

TO: BOARD OF DIRECTORS  
REVIEWED: MARIO IGLESIAS  
INTERIM GENERAL MANAGER  
FROM: PETER V. SEVCIK, P.E.  
DIRECTOR OF  
ENGINEERING & OPERATIONS  
DATE: SEPTEMBER 7, 2023

**AGENDA ITEM  
D-5  
SEPTEMBER 13, 2023**

**AUTHORIZE CONTRACT AMENDMENT  
FOR CONSTRUCTION MANAGEMENT SERVICES  
FOR THE BRANCH STREET WATERLINE REPLACEMENT PROJECT  
IN THE AMOUNT OF \$123,141 WITH MNS ENGINEERS, INC.**

**ITEM**

Authorize Contract Amendment for construction management services for the Branch Street Waterline Replacement Project in the amount of \$123,141 with MNS Engineers, Inc. [RECOMMEND AUTHORIZE CONTRACT AMENDMENT].

**BACKGROUND**

At the December 14, 2022 Board Meeting, the Board authorized staff to execute a contract with MNS Engineers, Inc. (MNS) to provide construction management services for the Branch Street Waterline Replacement Project. Since that time, numerous issues have come up during the construction phase that have required more effort (full-time inspection) than originally anticipated (part-time inspection).

MNS has requested a contract amendment so that it can continue to provide the necessary construction management services for the remainder of the project construction. MNS submitted the attached proposal to perform the work for a not to exceed amount of \$123,141.

**FISCAL IMPACT**

Funding for the project in the amount of \$850,000 is available in Water Funded Replacement Fund #805.

Original MNS Contract for Construction Management	\$248,140
Proposed Contract Amendment #1	\$123,141
<b>Revised Contract Cost</b>	<b>\$371,281</b>

**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.

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

**RECOMMENDATION**

Staff recommends that the Board authorize staff to execute a contract amendment in the amount of \$123,141 with MNS Engineers, Inc. for additional construction management services for the Branch Street Waterline Replacement Project.

**ATTACHMENTS**

- A. MNS Engineers, Inc. Proposal dated August 14, 2023

SEPTEMBER 13, 2023

ITEM D-5

ATTACHMENT A

**August 14, 2023**

Mr. Peter Sevcik  
Director of Engineering and Operations  
Nipomo Community Services District  
148 South Wilson Street  
Nipomo, CA 93444

**SUBJECT: Branch Street Waterline Improvements Project Contract Amendment**

Dear Mr. Sevcik,

As you are aware, the completion of the Branch Street Waterline Project has taken more time and effort than originally anticipated. Although we have been able to stretch our budget to accommodate the increased construction needs, the cost required for these additional services will soon exceed our current contract amount; therefore, MNS is requesting a contract amendment to provide additional funds for this increase in scope and services. Our original staffing plan assumed part-time inspection for a period of 5 months, but the project has taken more time and requiring full-time inspection due to the daily extra work. The project is estimated to be completed by mid-October.

The primary cause for the increased services is due to the increased level of effort required due to managing differing site conditions, management of a significant amount of extra work requiring full-time inspection, and assistance with design changes. The additional tasks remaining to complete the contract work include:

- Service laterals, waterline tie-ins, change order work final paving
- Testing and site cleanup
- Punchlist item completion / inspection and sign off
- Project closeout / Archives and Electronic Documentation

Based on the cost of services performed to date and the remaining balance in our current contract, we estimate the cost to complete the work described above including closeout to be \$123,140.88 as outlined in the attached closeout cost estimate.

Thank you for your consideration on this matter. Please contact me at [gchelini@mnsengineers.com](mailto:gchelini@mnsengineers.com) or 805.692-6921 with any questions you may have.

Sincerely,

**MNS Engineers, Inc.**



Gregory Chelini, PE  
Vice President/Principal Construction Manager

Encl. Cost Proposal





**Construction Phase  
CM & Inspection Services  
Branch Street Pipeline Improvements  
Nipomo Community Services District**

Additional Services Cost Estimate																			
		2023												2024					
PHASE		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr		
Pre-Construction																			
Construction																			
Closeout																			

PHASE		2023												2024				TOTAL HOURS	HOURLY RATE	TOTAL COST	
Role	Staff	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr				
<b>PRE-CONSTRUCTION PHASE</b>																					
Project Manager																			0	250.00	\$ -
Construction Manager																			0	230.00	\$ -
Construction Inspector																			0	175.00	\$ -
Office Engineer																			0	120.00	\$ -
<b>CONSTRUCTION MANAGEMENT SUB-TOTAL</b>		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		\$ -
<b>CONSTRUCTION PHASE</b>																					
Project Manager																			6	250.00	\$ 1,500.00
Construction Manager								2	2	2									280	230.00	\$ 64,400.00
Construction Inspector								172	172	80									424	175.00	\$ 74,200.00
Office Engineer								20	20	20									60	120.00	\$ 7,200.00
<b>CONSTRUCTION MANAGEMENT SUB-TOTAL</b>		0	0	0	0	0	0	294	294	182	0	0	0	0	0	0	0	0	770		\$ 147,300.00
<b>PROJECT CLOSEOUT</b>																					
Project Manager												2							2	250.00	\$ 500.00
Construction Manager												60	20						80	230.00	\$ 18,400.00
Construction Inspector												40							40	175.00	\$ 7,000.00
Office Engineer												24	12						36	120.00	\$ 4,320.00
<b>PROJECT CLOSEOUT SUB-TOTAL</b>					0	0	0	0	0	0	126	32	0	0	0	0	0	0	158		\$ 30,220.00
<b>TOTALS</b>					0	0	0	0	294	294	308	32	0	0	0	0	0	0	928		\$ 177,520.00

Direct Expenses:	TOTAL COST
Survey (As needed)	\$ 3,000.00
Direct Expenses/EADOC	
<b>SUB-TOTAL</b>	<b>\$ 3,000.00</b>

Sub Consultants	TOTAL COST
Materials Testing	\$ 8,000.00
<b>SUB CONSULTANTS SUB-TOTAL</b>	<b>\$ 8,000.00</b>

<b>Original Contract Amount</b>	<b>\$ 248,140.00</b>
<b>Total Cost Through July 2023</b>	<b>\$ 182,760.88</b>
<b>Remaining Budget through July 2023</b>	<b>\$ 65,379.12</b>
<b>Estimated cost from August to Completion 2023</b>	<b>\$ 188,520.00</b>

<b>Estimated Amendment Amount</b>	<b>\$ 123,140.88</b>
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TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS  
GENERAL MANAGER

DATE: September 8, 2023

**AGENDA ITEM  
D-6**

**SEPTEMBER 13, 2023**

**AUTHORIZE PURCHASE OF HYDRO-EXCAVATION TRAILER**

**ITEM**

Consider authorizing the purchase of a Hydro-excavation Trailer [RECOMMEND AUTHORIZE PURCHASE OF HYDRO-EXCAVATION TRAILER NOT TO EXCEED \$60,183]

**BACKGROUND**

The Nipomo Community Services District's ("District") Finance Department, among other duties, is responsible for managing the water meter program. As water meters are the primary instruments that interface the customer with the District on a financial basis, it is imperative that the water meter management program develop and maintain a fair exchange of value with customers for services provided. In order to maintain trust with our customers and recover the cost of providing water service, the District reads, maintains, and replaces water meters at regular intervals.

The Customer Service Specialist ("CCS") reports to the Finance Director on matters centered on meter maintenance, meter reading, and meter change out and testing. To accomplish these tasks, the CCS borrows the Operations Department's Hydro-excavation Trailer to clean dirt out of meter boxes in order to access water meters. Gopher activity is the primary contributing factor that causes meter boxes to be filled with dirt. In order to read the water meters as well as to change-out water meters the dirt must be removed and taken off site. The Hydro-Excavation Trailer is the tool that provides the most effective and efficient way to manage the removal of dirt from meter boxes.

A second Hydro-excavation Trailer is needed and will be assigned to meet the needs of the water meter program. The CCS uses the Hydro-excavation Trailer 8 days out of the average 20 weekdays per month. When Operations is using their equipment for critical operational tasks, the CCS is using a backup vacuum trailer. However, the backup vacuum trailer is not equipped with a hydro-excavation tool and is far less effective in cleaning out meter boxes. Purchasing the requested Hydro-excavation Trailer provides the CCS with the necessary tool on a regular basis, allowing for higher efficiency in completing the tasks associated with meter reading and meter change-outs.

**FISCAL IMPACT**

Funds for purchasing a Hydro-excavation Trailer were included in the FY 2023-24 Budget. Staff secured three bids. Of the three bids, two manufacturers could meet the specifications outlined in the District's request. Of the two that met the District's specification request, WACHS was the low bid at \$60,516.

Manufacturer	Met Specifications	Bid
Ditch Witch	No – Holding Tank and GVW – not responsive	\$62,517
Vermeer	Yes	\$64,970
WACHS	Yes	\$60,183

**STRATEGIC PLAN**

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

**RECOMMENDATION**

Staff recommends that the Board authorize the purchase of the WACHS Hydro-excavator Trailer as proposed for a cost not to exceed \$60,183.

**ATTACHMENTS**

No Attachments

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS  
GENERAL MANAGER

DATE: September 8, 2023

**AGENDA ITEM**

**E-1**

**SEPTEMBER 13, 2023**

## **AMEND CAPITALIZATION POLICY PER RECOMMENDATION OF DISTRICT AUDITOR**

### **ITEM**

Amend Capitalization Policy per recommendation of District Auditor [RECOMMEND ADOPT RESOLUTION]

### **BACKGROUND**

On November 14, 2007, at its regularly scheduled Board Meeting, the Board of Directors ("Board") adopted Resolution 2007-1048 [Attachment A] amending the Nipomo Community Services District ("District") Capitalization Policy. The Capitalization Policy guides the District's Finance Department when making the determination on when an asset is to be capitalized or expensed. The District relies on its auditors, Rogers, Anderson, Malody, and Scott, LLP ("RAMS") for guidance in these matters.

As a public entity, the District is required to have policies in place regarding the accounting for assets subject to certain capitalization thresholds. In the most recent audit cycle, RAMS recommended that the capitalization thresholds should be increased on certain groups of assets. The Capitalization Policy [Attachment B] before the Board for consideration amends the District's Capitalization Policy, as recommended by RAMS.

In particular, the proposed amendments to the District's Capitalization Policy identifies the following asset or groups of assets and the capitalization thresholds for each as follows:

- Computer Equipment greater than \$5,000.00
- Office Furniture and Fixtures greater than \$12,000.00
- Buildings, Land and Land Rights, Machinery and Equipment, Sanitation Collection/Treatment, Water-Transmission/Pumping/Distribution and Vehicles greater than \$20,000.00 [Attachment A].

Any cost for assets under this amount would be expensed.

### **RECOMMENDATION**

Staff recommends that your Board adopt Resolution 2023-XXXX Amending Capitalization Policy.

### **FISCAL IMPACT**

None.

### **ATTACHMENT**

- A. Resolution 2007-1048 Amending Capitalization Policy
- B. Resolution 2023-XXXX Amending Capitalization Policy



SEPTEMBER 13, 2023

ITEM E-1

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2007-1048**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CAPITALIZATION POLICY**

**WHEREAS**, the Nipomo Community Services District (herein "District") adopted Resolution 2002-803 on January 9, 2002 which established a capitalization policy for capital assets and accounting for fees collected from developers for sewer sags; and

**WHEREAS**, the District's Auditor, Crosby and Cindrich, CPAs, recommends the District amend its capitalization policy; and

**WHEREAS**, the Standards and Specifications for Water and Sewer System Improvements adopted on September 12, 2007 does not allow for sewer sags, therefore, the policy for accounting for fees collected from developers for sewer sags is no longer necessary; and

**WHEREAS**, based on the staff report, staff presentation and public comment, the District finds that the policy established by this Resolution is fair and reasonable.


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

1. Resolution 2002-803 is rescinded in its entirety.
2. The Capitalization Policy is attached hereto as Exhibit "A".

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

AYES: Directors Vierheilg, Eby, Harrison, Trotter, and Winn  
NOES: None  
ABSENT: None  
ABSTAIN: None

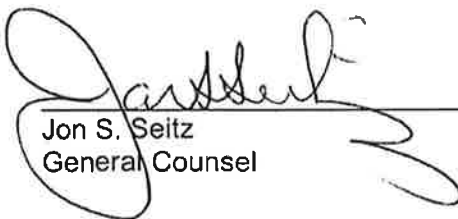
the foregoing resolution is hereby adopted this 14<sup>th</sup> day of November, 2007.

  
\_\_\_\_\_  
Michael Winn, President  
Nipomo Community Services District

ATTEST:

  
\_\_\_\_\_  
Donna K. Johnson  
Secretary to the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jon S. Seitz  
General Counsel

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2007-1048**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CAPITALIZATION POLICY**

**EXHIBIT "A"**

**CAPITALIZATION POLICY**

The term "capital asset" is used to describe assets that are used in operations that have initial lives extending beyond a single reporting period. Capital assets may be either intangible (e.g., easements, water rights) or tangible (e.g., land, buildings, building improvements, vehicles, machinery, equipment and infrastructure).

Items with extremely short useful lives (e.g., less than 2 years) or of small monetary value are reported as an "expense" or "expenditure" in the period in which they are acquired.

Capitalization thresholds are as follows:

1. Tangible capital-type items should be capitalized only if they have an estimated useful life of at least two years following the date of acquisition.
2. Capitalization thresholds shall be applied to individual items rather than to groups of similar items (e.g., chairs, tables).
3. The capitalization threshold shall be greater than \$5,000.00.
4. If NCSD is the recipient of any federal/state award to acquire capital-type assets, the capitalization thresholds shall be governed by the awarding agency's contract documents.
5. Even though assets less than \$5,000.00 are not capitalized, the NCSD shall exercise control over them.

SEPTEMBER 13, 2023

ITEM E-1

ATTACHMENT B

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2023-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CAPITALIZATION POLICY**

**WHEREAS**, the Nipomo Community Services District (herein "District") adopted Resolution 2007-1048 on November 14, 2007 which established a capitalization policy for capital assets and accounting for fees collected from developers for sewer sags; and

**WHEREAS**, the District's Auditor, Rogers, Anderson, Malody & Scott, LLP, recommends the District amend its capitalization policy; and

**WHEREAS**, based on the staff report, staff presentation and public comment, the District finds that the policy established by this Resolution is fair and reasonable.

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

1. Resolution 2007-1048 is rescinded in its entirety.
2. The Capitalization Policy is attached hereto as Exhibit "A".

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

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

the foregoing resolution is hereby adopted this 13<sup>th</sup> day of September, 2023.

\_\_\_\_\_  
Richard Malvarose, President  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Mario Iglesias  
Secretary to the Board

\_\_\_\_\_  
Craig Steele  
General Counsel

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2023-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CAPITALIZATION POLICY**

**EXHIBIT "A"**

**CAPITALIZATION POLICY**

The term "capital asset" is used to describe assets that are used in operations that have initial lives extending beyond a single reporting period. Capital assets may be either intangible (e.g., easements, water rights) or tangible (e.g., land, buildings, building improvements, vehicles, machinery, equipment and infrastructure).

Items with extremely short useful lives (e.g., less than 2 years) or of small monetary value are reported as an "expense" or "expenditure" in the period in which they are acquired.

Capitalization thresholds are as follows:

1. Tangible capital-type items should be capitalized only if they have an estimated useful life of at least two years following the date of acquisition.
2. Capitalization thresholds shall be applied to individual items rather than to groups of similar items (e.g., chairs, tables).
3. The capitalization threshold shall be greater than \$5,000.00 for Computer Equipment, greater than \$12,000.00 for Office Furniture and Fixtures, greater than \$20,000.00 for Buildings, Land and Land Rights, Machinery and Equipment, Sanitation Collection/Treatment, Water- Transmission/Pumping/Distribution and Vehicles.
4. If NCSD is the recipient of any federal/state award to acquire capital-type assets, the capitalization thresholds shall be governed by the awarding agency's contract documents.
5. Even if an asset is not capitalized, the District shall exercise control over them.

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS  
GENERAL MANAGER



## AGENDA ITEM E-2

DATE: September 8, 2023

SEPTEMBER 13, 2023

### **AUTHORIZE GENERAL MANAGER TO EXECUTE MUTUAL TERMINATION OF MEMORANDUM OF UNDERSTANDING FOR RESOURCE PRESERVATION AND MANAGEMENT WITH WOODLANDS VENTURES, LLC**

#### **ITEM**

Consider authorizing the Nipomo Community Services District's General Manager to execute a Mutual Termination of Memorandum of Understanding with Woodlands Ventures, LLC.  
[RECOMMEND AUTHORIZE GENERAL MANAGER TO EXECUTE MUTUAL TERMINATION OF MEMORANDUM OF UNDERSTANDING]

#### **BACKGROUND**

On December 16, 2002, the Nipomo Community Services District ("District") Board of Directors ("Board") held a Special Meeting to discuss a proposed Memorandum of Understanding for Resource Preservation and Management ("MOU"). The MOU is between the District and Woods Ventures LLC, now considered Woodlands Mutual Water Company (WMWC). The purpose of the MOU was to ensure fair and equitable use of the shared water resources on the Nipomo Mesa.

The District and WMWC are located in close proximity to one another. The developers of Trilogy Monarch Dunes made application with the County of San Luis Obispo to develop a golf resort community to be served by WMWC. The District opposed the developer's application, concerned that the development could have a negative impact on the District's ability to provide water service to its customers. At the time both parties were in litigation with each other in the case of Santa Maria Valley Water Conservation District v. City of Santa Maria, Civil Action No. 770214 ("Santa Maria Litigation"). The MOU included sufficient assurances to the District that WMWC would cooperate with the District should the development negatively impact the District's ability to provide water service or if the development were to cause additional complications in the Santa Maria Litigation. With the passage of time and the existence of a comprehensive adjudication in the Santa Maria Litigation, the MOU is now obsolete. It did not have a term, so it has not expired.

The Trilogy Monarch Dunes development is near completion and the concerns addressed in the MOU have not come to fruition. District General Counsel has reviewed the MOU and has advised staff that it is in both parties interest to terminate an outdated and unnecessary MOU, as it serves no additional practical purpose. Woodlands' staff agrees, and the termination will be considered by their Board in early October 2023.

#### **FISCAL IMPACT**

No fiscal impact to the District.

#### **STRATEGIC PLAN**

Goal 6. GOVERNANCE AND ADMINISTRATION. Conduct District activities in an efficient, equitable and cost-effective manner.

**RECOMMENDATION**

Recommend the Board authorize the District's General Manager to execute the Mutual Termination of Memorandum of Understanding for Resource Preservation and Management.

**ATTACHMENTS**

- A. Mutual Termination of Memorandum of Understanding
- B. December 16, 2002 Nipomo CSD Special Meeting Minutes
- C. December 16, 2002 Memorandum of Understanding for Resources Preservation and Management



SEPTEMBER 13, 2023

ITEM E-2

ATTACHMENT A

## MUTUAL TERMINATION OF MOU

This Mutual Termination of MOU (“**Termination**”), is entered into on October \_\_\_\_, 2023 (“**Effective Date**”) by and between Woodlands Ventures, LLC, a Delaware Limited Liability Company (“**Woodlands**”) and the Nipomo Community Services District (“**District**”). In this Termination, Woodlands and the District are sometimes referred to collectively as the “**Parties**” and individually as a “**Party**.”

### RECITALS

A. Woodlands and the District are parties to the “Memorandum of Understanding Resource Preservation and Management,” effective December 16, 2002 (“**MOU**”). The MOU established a cost-sharing program for the preservation and management of water resources whereby the cost of resource preservation was to be shared equally among the District and Woodlands ratepayers for the property consisting of 957 acres on the Nipomo Mesa west of the community of Nipomo on the east side of Highway One proposed to be developed into a mixed-used project. The MOU also created a joint well management program aimed at reducing impacts on the Parties’ wells.

B. Pursuant to Section 5 of the MOU, Woodlands contributed \$100,000 to a Nipomo Mesa Water Management Fund (“**Fund**”) to be used by the Parties to procure written reports regarding the best use of each Party’s wells. After depletion of the initial funds, the MOU provided that the Parties would share costs for updated studies equally. The Parties are unaware of any remaining balance in the Fund.

C. Pursuant to Section 1 of the MOU, the MOU is in effect from its effective date until terminated by the mutual consent of the parties, or as otherwise provided in the MOU.

D. The Parties mutually consent to terminate the MOU. By and through this Termination the Parties now seek to terminate the MOU.

### TERMINATION OF MOU

For good and valuable consideration, the receipt of which is acknowledged, the Parties agree as follows:

1.0 MUTUAL TERMINATION. The Parties mutually consent to terminate the MOU without any further rights or obligations under the MOU by any of the Parties upon the Effective Date of this Termination.

2.0 RELEASES OF CLAIMS. Each Party hereby releases and discharges the other from all claims of every kind whatsoever arising in the past, present or future (including without limitation any claims for payment, breach of contract, negligence, breach of statutory duties, compensatory damages, penalties, specific performance, injunctive or declaratory relief, costs, attorneys’ fees and/or expert fees) whether known

or unknown, which either Party or any of its agents, shareholders, representatives, employees, predecessors, successors and/or assigns, asserts or could assert against each other, the other Party's agents, council persons, board members, representatives, employees, predecessors, successors and/or assigns, based upon or arising out of the MOU.

3.0 GENERAL PROVISIONS

3.1 Entire Agreement

The provisions of this Termination constitute the entire agreement between the Parties and supersede all prior negotiations, proposals, agreements and understandings regarding the subject matter of this Termination. No modification of this Termination shall be valid unless agreed to in writing by the Parties.

3.2 Execution In Counterparts

This Termination consisting of two (2) pages may be signed by the Parties in multiple counterparts, all of which shall be taken together as a single document. An electronic copy of a signature constitutes an original and all evidentiary objections to same other than for authenticity of signature are waived.

3.3 Choice Of Law/Venue

This Termination shall be construed and enforced in accordance with the laws of the State of California and the Parties agree the Superior Court of the County of San Luis Obispo shall be the appropriate venue for purposes of enforcing this Termination.

WOODLANDS VENTURES, LLC.

a Delaware Limited Liability Company

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date:

NIPOMO COMMUNITY SERVICES DISTRICT

By: \_\_\_\_\_

Mario Iglesias, General Manager

Date:

SEPTEMBER 13, 2023

ITEM E-2

ATTACHMENT B

# NIPOMO COMMUNITY SERVICES DISTRICT

## MINUTES

### SPECIAL MEETING

DECEMBER 16, 2002 MONDAY 7:00 P. M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

#### BOARD MEMBERS

MICHAEL WINN, **PRESIDENT pro tem**  
ROBERT BLAIR, **DIRECTOR**  
JUDITH WIRSING, **DIRECTOR**  
CLIFFORD TROTTER, **DIRECTOR**  
LARRY VIERHEILIG, **DIRECTOR**

#### STAFF

DOUGLAS JONES, **GENERAL MANAGER**  
DONNA JOHNSON, **SECRETARY TO THE BOARD**  
JON SEITZ, **GENERAL COUNSEL**

#### **CALL TO ORDER AND FLAG SALUTE**

President pro tem Michael Winn called the meeting to order at 7:00 p.m. and led the flag salute.

#### **ROLL CALL**

At Roll Call, all Board members were present.

#### **Public Comment on Agenda Items**

The public has the right to comment on any item on the Special Meeting Agenda. Comments are limited to 3 minutes or otherwise at the discretion of the Chair.

There was no public comment.

#### **ADMINISTRATIVE ITEM**

Review and consider approving Memorandum of Understanding with Woodlands Project related to well interference and supplemental water.

Jim Markman, Special Water Counsel, discussed the Memorandum of Understanding with Woodlands.

The following members of the public spoke:

Istar Holliday, 577 Sheridan Rd., Nipomo – Urged the Board to look at a few things before signing away rights. See Section 4 & 5

Mr. Markman responded to Ms. Holliday.

Hathem Dawlett, representative for the Woodlands Project – spoke in favor of the MOU

Upon motion of Director Blair and seconded by Director Winn, the Board agreed to change best to reasonable. It was asked if Woodlands has to search for supplemental water. Mr. Markman answered yes. Vote 5-0 with Director Wirsing abstaining.

President of Troxler Ventures Partners, Inc., a California corporation, Bryan P. Troxler and Michael Winn, NCSD Board President pro tem, signed the agreement.

#### **ADJOURN**

President pro tem Michael Winn adjourned the meeting at 7:45 p.m.

SEPTEMBER 13, 2023

ITEM E-2

ATTACHMENT C

**MEMORANDUM OF UNDERSTANDING  
FOR RESOURCE PRESERVATION AND MANAGEMENT**

This Memorandum of Understanding for Resource Preservation and Management ("MOU") is made and entered into this 16<sup>th</sup> day of December, 2002, by and between the **Nipomo Community Services District** ("District") and **Woodlands Ventures, LLC**, a Delaware Limited Liability Company ("Woodlands").

**RECITALS**

A. Woodlands is the owner of that certain real property located in the unincorporated area of the County of San Luis Obispo ("County") consisting of 957 acres on the Nipomo Mesa west of the community of Nipomo on the east side of Highway One ("Property"). The Property is proposed to be developed in four phases ("Phase") as a mixed-use project pursuant to the adopted Woodlands Specific Plan ("WSP"), hereinafter referred to as the "Project";

B. Woodlands is currently processing with the County applications for a vesting tentative map and two development plans, including a request for a water supply verification pursuant to Government Code §66473.7 ("Applications");

C. The District has opposed the Applications pending before the County and the District and the Woodlands are in litigation with each other in the case entitled Santa Maria Valley Water Conservation District v. City of Santa Maria, Civil Action No.770214 ("Santa Maria Litigation"); and

D. Woodlands and the District are desirous of cooperating and working together to resolve the differences between them and to create a program for the preservation and management of water resources that will benefit ratepayers of both the NCS and the Woodlands over the long term.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises hereinafter set forth, the parties hereto agree as follows:

**1. Term.** This MOU shall become effective on the date first above written and shall remain in effect until terminated by the mutual consent of the parties or as

otherwise provided in this MOU. Notwithstanding anything to the contrary herein, in the event the District fails to approve, sign and return this MOU to the Woodlands on or before 11:00 p.m. on December 16, 2002, or the Woodlands fails to approve and sign this MOU by 9:00 a.m. on December 17, 2002, then this MOU shall be deemed withdrawn by the Woodlands and of no further force and effect between the Woodlands and District; in such event, neither party shall be bound by any of the terms herein in any way whatsoever.

**2. Ratepayer Parity.** In the event that the District or the Woodlands is required as a result of any settlement or judgment in the Santa Maria Litigation to pay any fee (other than their own attorney's fees) or take any action, including without limitation payment for the restoration and maintenance of the Twitchell Reservoir or importation of supplemental water, or either party in good faith reasonably believes that for the preservation of water resources necessary to serve the NCS and Woodland's ratepayers certain action needs to be taken ("Resource Preservation"), the cost of such Resource Preservation shall be shared equally among the NCS and Woodlands ratepayers. For example, if the cost of Resource Preservation as covered hereunder is \$ 150,000 per quarter and there are 2,000 NCS ratepayers and 1,000 Woodlands ratepayers, then the Woodland's would be responsible for 1/3 of the Resource Preservation cost and the NCS would be responsible for 2/3 thereof. Each water service connection or party metered for water by the NCS or the Woodlands shall constitute a ratepayer for purposes of this MOU.

**2.1** The NCS shall calculate and provide the billing to the Woodlands and the NCS for their respective share of the Resource Preservation as provided hereunder, subject to review and approval of the Woodlands, said approval not to be unreasonably withheld or delayed. Each party, on a quarterly basis, shall provide the other party with the number of ratepayers that it has at that time. The NCS, in calculating each party's share, shall use the new ratepayer numbers in their next billing statement. Billing shall be no more often than once every two months (bi-monthly). Upon written request, each party hereto shall be entitled to review any documentation relating to the billing calculation, including but not limited to bills from third parties for the Resource Preservation. The parties agree to exercise good faith in implementing the billing system as provided hereunder. The NCS shall be required to provide a bill to the Woodlands only, and not to the Woodland's ratepayers. Any bill provided



to the Woodland's hereunder shall be due and payable within 30 days from the date of the bill.

**2.2** It is the intent of this section that the ratepayers of both the District and Woodlands should bear equally the burden of Resource Preservation. Not less than 120 days prior to either party taking action for Resource Preservation as allowed hereunder, the party proposing such action ("Obtaining Party") shall notify the other party ("Noticed Party") of its intent thereof, the terms thereof, and the reasonable and good faith basis therefor. The Obtaining Party shall exercise its best efforts to find the most cost effective method for taking such proposed action. In the event the Noticed Party does not agree that the proposed Resource Preservation action is needed (except in the case where a court of law mandates the Obtaining Party to take such action, in which case it shall be deemed an adequate basis for Resource Preservation), the cost of such action is excessive, or the billing is inappropriate, then the parties agree to handle the dispute through dispute resolution as set forth in Section 8 hereof.

**3. Termination of MOU.** Upon the occurrence of any of the following events, then this MOU shall be automatically terminated and of no further force or effect:

**3.1** Failure of both parties to execute this MOU by 9:00 am (PST) on December 17, 2002; or

**3.2** The date that any action or proceeding is filed by the NCS D to attack, review or set aside the County's decision to approve the Applications made on December 17, 2002, or the NCS D breaches Section 6 hereof.

**4. Santa Maria Water Basin Litigation.** The parties understand and agree that this MOU is not intended by either party hereto to constitute the intentional relinquishment of any rights or waiver of any rights to or in connection with the Santa Maria Litigation. Notwithstanding the foregoing sentence, the parties hereto agree that this MOU shall bind the parties hereto no matter what the outcome or decision of the court in said litigation. The parties further agree that to the extent allowed by law (or the Court interpreting such law), each party shall receive credit for its respective contribution hereunder towards any settlement or judgment in

the Santa Maria Litigation. The parties also agree to act in good faith to resolve any disputes between them under the above-referenced litigation.

**5. Joint Well Management Program:** The parties agree to have a professional water consultant or engineer (jointly chosen by the parties) commence preparation of a written report setting forth recommendations for the best use of each party's wells within 90 days of approval by the Board of Supervisors of the Applications. The written study will look at the well locations, and the best practical means of obtaining the required water from the wells with the least impact to the NCSD and Woodland's wells or to the groundwater. Every two years thereafter, the consultant (or another jointly chosen by the Woodlands and NCSD) shall update in writing the report. The parties shall, to the extent practicably feasible, consider the written report and recommendations therein in good faith, including pumping recommendations that will reduce impacts on the other party's wells. The parties shall not be obligated to implement any recommendation that would require the NCSD to move any of its wells, or would impede, slow down, or materially affect the development of the Woodland's Project, require CEQA approval by either party, or is cost prohibitive to either party. The Woodlands shall, prior to the commencement of the first study hereunder, contribute \$ 100,000 to a Nipomo Mesa Water Management Fund, which shall be comprised of a representative of the NCSD and the Woodlands. The parties shall use the \$ 100,000 for the initial and subsequent written studies until the funds are depleted, after which the parties shall share the costs equally for the updated studies (each 2 years or as otherwise agreed by the parties). Notwithstanding anything stated hereinbefore in this Section 5, each party retains all of its rights and remedies pertaining to the protection of its water production facilities against interference caused by the operation of any other water production facility or facilities.

**6. Application Processing.** Provided that Woodlands is not in default of this MOU, the District agrees to not oppose, directly or indirectly, the approval of the Applications by the County, or any other Woodlands entitlements in the future; except in the event the Woodland's seeks an increase in the Project's density (number of residential units or commercial square footage) beyond that provided in the existing Woodlands Specific Plan and entitlements and such changes will materially increase the use of water by the Project, the NCSD

TRUST  
GET  
MAY

Reasonable

and Woodlands shall attempt in ~~good faith~~ to agree on a resolution thereof and if they cannot the NCSD may oppose said changes. The District shall also use its best efforts to get the other water purveyors in the area of the Project to also not oppose the Project now or in the future.

**7. Attorneys Fees.** In the event of any action or proceeding, including arbitration, to enforce a term or condition of this MOU, any alleged disputes, breaches, or defaults in connection with any provision of this MOU or any action or proceeding in any way arising from this MOU, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation reasonable attorneys fees. The "prevailing party" shall be deemed to mean that party who obtains substantially the result sought whether by settlement, dismissal or judgment. Should either party bring suit in Superior Court arising out of this MOU, such suit shall be filed, maintained, and prosecuted in the San Luis Obispo County Superior Court.

**8. Dispute Resolution.** In the event of a dispute between the parties under this Agreement or an alleged breach hereunder, including but not limited to disagreement as referenced in Section 2.2 hereof, the parties agree to submit the dispute to the American Arbitration Association under the rules of Commercial Arbitration for binding arbitration. Any decision of the arbitrator shall be final and binding on both parties.

**9. No Third Party Beneficiaries.** Nothing in this MOU, express or implied, is intended to confer any rights or remedies under or by reason of this MOU on any person or entity other than the parties hereto.

**10. Waiver.** Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this MOU, shall not be deemed to be a waiver with respect to any other breach, default or matter.

**11. Entire Agreement.** This MOU is freely and voluntarily entered into by the parties after having the opportunity to consult with their respective attorneys. Any prior agreements, promises, negotiations, or representations not expressly set forth in this MOU are of no force and effect. The parties, in entering into this MOU, do not rely on any inducements, promises, or representations made by each other, their representatives, or any other person, other than those

inducements, promises, and representations contained in this MOU. Any amendment to this MOU shall be of no force and effect unless it is in writing and signed by HBP and the District.

**12. Notices.** All notices, statements, reports, approvals, requests, bills or other communications that are required either expressly or by implication to be given by either party to the other under this MOU shall be in writing and signed by each party by such officers as each may, from time to time, be authorized in writing to so act. All such notices shall be deemed to have been received on the date of delivery if delivered personally or three (3) days after mailing if enclosed in a properly addressed and stamped envelope and deposited in a United States Post Office for delivery. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as shown below:

**District**

Attn: General Manager  
Nipomo Community Services District  
P.O. Box 326  
Nipomo, CA 93444

With a copy to:

Jon S. Seitz, Esq.  
Shipsey & Seitz, Inc.  
1066 Palm Street  
San Luis Obispo, CA 93454

**Woodlands**

Bryan Troxler  
Woodlands Ventures, LLC  
20750 Ventura Blvd., # 205  
Woodland Hills, CA 91364

With a copy to:

Mr. John Scardino  
JHS, LLC  
31200 Via Colinas  
Suite 200  
Westlake Village, CA 91362

13. **Headings.** The paragraph headings used in this MOU are for reference only, and shall not in any way limit or amplify the terms and provisions hereof, nor shall they enter into the interpretation of this MOU.

14. **Cooperation.** Each party to this MOU agrees to do all things that may be necessary, including, without limitation, the execution of all documents which may be required hereunder, in order to implement and effectuate this MOU.

15. **Interpretation of this MOU.** The parties acknowledge that each party and its attorney have reviewed, negotiated and revised this MOU and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this MOU or any document executed and delivered by any party in connection with the transactions contemplated by this MOU.

16. **Recitals.** The recitals in this MOU are incorporated herein by this reference and made a part hereof.

17. **Counterparts.** This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

18. **Amendments.** This MOU may be modified by subsequent agreement of the parties hereto only by an instrument in writing signed by both of them.

19. **Binding on Successors:** This Agreement shall be binding on the successors to the parties. In the case of the Woodlands, at such time as the Woodlands no longer has an interest in the Property, the successor shall be the Woodlands mutual water company or such other entity operating and providing water to the Woodlands.

20. **Warranty of Authority:** Each party hereby warrants that the party executing this MOU below has been properly authorized and has the full legal right to do so and to bind the entity for which it is signing.

IN WITNESS WHEREOF, District and Woodlands have executed this MOU effective the day and year first above written.

**"Woodlands"**

Woodlands Ventures, LLC  
a Delaware Limited Liability  
Company

By: Troxler Residential  
Ventures II, LLC  
Its Managing Member

By: Troxler Ventures Partners,  
Inc., a California  
corporation  
Its Operating Member

By: B.P. Troxler  
Bryan P. Troxler  
President

**"District":**

Nipomo Community Services  
District

By: Michael Wynn  
President

Attest:

Donna K. Johnson  
Donna K. Johnson  
Secretary to the Board

Approved as to Form:

Jon S. Seitz  
Jon S. Seitz  
District Legal Counsel

TO: BOARD OF DIRECTORS  
 FROM: MARIO IGLESIAS  
 GENERAL MANAGER  
 DATE: September 8, 2023



**AGENDA ITEM  
 F  
 SEPTEMBER 13, 2023**

**GENERAL MANAGER'S REPORT**

**ITEM**

Standing report to your Honorable Board -- *Period covered by this report is August 20, 2023 through September 9, 2023.*

**DISTRICT BUSINESS**

**Administrative**

The District encourages residents to provide reports of any observed water waste. The District also keeps an accounting of leak adjustments as a measure of non-revenue water lost to leaks, as well as tracking late fee waivers. The table below provides August data which is the most recent monthly data available.

**OFFICE ACTIVITIES**

	<u>Aug 23</u>	<u>Jan 23 - Aug 23</u>
Reports of Water Waste	0	0
Leak Adjustments	2	18
Leak Adjustment Amount	\$363	\$5,687
Late Fee Waivers	18	98
Late Fee Waiver Adjustment Amount	\$899	\$7,836

**Water Resources**

For the two month of the 2023-24 Fiscal Year, the District's total combined production, including groundwater production wells and supplemental water imported through the Joshua Road Pump Station, registered 192.9 AF; the previous month registered 192.6 AF. The District imported more water through the Joshua Road Pump Station than it produced from groundwater sources. This trend will continue through the year as the District strives to maintain the 50% groundwater reduction goal reach the District's contract import water take amount of 1,000 AFY minimum.

**Table 1. Total Production Acre Feet (AF)**

	<u>Aug - 23</u>	<u>Jul 23 - Jun 24</u>
Groundwater Production	90.3	200.3
Supplemental Water Imported	<u>102.6</u>	<u>185.2</u>
Total Production	192.9	385.5

**NCSD GW Reduction**

The District's purveyor customers, Golden State Water Company and Woodlands Mutual Water Company, each are responsible for 16.66% (cumulatively 33.33%) of the imported water NCSD brings onto the basin through the NSWP. Of the 1,000 AF minimum imported water from the City of Santa Maria, 333 AF or 33.33% of the total imported water – whichever is greater – 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 2, below, captures this data.

	Aug - 23	Jul 23 - June 24
NCSD GW Well Production	90.3	200.3
Purveyor Customer Credit (33.3% of Import Water)	<u>34.2</u>	<u>61.7</u>
NCSD Total Calculated GW Production	124.5	262.0
Average GW Production for 2009-2013	<u>284.7</u>	<u>575.9</u>
NCSD Percentage of GW Reduction	56%	54%

**2022 Fiscal Year Groundwater Pumping Forecast**

Below, Table 3 projects the District's groundwater pumping reduction for the 2023-24 Fiscal Year. Under the current Stage 4 NMMA Water Shortage Response Stages, the District's targeted groundwater pumping reduction goal is to pump no more than 1,266 AFY (50% of 2009-2013 average District GW Pumping). The first two months of fiscal year 2023-24 actual – July through August – shows a groundwater pumping reduction of 56% while projected year end groundwater reduction estimates a 61% level of reduction.

	Aug-23	Year-to-Date Jul-Jun 2024	Target	Over/(Under)	
NCSD GW Well Production	90.3	612.0			
Purveyor Customer Credit (33.3% of Import Water)	<u>34.2</u>	<u>363.4</u>			
NCSD Total Calculated GW Production	124.5	975.5	1,266.7	291	AcFt
Average GW Production for 2009-2013	<u>284.7</u>	<u>2,533.4</u>	<u>2,533.4</u>		
NCSD Percentage of GW Reduction	56%	61.5%	50.0%		

As demonstrated in Table 3, the District anticipates it will achieve its 50% groundwater pumping reduction target by 291 AcFt under the conditions stated in the previous paragraph.

On the following page, the Table 4 data provides operations personnel with insight into year-end water production values and assists in their efforts to balance import and groundwater production with the purpose of reducing groundwater pumping to meet the self-imposed 50% pumping groundwater reduction – the current stage IV objective.



Table 4 compares groundwater pumping for the same periods in 2023 and 2022.

**Table 4. FY 2023 vs. FY 2022 Groundwater Pumping**

	Aug-23	Jul 23 - Jun 24	Aug-22	Jul 22 - Jun 23
NCSW GW Well Production	90.3	200.3	87.9	188.9
Purveyor Customer Credit (33.3% of Import Water)	34.2	61.7	36.9	69.6
NCSW Total Calculated GW Production	124.5	262.0	124.9	258.5
Average GW Production for 2009-2013	284.7	575.9	284.7	575.9
NCSW Percentage of GW Reduction	56.3%	54.5%	56.1%	55.1%

**Rainfall Gauge**

Below is the most recent available rain data for the Fiscal Year 2023-24.

(Reported in inches)	Nipomo East (Dana Hills Reservoirs)	Nipomo South (Southland Plant)
August 2023 Total	0.07	0.09
July-2023 through June-2024 (Season Total)	0.07	0.12
<u>Sept 1, thru Sept 8, 2023</u>	<u>0.00</u>	<u>0.00</u>
Total Rainfall to date	0.07	0.12
County Reported Avg. Ann. Year Rainfall <sup>1</sup>	18.00	14.00
2006 - 2020 Avg. Ann. Year Rainfall <sup>1</sup>	15.39	13.30
2006 - 2020 Median Ann. Rainfall <sup>1</sup>	12.64	11.30

Note:

1. Data from County website

**Connection Report**

WATER	1/31/23	2/28/23	3/31/23	4/30/23	5/31/23	6/30/23	7/31/23	8/31/23	9/30/23	10/31/23	11/30/23	12/31/23
Water Connections - Total	4506	4508	4508	4508	4509	4509	4509	4509				
New Water Connections	0	2	0	0	1	0	0	0	0	0	0	0
<b>SEWER CONNECTIONS</b>												
Sewer Town connections	2735	2736	2736	2736	2736	2736	2736	2736				
Galaxy and PSSH at Orchard and Division Sewer connections billed to the County	484	484	484	484	484	484	484	484				
Subtotal	3219	3220	3220	3220	3220	3220	3220	3220	0	0	0	0
BLACKLAKE	559	559	559	559	559	559	559	559				
Sewer Connections - Total	3778	3779	3779	3779	3779	3779	3779	3779	0	0	0	0
New Sewer Connections Town and Blacklake	0	1	0	0	0	0	0	0	0	0	0	0
New Sewer Connections Galaxy	0	0	0	0	0	0	0	0	0	0	0	0

The Connection Report as of September 7, 2023

**Other Items**

- District received the balance of the Proposition 1 grant funding on September 5<sup>th</sup>
- WRAC recommendation from sub-committee pending Planning Commission Meeting [Att: C]

**Safety Program**

No Safety Issues

**Supplemental Water Capacity Accounting**

Summary Since January 25, 2008

	Number of Equivalent Meters	AFY
Supplemental Water Available for Allocation	947	500.0
Supplemental Water Reserved (Will Serve Letter Issued)	149	-78.1
Subtotal Net Supplemental Water Available for Allocation	<b>798</b>	<b>421.9</b>
Supplemental Water Assigned (Intent-to-Serve Issued)	159	-83.9
<b>Total Remaining Supplemental Water Available for Allocation</b>	<b>639</b>	<b>337.9</b>

Updated September 7, 2023

**Meetings (August 20 through September 9)**

*Meetings Attended (telephonically or in person):*

*NCSD Audit Week August 21 through August 25*

- *Aug 21, Staff Mtg. - Admin Supervisor Mtg.*
- *Aug 22, Eng/Admin Coordination Meeting*
- *Aug 23, Rotary*
- *Aug 23, NCSD Regular Board Meeting*
- *Aug 23, After-Board Exec. Team Meeting*
- *Aug 24, NMMA-TG Manager's Meeting*
- *Aug 24, Collaboration Business Leadership Training*
- *Aug 25, Staff Mtg. - Cust. Service Specialist*
- *Aug 28, Staff Mtg. - Admin Supervisor Mtg.*
- *Aug 28, CSDA Conference Monterey*
- *Aug 29, CSDA Conference Monterey*
- *Aug 30, Rotary*
- *Aug 30, Developer Meeting Red Tail Dev.*
- *Aug 31, Dana Reserve Project Phasing Review*
- *Sept 4, Labor Day Holiday*
- *Sept 5, NCSD Management Team Mtg.*
- *Sept 5, BLMA Monthly Meeting*
- *Sept 5, NCSD Board Officer Meeting*
- *Sept 6, Rotary*
- *Sept 6, NMMA-TG Meeting*
- *Sept 6, CSDA Manager's Meeting*
- *Sept 6, WRAC Meeting*
- *Sept 8, Staff Mtg. - Cust. Service Specialist*

**Meetings Scheduled (September 10 through September 16):**

*Upcoming Meetings (telephonically or in person):*

- *Sept 11, Staff Mtg. - Admin Supervisor Mtg.*
- *Sept 11, IWMA Task Force Meeting*
- *Sept 12, Eng/Admin Coordination Meeting*
- *Sept 13, Rotary*
- *Sept 13, NCSD Regular Board Meeting*
- *Sept 13, After-Board Exec. Team Meeting*
- *Sept 15, Staff Mtg. - Cust. Service Specialist*

**Upcoming Water Resource and Other Meetings**

*Upcoming Standing Meetings:*

- *NMMA-TG: October 12<sup>th</sup> (Thursday) @ 10:00 AM, Zoom Meeting*
- *RWVG: No Meeting Scheduled for the Month*
- *WRAC: September 6<sup>th</sup> (Wednesday) @ 1:30 pm, County Library*
- *NMMA Manager's Meeting: September 21<sup>st</sup> (Thursday) @ 11:30 AM*
- *NCSD Board Officer Meeting: September 19<sup>th</sup> (Tuesday) @ 3:30 PM*
- *BLMA: October 3<sup>rd</sup> (Tuesday) 2:00 pm, BL Community Center*

**RECOMMENDATION**

Staff seeks direction and input from your Board.

**ATTACHMENTS**

- A. Dana Reserve Schedule (Changed)
- B. Desal Meeting Schedule (No Change)
- C. WRAC Sub-committee Report: Dana Reserve Project Impacts on NCSD

SEPTEMBER 13, 2023

ITEM F

ATTACHMENT A

DANA RESERVE REVIEW SCHEDULE (AS OF 9/8/2023)

Status Update: Changes Highlighted

Date	Description	Comment
April 24, 2022	NCS D Review "Utility" Section of EIR	
June 16, 2022	Release of EIR	Extended from May 16, 2022
July 14, 2022	SLO County Planning Comm. Study Session	Zoom Meeting
July 21, 2022	LAFCO Study Session	County Lead Agency (9:00 am)
Aug. 1, 2022 <sup>1</sup>	Close Public Comment - DEIR	Was June 20, 2022 (Mario on Vaca)
Sept. 2022	Consider Ad-hoc Comm. (Annexation Agr.)	Establish January 2023
Nov. 17, 2022	NOTICE OF PETITION OF APPLICATION FOR ANNEXATION #30 DANA RESERVE <sup>1</sup>	60 Day Letter
Jan. 9, 2023	Ad-hoc Com. – Response to Notice of Petition	Prepare for Jan. 11 <sup>th</sup> Board Mtg.
July 24, 2023	SCAC – Town Hall Meeting, Nipomo H.S.	Community Meeting
August 30, 2023	County Planning Commission <sup>2</sup> (Postponed)	Two days (8/30 & 8/31)
September 28	Planning Commission Study Session <sup>3</sup>	
September 2023	Tax Sharing Agreement (NCS D/SLO Cnty)	Start Negotiations with County
October 23 & 24	Planning Commission Hearing <sup>4</sup>	Two days of testimony
November 2023	Review of revised EIR impact	
January 2024	1 <sup>st</sup> Meeting: County Board of Supervisors	Consider recommendation of PC to Certify EIR, General Plan Amendment, Approve Subdivision Map, Issue Conditional Use Permits
February 2024	2 <sup>nd</sup> Meeting: County Board of Supervisors	
March 2024	NCS D Board Negotiations with Developer [Infrastructure Improvements/Costs]	Adopt Annexation Agreement Between Developer and NCS D
April 2024	LAFCO Review & Approval	

The above schedule is suggested and drawn from conversations with staff from the County, LAFCO, and the Developer. This schedule is a rough outline and is subject to change over time.

Notes:

1. NCS D Staff will provided a staff report at the January 11<sup>th</sup> Board Meeting that provided the Board of Directors with more information and possible actions.
2. The Commission action was to continue the project hearing until the October 23 & 24 Special Planning Commission Meeting.
3. September 28<sup>th</sup>, Study Session with Planning Commission & Public – held at County Sups Chamber

4. Will consider a recommendation to provide the Board of Supervisors to: Certify the Final EIR, Adopt the CEQA findings, Approve the Specific Plan, Approve the Vesting Tentative Tract Map, Approve related General Plan and Ordinance amendments, Approve a related Conditional Use Permit.

Developer shifted to an annexation process that focuses first on LAFCO application and second the District's application process. Under this format, LAFCO will be the agency that coordinates communication between the Developer and NCSO.

Developer mailed letter September 20, 2022 to residents in Nipomo directing their attention to District website and the three reports addressing utilities – focus on explaining water situation.

RWG submitted comments on the Dana Reserve Specific Plan DEIR, August 1, 2022, to the County of San Luis Obispo supervision planner, Jennifer Guetschow.

**Phasing Plan Schedule** – Defines the fee schedule for the development. (May slip do to key NCSO staff shortage)

Administrative Draft Final Report	June 2023
District Comments on Admin Draft Final Report	July 2023
Draft Final Report	August 2023*
District Board Presentation	September 2023 (2 <sup>nd</sup> Board Meeting)
Final Report	September 2023

\* Previously July 2023 (Changed on the 7/26/2023 Report)

SEPTEMBER 13, 2023

ITEM F

ATTACHMENT B

Update: August 18, 2023  
 Mario Iglesias

County Water Action Team (CWAT) No Changes from July Report

County DESAL Meetings

Date	Speaker	Item/Issue/discipline	Company
1/10/2023	Dmitry Semenov	Financing Projects	Ridgeline Municipal Strategies, LLC
1/12/2023	Eric Miller	Fisheries Biologist	Miller Marin Science Consultants
1/17/2023	Did Not Attend		
1/19/2023	Tim Hogan	Biologist	TWB Environmental Research Consulting
2/6/2023	Rob Morrow	Engineering/Planning Team	WSC Inc. (Local Group)
2/7/2023	Did Not Attend		
2/7/2023	Lydia	Planning and Feasibility	Carollo Engineering
2/9/2023	Larry Kraemer	Engineering Firm	Cannon Eng.
2/9/2023	Daniel Heimel	Program Management/Engineering Services	Confluence Engineering Solutions
4/4/2023	Floyd Wicks	Sea-Well Buoy – Another solution	Seawell LLC
4/5/2023	Michael Wasgatt	Wind powered DESAL – Ocean Mounted	Offshore Wind Power Systems of Texas, Inc.
4/6/2023	Mr. Yamada		
4/24/2023	Neal Aronson	Oceanus Power and Water	is an infrastructure development company
4/25/2023	Antoine Vuillermet	Waterise (subsea tech)	subsea tech combined w/ membrane desal
6/2/2023	County CWAT Committee	Next Steps	(Conflicting Meeting – Didn't attend)
6/14/2023	Jennifer Jacobus	Everything but physically building a Plant	RINCON

1. **DESAL Plan participation:** The following agencies have adopted resolutions or submitted letters agreeing to participate: the Cities of San Luis Obispo, Arroyo Grande, Morro Bay, Paso Robles, the Community Services Districts of Avila Beach, Cambria, Los Osos, Nipomo, San Miguel, Templeton, Oceano and other water purveyors, such as Atascadero Mutual, Golden State, San Miguelito and Santa Barbara County
  - a. Grover is targeting next week for consideration
  
2. **DESAL Plan scope / grant:** We submitted an application (attached) to USBR and anticipate hearing about awards no later than June. To fit the timing required for USBR's grant (project must be completed w/in 24 months), Phase 2 was broken into Phase 2a and Phase 2b (snippet of 5 phases below)
  - a. **Phase 2a (proposed grant scope)**
    - i. Will be completed within 24 months and, if awarded grant, will cost District \$550K and USBR \$550K for total \$1.2M project
    - ii. Will include public engagement, identifying/vetting/analyzing project concept alternatives
    - iii. Outcome will be "short-list" of potential projects to further pursue and scope/schedule/budget to do so in Phase 2b



Update: August 18, 2023

Mario Iglesias

**b. Phase 2b (not proposed in grant scope)**

- i. Will include more detailed analysis/studies of projects on “short-list”
- ii. Outcome will be selection of single preferred project to move forward to Phase 3

**3. Desal planning meetings:**

- a. CWAT meetings (TBD) – we’ll be reaching out for your availability soon to schedule the next CWAT meeting and round of working group / consultant meetings
  - the request for your availability may come from Jenny Williamson in our office – please respond at your earliest convenience so we can continue coordination with the consultants’ availabilities, etc.
- b. Board of Supervisors (April) – The grant application requires the District to adopt a resolution within 60 days of submitting the grant application. We plan to go to our Board on April 18 with the required resolution, along with an update on the scope and request for direction to return with a consultant contract

**4. Misc. desal info just fyi**

- a. Glenn Farrel (CalDesal Executive Director) sent over the CalDesal Regulatory Committee Meeting Agenda Packet; it includes a brief write-up on Innovations in Desalination and newly-introduced legislation relevant to desal projects
- b. Paul Herman (GHD contact) sent over the International Weekly Desal Report; it includes a brief write-up on the CalDesal conference (key note: the SWRCB representative said the State’s desal siting guidelines anticipated this summer will be out for public comment in April!)

SEPTEMBER 13, 2023

ITEM F

ATTACHMENT C

**TO:** Water Resources Advisory Committee

**FROM:** Brendan Clark, Supervising Water Resources Engineer

**DATE:** June 7, 2023

**SUBJECT:** Item 4: Receive Update From Ad Hoc Committee on Water Sections of the Dana Reserve Project EIR and Consider Action

**Discussion**

As part of the June 6<sup>th</sup> regular WRAC meeting, an Ad Hoc Subcommittee was created to review the Water Sections of the Dana Reserve Project EIR.

The Ad Hoc Subcommittee included Linda Chipping, Ed Eby, Jim Guthrie, Eric Greening, David Chipping, Dolores Howard and Steph Wald.

A summary from the Ad Hoc Subcommittee is attached.

**Attachments:**

1. Summary from Ad Hoc Subcommittee

## Comments by the Water Resources Advisory Ad Hoc Committee on the Dana Reserve Final EIR Hydrology Related Issues

The WRAC Ad Hoc Committee provides the following comments concerning the water related issues of the Final Environmental Impact Report (FEIR) for the Dana Reserve Specific Plan.

### **Introduction and Summary**

The Ad Hoc Committee examined both the Draft and Final Environmental Impact Reports, and associated documents used in the preparation of those reports. These include documents from the Nipomo Community Services District (NCSD), Nipomo Mesa Management Area (NMMA) Annual Reports, the Dana Reserve Water Supply Assessment, and the terms of the Nipomo Supplemental Water Project (NSWP).

In summary, the Ad Hoc Committee finds the analysis as provided in the Final EIR to be thorough and accurate. No substantial issues associated only with water supply and wastewater disposal appear to be obstacles to the project as proposed.

### **Adequate Water Supply for Dana Reserve Specific Plan and All Other Potential Infill Projects**

The terms of the Nipomo Supplemental Water Project (NSWP) address the contracted import of water from the greater Santa Maria groundwater basin. Minimum imported deliveries are defined, with 1,000 AFY as the current delivery, which will increase to 2,500 AFY by 2025. An additional 500 AFY is available to NCSD under the Project agreement to supply future infill demand in their service area. In addition, the Wholesale Water Supply Agreement (2013) also contains a provision that allows the NCSD to request an additional 3,200 AFY of water for development.

The FEIR Master Response MR-1 to DEIR Comments, notes *“Per the terms of the 2005 Stipulation and 2008 Judgment resulting from the Santa Maria Groundwater Litigation (1997), all new urban uses are required to provide a source of supplemental water to offset the water demand associated with the development.”* This would apparently not apply to new wells developed outside of the NCSD service area.

According to the March 30, 2022 MKN study commissioned by the NCSD ([https://ncsd.ca.gov/wp-content/uploads/2023/08/Revised-Dana-Reserve-Evaluation\\_2022.03.30.pdf](https://ncsd.ca.gov/wp-content/uploads/2023/08/Revised-Dana-Reserve-Evaluation_2022.03.30.pdf)), the conservative estimate for groundwater availability is 1,267 AFY plus 2,167 AFY of imported (NSWP) water, or 3,434 AFY total.

Demand is 2,046 AFY for current NCSD customers, 340 AFY for future developments in the NCSD boundaries, and 352 AFY for the Dana Reserve plan, leaving 694 AFY more availability than demand. Therefore, water supply for the development is more than sufficient.

#### **Dana Reserve Specific Plan Use of Imported Water Relation to Subbasin's Stage 4 Water Severity Condition**

The project wastewater, treated at the Southland Water Treatment Plant, does not exert any further pressure on the subbasin because all of its water is imported, via the NSWP.

Furthermore, there is wastewater percolation return to the Santa Maria Groundwater Basin which the NCSA shares. The degree to which water from the Southland Water Treatment Plant recharges the Nipomo Mesa Management Area part of the Santa Maria Groundwater Basin is uncertain, as some water from the plant has been shown to percolate to Nipomo Creek.

#### **Dana Reserve Specific Plan Effect on On-site Groundwater Recharge Unknown**

There are no estimates of on-site groundwater recharge on the project site. There are no estimates of viable groundwater beneath the Dana Reserve. Geotechnical borings showed no water in the upper 50 ft. of the borings. Past efforts to produce well water from any depth in this area have been unsuccessful. The effect of adding impermeable surfaces in Dana Reserve will reduce recharge, but the added drainage collection ponds might enhance recharge in those areas. No quantitative study of the net changes of on-site recharge changes has been made, although the FEIR concludes "... even though the project would increase impervious surfaces, the project would not adversely affect groundwater recharge."

#### **Dana Reserve Specific Plan Effect on Off-site Groundwater Recharge**

Note answer to On-Site Groundwater Recharge above. Additional wastewater from this project to the Southland Treatment plant might result in added Santa Maria Groundwater Basin recharge from that site. The following paragraph addresses wastewater recharge potential.

#### **Dana Reserve Specific Plan Provides No Certainty for Project-Derived Wastewater Use**

There is no agreement for the Project to underwrite purple pipe reuse. This would be a mitigation for an unspecified impact. While the FEIR discusses possible use of recycled water at the Regional Park, the High School, and on Dana Reserve landscaping, there is no certainty about siting, installation costs, and the final cost of the delivered water. Therefore, this cannot be considered part of the project at this time.

#### **Southland Treatment Plant Capacity Requires Expansion, a Project Associated Cost**

The Southland Wastewater Treatment Plant will require expansion to accommodate water from Dana Reserve and from the Black Lake Wastewater Treatment Plant, which is closing. These collection and treatment plant improvements are identified in the MKN report and have been estimated to be ~\$20M. In addition, water supply and distribution infrastructure improvements have been estimated to be ~\$19M. These improvements will be funded wholly by the developments.

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
WATER RESOURCES ADVISORY COMMITTEE (WRAC)

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