

TO: BOARD OF DIRECTORS  
FROM: RAY DIENZO, P.E. R.D.  
GENERAL MANAGER

DATE: JANUARY 19, 2024



## INVESTMENT POLICY – QUARTERLY REPORT

### ITEM

Review Investment Policy Quarterly Report [RECOMMEND ACCEPT AND FILE REPORT]

### BACKGROUND

The District's Investment Policy requires the Treasurer/Finance Officer file a quarterly report that identifies the District's investments and their compliance with the policy. The quarterly report [Attachment A] is considered by the Board of Directors and is filed with the District's auditor.

As District Treasurer/Finance Officer, I am pleased to inform the Board of Directors that the District is in compliance with the Investment Policy and that the objectives of safety, liquidity, and yield have been met. The District has the ability to meet cash flow requirements for the next six months.

### STRATEGIC PLAN

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

### RECOMMENDATION

After Board consideration and public comment, it is recommended that your Honorable Board accept the quarterly report and direct staff to file the Report with the District Auditor.

### ATTACHMENTS

- A. Quarterly Investment Report

JANUARY 24, 2024

ITEM E-1

ATTACHMENT A

**ATTACHMENT A**

**NIPOMO COMMUNITY SERVICES DISTRICT  
INVESTMENT POLICY-QUARTERLY REPORT 12/31/2023**

<b>UNRESTRICTED POOLED CASH ACCOUNTS</b>							
<i>Investment</i>	<i>Institution</i>	<i>Amount of Deposit 12/31/23</i>	<i>Rate of Interest as of 12/31/23</i>	<i>Quarterly Interest Earned or Accrued 12/31/23</i>	<i>Amount of Deposit 12/31/22</i>	<i>Rate of Interest as of 12/31/22</i>	<i>Quarterly Interest Earned or Accrued 12/31/22</i>
<i>Public Checking (1)</i>	<i>Five Star Bank/Mechanics</i>	\$558,012.06	n/a	n/a	\$374,522.91	n/a	n/a
<i>Public Money Market</i>	<i>Five Star Bank</i>	\$623,504.17	3.84%	\$5,276.46	n/a	n/a	n/a
<i>Public Money Market</i>	<i>Mechanics Bank</i>	\$196,125.76	4.20%	\$1,571.36	\$3,089.55	0.02%	\$0.15
<i>Pooled Money Investment</i>	<i>Local Agency Investment Fund (LAIF)</i>	\$13,720,420.99	4.00%	\$140,917.98	\$19,451,111.04	2.07%	\$99,017.57
<i>Pooled Money Investment</i>	<i>Multi Bank Securities</i>	\$5,652,507 See attached	5.15-5.35%	\$81,459.09	n/a	n/a	n/a
<b>RESTRICTED CASH ACCOUNTS – DEVELOPER BOND FUNDS HELD IN TRUST</b>							
<i>Money Mkt - Performance Bond</i>	<i>Five Star</i>	\$19,915.30	3.84%	\$182.25	\$19,317.39	2.03%	\$94.63
<i>Money Mkt - Performance Bond</i>	<i>Five Star</i>	\$16,835.94	3.84%	\$154.07	\$16,330.39	2.03%	30.39
<i>Money Mkt - Performance Bond</i>	<i>Five Star</i>	Closed – Deposit returned	n/a	n/a	\$27,915.78	2.03%	\$136.74
<b>RESTRICTED CASH ACCOUNT – NIPOMO SUPPLEMENTAL WATER FUNDED REPLACEMENT HELD IN TRUST</b>							
<i>Savings–NSWP Funded Replacement</i>	<i>Five Star</i>	\$1,816,707.10	3.84%	\$16,388.78	\$1,557,973.35	2.03%	\$7,514.26
<b>RESTRICTED CASH ACCOUNTS – ASSESSMENT DISTRICT 2020-1 HELD IN TRUST</b>							
<i>Public Checking - BL A/D 2020-1 (1)</i>	<i>Five Star</i>	\$3,300.58	n/a	n/a	\$325,127.20	n/a	n/a
<i>Money Mkt - BL A/D 2020-1</i>	<i>Five Star</i>	\$2,039,043.17	3.84%	\$18,689.02	\$965,944.11	2.03%	\$4,731.72
<i>Money Mkt - BL Tax Roll Collections</i>	<i>Five Star</i>	\$165,657.17	3.84%	\$700.03	\$176,643.07	2.03%	\$275.88

(1) Analyzed Account  
n/a Not applicable

**Nipomo Communtiy Services District**  
**Investments**  
**December 31, 2023**

<u>Type of Investment</u>	<u>CUSIP</u>	<u>Purchased</u>	<u>Maturity</u>	<u>Yield to Maturity</u>	<u>Par Value(1)</u>	<u>Effective Price</u>	<u>Market Value(2)</u>	<u>Cost Basis(3)</u>
<b>6 Month Treasuries</b>								
Treasury Bills	912797FS1	12/12/2023	6/13/2024	5.18%	\$ 2,415,000	97.713	\$ 2,359,769	\$ 2,354,254
<b>6 Month Treasury Subtotal</b>					<b>\$ 2,415,000</b>		<b>\$ 2,359,769</b>	<b>\$ 2,354,254</b>
<b>12 Month Treasuries</b>								
Treasury Notes	91282CCG4	6/21/2023	6/15/2024	5.15%	\$ 2,410,000	97.816	\$ 2,357,366	\$ 2,298,253
<b>12 Month Treasury Subtotal</b>					<b>\$ 2,410,000</b>		<b>\$ 2,357,366</b>	<b>\$ 2,298,253</b>
<b>Treasuries Subtotal</b>					<b>\$ 4,825,000</b>		<b>\$ 4,717,135</b>	<b>\$ 4,652,507</b>
<b>12 Month Certificates of Deposit (CD's)</b>								
Certificate of Deposit - CIBC Bank USA Chicago	12547CBB3	6/23/2023	6/21/2024	5.30%	\$ 200,000	100.047	\$ 200,094	\$ 200,000
Certificate of Deposit - Valley National Bank	919853JV4	6/26/2023	6/26/2024	5.35%	\$ 200,000	100.078	\$ 200,156	\$ 200,000
Certificate of Deposit - Bank of California Irvine	05961SRD8	6/29/2023	6/27/2024	5.30%	\$ 200,000	100.056	\$ 200,112	\$ 200,000
<b>12 Month CD Subtotal</b>					<b>\$ 600,000</b>		<b>\$ 600,362</b>	<b>\$ 600,000</b>
<b>18 Month Certificates of Deposit (CD's)</b>								
Certificate of Deposit - Alpine Bank Glenwood	02081QCN8	6/28/2023	12/30/2024	5.15%	\$ 200,000	100.000	\$ 200,000	\$ 200,000
Certificate of Deposit - Mercantile Bank Grand	587379AM0	6/30/2023	12/30/2024	5.15%	\$ 200,000	99.959	\$ 199,918	\$ 200,000
<b>18 Month CD Subtotal</b>					<b>\$ 400,000</b>		<b>\$ 399,918</b>	<b>\$ 400,000</b>
<b>CD Subtotal</b>					<b>\$ 1,000,000</b>		<b>\$ 1,000,280</b>	<b>\$ 1,000,000</b>
<b>Investment Total</b>					<b>\$ 5,825,000</b>		<b>\$ 5,717,415</b>	<b>\$ 5,652,507</b>

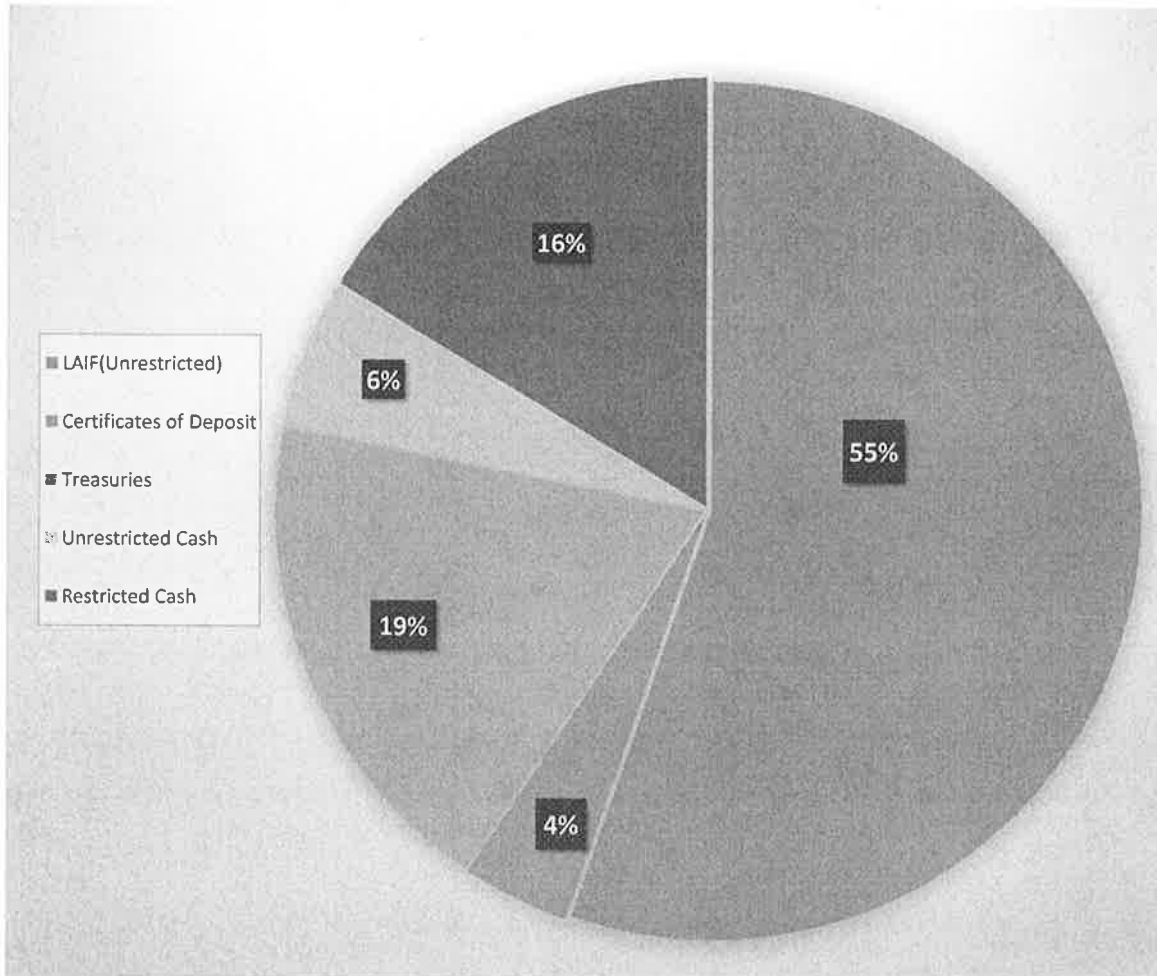
**Market Value Source:** eConnectDirect.com for the Certificates of Deposit and Treasuries

- (1) Par Value is the Face Value of the investment when it matures
- (2) Market Value of Certificates of Deposit is shown as of 12/31/2023
- (3) Cost Basis is the original purchase price of the investment

**Notes to Mention**

- Investments listed in this report comply with the California Government Codes 53600-53864 and the District's Statement of Investment Policy.
- Sufficient funds are available to meet the District's expenditure requirements for the next six months.
- All CDs are 100% FDIC insured and noncallable

**Nipomo Community Services District  
Cash and Investment Allocation  
December 31, 2023**



Cash and Investment Summary		
LAIF(Unrestricted)	\$	13,720,421
Certificates of Deposit	\$	1,000,000
Treasuries	\$	4,652,507
Unrestricted Cash	\$	1,377,642
Restricted Cash	\$	4,061,459
<b>Total</b>	<b>\$</b>	<b>24,812,029</b>

**Pursuant to Section 8.A. of the Investment Policy**

**Summary of Electronic Transfers (greater than \$500,000)**

<b>Transfer Date</b>	<b>Amount</b>	<b>Transfer From</b>	<b>Transfer To</b>
None			

TO: BOARD OF DIRECTORS

REVIEWED: RAY DIENZO, P.E. *R.D.*  
GENERAL MANAGER

FROM: JANA ETTEDDGUE *J*  
FINANCE DIRECTOR

DATE: JANUARY 18, 2024

**AGENDA ITEM**

**E-2**

**JANUARY 24, 2024**

## **ADOPT RESOLUTION REVISING DISTRICT INVESTMENT POLICY**

### **ITEM**

Adopt resolution revising District Investment Policy [RECOMMEND ADOPT RESOLUTION]

### **BACKGROUND**

The California Government Code requires the District to annually review its Investment Policy and consider any changes at a public meeting.

District Legal Counsel has reviewed the Investment Policy and has suggested revisions [Attachment A (underlined text)].

### **STRATEGIC PLAN**

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

### **RECOMMENDATION**

Staff recommends your Board adopt Resolution revising Investment Policy.

### **ATTACHMENTS**

- A. Resolution 2024-XXX, including Exhibit A

**JANUARY 24, 2024**

**ITEM E-2**

**ATTACHMENT A**

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2024-XXXX**

**A RESOLUTION OF THE  
BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING THE DISTRICT'S INVESTMENT POLICY**

**WHEREAS**, the Board of Directors of the Nipomo Community Services District ("District") believes that public funds should, so far as is reasonably possible, be invested in financial institutions to produce revenue for the District rather than to remain idle; and

**WHEREAS**, from time to time there are District funds which for varying periods of time will not be required for immediate use by the District, and which will, therefore, be available for the purpose of investing in financial institutions with the objectives of safety, liquidity, yield and compliance with state and federal laws and policies; and

**WHEREAS**, the District's investments are governed by an investment policy, originally adopted in 2014, that is reviewed annually and requires updating from time to time.

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

1. The District has conducted the annual review of, and hereby adopts, the Investment Policy attached hereto as Exhibit "A" as the District's 2024 Investment Policy;
2. The District Board affirms its appointment of the General Manager as Treasurer/Finance Officer of the District, and delegates to the Treasurer/Finance Officer the authority to invest and re-invest funds in accordance with the Investment Policy for the succeeding twelve (12) month period following such delegation or until such time as the delegation of authority is revoked or amended earlier.
3. The District's 2023 Investment Policy is hereby amended as shown in underline in Exhibit A.

**PASSED AND ADOPTED** by the Board of Directors of the Nipomo Community Services District this 24th of January, 2024 on the following roll call vote:

**AYES:  
NOES:  
ABSENT:  
CONFLICTS:**

\_\_\_\_\_  
ED EBY, President  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
RAY DIENZO  
Secretary to the Board

\_\_\_\_\_  
CRAIG A. STEELE  
District Legal Counsel



**RESOLUTION 2024-XXXX  
EXHIBIT A**

**INVESTMENT POLICY  
NIPOMO COMMUNITY SERVICES DISTRICT**

**1. INTRODUCTION**

This policy establishes the standards under which the District's Finance Officer/Treasurer will conduct business with financial institutions with regard to the investment process.

**2. PURPOSE AND SCOPE**

This investment policy is intended to outline the guidelines and practices to be used in effectively managing the District's available cash and investment portfolio. It applies to all cash and investment assets of the District except those funds maintained in deferred compensation accounts for employees. Proceeds of debt issuance that shall be invested in accordance with the permitted investment provisions of their specific bond indentures. District monies not required for immediate expenditure will be invested in compliance with governing provisions of law (Government Code Sections 53600 et seq.) and this policy. Investments shall be made in judgment and with care, skill, prudence, and diligence under circumstances then prevailing, including but not limited to the general economic conditions and the anticipated needs of the District, which persons of prudence, discretion and intelligence acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims; not for speculation, but to safeguard the principal of their capital and maintain the liquidity needs of the District. The standard of prudence to be used by investment officials shall be the "prudent investor" standard (California Government Code Section 53600.3) and shall be applied in the context of managing an overall portfolio. The Investment Officer (Finance Officer/Treasurer defined below) acting in accordance with written procedures and the investment policy and exercising prudence and due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

**3. FINANCE OFFICER/TREASURER**

The Board of Directors appoints the General Manager as the District Finance Officer and Treasurer. The District's Finance Director shall serve as the District's Finance Officer and Treasurer in the absence of the District's General Manager. The services of any investment or financial advisor to the District shall be governed by the terms and standards set forth in this Policy. Pursuant to Government Code Section 53607, this delegation of investment authority to the District Finance Officer and Treasurer is for a period of one calendar year only, and shall be reviewed by the District Board annually.

**4. SCOPE**

The District investment portfolio shall consist of money held in a sinking fund of, or surplus money in, the District's treasury not required for the immediate necessities of the District. The District's investment portfolio shall be invested in accordance with this policy.

**5. OBJECTIVES**

The primary objectives are safety, liquidity, yield, and compliance.

**RESOLUTION 2024-XXXX  
EXHIBIT A**

**INVESTMENT POLICY  
NIPOMO COMMUNITY SERVICES DISTRICT**

**A. SAFETY**

The investment portfolio shall be managed in a manner that ensures the preservation of capital. The objective is to minimize credit risk and interest rate risk. To protect against fraud or embezzlement or losses caused by the collapse of an individual securities dealer, all securities owned by the District shall be held in safekeeping by a third party bank trust department designated by the District. This designated third party shall act as agents for the District under the terms of a custody agreement. All trades executed by a dealer will settle delivery vs. payment (DVP) through the District's safekeeping agent. Investment advisors, dealers and others entrusted with holding and managing District funds shall be bonded and insured to protect the District against embezzlement or fraud. Securities held in custody for the District shall be independently audited by the District annually to verify investment holdings and the other factors required by this policy and applicable law.

**B. LIQUIDITY**

The investment portfolio shall remain sufficiently liquid to meet all operating requirements. This shall be accomplished by structuring the investment portfolio so that investments mature in advance of cash needs.

**C. YIELD**

Yield shall be a consideration only after the requirements of safety and liquidity have been met.

**D. COMPLIANCE**

This Investment Policy is written to be in compliance with applicable California and Federal law.

**6. STANDARDS OF CARE**

**A. PRUDENCE**

The Finance Officer/Treasurer will manage the portfolio pursuant to the "Prudent Investor Standard." When investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds in the District's investment portfolio, the Finance Officer/Treasurer shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including but not limited to the general economic conditions and the anticipated needs of the District, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the District.

**B. DISCLOSURES**

Finance Officer/Treasurer shall disclose any material interest in financial institutions or professionals with which he/she conducts the District business, and shall comply with all applicable laws relating to conflicts of interest.

**RESOLUTION 2024-XXXX**

**EXHIBIT A**

**INVESTMENT POLICY  
NIPOMO COMMUNITY SERVICES DISTRICT**

**C. INTERNAL CONTROLS AND PROCEDURES**

The Finance Officer/Treasurer shall establish, maintain, and comply with a system of written internal controls, which shall be reviewed at least annually with the District's independent (external) auditor. The controls are designed to prevent loss of public funds due to fraud, employee error, misrepresentation by third parties, unanticipated market changes, or imprudent actions of employees of the District or third parties. The Finance/Officer Treasurer shall evaluate any audit reports in a timely manner with the Board. The quarterly reports of the District shall be provided to the Board as required by this Policy and applicable law. Daily compliance of the investment portfolio shall be performed by the Finance Officer/Treasurer or designee. Compliance will be determined on a fair market value basis. All agreements, statements, and trade packets will be subject to review annually by the District's auditors in conjunction with their audit.

**7. INVESTMENTS AUTHORITY**

**A. PERMITTED INVESTMENTS**

The District Finance Officer/Treasurer is authorized to deposit or invest District funds only in the following institutions and investments, and only in compliance with applicable state law:

1. County pooled funds (California Government Code §§ 27133(g), 53635, 61053)
2. The Local Agency Investment Fund created by the California State Treasury (California Government Code §§ 16429.1, 61053)
3. One or more FDIC insured Banks and/or Savings and Loan Associations that are designated as District depositories by resolution of the Board of Directors (California Government Code §§ 53630 et seq., 61053).
4. U.S. Treasuries and other government obligations for which the full faith and credit of the United States are pledged for payment of principle and interest, provided that the maximum maturity is five (5) years. There shall be no limits on the dollar amount or percentage that the District may invest in U.S. Treasuries.
5. Federally insured time deposits ("Certificates of Deposit") in state or federally chartered banks, savings and loans or credit unions, provided that all such investments shall be federally insured, fully collateralized in accordance with California law. The maximum maturity of such deposits shall not exceed five (5) years.
6. Negotiable Certificates of Deposit ("NCD") issued by a nationally or state-chartered bank, a savings association or a federal association, a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank, provided that not more than 30% of the portfolio invested shall be invested in a combination of federally insured non-negotiable certificates of deposit, and the maximum maturity does not exceed five (5) years.
7. Such other financial institutions or securities that may be designated by the Board of Directors from time to time in compliance with California and Federal law.
8. Proceeds of bond issuance shall be invested in accordance with the permitted investment provisions of their specific bond indentures or other instrument providing for the bond issuance. (California Government Code §§ 5922(d), 53601(m))

**RESOLUTION 2024-XXXX  
EXHIBIT A**

**INVESTMENT POLICY  
NIPOMO COMMUNITY SERVICES DISTRICT**

**B. PROHIBITED INVESTMENTS**

The District's Finance Officer/Treasurer shall not invest in:

1. Inverse floaters, range notes or interest only strips that are derived from a pool of mortgages.
2. Any security that could result in a zero interest accrual if held to maturity.
3. A state or federal credit union, if a member of the District's Board of Directors or an administrative officer also serves on the Board of Directors, or any committee appointed by the Board of Directors, or the credit committee or supervisory committee, of the state or federal credit union.
4. Those investments or institutions not permitted by this Policy, or by action of the Board of Directors.

**C. DIVERSIFIED INVESTMENTS**

Investments, other than investments referenced in paragraphs 7-A (1) and (2) above, will be diversified to avoid losses that may be associated with any one investment, and shall be allocated in amounts that maximize the availability of FDIC insurance.

**8. REPORTS**

**A. MONTHLY REPORT**

The Finance Officer/Treasurer shall make monthly reports to the Board with the following information:

- Investments made or retired during the preceding month.
- Single transfers between permitted institutions of greater than \$500,000.

**B. QUARTERLY REPORT**

The Finance Officer/Treasurer shall file a quarterly report that identifies the District's investments and their compliance with the District's Investment Policy. The quarterly report must be filed with the District's auditor and considered by the District's Board of Directors within forty-five (45) days after the end of each quarter (i.e., by May 1, August 1, November 1, and February 1) (California Government Code § 53646). Required elements of the quarterly report are as follows:

1. Type of Investment
2. Institution/issuer
3. Date of Maturity (if applicable)
4. Amount of deposit or cost of the security, including par and dollar amount invested on all securities, investments, and moneys held by the District
5. Current market value of securities, with identification of the source of the valuation, for each security held by the District as well as securities under the management of any outside party that is not also a local agency or the State of California Local Agency Investment Fund
6. Coupon, Coon Frequency (monthly, yearly, at maturity), Call Protection
7. Statement of compliance with the Statement of Investment Policy or the manner in which the portfolio is not in compliance

**RESOLUTION 2024-XXXX  
EXHIBIT A**

**INVESTMENT POLICY  
NIPOMO COMMUNITY SERVICES DISTRICT**

8. Statement of the District's ability to meet cash flow requirements, including any pool expenditure requirements, for the next six months, or an explanation as to why sufficient money may not be available
9. Accrued Interest (if applicable)
10. Description of any of the District's funds, investments, or programs that are under the management of contracted parties, including lending programs

**C. ANNUAL REPORT**

Prior to February 1, of each year, the Finance Officer/Treasurer shall file and submit an annual report to the District's auditor and Board of Directors which will contain the same information required in the quarterly report.

The annual report will include a recommendation to the Board of Directors to either:

1. Readopt the District's then current annual Investment Policy; or
2. Amend the District's then current Investment Policy.

**D. LIMITED QUARTERLY REPORT**

If the District has placed all of its investments in the Local Agency Investment Fund (LAIF) created by California Government Code § 16429.1, or in Federal Deposit Insurance Corporation, insured accounts in a bank or savings and loan association, in a County investment pool, or any combination of these, the Finance Officer/Treasurer may submit to the Board of Directors and the auditor of the District the most recent statement or statements received by the District from these institutions in lieu of the information required in paragraph 8.B, above. This special reporting policy does not relieve the Finance Officer/Treasurer of the obligation to prepare an annual investment report as identified in paragraph 8.C, above.

TO: BOARD OF DIRECTORS  
FROM: RAY DIENZO, P.E. R.D.  
GENERAL MANAGER  
DATE: JANUARY 18, 2024



## **ANNUAL REVIEW OF DEBT MANAGEMENT POLICY AND CONTINUING DISCLOSURE UNDERTAKING POLICY**

### **ITEM**

Review of the Debt Management Policy and the Continuing Disclosure Undertaking Policy for the District. [RECOMMEND REVIEW DEBT MANAGEMENT POLICY AND CONTINUING DISCLOSURE UNDERTAKING POLICY]

### **BACKGROUND**

The Debt Management Policy [Attachment A] was developed to provide guidance in the issuance and management of debt by the District and is intended to comply with Government Code Section 8855(i). The Debt Management Policy is reviewed annually to ensure compliance with the above and to suggest any recommended changes.

Bond counsel for the District has reviewed the Debt Management Policy and does not have any suggested changes.

### **FISCAL IMPACT**

None.

### **STRATEGIC PLAN**

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.

### **RECOMMENDATION**

Staff recommends your Board review the Debt Management Policy and Continuing Disclosure Undertaking Policy.

### **ATTACHMENTS**

- A. Resolution 2022-1614, with Exhibit A - Debt Management Policy and Continuing Disclosure Undertaking Policy for the District

JANUARY 24, 2024

ITEM E-3

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2022-1614**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO  
COMMUNITY SERVICES DISTRICT APPROVING THE ADOPTION  
OF THE AMENDMENT TO THE DEBT MANAGEMENT POLICY AND  
THE CONTINUING DISCLOSURE UNDERTAKING POLICY FOR THE  
DISTRICT**

**WHEREAS**, debt management policies establish parameters for evaluation, issuing, and managing the District's debt. The policies outlined in the attached debt management policy are not intended to serve as a list of rules to be applied to the District's debt issuance process, but rather to serve as a set of guidelines to promote sound financial management; and

**WHEREAS**, adherence to a debt management policy and adoption of a continuing disclosure undertaking policy assures rating agencies and the capital markets that a government is well managed and should meet its obligations in a timely manner; and

**WHEREAS**, the Board of Directors of the Nipomo Community Services District ("District"), desires to adopt an amended debt management policy and a continuing disclosure undertaking policy at this time; and

**WHEREAS**, Amended Debt Management Policy (the "Amended Debt Management Policy") and the Continuing Disclosure Undertaking Policy (the "Continuing Disclosure Undertaking Policy") have been prepared and are hereby presented at this meeting; and

**WHEREAS**, it is appropriate at this time for the Board of Directors to consider approval of the adoption of the Amended Policy and the Continuing Disclosure Policy;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Nipomo Community Services District:

**Section 1.** The above recitals are true and correct, to the best of its knowledge.

**Section 2.** The Amended Debt Management Policy in the form presented at this meeting attached hereto Exhibit "A" is hereby approved and adopted.

**Section 3.** The Continuing Disclosure Undertaking Policy in the form presented at this meeting attached hereto Exhibit "B" is hereby approved and adopted.

**Section 4.** The officers of the District are hereby directed to do and cause to be done any and all acts and things necessary or proper, to the best of its knowledge, in order to effectuate the purposes of this resolution.

**Section 5.** This resolution shall take effect immediately.



NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2022-1614

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES  
DISTRICT APPROVING THE ADOPTION OF THE AMENDMENT TO THE DEBT  
MANAGEMENT POLICY AND THE CONTINUING DISCLOSURE UNDERTAKING POLICY FOR  
THE DISTRICT

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


**AYES:** Director Armstrong, Woodson, Malvarose, and Eby  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Director Gaddis

the foregoing resolution is hereby passed and adopted on this 26<sup>th</sup> day of January, 2022.

  
\_\_\_\_\_  
**ED EBY**  
President of the Board

ATTEST:

  
\_\_\_\_\_  
**MARIO IGLESIAS**  
General Manager and Secretary to the Board

APPROVED AS TO FORM AND  
LEGAL EFFECT:  
  
\_\_\_\_\_  
**CRAG A. STEELE**  
District Legal Counsel

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2022-1614**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES  
DISTRICT APPROVING THE ADOPTION OF THE AMENDMENT TO THE DEBT  
MANAGEMENT POLICY AND THE CONTINUING DISCLOSURE UNDERTAKING  
POLICY FOR THE DISTRICT  
EXHIBIT "A"**

**AMENDED DEBT MANAGEMENT POLICY**

**Overview**

The District utilizes a comprehensive planning process to determine its long-term capital needs. The District evaluates each capital project in relation to established levels of reserves, current rate structure, expected asset life/replacement timeline and available revenue sources to ensure that adequate financial resources are available to support the District's financial obligations.

The District's Debt Management Policy is integrated into the decision-making framework utilized in the budgeting and capital improvement planning process. As such the following policies outline the District's approach to debt management.

**I. GENERAL MANAGEMENT POLICIES**

The District will provide for a periodic review of its financial performance, and review its performance relative to the financial policies outlined herein. These financial policies will be taken into account during the capital planning, budgeting and rate-setting process.

- The District will adopt revised rates, fees and charges in compliance with the applicable law, including the Proposition 218 Omnibus Implementation Act, and will consider recommendations and input from the public as it relates to such proposed changes.
- All District funds will be invested according to the Investment Policy of the District.
- Necessary appropriations for annual debt service requirements will be routinely included in the District's annual budget.

**II. FINANCIAL MANAGEMENT POLICIES**

- The District will evaluate financing for each capital project on a case-by-case basis. The District will seek to pay for all capital projects from current revenues and available reserves prior to or in combination with the use of debt.
- The District will seek to issue debt only in the case where there is an identified source of repayment. Bonds will be issued to the extent that (i) projected fixed revenues are sufficient to pay for the proposed debt service together with all existing debt service covered by such fixed revenues, or

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(ii) additional projected revenues have been identified as a source of repayment in an amount sufficient to pay for the proposed debt.

- User Fees and Rates will be set at adequate levels to generate sufficient revenues to pay all operating and maintenance costs, to maintain sufficient operating reserves, and to pay debt service costs, if necessary.

**III. DEBT AND CAPITAL MANAGEMENT POLICIES**

The following policies formally establish parameters for evaluating, issuing, and managing the District's debt. The policies outlined below are not intended to serve as a list of rules to be applied to the District's debt issuance process, but rather to serve as a set of guidelines to promote sound financial management.

In issuing debt, the District objectives are:

- Ensure ratepayer security
- Maintain high credit ratings and access to credit enhancement
- Preserve financial flexibility

**A. Standards for Use of Debt Financing**

When appropriate, the District will use long-term debt financing to achieve an equitable allocation of costs/charges between current and future system users; to provide more manageable rates in the near and medium term; and to minimize rate volatility.

- Debt financing will be utilized as needed to finance (1) system expansion projects related to demand growth, and (2) major projects necessary to comply with regulatory requirements.
- Capital projects financed through debt issuance should not be financed for a term longer than the expected useful life of the project.
- Lease Agreements and Installment Sale Agreements shall be considered as an alternative to long-term debt. Although these forms of alternative financing are subject to annual appropriation, they shall be considered as long-term fixed rate debt until maturity.

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**B. Financing Criteria**

The District will evaluate alternative debt structures (and timing considerations) to ensure cost-efficient financing under prevailing market conditions.

*Credit Enhancement* - The District will consider the use of credit enhancement on a case-by-case basis. Only when clearly demonstrable savings can be realized shall credit enhancement be utilized.

*Cash-Funded Reserve/Surety* - The District may purchase a surety policy or replace an existing cash-funded Debt Service Reserve Fund when deemed prudent and advantageous.

*Call Provisions* - In general, the District's securities should include optional call provisions. The District will avoid the sale of non-callable long-term fixed rate bonds, absent careful evaluation of the value of the call option.

*Additional Bonds Test/Rate Covenants* - The amount and timing of debt will be planned to comply with the additional bonds tests and rate covenants outlined in the appropriate legal and financing documents, and these policies.

*Short-Term Debt* - The District may utilize short-term borrowing to serve as a bridge for anticipated revenues, construction financing, or future bonding capacity.

*Term* - 10 to 30 years is standard, but up to 35 years may be acceptable, depending on cash flow assumptions, construction timeline, and remaining useful life of the asset being financed.

*Maximum Yield* - Case by case, as recommended by Municipal Advisor and as governed by State law.

*Maximum Premium* - Case by case, as recommended by Municipal Advisor and as governed by State law.

*Maximum Discount* - Case by case, as recommended by Municipal Advisor and as governed by State law.

*Payment Dates* - After considering cash flow needs, the General Manager will determine the occurrence of all new debt service payments.

*Structure of the Debt* - Prefer level debt service, but shall be determined on a case-by-case basis, as recommended by of the General Manager and Municipal Advisor.

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*Use of Variable Rate Debt* - The District will not issue variable interest rate debt unless the proposed debt is converted to a fixed rate or hedged.

*Investment of Bond Proceeds* - Bond proceeds will be invested in accordance with the permitted investment language outlined in the bond documents for each transaction. The District will seek to maximize investment earnings within the investment parameters set forth in each respective bond indenture. The reinvestment of bond proceeds will be incorporated into the evaluation of each financing decision; specifically addressing arbitrage/rebate position, and evaluating alternative debt structures and refunding savings on a "net" debt service basis, where appropriate.

*Reimbursement Resolution* - Must be adopted by the Board if the project capital costs are advanced by the District prior to the expenditure and/or commitment of funds, and bond sale.

**C. Types of Long-Term Funding**

The District shall consider several methods of financing capital projects. This policy will set forth guidelines for these decisions by identifying parameters within each funding source that are considered appropriate. These parameters are defined below.

Certificates of Participation/Lease Revenue Bonds - Certificates of Participation (COP's) and Lease Revenue Bonds (LRB) can finance water, wastewater and electrical utilities, or other public facilities and are almost identical in structure and security. They are used to finance capital projects that either 1) have an identified budgetary system for repayment; 2) generate enterprise revenue; 3) rely on a broader pledge of General Fund revenues; or 4) finance the purchase of real property and the acquisition and installation of equipment for the District's general government or enterprise purposes. COP's and LRB's are secured by a lease-back or installment sale arrangement between the District and another public entity. The general operating revenues of the District or an enterprise and/or a designated special fund are used to pay the lease or installment payments, which are, in turn, used to pay debt service on the COP's or LRB's. Bond covenants provide that revenues generated by enterprise funds must be sufficient to maintain required debt coverage levels, or the rates of the enterprise have to be raised to maintain the coverage and operations of the facility. For General Fund pledges, bond covenants include an annual appropriation covenant. COP's and LRB's do not constitute indebtedness under the state constitution and are not subject to voter approval.

Because COP's are not created by statute, but rather are used to securitize an underlying contract, they can be adapted to a number of financing situations. They are commonly used for both lease revenue and enterprise revenue financings where no

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workable statutory framework is available or a joint powers financing authority is not available.

Revenue Bonds - Revenue Bonds also finance water, wastewater utilities, or other public facilities. They are payable by the revenues generated by the enterprise. This type of debt is considered self-liquidating. Revenue Bonds are payable solely from the enterprise funds and are not secured by any pledge of General Fund revenues of the District. Bond covenants provide that revenues generated by these enterprise funds must be sufficient to maintain required debt coverage levels, or the rates of the enterprise have to be raised to maintain the coverage and operations of the facility. A bond election may be required to issue Revenue Bonds.

Assessment Bonds - The District may issue assessment bonds under the 1911 and 1915 Improvement Acts through the formation of a special benefit assessment district under the 1911 or 1913 Acts. The bonds may be issued to finance facilities or provide services and are secured by assessments levied on parcels within a defined area that are proportionate to the special benefit conferred upon a parcel, as determined by a qualified assessment engineer. Assessments are subject to majority protest hearing and notice ballot requirements. Assessment Bonds, although repaid through additional assessments levied on a discrete group of property owners, constitute overlapping indebtedness of the District and have an impact on the overall level of debt affordability. Assessment Bonds are not obligations of the District's General Fund.

Mello-Roos Bonds - The Mello-Roos Act of 1982 allows the District to establish a Mello-Roos Community Facilities District (CFD) which allows for financing of public improvements and services. These CFD special taxes must be approved by a two thirds vote of registered voters within the special district (unless there are fewer than 12 registered voters, in which case the vote is by landowners), and are secured solely by a special tax on the real property within the special district. CFD Bonds, although repaid through additional special taxes levied on a discrete group of taxpayers, also constitute overlapping indebtedness of the District and have an impact on the overall level of debt affordability. CFD Bonds are not obligations of the District's General Fund.

Capital Lease Debt - A lease purchase obligation placed with a lender without the issuance of securities may be used to finance certain vehicle and equipment purchases will be evaluated on a case-by-case basis.

**D. Limitations on Amount of Debt Issuance**

(1) Pursuant to Section 61126 of Government Code of the State of California, the District may incur general obligation bonded indebtedness in an amount not to exceed 15% of the total assessed valuation of all real and personal property in the District.

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Review of recent credit rating agency guidelines indicate that debt service of more than 10% of available revenues or expenditures is considered above average or high. The District shall strive to maintain its non-enterprise backed debt service as a percentage of available revenue below 10%.

Long-term obligations payable solely from specific pledged sources, in general, are not subject to a debt limitation. Examples of such long-term obligations include those which achieve the financing or refinancing of projects provided by the issuance of debt instruments that are payable from restricted revenues or user fees (enterprise funds) and revenues generated from a project. In determining the affordability of proposed enterprise obligations, the District will perform an analysis comparing projected annual net revenues (after payment of operating and maintenance expense) to estimated annual debt service. Generally, legal covenants requiring a minimum coverage ratio are set forth in the bond documents, and are based on the level of security provided to the bondholders (of the senior or subordinate debt obligations). The District's enterprise obligations shall include a coverage ratio requirement of at least 125% for senior bonds and a coverage ratio requirement of at least 105% for senior and subordinate debt combined. Per the rating agency guidelines, the District shall strive to maintain a coverage ratio of 115% using historical and/or projected net revenues to cover annual debt service for bonds issued on a subordinate basis which have a 105% coverage ratio requirement. The District will require a rate increase to cover both operations and debt service costs, and create debt service reserve funds to maintain the required coverage ratios.

**E. Method of Issuance**

The District will determine, on a case-by-case basis, whether to sell its bonds competitively or through negotiation. Public offerings can be executed through either a competitive sale or a negotiated sale. It shall be the policy of the District to issue debt through a competitive sale whenever feasible subject to advice of the District Municipal Advisor.

*Competitive Sale* - In a competitive sale, the District's bonds shall be awarded to the lowest responsible bidder providing the lowest true interest cost ("TIC"), as long as the bid adheres to requirements set forth in the official notice of sale.

*Negotiated Sale* - District recognizes that some securities are best sold through negotiation. In consideration of a negotiated sale, the District shall assess the following circumstances in determining the advisability such a sale:

- Issuance of variable rate or taxable bonds
- Complex structure or credit considerations (such as non-rated bonds),

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which requires a strong pre-marketing effort

- Significant par value, which may limit the number of potential bidders
- Unique proprietary financing mechanism (such as a financing pool), or specialized knowledge of financing mechanism or process
- Market volatility, such that the District would be better served by flexibility in the timing of its sale in a changing interest rate environment
- When an Underwriter has identified new financing opportunities or presented alternative structures that financially benefit the District that could not be achieved through a competitive bid.
- As a result of an Underwriter's familiarity with the project/financing, which enables the District to take advantage of efficiency and timing considerations.
- Other considerations and advantages as presented by District Consultants and Staff

*Private Placement* – From time to time the District may elect to issue debt on a private placement basis. Such method shall only be considered if it is demonstrated to result in cost savings or provide other advantages relative to other methods of debt issuance, or if it is determined that access to the public market is unavailable and timing considerations require that a financing be completed.

**F. Service Provider Selection**

All Municipal Advisors, bond counsel, disclosure counsel, trustees, and underwriters will be selected pursuant to District's Purchase Policy relating to hiring consultants.

**G. Market Communication and Reporting Requirements**

*Rating Agencies and Investors* - The General Manager shall be responsible for maintaining the District's relationships with one or more national rating agencies.

*Continuing Disclosure* - The District shall use its best efforts to be in compliance with Rule 15c2-12 by filing its annual financial statements and other financial and operating data for the benefit of its bondholders.

**H. Initial Disclosure**



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When the District determines to issue debt directly, the General Manager shall request the involved departments to prepare, review or update portions of any required offering document or preliminary official statement (the "POS") within their particular areas of knowledge for which they are responsible. The information contained in the POS is developed by personnel under the direction of the General Manager, with the assistance of the financing team, including the Bond Counsel, Disclosure Counsel, District Counsel and Municipal Advisor. The financing team shall assist staff in determining the materiality of any particular item, and in the development of specific language for the POS. Once the draft POS has been substantially updated, the entire draft POS is reviewed in its entirety to obtain final comments and to allow the underwriters, if any, to ask questions of the District's senior officials.

A substantially final form of the POS is provided to the Board in advance of approval, generally by including the document with the agenda material relating to the approval of the debt, to afford such Board an opportunity to review the POS, ask questions and make comments.

**IV. POST ISSUANCE COMPLIANCE POLICY**

**A. In General**

The Board of Directors of the District recognizes its responsibility to ensure compliance with all Federal laws and regulations ("Federal Requirements") applicable to the District's bonds and other obligations the interest on which is excluded from gross income for federal income tax purposes or are otherwise tax advantaged ("Tax-Exempt Bonds"). This policy and guidelines relate to requirements that must be met subsequent to the issuance of Tax-Exempt Bonds in order to maintain that exclusion or receive a federal tax credit payment including, without limitation, requirements relating to use of proceeds, arbitrage, private business use, and record retention. This policy and guideline supersede any post-issuance compliance policy previously adopted by the District but do not supersede, limit or contravene any representations, statements or covenants of the District contained in the bond documents (the "Bond Documents") for its Tax-Exempt Bonds. The purpose of this policy is to provide guidelines and establish procedures for compliance with Federal Requirements in connection with the issuance of Tax-Exempt Bonds.

**B. Policy**

It is the policy of the District to adhere to all applicable tax requirements with respect to its Tax-Exempt Bonds as set forth in the Bond Documents including, but not

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limited to, requirements relating to the use of proceeds of Tax-Exempt Bonds and facilities financed and refinanced with Tax-Exempt Bonds (the "Bond-Financed Facilities"), arbitrage yield restrictions and rebate, timely return filings, and other general tax requirements set forth in the Bond Documents.

**C. Compliance Monitoring**

Consistent with the covenants of the District contained in the Bond Documents, the District will monitor compliance with the federal tax requirements applicable to its Tax-Exempt Bonds. The following officers or employees of the District are responsible for monitoring compliance with those requirements: General Manager with assistance from Bond and Tax Counsel and Municipal Advisor. The General Manager shall report to the Board of Directors in conjunction with the annual Debt Policy review that compliance with federal tax requirements applicable to its Tax-Exempt Bonds have been reviewed and met.

**D. Record Retention**

In accordance with Internal Revenue Service ("IRS") requirements, the District will retain the following records with respect to its Tax-Exempt Bonds:

- Bond transcripts;
- Documentation showing the expenditure of proceeds of the Tax-Exempt Bonds for one or more Bond-Financed Facility;
- Documentation showing the use of the Bond-Financed Facilities;
- Documentation showing the sources of payment and security for the Tax-Exempt Bonds;
- Documentation related to the investment of proceeds of the Tax-Exempt Bonds, including the purchase and sale of securities, investment income received, yield calculations, and rebate calculations;
- All returns filed with the IRS for the Tax-Exempt Bonds (including, as applicable, IRS Forms 8038-G *Information Return for Tax-Exempt Governmental Obligations*, 8038-T *Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate*, and 8038-R *Request for Recovery of Overpayments under Arbitrage Rebate Provisions*), together with sufficient records to show that those returns are correct; and

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- Any other documentation that is material to the exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes.

Except as otherwise set forth in the Bond Documents, the District will retain the records described above in hard and/or electronic copy format for so long as the applicable Tax-Exempt Bonds remain outstanding and for a period of six years after final redemption of the applicable Tax-Exempt Bonds. With respect to Tax-Exempt Bonds that are refunding bonds, the District will retain the above-described records for the refunding and refunded bonds (and any earlier issue in the case of a series of refundings).

The following officers or employees of the District are responsible for retaining the records relating to the Issuer's Tax-Exempt Bonds: General Manager and Secretary.

**E. Arbitrage Compliance**

It is the policy of the District to maintain a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the federal tax code. Unless otherwise instructed by bond counsel, at closing the District will execute documentation covenanting to comply with Federal rebate and arbitrage requirements. Unless otherwise instructed by bond counsel, annually the District will engage a consultant to assist in the monitoring of the investment of bond proceeds, perform the required calculations to determine arbitrage rebate and yield restriction compliance, and file the required federal forms. Unless otherwise instructed by bond counsel, every five years the District will file (if arbitrage rebate is owed) with the Internal Revenue Service the appropriate required documentation demonstrating arbitrage rebate liability and provide payment of at least 90% to the US Treasury for arbitrage rebate liability, if any.

**F. Remedial Action**

If the District in complying with the terms and provisions the policies or guidelines set forth herein or determines that the requirements of these policies and guidelines or the tax covenants or representations in the Bond Documents may have been violated, the District will make final determinations, if necessary with the assistance of its Bond and Tax Counsel and Municipal Advisors, and take appropriate actions related to such noncompliance including, if appropriate, any remedial action described under applicable Treasury Regulations or through the Tax Exempt Bonds Voluntary Closing Agreement Program.

**G. Coordination With Bond Documents**

In the event of any conflict between these Procedures and Guidelines and the Bond Documents, the Bond Documents shall govern.

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**CONTINUING DISCLOSURE UNDERTAKING POLICY**

**1. PURPOSE**

The following policy of the Nipomo Community Services District (the "District") is intended to ensure compliance with securities law requirements applicable to the District's issues, whether comprising bonds, bond anticipation notes, certificates of participation, revenue obligations or other instruments.

**2. IN GENERAL**

The Securities and Exchange Commission Rule 15c2-12, as amended (the "Rule"), requires certain information regarding an entity responsible for the repayment of a municipal security (an "Issuer") be disclosed to the municipal marketplace. In 2010, the U.S. Securities and Exchange Commission ("SEC") amended the Rule to enhance the disclosure requirements of Issuers in an effort to improve the quality and availability of information regarding outstanding municipal securities. In SEC Rel. No. 34-62184, accompanying an expansion of the Rule, the SEC summarized its "mandate to adopt rules reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices in the market for municipal securities." The release reiterates the SEC's position that material non-compliance by an Issuer with past continuing disclosure obligations may warrant, without corrective actions, an underwriter being prohibited from underwriting such an Issuer's municipal securities, and thus would prevent the Issuer from accessing the municipal securities market.

The Board of Directors of the District (the "Board") acknowledges that, pursuant to the Rule, the District is required on an ongoing basis to provide certain financial and operating data to those persons and firms who own or are interested in purchasing the bonds, bond anticipation notes, certificates of participation, revenue obligations and other municipal obligations of the District previously issued and those which may in the future be issued by or on behalf of the District (the "Obligations"). Pursuant to the Rule, the District has entered into a number of undertakings, such as an agreement or certificate, under the Rule (each, a "Continuing Disclosure Undertaking") regarding its outstanding Obligations and will be required to enter into a new Continuing Disclosure Undertaking with regard to any additional Obligations of the District.

Inasmuch as the Rule prevents an investment banking firm, or underwriter (each, an "Underwriter") from purchasing the Obligations of the District in the absence of a Continuing Disclosure Undertaking and adequate assurances from the District that it will comply with the terms thereof, it is vital that the District maintain compliance with the Rule and its Continuing Disclosure Undertakings.

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**3. SELECTION OF RESPONSIBLE OFFICER**

The District will identify, on an annual basis, the Treasurer or his or her designee ("Responsible Officer") within the District that will be responsible for compiling and filing annual reports (the "Annual Reports") and notices (the "Listed Event Notices") of the occurrence of certain listed events (found in each Continuing Disclosure Undertaking), if necessary. In the absence of such delegation by the Board, the Responsible Officer shall be the General Manager of the District.

**4. ELECTRONIC MUNICIPAL MARKET ACCESS**

The Responsible Officer will familiarize themselves with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access ("EMMA") website. The Responsible Officer will understand how to locate the District's Obligations on EMMA. If the District is serving as its own Dissemination Agent, the Responsible Officer will establish a user identification and password for EMMA and become familiar with uploading documents onto EMMA.

**5. IDENTIFYING AND UNDERSTANDING EXISTING CONTINUING DISCLOSURE OBLIGATIONS**

The Responsible Officer will, for each separate issue of outstanding municipal securities to which the Rule applies, read the related Continuing Disclosure Undertaking and identify the following:

- The date by which the Annual Report must be filed;
- The contents that need to be included in the Annual Report;
- The Listed Event Notices that must be filed; and
- When Listed Event Notices are required to be filed.

**6. PREPARING AND SUBMITTING THE ANNUAL REPORT**

*Preparing Annual Audited Financial Statements.* The District will begin the process of completing its audited financial statements as soon as practicable after the close of each Fiscal Year. Such audited financial statements should be completed at least one month prior to the date the Annual Report must be filed.

*Preparation of Tables and Other Information.* The Responsible Officer will identify any information that is required to be included in the Annual Report but is not part of the

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District's audited financial statements, and contact the sources necessary to compile such information as soon as possible after the close of each Fiscal Year. The District should consider adding any information required by its Continuing Disclosure Undertakings not included already in its audited financial statements into a supplementary information section of its audited financial statements.

*Submission of Annual Report.* Following the compilation of the information that is to be included in the Annual Report and prior to the date on which the Annual Report must be filed, the Responsible Officer will submit the Annual Report to the Dissemination Agent identified in the Continuing Disclosure Undertaking or to EMMA, as applicable.

*Review of EMMA.* Following the submission of the Annual Report to EMMA or the Dissemination Agent, as applicable, the Responsible Officer should review the EMMA website to confirm that the Annual Report has been posted. If the Annual Report has not been posted, the Dissemination Agent should be notified, or the Responsible Officer should file the Annual Report, as applicable.

## **7. IDENTIFYING AND REPORTING LISTED EVENTS**

*Understanding the Listed Events.* The Responsible Officer should be aware of the listed events (found in each Continuing Disclosure Undertaking) (the "Listed Events") necessitating the filing of a Listed Event Notice. The Listed Events required to be included in each Continuing Disclosure Undertaking pursuant to the Rule have been included as Appendix A to this policy. Appendix A also includes two Listed Events that became effective for all Continuing Disclosure Undertakings entered into on or after February 27, 2019. These Listed Events are discussed in further detail below. If clarification is required regarding what is meant by each such Listed Event, the District's disclosure counsel should be contacted to clarify such meaning.

*Filing Event Notices.* Each such notice shall be filed by the District, or by the Dissemination Agent, if any, on behalf of the District, to EMMA in a timely manner.

*Occurrence of a Listed Event.* The Issuer should contact its disclosure counsel if it has any questions regarding the occurrence of a Listed Event, and whether such occurrence may require the filing of an Event Notice.

*Additional Listed Events Required in Continuing Disclosure Undertakings Entered Into On and After February 27, 2019.* As a result of an amendment to the Rule, Continuing Disclosure Undertakings entered into on or after February 27, 2019, are required to include certain additional Listed Events relating to (a) the incurrence of certain financial obligations if material (other than bonds or notes for which an official statement has been posted to EMMA), (b) the modification of the terms of a financial obligation which affects

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security holders, if material, and (c) a default, event of default, acceleration, waiver or other modification or similar events with respect to a financial obligation that reflects financial difficulties. Included as Appendix A is a list of the Listed Events required by the Rule, identifying the two additional events that were incorporated by the amendment to the Rule and are required to be in all Continuing Disclosure Undertakings following February 27, 2019.

As provided in the amendment to the Rule, "[t]he term "financial obligation" means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term "financial obligation" does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule (i.e., posted to EMMA).

Debt Obligations. SEC Rel. No. 34-83886 (the "SEC Release"), the adopting release published in connection with the amendments to the Rule, interprets debt obligations to include both debt and debt-like obligations, and requires them to be disclosed when incurred or amended, if material.

Debt obligations exclude bonds, notes or other obligations (including lease revenue bonds or certificates of participation) offered pursuant to an official statement that complies with the Rule, and is posted by the underwriter or the Issuer to EMMA. Debt obligations also exclude ordinary financial and operating liabilities incurred in the normal course of the Issuer's business.

The SEC Release interprets debt-like obligations to include leases that are "vehicles to borrow money." The SEC Release points to lease-revenue transactions and certificates of participation transactions as examples of such vehicles, as these transactions involve a person advancing money to an Issuer which will be used by the Issuer to acquire or improve property, obtaining title to or a lease of the property, and leasing or subleasing the property to the Issuer in consideration for rent that repays the advance. Most operating leases would not fall into the category of debt obligations for purposes of the amendment either because they do not result in the receipt of money by or for the benefit of an Issuer or are ordinary obligations incurred in the normal course of Issuer operations.

Derivative Instruments. The SEC defines "derivative instrument" as "a derivative instrument entered into in connection with, or pledged as a security or a source of payment for, an existing or planned debt obligation." The SEC Release interprets "derivative instrument" to include any swap, security-based swap, future contract, forward contract, option, any combination of the foregoing, or any similar instrument," but only if

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related to an existing or planned debt, either because entered into to hedge the debt or pledged as security for the debt.

Guarantees. The SEC Release states that an Issuer's "guarantee" of a "debt obligation" or covered derivatives instrument would also be considered a "financial obligation." For these purposes, "guarantee" is intended to include any obligation to pay or secure a third party's or Issuer's financial obligation. This term would include a payment guarantee by an entity such as the District.

It is hereby the policy of the District, that the Responsible Officer be notified of the incurrence of any financial obligation to be entered into by or on behalf of the District. The Responsible Officer shall take measures to advise all applicable District staff of this District policy.

In addition, such Responsible Officer will notify the District's municipal advisor and the District's bond counsel and/or disclosure counsel of the receipt by the District of any default, event of acceleration, termination event, modification of terms (only if material or reflecting financial difficulties), or other similar events under any agreement or obligation to which the District is a party and which may be a "financial obligation" as discussed above. Such notice should be provided by the Responsible Officer as soon as the Responsible Officer receives notice from District staff, consultants or external parties of such event or receives direct written notice of such event so that the District can determine, with the assistance of the municipal advisor and bond counsel and/or disclosure counsel, whether notice of such event is required to be filed on EMMA pursuant to the Rule. If filing on EMMA is required, the filing is due within 10 business days of the occurrence of such event to comply with the applicable Continuing Disclosure Undertaking entered into after February 27, 2019.

The District will develop a system whereby a designated member of District Staff will create a list identifying the execution by the District of any agreement or other obligation which might constitute a "financial obligation" for purposes of the Rule and which is entered into after February 27, 2019. Amendments to existing agreements or financial obligations which relate to covenants, events of default, remedies, priority rights, or other similar terms should be reported to the District's municipal advisor and the District's bond counsel and/or disclosure counsel as soon as notice of amendment requests is received by District staff, consultants, or external parties of such event. Such notice is necessary so that the District can determine, with the assistance of bond counsel and/or disclosure counsel, whether such agreement or other obligation constitutes a material "financial obligation" for purposes of the Rule. If such agreement or other obligation is determined to be a material "financial obligation" or a material amendment to a "financial obligation" described above, notice thereof would be required to be filed on EMMA within 10 business days of execution or incurrence.



**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2022-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES  
DISTRICT APPROVING THE ADOPTION OF THE AMENDMENT TO THE DEBT  
MANAGEMENT POLICY AND THE ADOPTION OF A CONTINUING DISCLOSURE  
UNDERTAKING POLICY FOR THE DISTRICT  
EXHIBIT "B"**

**8. RECORD RETENTION**

The District should retain the transcript containing the documents related to each issue of municipal securities of the District. The District will retain electronic and paper copies of each Annual Report submitted to EMMA. The District will retain electronic and paper copies of each Listed Event Notice submitted to EMMA. The District should retain all source data used to complete the Annual Report. For example, source material pertaining to assessed valuation, tax rates or other tables noted in the Continuing Disclosure Undertaking that are required to be updated annually.

The Responsible Officer should create an index cataloging the aforementioned documents (the "retained documents"). Such index and documents should be stored at the main office of the District. The Responsible Officer should be responsible for the maintenance and updating of such index. If the individual serving as Responsible Officer is replaced, the index, the retained documents and a copy of these procedures should be provided to the individual assuming the position of Responsible Officer.

The retained documents identified in this Section 8.0 should be retained for a period of at least six years following the maturity, prepayment or redemption of the related issue of municipal securities.

**9. EFFECTIVE DATE**

This Continuing Disclosure Undertaking Policy is effective as of January 8, 2020.

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2020-1539**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES  
DISTRICT APPROVING THE ADOPTION OF THE AMENDMENT TO THE DEBT  
MANAGEMENT POLICY AND THE ADOPTION OF A CONTINUING DISCLOSURE  
UNDERTAKING POLICY FOR THE DISTRICT  
EXHIBIT "B"**

**Appendix A**

**Listed Events – Pre-February 27, 2019**

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (vii) modifications to rights of security holders, if material;
- (viii) bond calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the security, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership, or similar event of the Issuer or another obligated person;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the Issuer or another obligated person or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material.

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2020-1539**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES  
DISTRICT APPROVING THE ADOPTION OF THE AMENDMENT TO THE DEBT  
MANAGEMENT POLICY AND THE ADOPTION OF A CONTINUING DISCLOSURE  
UNDERTAKING POLICY FOR THE DISTRICT  
EXHIBIT "B"**

**New Events – Post-February 27, 2019 Transactions**

- (xv) incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the obligated person, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the obligated person, any of which reflect financial difficulties.

TO: BOARD OF DIRECTORS  
FROM: RAY DIENZO, P.E. R.D.  
GENERAL MANAGER  
DATE: JANUARY 24, 2024



**ADOPT RESOLUTION APPROVING UPDATED  
NIPOMO COMMUNITY SERVICES DISTRICT  
PURCHASE POLICY AND PROCEDURES**

**ITEM**

Review and Approve Updated NCSD Purchase Policy and Procedures [RECOMMEND ADOPT RESOLUTION]

**BACKGROUND**

As a public entity, Nipomo Community Services District ("NCSD") is required to have in place policies and procedures for procurement of goods and services, bidding requirements, and rules against conflicts of interest. It is a best practice to periodically review such policies and procedures. On April 26, 2023, the Board of Directors adopted Resolution 2023-1666, approving the updated Nipomo Community Services District Purchase Policy and Procedures ("Policy").

At the September 9, 2020 Board meeting, Resolution 2020-1572 was adopted, which incorporated the provisions of the Uniform Public Construction Cost Accounting Act ("UPCCAA") into the Policy. The UPCCAA, as permitted by State law, allows the District to use less formal bidding procedures for public works contracts worth between \$60,000 and \$200,000, making it much more efficient to get smaller jobs done. For public works contracts less than \$60,000, the District's Code and the UPCCAA permit the work to be done by the District's own forces or by negotiated contract. The State updates these contract amounts regularly and will update these amounts in 2024.

Staff requests that the Policy be revised so that the General Manager may adjust the amounts to remain consistent with State law. The recommended changes are shown in Attachment B - section 2.5.C, 5.2, and the addition of Appendix A. As the State ratifies the changes, staff will update the new dollar limitations to Appendix A.

Legal Counsel has reviewed the Policy updates and supports the recommendations.

**RECOMMENDATION**

Staff recommends that your Honorable Board review and discuss the updated Purchase Policy and Procedures, as attached to the resolution, and, by motion and roll call vote, adopt the attached Resolution.

**FISCAL IMPACT**

No fiscal impact.

**STRATEGIC PLAN**

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.

**ATTACHMENT**

- A. Resolution 2024-XXXX Approving Updated Purchase Policy and Procedures
- B. Updated Purchase Policy and Procedures (Blackline Version)

JANUARY 24, 2024

ITEM E-4

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO.2024-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING AN  
UPDATED PURCHASE POLICY AND PROCEDURES**

**WHEREAS**, following best practices as a public entity, NCSD has a purchase policy and procedures for obtaining goods and services; and

**WHEREAS**, NCSD's purchase policy and procedures ensure that NCSD obtains goods and services on the open market, where possible, pursuant to rules that ensure transparency, fairness to all bidders and suppliers, and decisions that are made free from conflicts of interest; and

**WHEREAS**, in the interest of efficiency and accountability, the Board of Directors of NCSD has reviewed and intends to update NCSD's purchase policy and procedures, last updated in 2023.

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

1. The facts and findings stated above are true and correct and incorporated herein.
2. The Purchase Policy and Procedures attached hereto as Exhibit "A" and incorporated herein by reference, is hereby adopted.
3. Resolution No. 2023-1666 is hereby repealed.

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

**AYES:** Directors  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

the foregoing resolution is hereby passed and adopted this 24<sup>th</sup> day of January, 2024.

\_\_\_\_\_  
**ED EBY**  
President of the Board

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
**RAY DIENZO, P.E.**  
General Manager and Secretary to the Board

\_\_\_\_\_  
**CRAIG A. STEELE**  
District Legal Counsel

JANUARY 24, 2024

ITEM E-4

ATTACHMENT B



**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO.2023-1666**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING AN  
UPDATED PURCHASE POLICY AND PROCEDURES**

**Exhibit "A"**

# **NIPOMO COMMUNITY SERVICES DISTRICT**

## **PURCHASE POLICY AND PROCEDURES**



**RESOLUTION NO. ~~2023-1666~~2024-XXXX**

# **NIPOMO COMMUNITY SERVICES DISTRICT PURCHASING POLICY AND PROCEDURES**

## **CHAPTER 1 - POLICY**

### **1.1 PURPOSE**

It is in the interest of the Nipomo Community Services District ("NCSD") to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings.

### **1.2 PROCEDURES**

This Purchase Policy provides the authority, approval requirements and procedures for the procurement of materials, supplies, equipment, services, and Public Works referenced in the approved fiscal year budget.

### **1.3 FISCAL YEAR BUDGET**

The fiscal year budget approved by the Board provides the authority to NCSD staff to procure materials, supplies, equipment, services, and Public Works referenced in the approved budget for the upcoming fiscal year.

### **1.4 CONFLICTS WITH LAWS**

To the extent any provision herein conflicts or is inconsistent with State or Federal law, then said State or Federal law shall control, but only to the extent of the inconsistency, and no other provisions herein shall be affected.

### **1.5 SEVERABILITY**

If any one or more of the provisions/sections contained in this Purchase Policy shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Purchase Policy shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

## **1.6 MONITORING**

**A.** It is important for the NCSD to evaluate materials, equipment, and services of all current suppliers. Suppliers with a low rating can be viewed as costing the NCSD time and money, and, therefore, should be terminated upon documentation.

**B.** In an effort to obtain the best prices possible, vendors contacted for quotes and/or bids shall be regularly reviewed to ensure competitive pricing and maintenance of vendor lists.

**C.** This Purchase Policy should be reviewed on a periodic basis and updated where deemed appropriate to reflect changes in the NCSD's operations. The General Manager, acting with the Board, may at any time make changes to this Purchase Policy to facilitate a more efficient and accountable purchasing process for the NCSD.

## **1.7 LIMITATIONS**

Except for Section 6.1(B), this Purchase Policy does not apply to payment of Recurring Expenditures as defined herein.

## **1.8 CONFLICTING PROCEDURES**

When contracting for services that include the installation of equipment such as computers and electronic devices, the determination of whether the purchase should be as a procurement of material, supplies, and equipment or the procurement of services shall be made at the General Manager's discretion after giving consideration to the costs of the equipment, whether or not the equipment is unique to the person or firm providing the services and the cost of the services.

## **1.9 EMPLOYEE CONFLICTS**

**A.** NCSD employees, officers, and Directors are prohibited from using the following practices in conducting business activities:

1. Practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, commissions, or other unlawful consideration.
2. Participating in the selection process when the employee, officer, or Director has a relationship with a person or business entity seeking a contract which would subject the employee to the same prohibition as in

Government Code Section 87100 related to Conflicts of Interest, which provides:

“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

3. Purchasing or otherwise acquiring NCSD property and equipment, including surplus property and equipment, for personal use or profit.

**B.** No NCSD employee, officer, or Director shall accept, directly or indirectly, any gift, rebate, money or anything else of value from any person or entity if such gift, rebate, money or anything of value is intended to reward or be inducement for conducting business, placing orders with, or otherwise using the recipient’s position with NCSD to secure an agreement with the NCSD.

### **1.10 ETHICAL CONDUCT IN PURCHASING**

**A.** Ethical conduct in managing the NCSD’s purchasing activities is absolutely essential. Staff must always be mindful that they represent the District and the Board of Directors and share a professional trust with other staff and the general public. Therefore, when making a purchase, keep in mind the following factors:

1. Is this purchase necessary for the job at hand or for the NCSD to carry on its normal business activities?
2. Is this a reasonable and lowest possible cost for this type of purchase?

**B.** This Policy explicitly prohibits splitting purchase orders in a fiscal year for the purpose of evading the specified dollar limits and avoiding its procurement requirements. Splitting purchases does not allow for a competitive marketplace, increases administrative workflow, and may create ethical issues.

## CHAPTER 2 - GENERAL

### 2.1 DEFINITIONS

- A. General Manager. The NCSD General Manager and Treasurer or, in his/her absence, the Assistant General Manager, or designee.
- B. Board of Directors or Board. The Board of Directors of the NCSD that establishes policies for the operation of the NCSD.
- C. Capital Equipment. Equipment with a purchase price of five thousand dollars (\$5,000) or more as designated by the General Manager.
- D. Contract. A written agreement covering the performance of work or services including the furnishing of labor, materials, tools and equipment in performing services to the NCSD. The term Contract includes Purchase Orders.
- E. NCSD. Nipomo Community Services District.
- F. Department Manager. The General Manager, Assistant General Manager, Finance Director, Director of Engineering and Operations, and Operations Manager.
- G. Change Order or Contract Amendment. Alterations, deviations, additions to or deletions from the plan, specifications and/or scope of services, including the right to increase or decrease the quantity of any item or portion of the work or services or to delete any item or portion of the work or services as may be deemed to be necessary, as determined by the NCSD, for the proper completion, construction of the work or services contemplated.
- H. Task Order Contract. Contract with pre-qualified consultant or contractor where specific services are contracted for by Task Orders.
- I. Emergency. "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.
- J. Purchasing Agent. Department Manager.
- K. Purchase Order. A form designed to contain all necessary information and signatures relevant to purchases by the NCSD and is used as a written order to a vendor and may be either an original order or may confirm a verbal order. The current Purchase Order

forms may be developed and/or modified from time to time at the discretion of the General Manager.

L. Recurring Expenditures. Administrative expenditures that occur from time to time in the normal course of NCSD business, including, but not limited to, the following: Utilities (electricity, natural gas, telephone service, etc.), servicing of NCSD equipment pursuant to contract, fuel for operation of NCSD vehicles and equipment, debt service payments, payroll, payroll taxes and benefits, insurance, postage, postage meter rental and on-going rental payments.

M. Warrants. Checks for payment of materials, supplies, equipment, Public Works and services received by the NCSD.

N. Purchase Policy and Procedures or Purchase Policy(ies). Chapter 2.37 of the NCSD Code.

## **2.2 SIGNING AUTHORITY**

The General Manager, or in his/her absence the Assistant General Manager, or Finance Director is hereby authorized to sign on behalf of the NCSD the following documents:

A. Any documents necessary to conduct the general business of the NCSD that does not require prior approval of the Board.

B. Any documents necessary to conduct the general business of the NCSD requiring approval of the Board, after said documents have received approval of the Board, unless the Board specifies that the document be signed by the Board President.

## **2.3 BUDGETED PROCUREMENTS**

A. Budget. At the beginning of each fiscal year the Finance Director shall issue a complete NCSD Budget approved by the Board. This budget will contain the purchasing account titles, description of line items, and numbers corresponding with budgeted funds for each item. Each NCSD department will receive its own budget for conducting purchasing transactions. It is the responsibility of each Department Manager to control spending and monitor the funds in the account line items that they are authorized to use. A monthly or quarterly status report will be issued showing a comparison between budgeted amounts and the department purchasing activity.

B. General Manager Approval. Subject to Section C, below, the General Manager

or, in his/her absence, the Assistant General Manager or Finance Director shall approve all Contracts, Contract Amendments, Change Orders, Task Order Contracts (and related Task Orders) and Purchase Orders. "Absence" means the General Manager's inability to exercise his or her authority at the time when the NCS D needs to take necessary steps to procure goods or services.

C. Board Approval Required. Board approval is required for the following:

1. Contracts, Contract Amendments, Task Orders or Task Order Amendments, and Purchase Orders for the purchase of supplies, equipment or materials where the estimated cumulative cost is twenty-five thousand dollars (\$25,000) or more.

2. Professional service contracts and Amendments where the estimated cumulative cost is twenty-five thousand dollars (\$25,000) or more.

3. Public Works contracts where the estimated cumulative cost is two hundred thousand dollars (\$200,000) or more.

4. Any procurement referred to the Board by the General Manager or Assistant General Manager.

## **2.4 UNBUDGETED PROCUREMENTS**

The Board shall approve all unbudgeted expenditures except for the following:

A. The General Manager or, in his/her absence, the Assistant General Manager or Finance Director is authorized to approve unbudgeted expenditures up to five thousand dollars (\$5,000) for any single purchase.

B. Upon written finding of the General Manager that an emergency situation exists, the General Manager is authorized to approve unbudgeted expenditures up twenty-five thousand dollars (\$25,000).

C. The General Manager shall account to the Board within thirty (30) days of the expenditures authorized by subparagraphs A & B, above and request the appropriate budget amendments and/or transfers.

## **2.5 METHODS OF PROCUREMENTS.**

The following chart summarizes methods of procurement by category.

A. Materials, Supplies and Equipment. See Chapter 3, below, for procedures and

limitations.

DOLLAR AMOUNT	PROCUREMENT METHOD
\$0-\$5,000	No Purchase Order Required
\$5,001-\$10,000	Written Quote (minimum 1 quote) Purchase Order or Contract Required
\$10,001-\$24,999	Written Quote (minimum 2 quotes) Purchase Order or Contract Required
\$25,000 +	Prepare Notice of Inviting Proposals for Board Approval – Board Approval Required for Contract or Purchase Order

**B. Professional Services.** See Chapter 4, below, for procedures and limitations.

DOLLAR AMOUNT	PROCUREMENT METHOD
\$0-\$24,999	Solicit Proposals From a Qualified Consultant/Professional By Whatever Method The Purchasing Agent Deems Appropriate Under The Circumstances.
\$25,000 +	Prepare Request For Proposals for Board Approval – Board Approval of Contract Required.

**C. Public Works.** See Chapter 5, below, for procedures and limitations.

DOLLAR AMOUNT	PROCUREMENT METHOD
(Dollar limits are provided in the Uniform Public Construction Cost Accounting Act. <u>The General Manager may adjust the limits below periodically to remain</u>	(Informal bidding procedures are provided in the Uniform Public Construction Cost Accounting Act. <u>The General Manager may adjust the District's procedures provided in this Policy to remain consistent with State law. and may</u>



<del>consistent with State law. and may subsequently be amended)</del>	<del>subsequently be amended)</del>
\$0-\$60,000*	May be performed by NCSD employees by force account, by negotiated contract, or by purchase order
\$60,001-\$200,000*	Contract by informal procedures as set forth in the Uniform Public Construction Cost Accounting Act
\$200,001+*	Contract by formal procedures as set forth in the Uniform Public Construction Cost Accounting Act
<u>*Updates to this table are shown in Appendix A</u>	

## CHAPTER 3 - PURCHASE OF MATERIALS, SUPPLIES AND EQUIPMENT

### 3.1 INTRODUCTION

A. The following procedures are established for the purchase of materials, supplies and equipment, as referenced in Government Code Section 54202.

B. In addition to the procedures of this Chapter:

1. The NCSD may request the State Department of General Services to make purchases of materials, equipment, or supplies on its behalf pursuant to Public Contract Code Section 10298; and

2. The NCSD may request the Purchasing Agent of the County of San Luis Obispo to make purchases of materials, equipment, or supplies on its behalf pursuant to Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code.

3. The NCSD may rely on a legally compliant solicitation conducted by another local, regional, state, or national public agency provided that the materials, supplies, and equipment are provided to the NCSD at the same price, and on the same terms and conditions as in that solicitation.

C. **Methods of Procurement.**

1. Purchases of materials, supplies and equipment are normally made pursuant to Purchase Orders as described in this Chapter.

2. In the discretion of the Purchasing Agent and with the approval of the General Manager and NCSD Legal Counsel a contract may be substituted for a Purchase Order.

### **3.2 PURCHASES OF MATERIALS, SUPPLIES AND EQUIPMENT WITH AN ESTIMATED COST OF LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$25,000).**

For purchases of materials, supplies and equipment with an estimated cost of less than \$25,000 the following shall apply:

#### **A. Types of Quotations.**

1. No purchase order is required for standard or non-complex materials with an estimated price of 5,000 or less.

2. Verbal. Verbal requests for quotations will be provided to a minimum of two (2) vendors for purchases of standard or non-complex materials with an estimated price of \$5,001 to \$10,000 and not covered by a contractual agreement.

3. Written. Written requests for quotations (RFQ) will be sent to a minimum of two (2) vendors under the following conditions:

- a. Purchases estimated to exceed \$10,000, but less than a total of \$25,000.
- b. All Capital Equipment purchases exceeding \$10,000, but less than a total of \$25,000.
- c. Non-standard conditions, requirements, instructions, etc.
- d. Any occasion where more permanent documentation is advisable.
- e. Any purchase based on best value rather than lowest price.

**B. Award of Purchase Orders.** The Department Manager will examine the quotations for completion and thereon determine the most responsive bidder with consideration of price and date of delivery. The quotation will be attached to the Purchase Order. The purchase order and the award will be made by the Department Manager after review by the General Manager. The Department Manager or his/her designee will notify the successful and unsuccessful vendors.

### **3.3 PURCHASES OF MATERIALS, SUPPLIES AND EQUIPMENT EQUAL TO OR GREATER THAN TWENTY-FIVE THOUSAND DOLLARS (\$25,000).**

**A.** Purchases of material, supplies and equipment equaling to or greater than twenty-five thousand dollars (\$25,000) shall be approved by the Board with the vendor who, in response to the Notice of Inviting Proposals, submits a proposal that most closely meets the NCSD's specifications with the consideration of price and delivery dates.

**B.** The Notice of Inviting Proposals shall be published and distributed by the Department Manager in a manner to reasonably assure that the proposed purchase is made to a vendor that most closely meets the NCSD's specification with consideration of price, availability of service and delivery dates.

**C.** Notice of Inviting Proposals shall include the following:

1. A statement of specifications of equipment and/or supplies to be purchased;
2. The location and deadline for submission of proposals;
3. The location where the specifications and proposal blanks forms, if required, may be secured;
4. The proposed delivery date and place of delivery;
5. The date, time and place assigned for the opening of sealed proposals;
6. The type and character of proposal security required, if any;
7. A statement that the NCSD intends to award the Contract to the vendor who submits a proposal that most closely meets the NCSD specifications with the consideration of price and delivery dates;
8. That the NCSD reserves the right to reject all proposals; and
9. Notice that no vendor can withdraw its proposal for a period of sixty (60) days from the date of opening proposals.

**D. Alternative Procedure.** As an alternative to the procedures described in Paragraphs A, B and C, above, the Board may approve the purchase of supplies and equipment by accepting a proposal submitted by a vendor to another public agency for similar equipment and/or supplies upon the Board approving the purchase by Resolution making the following findings:

1. The other agency's procedures for the purchase were substantially similar to the NCSD's procedures as stated in Paragraphs A, B and C, above.

2. The equipment and/or supplies to be purchased by NCSD is substantially similar to the supplies and equipment purchased by the other agency, so that the submitted proposals would be responsive to the NCSD's specifications.

3. The negotiations regarding the purchase are minor and the proposed purchase is consistent with the policy of awarding the contract to the most responsive vendor with the consideration of price and delivery date.

### **3.4 NON-COMPETITIVE NEGOTIATIONS.**

**A.** Under some circumstances, the NCSD competitive solicitation requirements may be dispensed with when the services, materials, supplies and equipment are only available from one source either because the brand or trade name article, goods, or product is the only one which will properly meet the needs of the NCSD or the item is unique and available only from a sole source.

**B.** This approach involves procurement of materials, supplies and equipment through solicitation of a proposal from only one source. Such negotiations may be used in limited situations when the award of a contract or purchase order is not feasible under other methods upon the following findings:

1. The purchase price is reasonable; and
2. One or more of the following exists:
  - a. The product is the only one that will properly meet the needs of the NCSD because:
    - i The item is unique and is available only from a sole source; or
    - ii The item is unique and is designed to match others used in or furnished to a particular installation, program, facility or location.
  - b. The product will be used in a field test or experiment to determine the products suitability for future use.
  - c. The procurement is for the renewal or extension of a contract for continuing professional services to the NCSD.

- d. Public exigency or emergency will not permit delay.
- e. A Federal Grantor authorized non-competitive negotiations.

**C. Findings**

1. The Department Manager shall make written findings referenced in subparagraph B2 above to be approved by the General Manager for purchases less than twenty-five thousand dollars (\$25,000) that are not otherwise approved by the Board.

2. The Board by Resolutions shall adopt findings for purchases referenced in subparagraph B2 above for purchases of twenty-five thousand dollars (\$25,000) or more.

**3.5 PURCHASE ORDER PREPARATION.**

**A.** Purchase orders shall be prepared from a properly completed purchase order form. The form is designed to contain all the necessary information and signatures relevant to the purchase within the NCSD.

**B.** The purchase order form is used as a written order to a vendor and shall include a Purchase Order number. A Purchase Order may also serve as a written change order. Purchase Orders must be approved as referenced in Section 3.2 above.

**C.** Each purchase order form shall be filled out by the NCSD employee prior to NCSD funds being obligated for a purchase and shall contain the following information:

1. Purchase order number, date, department, and who wrote it.
2. To whom the purchase order is issued, together with a complete address.
3. Quantity/unit and description of item(s) to be purchased.
4. Account number to be charged.
5. Unit price and extended amount (depending upon quantity).
6. If applicable, the words "OPEN PO" and "EXPIRATION DATE," not to exceed past the end of the current fiscal year, at the top of the purchase order form.
7. The words "NOT TO EXCEED" if it is for a repetitive purchase or a contract amount.
8. The total amount of the purchase order shall include charges for freight and tax, if applicable.

9. The initial purchase order MUST have attached to it the following: the written quote or estimate or a copy of the contract, or other backup supporting documentation.

D. The completed purchase order shall be distributed as follows:

1. Vendor Copy – to be delivered to the vendor, if desired and or/required.  
2. Accounts Payable – to be delivered to Accounts Payable and attached to the approved invoice.

3. Department Copy – shall be maintained by the Department in chronological order for accountability purposes.

E. The purchase order must be submitted immediately to the General Manager or his/her designee. The purchase order date must precede the order date.

F. Any incomplete purchase orders will be returned to the Department Manager for completion.

G. Insofar that it does not conflict with any other Purchasing Policy limitations, a purchase order may be exceeded by up to 10% of the original purchase order amount. No increase may be given for quoted prices.

H. When a purchase order is intended to be used to issue a check, write "Check Request" on the purchase order.

### **3.6 OPEN PURCHASE ORDERS.**

A. A blanket or open purchase order can be used to reduce the time-consuming process of filling out a purchase order form for each purchase when it is with the same vendor and for repeat materials.

B. Open purchase orders are to be used when the NCSD will:

1. Purchase repetitive, specified services or items, or categories of items from the same vendor over a period of less than one year, or on a monthly basis.

2. Order standard materials or maintenance supplies, which require numerous shipments.

3. Obtain more favorable pricing through volume commitments.

C. An employee making a purchase with an open purchase order vendor shall immediately transmit the invoice to his/her Department Manager for processing. The

Department Manager shall sign the invoice and indicate the budgetary account upon the face of the invoice and promptly route the invoice to Accounts Payable for payment.

D. Open purchase orders generally should NOT be used when:

1. No benefit will be derived over and above a regular purchase.
2. Prices are unknown at ordering time, or subject to change later without notice.
3. Quality of vendor or service is questionable.
4. Control over NCSD expenditures would be weakened significantly.

E. An open purchase order differs from the normal purchase order only in the date entry block that now has a date range not to exceed past the end of the current fiscal year.

F. Each year during the month of June, each Department Manager will review all department blanket purchase orders and reissue all necessary blanket purchase orders effective July 1.

## **CHAPTER 4 - PROCUREMENT OF PROFESSIONAL SERVICES**

### **4.1 APPLICABILITY.**

A. The procedures established herein are for the procurement of professional and consulting services including, but not limited to, auditors, electricians, financial advisors, technology advisors, rate consultants, plumbers, private architects, landscape architect, engineers, environmental consultants, land surveyors, and/or construction project managers, or other individuals or organizations possessing a high degree of professional, unique specialized technical skill or expertise, not always adaptable to competitive bidding.

B. It is the policy of the NCSD to employ professional and other consultant services whenever it is in the NCSD's best interest.

C. The requirements to solicit proposals referenced in Sections 4.4 & 4.5, below, do not apply to:

1. Contract Amendments so long as the amendment is related to the completion of the contemplated work or services of the original Contract.
2. Contracts for the continuation of professional service where the key personnel providing services have relocated to a different firm or company.

3. Contracts for services related to litigation.

**4.2 METHOD OF PROCUREMENT.**

Procurement of Professional Services is normally made pursuant to a Contract or Task Order Contract.

**4.3 QUALIFICATIONS.**

Professional service contracts shall be awarded on the basis of demonstrated competence and qualifications for the type of service to be performed and at a fair and reasonable price to the NCSD.

**4.4 PROFESSIONAL SERVICES WITH AN ESTIMATED COST OF LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$25,000).**

A. For contracts estimated to be less than \$25,000 the Purchasing Agent will solicit proposals from the qualified consultants and professionals by whatever method the Purchasing Agent deems most appropriate under the circumstances.

B. Professional services will only be procured by a contract that is approved by the General Manager and NCSD legal counsel.

**4.5 PROFESSIONAL SERVICES WITH AN ESTIMATED COST OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000) OR MORE.**

The following procedures shall apply the procurement of professional services with an estimated cost of twenty-five thousand dollars (\$25,000) or greater.

A. The Board of Directors shall approve the request for proposals and the award of professional service contracts.

B. The written contract shall be awarded to the professional service provider who, in response to a request for proposals, submits a statement of qualifications and proposal for services that most closely meets the NCSD's requirements at a fair and reasonable cost.

**4.6 NON-COMPETITIVE NEGOTIATIONS.**

A. Under some circumstances, the NCSD competitive solicitation requirements may be dispensed with when the professional service is only available from one source either



because the professional service provider is the only provider which will properly meet the needs of the NCSD or the professional service is unique and available only from a sole source.

**B.** This approach involves procurement of professional services through solicitation of proposals from only one source. Such negotiations may be used in limited situations based on the following findings:

1. The service provider is qualified pursuant to Section 4.3.
2. The cost of the services is reasonable; and
3. One or more of the following exists:
  - a. The proposed service provider is uniquely knowledgeable and qualified because similar/related services have been previously provided to the NCSD; or
  - b. An Emergency will not permit delay.

**C.** Findings

1. The Department Manager shall make written findings referenced in subparagraph A, above, to be approved by the General Manager for Professional Services Contracts where the cumulative costs are estimated at less than twenty-five thousand dollars (\$25,000) that are not otherwise approved by the Board.

2. The Board by Resolutions shall adopt findings references in subparagraph A, above, for Professional Services Contracts where the cumulative costs are estimated at twenty-five thousand dollars (\$25,000) or more.

## **CHAPTER 5 - PROCUREMENT OF PUBLIC WORKS**

### **5.1 UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT (UPCCAA).**

Pursuant to Public Contract Code Section 20682(g), the NCSD has elected to become subject to the Uniform Public Construction Cost Accounting Act ("UPCCAA"), Public Contract Code Sections 22000 *et seq.*, when contracting for the construction of public projects, as defined by Public Contract Code Section 22002. Where applicable, the NCSD will adhere to the alternative bidding procedures provided by the UPCCAA. Public projects (as defined in Public Contract Code Section 22002) that do not exceed the dollar limits in Public Contract Code Section 22032(b) (as such limits currently exist or may subsequently be amended) may be let to contract by informal procedures as set forth in the UPCCAA.

## 5.2 UPCCAA CONTRACTING PROCEDURES AND DOLLAR AMOUNT LIMITATIONS.

Contracts for public projects shall be awarded pursuant to the dollar limitations established by the UPCCAA (Public Contract Code Section 22032(b)), which as of the time of the adoption of this Policy are as follows:

- A. Public projects of sixty thousand dollars (\$60,000<sup>1</sup>) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.
- B. Public projects of two hundred thousand dollars (\$200,000<sup>1</sup>) or less may be let to contract by informal procedures as set forth in the UPCCAA.
- C. Public projects of more than two hundred thousand dollars (\$200,000<sup>1</sup>) shall, except as otherwise provided in the UPCCAA, be let to contract by formal bidding procedures.

Pursuant to Public Contract Code Section 22033, it shall be unlawful to split or separate into smaller work orders or projects any public project for the purpose of evading the requirements of the UPCCAA. The General Manager may adjust the limits and procedures in this Section 5 to remain consistent with State law.

### 5.45.3 INFORMAL BIDDING PROCEDURES.

Pursuant to the UPCCAA (Public Contract Code Section 22034), the NCSD enacted an informal bidding ordinance to govern the selection of contractors to perform public projects subject to informal bidding procedures under Public Contract Code Section 22032(b). The NCSD's informal bidding ordinance is codified in Chapter 2.43 of the NCSD Code.

Pursuant to Public Contract Code Section 22034(d), if all bids received pursuant to the NCSD's informal bidding procedures are in excess of two hundred thousand dollars (\$200,000), the Board may, by adoption of a resolution by a four-fifths vote, award the contract, at two hundred twelve thousand five hundred dollars (\$212,500) or less, to the lowest responsible

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<sup>1</sup> Updates to these dollar amounts will be shown in Appendix A.

bidder, if it determines the cost estimate of the NCSD was reasonable.

#### **5.55.4 FORMAL BIDDING PROCEDURES.**

The formal bidding procedures provided by the UPCCAA (Public Contract Code Sections 22037 *et seq.*) will govern the selection of contractors to perform public projects subject to formal bidding procedures under Public Contract Code Section 22032(b).

#### **5.65.5 EMERGENCIES.**

**A.** Pursuant to Public Contract Code Section 22035, in cases of emergency when repair or replacements are necessary, the Board may proceed at once to replace or repair any public facility without giving notice for bids to let contracts. The work may be done by day labor under the direction of the Board, by contractor, or by a combination of the two.

**B.** In case of an emergency, if notice for bids to let contracts will not be given, the public agency shall comply with Chapter 2.5 of the Public Contract Code (commencing with Section 22050).

### **CHAPTER 6 - PAYMENT**

#### **6.1 WARRANTS**

**A.** All supporting documents including the, Purchase Order, Task Order, proof of receipt, packing slip, etc. will be attached to the Invoice and presented to the General Manager for payment pursuant to subparagraph B, below. The Invoices will be reviewed and initialed by the General Manager verifying that the documents are internally consistent, that invoices being paid are original, that receipt of goods or services has been acknowledged by the NCSD Department Manager and that the amounts agree between documents.

**B.** The General Manager is authorized to approve Warrants for Recurring Expenditures that are within 110% of the budget. The Board of Directors shall approve all other Warrants as part of its approval of the Warrant Register.

**C.** A copy of the Warrant shall be made prior to it being mailed. The Invoice and supporting documentation shall be attached to the copy of the Warrant and then filed by vendor/service provider and separated by the fiscal year in which the payment was made.

## **6.2 CHECK SIGNING PROCEDURES**

**A.** The Directors of the NCSD, the General Manager, the Assistant General Manager and Finance Director are authorized to sign checks on behalf of the NCSD.

**B.** All checks issued by the NCSD shall contain two (2) signatures, one of which shall be a Director of the NCSD.

## **6.3 PAYMENT VIA NCSD CREDIT CARDS**

**A.** All purchases using a NCSD credit card are subject to the same requirements and procedures as outlined in of this policy, and the following additional requirements:

**1.** All NCSD credit cards shall be issued on a department basis in the name of each Department Manager. The General Manager shall manage the administration of NCSD credit cards.

**2.** Only the General Manager and the Department Managers are authorized to sign credit card purchases. Department Managers may allow their department employees to use the department credit card; however, the Department Manager is responsible for its care and control.

**3.** The following travel and meeting expenses are authorized to be paid by NCSD credit cards:

- Telephone calls to the NCSD when out of town;
- Expenses related to travel by car on NCSD business;
- Lodging and meals when out of town on NCSD business; and
- NSCD approved seminars and business meetings.
- Credit card receipts SHALL BE obtained for these expenses and turned in immediately upon return to the NCSD Treasurer or his/her designee. If a credit card receipt is lost or misplaced, the receipt replacement form must be promptly filled out by the responsible person and turned in to the NCSD Treasurer or his/her designee.

**4.** The credit limit on the NCSD credit cards shall be seven thousand dollars (\$7,000) per month for the General Manager and two thousand dollars (\$2,000) per month for each Department Manager.

5. Credit card purchases for orders that are made via telephone or Internet are permitted. A receipt must be obtained and turned in to Accounts Payable.

6. The use of NCSD credit cards for personal purchases or spending is prohibited. Any violation of this policy will result in loss of NCSD credit card privileges and violations are subject to disciplinary action.

7. Cash advances on any NCSD credit card are prohibited. Any violation of this policy will result in disciplinary action.

#### **6.4 PETTY CASH PROCEDURES**

A. The NCSD Treasurer or his/her designee shall maintain a petty cash fund of two hundred dollars (\$200).

B. Signed receipts are required for all withdrawals from petty cash. There are no exceptions to the receipt rule.

#### **6.5 PAYMENT BY ELECTRONIC FUNDS TRANSFER**

A. NCSD may make payments by Electronic Funds Transfer ("EFT") in compliance with the applicable payment provisions of this Chapter 6 and banking rules and regulations.

| **APPENDIX A – Updated Uniform Public Construction Cost Accounting Act**