

NOVEMBER 28, 2018

ITEM E-1

ATTACHMENT B



ROGERS, ANDERSON, MALODY & SCOTT, LLP
CERTIFIED PUBLIC ACCOUNTANTS, SINCE 1948

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November 14, 2018

To the Board of Directors
Nipomo Community Services District
148 South Wilson Street
Nipomo, California 93444

We have audited the financial statements of Nipomo Community Services District (the District) as of and for the year ended June 30, 2018, and have issued our report thereon dated November 14, 2018. Professional standards require that we advise you of the following matters relating to our audit.

Our Responsibility in Relation to the Financial Statement Audit

As communicated in our engagement letter dated May 17, 2018, our responsibility, as described by professional standards, is to form and express an opinion about whether the financial statements that have been prepared by management with your oversight are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America. Our audit of the financial statements does not relieve you or management of your respective responsibilities.

Our responsibility, as prescribed by professional standards, is to plan and perform our audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. An audit of financial statements includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control over financial reporting. Accordingly, as part of our audit, we considered the internal control of the District solely for the purpose of determining our audit procedures and not to provide any assurance concerning such internal control.

We are also responsible for communicating significant matters related to the audit that are, in our professional judgment, relevant to your responsibilities in overseeing the financial reporting process. However, we are not required to design procedures for the purpose of identifying other matters to communicate to you.

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MEMBERS
Members of the Board of Directors
Members of the Board of Directors

2018 Board of Directors
2018 Board of Directors

2018 Board of Directors
2018 Board of Directors

2018 Board of Directors
2018 Board of Directors

2018 Board of Directors
2018 Board of Directors

Planned Scope and Timing of the Audit

We conducted our audit consistent with the planned scope and timing we previously communicated to you.

Compliance with All Ethics Requirements Regarding Independence

The engagement team, others in our firm, and our firm have complied with all relevant ethical requirements regarding independence.

Qualitative Aspects of the Entity's Significant Accounting Practices

Significant Accounting Policies

Management has the responsibility to select and use appropriate accounting policies. A summary of the significant accounting policies adopted by the District is included in Note 1 to the financial statements. As described in Note 1 of the financial statements, during the year, the District adopted the provisions of Governmental Accounting Standards Board Statement No. 75, Accounting and Financial Reporting for Postemployment Benefits other than Pensions. No matters have come to our attention that would require us, under professional standards, to inform you about (1) the methods used to account for significant unusual transactions and (2) the effect of significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

Significant Accounting Estimates

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's current judgments. Those judgments are normally based on knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ markedly from management's current judgments.

The most sensitive accounting estimates affecting the financial statements are:

Management's estimate of capital asset depreciation is based on historical estimates of each capitalized item's useful life. We evaluated the key factors and assumptions used to develop the estimated useful lives in determining that it is reasonable in relation to the financial statements taken as a whole.

The estimate of the other post-employment benefits is based on actuarial reports provided by independent actuaries. We evaluated the key factors and assumptions used to develop the estimate in determining that it is reasonable in relation to the financial statements taken as a whole.

Management's estimate of the net pension liability is based on actuarial reports provided by independent actuaries. We evaluated the key factors and assumptions used to develop the estimate in determining that it is reasonable in relation to the financial statements taken as a whole.

Financial Statement Disclosures

Certain financial statement disclosures involve significant judgment and are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the District's financial statements relate to:

The disclosure of accumulated depreciation in Note 5 to the financial statements is based on estimated useful lives which could differ from actual useful lives of each capitalized item.

The disclosure of the other post-employment benefits (OPEB) in Note 9 to the basic financial statements identifies the annual OPEB cost and the funded status of the actuarial accrued liability. The information disclosed is based on actuarial assumptions which could differ from actual costs.

The disclosure of net pension liability in Note 8 to the financial statements is based on actuarial assumptions. Actual future liabilities may vary from disclosed estimates.

Significant Difficulties Encountered during the Audit

We encountered no significant difficulties in dealing with management relating to the performance of the audit.

Uncorrected and Corrected Misstatements

For purposes of this communication, professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that we believe are trivial, and communicate them to the appropriate level of management. Further, professional standards require us to also communicate the effect of uncorrected misstatements related to prior periods on the relevant classes of transactions, account balances or disclosures, and the financial statements as a whole and each applicable opinion unit. Management has corrected all identified misstatements.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction, concerning a financial accounting, reporting, or auditing matter, which could be significant to the District's financial statements or the auditor's report. No such disagreements arose during the course of the audit.

Representations Requested from Management

We have requested certain written representations from management, which are included in the attached letter dated November 14, 2018.

Management's Consultations with Other Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters. Management informed us that, and to our knowledge, there were no consultations with other accountants regarding auditing and accounting matters.

Other Significant Matters, Findings, or Issues

In the normal course of our professional association with the District, we generally discuss a variety of matters, including the application of accounting principles and auditing standards, operating and regulatory conditions affecting the entity, and operational plans and strategies that may affect the risks of material misstatement. None of the matters discussed resulted in a condition to our retention as the District's auditors.

Other Information in Documents Containing Audited Financial Statements

Pursuant to professional standards, our responsibility as auditors for other information in documents containing the District's audited financial statements does not extend beyond the financial information identified in the audit report, and we are not required to perform any procedures to corroborate such other information. However, in accordance with such standards, we have applied certain limited procedures to Management's Discussion and Analysis, as well as, the Schedule of the District's Proportionate Share of the Plan's Net Pension Liability and Related Ratios as of the Measurement Date, the Schedule of Pension Plan Contributions, the Schedule of Changes in Net OPEB Liability and Related Ratios and the Schedule of OPEB Contributions. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the Required Supplementary Information (RSI) and do not express an opinion or provide any assurance on the RSI.

We were engaged to report on supplementary information, which accompany the financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

Our responsibility also includes communicating to you any information which we believe is a material misstatement of fact. Nothing came to our attention that caused us to believe that such information, or its manner of presentation, is materially inconsistent with the information, or manner of its presentation, appearing in the financial statements.

This report is intended solely for the information and use of the Board of Directors and Management of the District and is not intended to be and should not be used by anyone other than these specified parties.

Rogers, Anderson, Malody & Scott, LLP.

San Bernardino, CA

NIPOMO COMMUNITY

BOARD MEMBERS

ED EBY, **PRESIDENT**
DAN ALLEN GADDIS, **VICE PRESIDENT**
BOB BLAIR, **DIRECTOR**
CRAIG ARMSTRONG, **DIRECTOR**
DAN WOODSON, **DIRECTOR**



SERVICES DISTRICT

STAFF

MARIO IGLESIAS, **GENERAL MANAGER**
LISA BOGNUDA, **FINANCE DIRECTOR**
PETER SEVCIK, P.E., **DIRECTOR OF ENG. & OPS.**
WHITNEY MCDONALD, **GENERAL COUNSEL**

Serving the Community since 1965

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

November 14, 2018

Rogers, Anderson, Malody & Scott, LLP
735 E. Carnegie Drive, Suite 100
San Bernardino, CA 92408

This representation letter is provided in connection with your audit of Nipomo Community Services District (the District) as of June 30, 2018 and for the year then ended, and the related notes to the financial statements, for the purpose of expressing an opinion on whether the basic financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows, of the business-type activities in accordance with accounting principles generally accepted for governments in the United States of America (U.S. GAAP).

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm that, to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves as of November 14, 2018:

Financial Statements

1. We have fulfilled our responsibilities, as set out in the terms of the audit engagement dated May 17, 2018 for the preparation and fair presentation of the financial statements of the various opinion units referred to above in accordance with U.S. GAAP.
2. We acknowledge our responsibility for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
3. We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud.
4. We acknowledge our responsibility for compliance with the laws, regulations, and provisions of contracts and grant agreements.
5. We have reviewed, approved, and taken responsibility for the financial statements and related notes.

6. We have identified and communicated to you all previous audits, attestation engagements, and other studies related to the audit objectives and whether related recommendations have been implemented.

7. Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable.

8. Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of U.S. GAAP.

9. All events subsequent to the date of the financial statements and for which U.S. GAAP requires adjustment or disclosure have been adjusted or disclosed.

10. The effects of all known actual or possible litigation and claims have been accounted for and disclosed in accordance with U.S. GAAP.

11. All funds and activities are properly classified.

12. All funds that meet the quantitative criteria in GASB Statement No. 34, Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments, GASB Statement No. 37, Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments: Omnibus as amended, and GASB Statement No. 65, Items Previously Reported as Assets and Liabilities, for presentation as major are identified and presented as such and all other funds that are presented as major are considered important to financial statement users.

13. All components of net position are properly classified and, if applicable, approved.

14. Our policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position are available is appropriately disclosed and net position is properly recognized under the policy.

15. All revenues and expenses within the statement of revenues, expenses and changes in net position have been properly classified.

16. All interfund and intra-entity transactions and balances have been properly classified and reported.

17. Deposit and investment risks have been properly and fully disclosed.

18. Capital assets, including infrastructure assets, are properly capitalized, reported, and if applicable, depreciated.

19. All required supplementary information is measured and presented within the prescribed guidelines.

20. With regard to investments and other instruments reported at fair value:

- a. The underlying assumptions are reasonable and they appropriately reflect management's intent and ability to carry out its stated courses of action.

- b. The measurement methods and related assumptions used in determining fair value are appropriate in the circumstances and have been consistently applied.
- c. The disclosures related to fair value are complete, adequate, and in accordance with U.S. GAAP.
- d. There are no subsequent events that require adjustments to the fair value measurements and disclosures included in the financial statements.

Information Provided

21. We have provided you with:

- a. Access to all information, of which we are aware that is relevant to the preparation and fair presentation of the financial statements of the business-type activities, such as records, documentation, meeting minutes, and other matters;
- b. Additional information that you have requested from us for the purpose of the audit; and
- c. Unrestricted access to persons within the district from whom you determined it necessary to obtain audit evidence.

22. All transactions have been recorded in the accounting records and are reflected in the financial statements.

23. We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.

24. We have no knowledge of any fraud or suspected fraud that affects the district and involves:

- a. Management;
- b. Employees who have significant roles in internal control; or
- c. Others where the fraud could have a material effect on the financial statements.

25. We have no knowledge of any allegations of fraud, or suspected fraud, affecting the district's financial statements communicated by employees, former employees, vendors, regulators, or others.

26. We have disclosed to you all known actual or possible litigation, claims, and assessments whose effects should be considered when preparing the financial statements.

27. We have disclosed to you the identity of the District's related parties and all the related party relationships and transactions of which we are aware.

28. There have been no communications from regulatory agencies concerning noncompliance with or deficiencies in accounting, internal control, or financial reporting practices.

29. The District has no plans or intentions that may materially affect the carrying value or classification of assets and liabilities.

30. We have disclosed to you all guarantees, whether written or oral, under which the District is contingently liable.

31. We have disclosed to you all significant estimates and material concentrations known to management that are required to be disclosed in accordance with GASB Statement No. 62 (GASB-62), Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements. Significant estimates are estimates at the balance sheet date that could change materially within the next year. Concentrations refer to volumes of business, revenues, available sources of supply, or markets or geographic areas for which events could occur that would significantly disrupt normal finances within the next year.

32. We have identified and disclosed to you the laws, regulations, and provisions of contracts and grant agreements that could have a direct and material effect on financial statement amounts, including legal and contractual provisions for reporting specific activities in separate funds.

33. There are no:

- a. Violations or possible violations of laws or regulations, or provisions of contracts or grant agreements whose effects should be considered for disclosure in the financial statements or as a basis for recording a loss contingency, including applicable budget laws and regulations.
- b. Unasserted claims or assessments that our lawyer has advised are probable of assertion and must be disclosed in accordance with GASB-62.
- c. Other liabilities or gain or loss contingencies that are required to be accrued or disclosed by GASB-62.
- d. Continuing disclosure consent decree agreements or filings with the Securities and Exchange Commission and we have filed updates on a timely basis in accordance with the agreements (Rule 240, 15c2-12).

34. The District has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset or future revenue been pledged as collateral, except as disclosed to you.

35. We have complied with all aspects of grant agreements and other contractual agreements that would have a material effect on the financial statements in the event of noncompliance.

36. With respect to the net pension liability:

- a. We believe that the actuarial assumptions and methods used to measure pension liability and expense for financial accounting purposes are appropriate in the circumstances.

Use of a Specialist

We agree with the findings of specialists in evaluating the net pension and net other post-employment benefit liabilities and have adequately considered the qualifications of the specialist in determining the amounts and disclosures used in the financial statements and underlying accounting records. We did not give or cause any instructions to be given to specialists with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise

aware of any matters that have had an impact on the independence or objectivity of the specialists.

Pension and Postretirement Benefits

An actuary has been used to measure pension liabilities and costs. We believe that the actuarial assumptions and methods used to measure pension and other postemployment benefit liabilities and costs for financial accounting purposes are appropriate in the circumstances.



Mario Iglesias
General Manager

NOVEMBER 28, 2018

ITEM E-1

ATTACHMENT C



ROGERS, ANDERSON, MALODY & SCOTT, LLP
 CERTIFIED PUBLIC ACCOUNTANTS, SINCE 1948

735 E. Carnegie Dr. Suite 100
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**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
 ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF
 FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH
 GOVERNMENT AUDITING STANDARDS**

INDEPENDENT AUDITOR'S REPORT

GOVERNMENT
 Board of Directors
 Nipomo Community Services District
 1000 W. Highway 101
 Nipomo, California 93420
 Phone: (805) 325-1234
 Fax: (805) 325-1234

Board of Directors
 Nipomo Community Services District
 Nipomo, California

MANAGEMENT
 Board of Directors
 Nipomo Community Services District
 1000 W. Highway 101
 Nipomo, California 93420
 Phone: (805) 325-1234
 Fax: (805) 325-1234

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the business-type activities of Nipomo Community Services District as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise Nipomo Community Services District's basic financial statements, and have issued our report thereon dated November 14, 2018.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered Nipomo Community Services District's (District) internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.



REGISTRATION
 State of California
 Certified Public Accountants
 No. 12345
 State of California
 Certified Public Accountants
 No. 12345

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Nipomo Community Services District's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Rogers, Anderson, Malochy & Scott, LLP.

San Bernardino, California
November 14, 2018

TO: BOARD OF DIRECTORS
FROM: MARIO IGLESIAS
GENERAL MANAGER
DATE: NOVEMBER 21, 2018

**AGENDA ITEM
E-2
NOVEMBER 28, 2018**

SCHEDULE PUBLIC HEARING FOR BLACKLAKE SEWER RATES AND AUTHORIZE PROP 218 NOTICE OF RATE HEARING

ITEM

Consider scheduling the required public hearing for the Blacklake sewer rate adjustment and authorize the Prop 218 notice alerting the community of the Public Hearing [RECOMMEND BY MOTION AND ROLL CALL VOTE SET DATE FOR RATE ADOPTION HEARING, AND APPROVE NOTICE OF RATE HEARING]

BACKGROUND

On November 14, 2018, your Board received and approved the final draft of the Blacklake Sewer Rate Study Report ("Report") completed by Alison Lechowicz from L&T, the District's rate consultant. At that same meeting, your Honorable Board directed staff to prepare a public notice that meets Prop 218 notification requirements and to recommend a Public Hearing date for the Blacklake rate adjustment recommendations as presented in the Report.

Public Hearing for Rate Adoption

With approval of the Report by your Board, the next step in the process is scheduling a Public Hearing to take public comment. After taking public comment, Board discussion and due consideration of the matter, your Board will adopt rates accordingly. A Public Notice must be sent to all owners of record and customers of record providing the community with date, time, location, and other required information about the Public Hearing. After a 45-day notice period, a rate hearing will be held to consider adoption of the new sewer rates. The rate hearing is scheduled for 9:00 AM on Wednesday, January 23, 2019 at your Board's regularly scheduled Board Meeting. A draft Notice is attached to this staff report and has been reviewed by District Counsel.

FISCAL IMPACT

Funding for the Report was included in the Fiscal Year 2018-19 Budget. The Report provides the rationale for increasing sewer rates for the Blacklake Enterprise. The fiscal impact to the Blacklake Sewer Fund with the passage of a sewer rate increase will be positive. Failure to increase financial support for the Blacklake Enterprise with the recommended rate increase as presented in the Report will have a negative effect on the financial position of the enterprise.

STRATEGIC PLAN

Goal 2. FACILITIES THAT ARE RELIABLE, ENVIRONMENTALLY SENSIBLE AND EFFICIENT. Plan, provide for and maintain District facilities and other physical assets to achieve reliable, environmentally sensible, and efficient District operations.

A.2 Develop a pathway to complete needed upgrades and replacements for the Blacklake wastewater treatment plant.

B.1 NCS D shall maintain long-range infrastructure management, upgrade and replacement planning.

B.2 Manage both collection systems with the objective of zero spills and zero permit violations from all regulatory oversight agencies and to ensure the long-term preservation of assets.

B.3 Manage both treatment facilities with the objective of zero permit violations from all regulatory oversight agencies and to ensure the long-term preservation of assets.

Goal 4. FINANCE. Maintain conservative, long-term financial management to minimize rate impacts on customers while meeting program financial needs.

B.1 Evaluate, plan for and maintain finances that are adequate for all needs, stable, and reliable over the long-term.

B.5 Maintain adequate rates to fund future capital replacements.

Goal 5. OPERATIONS. Maintain a proactive program to ensure readiness of systems and cost-effectiveness of operations.

B.1 Continue to improve maintenance management programs for both water and wastewater systems to ensure quality and reliability of services, to maintain warranties, and protect investment in new facilities (maintenance management).

RECOMMENDATION

It is recommended that your Board, by motion and roll call vote, approve the Prop 218 Rate Notice and direct staff to set 9:00 AM Wednesday, January 23, 2019, your Board's regularly scheduled Board meeting, as the date and time for the Blacklake Sewer Rate Public Hearing.

ATTACHMENTS

A. Draft Rate Hearing Notice

NOVEMBER 28, 2018

ITEM E-2

ATTACHMENT A



Nipomo Community Services District

NOTICE OF PUBLIC HEARING - BLACKLAKE SEWER RATE INCREASE

This is a notice to explain proposed increases in sewer rates affecting the community of Blacklake served by the Nipomo Community Services District (“NCS D” or the “District”) and the majority protest procedures. The proposed rate increases will be recommended for adoption by NCS D’s Board of Directors at the Public Hearing described in this Notice. See the back page of this Notice for Public Hearing date.

Dear Owners of Record and Customers of Record,

You are receiving this notice because the Nipomo Community Services District (NCS D) is considering a sewer (wastewater) rate increase for customers in the District’s Blacklake sewer service area. NCS D operates and manages the Blacklake sewer system (“Sewer System”) on behalf of the Blacklake community. NCS D has two wastewater service areas – the Town wastewater service area and the Blacklake wastewater service area. The two areas are distinct, are not interconnected, and have separate wastewater rates. The information in this notice only applies to Blacklake customers.

NCS D depends upon sewer user fees to fund operating and maintenance costs and to pay for rehabilitating and replacing equipment such as pipes, pumps, and treatment ponds that make up the Sewer System. The District is fully committed to serving existing and future generations of residents in the most efficient manner possible, while protecting both public health and the environment. The last rate increase for customers of the Sewer System was in 2013.

Why must sewer rates increase?

The Blacklake wastewater system is financially supported by the rates and charges paid by the customers who use this system to treat their wastewater. The Sewer System does not receive any additional outside revenue from NCS D, the state of California, or general taxes to operate. A rate increase is needed to:

- 1) make needed repairs and replace aging pipes, pumps, and treatment ponds,
- 2) keep pace with increases with the costs of operations and maintenance, and
- 3) build and maintain reasonable operating and emergency reserves.

Failure to increase funding to meet the financial needs expressed above exposes the Blacklake community to costly, unscheduled emergency repairs. Events such as a lift station collapse, sewer pipeline leaks and blockages, and sewage spills can result in penalties and fines imposed by the State Water Quality Control Board.

With help of a utility rate consultant approved by the Blacklake\NCS D Oversight Committee (“Committee”), NCS D developed a financial plan for the next five years. Inflation costs have not been accounted for since 2013. Going forward, Operating costs (electricity, chemicals, repairs, staffing and regulatory compliance) are expected to increase by 3% per year due to inflation. The predominant reason for the rate increase is to pay to repair and replace aging sewer pipes, lift station-pumps, and treatment ponds.

In 2017, with help from the Committee, NCS D completed an engineering master plan for the Sewer System. The master plan identified costs for;

- 1) near-term repairs necessary to keep the Sewer System operating,
- 2) longer-term projects to retrofit the Blacklake wastewater treatment plant to make it more efficient, and
- 3) an option to regionalize (hook-up) the Blacklake sewer system with the Town sewer system.

PLEASE CONTACT US IF YOU HAVE QUESTIONS OR COMMENTS ABOUT THE PROPOSED RATE INCREASE

(805) 929-1133 | info@ncsd.ca.gov | P.O. Box 326, Nipomo, CA 93444

The proposed financial plan and rate study include only the near-term repairs necessary to keep the Blacklake wastewater system operating. The cost of these repairs over the next five years is \$3.5 million and will be funded by a combination of existing cash reserves, new debt, and rate increases. Longer-term capital costs for the continued use of the Blacklake treatment plant will be reviewed in future rate studies. The regionalization option will be presented to the community in a separate presentation once estimated costs and construction schedules are established.

Current Sewer Rates

The Blacklake sewer rates consist of bi-monthly (2 months) charges for single family residential, multi-family (condominium) residential, and commercial customers. Single family and multi family customers pay fixed charges. Commercial customers pay fixed charges based on the size of the water meter plus volume rates based on metered water use. The commercial volume rate schedule consists of low, medium, and high wastewater pollutant strength rates that are billed on a \$ per hundred cubic foot (HCF) basis. One HCF is 748 gallons. Higher strength wastewater discharge is billed at a higher rate because it costs more to treat.

THE PROPOSED BLACKLAKE SEWER RATES

Proposed Bi-Monthly Sewer Rates

Customer Class	Current	April 1, 2019	PROPOSED			
			April 1, 2020	April 1, 2021	April 1, 2022	April 1, 2023
Bi-Monthly Residential Service Charges						
Single Family	\$145.51	\$169.76	\$197.77	\$230.40	\$268.42	\$295.26
Multi Family (Condo) (per dwelling unit)	\$95.08	\$109.08	\$127.07	\$148.04	\$172.47	\$189.72
Non-Residential –Commercial Accounts— Service Charges						
Fixed Meter Charges						
Up to 1"	\$65.52	\$88.35	\$102.93	\$119.91	\$139.70	\$153.67
1.5"	\$186.50	\$233.45	\$271.97	\$316.85	\$369.13	\$406.04
2"	\$295.38	\$364.04	\$424.11	\$494.09	\$575.61	\$633.17
3"	\$549.43	\$668.75	\$779.09	\$907.64	\$1,057.40	\$1,163.14
4"	\$912.36	\$1,104.05	\$1,286.22	\$1,498.45	\$1,745.69	\$1,920.26
6"	\$1,819.68	\$2,192.30	\$2,554.03	\$2,975.44	\$3,466.39	\$3,813.03
8"	\$2,908.48	\$3,498.20	\$4,075.40	\$4,747.84	\$5,531.23	\$6,084.35
Non-Residential —Commercial Accounts— Usage Rates (\$/hundred cubic feet)						
Low Strength	\$3.56	\$3.97	\$4.63	\$5.39	\$6.28	\$6.91
Medium Strength	\$4.80	\$5.28	\$6.15	\$7.16	\$8.34	\$9.17
High Strength	\$7.59	\$8.22	\$9.58	\$11.16	\$13.00	\$14.30
Loan Surcharge	\$8.90	NA	NA	NA	NA	NA

Proposed Sewer Rates

The sewer rate proposal includes a series of rate increases to take effect April 1 of each year for the next five years. If approved, single family and multi family (condominium) customers will continue to pay a fixed bi-monthly fee. Commercial customers will continue to pay a fixed bi-monthly meter charge plus volume rates. The proposed rates reflect the increased cost of repairs and replacement of aging pumps, pipes and treatment ponds, maintaining capacity in the system, and conveying and treating wastewater flow.

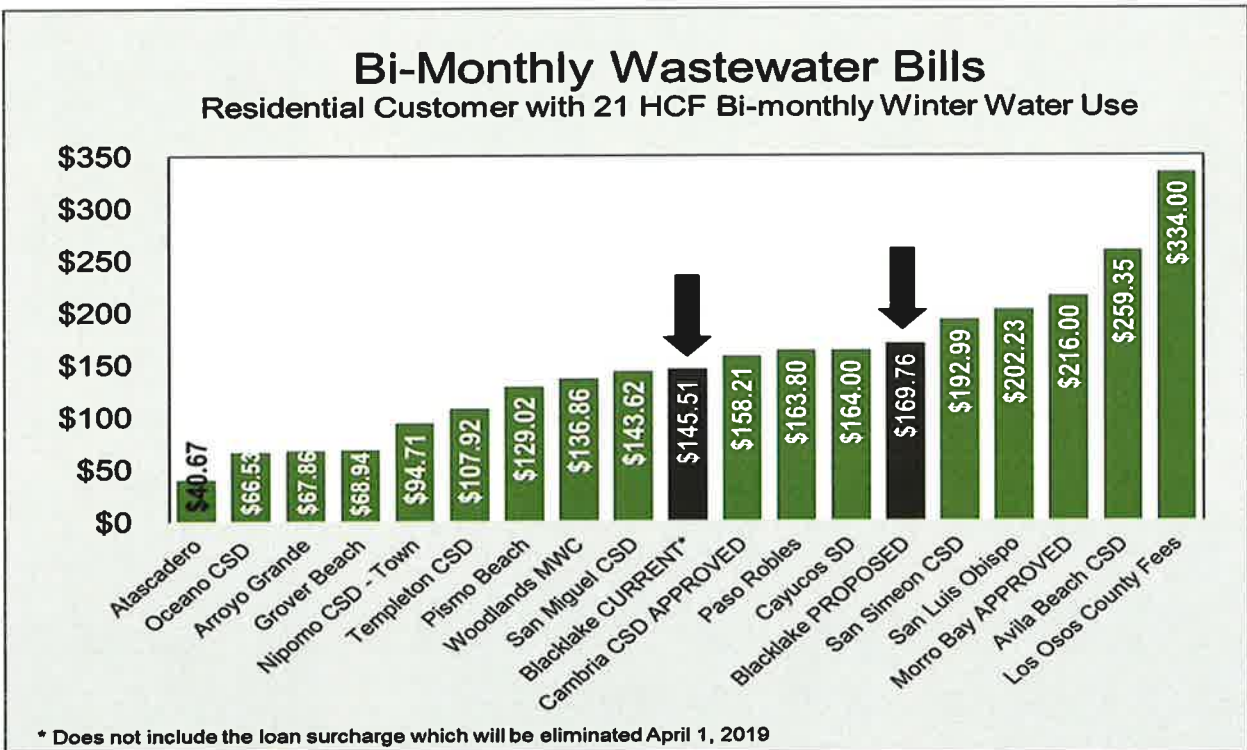
Multi-year approach to setting rates

By taking a multi-year approach to rate-setting, the District can better prepare for the future and avoid significant unexpected rate increases. For this reason, the District is proposing rate increases for the next five years. It is important to note that if subsequent annual reviews of revenues and expenses show that future rate increases are not needed or can be adopted at lower amounts, the Board of Directors can postpone or adopt a smaller increase. However, the Board cannot implement rate increases beyond those proposed in this notice without an additional Proposition 218 notice to all of its customers.

Regionalization: Hooking up the Blacklake Sewer System to the Town Sewer System

The NCS D, the Committee, and the community have not fully vetted the regionalization option vs. continuing to operate the Blacklake sewer system as a stand-alone system. If regionalization is pursued, it is estimated that it will take at least four to five years to complete a funding plan, design and construct the pipes and pumps necessary to physically connect the two systems, and make the improvements to the Town sewer system necessary to accept Blacklake sewer flows.

SINGLE FAMILY BILL COMPARISON WITH OTHER LOCAL AGENCIES



AVAILABILITY OF STUDIES, REPORTS, AND INFORMATION

Additional information on the proposed sewer rate is available at www.ncsd.ca.gov. The Sewer Rate Study report and the Sewer Master Plan are available for review at the District's administrative offices located at 148 South Wilson Street, Nipomo. In addition, customers may contact the General Manager at (805) 929-1133 for further information about the proposed rates.

NOTICE OF SEWER RATE INCREASE



Nipomo Community Services District
148 S. Wilson St.
PO Box 326
Nipomo, CA 93444
(805) 929-1133
www.ncsd.ca.gov

Presorted
First Class Mail
U.S. Postage
PAID
Pismo Beach, CA
Permit #106

GENERAL MANAGER

Mario Iglesias

APN "APN Number"

Customer Name

Address

HOW TO PROTEST

The following persons may submit a written protest against the Proposed Sewer Rate Increase to the District's Clerk before the close of the Public Hearing.

- An owner(s) of property (parcel(s)) ("owner of record") receiving sewer service from the NCSD Blacklake Sewer System. If the person(s) signing the protest, as an owner, is not shown on the last equalized assessment roll as the owner of the parcel(s) then the protest must contain or be accompanied by written evidence that such person signing the protest is the owner of the parcel(s) receiving sewer service;
- "Customer of record" (Tenant(s)) whose name appears on the District records as the customer of record for the corresponding parcel receiving sewer service from the NCSD.

A valid written protest must include:

1. A statement that it is a protest against the proposed sewer rate increase;
2. The name of the owner of record or customer of record;
3. The identity of the affected parcel by assessor's parcel number or service address;
4. An original signature (not photocopy, email, or fax copy) of the owner of record or customer of record of the identified parcel; **AND**
5. The date the written protest is signed.

One written protest per parcel shall be counted in calculating a majority protest. Written protests will not be accepted by email or by facsimile. Verbal protests will not be counted in determining the existence of a majority protest.

Written protests regarding the sewer rate increase may be personally delivered to the NCSD Office located at 148 South Wilson Street, Nipomo during regular office hours (8a.m. - 4:30 p.m. Monday - Friday, excluding holidays), placed in the drop-box located in the parking lot of the NCSD Office, or mailed to:

Nipomo Community Services District

Attn: District Clerk

148 South Wilson Street, Nipomo, CA 93444 or P.O. Box 326, Nipomo, CA 93444-0326

To be counted, the written protest, including those mailed to the District, must be received by the close of the Public Hearing on January 23, 2019. No postmarks will be accepted; therefore, any written protest not actually received by the close of the Public Hearing, whether or not mailed prior to the Public Hearing, will not be counted.

A representative may sign the written protest on behalf of an owner of record or a customer of record provided the representative attaches to the written protest, written documentation/authorization, with original signature, to act in such capacity.

If valid written protests are presented by a majority of owners of record and/or customers of record of parcels receiving sewer service within the NCSD's Blacklake Sewer System, then the NCSD will not adjust/increase the sewer rates.

PUBLIC HEARING

A Public Hearing for the Proposed Sewer Rate Increase will be held on:

January 23, 2019 at 9 AM

**Jon S. Seitz Board Room
Nipomo CSD
148 South Wilson Street,
Nipomo**

At the public hearing the Nipomo Community Services District Board of Directors will consider all public comment in support and in opposition of the Sewer Rate Increase and whether or not a Majority Protest exists. If approved, the Sewer Rate Increase would become effective April 1, 2019.

TO: BOARD OF DIRECTORS

FROM: MARIO E. IGLESIAS
GENERAL MANAGER



**AGENDA ITEM
E-3
NOVEMBER 28, 2018**

DATE: NOVEMBER 19, 2018

**CONSIDER RESOLUTION APPROVING SECOND AMENDMENT
TO A MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF SAN LUIS OBISPO AND
NIPOMO COMMUNITY SERVICES DISTRICT REGARDING THE
TRANSFER OF OWNERSHIP IN COUNTY-OWNED REAL PROPERTY**

ITEM

Consider resolution adopting Second Amendment to a Memorandum of Understanding between the County of San Luis Obispo and Nipomo Community Services District regarding the transfer of ownership in County-owned real property [RECOMMEND ADOPT RESOLUTION].

BACKGROUND

The County is requesting the District extend the period of the Memorandum of Understanding regarding County-owned real property ("MOU") between the County and the District from December 31, 2018 to December 31, 2019. The County is working with the Olde Towne Nipomo Association ("OTNA") to complete the development of County-owned real property referenced as Jim O. Miller Park ("Park").

The District is a party to the MOU only to the extent that the District is recognized in the MOU and the First Amendment of the MOU as an organization able to transfer its responsibility of the Park to OTNA as granted by the County. Adopting a resolution as proposed, the Second Amendment to the MOU, will provide the County and OTNA the opportunity to work under the existing agreement, draft their own memorandum of understanding, and write the District out of the MOU in the most efficient manner.

On March 24, 2009, the San Luis Obispo County Board of Supervisors ("County") unanimously adopted and put forward for Nipomo Community Services District ("District") consideration, a Memorandum of Understanding ("MOU") regarding the transfer of ownership in County-owned real property. Included in the MOU along with quitclaim of an unused well easement and the addition of an easement for the District's sewer lift station, was the transfer of ownership from the County to the District of a parcel referenced as the Jim O. Miller Park ("Park").

Prior to March 24, at your Board's January 28, 2009 Board Meeting, your Board authorized the execution of the MOU. There were sufficient negotiations conducted prior to presentation for your Board to accept the agreement and send it to the County Board of Supervisors for their approval.

Your Board considered OTNA's request for water and sewer service to the proposed Park on June 12 and June 26, 2013. Your Board directed staff to continue the item pending clarification of OTNA's role in park development and the County recognition and agreement with OTNA's involvement.

The County has issued a Use Permit to OTNA that formalizes the Association's role as a facilitator in the project working with the County and the District to further the vision, planning, funding, and ultimate development of Jim O. Miller Park. The Use Permit is an Exhibit to a proposed Amendment of the District and County Memorandum of Understanding (MOU) regarding development of the proposed park. The MOU Amendment reflects the current project plan including the change in the location for the proposed park to APN 090-142-007, located on the southeast corner of West Tefft Street and Carrillo Street, as well as the involvement of OTNA in the planning and advancement of the park vision.

At the October 9, 2013 Regular Board Meeting, your Board approved the First Amendment to the MOU. The County Board of Supervisors reviewed and approved the First Amendment of the MOU at their November 5, 2013 Board Meeting.

FISCAL IMPACT

Minor budgeted staff time to prepare these materials.

STRATEGIC PLAN

Goal 8. ADDITIONAL COMMUNITY SERVICES. Staff should focus on meeting the goals and objectives of existing services. Adding new services will be considered on a case-by-case basis and entered into only if funding can be found and existing services are not harmed.

8.b. Ongoing activities

B.1 PARK. Remain engaged in community planning at the Board level and communicate District's commitment to follow through with pending acquisition when/if availability of funding source is secured.

RECOMMENDATION

It is recommended that your Board by motion and roll-call vote, adopt a resolution to approve the Second Amendment to the Memorandum of Understanding between the County of San Luis Obispo and the Nipomo Community Services District regarding the transfer of ownership in County-owned real property executed on January 28, 2009.

ATTACHMENTS

- A. Memorandum of Understanding: County and Nipomo CSD
- B. First Amendment to Memorandum of Understanding
- C. Second Amendment to Memorandum of Understanding
- D. Resolution Adopting Second Amendment of Memorandum of Understanding

NOVEMBER 28, 2018

ITEM E-3

ATTACHMENT A

BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, March 24, 2009

PRESENT: Supervisors Frank Mecham, Adam Hill, K.H. 'Katcho' Achadjian, James R. Patterson and Chairperson Bruce S. Gibson

ABSENT: None

In the matter of the Consent Agenda:

This is the time set for consideration of the Consent Agenda.

Thereafter, on motion of Supervisor James R. Patterson, seconded by Supervisor K.H. 'Katcho' Achadjian, and on the following roll call vote:

AYES: Supervisors James R. Patterson, K.H. 'Katcho' Achadjian, Frank Mecham, Adam Hill, Chairperson Bruce S. Gibson

NOES: None

ABSENT: None

ABSTAIN: None

Consent Agenda Item A-10 is amended by adding Pages A10-7 through A10-39 (previously numbered A22-9 through A22-41) to the staff report. Item A-22 is amended by removing Pages A22-9 through A22-41 from the staff report. Item A-23 is added to the Consent Agenda. Consent Agenda Items A-1 through A-23 are approved as recommended by the County Administrative Officer and as amended by this Board. Further, Consent Agenda Items A-1 through A-23, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

File
3/24/09 cmc

RECEIVED
APR 03 2009
NIPOMO COMMUNITY
SERVICES DISTRICT

STATE OF CALIFORNIA)
) **ss.**
County of San Luis Obispo)

I, **JULIE L. RODEWALD**, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 24th day of March, 2009.

(SEAL) **JULIE L. RODEWALD**
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By: Sandy Curren Deputy Clerk

2 AC-1

3/24/2009

A-11

MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF SAN LUIS OBISPO AND
THE NIPOMO COMMUNITY SERVICES DISTRICT
REGARDING THE TRANSFER OF OWNERSHIP IN
COUNTY-OWNED REAL PROPERTY

This Memorandum of Understanding (“MOU”) is entered by and between the County of San Luis Obispo (hereinafter “County”) and the Nipomo Community Services District (hereinafter “District”) with reference to the following Recitals:

RECITALS

- A. The District is a Community Services District formed and operated pursuant to California Government Code, Sections 61000 et seq. Pursuant to said code, the District is authorized to acquire, construct, improve, maintain, and operate recreational facilities, including, but not limited to, parks and open space; and
- B. The District is considering the activation of Park Powers pursuant to the Cortese-Knox-Hertzberg Act and the rules and regulations of the Local Agency Formation Commission (hereinafter “LAFCO”); and
- C. The County is the owner of certain real property consisting of approximately one (1) acre located at the northeast corner of West Tefft and Carrillo Street (APN 090-141-006) along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (a portion of APN 090-151-008), hereinafter referred to as “Property”, as depicted in Exhibit “A”; and
- D. The District has requested the County to transfer ownership of the Property to the District, without compensation, for the purpose of constructing and operating a park; and
- E. The District has a 75’ by 75’ easement for water well purposes on County land across the street from said Property on APN 090-142-007, recorded on May 29, 1984 as Document No. 27332; and
- F. The District has not developed this site for water well purposes and no longer requires the easement; and
- G. The District requires an easement for a sewer lift station and sewer lines installed in the early 1980’s on County-owned land, APN 090-142-007; and
- H. District requests a grant of easement from County for the sewer lift station and sewer lines and offers, in lieu of monetary compensation, to quitclaim the 75’ x 75’ water well easement currently held by District, described in Paragraph E above; and

- I. Pursuant to Government Code, Section 56824.14, in order to maintain a public park, the District's exercise of Park Powers must be approved by LAFCO; and
- J. Pursuant to Government Code, Section 25365, the Board of Supervisors may, upon determination that said Property is not required for County use and with a four-fifths vote of the Board, transfer fee title of said Property to District; and
- K. It is the purpose of this MOU to identify the responsibilities of the parties in developing the Property for use as a park and the transfer of the property to the District as well as the trading of easements.
- L. County wishes to cooperate with District's request to transfer the property to the District in order to provide a park to the community of Nipomo.

NOW, THEREFORE, the parties agree as follows:

- 1. County hereby determines that subject Property is not required for County use.
- 2. In lieu of monetary compensation and in consideration of District's offer to construct and maintain a public park on the Property, County intends to transfer ownership of the Property to District free of charge following completion of the steps outlined below. Nothing contained in this MOU shall be interpreted to predetermine the transfer of the property or to restrict County's full review and implementation of environmental review related to the transfer of this Property pursuant to CEQA. Said transfer shall require a future public hearing before the Board of Supervisors pursuant to Government Code Section 25365 after the environmental determination and General Plan Conformity Report are completed.
- 3. District will develop a plan identifying park features and improvements for approval by County Planning and Building Department.
- 4. District will provide County an analysis of the costs and the funding sources for construction of park improvements and for ongoing operation and maintenance. If such funding shall require the formation of an assessment district, transfer of ownership of the Property shall not occur prior to approval of the assessment district by the affected property owners.
- 5. Transfer of the property shall not occur prior to LAFCO activation of the District's Park Powers.
- 6. If required, District shall apply for a public lot split with County Planning and Building Department and provide all documentation necessary to obtain approval of the County Subdivision Review Board prior to recordation of the Quitclaim Deed. District shall provide, at District's expense, a legal description of the property to be transferred, which shall be an original exhibit to the Quitclaim

Deed. District agrees to submit a Voluntary Merger or Certificate of Compliance Application and processing fees, if required, to County Planning and Building Department.

7. County shall process a General Plan Conformity Report and Environmental Determination for the transfer of the Property. Transfer of the property shall not occur prior to filing of the General Plan Conformity Report and Environmental Determination with the County Planning Commission or, if appealed, approval by the County Board of Supervisors.
8. The Property shall be improved in substantial conformity to development plans as submitted to County and shall be open to the public within three years following date of recordation of the Quitclaim Deed.
9. The Property must be used for public park purposes. The property may not be used to provide a parking in-lieu program for nearby commercial development.
10. The Quitclaim Deed shall contain a reversionary clause giving County the right to require the Property to be transferred back from District to the County if the requirements of paragraphs 7 and 8 are not fulfilled.
11. District shall, at District's sole cost and expense, prepare an Easement Deed with original stamped legal description attached describing easement to be granted by County to District for sewer lift station area and sewer lines.
12. District shall, at District's sole cost and expense, provide an Environmental Determination for said sewer lift station and sewer line easement for review and approval by County Environmental Coordinator. Said Environmental Determination must be reviewed by the County Board of Supervisors prior to granting of the easement.
13. District shall, at District's sole cost and expense, prepare an Easement Quitclaim Deed to release the 75' x 75' water well easement on APN 090-142-007, recorded on May 29, 1984 as Document No. 27332.
14. Easement Quitclaim Deed for water well shall be signed by District in a timely manner and delivered to County along with a signed Certificate of Acceptance for the Easement Deed for sewer lift station and sewer lines. This action shall proceed independently of actions related to transfer of Property for park purposes. County staff shall present the Easement Quitclaim Deed to the County Board of Supervisors concurrently with the Easement Deed for sewer lift station and sewer lines in District's name. Subject to approval by the County Board of Supervisors, both documents shall be recorded concurrently. In the event that County Board of Supervisors does not approve the Easement Deed, Easement Quitclaim deed shall be returned by County to District

15. District does not object to County's intention to develop their vacant land across the street from the Property (APN 090-142-007 and adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way, portion of APN 090-151-008) for future County facilities, so long as said development is consistent with the County's existing General Plan, General Plan policies, and zoning regulations.
16. Good Faith and Fair Dealing: Where the terms of this Agreement provide for action to be based upon opinion, judgment, approval, review or determination of either party hereto, such terms are not intended to and shall never be construed to permit such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable. The County and the District shall each act in good faith in performing their respective obligations as set forth in this Agreement.

/////////////////////////////////NOTHING FURTHER PAST THIS POINT EXCEPT SIGNATURES/////////////////////////////////

COUNTY OF SAN LUIS OBISPO:

By: *Russell S. Gish*
 Chairman of the Board of Supervisors

Approved by the Board of Supervisors this
24~~th~~ day of MARCH, 2009.

ATTEST:
JULIE L. RODEWALD

Clerk of the Board of Supervisors

By: *Jandy Currens*
 Deputy Clerk

**APPROVED AS TO FORM AND
 LEGAL EFFECT:**

WARREN R. JENSEN
 County Counsel

By: *Warren R. Jensen*
 Assistant County Counsel

Date: 1/13/09

**NIPOMO COMMUNITY SERVICES
 DISTRICT:**

By: *Jim Harrison*
 Jim Harrison, President

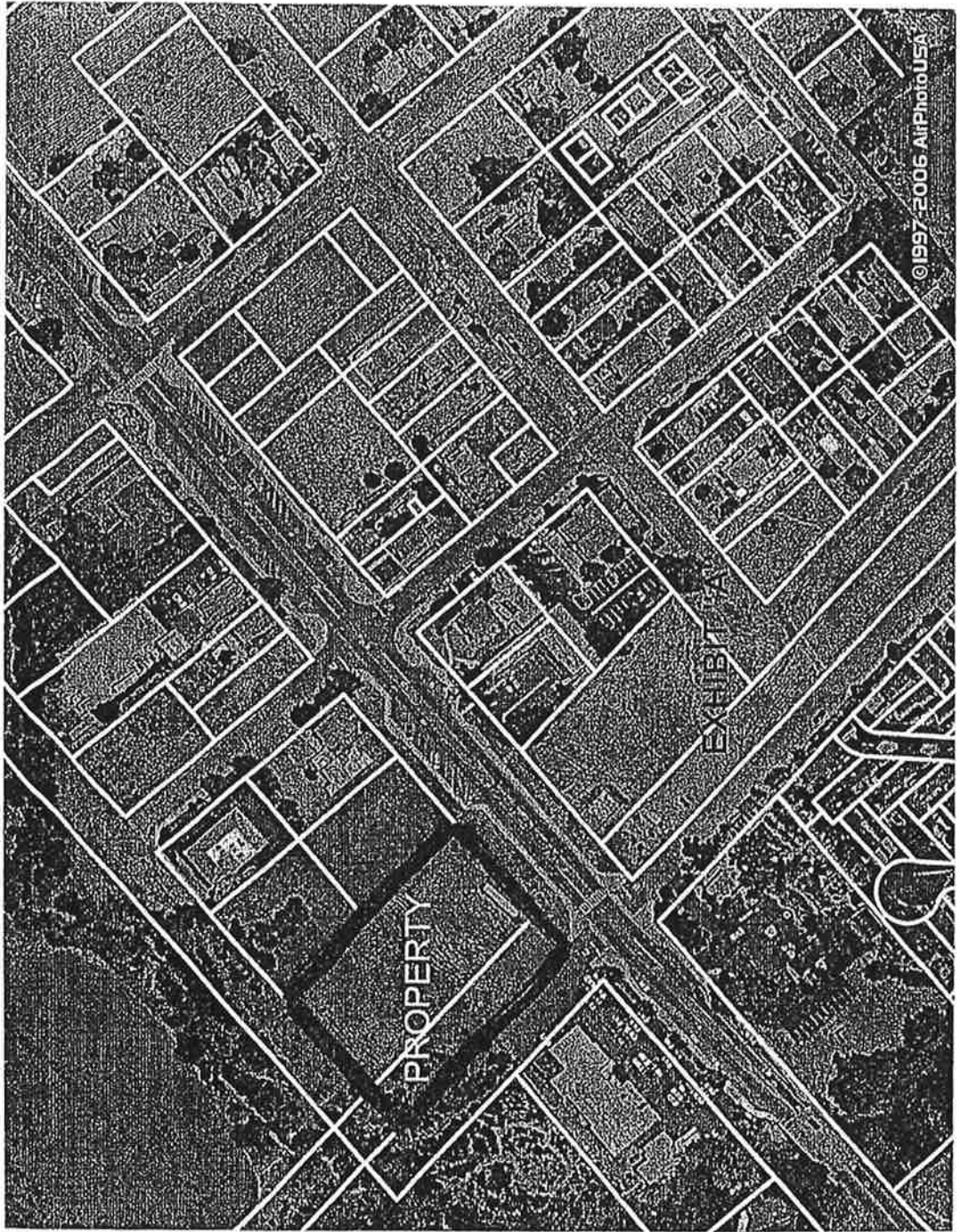
Dated: _____

ATTEST:
[Signature]
 District Secretary

**APPROVED AS TO FORM AND
 LEGAL EFFECT:**

[Signature]
 Jon S. Seitz, District Legal Counsel
 Nipomo Community Services District

Dated: 1-20-09



A11-11
3-24-2009

NOVEMBER 28, 2018

ITEM E-3

ATTACHMENT B

**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF SAN LUIS OBISPO AND
THE NIPOMO COMMUNITY SERVICES DISTRICT
REGARDING THE TRANSFER OF OWNERSHIP IN
COUNTY-OWNED REAL PROPERTY**

WHEREAS, the County of San Luis Obispo, hereinafter referred to as “County” and the Nipomo Community Services District, hereinafter referred to as “District” have entered into a Memorandum of Understanding dated March 24, 2009, hereinafter referred to as “MOU”; and

WHEREAS, the “Property” described in the MOU consists of approximately one (1) acre of vacant land located at the northeast corner of West Tefft and Carrillo Street, APN 090-141-006 along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (portion of APN 090-151-008), hereinafter referred to as “Original Site”; and

WHEREAS, testing of soils for contamination on the Original Site showed evidence of hydrocarbon and heavy metals contamination that would require significant remediation to allow development of this site for a proposed park; and

WHEREAS, County also owns certain real property consisting of approximately one (1) acre located on the southeast corner of West Tefft and Carrillo Streets, APN 090-142-007 along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (portion of APN 090-151-008), hereinafter referred to as “New Site”; and

WHEREAS, results of soils sampling performed on the New Site do not indicate contamination at actionable levels; and

WHEREAS, the District did conduct a Prop 218 election under the original MOU and the 218 vote failed; and

WHEREAS, the District no longer has the funding sources that were identified at the time of the Prop 218 vote to fund the District’s obligations under the MOU; and

WHEREAS, the District has not and cannot apply to LAFCO for activation of Parks powers until a funding plan is in place; and

WHEREAS, the District cannot guarantee at this time that funding sources can be developed to fund this project; and

WHEREAS, County and District agree that the substitution of the proposed park site from the Original Site to the New Site increases the feasibility of a park being constructed for the community of Nipomo; and

WHEREAS, the Olde Towne Nipomo Association (“OTNA”), is a 501(c)-3 nonprofit corporation, working with the District and the County to advance the park plan; and

WHEREAS, sections 11, 12, 13, and 14 of the MOU have been accomplished;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree that the MOU is hereby amended as follows:

1. Recital C is deleted in full and replaced with the following:

“ The County is the owner of certain real property consisting of approximately (1) acre located at the southeast corner of West Tefft and Carrillo Streets (APN 090-142-007) along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (portion of APN 090-151-008), hereinafter referred to as “Property”, as depicted in Exhibit ‘A-1.’”

2. Paragraph 3 is amended to add the following sentence at the end of the paragraph:

“The County and District contemplate that the OTNA will develop plans for park improvements on the Property including but not limited to obtaining approval of an Intent to Serve letter for water and sewer service from the District and a Minor Use Permit from the County Planning and Building Department. County hereby authorizes the District to accept, process and issue in the name of Olde Towne Nipomo Association an Intent to Serve letter for water and sewer service to the Property. District shall approve the design of the park improvements prior to submittal for a Minor Use Permit. Said approval shall not obligate County or District to the payment of fees related to said submittal.”

3. Paragraph 10 is amended to add the following sentence at the end of the paragraph:

“The Quitclaim Deed will also reserve to the County an easement along the westerly portion of the Property for a sidewalk and drainage easement to be built by County to serve a future park-and-ride lot that will be constructed in the Carrillo Street right-of-way.”

4. Paragraph 15 is amended by replacing “APN 090-142-007” with “APN 090-141-006.”

5. New Paragraph 17 is added, as follows:

“District does not object to County’s issuance of the attached Use Permit to the Olde Towne Nipomo Association, in the form attached as Exhibit “B,” and agrees that the issuance of said permit is for the purpose of advancing the park plan for the Property until such time ownership of the Property is transferred to the District or the MOU is terminated.”

6. New Paragraph 18 is added, as follows:

“In the event the Property has not been transferred from the County to the District on or before December 31, 2018, this MOU shall be null and void unless extended by mutual written consent of the parties.”

All other provisions of the MOU shall continue in full force and effect.

//////////////////NOTHING FURTHER PAST THIS POINT EXCEPT SIGNATURES//////////////////

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 9th day of October, 2013.

COUNTY OF SAN LUIS OBISPO

By: Bruce S. Gibson

Acting Chairperson of the Board of Supervisors

APPROVED BY THE BOARD OF SUPERVISORS

THIS 5th day of November, 2013.

ATTEST:

JULIE L. RODEWALD

Clerk of the Board of Supervisors

By: ~~Sandy Currens~~
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: [Signature]
Chief Deputy County Counsel

Date: 10/21/13

DISTRICT: Nipomo Community Services District

By: Jim Harrison
Jim Harrison, President

Dated: 10/14/13

ATTEST:

Michael S. LeBrun
Michael S. LeBrun,
District General Manager and Secretary

APPROVED AS TO FORM AND LEGAL EFFECT:

Michael W. Seitz
Michael W. Seitz, District Legal Counsel
Nipomo Community Services District

Dated: 10/16/13

EXHIBIT "A-1"

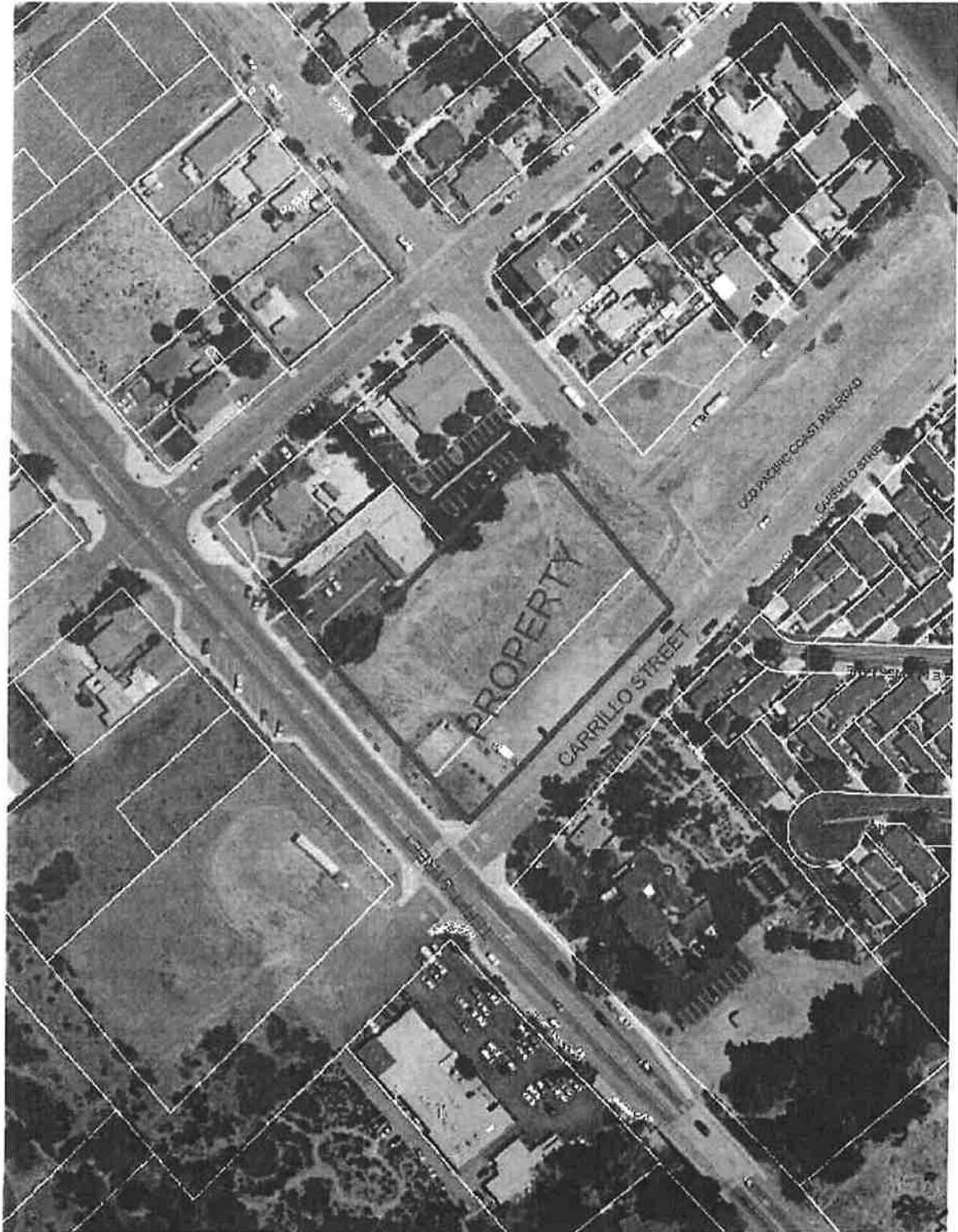


EXHIBIT "B"
SAN LUIS OBISPO COUNTY
USE PERMIT
U0067

THIS PERMIT, is made and entered into by and between the County of San Luis Obispo, a public entity in the State of California (hereinafter "County") and the Olde Towne Nipomo Association, a 501 (c)-3 nonprofit corporation, (hereinafter "Permittee"). County and Permittee hereby agree as follows:

1. **Premises:** County hereby gives permission to Permittee to access and use County-owned property located at the southeast intersection of Tefft Street and Carrillo Street in Nipomo, CA, APN 090-142-007 along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (portion of APN 090-151-008), hereinafter referred to as "Premises" and shown on Exhibit "A".

2. **Use:** Permittee is hereby authorized and granted the non-exclusive access and use of the Premises for the purpose of processing improvement plans and to promote funding for a park to be owned and operated in the future by the Nipomo Community Services District ("NCS D"). Approved uses include installation of a sign promoting the development of the park and special events sponsored by Permittee on the Premises, provided that prior approval for such events is obtained in writing from the County Real Property Manager and from the County Planning and Building Department, if necessary. Permittee may make improvements to the Premises provided that they are consistent with Paragraph 8. Permittee may not use the Premises for any other purpose. In the event that another party desires to use the Premises for any purpose, County shall first obtain Permittee's approval in writing and then may issue a County Use Permit.

Permittee acknowledges that the Premises are intended to be transferred to the NCS D in the future and that County and the NCS D have entered into a Memorandum of Understanding, dated 3/24/2009 and in the process of being amended, which defines the steps leading to the transfer of the Premises to the NCS D.

Permittee acknowledges that the sewer lift station on the Premises belongs to the NCS D and Permittee's use of the Premises shall not interfere with the NCS D's access to and use of their sewer lift station.

Permittee acknowledges that the County will be constructing a park-n-ride lot in the Carrillo Street right-of-way along the westerly property line of the Premises and that the project includes a proposed sidewalk and drainage area that will be placed within the westerly 20-foot wide portion of Premises, with an approximate location as shown in Exhibit "B". Permittee shall allow the sidewalk and drainage area to be constructed and maintained on the Premises and Permittee's use of the Premises shall not interfere with the public's access and use of the sidewalk or with the function and of the drainage improvements.

Permittee acknowledges that the County may continue to use the Premises to sponsor Nipomo Clean-Up Day and to park County Public Works vehicles and equipment in the event of emergencies.

3. **Term:** The term of this Permit shall be for one (1) year from the effective date of the First Amendment to Memorandum of Understanding Between the County of San Luis Obispo and the Nipomo Community Services District Regarding Transfer of Ownership in County-Owned Real Property. This term may be extended for two (2) one-year periods upon Permittee's written notice to County and upon County's approval. This Permit may be terminated at any time and for any reason deemed necessary by either party upon 60 days written notice to the other party. This Permit will immediately terminate upon transfer of ownership of the Premises from County to NCS D.

4. **Permit Fee:** County waives the Permit Fee for this Use Permit.

5. **Insurance:** Permittee shall obtain and maintain for the entire term of the Permit and Permittee shall not perform any work under this Permit until after Permittee has obtained insurance complying with the provisions of this paragraph, and delivered a copy of the insurance certificate for each insurance policy to the County. Said policies shall be issued by companies authorized to do business in the State of California. Permittee shall maintain said insurance in force at all times. The following coverage with the following features shall be provided:

a. **Commercial Liability Insurance:** Permittee shall maintain in full force and effect for the period covered by this Permit, commercial liability insurance. This insurance shall include, but shall not be limited to, comprehensive general and automobile liability insurance providing protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to Premises resulting from any act or occurrence arising out of Permittee's operations in the performance of this Permit, including, without limitation, acts involving vehicles. The policy shall provide not less than single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage in the total amount of One Million Dollars (\$1,000,000). The following endorsements must be attached to the policy:

(1) If the insurance policy covers on an "accident" basis, it must be changed to "occurrence".

(2) The policy must cover personal injury as well as bodily injury.

(3) Blanket contractual liability must be afforded and the policy must contain a cross liability or severability of interest endorsement.

b. **Workers' Compensation Insurance:** In accordance with the provisions of sections 3700 et seq., of the California Labor Code, if Permittee has any employees, Permittee is required to be insured against liability for workers' compensation or to undertake self insurance. Permittee agrees to comply with such provisions before commencing the performance of this Permit.

c. **Additional Insureds to be Covered:** The commercial general liability policies shall name the "County of San Luis Obispo, its officers, employees, and agents" as additional insureds. The policy shall provide that the Permittee's insurance will operate as primary insurance and that no other insurance maintained by the County, or additional insureds will be called upon to contribute to a loss hereunder.

d. **Certification of Coverage:** Prior to commencing work under this Permit, Permittee shall furnish County with the following for each insurance policy required to be maintained by this Permit:

(1) A copy of the Certificate of Insurance shall be provided. The certificate of insurance must include a certification that the policy will not be canceled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to the County.

(2) A Workers' Compensation certificate of insurance must be provided.

(3) Upon written request by the County, the Permittee shall provide a complete insurance policy.

(4) Approval of Insurance by County shall not relieve or decrease the extent to which the Permittee may be held responsible for payment of damages resulting from Permittee's services or operations pursuant to this Permit. Further, County's act of acceptance of an insurance policy does not waive or relieve Permittee's obligations to provide the insurance coverage required by the specific written provisions of this Permit.

e. **Effect of Failure or Refusal:** If Permittee fails or refuses to procure or maintain the insurance required by this Permit, or fails or refuses to furnish County with the certifications required by subparagraph (d) above, County shall have the right, at its option, to forthwith terminate the Permit for cause.

6. **Indemnification:** Permittee shall defend, indemnify and hold harmless the County, its officers and employees from any and all claims and demands, costs, expenses, judgments, attorney fees or liabilities that may be asserted by any person or entity that arise out of or in connection with the acts or omissions relating to the performance of any obligation or duty provided for or relating (directly or indirectly) to this Use Permit, the tenancy created under this Use Permit, or the Premises hereunder. The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety, even when such claims or losses arise from the comparative negligence of the County, its officers and employees. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the County, its officers and employees.

The preceding paragraph applies to any theory of recovery relating to said act or omission by the Permittee, or its agents, employees or other independent contractors directly responsible to Permittee, including, but not limited to, the following:

- a. Violation of statute, ordinance, or regulation.
- b. Professional malpractice.
- c. Willful, intentional or other wrongful acts, or failures to act.
- d. Negligence or recklessness.
- e. Furnishing of defective or dangerous products.
- f. Premises liability.
- g. Strict liability.
- h. Inverse Condemnation.
- i. Violation of civil rights.
- j. Violation of any federal or state statute, regulation, or ruling resulting in a determination by the Internal Revenue Service, California Franchise Tax Board or any other California public entity responsible for collecting payroll taxes, when the Permittee is not an independent contractor.

It is the intent of the parties to provide the County the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Permit and the remaining language shall be given full force and effect.

7. **Maintenance:** Permittee hereby agrees and is required to maintain the Premises in good order and repair at all times, including trash collection and annual weed abatement, during the term of this Permit. Upon termination of this Permit, Permittee shall restore the Premises to original condition, reasonable wear and tear excepted.

8. **Design and Construction of Improvements:** Permittee accepts the Premises in an "AS IS" condition, without any representations, express or implied, as to the condition, suitability, usefulness, merchantability, fitness for particular purpose, or otherwise, of the Premises. Permittee shall have the right to construct improvements on the Premises at Permittee's sole cost and expense provided that such improvements are consistent with the park design approved by the NCSO and the County of San Luis Obispo Department of Planning and Building. No facility, sign, except where a sign is exempted from permit requirements by Section

23.04.306(2) of the San Luis Obispo County Code, or improvement of any type shall be constructed or located on the Premises unless and until the design, location, and the type of any and all proposed construction materials have been expressly approved in writing by the General Services Agency Director ("Director") or designee. Each party shall cooperate with the other if field conditions require minor changes to the Development Plan. Permittee shall be responsible for the monitoring of all activity during Permittee's use of the Premises, and shall comply with all such rules and regulations necessary to protect the health, safety, and welfare of the public therein.

In the design and construction of the improvements to the Premises, the following shall apply:

A. Permittee's use of said Premises is subject to all statutes, ordinances and regulations, including, without limitation, those relating to land use and zoning now or hereafter applicable to the Premises, and to all covenants, easements, reservations and restrictions of record applicable to the Premises. Permittee, agent or contractor will be solely responsible for securing all permits, adherence to regulations and dealings with the County of San Luis Obispo Planning and Building Department, or other appropriate agencies, for construction on the Premises.

B. Permittee shall be responsible for installing and maintaining any landscaping and sprinkler systems that Permittee installs on the Premises including, without limitation, spraying, trimming, watering, and replanting trees and shrubs.

C. All utilities to the Premises shall be maintained or improved at Permittee's sole cost and expense.

D. Permittee shall comply with the Americans with Disabilities Act and all applicable laws at Permittee's sole cost and expense. All improvements shall be maintained and repaired by Permittee at Permittee's sole cost and expense.

E. Permittee shall be responsible for obtaining any required environmental determinations for Permittee's improvements from the appropriate agency(s). If an EIR or other environmental review is needed, Permittee shall comply at Permittee's sole cost and expense. Permittee shall be responsible for any and all environmental mitigation at Permittee's sole cost and expense.

F. Permittee shall construct any proposed improvements at Permittee's sole cost and expense. Permittee shall seek and obtain its own legal advice with regard to the possible applicability of State or Federal wage regulations and other labor laws, or other laws.

9. Ownership of Improvements: The ownership of all approved improvements constructed by the Permittee during the term of this Use Permit shall remain in Permittee until expiration of the term of this Use Permit.

At the expiration or earlier termination of this Use Permit, all permanent structures, alterations, modifications, or improvements upon the Premises made by Permittee shall, absent any agreement between the County and Permittee to the contrary, or unless County otherwise elects, which election shall be made by giving a notice in writing not less than ninety (90) days prior to the expiration or other termination of this Use Permit, become County property free and clear of all claims to or against the improvements by Permittee or any third person, and Permittee shall defend and indemnify the County against all liability and loss arising from such claims or from the County's exercise of the rights conferred by this paragraph, and County shall be responsible for the removal of said improvements.

In the event County elects not to take ownership of the permanent improvements, County shall notify Permittee to remove any or all of the permanent structures, alterations, modifications, or improvements, and Permittee shall do so, at Permittee's sole cost and expense, and shall promptly repair any damage caused by such removal in a first class manner. Removal is to be completed no later than three (3) months from the date of said notice or at such further time as County may agree to in writing. In the event Permittee fails to remove any or all of the permanent structures, alterations, modifications, or improvements as required by County, County may remove same and charge Permittee for the cost of such removals and Permittee hereby agrees to pay any and all such costs upon demand.

10. Environmental Materials/Covenants Regarding Hazardous Materials: Permittee shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations ("Hazardous Materials Laws") relating to industrial hygiene, environmental protection, or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, UREA formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances," "hazardous wastes," "hazardous materials" or "TOXIC SUBSTANCES" under such laws, ordinance or regulations (collectively, "Hazardous Materials").

Permittee shall, except in the event of County's sole negligence, indemnify, defend, protect, and hold County, each of County's officers, directors, employees, agents, attorneys, successors and assigns, free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by:

a. The presence in, on, under or about the Premises or discharge in or from the Premises of any Hazardous Materials or Permittee's use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials, to, in, on, under, about or from the Premises; or,

b. Permittee's failure to comply with any Hazardous Materials Law. Permittee's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, cleanup or detoxification or decontamination of the Premises, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith caused by Permittee and shall survive the expiration or earlier termination of the term of the Permit. For purposes of the release and indemnity provisions hereof, any acts or omissions of County, or by employees, agents, assignees, Contractors or Subcontractors of County or others acting for or on behalf of County (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to County.

11. Assignment Prohibition: The rights and privileges granted to Permittee hereunder are not assignable, and any assignment or attempted assignment is void without prior written consent by the Director first had and obtained.

12. Notice: All notices, demands, or communication in connection with this Permit may be served upon County or Permittee by personal service or by mailing the same in the United States Mail, postage prepaid, and directed as follows:

County at: County of San Luis Obispo
General Services Agency
Attn: Real Property Manager
1087 Santa Rosa Street
San Luis Obispo, CA 93408
(805) 781-5200

Permittee at: Olde Towne Nipomo Association
Attn: President
PO Box 1171
Nipomo, CA 93444

13. Compliance: Permittee agrees and promises that it will comply with and observe any and all statutes, ordinances, rules and regulations of the Federal, State, Municipal, County or other public authority, and as amended. Director reserves the right at any time to make such reasonable regulations as in its judgment may from time to time be necessary for the safety, care, and cleanliness of the Premises, and for the preservation of good order therein, and Permittee hereby agrees to strictly comply therewith.

14. **Possessory Interest:** Permittee recognizes and understands that this Permit may create a possessory interest subject to property taxation and that Permittee will be subject to payment of taxes levied on such interest.

15. **Status:** Permittee shall during the entire term of the Permit, be construed to be an independent Contractor, and shall in no event be construed to be an employee of County.

16. **Waiver:** Permittee hereby waives any and all claims for damages that may be caused by County in re-entering and taking possession of the Premises as herein provided, and all claims for damages that may result from the destruction of or injury to the Premises thereby, and all claims for damages to or loss of such property belonging to the Permittee as may be in or upon the Premises at the time of such re-entering. Permittee hereby also waives any and all claims against the County for loss or damages to any property of Permittee from any cause arising at any time.

17. **Closure:** At any time should an occurrence necessitate the closing of the Premises, Permittee shall have no recourse by law to County for losses incurred.

18. **Employees of Permittee:** All employees, agents and assignees of Permittee shall be licensed when required by law. All such employees, agents, and assignees shall be employees, agents, or assignees of Permittee only and shall not in any instance be, or construed to be, employees, agents or assignees of County.

19. **Venue:** This Permit has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Permit, shall be determined and governed by the laws of the State of California. The duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

20. **Severability:** The invalidity of any provision of this Permit shall not affect the validity, enforceability or any other provision of this Permit.

21. **Entire Agreement and Modifications:** This Permit supersedes all previous Permits and constitutes the entire understanding of the parties hereto. Permittee shall be entitled to no other benefits than those specified herein. County makes no other promises or covenants beyond the scope of this Permit. No changes, amendments, or modifications shall be effective unless in writing and signed, in advance of the effective date of the change, amendment or modification, by both parties. Permittee specifically acknowledges that in entering into this Permit, Permittee relies solely upon the provisions contained in the Permit and no other Permit or oral discussions prior to entering this Permit.

IN WITNESS WHEREOF, County and Permittee agree to all of the terms and conditions hereinabove set forth.

County of San Luis Obispo:	Olde Towne Nipomo Association
By: <u>Janette D. Pell</u> Janette D. Pell General Services Agency Director	By: <u>Kathy Kubiak</u> Kathy Kubiak, President
Date: <u>8.30</u> , 2013	Date: <u>AUG. 29</u> , 2013

Exhibit "A"

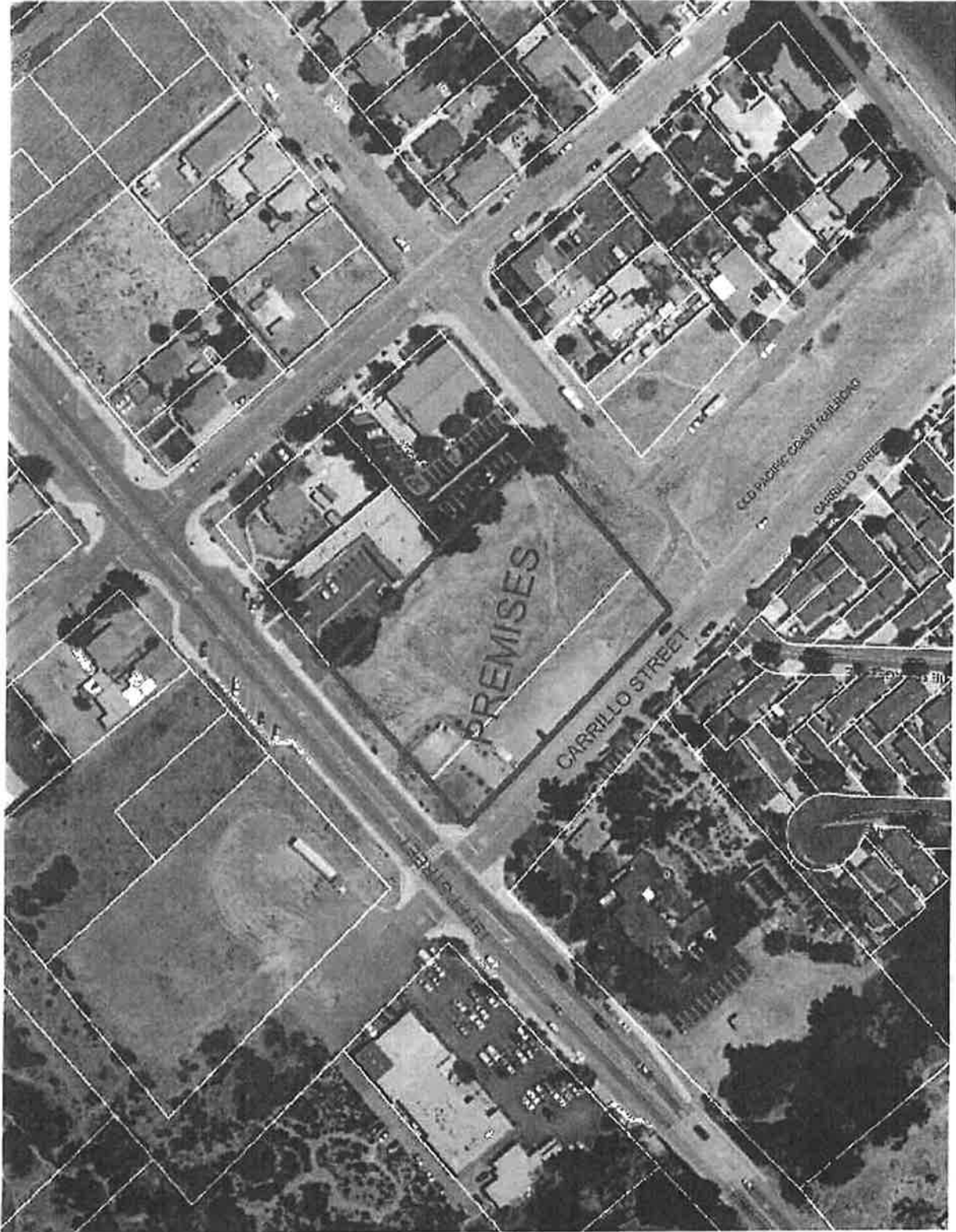
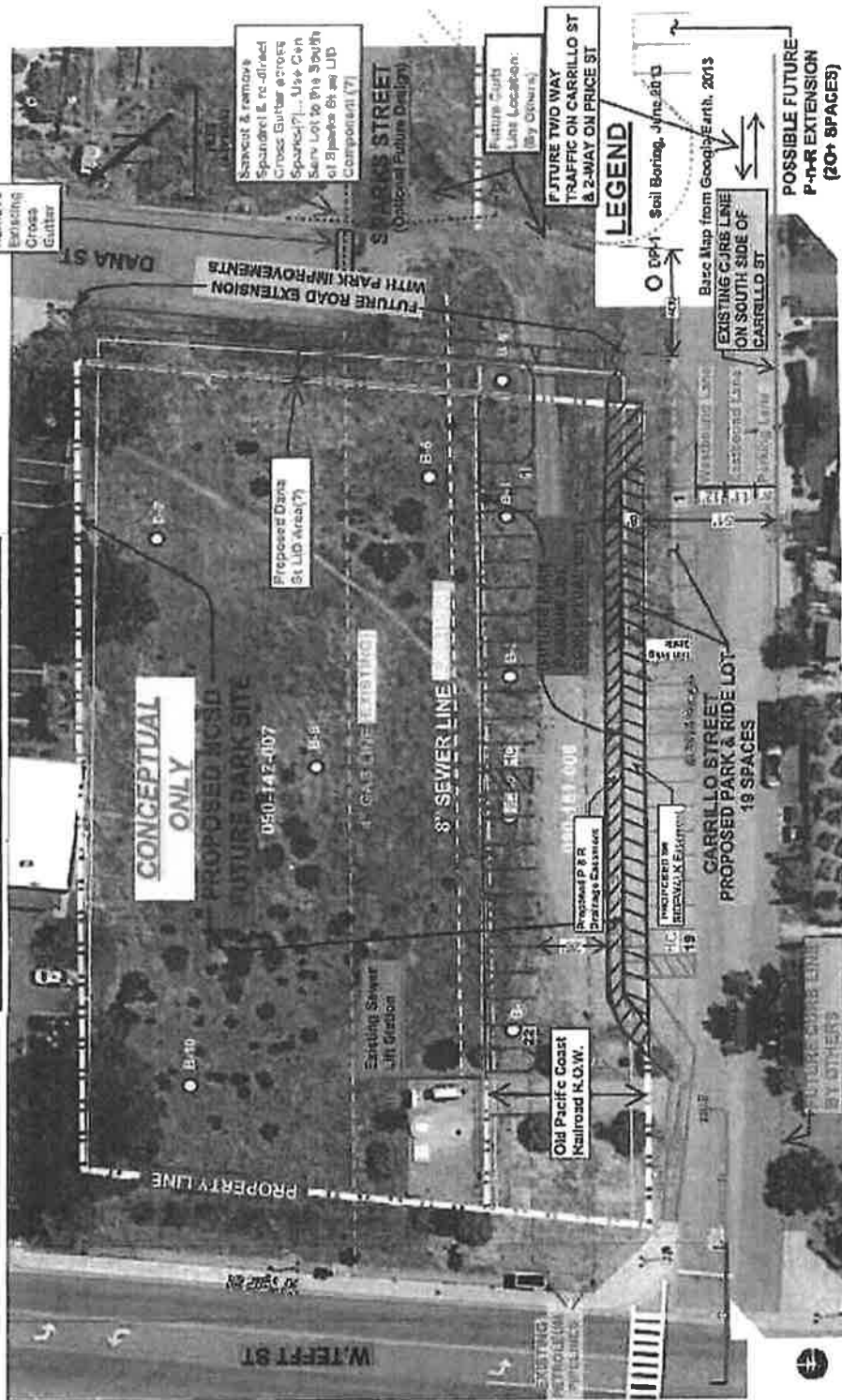


EXHIBIT "B"

20 scale = Reduce to 77% on Utility Plotter



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NOVEMBER 28, 2018

ITEM E-3

ATTACHMENT C

**SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF SAN LUIS OBISPO AND
THE NIPOMO COMMUNITY SERVICES DISTRICT
REGARDING THE TRANSFER OF OWNERSHIP IN
COUNTY-OWNED REAL PROPERTY**

THIS SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING (Second Amendment) is entered into by and between the County of San Luis Obispo, a political subdivision of the State of California (County) and the Nipomo Community Services District, a California community services district (District) (collectively the Parties), as follows:

WHEREAS, on March 24, 2009, the County and the District entered into a Memorandum of Understanding (MOU) related to the construction and operation of a community park ("Jim O. Miller Park") on County-owned real property located at the northeast corner of West Tefft and Carrillo Street in the unincorporated community of Nipomo, described as APN 090-141-006 (the Property/Original Site); and

WHEREAS, County also owns certain real property located across the street from the Original Site on the southeast corner of West Tefft Street and Carrillo Street described as APN 090-142-007 consisting of approximately one (1) acre (New Site/the Premises) ((Exhibit "A-1") to the First Amendment to MOU); and

WHEREAS, due to the soils condition of the Original Site, the County and the District agreed to the exchange the Original Site with the New Site to increase the feasibility of the Jim O. Miller Park being constructed, as memorialized in the First Amendment to the MOU; and

WHEREAS, the First Amendment to MOU also provided for the issuance of a Use Permit to the Olde Towne Nipomo Association, a 501(c)-3 nonprofit corporation (OTNA/Permittee), for non-exclusive access and use of the New Site for the purpose of processing improvement plans and to promote funding for a community park at the New Site until such time ownership of the New Site is transferred or the MOU is terminated; and

WHEREAS, Item 6 of the First Amendment to MOU added a new Paragraph 18 as follows:

In the event the Property has not been transferred from the County to the District on or before December 31, 2018, this MOU shall be null and void unless extended by mutual written consent of the parties.

WHEREAS, Items 11, 12, 13, and 14 of the MOU have been completed; and

WHEREAS, the Parties now desire to enter into a Second Amendment to MOU for the purpose of extending the expiration date for the MOU, extending the term of the Use Permit and providing authority to the Central Services Director, or Director's designee, to review, approve and execute all documents related to the development of the Jim O. Miller Park.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereto agree that the First Amendment to MOU is hereby amended as follows:

1. The recitals hereto are incorporated herein by reference to the same extent and with the same force and effect as if fully set forth herein.
2. Item No. 6 of the First Amendment to MOU, Paragraph 18, is deleted and replaced with the following:

In the event the Property has not been transferred from the County to the District on or before December 31, 2019, this MOU shall be null and void unless extended by mutual written consent of the parties. The Board hereby delegates authority to the Central Services Director to approve and execute any documents extending the term of this MOU and any Use Permit issued to the Olde Towne Nipomo Association (or its successor) for the purposes of advancing the construction of the Jim O. Miller Park

3. Adding new Paragraph 19 as follows:

Delegated Authority: The County Board of Supervisors delegates authority to the Central Services Director, or the Director's designee (Director), to review, approve and execute all documents related to the development of the Jim O. Miller Park.

4. Adding new Paragraph 20 as follows:

Assignment of MOU: District shall not assign, transfer, or delegate the MOU or any interest therein without the prior written consent of Director, or Director's designee, and any such assignment, transfer, or delegation without the Director's written consent shall be considered null and void.

All other provisions of the MOU and First Amendment to MOU shall continue in full force and effect.

////////// NOTHING FURHER PAST THIS POINT EXCEPT SIGNATURES //////////

IN WITNESS WHEREOF, the Parties hereto agree to all of the terms and conditions hereinabove set forth.

COUNTY OF SAN LUIS OBISPO:

NIPOMO COMMUNITY SERVICES DISTRICT:

By: _____
Chairperson of the Board of Supervisors

By: _____
President, Board of Directors

Approved by the Board of Supervisors this _____
day of _____, 2018.

ATTEST:

ATTEST:

By: _____
General Manager/Board Secretary

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

By: _____
Deputy Clerk

By: _____
District Counsel

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: _____
Deputy County Counsel

Dated: _____

NOVEMBER 28, 2018

ITEM E-3

ATTACHMENT D

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2018-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT ADOPTING A SECOND AMENDMENT TO THE
MEMORANDUM OF UNDERSTANDING BETWEEN THE NIPOMO COMMUNITY
SERVICES DISTRICT AND THE COUNTY OF SAN LUIS OBISPO REGARDING
THE TRANSFER OF OWNERSHIP IN COUNTY-OWNED REAL PROPERTY**

WHEREAS, the Nipomo Community Services District (herein "District") Board of Directors is a local governmental agency formed and authorized to provide services within its jurisdiction, pursuant to Section 61000 et seq. of the California Government Code; and

WHEREAS, Government Code Section 61110(e) enables community services districts to provide parks and recreation services if activated by the Local Agency Formation Commission ("LAFCO"); and

WHEREAS, the District entered into a Memorandum of Understanding ("MOU") on March 24, 2009 with the County of San Luis Obispo ("County") wherein, subject to conditions, the County will transfer to District for park purposes, at no charge, the following described real property (herein "the Park Property" or "the Park"):

Approximately one (1) acre located at the northeast corner of West Tefft and Carrillo Street (APN 090-141-006) along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (a portion of APN 090-151-008); and

WHEREAS, pursuant to the MOU, the transfer of the Park Property is conditioned on LAFCO activation of District's Park Powers; and

WHEREAS, the District does not desire to own or operate the Park; and

WHEREAS, by Board Action taken at the October 9, 2013 District Board Meeting, the Board unanimously voted to approve the First Amendment to the MOU; and

WHEREAS, the First Amendment to the MOU identified the Olde Towne Nipomo Association ("OTNA"), a 501(c)-3 nonprofit corporation, as a party working with the District and the County to advance the Park; and

WHEREAS, the County is proposing a Second Amendment to the First Amendment of the MOU to extend the life of the MOU by one (1) year, and to delegate the County's Board of Supervisor's authority over activities in the MOU to the Central Services Director, or the Director's designee; and

WHEREAS, the County and OTNA desire to work to achieve, in a period of one (1) year, a memorandum of understanding between the County and OTNA independent of the MOU and/or First Amendment to the MOU between the County and District; and

WHEREAS, the proposed County and OTNA memorandum of understanding would exclude the District in participating in any way as a party to the development, operations, maintenance, ownership or any association with the Park;

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2018- XXXX**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THENIPOMO COMMUNITY SERVICES DISTRICTADOPTING A SECOND AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE NIPOMO COMMUNITY SERVICES DISTRICT AND THE COUNTY OF SAN LUIS OBISPO REGARDING THE TRANSFER OF OWNERSHIP IN COUNTY-OWNED REAL PROPERTY

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Nipomo Community Services District as follows:

1. The recitals hereto are incorporated herein by reference to the same extent and with the same force and effect as if fully set forth herein.
2. Item No. 6 of the First Amendment to MOU, Paragraph 18, is deleted and replaced with the following:

In the event the Property has not been transferred from the County to the District on or before December 31, 2019, this MOU shall be null and void unless extended by mutual written consent of the parties. The Board hereby delegates authority to the Central Services Director to approve and execute any documents extending the term of this MOU and any Use Permit issued to the Olde Towne Nipomo Association (or its successor) for the purposes of advancing the construction of the Jim O. Miller Park

3. Adding new Paragraph 19 as follows:

Delegated Authority: The County Board of Supervisors delegates authority to the Central Services Director, or the Director's designee (Director), to review, approve and execute all documents related to the development of the Jim O. Miller Park.

4. Adding new Paragraph 20 as follows:

Assignment of MOU: District shall not assign, transfer, or delegate the MOU or any interest therein without the prior written consent of Director, or Director's designee, and any such assignment, transfer, or delegation without the Director's written consent shall be considered null and void.

5. Upon adoption of this resolution, the District will not take further action to amend or approve amendments to, the MOU or, the First or Second Amendments to the MOU.
6. All other provisions of the MOU and First Amendment to MOU shall continue in full force and effect.

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

AYES:
NOES:
ABSENT:

CONFLICTS:

the foregoing resolution is hereby passed, approved and adopted by the Board of Directors of the Nipomo Community Services District this _____ day of _____, 2018.


Ed Eby, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Mario Iglesias
General Manager/Secretary to the Board

Whitney G. McDonald
General Counsel

TO: BOARD OF DIRECTORS
 FROM: MARIO IGLESIAS
 GENERAL MANAGER 
 DATE: November 21, 2018

**AGENDA ITEM
 F
 NOVEMBER 28, 2018**

GENERAL MANAGER'S REPORT

ITEM

Standing report to your Honorable Board -- *Period covered by this report is November 11, 2018 through November 24, 2018.*

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. The September data is current.

Office Activities

	Sept-18	Jul-Sept 2018
Reports of water waste followed up on	1	4
Leak Adjustments	3	9
Leak Adjustment Amount	\$680	\$2,884

Water Resources

Table 1. Total Production Acre Feet (AF)

	Oct-18	Jul 18 - Oct 18
Groundwater Production	94.2	453.2
Supplemental Water Imported	<u>85.3</u>	<u>337.9</u>
Total Production	<u>179.5</u>	<u>791.1</u>

NCSD imported 85.3 AF of water over the 31 day period in October averaging 622 gallons per minute for a daily total of 896,616 gallons per day. For fiscal year 2018-19 [July-2018 through June-2019] the District must import 800 AF of supplemental water. However, at the current import level, the District could see up to 980 AF for this time period. The District's total production, including groundwater wells and imported water measured at the Joshua Road Pump Station, registered 791.1 AF of water for the current fiscal year.

Table 2. FY 2019 Total Demand To-date Compared to 2013

	Oct-18	Jul 18 - Oct 18
Total Production (AF) for FY 2018-19	179.5	791.1
Total Production (AF) for 2013	<u>240.5</u>	<u>1,061.3</u>
Reduction	<u>61.0</u>	<u>270.2</u>
Percentage Reduction	25.0%	25.5%

On the previous page, Table 2 compares the District's total water production for the month of October and the fiscal year (July 2018 through June 2019) year-end total against those same periods for 2013 (pre-drought production). 2013 is the year the Department of Water Resources ("DWR") designated 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. For October 2018, the community's water conservation effort reached approximately 25% compared to October 2013. The District's year-end conservation effort for fiscal year 2019 will continue to be monitored despite the Governors removal of mandatory conservation requirements.

NCS D 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 NCS D brings onto the basin through the NSWP. Of the 800 AF minimum imported water from the CSM, 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. NCS D GW Production (NCS D GW Well Production plus Purveyor Credit)

	Oct-18	Jul 18 - Oct 18
NCS D GW Well Production	94.2	458.2
Purveyor Customer Credit (33.3% of Import Water)	28.4	112.6
NCS D Total Calculated GW Production	122.6	565.8
Average GW Production for 2009-2013	223.6	1,064.2
NCS D Percentage of GW Reduction	45%	47%

Taking into consideration the above referenced purveyor customer credit, the District can claim a groundwater pumping reduction of 45% for the month of October compared to the 5-year average from 2009 to 2013 (NMMA-TG assigned comparator). For Fiscal Year 2019, the cumulative groundwater pumping reduction is 47%. At the current Stage IV level of NMMA's Water Shortage Condition and Response Plan, the District has targeted groundwater pumping reduction level of 50% for the year.

Table 4. 2019 Fiscal Year Forecasted Groundwater Pumping

	Oct-18	Jul 18-Jun 19	Target	Over_(Under)
NCS D GW Well Production	94.2	1,057.4		
Purveyor Customer Credit (33.3% of Import Water)	28.4	321.0		
NCS D Total Calculated GW Production	122.6	1,378.3	1,266.7	- 112 AcFt
Average GW Production for 2009-2013	223.6	2,533.4	2,533.4	
NCS D Percentage of GW Reduction	45%	46%	50%	

Table 4 is a projected view of the District's groundwater pumping reduction efforts for Fiscal Year 2019. The targeted groundwater pumping reduction is 50%. For future months, November

2018 through June 2019, Fiscal Year 2018 production values are used as estimates. Looking at the four months of actual data, July 2018 through October 2018, and completing the year using previous months data, the District can forecast an “Over_(Under)” value. By using this method to forecast groundwater pumping for fiscal year 2019, it can be estimated that the District will be 112 acre feet over the groundwater reduction target. Each year trends slightly different depending upon the weather which drives consumer water consumption. The more actual data input into the table, the more accurate the forecast. The deeper into the year, the more reliable table becomes as a forecasting tool and aids staff to recognize opportunities to adjust sources.

Table 5. FY 2018 v. FY 2019 Groundwater Pumping

	Oct-18	Jul 18-Oct 18	Oct-17	Jul 17-Oct 17
NCSD GW Well Production	94.2	453.2	107.4	450.5
Purveyor Customer Credit (33.3% of Import Water)	28.4	112.6	28.7	113.6
NCSD Total Calculated GW Production	122.6	565.8	136.1	564.2
Average GW Production for 2009-2013	223.6	1,064.2	223.6	1,064.2
NCSD Percentage of GW Reduction	45%	47%	39%	47%

Table 5 compares the previous year’s groundwater pumping with the current year groundwater pumping for the same time period (July through October). The comparison demonstrates a similar consumption pattern emerging where demand continues to rely on groundwater supplies slightly more than the target reduction of 50%.

Rainfall Gauge

(Reported in inches)	Nipomo East (Dana Hills Reservoirs)	Nipomo South (Southland Plant)
October 2018 Total	.32	.28
July-2018 through Jun-2019 (Seasonal Total)	.32	.28
Average Annual Year Rainfall	18	16

Safety Program

No Accidents or Incidents to report

Other Items and News of Interest

Supplemental Water Capacity Accounting

The District is not currently accepting applications for new water service.

Supplemental Water Available for Allocation	500	AFY
Supplemental Water Reserved (Will Serve Letter Issued)	-31.1	AFY
Subtotal Net Supplemental Water Available for Allocation	468.9	AFY
Supplemental Water Assigned (Intent-to-Serve Issued)	-70.6	AFY
Total Remaining Supplemental Water Available for Allocation	398.2	AFY

This information is accurate through October 2018.

Connection Report

Nipomo Community Services District
 Water and Sewer Connections

END OF MONTH REPORT

	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	18-Jul	18-Aug	18-Sep	18-Oct
Water Connections (Total)	4405	4405	4405	4405	4405	4405	4407	4407	4412	4434
Sewer Connections (Total)	3174	3174	3174	3174	3174	3175	3175	3176	3180	3197
New Water Connections	3	0	0	0	0	0	2	0	5	22
New Sewer Connection	3	0	0	0	0	1	0	1	4	17
Galaxy & PSHH at Orchard and Division Sewer Connections billed to the County	473	473	473	473	474	476	477	477	477	475

The Connection Report is current through October 2018. The majority of the new water and sewer connections are the result of a completed 17 unity development on Hill and Grande.

Meetings (November 11 through November 24)

Meetings Attended (telephonically or in person):

- Nov. 12, Holiday – Veteran’s Day
- Nov. 13, Eng/Admin Meeting
- Nov. 14, Rotary
- Nov. 14, Regular Board Meeting
- Nov. 14, Exec. Team After-Board Meeting
- Nov. 16, Grover Beach – PW Director
- Nov. 18, Board Officers Meeting
- Nov. 21, Rotary
- Nov. 21, Boy Scouts
- Nov. 22, Thanksgiving Holiday

Meetings Scheduled (November 25 through December 1):

Upcoming Meetings (telephonically or in person):

- Nov. 26, Flume Install Beta Testing
- Nov. 27, Eng/Admin Meeting
- Nov. 27, Assistant Eng. Interview
- Nov. 27, Flume Install Beta Testing
- Nov. 28, Rotary
- Nov. 28, Regular Board Meeting
- Nov. 28, Exec. Team After-Board Meeting
- Nov. 29, NMMA Water Purveyor Manager’s Meeting
- Nov. 29, WMWC/NCSD Funding Transfer
- Nov. 29, Assistant Eng. Interview

Upcoming Water Resource and Other Meetings

Upcoming Standing Meetings:

- NMMA-TG: December 11th (Tuesday) @ 10:00 AM, NCSD Board Room
- RWMG: December 5th @ 10:00 AM, SLO Library
- WRAC: December 5th @ 1:30 PM, SLO Library
- NMMA Purveyor Meeting: November 29th @ 10:00 AM, NCSD Admin Office
- NCMA/NMMA Managers Meeting: Tentatively Set for December 5, 2018

RECOMMENDATION

Staff seeks direction and input from your Honorable Board

ATTACHMENTS

NONE