintenance of District facilities, including sewer pipelines, water pipelines, and other utilities operated by the District, from and after said utilities are dedicated and accepted by the District (herein "District Facilities"), in such manner and size and with such accessory parts and structures, as the District or its successors in interests from time to time deem necessary.

MAINTENANCE AND REPAIR OF DISTRICT FACILITIES

The District's obligation for maintenance and repair of the Easement Area is limited to that portion of the Easement that is affected by the District reconstruction, operation, repair and maintenance of District Facilities.

MISCELLANEOUS

A. The Easement granted herein shall run with the land and be binding on the successors and assigns of the Grantor(s) and shall inure to the benefit of the District and its successors and assigns.

B. This Easement shall be governed by the laws of the State of California. Any litigation regarding the Easement or its contents shall be filed in the County of San Luis Obispo, if in state court, or in the federal court nearest to San Luis Obispo County, if in federal court.

C. This Easement shall be recorded in the Official Records of the County Recorder's Office, San Luis Obispo County.

D. In the event of any controversy or claims relating to this Easement or breach thereof the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

AUTHORITY TO EXECUTE.

All parties to this Easement warrant and represent that they have the power and authority to grant and accept this Easement and its terms and conditions in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order grant this Easement have been fully complied with. Furthermore, by granting this Easement, Grantor(s) hereby warrants that Grantor(s) shall not have breached the terms or conditions of any other contract or Easement to which Grantor(s) is obligated, which breach would have a material effect hereon.

IN WITNESS WHEREOF, the Grantor(s) hereto have executed this
Easement on _____, 2014.

GRANTOR(S):

Mesa Dunes Investment,
A California Corporation Company


[Signature must be Notarized]

William G. Kenzel
[Print Name]

Date: 5/20/2014

**CERTIFICATE OF ACCEPTANCE
GOVERNMENT CODE §2781**

This is to certify that the Nipomo Community Services District, Grantee,
herein, by Board action on _____, 2014, accepts for public
purposes the real property, or interest described in the foregoing Easement and
Agreement, dated _____, 2014, from Grantors, and consents to the
recordation thereof.

Nipomo Community Services District

By: _____
Name: Craig Armstrong
Title: President
Nipomo Community Services District
Board of Directors

ATTEST:

Michael S. Lebrun, General Manager
Nipomo Community Services District

NOTARIAL ACKNOWLEDGEMENT

STATE OF CALIFORNIA }
COUNTY OF San Luis Obispo

On May 20, 2014, before me, MJ Ponder, a Notary Public, personally appeared William O. Kenge, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by (his)/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

MJ Ponder
NOTARY PUBLIC Wichita Easement Agreement
Affecting Local Prop NSD

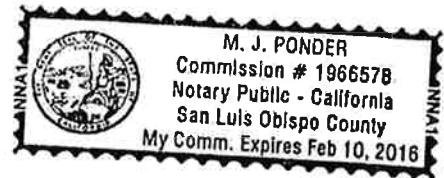


Exhibit A
Legal Description

A portion of Lot 4 and Lot 5 of H.C. Ward's Subdivision of Rancho Nipomo as recorded in Book A of Maps at Page 19 in the County of San Luis Obispo, State of California, more particularly described as follows:

Beginning at a point on the line between said Lot 4 and Lot 5, said point also being on the southerly line of the offer of dedication as described in a deed recorded in Document No. 2008-049755 of Official Records in said County and State, said point being 50.00 feet southeasterly of the centerline of Tefft Street as shown on "Plans for Widening of Tefft Street between Orchard Road and U.S. 101" on file in the County Engineer's Office of Said County;
thence southwesterly along said line, South 55°35'19" West a distance of 25.00 feet; thence leaving said line, southeasterly along a line parallel to and 25.00 feet southwesterly of the line between said Lot 4 and Lot 5, South 34°18'56" East a distance of 344.10 feet to the beginning of a tangent curve concave westerly and having a radius of 20.00 feet; thence leaving said parallel line, southerly along said curve through a central angle of 89°54'20" an arc distance of 31.38 feet; thence South 55°35'24" West a distance of 10.00 feet; thence South 34°24'36" East a distance of 50.00 feet; thence North 55°35'24" East a distance of 54.88 feet to the northerly line of said Lot 4; thence northerly along said line North 34°18'56" West, a distance of 404.07 feet to the Point of Beginning.

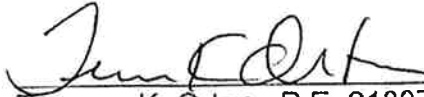
 5/19/14
Terence K. Orton, P.E. 21807



EXHIBIT "A"

TEFFT STREET 30'

50'

10'

POB S55°35'19"W

10' OFFER OF DEDICATION PER DOC NO. 2008-049755

25'

PARCEL 1
59 PM 83

PTN LOT 4
A MAPS 19

S34°18'56"E 344.10'

BLUME STREET

N34°18'56"W 404.07'

LOT 5
A MB 19

N34°18'56"W

PARCEL 2
59 PM 83

$\Delta = 89^{\circ}54'20''$
 $R = 20.00'$
 $L = 31.38'$

10'
S55°35'24"W

S34°24'36"E

50.00'
54.88'
N55°35'24"E

33.00'
N55°35'24"E

LOT 6

PLAT

PORTION OF LOT 4&5 OF H.C. WARD'S
SUBDIVISION OF RANCHO NIPOMO AS
RECORDED IN BOOK A OF MAPS AT
PAGE 19 IN THE COUNTY OF SAN
LUIS OBISPO, STATE OF CALIFORNIA
PREPARED BY:

ORTON ENGINEERING, INC.

1686 RAMONA AVE., SUITE F
GROVER BEACH, CA 93433

(805)-474-1700

APRIL 2014

SHEET 2 OF 2

PARCEL 3
59 PM 83

SCALE: 1"=60'



EXHIBIT "B"

Recording Requested By:
NIPOMO COMMUNITY SERVICES DISTRICT

WHEN RECORDED RETURN TO:
Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444

APN: 092-577-001 & 002

**NIPOMO COMMUNITY SERVICES DISTRICT'S
NOTICE OF PROPERTY OWNER'S FAILURE TO COMPLY
WITH DISTRICT RULES, REGULATIONS AND ORDINANCES
719 WEST TEFFT STREET**

PLEASE TAKE NOTE that on June , 2014, the Nipomo Community Services District ("District") adopted a Resolution 2014-0 declaring the Owner of the below described real property to be in violation of District's:

- A. Rules and regulations related to development of water and sewer improvements to be dedicated to the District; and
- B. Payment of District capacity and connection fees and charges.

The owner of the real property affected by this Notice is **William G. Kengel**.

The real property affected by Resolution 2014-XXX is described in Exhibit "A" attached.

PLEASE TAKE FURTHER NOTICE that the District will not set water meter or provide water or sewer service to the property and individual parcels contained therein, until such time as water and sewer improvements are dedicated and accepted by the District and all water and sewer connection and capacity charges and Plan check and inspections fees have been paid.

This Notice is being recorded in compliance with Resolution 2014-XXX of the District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this _____ day of June, 2014 at Nipomo, California.

Nipomo Community Services District

Michael S. LeBrun
District General Manager

[Signature must be notarized]

Exhibit "A"
Legal Description

The Easterly 210 feet of Lot 4 of the Resubdivision of the Westerly part of Lot 25 of H.C. Ward's Subdivision of the Nipomo Rancho. In the County of San Luis Obispo, State of California, according to map recorded November 12, 1887 in Book A at page 19 of Maps, in the Office of the County Clerk Recorder of said County.

Excepting therefrom that portion of said land described in deed to the County of San Luis Obispo recorded January 3, 1991 as Document No. 332 in Book 3629 at page 370 of Official Records.

SUBJECT TO: COVENANTS CONDITIONS, RESTRICTIONS, RESERVATIONS, RIGHTS OF WAY, AND EASEMENTS NOW OF RECORD.