

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2018-1492**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING POLICY
GOVERNING THE USE OF FRANCHISE FEES GENERATED FROM
THE NIPOMO COMMUNITY SERVICES DISTRICT'S
SOLID WASTE COLLECTION FRANCHISE AGREEMENT**

WHEREAS, the Nipomo Community Services District ("District") is formed under the Community Services District Law (Govt. Code §61100 et seq.) and is empowered to provide garbage, recycling, and greenwaste collection services; and

WHEREAS, the District entered into a Solid Waste Collection Franchise Agreement ("Agreement") with Waste Connections, Inc., a Delaware corporation, and South County Sanitary Services, Inc., a California corporation (collectively "Contractor"), whereby Contractor provides garbage, recycling, and greenwaste collection services within the District's boundaries; and

WHEREAS, pursuant to the Agreement, the District collects an annual franchise fee from Contractor; and

WHEREAS, the District Board of Directors desires to establish a policy governing the use of franchise fees collected pursuant to the Agreement.

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

1. The facts and findings stated above are true and correct and incorporated herein.
2. The Policy Governing the Use of Franchise Fees Generated From the Nipomo Community Services District's Solid Waste Collections Franchise Agreement attached hereto as Exhibit "A" and incorporated herein by reference is hereby adopted.
3. The Board finds that this action is not subject to and is exempt from the California Environmental Quality Act, Public Resources Code section 21000, et seq., because it is not a project undertaken or authorized by the District that will have a reasonably foreseeable impact on the environment and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. (Pub. Res. Code § 21065; 14 Cal. Code Regs. § 15061(b)(3).)

Upon motion by Director Armstrong, seconded by Director Gaddis, on the following roll call vote, to wit:

AYES: Directors Armstrong, Gaddis, Woodson, Blair and Eby
NOES: None
ABSENT: None
CONFLICTS: None

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the foregoing resolution is hereby passed and adopted this 14th day of November, 2018.



ED EBY
President of the Board

ATTEST:



MARIO E. IGLESIAS
General Manager and Secretary to the Board

APPROVED AS TO FORM:



WHITNEY G. McDONALD
District Legal Counsel

Exhibit "A"

NIPOMO COMMUNITY SERVICES DISTRICT

**POLICY GOVERNING THE USE OF FRANCHISE FEES
GENERATED FROM THE NIPOMO COMMUNITY SERVICES DISTRICT'S
SOLID WASTE COLLECTIONS FRANCHISE AGREEMENT**

PURPOSE:

This Policy governs the appropriate use of revenues generated from the Franchise Fee collected by the Nipomo Community Services District (District) from the District's Solid Waste Collection Franchise Agreement (Agreement).

APPLICABILITY:

This Policy applies to all revenue generated from the District's Agreement.

DEFINITIONS:

"Agreement" means the current and active District Solid Waste Collection Franchise Agreement.

"Franchisee" means the contractor who is party to the Agreement with the District to collect, recycle, remove and properly dispose of solid waste within the District's franchise area.

"Rate Holiday" is defined as a period of time measured in a billing cycle, where all solid waste customers of the District are exempt from paying a portion of their solid waste collection fee.

"Routine Operating Conditions" are those operating conditions experienced under non-emergency operations, routine in nature as part of daily, weekly, monthly, or annually scheduled work program.

"Solid Waste" in the context of this policy refers to garbage, green-waste, and recyclable materials.

POLICY:

1. District revenue generated from the Agreement must be used in support of and for the sole purpose of activities that benefit District solid waste ratepayers by reducing, diverting, recycling, or in some manner managing solid waste within the boundaries of the District.

Examples of activities routinely budgeted are listed below. This list of activities is not exclusive. The Board of Directors maintains its discretion to determine when an activity

meets the criterion as expressed above.

- County Creek Clean-up Day
 - Olde Towne Refuse Collection
 - District-wide Street Trash Reduction Programs
 - Other Board approved Solid Waste Collection/Recycling Programs
2. The District's Board of Directors must approve non-budgeted expenditures of monies from the Solid Waste Fund #300 in amounts greater than \$5,000 for a single project, event, or activity.
 3. Establish a cash reserve target of \$150,000. The Board will review cash reserve levels of the Solid Waste Fund #300 annually along with the District's other enterprise reserve levels and direct staff to make reasonable effort to maintain the reserve level under routine operating conditions.
 4. If, during the annual review of the Solid Waste Fund #300 reserve level, it is anticipated that the reserve level balance will exceed \$300,000 or twice the reserve level set in NCSO's Cash Reserve Policy by the end of the current fiscal year, then staff will recommend to the Board of Directors that a rate holiday be included in the next fiscal year budget.
 5. The Franchisee may submit proposed rate adjustments to the District. At the Board's discretion, the District may offset all or part of a rate increase by reducing the franchise fee paid to the District by a like amount. Such reductions shall not reduce the franchise fee paid to the District to less than 5% of franchisee's annual gross receipts attributable to services provided under the Agreement.
 6. The administrative costs incurred by the District in managing the services provided by the franchisee and organizing community clean-up activities such as those enumerated in paragraph (1) may be charged against the franchise fees received from the franchisee. Franchise fee receipts may vary from year to year. However, it is recognized by the District that a minimum level of resources is expended by the District to manage the Agreement and the various community activities. Administrative costs chargeable against franchise fee receipts will be calculated during the budgeting process. At that time, a reasonable cost to manage the Agreement and community activities will be established and included in the fiscal year budget.