

# NIPOMO COMMUNITY SERVICES DISTRICT

## AGENDA

JULY 18, 2001

www.slocounts.net

John [Signature]

REGULAR MEETING 10:30 A.M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

### BOARD MEMBERS

ROBERT BLAIR, PRESIDENT  
RICHARD MOBRAATEN, DIRECTOR  
MICHAEL WINN, DIRECTOR  
JUDITH WIRSING, DIRECTOR  
CLIFFORD TROTTER, DIRECTOR

### STAFF

DOUGLAS JONES, GENERAL MANAGER  
DONNA JOHNSON, SEC. TO THE BOARD  
JON SEITZ, GENERAL COUNSEL

Planning  
Accepting  
wilson's?

**NOTE:** All comments concerning any item on the agenda are to be directed to the Board Chairperson.

- A. CALL TO ORDER AND FLAG SALUTE
- B. ROLL CALL
- C. PUBLIC COMMENTS PERIOD

#### PUBLIC COMMENTS

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board. Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.

- D. ADMINISTRATIVE ITEMS (The following may be discussed and action may be taken by the Board.)

- D-1) REQUEST FOR SERVICE -TRACT 2439 (ALONZO)  
Request for water service for a 5-lot development between Pomeroy & Glenhaven
- D-2) PROPERTY TAX EXCHANGE FOR PROPOSED ANNEXATION No. 19 (LMUSD)  
Approve property tax exchange with SLO County for Annex. No. 19
- D-3) REQUEST FOR ANNEXATION - TRACT 2380  
Request to annex a 16 lot development on 40 acres at Willow Rd. & Via Concha

#### E. OTHER BUSINESS

- E-1) SOLID WASTE DISPOSAL AGREEMENT  
Review franchise agreement for providing solid waste services

- F. CONSENT AGENDA The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the Consent Agenda and will be considered separately. Questions or clarification may be made by the Board members without removal from the Consent Agenda. The recommendations for each item are noted in parenthesis.

- F-1) WARRANTS [RECOMMEND APPROVAL]
- F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]  
Minutes of June 27, 2001 Regular Board meeting  
Minutes of July 12, 2001 Special Board meeting
- F-3) ACCEPTANCE OF IMPROVEMENTS-TRACT 2363 (Kelly) [RECOMMEND APPROVAL]  
Accepting water and sewer improvements for a 6-lot development on Daffodil St.
- F-4) ACCEPTANCE OF IMPROVEMENTS-TRACT 2282 (KELLEY) [RECOMMEND APPROVAL]  
Accepting water and sewer improvements for a 9-lot development on Juniper St.
- F-5) ACCEPTANCE OF IMPROVEMENTS-BROOKSIDE PROJECT LOTS 3, 4, 10-14 [RECOMMEND APPROVAL]  
Accepting water and sewer improvements for a 7-lot development on Thompson & Burton Sts.
- F-6) ACCEPTANCE OF IMPROVEMENTS, ASHLAND LANE (NEWDOLL) [RECOMMEND APPROVAL]  
Accepting sewer improvements in Ashland Lane
- F-7) INVESTMENT POLICY - QUARTERLY REPORT [RECOMMEND APPROVAL]  
June 30, 2001 Second Quarter Report

#### G. MANAGER'S REPORT

- G-1) ARTICLES ON LAND USE, PUBLIC WORKS PROJECTS AND CONTROLLING CO<sub>2</sub>
- G-2) CSDA - ANNUAL CONFERENCE
- G-3) STATUS OF PROJECTS

#### H. DIRECTORS COMMENTS


##### CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

- a. Litigation CPUC Appl. No. A 00-03-029
- b. SMWCD vs NCSD Santa Clara County Case No. CV 770214 and all consolidated cases.
- c. NCSD vs State Dept of Health Services CV 990716
- d. Anticipated litigation, Miller Claim, copy in office, GC §54956.9 (b) 3(d) and (c)
- e. Istar Holliday, Jesse Hill vs. NCSD

#### ADJOURN

The next regular Board meeting will be held on August 1, 2001.

TO: BOARD OF DIRECTORS  
FROM: DOUG JONES   
DATE: JULY 18, 2001

**AGENDA ITEM**

JUL 18 2001



REQUEST FOR SERVICE  
TRACT 2439  
ALONZO

**ITEM**

Request for water service for a 5-lot development between Pomeroy Rd. and Glenhaven Place.

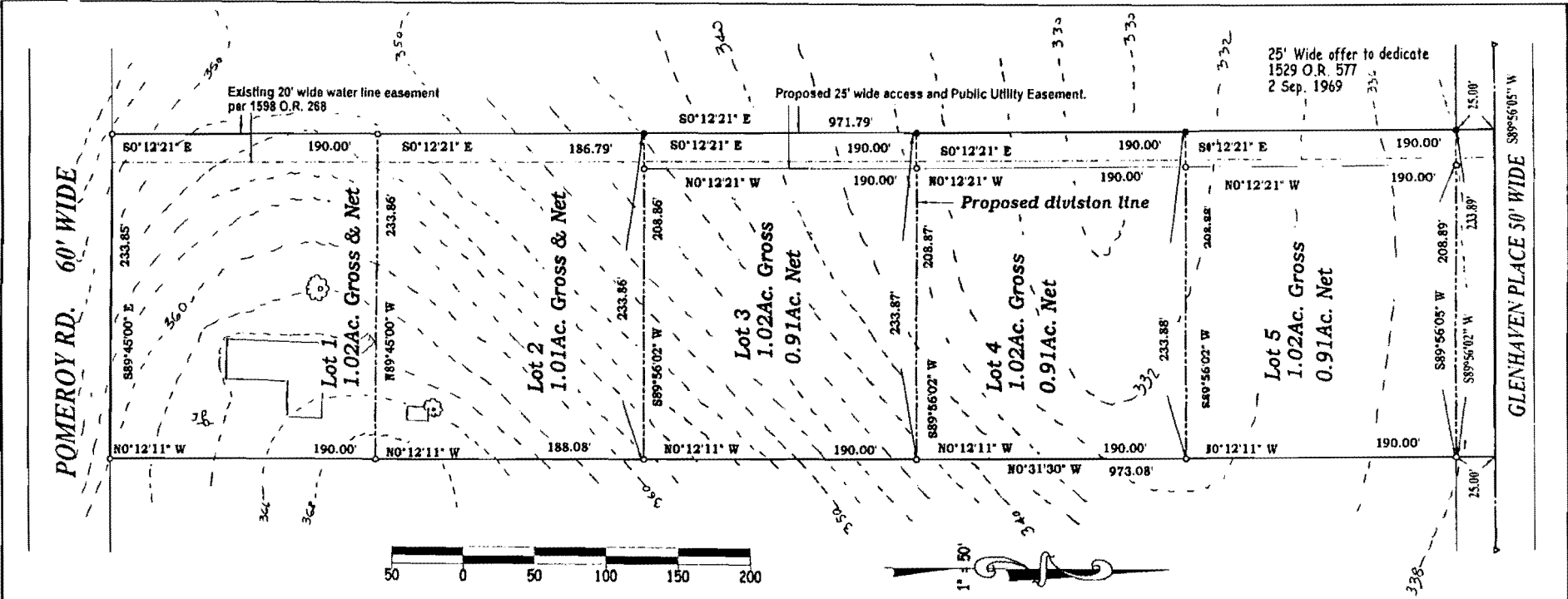
**BACKGROUND**

The District received a request from Jim McGillis, representing the applicant Alonzo, for an Intent-to-Serve letter for water service to a 5-lot development between Pomeroy Rd. and Glenhaven Place. The individual lots are approx. one acre each, therefore, sewer service would not be required. The Board may proceed to issue an Intent-to-Serve letter with the following conditions:

1. Enter into a Plan Check and Inspection Agreement and pay the appropriate fees.
2. Submit improvement plans in accordance with the District Standards and Specifications for review and approval.
3. Pay all appropriate District water and other fees associated with this development.
4. Construct the improvements required and submit the following:
  - a. Reproducible "As Builts" - A mylar copy and digital format disk (Auto Cad) which includes engineer, developer, tract number and water improvements
  - b. Offer of Dedication
  - c. Engineer's Certification
  - d. A summary of all water improvement costs
5. This Intent-to-Serve Letter will expire two years from date of issuance.

**RECOMMENDATION**

Staff recommends that your Honorable Board approve the issuance of the Intent-to-Serve letter for Tract 2439 with the above mentioned conditions.

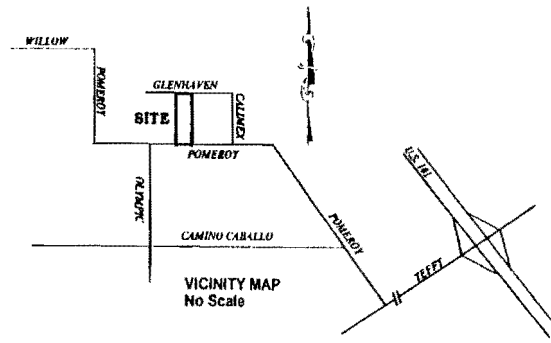


**NOTE: This project was previously approved under Tract # 1592**

**Assessors Parcel # 91-292-054  
755 Glenhaven Pl.**

**VESTING TENTATIVE TRACT # 2439**

A proposed division of Parcel C of CO 68-109, a portion of Lot 51 in Division B of Pomeroy's Resubdivision of the Los Berros tract, in the County of San Luis Obispo.



**OWNER & SUBDIVIDER: Mark Alonzo**  
1740 San Luis Drive  
San Luis Obispo, CA 93401

**SURVEYOR: J. M. McGillis, PLS 4442, Lic. Exp. 30 Sep 2001**  
P.O. Box 1446  
Nipomo CA 93444

**YE OLDE TYME SURVEY SHOPPE**



**JAMES MICHAEL MCGILLIS**  
**PROFESSIONAL LAND SURVEYOR**  
**P.O. BOX 1446 NIPOMO CA. 93444**  
Phone (805) 929-2941 Fax (805) 929-2941

e-mail James.McGillis@yahoo.com



**JAMES MICHAEL MCGILLIS  
PROFESSIONAL LAND SURVEYOR**

**PO BOX 1446 NIPOMO CA. 93444**

231 HAZEL LANE NIPOMO CA. 93444

Phone (805) 929-2941 FAX (805) 929-2941

e-mail JAMES\_MCGILLIS@yahoo.com

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26 June 2001

**NIPOMO COMMUNITY SERVICES DISTRICT  
148 SOUTH WILSON STREET  
POST OFFICE BOX 326  
NIPOMO, CA. 93444-0326**

**SUBJECT: Tract 2439**

**Pease cause to be issued your standard "INTENT TO SERVE" letter for water service.**

**I have enclosed 2 full size copies and 1 reduced copy of our proposed tentative map.**

**If you have any questions, or need any more material, please call, fax or e-mail me.**

**Sincerely,**

**J. M. McGillis, PLS 4442  
Lic. Exp. 30 Sep. 2001**

**YE OLDE TYME SURVEY SHOPPE**

TO: BOARD OF DIRECTORS  
FROM: DOUG JONES  
DATE: JULY 18, 2001

AGENDA ITEM  
JUL 18 2001



PROPERTY TAX EXCHANGE FOR PROPOSED ANNEX. NO. 19  
NEW NIPOMO HIGH SCHOOL AREA  
Lucia Mar Unified School District

**ITEM**

Approving property tax revenue exchange with SLO County for Annex. No. 19

**BACKGROUND**

The District has received a request to annex the new Nipomo High School area of approx. 77 acres off N. Thompson Ave. An annexation agreement is being prepared for Annex No. 19 for review and consideration by the Board at a later meeting.

With any proposed annexation to the District, the State Revenue & Taxation Code Sec. 99 requires the District and the County to negotiate the property tax exchange for the property being annexed into the District. Since the School District properties are not levied a property tax, the percent of property tax increment that would be transferred to the District for Annexation #19 would be 0.0%.

Attached is Resolution 2001-tax exchange is presented to your Honorable Board for consideration.

**RECOMMENDATION**

Staff recommends that your Honorable Board adopt Resolution 2001-tax exchange accepting the SLO County/NCSD exchange of property tax revenues and annual tax increments for Annexation #19 at 0.0%.

Board 2001\Tax exchange.DOC

# County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

NCSD



DAVID EDGE  
COUNTY ADMINISTRATOR

**TO: BOARD OF SUPERVISORS**  
**FROM: JIM GRANT, ASSISTANT ADMINISTRATIVE OFFICER**  
**DATE: JUNE 19, 2001**

**SUBJECT: SUBMITTAL OF A NOTICE TO COMMENCE NEGOTIATIONS FOR THE EXCHANGE OF PROPERTY TAX REVENUE AND ANNUAL TAX INCREMENT AND RESOLUTION ACCEPTING THE EXCHANGE OF PROPERTY TAX REVENUE AND ANNUAL TAX INCREMENT FOR ANNEXATION NO. 19 TO THE NIPOMO COMMUNITY SERVICES DISTRICT (LUCIA MAR UNIFIED SCHOOL DISTRICT)**

## Recommendation

Commence negotiations for the exchange of property tax revenue and annual tax increment and approve the resolution accepting the exchange of property tax revenue and annual tax increment for Annexation No. 19 to the Nipomo Community Services District (Lucia Mar Unified School District).

## Discussion

As a prerequisite to any jurisdictional change, Revenue and Taxation Code Section 99 requires affected jurisdictions to negotiate an exchange of property tax revenues. A 60-day negotiation period commenced on June 19, 2001. The notice contains information concerning the amount of revenue generated in the annexation area. The County Administrative Office and the Nipomo Community Services District have negotiated on behalf of their respective agencies. A resolution agreeing to the negotiated exchange of property tax revenue is presented for your Board's approval.

The affected territory is located on the eastern side of Highway 101, between the Nipomo Creek and Thompson Road, in the community of Nipomo. (map attached).

The resolution is for Annexation No. 19 to the Nipomo Community Services District; LAFCO File No.: 5-R-01.

## Other Agency Involvement/Impacts

The Nipomo Community Services District is the annexing agency.

RECEIVED

JUN 19 2001

NIPOMO COMMUNITY  
SERVICES DISTRICT

**BOARD OF SUPERVISORS**

June 19, 2001

Page 2

**Financial Considerations**

The County will transfer Zero (0) percent of property tax increment. There will not be a transfer of base.

**Results**

To agree to a fair and equitable exchange of property tax revenue as a result of annexations of property.

**LOCAL AGENCY FORMATION COMMISSION  
NOTICE TO COMMENCE NEGOTIATION  
FOR TRANSFER OF PROPERTY TAX REVENUE**

**Proposed Jurisdictional Change:**      **Annexation No. 19 to the Nipomo Community Services District (Lucia Mar Unified School District)**

**LAFCO FILE NO:**    5-R-01

Negotiating Agencies:

Agenda Date for  
Start of Negotiations

Nipomo Community Services  
County of San Luis Obispo

June 19, 2001

Subject Property:

<u>Tax Code Area</u>	<u>Parcel No. (s)</u>	<u>Valuation</u>
052-041	090-151-017	\$908,539

**Estimated property tax revenue generated within subject property: \$0 in fiscal year 2000-01**

Property Tax attributed to following local agencies:

<u>Agency</u>	<u>Revenue from Proposed Annexation Area</u>
General Fund	\$0
Air Pollution Control	0
Special Roads	0
County Library	0
San Luis Flood Control	0
Nacimiento Water Control	0
Lucia Mar Unified	0
Port San Luis Harbor	0
SLO Community College	0
County School Service	0
ERAF	0
Totals	\$0

Percentage of annual tax increment to be exchanged: Zero (0)

Negotiation Period: June 19, 2001 through August 19, 2001

Property Tax Exchange effective in fiscal year: 2002-03

By: Paul L. Hood      Date: 5/29/01  
Paul L. Hood, Executive Officer

(Note: at close of negotiations, each agency shall immediately transmit to the LAFCO Executive Officer a certified copy of the resolution setting forth the amount of property tax revenue to be transferred. For dependent districts, the Clerk of the Board of Supervisors shall transmit a certified copy of the Board's resolution adopted on behalf of both parties. This will allow LAFCO to commence processing of the jurisdictional change.)

C - County Negotiator, County Auditor-Controller and Negotiating Agency

txrev



**IN THE BOARD OF SUPERVISORS**  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

\_\_\_\_\_ day \_\_\_\_\_, 2001

**PRESENT: Supervisors**

**ABSENT:**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION ACCEPTING NEGOTIATED EXCHANGE OF  
PROPERTY TAX REVENUE AND ANNUAL TAX INCREMENT  
BETWEEN THE COUNTY OF SAN LUIS OBISPO AND  
THE NIPOMO COMMUNITY SERVICES DISTRICT  
(LUCIA MAR UNIFIED SCHOOL DISTRICT)**

The following resolution is hereby offered and read:

**WHEREAS**, in the case of a jurisdictional change other than a city incorporation or district formation which will alter the service area or responsibility of a local agency, Revenue and Taxation Code Section 99(a)(1) requires that the amount of property tax revenue to be exchanged, if any, and the amount of annual tax increment to be exchanged among the affected local agencies shall be determined by negotiation; and

**WHEREAS**, when a city is involved, the negotiations are conducted between the City Council and the Board of Supervisors of the County; and

**WHEREAS**, when a special district is involved, the negotiations are conducted by the Board of Supervisors of the County on behalf of the district or districts, unless otherwise requested by said district or districts pursuant to Revenue and Taxation Code Section 99(b)(5); and

**WHEREAS**, Revenue and Taxation Code Section 99(b)(6) requires that each local agency, upon completion of negotiations, adopt resolutions whereby said local agencies agree to accept the negotiated exchange of property tax revenues, if any, and annual tax increment and requires that each local agency transmit a copy of each such resolution to the Executive Officer of the Local Agency Formation Commission; and

**WHEREAS**, no later than the date on which the certificate of completion of the jurisdictional change is recorded with the County Recorder, the Executive Officer shall notify the County Auditor of the exchange of property tax revenues by transmitting a copy of said resolutions to him and the County Auditor shall thereafter make the appropriate adjustments as required by law; and

**WHEREAS**, the negotiations have taken place concerning the transfer of property tax revenues and annual tax increment between the County of San Luis Obispo and the Nipomo Community Services District pursuant to Section 99(a)(1) for the jurisdictional change designated as Annexation No. 18 to the Templeton Community Services District; and  
19 Nipomo

**WHEREAS**, the negotiating party to wit: Jim Grant, Assistant Administrative Officer, County of San Luis Obispo, on behalf of the County and Doug Jones, General Manager,

Nipomo Community Services District, on behalf of the District, have negotiated the exchange of property tax revenue and annual tax increment between such entities as hereinafter set forth; and

**WHEREAS**, it is in the public interest that such negotiated exchange of property tax revenues and annual tax increment be consummated.

**NOW, THEREFORE BE IT RESOLVED AND ORDERED** by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth above are true, correct and valid.
2. That the County of San Luis Obispo agrees to accept the following negotiated exchange of base property tax revenue and annual tax increment:

(a) No base property tax revenue shall be transferred from the County of San Luis Obispo to the Nipomo Community Services District.

(b) No annual tax increment shall be transferred from the County of San Luis Obispo to the Templeton Community Services District in the fiscal year 2001-2002 nor in each fiscal year thereafter. <sup>Nipomo</sup>

3. Upon receipt of a certified copy of this resolution and a copy of the recorded certificate of completion, the County Auditor shall make the appropriate adjustments to property tax revenues and annual tax increments as set forth above.

4. That the County Clerk is authorized and directed to transmit a certified copy of the resolution to the Executive Officer of the San Luis Obispo County Local Agency Formation Commission, who shall then distribute copies in the manner prescribed by law.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and on the following roll call, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

\_\_\_\_\_  
Chairperson of the Board of Supervisors

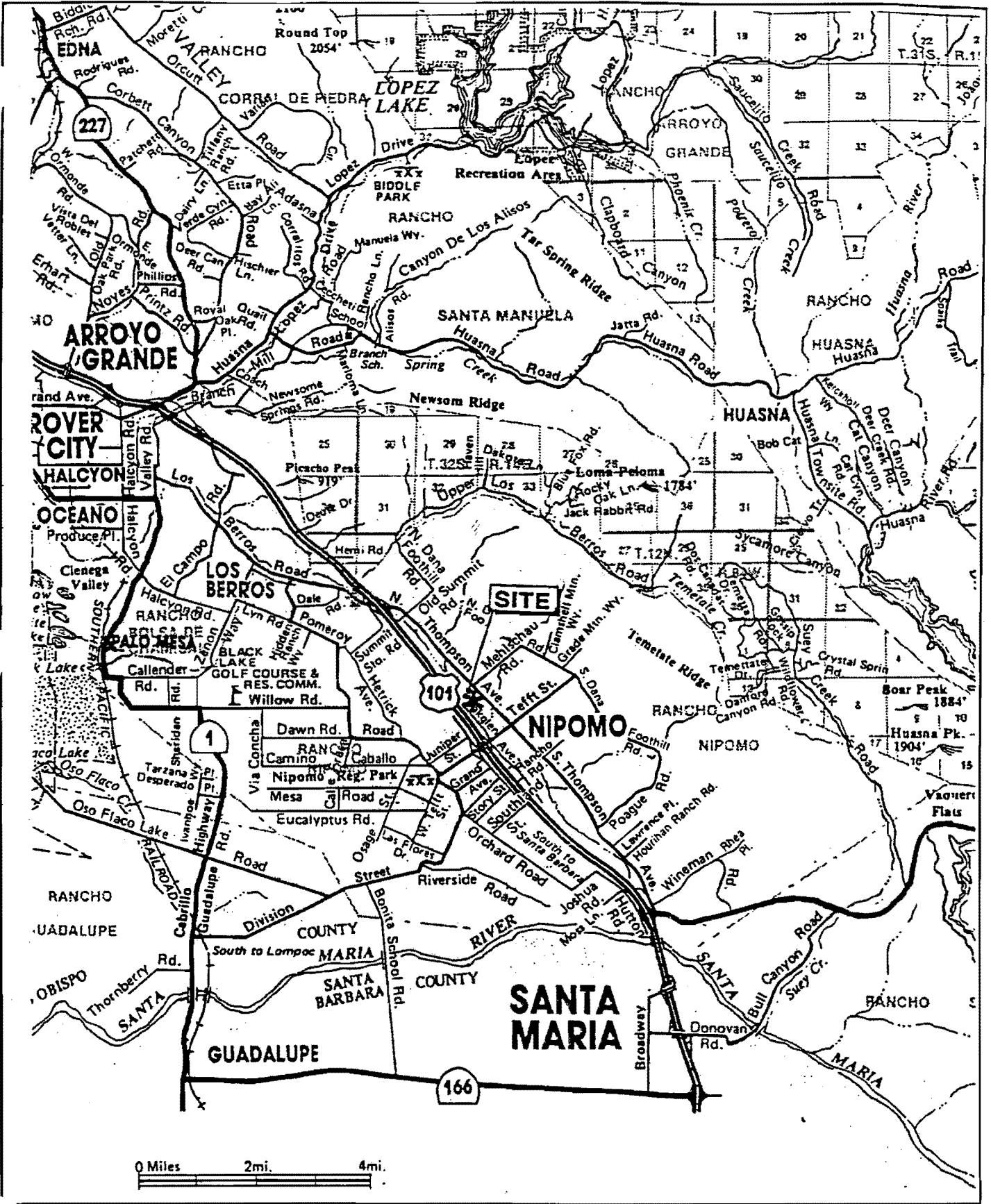
ATTEST

\_\_\_\_\_  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT  
JAMES B. LINDHOLM, JR.  
County Counsel.

By: \_\_\_\_\_  
Deputy County Counsel

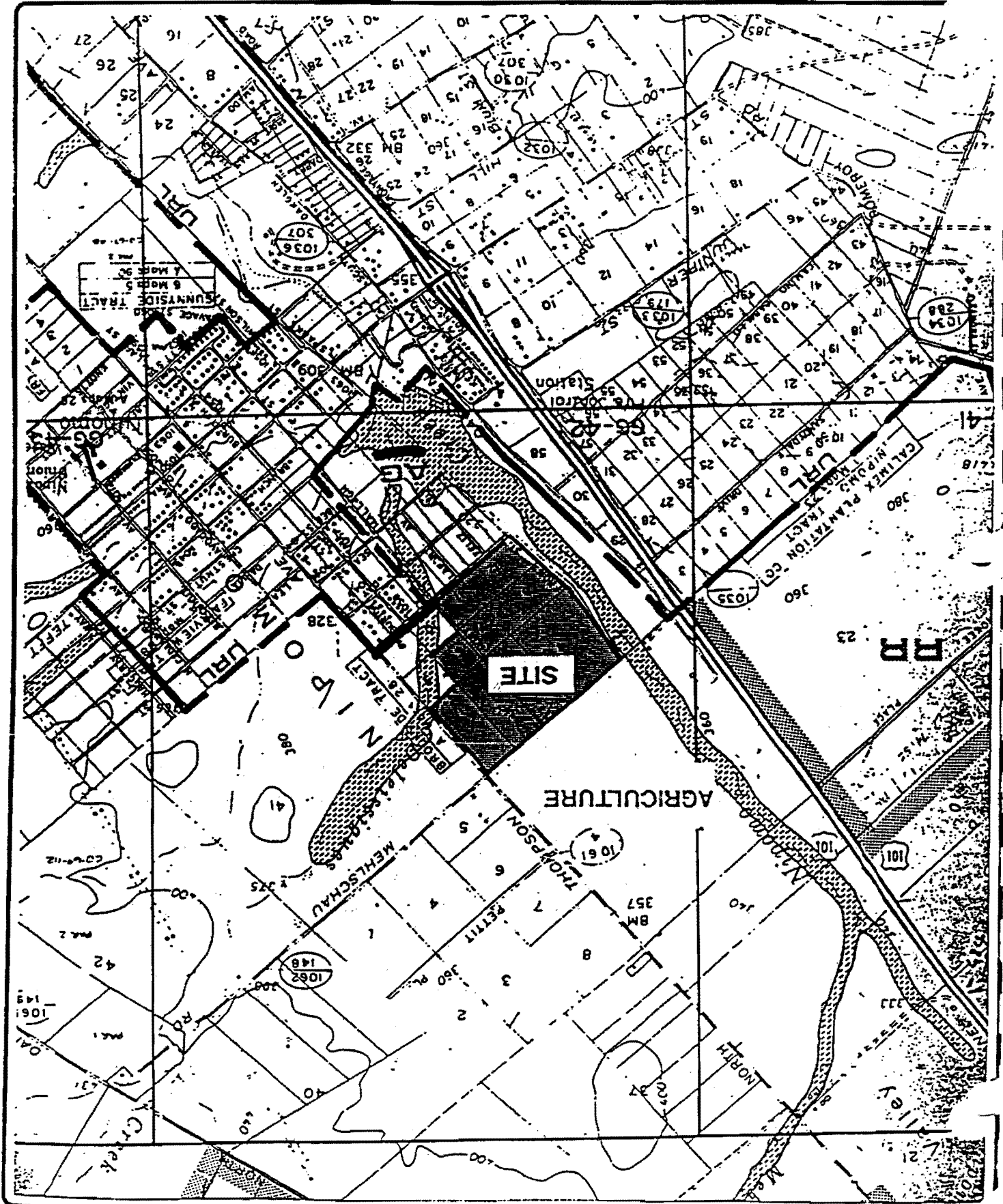


Title: LOCATION

Scale  
NTS

North  
▲

Map  
1



**RESOLUTION NO. 2001-tax ex**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUE  
AND ANNUAL TAX INCREMENT FROM COUNTY OF SAN LUIS OBISPO  
TO NIPOMO COMMUNITY SERVICES DISTRICT  
FOR ANNEXATION NO. 19 (LUCIA MAR UNIFIED SCHOOL DISTRICT)**

**WHEREAS**, in the case of a jurisdictional change other than a city incorporation or district formation which will alter the service area or responsibility of a local agency, Revenue and Taxation Code Section 99(b) requires that the amount of property tax revenue to be exchanged, if any, and the amount of annual tax increment to be exchanged among the affected local agencies shall be determined by negotiation; and

**WHEREAS**, when an independent special district is involved, the negotiations are conducted by the Board of Supervisors of the County and the Board of Directors of the District pursuant to Revenue and Taxation Code Section 99.(b)(5); and

**WHEREAS**, Revenue and Taxation Code Section 99.(b)(6) requires that each local agency, upon completion of negotiations, adopt resolutions whereby said local agencies agree to accept the negotiated exchange of property tax revenues and annual tax increment and requires that each local agency transmit a copy of each such resolution to the Executive Officer of the Local Agency Formation Commission; and

**WHEREAS**, no later than the date on which the certificate of completion of the jurisdictional change is recorded with the County Recorder, the said Executive Officer shall notify the County Auditor of the exchange of property tax revenues by transmitting a copy of said resolutions to him and the County Auditor shall thereafter make the appropriated adjustments as required by law; and

**WHEREAS**, the negotiations have taken place concerning the transfer of property tax revenues and annual tax increment between the County of San Luis Obispo and the Nipomo Community Services District pursuant to Section 99(a)(1) for the jurisdictional change designated as LAFCo File 9-R-00: Annexation No. 19 (Lucia Mar Unified School District) to the Nipomo Community Services District; and

**WHEREAS**, the negotiating parties, to wit: Jim Grant, Assistant Administrative Officer, County of San Luis Obispo and Doug Jones, General Manager of the Nipomo Community Services District have negotiated the exchange of property tax revenue and annual tax increment between such entities as hereinafter set fourth; and

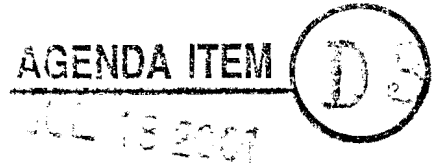
**WHEREAS**, it is in the public interest that such negotiated exchange of property tax revenues and annual tax increment was consummated by the Board of Supervisors on June 19, 2001; and

**WHEREAS**, revenue and taxation code Section 99(b) provides for a 60-day negotiation period commencing on June 19, 2001 and a 15-day renegotiation period if a proposal is modified by LAFCO.

BOARD OF DIRECTORS

FROM: DOUG JONES *e*

DATE: JULY 18, 2001



REQUEST FOR ANNEXATION  
TRACT 2380

**ITEM**

Request to annex a 40-acre parcel at the intersection of Willow Road and Via Concha

**BACKGROUND**

The District received a request from James McGillis representing the applicant, Ken Craig, to annex approx. 40 acres at the intersection of Willow Road and Via Concha, next to the Black Lake Golf Course Development. The proposed annexation includes a 16 lot development, known as Tract 2380 and the remaining space reserved for a future Lucia Mar Unified School District school site. Application requesting annexation is attached.

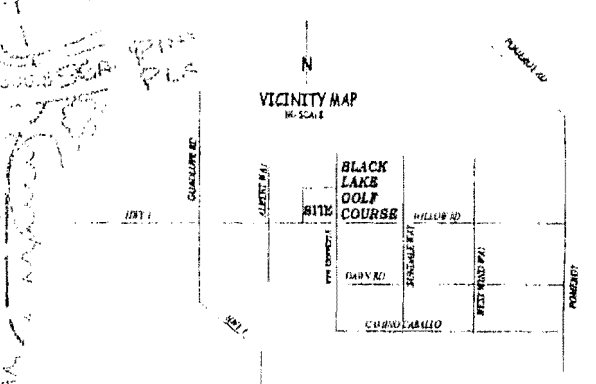
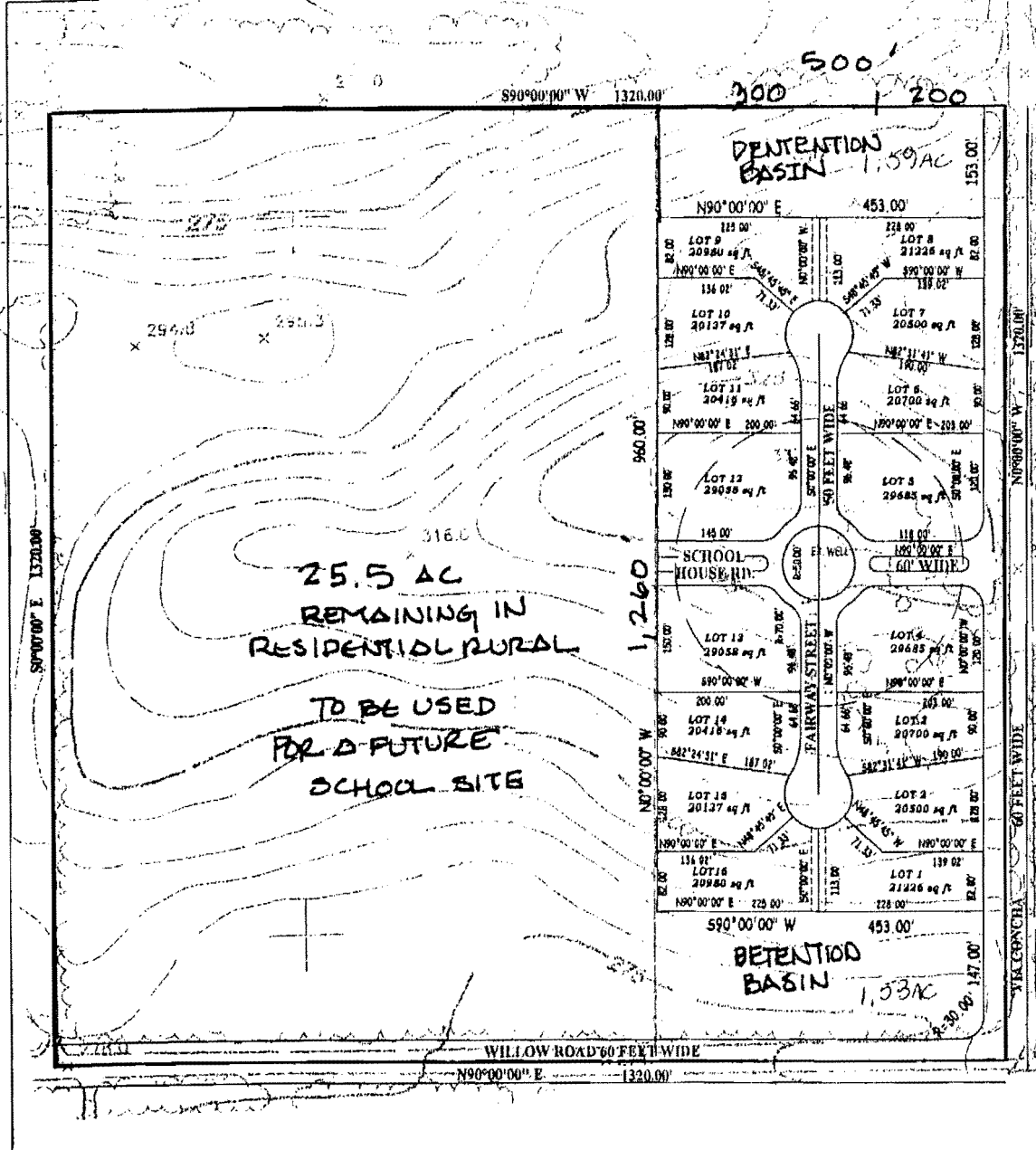
As a part of this annexation process, the applicant must determine the water demands for the 16-acre parcel and also the remaining parcel for the proposed school site. The waste water could be treated by the Black Lake facility, but most likely disposed of via on-site septic systems.

If your Honorable Board wishes to proceed with this annexation, staff may be directed to prepare an annexation agreement. This would allow the applicant to proceed with a written comprehensive report, to be submitted to the District, demonstrating that the proposed annexation would conform to the District's annexation policy.

**RECOMMENDATION**

Staff recommends that your Honorable Board tentatively approve the proposed annexation and have staff prepare a draft annexation agreement for the Craig annexation.

Board 2001\Annex Tr 2380-Craig.DOC

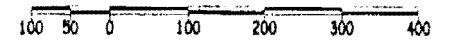


**APN 91-181-31 & 32**  
**LOT 45 OF POMEROY'S RESUBDIVISION**  
**OF THE LOS BERROS TRACT.**  
**A PROPOSED CLUSTER DEVELOPMENT OF 16 LOTS**  
**WITH A 31.6 ACRE PARCEL FOR OPEN SPACE AND A**  
**SCHOOL SITE**

**14.5 AC**  
**REZONE**

VESTING TENTATIVE MAP  
 TRACT 2380  
 DEVELOPMENT PLAN  
 ANNEXATION MAP  
 TOTAL PARCEL = 40 ACRES  
 LOT AREAS = 8.4 ACRES  
 STREETS & OPEN SPACE WITH SCHOOL SITE = 31.6 ACRES

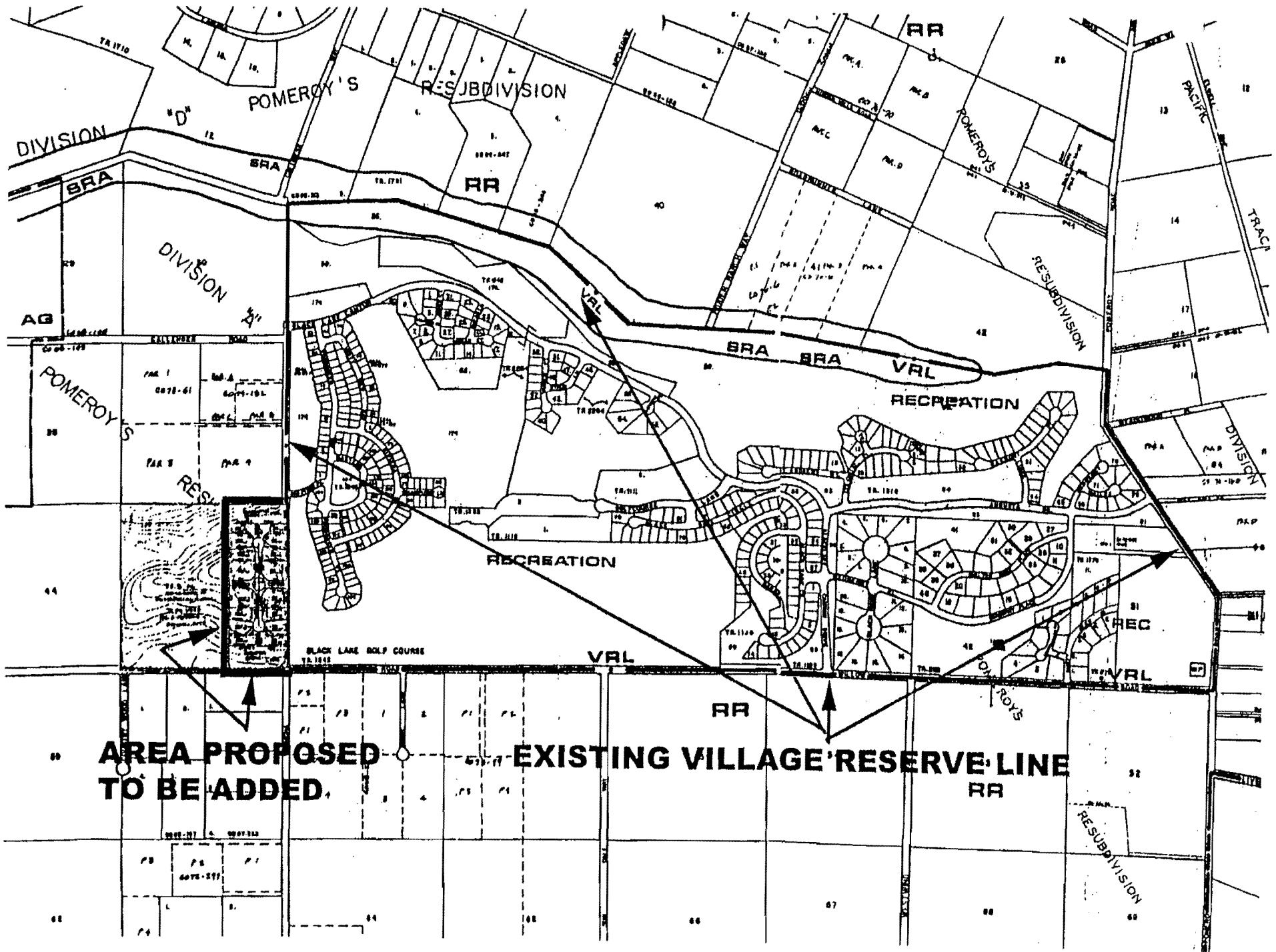
1" = 100'



OWNER: KEN CRAIG  
 P.O. BOX 505  
 OCEANO, CA. 93445



**JAMES MICHAEL MCGILLIS**  
**PROFESSIONAL LAND SURVEYOR**  
**PO BOX 1127 ARROYO GRANDE CA 93421**  
**750 FARROLL ROAD SUITE C GROVER BEACH CA 93033**  
**PHONE (805)489-4343 FAX (805)489-0220**  
**EMAIL JAMES.MCGILLIS@TEQRID.FET**



**AREA PROPOSED TO BE ADDED.**      **EXISTING VILLAGE RESERVE LINE**





**JAMES MICHAEL MCGILLIS**  
**PROFESSIONAL LAND SURVEYOR**  
**PO BOX 1446 NIPOMO CA. 93444**  
**PHONE (805) 929-2941 FAX (805) 929-2941**  
**e-mail James\_McGillis@Yahoo.com**

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20 January 2001

**NIPOMO COMMUNITY  
SERVICES DISTRICT  
148 S. Wilson  
P.O. Box 326  
Nipomo Ca. 93444**

**SUBJECT: Vesting Tentative Tract Map No. 2380, Annexation.**

I have enclosed an 8 ½ x 11 reduction of our proposed "Vesting Tentative Tract Map No. 2381. This property is currently in for a General Plan Change. It will eventually contain a school. It fronts on Via Concha and is adjacent to the District Services for Black Lake.

The project was originally planned for it's own water company and for septic systems.

It has been suggested by county staff (John McKenzie) that we attempt to get the property annexed.

Please place on your earliest agenda, for discussion of annexation for water and sewer service.

Sincerely,

**J. M. McGillis, PLS 4442  
Lic. Exp. 30 Sep. 2001**



NIPOMO COMMUNITY SERVICES DISTRICT

Request For Annexation

Property/Project Information and Proposal  
(To be completed by Project Proponents/Owners)

1. Property Owner: KEN CRAIG  
Address: P.O. Box 505 OCEANO 93445
2. Developer: OWNER
3. Engineer: SURVYOR JIM Mc GILLIS PO Box 1446 NIPOMO 934
4. Assessor's Parcel Number: 91-181-31 & 32
5. Location:
  - A. Text/Legal Description: N/W CORNER OF VIA CONCHI & WILLOW ROADS. LOT 45 OF THE LOS BERRAS TRACT
  - B. Provide Map (attachments) BLACK LAKE, A.P. & PROPOSED TENTH ED
6. General Description of Project: 16 LOT CLUSTER DIVISION WITH REMAINDER OF THE PROPERTY GOING TO THE SCHOOL DIST.
7. Services Requested from NCS D:
  - A. Water: YES
  - B. Sewer: ?
8. Current zoning: R/R
9. Identify any proposed or pending zone changes on the property to be annexed (Ref. District Resolution No. 197): POSSIBLE REZONE. PROPOSED ANNEXATION INTO BLACK LAKE VILLAGE
  - A. Maximum number of units based on current zoning: 16 AREA
  - B. Maximum number of units based on proposed zoning: 16
10. Proposed number of Residential Units:  
(Describe phased construction plan if applicable)  
16

11. If non-residential use, provide information as to number of plumbing fixtures, manloading, intended use, etc. (Describe phased construction plan if applicable):

UN PLANNED AS YET. REMAINDER  
ACREAGE WILL BE EITHER AN ELEMENTARY  
OR A MIDDLE SCHOOL.

12. Total acreage of proposed project: 40 AC  
13. Total acreage of proposed annexation: 40 AC  
14. If total acreage to be annexed differs from the acreage to be developed, explain the difference:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Status of water resources available on proposed annexation acreage:

A. Quantity (pumping log and date: 8/13/99)  
B. Quality (quality tests and date: N/A)  
C. Other information: N/A

\_\_\_\_\_  
\_\_\_\_\_

D. Water resources to be dedicated to NCSD: EX. WELL

\_\_\_\_\_  
\_\_\_\_\_

16. Description of existing and proposed wastewater disposal system: EX. SEPTIC

PROPOSED/ BLACK LAKE SEWER OR SEPTIC.

\_\_\_\_\_  
\_\_\_\_\_

17. Reason proponents are requesting annexation: \_\_\_\_\_

CO. PLANNING ASKED US TO.

\_\_\_\_\_  
\_\_\_\_\_


18. Other comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Note:

In its effort to make a competent and informed annexation decision, NCSD may, at its sole discretion, request additional information from the proponent(s) of the annexation, and/or revise this checklist as NCSD deems necessary.

By signing below, I certify that I am the Owner of said property, or am empowered to act on the Owner's behalf, and that I understand the information provided herein by me or my representatives is true to the best of my knowledge.

Signed:   
Full Name: Jim McGillis  
Street Address: 231 HAZEL LN NIPOMO 93444  
Mail Address (If different): PO Box 1446 NIPOMO 93444  
Home telephone number: 929-8076  
Work telephone number: 929-2941

TO: BOARD OF DIRECTORS  
FROM: DOUG JONES  
DATE: JULY 18, 2001



SOLID WASTE DISPOSAL AGREEMENT

**ITEM**

Review final franchise agreement for providing solid waste service.

**BACKGROUND**

In January 2001, LAFCO approved latent powers of the District to provide solid waste services. On May 2, 2001, your Honorable Board adopted Ordinance 2001-90 adopting Solid Waste Rules, regulations, fees and charges.

At the June 6, and 27, 2001 Board meetings, the Board reviewed a draft Waste Disposal Agreement with the franchisee for providing the solid waste disposal services to the District. Your Honorable Board reviewed the agreement and made comments on Section 20 (p) on page 17, requesting clarification of the number of times or items to be picked up. This section has been modified to have the one cubic yard trash bin at the field yard picked up once a week without charge.

The agreement is presented with the change made in Sec 20 (p) as mentioned for the Board's review and approval.

**RECOMMENDATION**

Staff recommends that your Honorable Board review the comments from South County Sanitation and approve the final franchise agreement, as presented.

Board 2001\solid waste disposal agreement final.DOC

**RESOLUTION 2001-WASTE AGREEMENT**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
APPROVING A SOLID WASTE COLLECTION FRANCHISE  
AGREEMENT WITH SOUTH COUNTY SANITARY SERVICE, INC.**

**WHEREAS**, pursuant to San Luis Obispo Local Agency Formation Commission (LAFCO) Resolution 2001-02 the Nipomo Community Services District (District) is now authorized to provide its residents with the collection or disposal of garbage or refuse matter pursuant to Government Code Section 61000, and

**WHEREAS**, a franchise agreement has been prepared for South County Sanitary Services, Inc. to provide said services, and

**WHEREAS**, staff and the Board of Directors have reviewed the franchise agreement to perform the said services.

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

1. That South County Sanitary Services Inc. franchise agreement is approved to provide solid waste services for the District.
2. That the President of the Board is instructed to execute the agreement on behalf of the District.

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

AYES: Directors  
NOES:  
ABSENT:  
ABSTAIN:

the foregoing Resolution is hereby adopted this 18<sup>th</sup> day of July, 2001.

\_\_\_\_\_  
Robert L. Blair, President  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

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

\_\_\_\_\_  
Jon S. Seitz  
District Legal Counsel

RES\2001-waste

Exhibit "A" Hazardous Waste Procedures (Section 16)  
Exhibit "B" Related Parties (Section 18C)  
Exhibit "C" Notice of Rate Changes (Section 19B)

## SOLID WASTE COLLECTION FRANCHISE AGREEMENT

**THIS SOLID WASTE COLLECTION AGREEMENT** ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2001 by and between the Nipomo Community Services District, a community services district organized and operated pursuant to 61000 et seq. of the Government Code ("District"), and South County Sanitary Service, Inc., a California Corporation, a solid waste collection firm ("Franchisee")

**WHEREAS**, Franchisee has been providing solid waste collection services to the residents of the District pursuant to a Solid Waste Collection Franchise Agreement executed by Franchisee and the County of San Luis Obispo, on or about May 19, 1998; and

**WHEREAS**, pursuant to LAFCO Resolution 2000-1 the District is now authorized to provide its residents with solid waste collection; and

**WHEREAS**, on May 16, 2001, the District enacted that certain Ordinance entitled "Solid Waste Management Rules and Regulations" ("Ordinance") which is set forth in Title 6 of the District Code; and

**WHEREAS**, Title 6 of the District Code provides the authority for the District to establish franchise agreements for the collection of solid waste; and

**WHEREAS**, Title 6 of the District Code establishes rules, regulations and procedures to provide for the storage, collection, and removal of all green-waste, recyclables, garbage, rubbish and waste materials, generated and/or accumulated within the District; and

**WHEREAS**, the Integrated Waste Management Act of 1989 imposes mandates on local government for the reduction of the waste stream, and the District finds it is within the public interest to enter into this Agreement to fulfill those mandates; and

**WHEREAS**, District is confident that Franchisee possesses the expertise necessary to monitor collection activities for prohibited material and that Franchisee will participate in ongoing public education programs to inform residents and businesses about the proper disposal of household hazardous wastes; and

**NOW, THEREFORE**, in consideration of the promises herein contained and other good and valuable consideration, the parties hereto agree as follows:

### Section 1. Definitions.

A) For purposes of this Agreement, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this Section.

**SOLID WASTE COLLECTION  
FRANCHISE AGREEMENT**

B) In addition to the terms defined in Title 6 of the District Code, which definitions are incorporated into this Agreement, the following terms are defined as follows:

(1) "Arranger" means any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances.

(2) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C § 9601 et seq.

(3) "Franchise Area" means the area within the District boundaries in which the Franchisee has been granted the privilege of providing solid waste, green-waste and recyclable collection services.

(4) "Gross Revenues" means those revenues earned, as recognized by Generally Accepted Accounting Principles (GAAP), by the Franchisee, or the value of any other economic benefit derived by the Franchisee, pursuant to rates established in accordance with this Agreement. Any rates subject to the requirements of this Agreement, which did not receive approval of the Board of Supervisors, but which the Franchisee nevertheless charged, shall also be deemed to be included in gross revenues.

(5) "Gross Receipts" means those revenues received, on the cash basis of accounting, by the Franchisee, or the value of any other economic benefit derived by the Franchisee, pursuant to rates approved by the San Luis Obispo County Board of Supervisors in accordance with this Agreement. Any rates subject to the requirements of this Agreement, which did not receive approval of the Board of Supervisors, but which the Franchisee nevertheless collected, shall also be deemed to be included in gross receipts.

(6) "In Yard" means residential collection service in which solid waste containers are located on a customer's property in excess of ten feet from a normal collection vehicle route.

(7) "LAFCO" means the San Luis Obispo County Local Agency Formation Commission.

Section 2. Grant of Franchise.

A) Pursuant to District Code § 6.06.105 and LAFCO Resolution 2001-1, the District Board of Directors, subject to the provisions of Title 6 of the District Code hereby grants to Franchisee a right, privilege, and exclusive franchise to collect solid waste, recyclables and green-waste within the District boundaries (herein the "Franchise Area").

B) Franchisee represents that there are no suits or threatened suits which would impair the financial or legal ability of Franchisee to perform its obligations under this Agreement and that entering into this Agreement by Franchisee will not in any way constitute a breach of any other agreement entered into by Franchisee with other parties, or constitute a violation of any law.

C) District and Franchisee mutually agree that District's granting of this franchise shall not be construed as "arranging for" the collection and disposal of solid waste within the meaning of CERCLA. The parties further mutually agree that the granting of the franchise by District shall be



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construed as an action whereby the Franchisee is granted, and accepts the rights, responsibilities, benefits and liabilities of collection and disposal of solid waste, green-waste and recyclables. Commencing on the effective date of this Agreement and concluding on the termination of this Agreement, to the extent that Franchisee's performance under this contract requires the collection and disposal of solid waste and may be construed as "arranging for" collection and disposal of solid waste within the meaning of CERCLA, such actions shall be the sole responsibility of Franchisee and Franchisee expressly agrees to be solely responsible for all such actions.

D) Franchisee acknowledges and agrees that District may permit other Persons or entities other than Franchisee to provide additional services not otherwise contemplated by this agreement.

Section 3. Franchise Term.

The rights, privileges, obligations, and duties granted and mandated under this Agreement to Franchisee shall be for a period of five (5) years from the effective date of this Agreement commencing on \_\_\_\_\_, 2001 and terminating on \_\_\_\_\_, 2006.

Section 4. Franchise Area.

The Franchise Area subject to this Agreement shall consist of that area located within the District boundaries as amended from time to time.

Section 5. Franchise Fees.

A) In consideration of the granting of this franchise, and for the privilege of providing solid waste service along and within the rights-of way of the District, Franchisee shall pay to District a franchise fee equal to ten percent (10%) of Franchisee's annual gross receipts attributable to services provided under this Agreement. The date of the initial imposition of the franchise fee shall be the effective date of this Agreement referenced in Section 3 above.

B) Franchisee shall submit to District an annual detailed revenue statement and Franchisee shall pay its franchise fee to District, submitted to District on a monthly basis. Payment of the monthly portion of the franchise fee shall be rendered to District within thirty (30) days after the end of each calendar month, or prorated portion thereof, in which the Franchisee derives receipts for the services provided under the terms of this Agreement.

C) In the event that payment is not received by District within thirty (30) days after the date specified in this Section, then Franchisee shall pay a penalty of ten percent (10%) on the outstanding balance, and Franchisee shall also pay to District interest on the outstanding balance at a rate of ten percent (10%) per annum, or the maximum legal rate of interest, whichever is greater, from the date of Franchisee's failure to pay.

D) In the event of an underpayment of franchise fees by Franchisee, within thirty (30)

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days of being notified of such underpayment, Franchisee shall tender the amount of the underpayment to District, together with any penalties and/or interest owed District for the period of the underpayment.

E) Payments of franchise fees made by Franchisee to District shall be considered in addition to and exclusive of any and all authorized taxes, business license fees, permit fees, other fees, other levies or assessments presently in effect, or subsequently adopted.

F) No acceptance of any payment shall be construed as a release, accord or satisfaction of any claim that District might have for further or additional sums payable under the terms of this Agreement.

G) Franchisee shall submit to District on an annual basis, within 180 days after the expiration of Franchisee's fiscal year, a detailed revenue statement clearly showing the annual gross revenues of Franchisee, its parent or any related party, attributable to the collection services provided under this Agreement, for the year just ended, and audited by a Certified Public Accountant, attesting to the fairness of said detailed revenue statement. Said detailed revenue statement shall separately classify revenues consistent with the classification of revenues as approved by the District Board of Directors pursuant to this Agreement and said classification of revenues shall illustrate the amount of revenues collected by the Franchisee for each separate rate approved by the District Board. Said detailed revenue statement shall also reconcile annual gross receipts to annual gross revenues. The Franchisee may choose to submit the detailed revenue statement to District as a supplemental statement to the Franchisee's annual financial statements pursuant to this Agreement.

H) In addition to any other reporting requirements of this Agreement, and pursuant to District Code, the District may review, test, and audit the books and records of the Franchisee, or District may engage a Certified Public Accountant for the purpose of obtaining an Auditor's Report or an Auditor's Special Report in accordance with Generally Accepted Auditing Standards, and the Franchisee shall make all the books and records available to the District or any Certified Public Accountant engaged by the District. In the event that material errors or irregularities are identified, then the cost associated with the District or the Certified Public Accountant engaged by District shall be paid by the Franchisee to District. In the case of errors, materiality shall be deemed to be one and one-half percent (1.5%) or greater of gross revenue of the Franchisee.

I) The District Board of Directors reserves the right to adjust the rate of the franchise fee as specified in Subsection "A" of this Section. In the event of any such adjustment, Franchisee shall be entitled to pass through any change in the amount of the franchise fee, subject to District's right to conduct a rate review. In the event that such review results solely from the adjustment of the franchise fee, the expense of the review shall be borne by the District. Any increase in the rate of the franchise fee shall not be effective until the Franchisee's rates have been reviewed and, if necessary, adjusted.

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Section 6. Assignments, Subcontracts, and Changes of Ownership.

A) No interest in this Agreement may be assigned sold, subcontracted or transferred either in whole or in part, without the prior written consent of District. Franchisee shall promptly notify the District in writing in advance of any proposed assignment, sale, subcontract or transfer. In the event that the District Board of Directors approves any assignment, sale, subcontract or transfer, said approval shall not relieve Franchisee of any of its obligations or duties under this Agreement unless this Agreement is modified in writing to that effect. Franchisee shall also notify the District of any change in control and/or ownership of Franchisee. For purposes of this Agreement, change of ownership or control is presumed to include, without limitation, the sale or transfer of at least 25 percent of Franchisee's assets or at least 25 percent of Franchisee's voting stock. District will not unreasonably withhold consent to any assignment, sale, subcontract or transfer.

B) Neither party shall assign its rights nor delegate or otherwise transfer its obligations under this Agreement to any other person without the prior written consent of the other party. Any such assignment made without the consent of the other party shall be void and the attempted assignment shall constitute a material breach of this Agreement. The District may, however, assign its rights and delegate its obligations under this Agreement to a joint powers authority without the prior written consent of Franchisee.

C) For purposes of this section, "assignment" shall include, but not be limited to

- (1) a sale, exchange or other transfer to a third party of at least twenty five percent of Franchisee's assets dedicated to service under this Agreement;
- (2) a sale, exchange or other transfer to a third party, including other shareholders, of outstanding common stock of Franchisee which may result in a change of control of Franchisee;
- (3) any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which Franchisee or any of its shareholders is a party which results in a change of ownership or control of Franchisee; and
- (4) any assignment by operation of law, including insolvency or bankruptcy, assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Franchisee's property, or transfer occurring in the probate proceeding; and
- (5) any combination of the foregoing (whether or not in related or contemporaneous transactions, which has the effect of any such transfer or change of ownership, or change of control of Franchisee.

D) Franchisee acknowledges that this Agreement involves rendering a vital service to District residents and businesses, and that District has selected Franchisee to perform the services

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specified herein based on the existing Franchise Agreement with the County and LAFCO Resolution 2001. The County in turn selected Franchisee based on:

- (1) Franchisee's experience, skill and reputation for conducting its solid waste management operations in a safe, effective and responsible fashion, at all times in keeping with applicable local, state and federal environmental laws, regulations and best waste management practices, and
- (2) Franchisee's financial resources to maintain the required equipment and to support its indemnity obligations to District under this Agreement.

E) If Franchisee requests District's consideration of and consent to an assignment, District may deny or approve such request in its discretion. The District will not unreasonably withhold its consent. The District is concerned about the possibility that assignment could result in significant rate increases, as well as a change in the quality of service. Accordingly, the following standards have been set to ensure that assignment will result in continued quality service. In addition, the District reserves the right to solicit competitive bids for these services if the assignment results in a request by the assignee for rate increases that are higher than the inflationary index and do not reflect value changes in service standards. At a minimum, no request by Franchisee for consent to an assignment need be considered by District unless and until Franchisee has met the following requirements:

- 1) Franchisee shall undertake to pay District its reasonable expenses for attorney's fees and investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;
- 2) Franchisee shall furnish District with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;
- 3) Franchisee shall furnish District with satisfactory proof:
  - a) that the proposed assignee has at least ten (10) years of solid waste management experience on a scale equal to or exceeding the scale of operations conducted by Franchisee under this Agreement;
  - b) that in the last five (5) years, the proposed assignee or affiliates has not suffered any significant citations or other censure from any federal, state or local agency having jurisdictions over its waste management operations due to any significant failure to comply with state, federal or local environmental laws and that the assignee has provided District with a complete list of such citations and censures;
  - c) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion;

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- d) that the proposed assignee conducts its solid waste management practices in accordance with sound waste management practices in full compliance with all federal, state and local laws regulating the collection and disposal of solid waste, including hazardous wastes; and,
- e) of any other information required by District to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

Under no circumstances shall the District be obliged to consider any proposed assignment by Franchisee, if Franchisee is in default at any time during the period of consideration.

**Section 7. Assignment of Agreement; Requests for Rate Adjustments.**

In the case of any assignment, sale, lease, subcontract or transfer of all or any part of Franchisee's assets or stock, the acquiring party shall not be entitled to request any adjustment in rates based on the purchase price or any other consideration associated with said assignment, purchase, lease, subcontract or transfer. In addition, any such acquiring party shall not be entitled to request any adjustment in rates under this Agreement for any costs which said acquiring party might incur prior to the assignment, sale, lease, subcontract or transfer of Franchisee's assets or stock.

**Section 8. Responsibility for Solid Waste.**

All solid waste removed by Franchisee from the premises where produced, generated, and/or accumulated pursuant to this Agreement shall become the responsibility of Franchisee. Any hazardous waste or medical waste which Franchisee collects shall be the responsibility of the Franchisee provided, however, the Franchisee shall be entitled to return any such hazardous waste to the customer who generated the hazardous waste, if the customer can be identified.. The parties expressly agree that in no event shall the ownership of any solid waste, hazardous waste, medical waste or any other waste be construed to be the property of District, either explicitly or implicitly.

**Section 9. Insurance.**

- A) **Liability Insurance.** Franchisee shall maintain in full force and effect, for the period covered by this Agreement, comprehensive liability insurance. The comprehensive general and automobile liability insurance shall include, but not be limited to, protection against claims arising from any act or occurrence arising out of Franchisee's operations in the performance of this Agreement, including without limitation, acts involving vehicles. The amounts of insurance shall be not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$1,000,000.

The following endorsements must be attached to the policy:

- (1) If the insurance policy covers an "accident" basis, it must be changed to "occurrence".
- (2) The policy must cover personal injury as well as bodily injury.
- (3) Blanket contractual liability must be afforded and the policy must contain a cross liability or severability or interest endorsement.

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- (4) The Nipomo Community Services District, its officers, employees and agents shall be named as additional insured under the policy, and the policy shall provide that the insurance will operate as primary insurance and that no other insurance maintained by District will be called upon to contribute to a loss hereunder.

B) **Workers' Compensation Insurance:** In accordance with the provisions of Section 3700 of the Labor Code, Franchisee shall be required to be insured for Workers' Compensation or to undertake self-insurance. Franchisee agrees to comply with such provisions before commencing the performance of the work of this Agreement.

C) **Unemployment and State Disability Insurance:** During the term of this Agreement, Franchisee shall provide unemployment and state disability insurance as required by the laws of the State of California.

D) The following requirements apply to all insurance to be provided by Franchisee:

- (1) A copy of each insurance policy (except Workers' Compensation) shall be furnished to District. A certificate shall be provided before commencement of this Agreement. Subsequent certificates of insurance shall be provided at least ten (10) days before the expiration date of current policies.
- (2) Certificates and policies shall state that the policies shall not be canceled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to District.
- (3) Approval of the Insurance by District shall not relieve or decrease the extent to which the Franchisee may be held responsible for payment of damages resulting from Franchisee's services or operations pursuant to this Agreement.

E) If Franchisee fails or refuses to procure or maintain the insurance required by this paragraph or fails or refuses to furnish District with required proof that insurance has been procured and is in force and paid for, District shall have the right, at District's election, to terminate this Agreement in accordance with the provisions herein.

**Section 10. Performance Surety.**

Franchisee shall provide to District within ten (10) days after execution of this Agreement, a cash or surety bond in an amount equal to two hundred (200%) percent of the yearly average of monthly gross revenue or \$50,000, whichever is greater, provided by a Surety Company with a Best rating of "A" or better and licensed to do business in the State of California, conditioned upon the full and faithful performance of all covenants and conditions of this Agreement and any extensions or amendments thereto.. Said surety bond must be approved by District prior to performance of any work under this Agreement. A certificate of deposit or an irrevocable letter of credit for the required amount from a bank acceptable to District may be provided in lieu of said surety bond.

Subject to the notice and hearing procedures set forth herein, if District determines that Franchisee has substantially failed to keep and perform any covenant or condition of this Agreement and any extensions or amendments thereto, District may require Surety to perform or may resort to

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any certificate of deposit or irrevocable letter of credit received in lieu of a bond. In that event, District shall notify the Surety of Franchisee's failure to keep and perform a covenant or condition, as well as the amount of time necessary for performance as determined by District. If the Surety fails to perform, District may perform and assess the Surety on its bond for all costs associated with such performance. The costs of performance may include all labor, equipment, insurance, and any and all other reasonably necessary resources as determined by District to perform the work required under this Agreement.

District shall annually review the adequacy of the amount of the surety bond and increase or decrease the bond in an amount equal to two hundred percent (200%) of the yearly average of monthly gross revenue or \$50,000, whichever is greater. District shall notify Franchisee in writing of any changes in the required bond amount not later than thirty (30) days after the completion of said review. Franchisee shall renew said surety bond as necessary and file it with District at least thirty (30) days prior to the expiration of the bond; provided, however, that Franchisee shall not be required to increase or decrease the amount of the bond prior to six (6) months after any such bond adjustment required pursuant to this paragraph.

### Section 11. Indemnification.

Franchisee shall defend, indemnify and save harmless District, its officer, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or connected with the performance or attempted performance of provisions hereof, including but not limited to any act or omission to act on the part of Franchisee or its agents, employees, or subcontractors directly responsible to it, except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting solely from the negligence or willful misconduct of District.

The Franchisee shall also defend and indemnify District for all actions of the Franchisee associated with the Franchisee's role as the arranger of solid waste service, or as a "potentially responsible party" within the meaning of CERCLA in performing solid waste service under any Federal, State or local laws, rules or regulations. The Franchisee shall further defend and indemnify District from any and all legal actions against District on the basis of the assertion that District is an arranger of solid waste services as a result of this Agreement, as long as District has not exercised flow control in accordance with this Agreement. Notwithstanding any language to the contrary in this Agreement, Franchisee shall not be required to defend and/or indemnify District from any liability that District may have as a generator or disposer of solid waste, nor shall Franchisee be required to defend and/or indemnify District from any allegations or legal actions which assert that the District has liability for a period prior to the commencement of this Agreement, or which allege that District's liability arises from actions taken by District after the termination of this Agreement.

Franchisee shall also defend and indemnify District for any fines or penalties imposed by the California Integrated Waste Management Board or its agents in the event that Franchisee's delays in providing information or reports required pursuant to this Agreement prevent District from submitting reports or attaining goals in a timely manner as required by the Integrated Waste Management Act.

### Section 12. Technical and Performance Standards.

In addition to the requirements set forth in Title 6 of the District Code and this Agreement, the Franchisee shall comply with all reasonable technical performance standards and requirements

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imposed by the San Luis Obispo County Health Officer, Local Enforcement Agency, and other responsible enforcement agencies.

Section 13. Collector Permit Requirements.

The Franchisee shall maintain a valid Solid Waste Collection and Transportation Permit pursuant to County Code § 8.12.501. In order for the Franchisee to collect recyclables or green-waste, all other required permits must be obtained. If the Franchisee fails to continuously maintain any one of these valid permits pursuant to said County Code, such failure shall constitute a breach of this Agreement. In that event, this Agreement shall immediately be subject to termination upon written notice by District without the necessity of suit or other proceeding, pursuant to the procedures set forth herein.

Section 14. Disposal and Processing Requirements

Franchisee shall dispose of all solid waste and recyclables collected under this Agreement at Franchisee's own expense and in accordance with all Federal, State and local laws, rules, and regulations. Franchisee shall be solely responsible for securing an appropriate location for disposal of all solid waste and processing of all recyclables collected by Franchisee pursuant to this Agreement.

Franchisee has secured sufficient disposal site capacity commitment including landfill disposal site capacity to adequately serve the reasonable anticipated solid waste disposal needs of Franchisee's customers. District reserves the right to review said disposal capacity commitments.

If Franchisee receives notice from the landfill operator, green-waste processor, or recyclables processor or otherwise finds, during the term of the Agreement, to be prevented from delivering solid waste, green-waste or recyclables to the designated site, Franchisee shall immediately notify, in writing, the District General Manager, stating the reason(s) Franchisee is prevented, or expects to be prevented, from delivering solid waste, green-waste or recyclables at the designated facility. Franchisee shall expeditiously identify and evaluate alternative sites. An alternative designated site or sites shall be arranged for and secured by Franchisee.

The parties understand and agree that District intends to commence and participate in waste diversion and resource recovery programs pursuant to regional and/or local implementation of the California Integrated Waste Management Act of 1989, or such other programs as may be established by District. Franchisee hereby agrees to comply with the implementation of such programs, including providing District with records of solid waste, green-waste, and recyclable diversions.

Section 15. Prohibited Service - Hazardous Waste and Medical Waste Collection.

Subject to the provisions of Section 8 of this Agreement, the Franchisee, shall not collect hazardous waste or medical waste as a service within the terms of this Agreement.

Section 16. Mandatory Response Procedures - Hazardous Waste and Medical Waste.

The Franchisee has developed and shall maintain written hazardous waste and medical waste response procedures to assure compliance with Section 15 above. Performance of the procedures shall be the sole responsibility of the Franchisee. The procedures, as amended from



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time to time shall be lodged with the District. At a minimum, the procedures shall provide instruction to employees and agents of the Franchisee on actions to be followed in the event hazardous waste or medical waste are found in the possession of Franchisee. The purpose of the procedures will be to ensure that any hazardous waste or medical waste collected by the Franchisee is handled and disposed of by the Franchisee in compliance with all Federal, State and local laws, rules and regulations.

To the extent required by Franchisee's hazardous and medical waste response procedures, Franchisee shall provide proof of an agreement or other suitable arrangement with a certified hazardous and medical waste hauler, or procure and maintain in force and effect all necessary governmental permits and licenses, including registrations to transport hazardous waste and medical waste. Franchisee shall be responsible for all charges and notices necessary for the due and lawful performance of the response procedures.

Section 17. Education and Public Information.

Franchisee shall cooperate with District in waste diversion and public education activities in accordance with regional and/or local implementation of the California Integrated Waste Management Act of 1989, and such other programs as may be reasonably determined by the District. Franchisee shall encourage its customers and the general public to divert solid waste and recyclables to the extent practicable from disposal by reducing the amount of solid waste generated and/or accumulated by recycling or by other appropriate waste diversion strategies.

Franchisee shall include information in customer bills, including information on recycling and green-waste programs, in a form and content mutually acceptable to the Franchisee and the District.

In the event Franchisee intends to request inclusion of the expenses of recycling and waste reduction information and public education activities through the rate review process, Franchisee shall be required to obtain, consistent with Section 19 of this Agreement, the prior review and written approval of the District in advance of publication and education. A copy of this approval shall be submitted with the rate request and the public education and waste reduction costs shall be stated as a separate line item within all rate requests.

At the direction of District, Franchisee shall participate in and promote waste reduction and recycling activities and other solid waste management techniques at community events and local activities. Such participation would normally include providing educational and publicity information promoting the goals of the District's solid waste, green-waste and recycling programs at least twice per year at the direction of District.

Subject to reasonable prior notice, Franchisee agrees to permit District access to review and inspect Franchisee's customer lists, including customer names and addresses. The District acknowledges and agrees that the information contained in Franchisee's customer lists is proprietary trade secret information, and further agrees that it will not disclose or distribute any customer list information to any person.

Section 18. Reporting Requirements.

In addition to any other reporting requirements pursuant to any Federal, State or local laws, rules and regulations, other terms of this Franchise Agreement, or other provisions of Title 6 of the

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District Code the Franchisee shall report the following information:

A) Information reasonably obtainable by Franchisee relating to the quantities, types, volumes, weights, nature and location, according to geographic areas identified by the District, of solid waste, recyclables and green-waste collected, transported and disposed as required by the District General Manager;

B) No later than 180 days after the end of the Franchisee's fiscal year, the Franchisee shall submit annual financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) and audited by a Certified Public Accountant. The financial statements shall include a supplemental detailed revenue statement if said revenue statement is not separately submitted to the District pursuant to this Agreement. The financial statements shall include an opinion of a Certified Public Accountant which attests to the fairness of any financial information submitted to satisfy the requirements of this paragraph. Any opinion which reflects a breach of the terms and conditions of the Franchise Agreement by the Franchisee may result in a limitation or loss of the Franchisee's right to perform services in accordance with the procedures set forth in this Agreement;

C) The Franchisee shall annually disclose to the Franchise Administrator the entire nature and extent of transactions with related parties, as such parties are recognized by Generally Accepted Accounting Principles, on forms provided by the District. The related parties known at the execution of this Agreement are disclosed on a form which is attached hereto and incorporated herein by reference as Exhibit "B".

D) Franchisee shall accurately report to receiving landfill, all solid waste collected by Franchisee. The reports given to the landfill shall also be available to the District General Manager.

E) District may request that Franchisee provide such additional information in the reports as may be reasonably necessary or appropriate to meet its needs, including, but not limited to, provision of California Integrated Waste Management Act of 1989 information.

F) Franchisee shall promptly provide District General Manager with copies of each adverse report from, and each regulatory action from local, state or federal regulatory agencies. In addition, Franchisee shall send copies to District General Manager of any reports that Franchisee submits to regulatory agencies with respect to performance of this Agreement.

Section 19. Customer Relations.

Notwithstanding Section 17 of this Agreement, Franchisee shall provide new and existing customers with information regarding the service described below. All such information will be reviewed by the District prior to printing and distribution and the presentation shall be clear, easy to read, and concise. The Franchisee may provide information through means other than described below if previously approved by the District General Manager. Franchisee shall provide proof to District of the distribution of the information within 30 days of mailing distribution. No proof shall be required for the new-subscriber information distribution.

A) Subscriber Information At the time a customer subscribes to service and annually thereafter for all residential and commercial customers, the following information, at a minimum, shall be distributed: a list of solid waste, green-waste and recyclables eligible for collection, complaint procedures, rates, recycling opportunities, company contact information

**SOLID WASTE COLLECTION  
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including billing address, office hours, location, and telephone numbers, holiday collection schedule, and Clean-Up Week information. Information regarding no-cost dumpster cleanings shall be included for commercial customers. Copies shall be provided to each customer at time of subscription and upon customer's request and annually.

The Franchisee shall prepare and update as necessary a flier with this information in a form and content mutually acceptable to the Franchisee and the District General Manager. Franchisee shall print all necessary copies of the flier and Franchisee's employees and agents shall inform customers that said flier is available upon request.

B) Information in Advance of Rate Changes Franchisee shall provide its customers written notice a minimum of 30 days prior to any rate change. The notice will include information about all rates and services available to the customer. The form and content of the notice shall be in accordance with the form attached hereto and incorporated by reference as Exhibit C. It shall include a brief explanation for the rate change and ways each customer can determine which level of service will meet his or her needs.

C) Billing Statements All residential and commercial billing statements shall clearly list the customer's level of service, the monthly rate, a telephone number to call with questions, and the telephone number of the District General Manager if the customer is unable to resolve his or her problem with the Franchisee. Because abbreviations used on the billing statement need to be easily understood by the average customer, Franchisee shall submit a list of abbreviations for prior approval to the District General Manager. The Franchisee shall issue to the District General Manager, on the same schedule as the customers, a sample residential bill and a sample commercial bill for the most popular level of service offered by the Franchisee to those customers.

D) Throughout the term of this Agreement, Franchisee shall maintain a complete record of all written and verbal complaints received pertaining to the performance of services subject to this Agreement, which shall be provided to District within 24 hours of request. Said record shall contain, at a minimum, the following information:

1. Names, addresses, and telephone numbers of complaining parties;
2. Customer names, service addresses, and telephone numbers, if different than above;
3. Descriptions of problems/complaints and related dates and times, if applicable;
4. Dates received; and
5. Dates and descriptions of Franchisee's responses and actions taken.

Complaints received from customers or District shall be acted upon immediately and Franchisee shall make every reasonable effort to resolve said complaints within seventy-two (72) hours of notification.

E) Franchisee shall fully participate with the District in preparing, processing, mailing and tabulating customer satisfaction surveys to residential and commercial customers. The surveys will be conducted within 90 days of a request by District, but not more than once a year.

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Section 20. Service Requirements.

A) Frequency of Solid Waste Collection: Franchisee shall provide weekly collection of solid waste, green-waste and recyclables for all places and premises within Franchise Area or such other level of service as may be permitted by District at rates approved by the District Board of Directors. Franchisee shall also provide more frequent collection services required pursuant to District Code § 6.02.130. All customers shall be provided with collection service within 7 days of the customer's request.

B) Collection Schedule: Franchisee shall establish a collection schedule in accordance with District Code § 6.02.140. When a regular collection day occurs on a holiday, Franchisee shall either provide collection on the holiday or one calendar day before or after the holiday. Franchisee shall notify residential and commercial customers of their respective holiday collection schedules.

C) Solid Waste Collection Practices and Standards: Franchisee shall, at all times during the term of this Agreement, provide efficient, effective, prompt, courteous, and professional service to all residential and commercial customers to the reasonable satisfaction of District. Franchisee shall not litter premises while collecting solid waste or allow such waste materials to blow or fall from any collection vehicle. All collection activities shall be conducted in such manner that public and private property will not be damaged. Premises shall be left in a neat and clean condition and containers shall be handled in a manner to not damage them. Franchisee shall replace containers and covers where found and shall not place them in the street or on adjoining property.

Franchisee shall direct its drivers to note the addresses of any premises at which they observe that solid waste is accumulating and is not being delivered for collection or to disposal; and the address, or other location description, at which solid waste has been dumped in an unauthorized manner. Franchisee shall report the address or description to District within seventy-two (72) hours of such observation.

D) Non-Collection of Solid Waste: In the event Franchisee does not collect any item or container of solid waste, Franchisee shall attach a tag securely to the item or container not collected specifying the reasons for non-collection. The tag shall contain Franchisee's name and telephone number.

In the event Franchisee fails, without good cause, to collect, remove, and dispose of solid waste on a customer's regularly scheduled collection day or within twenty-four (24) hours of a request from District or a customer to do so, District may collect said materials and Franchisee shall be liable for all related expenses incurred by District, including disposal, administrative, and legal costs.

E) Extra Collection of Solid Waste: Franchisee shall be allowed to provide extra and special services, at rates approved by District Board of Directors, in addition to the normal scheduled collection services. Franchisee shall quote to the customer the rate for such services prior to performing said services.

F) Clean-Up Week: At least once per year throughout the term of this Agreement, Franchisee shall provide, in addition to regularly scheduled service, a one week collection event pursuant to guidelines established by the Franchisee and approved by the District General Manager for solid waste placed at the curb by residential customers in addition to each customer's normal

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collection service.

The dates for the event shall be proposed by Franchisee and approved by District General Manager prior to September 1st of each year.

Franchisee shall record and report to District, by class and weight (in tons), the solid waste, green-waste recyclable, etc., collected during the Clean Up events. Franchisee shall record the kinds and weights (in tons) of waste diverted during these events from the landfill through recycling, reuse, transformation, or other means of diversion. Franchisee shall provide the report to District no later than 10 days after the event.

G) Office: Franchisee shall maintain an office within the Franchise Area, or such other convenient location approved by District, where customers may arrange for service, pay bills, and file complaints. Said office shall be equipped with a telephone and two-way radio and all collection vehicles shall also be equipped with two-way radios to communicate with Franchisee's office. Franchisee shall, for at least seven hours between 9:00 a.m. and 5:00 p.m., Monday through Friday, except holidays, have responsible personnel with whom District and customers may communicate. Franchisee shall provide to District a local emergency telephone number and contact person accessible twenty-four (24) hours per day. Franchisee's office shall be open to public during normal business hours. The District approves the current office location on Grand Avenue, Grover Beach, California.

H) Traffic and Noise Problems: Franchisee shall conduct all operations in accordance with District Code § 6.02.140(b) and in a manner which minimizes obstruction or disruption to the peace and quiet of the areas in which collections are made.

I) Equipment:

1) All equipment used by Franchisee to perform work under this Agreement shall conform to industry standards and shall be maintained in a clean, neat, attractive, and efficient condition and kept in good repair at all times. Said equipment shall be operated in a safe manner consistent with industry standards. All vehicles, conveyances, or containers used by Franchisee for hauling or storing solid waste, green-waste or recyclables within the District shall be constructed to comply with all applicable Federal, State and local laws, rules, and regulations and shall be designed to prevent leakage, spillage, or overflow.

2) All solid waste, green-waste or recyclables in Franchisee's vehicles, conveyances, or containers used by Franchisee shall be completely covered when en route from the last collection station to a disposal area or processing facility to prevent spillage, overflow, blowing, or dropping out of said vehicles, conveyances, or containers. Any material dropped or spilled in collection, transfer, or transport shall be immediately cleaned up by Franchisee. Appropriate equipment for this purpose shall be carried at all times on each vehicle.

3) Franchisee shall maintain a fleet of collection trucks sufficient in number and capacity to efficiently perform the work required in the Agreement in strict accordance with the terms of this Agreement. Franchisee shall provide District a detailed description concerning the number and type of vehicles necessary for performance. Franchisee shall have available on collection days sufficient back-up vehicles for each type of collection vehicle (e.g., rear loader, front loader, roll-off, etc.) used to respond to complaints and emergencies.

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4) All customers shall be provided with solid waste, recycling or green-waste collection service consistent with the District approved collection programs within 7 days of the customer's request.

J) Vehicle Identification: A distinct identification number shall be assigned to each vehicle used for collection activities. Said number shall be prominently displayed on the appropriate vehicle. Each vehicle shall also permanently display Franchisee's name and telephone number.

K) Equipment Storage: All vehicles used in collection activities, shall be kept on property in proper zoning within a building or fenced yard. Franchisee shall not store any vehicle on any public street or other public property.

L) Cleaning Commercial Dumpsters: Franchisee shall steam clean and refurbish all commercial dumpsters twice per year upon request, at no additional expense to customers utilizing these units. Customers desiring more frequent cleaning may arrange with Franchisee additional cleaning (including pick-up, cleaning, and replacement of dumpster), at rates approved by the District Board of Directors. Commercial customers shall be notified annually of the availability of the cleaning service and charges for the service.

M) Recycling Services:

1) Subject to rates established by Board of Directors through the rate setting process, Franchisee shall provide recycling services to all solid waste customers within the Franchise Area, and as may be revised from time to time by mutual agreement. The recycling collection is to include at least the following materials. Changes to this list can only be made with the approval of the District General Manager.

- |  |                            |
|--|----------------------------|
| • Glass bottles and containers               | • magazines                |
| • paper                                      | • gable top containers     |
| • cardboard                                  | • chipboard                |
| • plastic (1-5 and 7) bottles and containers | • aseptic boxes            |
| • newsprint                                  | • aluminum                 |
| • junk mail                                  | • steel and tin containers |

2) Franchisee shall service all public recycling containers.

3) Residential recycling shall be provided on the same day as solid waste collection.

4) Commercial customers with multiple collections during the week, shall have recycling and green-waste collections provided at least once during that week, on a solid waste collection day.

N) Green-waste collection.

1) Subject to rates established by Board of Directors through the rate setting

**SOLID WASTE COLLECTION  
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process, Franchisee shall provide green-waste collection service to all customers within the Franchise Area, and as may be revised from time to time by mutual agreement. The recycling collection is to include at least the following materials. Changes to this list can only be made with the approval of the District General Manager. The green-waste collection is to include at least the following materials:

- brush (maximum 4 foot lengths), tree trimmings, branches (<6" diameter.)
- dimension lumber (maximum 4 foot lengths), scrap wood (not painted)
- grass, dead plants
- weeds, leaves
- Christmas trees

Changes to this list can only be made with the approval of the District General Manager.

2) Green-waste collection shall only use containers that are reusable and capable of being emptied at the curb. Green-waste shall not be collected in plastic bags.

3) Residential green-waste collection must be provided on the same day as solid waste collection. Commercial green-waste collection must be provided once during the week, on a solid waste collection day.

O) Intentionally omitted.

P) *Franchisee shall provide collection of solid waste from District Utility Yards, on a weekly basis, at no expense to District. Collection under this paragraph shall be at the District's current bin/container size.*

Q) District may request Franchisee to perform additional services (including new diversion programs, billing services, etc) or modify the manner in which it performs existing services. Franchisee shall present, within 30 days of a request to do so by District, a proposal to provide additional or expanded diversion services. Franchisee shall be entitled to consideration of an adjustment in its compensation in the next rate or CPI adjustment.

R) Intentionally omitted.

Section 21. Special Service Requirements.

In addition to any other requirements mandated by District Code or otherwise required by law, Franchisee shall provide "in yard" solid waste collection service to those disabled customers requiring such service at no additional cost to those customers.

Section 22. Rates.

A) The Franchisee may only charge rates approved by the District Board of Directors for the services performed or rendered under this Agreement.

Changes to Franchisee existing billing format and billing frequency shall be subject to approval of District. District shall have the right to require Franchisee to revise the billing format in order to itemize specific charges.

**SOLID WASTE COLLECTION  
FRANCHISE AGREEMENT**

B) In the event that District approves an adjustment in the tipping fee at a solid waste disposal facility that Franchisee uses, collection rates for residential and commercial customers shall also be adjusted. The District Board of Directors will adjust the Franchisee's collection rate at the same time as the facility rate.

C) District agrees to consider the rate review application in a timely manner, subject to the constraints of staff availability. All items of revenue and expense in a rate review are subject to the reasonableness test of District.

D) Franchisee shall provide its customers written notice a minimum of 30 days prior to any rate change. The notice will include information about all rates and services available to the customer. The form and content of the notice shall be in accordance with the form attached hereto and incorporated by reference as Exhibit C.

E) District shall allow Franchisee a reasonable rate of return. For purposes of determining a reasonable rate of return, District shall refer to the rate setting processes utilized by the California Public Utilities Commission and other comparable agencies for similar industries.

F) Franchisee shall implement one, two and three can service and rate levels for all residential customers requesting solid waste service.

Section 23. Discriminatory Practices Prohibited.

Except as expressly provided in this Agreement or by law, Franchisee shall not subject any person to prejudice or disadvantage on the basis of age, gender, race, creed, color, national origin, disability, medical condition, or religious affiliation.

Section 24. Equal Employment.

Franchisee shall not refuse to hire, employ, nor bar or discharge from employment, or otherwise discriminate against any person in compensation, or in terms and conditions of employment because of age, gender, race, creed, color, national origin, disability, medical condition, religious or political affiliation or belief.

Section 25. Violations and Liquidated Damages.

A) The parties agree that in the event that Franchisee violates the provisions of Title 6 of the District Code, or any other applicable law, or the terms of this Agreement, the resulting damages will be impracticable or extremely difficult to determine. Therefore, the parties agree that Franchisee shall pay liquidated damages in the amounts and for the violations specified in Section 26 of this Agreement. Prior to any determination by the District General Manager that Franchisee is obligated to pay liquidated damages as provided herein, the District General Manager shall provide written notice to Franchisee of the alleged violation. If the violation is capable of being corrected by Franchisee, the District General Manager shall include in the notice, a demand that Franchisee correct the violation within 10 days following receipt of said notice. For purposes of this Agreement and any notice required thereunder, the term "days" shall mean calendar days.

B) After notice has been given to Franchisee by the District General Manager, and after the expiration of the 10 days following receipt of said notice in those instances where the violation



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is capable of being corrected and Franchisee has failed to correct the violation, the District General Manager shall conduct a hearing. At least 10 days prior to the date scheduled for the hearing, the District General Manager shall notify Franchisee of the time and place for the hearing.

C) At the hearing the District General Manager shall hear any persons interested or concerned with the alleged violation and shall determine whether the alleged violation occurred and, if so, whether the violation was without just cause or excuse.

D) If the District General Manager determines the violation was with just cause or excuse, then the District General Manager shall direct Franchisee to comply with this Agreement and applicable rules and regulations at such time, and in such manner, and upon such terms and conditions as the District General Manager deems reasonable and necessary.

E) If the District General Manager determines the violation was without just cause or excuse, then the District General Manager shall either:

- 1) impose the liquidated damages hereafter described as being applicable; or
- 2) allow Franchisee additional time to correct the violation, subject to such conditions as the District General Manager finds necessary and appropriate.

F) Franchisee may appeal the decision of the District General Manager imposing liquidated damages to the District Board of Directors by filing with the District General Manager, within ten (10) days of the District General Manager's decision imposing the liquidated damages, a written appeal setting forth the particular errors alleged to have been made by the District General Manager. The District Board of Directors shall, within 45 days of the filing of the appeal, commence the hearing of the appeal. On appeal, the standard of review shall be whether there is substantial evidence on the record of the proceedings before the District General Manager which supports the decision of the District General Manager. The District Board of Directors shall affirm or deny the appeal and may modify any action taken by the District General Manager.

Section 26. Liquidated Damages Amounts.

A) Subject to the procedures set forth above, the parties agree that Franchisee shall pay liquidated damages of \$200.00 per day per occurrence for the unexcused failure to meet one or more of the requirements of the District Code or of this Agreement, or the unexcused failure by Franchisee to meet or complete a requirement by a prescribed date, or the unexcused failure by Franchisee to provide a service.

B) The liquidated damages established above shall be imposed in accordance with Section 25 for any of the following:

- 1) for failure by Franchisee to provide solid waste, green-waste or recyclable pursuant to this Agreement and Title 6 of the District Code.
- 2) for failure by Franchisee to obtain the prior consent of the District Board of Directors for any assignment or transfer.
- 3) for failure by Franchisee to maintain and possess a valid permit for collection of solid waste from the County Health Officer;

**SOLID WASTE COLLECTION  
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- 4) for engaging in impermissible discrimination contrary to the provision of Title 6 of the District Code or any other provision of this Agreement;
- 5) for denying collection service and/or access to the service on the basis of the race, creed, color, age, religion, disability, national origin, or gender of the persons seeking such service;
- 6) for failure by Franchisee to adhere to the equal employment opportunity provisions contained in this Agreement (specifically any provisions concerning fair contracting policies);
- 7) for failure by Franchisee to submit a written Response Procedures for hazardous waste, medical waste.
- 8) for failure by Franchisee to properly comply with written Response Procedures for hazardous waste or medical waste;
- 9) for failure by Franchisee to maintain an office, and/or to keep the office open and/or to maintain a toll-free telephone for calls within the Franchise Area and/or maintain a log of customer complaints, as required by District Code and this Agreement;
- 10) for charging or collecting rates not approved by the Board of Directors for any service subject to this Agreement.

C) The liquidated damages set forth above shall be in addition to any other penalties or remedies otherwise provided by law or in accordance with this Agreement.

**Section 27. Breach and Termination.**

All terms and conditions of this Agreement are material and binding and failure by either party to perform in accordance with this Agreement, or in accordance with any covenants and conditions described herein, shall be considered a breach of this Agreement. In the event this Agreement is breached in any manner, and Franchisee has failed to remedy said breach after at least twenty (20) days after written notice setting forth the nature of the breach, District may terminate this Agreement on further written notice. Franchisee shall thereafter have no further rights, powers, or privileges against District under or arising out of this Agreement. In the event a breach does not result in termination, but does result in costs being incurred by District, said costs shall be charged to and paid by Franchisee, which costs may include, but are not limited to, costs incurred by District in investigating and communicating with Franchisee regarding said breach, including staff time, and any penalties provided in accordance with this Agreement.

In the event District terminates this Agreement as provided herein, Franchisee shall pay to District on the effective date of termination all customer revenues collected in advance for all services which would have been provided by Franchisee after the effective date of termination. Franchisee shall also pay to District any unearned revenues received after the date of termination. The provisions of this Section shall not be exclusive, but shall be cumulative and in addition to any other remedies provided herein or pursuant to law. District agrees that it will not unreasonably enforce the termination provisions set forth in this Agreement.

**SOLID WASTE COLLECTION  
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Section 28. Bankruptcy.

If at any time during the term of this Agreement Franchisee becomes insolvent, or if proceedings in bankruptcy are instituted by Franchisee, or if Franchisee is adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy is appointed in any suit or proceeding brought by Franchisee, then and in each and every such case, the Agreement shall immediately cease, terminate, and be canceled upon written notice by District and without the necessity of suit or other proceeding.

Section 29. Notices

A) All notices required by this Agreement to be served on District shall be personally delivered to District General Manager or mailed return receipt requested.

B) All notices required by this Agreement to be served on Franchisee shall be personally delivered to South County Sanitary Service, Inc., Attn: Tom Martin, 874 Grand Avenue, Grover Beach, CA 93433, or mailed return receipt requested.

Section 30. Applicability of Adopting Additional Rules, Regulations, Laws, and Ordinances.

The District Board of Directors specifically reserves the right to adopt, in addition to the provisions contained in the current Title 6 of the District Code such additional rules, regulations, laws, resolutions and/or ordinances as the District Board of Directors may find necessary in the exercise of its powers; provided, however, that such additional rules, regulations, laws, resolutions and/or ordinances do not directly conflict with the material privileges granted in this Agreement, or the obligations of Franchisee set forth herein.

Section 31. Applicable Law and Venue.

This Agreement shall be governed in all respects by the laws of District, the laws of the County of San Luis Obispo, the State of California, and the Federal Government of the United States and Franchisee and District expressly stipulate that this Agreement is entered into and to be performed in San Luis Obispo District and, therefore, venue shall be in said County.

Section 32. Waiver and Estoppel.

District's failure to enforce any provision of District Code, or of this Agreement, for a breach or violation by Franchisee of said District Code or Agreement, shall not constitute an acquiescence, waiver, estoppel or bar on District pursuing and seeking enforcement in the event that one or more of the same provisions of District Code or this Agreement are subsequently breached or violated by Franchisee.

Section 33. Entire Agreement: Procedure for Amendment, Modification, Extension, or Renewal.

This Agreement, together with any attachments, sets forth the entire Agreement between the District and Franchisee, and any change, amendment, modification, extension, or renewal shall be in writing, and shall be executed by duly authorized representatives of both District and Franchisee.

Section 34. Resolution of Conflicts Between the District Code and the Franchise Agreement.

**SOLID WASTE COLLECTION  
FRANCHISE AGREEMENT**

In the event of any conflict between this Agreement and the District Code, the terms, conditions, and provision of District Code shall control.

Section 35. Headings.

The headings set forth in this Agreement are for ease of reference only, and shall not be construed to modify, limit, or restrict the provisions contained in one, or all, of the Sections of this Agreement.

Section 36. Severability.

If any provision of this Agreement, or the application thereof to any person or circumstance, is held to be unconstitutional or to be otherwise invalid by a final judgment of any court of competent jurisdiction, such invalidity shall not affect other provisions or applications thereof which can be implemented without the invalid provisions or application and, to this end, the provisions of this Agreement are severable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

FRANCHISEE  
South County Sanitary Service, Inc.,  
a California Corporation

By \_\_\_\_\_  
Alvizio Rizzoli, President  
NIPOMO COMMUNITY SERVICES DISTRICT

By \_\_\_\_\_  
Robert L. Blair, President  
Board of Directors

ATTEST:

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

[SEAL]

APPROVED AS TO FORM:

\_\_\_\_\_  
P. Terence Schubert, Attorney for  
South County Sanitary Service, Inc.

\_\_\_\_\_  
Jon S. Seitz, District Legal Counsel

AGENDA ITEM  
JUL 18 2001



TO: BOARD OF DIRECTORS  
FROM: DOUG JONES *DJ*  
DATE: JULY 18, 2001

### CONSENT AGENDA

The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the Consent Agenda and will be considered separately. **Questions or clarification may be made by the Board members without removal from the Consent Agenda.** The recommendations for each item are noted in parenthesis.

- F-1) WARRANTS [RECOMMEND APPROVAL]
- F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]  
Approval of Minutes of June 27, 2001 Regular Board meeting  
Approval of Minutes of July 12, 2001 Special Board meeting
- F-3) ACCEPTANCE OF IMPROVEMENTS-TRACT 2363 (Kelly) [RECOMMEND APPROVAL]  
Accepting water and sewer improvements for a 6-lot development on Daffodil St.
- F-4) ACCEPTANCE OF IMPROVEMENTS-TRACT 2282 (KELLEY) [RECOMMEND APPROVAL]  
Accepting water and sewer improvements for a 9-lot development on Juniper St.
- F-5) ACCEPTANCE OF IMPROVEMENTS-BROOKSIDE PROJECT LOTS 3, 4, 10-14 [RECOMMEND APPROVAL]  
Accepting water and sewer improvements for a 7-lot development on Thompson Ave. & Burton St.
- F-6) ACCEPTANCE OF IMPROVEMENTS, ASHLAND LANE (NEWDOLL) [RECOMMEND APPROVAL]  
Accepting sewer improvements in Ashland Lane
- F-6) INVESTMENT POLICY - QUARTERLY REPORT [RECOMMEND APPROVAL]  
June 30, 2001 Second Quarter Report

WARRANTS JULY 18, 2001

AGENDA ITEM

JUL 18 2001



HAND WRITTEN CHECKS

COMPUTER GENERATED CHECKS

Will be delivered  
Monday

**NIPOMO COMMUNITY SERVICES DISTRICT**  
**MINUTES**

JUNE 27, 2001

AGENDA ITEM

JUL 18 2001



REGULAR MEETING 10:30 A.M.  
BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

**BOARD MEMBERS**

ROBERT BLAIR, PRESIDENT  
RICHARD MOBRAATEN, DIRECTOR  
MICHAEL WINN, DIRECTOR  
JUDITH WIRSING, DIRECTOR  
OPEN SEAT

**STAFF**

DOUGLAS JONES, GENERAL MANAGER  
DONNA JOHNSON, SEC. TO THE BOARD  
JON SEITZ, GENERAL COUNSEL

**A. CALL TO ORDER AND FLAG SALUTE**

Director Mobraaten, as acting President, called the meeting to order at 10:31 a.m. and led the flag salute.

**B. ROLL CALL**

At Roll Call, the following members were present: Directors Wirsing, Winn and Mobraaten. President Blair was absent.

**C. PUBLIC COMMENTS PERIOD**

**PUBLIC COMMENTS**

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda, or pending before the Board.  
Presentations are limited to three (3) minutes or otherwise at the discretion of the Chair.

There were no public comments.

**D. ADMINISTRATIVE ITEMS** (The following may be discussed and action may be taken by the Board.)

**D-1) REQUEST FOR BIDS - PAINTING WATER TANKS**

Request bids to paint the exterior of Town & Black Lake water storage tanks

For general maintenance of the District's water facilities, the exterior of the water storage facilities at Tefft St and Dana-Foothill and the one at Black Lake require repainting.

Upon motion of Director Winn and seconded by Director Wirsing, the Board unanimously agree to authorize staff to request bids to paint the District's water storage facilities. Vote 3-0

There were no public comments.

**D-2) REQUEST FOR SERVICE - TRACT 2266 (NEWDOLL)**

Request to renew a request for service for a 16-lot development on Mesa Road

Mr. Newdollar requested a renewal of his Intent-to-Serve letter originally issued in October 1998. Upon motion of Director Winn and seconded by Director Wirsing, the Board unanimously approved the request for renewal of an Intent-to-Serve letter with the conditions as outlined in the Board letter for Tract 2266 for R. H. Newdollar Construction. Vote 3-0.

There were no public comments.

**D-3) SOLID WASTE DISPOSAL AGREEMENT**

Review final franchise agreement for providing solid waste service

The Board reviewed and discussed the draft Waste Disposal Franchise Agreement with South County Sanitation.

The following members of the public spoke:

Vince McCarthy, 194 E. Dana, Nipomo - Asked if there would be a change in the billing. Answer: No

John Eppard, 1505 Champions, Black Lake - Black Lake residents are satisfied with the present trash collection service.

Larry Verheilig, 950 Waypoint, Nipomo - discussed disadvantages of having the business office in Grover Beach.

Upon motion of Director Mobraaten and seconded by Director Wirsing, the Board unanimously agreed to continue this item to the next meeting until language is clear concerning 25 items or 25 times large items can be picked up. Vote 3-0

**E. OTHER BUSINESS**

None

**F. CONSENT AGENDA** *The following items are considered routine and non-controversial by staff and may be approved by one motion if no member of the Board wishes an item be removed. If discussion is desired, the item will be removed from the Consent Agenda and will be considered separately. Questions or clarification may be made by the Board members without removal from the Consent Agenda. The recommendations for each item are noted in parenthesis.*

F-1) WARRANTS [RECOMMEND APPROVAL]

F-2) BOARD MEETING MINUTES [RECOMMEND APPROVAL]

Minutes of June 6, 2001 Regular Board meeting

F-3) ACCEPTANCE OF IMPROVEMENTS - PROJECT CO 97-090 (NEWDOLL)

Accepting water and sewer improvements for a 4-lot development on Martha Way

RESOLUTION NO. 2001-775

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE WATER AND SEWER IMPROVEMENTS  
FOR PROJECT CO 97-090 (NEWDOLL)

There were no public comments.

Upon motion of Director Wirsing and seconded by Director Winn, the Board unanimously approved the items on the Consent Agenda. Vote 3-0

**G. MANAGER'S REPORT**

Doug Jones, General Manager, reported on the following:

G-1) LAFCO BUDGET ALLOCATIONS

G-2) DEPARTMENT OF TOXIC SUBSTANCES CONTROL PUBLIC MEETING (JUNE 28, 2001)

**H. DIRECTORS COMMENTS**

Director Wirsing informed the Board of a sale of the Frontage Rd. condos to SLO County for their employees.

Director Winn commended staff for newsletter on water quality and educating customers of ordinance encouraging water conservation.

Suggested a letter of recognition to Katcho for his help in the LAFCO budget matter.

Creek Sub-Committee meeting this morning with George Gibson is looking at Flood Control.

Clean-Up Committee Tues. July 17, at 6:00 at the library to include from Black Lake south to mesa.

Redistricting meeting Wed 6:30 p.m. in District Board room.

Incorporation meeting 6:00 p.m. at the library

EPA meeting 7:00 June 28, 2001 Dist. Board room

Water Forum change to 3<sup>rd</sup> Monday of each month Dist. Board room

NCAC changed meetings to the 2<sup>nd</sup> & 4<sup>th</sup> Monday of each month Dist. Board room

Director Mobraaten asked if meetings for General Plan had been noticed. Answer: Yes

There was no need to go into Closed Session.

**CLOSED SESSION**

**ADJOURN**

Acting President Mobraaten adjourned the meeting at 11:23 a.m.

There will be a Special Meeting July 12, 2001 at 10:30 a.m.

The next regular Board meeting will be held on July 18, 2001 at 10:30 a.m.



**NIPOMO COMMUNITY SERVICES DISTRICT**  
**MINUTES**  
**SPECIAL MEETING**

JULY 12, 2001 THURSDAY 10:30 A.M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

**BOARD MEMBERS**

ROBERT BLAIR, **PRESIDENT**  
RICHARD MOBRAATEN, **DIRECTOR**  
MICHAEL WINN, **DIRECTOR**  
JUDITH WIRSING, **DIRECTOR**  
OPEN SEAT

**STAFF**

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

**CALL TO ORDER**

President Blair called the meeting to order at 10:32 a.m.

**ROLL CALL**

At Roll Call, the following Directors were present: Wirsing, Winn, Mobraaten and Blair

**Public Comment on Agenda Items**

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

**ADMINISTRATIVE ITEM**

Consider candidates and appoint a director to the open seat on the District's Board. Legal Counsel, Jon Seitz, handled the initial procedures and opened the floor for any nominations to be considered for the open seat. None were received from the floor. It was moved by Director Winn and seconded by Director Mobraaten to close the nominations for the open seat on the Board. Vote 4-0.

President Blair opened the session for speakers. The candidates drew numbers from a hat for the order in which to speak. The candidates spoke in the following order:

John Eppard, Clifford Trotter, Jim Dunbar, Richard Holguin, Evan Evanoff, Vincent McCarthy, Lawrence Vierheilg, Donald Collins, and Stephen Forst

The following members of the public spoke:

Bob Beedle - 559 Woodgreen, Del Simon - 695 Black Ridge Lane and Marilyn Janulus - 506 Misty View of Nipomo spoke in favor of John Eppard. Pres. Blair said a letter was received from Rick & Irene Erwin supporting Mr. Eppard.

Bob McGill - 530 Snead spoke in favor of Richard Holguin

John Bowen from the Black Lake area read a letter from Black Lake Village Council supporting all three candidates from Black Lake.

Florence Evanoff spoke in favor of Evan Evanoff

Istar Holliday -577 Sheridan Rd. Arroyo Grande - spoke in favor of Lawrence Vierheilg, Evan Evanoff, Vincent McCarthy and Jim Dunbar.

A letter was received from Herb Kandel supporting Larry Vierheilg, Evan Evanoff, and Vincent McCarthy.

**MINUTES SUBJECT TO BOARD APPROVAL**

MINUTES  
SPECIAL MEETING  
JULY 12, 2001  
PAGE TWO

The Board had further questions for each candidate.

Public comments:

Delores Simon spoke in favor of appointing someone from Black Lake area. President Blair closed the public comment period.

The Board then created a short list of candidates consisting of Jim Dunbar, Clifford Trotter, John Eppard and Lawrence Vierheilig. The Board decided that the first candidate to receive three (3) votes would be appointed. Director Mobraaten nominated Clifford Trotter. Director Winn seconded the nomination. Roll Call vote 4-0.


Motion was made by Director Mobraaten and seconded by Director Winn to appoint Clifford Trotter to the open seat on the Nipomo Community Services District Board. Roll Call vote 4-0.

**ADJOURN**

President Blair adjourned the meeting at 1:45 p.m.

The next regular Board meeting will be held July 18, 2001.

**MINUTES SUBJECT TO BOARD APPROVAL**

TO: BOARD OF DIRECTORS  
FROM: DOUG JONES   
DATE: JULY 18, 2001

AGENDA ITEM   
JUL 18 2001

ACCEPTANCE OF WATER AND SEWER IMPROVEMENTS  
FOR VARIOUS PROJECTS

**ITEM**

Acceptance of water and sewer improvements for completed private development projects

**BACKGROUND**

Upon completion of a developer's project, the District accepts improvements of the project when all requirements are met. The developers have installed water and (as needed) sewer improvements and have met the District's conditions:

- Installed the improvements
- Paid associated fees
- Provided the necessary paperwork, including the Offer of Dedication, the Engineer's Certification and cost allocations.

**RECOMMENDATION**

Staff recommends that your Honorable Board approve the attached resolutions, accepting the water and sewer improvements for the following:

- Tract 2363 (Kelly) a 6-lot development on Daffodil St.
- Tract 2282 (Kelly) a 6-lot development on Juniper St.
- Brookside Project (CarriageHomes) Lots 3, 4, 10-14 on Thompson Ave. & Burton St.
- Ashland Project (Newdoll) installing sewers in Ashland Lane

Board 2001\Accept developments.DOC

RESOLUTION NO. 2001-Kelly

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE WATER AND SEWER IMPROVEMENTS  
FOR TRACT 2363 (Kelly)

**WHEREAS**, on November 17, 1999, the District issued a conditional Will-Serve Letter for water and sewer service for a 6-lot development known as Tract 2363 in Nipomo; and

**WHEREAS**, the District approved and signed the construction plans on October 4, 2000 for the water and sewer improvement to be constructed; and

**WHEREAS**, the water and sewer improvements have been constructed and said improvements are complete and certified by the engineer; and

**WHEREAS**, on June 15, 2001, the Owner offered the water and sewer improvements to the Nipomo Community Services District; and

**WHEREAS**, this District has accepted such offer without obligation except as required by law, and

**WHEREAS**, all water and sewer fees for service, required in conformance with District ordinances, have been paid in full for Tract 2363.

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

That the water and sewer improvements constructed to serve Tract 2363 on Daffodil Street in Nipomo are accepted by this District.

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

AYES: Directors

NOES:

ABSENT:

ABSTAIN:

the foregoing resolution is hereby adopted this 18<sup>th</sup> day of July 2001.

\_\_\_\_\_  
Robert L. Blair, President  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

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

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

RESOLUTION NO. 2001-Kelley

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE WATER AND SEWER IMPROVEMENTS  
FOR TRACT 2282 (KELLEY)

**WHEREAS**, on August 16, 1999, the District issued a conditional Will-Serve Letter for water and sewer service for a 9-lot development known as Tract 2282 in Nipomo; and

**WHEREAS**, the District approved and signed the construction plans on February 15, 2000 for the water and sewer improvement to be constructed; and

**WHEREAS**, the water and sewer improvements have been constructed and said improvements are complete and certified by the engineer; and

**WHEREAS**, on January 25, 2001, the Owner offered the water and sewer improvements to the Nipomo Community Services District; and

**WHEREAS**, this District has accepted such offer without obligation except as required by law, and

**WHEREAS**, all water and sewer fees for service, required in conformance with District ordinances, have been paid in full for Tract 2282.

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

That the water and sewer improvements constructed to serve Tract 2282 on Juniper Street in Nipomo are accepted by this District.

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

AYES: Directors

NOES:

ABSENT:

ABSTAIN:

the foregoing resolution is hereby adopted this 18<sup>th</sup> day of July 2001.

\_\_\_\_\_  
Robert L. Blair, President  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

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

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

**RESOLUTION NO. 2001-Brookside**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE WATER AND SEWER IMPROVEMENTS  
FOR BROOKSIDE LOTS 3, 4, & 10-14 (CARRIAGE HOMES)**

**WHEREAS**, on December 20, 1999, the District issued a conditional Will-Serve Letter for water and sewer service for Brookside Lots 3, 4, 10-14 in Nipomo; and

**WHEREAS**, the water and sewer improvements have been constructed and said improvements are complete and certified by the engineer; and

**WHEREAS**, on June 26, 2001, the Owner offered the water and sewer improvements to the Nipomo Community Services District; and

**WHEREAS**, this District has accepted such offer without obligation except as required by law, and

**WHEREAS**, all water and sewer fees for service, required in conformance with District ordinances, have been paid in full for Brookside Lots 3, 4, & 10-14.

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

That the water and sewer improvements constructed to serve Brookside Lots 3, 4, & 10-14 on Burton and Thompson in Nipomo are accepted by this District.

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

AYES: Directors

NOES:

ABSENT:

ABSTAIN:

the foregoing resolution is hereby adopted this 18<sup>th</sup> day of July 2001.

\_\_\_\_\_  
Robert L. Blair, President  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

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

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

RES\2001-Brookside.doc

RESOLUTION NO. 2001-Ashland

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ACCEPTING THE SEWER IMPROVEMENTS  
FOR ASHLAND LANE (NEWDOLL)

**WHEREAS**, the District approved and signed the construction plans on July 8, 1998 for the sewer improvements to be constructed ; and

**WHEREAS**, the sewer improvements have been constructed and said improvements are complete and certified by the engineer; and

**WHEREAS**, on January 31, 2001, the Owner offered the sewer improvements to the Nipomo Community Services District; and

**WHEREAS**, this District has accepted such offer without obligation except as required by law, and

**WHEREAS**, all sewer fees for service, required in conformance with District ordinances, have been paid in full for Ashland Lane (Newdoll).

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

That the sewer improvements Ashland Lane in Nipomo are accepted by this District.

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

AYES: Directors  
NOES:  
ABSENT:  
ABSTAIN:

the foregoing resolution is hereby adopted this 18<sup>th</sup> day of July 2001.

\_\_\_\_\_  
Robert L. Blair, President  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

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

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



TO: BOARD OF DIRECTORS

FROM: DOUG JONES *D. Jones*

DATE: JULY 18, 2001

**INVESTMENT POLICY - QUARTERLY REPORT**

The Board of Directors have adopted an Investment Policy for NCSD which states that the Finance Officer 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 Board of Directors.

Below is the June 30, 2001 Quarterly Report for your review. The Finance Officer is pleased to report to the Board of Directors that the District is in compliance with the Investment Policy.

After Board consideration and public comment, it is recommended that your Honorable Board accept the quarterly report by motion and minute order.

**NIPOMO COMMUNITY SERVICES DISTRICT**  
**INVESTMENT POLICY - QUARTERLY REPORT 6/30/01**

The District's investments are as follows:

TYPE OF INVESTMENT	INSTITUTION	DATE OF MATURITY	AMOUNT OF DEPOSIT 6/30/01	RATE OF INTEREST	ACCRUED INTEREST 6/30/01	AMOUNT OF DEPOSIT 6/30/00	RATE OF INTEREST	ACCRUED INTEREST 6/30/00
Money Market Checking	Mid-State Bank	n/a	\$33,028.87	0.50%	\$0.00	\$45,135.13	0.50%	\$0.00
Savings	Mid-State Bank	n/a	\$870.20	2.00%	\$0.00	\$808.94	2.00%	\$0.00
Pooled Money Investment	Local Agency Investment Fund	n/a	\$8,697,198.12	5.32%	\$102,922.61	\$6,702,430.59	6.18%	\$96,917.38

n/a = not applicable

As District Finance Officer and Treasurer, I am pleased to inform the Board of Directors that the District is in compliance with the 2001 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.

Respectfully submitted,

*D. Jones*  
Doug Jones  
General Manager and  
Finance Officer/Treasurer



TO: BOARD OF DIRECTORS  
FROM: DOUG JONES *D*  
DATE: JULY 18, 2001



### MANAGER'S REPORT

G-1) ARTICLES ON LAND USE, PUBLIC WORKS PROJECTS AND CONTROLLING CO<sub>2</sub>

The following articles are presented for the Board's information

- Urban Growth
- Controversial Public Works Project
- Controlling CO<sub>2</sub>
- Smart Growth & CEQA
- Wall Street Journal - Sprawl Thins Population of Older Suburbs

G-2) CSDA - ANNUAL CONFERENCE

Each of the Board members has received a brochure on the California Special District's Association (CSDA) Annual Conference. If any of the Board members are interested in attending the conference, please contact the office and arrangements will be made.

G-3) STATUS OF PROJECTS

The following are District projects not in any chronological order:

- Montecito Verde II sewer connection  
EDA, the consulting engineering firm, is presently designing the sewer project to connect the Montecito Verde II septic tanks system to the District system. The District has acquired the necessary appraisal work to acquire the right-of-way for part of the sewer line. EDA is preparing the CEQA documents to present to the Board in the near future.
- Tefft Street Water Line  
Garing, Taylor and Associates are in the process of designing the Tefft Street Water Line, which extends from the Dana Elementary School to Thompson Ave. They are preparing the necessary CEQA documents, which will be presented to the Board when completed.
- Painting existing water tanks  
Specifications are being finalized. When completed, requests for bids for painting the tanks will be made.
- GIS Mapping  
The District has recently met with Nobel Systems, the company performing the GIS water and sewer mapping for the District. The District has received the sheets created by the as-built drawings. Detailed corrections are being made to these plans. They will be sent back to Nobel Systems for finalization. A hard copy print will be returned for District use. The mapping system will be put on the District computers.
- Water and Sewer Master Plan  
Boyle Engineering is working of the District's water and sewer master plan. Final information will be supplied to them from the GIS water and sewer mapping being completed by Nobel System.

TO: BOARD OF DIRECTORS  
FROM: DOUG JONES  
DATE: JULY 18, 2001

## MANAGER'S REPORT

*Page Two*

### G-3) STATUS OF PROJECTS (CONTINUED)

- Supplemental Water Study  
Kennedy, Jenks Inc. is finalizing the draft report on the supplemental water study that should be completed in about a week.
- County Park Water Line Easement  
The District has received the easement agreement from the County Parks Department. The District has modified the easement agreement and returned to the County for their comments.
- County Service Area 1F - New Galaxy Park  
The County is in the process of designing a connection to connect the CSA 1F community septic tank system to the People's Self Help Housing lift station. Their wastewater would be pumped to the District's wastewater treatment facility. The County has paid the District's sewer capacity fees for CSA-1F prior to the increase effective July 1<sup>st</sup>.
- Automatic Meter Reading (AMR)  
Approve 3,400 AMR devices have been installed on the District water meters. Some of the radio read devices are not functioning properly. Datamatic (the vendor) has been reprogramming the devices to make them operational.

### CONSTRUCTION PROJECTS

#### Nipomo High School

The off-site water and sewer improvements are under construction for connecting the new Nipomo High School to the District water and sewer system. The Lucia Mar Unified School District needs to acquire permits from Fish & Game to complete this work.

#### Tract 1747 - Hermreck Project

A pre-construction conference was held to start construction on the 151 lot development at Thompson Rd. and Chestnut Street. Due to the passing of the developer, this project may possibly be put on hold for some time.

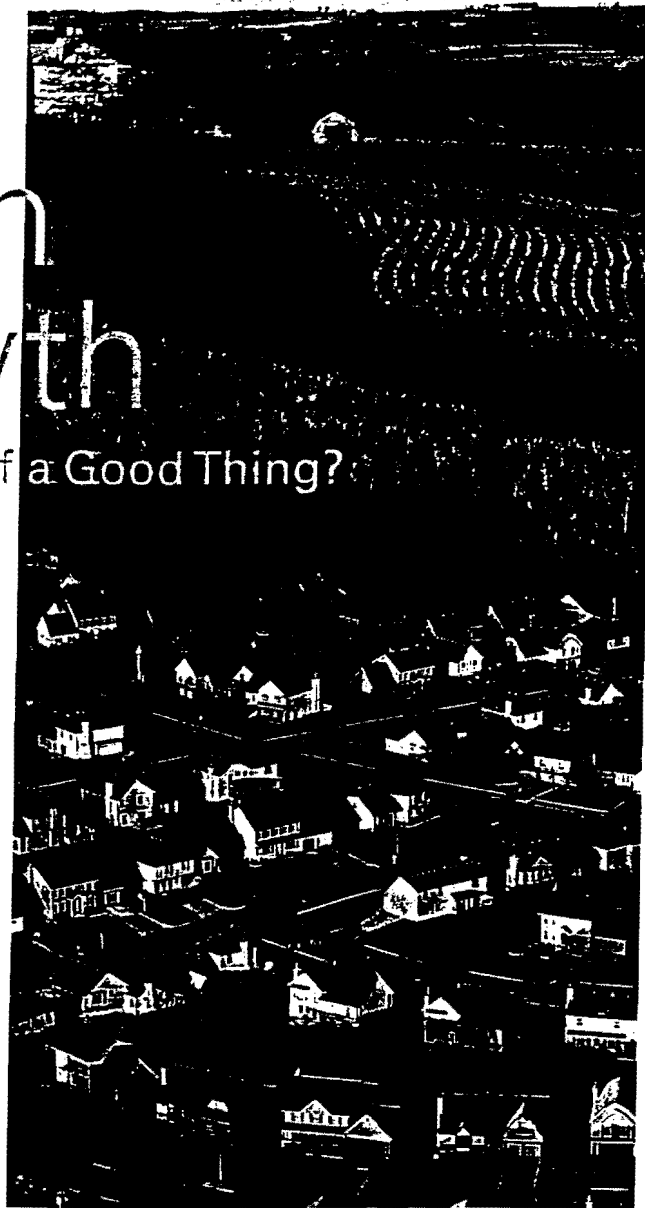
#### Cell Site

The cell site vendor is presently constructing antennas at the Hetrick Water Tank site. It is anticipated that the construction will be completed shortly.

# Urban Growth

Too Much of a Good Thing?

Rapid growth is changing the face of our towns and cities—and not necessarily for the better. Is growth something you should be concerned about? If so, what should you and your community do about it?



Urban growth is acquiring a bad rep. A growing number of Americans in various walks of life believe that, in our rush to achieve the American dream—a large part of which is owning a home of our own—we are overshooting the mark and triggering a cancerous pattern of urban decay and blight. Generally called sprawl, this kind of decay and blight threatens to engulf even the tidily manicured acres of suburbia. No longer an issue of interest only to urban-planner idealists and social activists, sprawl has become a major concern of the voting public, second only to crime. continued on page 89

by William L. Nolan

PHOTOGRAPHS: (TOP) CURT MASSAGSTOCK USA, (BOTTOM) DAVE GUYERRE, ARMSTRONG ROBERTS

## Smart Growth

continued from page 86



ILLUSTRATIONS: URBAN ADVANTAGE

### Market-driven growth

Lisa Mowry, a journalist who lives near Atlanta, Georgia, sees fellow Atlantans choosing up sides on the issue of sprawl. "Because of the attention Atlanta has received as sprawl capital of the U.S.," she says, "it has certainly polarized its citizens. As someone who lived in town for 15 years and now lives in suburbia, I see both sides very clearly." On one side are those who believe urban growth should be controlled by governmental regulations. On the other are those who believe growth should be governed only by market forces in a free economy. In most areas of the country, government influence on growth amounts chiefly to decisions made by city traffic engineers and state highway commissioners, who tend to favor the types of planning concepts that facilitate sprawl rather than control it. Although most towns and cities have regulations that dictate, to some extent, what type of growth can occur in a given area and what type of infrastructure (roads, utility lines, etc.) will get built, it's largely the local economy that drives or limits urban expansion—how many subdivisions and commercial buildings are constructed, how large such projects become, and how far and in what direction development spreads beyond the urban core.

Regional malls and other types of shopping areas often fail to compete with newer shopping areas farther out. Smart-growth planners use computer-aided graphics to show how these sterile, empty spaces can become vital commercial centers once again. Transformations like these rely on people-friendly elements to work the magic. Multistory buildings fronting on wide sidewalks and lined with shops at street level turn bleak parking lots into outdoor "rooms." Wide entrance drives become narrow streets with parallel parking spaces and borders of trees and grass, helping to calm traffic and make the space feel "cozier."

### Sprawl vs. smart growth

For several decades, suburbs have been sprouting and growing rapidly around America's cities, and roads have been built or extended to link them together and to the urban core. Unfortunately, many of the urban cores were left to stagnate and decay. And many of the inner-city problems that originally drove people to the suburbs—traffic jams, smog, street crime, high taxes, and long lines at checkout counters—are now following them out there. Linda Hamel, a suburbanite near Portland,

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## Smart Growth

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Oregon, says, "Our town doesn't feel like home anymore. We have become a community of strangers with neighbors moving away and more traffic and crowding." Wendy Bowman-Littler, who until recently lived in the Atlanta suburb of Lawrenceville, agrees that sprawl is a serious problem. "It was enough of a problem that I moved back into town. The traffic got worse every year and more people moved into Lawrenceville. I was so miserable that I paid twice what my house was worth just to be less stressed out and to actually have a life!"

Sprawl's reliance on automobiles as the chief mode of transportation tends to limit the lifestyle options of those who don't—or can't drive. In a

recent article in *The Atlantic Monthly*, authors Bruce Katz and Jennifer Bradley pointed out that "for a seventy-five-year-old without a car, sprawl can be uncomfortably close to house arrest."

A 1999 survey of 351 state and local government officials by the American Institute of Architects underscored widespread public concern about sprawl. Seventy-eight percent of the survey respondents cited sprawl as a high-priority problem. Such pressure from the voting public has spurred a trend in urban planning called smart growth. Although it can mean different things depending on which urban planner or theorist you talk to, smart growth generally involves governmental regulations that are more comprehensive than the codes and regulations currently in force in most parts of the country. Some

smart-growth programs focus on a hard-nosed containment strategy called an urban growth boundary (UGB), which prohibits development of rural areas until areas inside the boundary are fully developed. Other smart-growth initiatives adopt a looser strategy, relying on parks, trails, or preserves to maintain a balance between urbanized and natural terrain. Urban development is then allowed to "flow" around these preserves as market forces dictate—sort of like the way firebreaks control fires in a forest.

Policymakers in state and local governments aren't the only ones taking action against sprawl. Officials in higher places are also joining the fray, giving the concept of smart growth a national forum. One example is former vice president Al Gore, who gave high priority to livable urban areas by adding what he called

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BETTER HOMES AND GARDENS, APRIL 2001



Portland, Oregon, is one American city that has taken dramatic steps to fend off sprawl. In addition to adopting an urban growth boundary and encouraging redevelopment inside the city limits, it recently outlawed the construction of suburban-style "snout houses" (above)—houses whose front facades consist mainly of double garages. The law specifies that garages for new homes built within the city limits must not protrude beyond the front wall, and that entrances must be clearly visible from the street.

a "livability agenda" to his presidential campaign platform. Another example is the National Association of Home Builders, which has adopted a smart-growth policy in order to help its member builders serve their markets without encouraging sprawl.

### Rewriting the rules

Besides promoting the adoption of strategies like these, advocates for smart growth are urging revision of government policies already in force, such as traditional codes and tax laws that foster sprawl. For example, in 1997, the Maryland state legislature enacted a law that's designed to pull the plug on state subsidies for sprawl. In 1998, Tennessee enacted legislation that requires local governments in the state to create urban growth boundaries. And in 1999, Wisconsin enacted a smart growth law that mandates that all cities, towns, and

villages with a population of more than 12,500 adopt a traditional neighborhood development (TND) ordinance by January 2002. Oregon, an early pioneer of growth-control measures, boasts the country's first urban growth boundary, which was established in Portland in 1973.

### Arguments pro and con

Measures designed to control growth and encourage pedestrian lifestyles tend to stir up strong opinions from two opposing factions—those who hate sprawl and the auto-centered culture that shapes it, and those who love free enterprise. In fact, about the only thing that the two camps agree on is that urban growth can't be halted permanently; it can only be paced or channeled.

Those favoring market-driven growth argue that governments have

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BETTER HOMES AND GARDENS, APRIL 2001

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## Smart Growth

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A business trying to regulate growth in a free economy. Such regulations, they say, are un-American and they tend to inflate property values by forcing developers to compete for fewer available sites. Oregonians Kerry and Travis Bishop, who recently bought their first house in suburban Portland, found that newer homes inside the urban growth boundary cost \$30,000 to \$40,000 more than those outside the boundary. "We couldn't afford a house in the area where we used to live [inside the UGB]," says Travis. "Where we live now is sort of faceless suburbia." Growth boundaries also stunt commercial development because commercial sites inside the boundaries may be too small or too expensive to accommodate profitable developments. And adopting urban planning concepts that favor pedestrian rather than auto-oriented lifestyles runs counter to what most Americans really want—namely, a house with a double or triple garage far out in the suburbs.

Those favoring managed growth point out that free-market growth doesn't pay off in the long run. Instead, it hastens the decay of our urban cores; it encourages a wasteful, low-density use of precious agricultural land for tract housing and low-rise commercial development; and it limits freedom of choice by producing a stiflingly uniform urban environment, one that favors affluent suburban singles and families. Not only does sprawl not pay off, they add, it actually becomes a drain on our pocketbooks. Extending utility lines, thoroughfares, police and fire protection, and other city services far beyond the city core puts a strain on government budgets. Says Portlander Susan Lodge, "Every time growth happens, citizens foot the bill for the roads, sewers, and schools. Growth should pay its own way."

## SKYROCKETING COSTS

The following data show how the cost of providing community services skyrocketed in three fast-growing California cities. The additional bond debt for covering such costs usually requires a substantial boost in property taxes.

	1984-85	1999-2000
<b>Fresno</b>		
Population	284,000	415,000
Area (sq. miles)	93	103
	Yearly cost (millions)	
Services	\$56	\$122
Bond debt	\$3.3	\$329
<b>Bakersfield</b>		
Population	130,000	233,000
Area (sq. miles)	78	114
	Yearly cost (millions)	
Services	\$38	\$113
Bond debt	\$15	\$30
<b>Modesto</b>		
Population	124,000	185,000
Area (sq. miles)	29	35
	Yearly cost (millions)	
Services	\$27.5	\$64
Bond debt	\$11.5	\$69

Courtesy of the Los Angeles Times

### Where do you stand?

If you're unsure which viewpoint to support, you're not alone. Many Americans find themselves confused or on the fence regarding this issue, even if they haven't yet heard compelling arguments from the two opposing camps. On the one hand, you may hate sprawl because it's ugly and because nobody likes to get caught in traffic jams. On other hand, you may not be willing to give up the freedom to live where you choose. Paula Dieters, a homemaker who grew up in Atlanta and now lives in the suburbs, puts a premium on this freedom. "UGBs take away our constitutional right to live anywhere we want," she says. Fellow Atlantan Philip Cates agrees. "Growth is usually good. You're never going to stop growth, nor should we."

So far, at least, most of us have enjoyed the luxury of choosing

continued on page 94

## Smart Growth

page 92



Using the magic of computer-aided graphics, planners add trees, flowers, and lampposts to show how derelict streetscapes in our urban cores can once again become people-friendly.

where to live because auto travel has remained relatively cheap—thanks mainly to massive subsidization of highways by the federal government. And for most of us, cities based on sprawl and an auto-centric lifestyle are the only kind we're familiar with; life without automobiles seems foreign, if not downright unimaginable.

What, then, accounts for the groundswell of public opposition to sprawl? In part, it's a growing realization that our auto-centered cities are plagued with serious and inherent flaws. Long before sprawl gained national attention, many of us saw older suburbs become clogged with traffic, their shopping malls turning seedy and their residential property values stagnating or declining.

### ORGANIZATIONS

- Congress for the New Urbanism, 5 Third St., Suite 500A. San Francisco, CA 94103; 415/495-2255; [www.cnu.org](http://www.cnu.org).
- The Smart Growth Network, 777 North Capitol St., NE, Suite 500, Washington, DC 20002-4201; 202/962-3591; <http://smartgrowth.org>.
- Center for Livable Communities, 1414 K St., Suite 250. Sacramento, CA 95814-3966; 800/290-8202; [www.lgc.org](http://www.lgc.org).
- GSA Center for Urban Development, 1800 F St., NW, Washington, DC 20405; 202/501-1881.

### PUBLICATIONS

- "Divided We Sprawl," by Bruce Katz and Jennifer Bradley. *The Atlantic Monthly* (December 1999).
- "Challenging Sprawl." The National Trust for Historic Preservation, 1785 Massachusetts Ave. NW, Washington, DC. 20036.
- *The New Urbanism*, by Peter Katz (McGraw-Hill Inc., 1994).

### WEB SITES

- [www.uli.org](http://www.uli.org). The Urban Land Institute, 1025 Thomas Jefferson St., NW, Suite 500 West, Washington, DC 20007; 800/321-5011.
- [www.preservenet.com](http://www.preservenet.com). Index of Web sites on urban sprawl.
- [www.livable.com](http://www.livable.com). The Partners for Livable Communities.
- [www.mainst.org](http://www.mainst.org). National Main Street Program of the National Trust for Historic Preservation.

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### What should you do?

The question, then, isn't whether sprawl is something you should be concerned about or whether it will affect your community. Instead, you need to ask yourself to what extent sprawl is likely to affect you and your family, and how and to what extent you should get involved in the movement to control urban growth. If you live in or near a large metro area, you may be asked to take a stand at the ballot box on growth-related measures such as annexation plans or a proposal to replace local city governments with a regional one. Or you may be urged to join a citizens' action group to help stop construction of a new freeway or to preserve green spaces that are threatened with development. Oregonian Linda Hamel didn't simply join an action group; she decided to form one, by uniting local neighborhood associa-

tions into an organization called the League of West Linn. "Development projects here tend to be approved and started before the regular citizens find out about them," says Linda. "We heard that the city was planning to tear down trees for a water tower, and we were able to stop it before they took down one tree. We've inventoried the natural resources in this area that need protecting, and we're coming up with plans to make sure that happens."

Before voting or taking other action on sprawl, you'll want to bone up on the subject. A number of books and articles are published each year (see list, *left*), and several Web sites on sprawl and smart growth are building constituencies.

Sources like these will help you decode the lingo that urban planners and theorists use. They also will give you a grasp of the various theories

and urban-planning concepts being tested in the fight against sprawl—ideas that may become much-debated topics in your local news media, or proposals on the agenda of your city council meetings. But it's also important to take a serious look at what's really working out there on the front lines, and to question whether a scheme that works well in one locale will succeed in yours.

Although sprawl is a complex issue, it boils down to a simple and personal matter. Eventually, each of us will probably have to decide whether we dislike sprawl enough to give up certain freedoms in order to make our cities more livable. Linda Hamel believes that getting involved is well worth it in the long run. "I don't want to see any more trees come down, and I am excited about finally doing something about all of this uncontrolled growth." ♠

## PREPARING FOR

# CONTROVERSY on Public Works Projects

**C**ontroversial public works projects are inevitable. As stewards of public resources, we must make decisions on the public's behalf that will not please everyone. Sometimes a decision concerning a project results in a public controversy that takes on a life of its own and can threaten the project and the careers of the project managers. We cannot avoid these decisions, but we can understand what happens when a controversy erupts. This allows us to better respond to the controversy by being prepared. In fact, public controversies can become the single biggest challenge to the project.

You have been working on a difficult and controversial program/project. You feel that your team has done its best to take all facts into consideration. Then you wake up one morning and find you and your organization the center of attention in a most negative manner. You are on the front page of the newspaper; interviews appear in which your associates attack you.

There also may be demands for an investigation with charges of professional improprieties implied. You stop and ask yourself "What happened, how did I get here?"

You got here by breaking an implied promise. At the start of the project, the public assumed that you and your team would tell them exactly how this project will benefit/impact them and show them, with complete certainty, why this project is in the public's best interest. To start work, the team agreed. Now the project team

### Torkild Brunso

*LTC Brunso is with the U.S. Army Corps of Engineers, Rock Island District, Illinois.*

has gathered large amounts of data; conducted numerous site visits and hearings; and is ready to make some decisions. As the team analyzes data, you realize that the project management team can't

foresee the future with complete certainty; all it can do is estimate the future impact of the project. As the team organizes its options, the public suddenly realizes that the team has made what they feel are subjective assumptions, and

that these assumptions do vary the outcomes. The public feels betrayed.

There are three items to remember. None of these items are new. They have been said many times and by many people, but they are worth repeating.

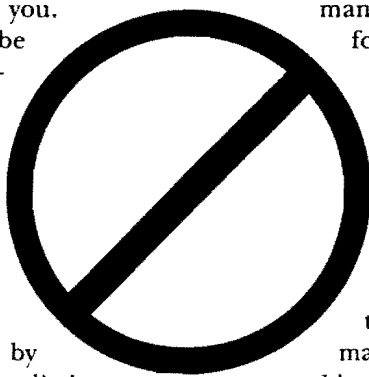
The first is that the team's deci-

sions did not cause this controversy. Your decisions are based on your principles. If your principles are firmly based on a belief in selfless service to the public, honor, and integrity, you probably did the right thing.

② The second is that a measure of a great organization is not whether bad things happen to it, but how well the organization reacts to the bad event.

③ Lastly, it will get worse before it gets better. Keeping this in mind, here are a few rules to help you make some sort of sense of it all. They are:

- All communication will become public at the worst possible time, especially your personal e-mails. E-mail is an efficient form of communication that relies on previous messages and is forwarded without thought of impact. When these messages are taken out of context, the very meaning can imply just the opposite of what was actually meant. Attached draft documents to these e-mails are just begging to be opened by individuals that were never intended to view the draft documents. Your team should be open and candid with all stakeholders, but they should







## Smart Growth and CEQA Workshops

- [Legislation](#)
- [Transportation](#)
- [Smart Growth & CEQA Workshops](#)
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- [ZEVs & Air Quality](#)
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### Why Should Environmentalists Support Quality Affordable Housing?

May 22, 2000

Today, environmentalism is evolving. Environmental protection is no longer only about preserving open space, natural resources, and air and water quality, but about enhancing overall quality of life. And at the heart of quality of life is the quality of our most immediate habitat--our homes and neighborhoods.

An environmentalism that concerns itself solely with the natural environment overlooks the strong interconnection between the natural and built environments. The location and design of the built environment, especially residential development, and the persistence of housing and neighborhood problems have a fundamental impact on the natural environment, which environmentalists cannot and should not ignore.

Suburban sprawl is perhaps the most visible example of how development patterns within the built environment affect the natural environment. Poorly planned, sprawling subdivisions harm the environment by: exhausting open space and agricultural and natural lands; destroying plant and animal habitats; increasing traffic congestion and air and water pollution; straining water resources and sewage treatment capacity; disrupting natural flood and fire cycles; and creating even more demand for new highways, services, shopping, and land.

Yet, sprawl continues, in large part, because of two factors: (1) the persistence of poor-quality housing and decaying infrastructure in older cities, suburbs, and small towns; and (2) the lack of affordable housing in more desirable locations. These factors are a major motivating force for the out-migration of low- to middle-income families to newer suburbs, edge cities, and rural areas. Many families are moving further and further away to find the affordable homes, lower crime rates, good schools, quality local services, and open space that most people desire.

In some cases, new homes are being built far from jobs that concentrate in strong economic markets with high housing costs. Long commute times not only exacerbate air pollution problems and increase energy consumption, but weaken the social fabric of communities and families.

In California, many groups are affected by the lack of quality, affordable housing, but low- and moderate-income families are the most vulnerable. Poor housing conditions and inadequate supplies of affordable housing impact and, in turn, are impacted by the surrounding environment:

- \* Many lower-income families in existing communities pay well over half of their limited incomes for housing, some of which is substandard. Over-paying for housing leaves little disposable income for basic health care and other necessities. Poor-quality housing increases energy costs and consumption. It also poses physical threats to occupants from structural defects, asbestos and lead-based paint, faulty wiring, and sewage contamination, while contributing to overall neighborhood blight.

- \* Families with limited housing options often live in neighborhoods threatened with external environmental hazards, including high levels of air and water pollutants and brownfields or vacant sites containing toxic contaminants.

- \* Increasingly, multiple families live in a single house or apartment to be closer to work, services, and social networks, which increases traffic, parked cars, and other impacts of overcrowding on neighborhoods.

- \* In rural areas, farmworkers too often live in disgraceful housing conditions where soil, air, and water are contaminated by dangerous and drifting pesticides.

- \* People without housing at all find what shelter they can on the streets, in public parks, along rivers or beaches, or in other make-shift accommodations not fit for human habitation or proper waste disposal.

- \* Despite the benefits of affordable housing, developers currently face a host of obstacles, from indifference to outright resistance. Local governments and residents are concerned about the perceived fiscal, social, and environmental costs of accommodating new housing. Sometimes, community opposition is based on stereotypes about low- and moderate-income families, people of color, and new immigrants. Often, developers proposing higher-density housing are asked to reduce densities or make other design concessions that increase costs and reduce affordability by lower-income residents.

The environmental costs of not doing anything, or doing too little, to address chronic shortages of quality, affordable housing in our cities, suburbs, and small towns are too great to neglect. In recognition of the importance of affordable housing in protecting the natural environment, a new alliance can be formed between environmentalists and affordable housing developers and advocates around a common set of

goals. Community-based nonprofit developers, in particular, have a social vision and are committed to providing high-quality, services-enriched housing for lower-income families that promotes resident self-sufficiency and community sustainability.

\* To limit the impetus for continued sprawl, environmentalists and affordable housing developers and advocates should together call for a policy of reinvestment in older cities, suburbs, and small towns, including repair and construction of critical infrastructure and development of affordable housing, to revitalize older communities into vibrant, mixed-income communities that are more attractive to existing and prospective residents. Affordable housing developers have historically focused their efforts on rebuilding aging neighborhoods, thereby, easing the pressure to develop in new areas.

\* Environmentalists and affordable housing developers and advocates should work together to promote "green" developments on in-fill sites in existing cities, suburbs, and small towns, and compact, mixed-use, mixed-income developments in areas planned for new growth. Affordable housing developers are leaders in creating innovative, energy-efficient, cost-saving designs that use recyclable and low-impact materials, and in building pedestrian- and transit-oriented communities with on-site open space for use by residents and, in some cases, the general public. Local governments and property owners should be encouraged to dedicate vacant and under-utilized sites to such developers for adaptive re-use and construction of affordable housing.

\* Environmentalists and affordable housing developers and advocates should collaborate in the planning of new developments in existing urban areas so that they protect important plant and animal habitat and offer close and easy public access to open spaces, such as parks, and the health and aesthetic benefits which open space provides.

\* Environmentalists and affordable housing developers and advocates should collaborate in growth management efforts. Urban growth boundaries and other local growth control measures must take into account the need for families of all income ranges to live in decent and affordable housing within the communities of their choice. Proper zoning, land approvals, expedited processing, fee concessions, and subsidies are needed to increase the certainty and affordability of projects. Affordable housing developers and environmentalists desire to build sustainable communities that are economically viable, have a high quality of life, and preserve open countryside on the periphery.

\* Environmentalists and affordable housing developers and advocates should promote a jobs-housing balance that links affordable housing provision to job sites and transit stations, and rewards communities adding affordable housing to job-

rich areas or employers to housing-rich areas. In rural areas, building quality affordable housing in existing communities near farms, resorts, and other job centers will preserve the economic base of these communities, while preserving rural land, values, and ways of life.

\* Environmentalists and affordable housing developers and advocates should work together to advocate for reduction and clean-up of environmental hazards threatening residents and neighborhoods, and for decent, healthful, affordable housing for farmworkers.

\* Finally, environmentalists and affordable housing developers and advocates must join together in a commitment to social equity, and work for the inclusion of lower-income families in new and existing communities. Affordable housing promotes economic integration. Environmentalists can be valuable partners in efforts to achieve community acceptance, local regulations, funding, and political support for affordable housing that builds a just society and contributes to environmental protection. Likewise, affordable housing providers can be valuable partners in supporting new parks, natural resource protection, agricultural land preservation, public transit, and other environmental and community assets.

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California Department of Housing and Community  
Development  
California Coalition for Rural Housing

# Lawl Thins Populations of Older Suburbs

## Rapid Development at Fringes Is Leaving Hollowed-Out Cores

By PETER GRANT

Staff Reporter of THE WALL STREET JOURNAL

Most metropolitan regions are expanding faster than they are adding people, leaving many aging suburbs particularly in the Midwest and Northeast with thinning populations, a new Brookings Institution study finds.

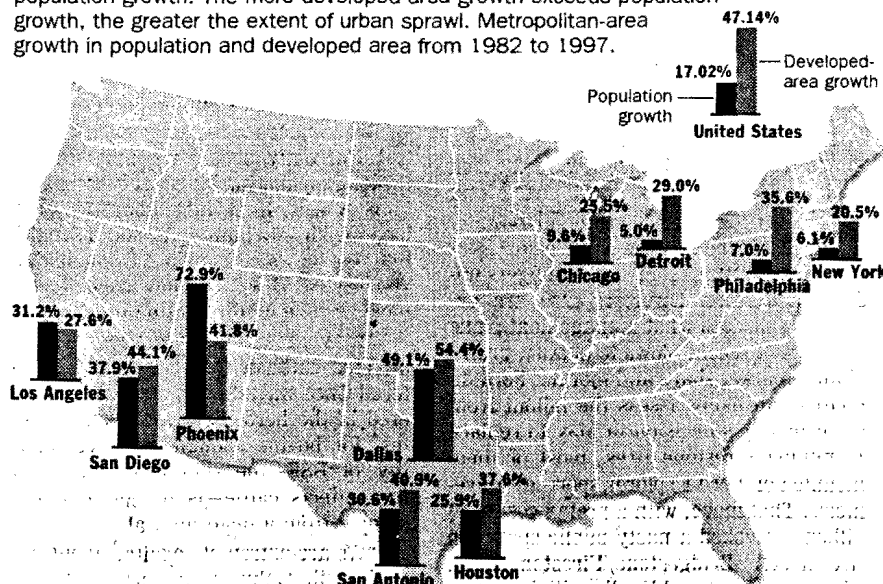
The report, to be released this week, shows that the high rate at which U.S. land development is outstripping population growth is resulting in declining population densities in all but 17 of the 281 metropolitan areas examined. The findings promise to fuel a debate over the effects of sprawl that has been gathering intensity for the past five years.

Between 1982 and 1997, about 25 million acres of farmland and open space, roughly the size of Indiana, was developed in metropolitan areas, according to an analysis of Agriculture Department statistics by Brookings. That is a 47% increase in developed land, during a period when the population in those areas rose 17%, the study says.

This disparity reflects the centrifugal force at work in most metropolitan areas. While some cities such as Chicago and Boston have been successful at attracting more residents, the prevalent land-use pattern in the country remains growth at the fringes at the expense of core regions and inner suburbs, Brookings analysts say. Fueled by a range of economic and social forces, this trend is putting at risk scores of communities, which are facing the same kind of flight of capital and people that devastated the inner cities in the

### Centrifugal Force

Urban sprawl can be measured by comparing developed-area growth to population growth. The more developed-area growth exceeds population growth, the greater the extent of urban sprawl. Metropolitan-area growth in population and developed area from 1982 to 1997.



Source: The Brookings Institution

1960s and 1970s.

"What you're doing is undermining the core," says Bruce Katz, director of Brookings's Center on Urban & Metropolitan Policy. "You're weakening the older communities."

The sprawl issue has been gathering intensity. Frustrated over traffic, disap-

pearing open space and other problems, a growing number of states and local governments have been enacting more restrictive land-use regulations. In recent elections, voters approved numerous measures to preserve open spaces.

Surprisingly, the study found that the

*Continued From Page A2*

decline in density is much greater in Midwestern and Northeastern urban areas than those in Western parts of the country most synonymous with sprawl, such as Los Angeles and Phoenix. Those fast-growing areas expanded, but the growth in land use has generally kept pace with population growth.

In fact, density in the Los Angeles region grew 2.8% between 1982 and 1997, as its developed area grew by 27.6% and its population swelled by 31.2%. Phoenix became 21.9% denser while Las Vegas's density increased 50.8%. Development in many of these regions is being hemmed in by physical barriers such as mountains and government-owned land or water-access issues.

Not facing these constraints, Midwestern and Northeastern metropolitan areas have sprawled at a greater rate. For example, Toledo, Ohio's population grew only 0.3%, but its developed area increased 30%. The Pittsburgh area's population declined 8% while its urbanized land grew 42.6%. "If you're in Pennsylvania or Ohio or Michigan, there's nothing to stop sprawl. There's no mountain or river or endangered-species areas," Mr. Katz says.

Many booming regions in the South also witnessed declining density between 1982 and 1997, because they sprawled at a much faster rate than their population

grew. Atlanta's developed area increased more than any other region in the country, growing 81.5%, or 571,000 acres, about three quarters of the size of Rhode Island. During the same 15 years, the Atlanta region's population also spurted, but at a smaller 60.8%.

The declining population density in most U.S. metropolitan regions bolsters the argument that population pressure is only one of the causes of sprawl. Many analysts of U.S. land-use patterns say sprawl also is a product of other forces, including race relations, transportation planning, land speculation, school-financing systems, the movement of jobs from core areas to employment centers outside of cities and competition among municipalities for tax revenue.

Home builders say they build on the fringes largely in response to demand from people seeking the American dream of large homes with big yards. "The quandary we face is that demand is still predominantly for single-family detached homes," says Gary Garczynski, spokesman for the National Association of Home Builders on the smart-growth issue. "People are not enamored by density."

Whatever the causes of declining density, it is draining people, businesses and investment from communities that are losing population to the newer fringe suburbs. Many cities, particularly in the Northeast and Midwest, are surrounded

by blighted areas that 30 and 40 years ago looked like classic all-American suburbs.

One of these is Harvey, Ill. Once known as "the gateway to the south suburbs" of Chicago, it has been hammered by a loss of jobs, stores and people. Harvey's population, which has dropped to 30,500 from 34,636 in 1970, is today mostly low income. Its prize Dixie Square Mall, one of the first enclosed malls in the nation, was shuttered in 1979 and is now the site of the city police headquarters and jail.

There is little hope of recovery, because once a community starts spiraling downward, its property-tax rate tends to rise to make up for the decline in real-estate values and the loss of businesses. Harvey's most recent tax rate was 14.31% to 15.79% of the assessed valuation, compared with 5.59% in Inverness, an affluent Chicago suburb.

Other communities that are near the bottom of the spiral include East Cleveland, Ohio; Darby Township, outside of Philadelphia; and Black Jack, Mo., a suburb of St. Louis, according to Myron Orfield, executive director of the Metropolitan Area Research Corp., a Minneapolis think tank that studies sprawl. Scores of others are at varying stages of decline. Mr. Orfield says that 40% of the population in the 25 largest metropolitan areas live in such "at risk" suburbs.

"It's like the country is building new cities to escape itself, and it can't afford to," Mr. Orfield says.

# Controlling CO<sub>2</sub>: Is There a Handle?

By Ken Ball

**T**his article is unlikely to change any minds as to the best long term plans regarding CO<sub>2</sub> emissions. Hopefully, the information may help raise the caliber of arguments to be nearly as intelligent as they are passionate.

Whether or not George W. Bush welched on a campaign promise with respect to CO<sub>2</sub> emissions is of no concern here.

What has become more bothersome in this largely political debate has been a widespread lack of defining (or perhaps understanding) the CO<sub>2</sub> concerns along with some reasonably related intended goal or accomplishment to be derived by proposed corrective actions.

Most people would like to curb atmosphere emissions of all gases and vapors associated with burning fossil fuels. But, regardless of how emotional we get as environmentalists, stopping CO<sub>2</sub> from all American fossil-fueled power plants may not have any significant effect on the destiny of our earth's atmosphere. CO<sub>2</sub> could well be a part of nature that man just can not control.

In fact, the real fear of increased CO<sub>2</sub> -- global warming -- can be totally offset or eclipsed by volcanos or a climate change due to a more active 11 year sunspot cycle or due to a phase of the 23,000 to 41,000 year earth axis wobble or orbit tilt, or combinations thereof. Unfortunately, if such a change occurred, we would never know that we were doing good or were on the right track regarding control of CO<sub>2</sub> emissions.

The most logical statement is that our climate will change with or without CO<sub>2</sub> controls and that the earth will get warmer or colder sometime in the future. Any or all could happen; but it is not suggested that we just sit back and await some natural fate. Rather, we should take another look at priorities and utilize all the science we have.

First of all CO<sub>2</sub> is a tasteless, odorless natural compound which was well ensconced in the earth's atmosphere long before man or mammals appeared. It is necessary for plant life and thereby is a vital part of our food chain. In times past, the concentration was higher as it always has been the source of carbon fixed in plants, including those eventually forming fossil fuels.

About a hundred years ago, the concentration was in the 300 ppm (by volume) range and that has increased to roughly 350 ppm, about a 17% increase overall. However, the rates of increase have been greater since 1970 and the increased rates do appear to correlate with the exponential growths in population and energy consumption.

## Natural CO<sub>2</sub> Dynamics

CO<sub>2</sub> in the atmosphere poses a quite dynamic mass transfer phenomena. Nearly all life, plant and animal, consume carbohydrates in quite similar energy generation processes which produce CO<sub>2</sub> as by-products. Plants, however, also assimilate CO<sub>2</sub> from the atmosphere to form carbohydrates, such as starches, sugars and cellulose. And, in this same manner, tend to buffer the amounts of CO<sub>2</sub> their respiration and other sources emit into the air.

As soon as plants die, their rotting and decomposition only add to the CO<sub>2</sub> content. Topsoil is almost lifelike matter and transform animal and plant debris into chemical forms suitable for root uptakes and next generation growth. The massive global amounts of plant life and topsoil

5.7 x 10<sup>16</sup> tons of air surround our globe.

Assuming an evenly distributed CO<sub>2</sub> concentration of 350 ppm, this equates to roughly 3 x 10<sup>13</sup> tons of CO<sub>2</sub> as a component of our atmosphere.

World energy consumption is running about 382 Quads (a quad being a quadrillion or 10<sup>15</sup> BTUs). Approximately 80% comes from fuel combustion and average amounts of CO<sub>2</sub> produced per million BTUs are 116 lbs of CO<sub>2</sub> for gas, 162 lbs for refined oil, and 210 lbs for coal. Weighing the relative amounts consumed, a reasonable average for all fossil fuels should be close to 170 lbs per million BTUs. The amount of CO<sub>2</sub> dumped into the air worldwide is then roughly 32 billion tons annually. Or, the annual CO<sub>2</sub> loading from fossil fuels amounts to about 0.1% increase per year if the atmosphere loss processes are unchanged.

## Some Emission Perspectives

For comparative purposes, a listing of CO<sub>2</sub> emissions has been tabulated. The data has been extracted from several sources and there are no claims for any high degree of accuracy. But, the data selected did correspond reasonably well and is felt to be suitably representative.

The table provides a perspective of the relative quantities of CO<sub>2</sub> being emitted into the atmosphere. The "Soil and Vegetation" amounts are offset by plant photosynthesis. Similarly, the ocean emissions are offset by ocean absorption.

### Atmospheric CO<sub>2</sub> Data in U.S. Tons

CO <sub>2</sub> in the earth's atmosphere	5.7 x 10 <sup>13</sup> tons
CO <sub>2</sub> emitted by global soil and vegetation	4.7 x 10 <sup>11</sup> tons/yr
CO <sub>2</sub> emitted by the world's oceans	3.6 x 10 <sup>11</sup> tons/yr
CO <sub>2</sub> emitted globally from fossil fuels	3.2 x 10 <sup>10</sup> tons/yr
CO <sub>2</sub> emitted by world's fossil fuel power plants	7.4 x 10 <sup>9</sup> tons/yr
CO <sub>2</sub> emitted by global transportation	5.6 x 10 <sup>9</sup> tons/yr
CO <sub>2</sub> emitted by American power plants	2.3 x 10 <sup>9</sup> tons/yr
CO <sub>2</sub> emitted by the world population breathing	3.3 x 10 <sup>9</sup> tons/yr

The point of these listings is to indicate the large amounts involved in these processes, roughly two orders of magnitude beyond those from fuel combustion. Obviously, a few percentage points in ocean or soil uptakes or emissions can overwhelm increases or reductions in combustion emissions.

The table also indicates that little will be accomplished by restricting emissions from American power plants or even from all industrialized nations' power plants as was proposed at Kyoto. But, we should, and must, begin somewhere. It turns out that the best 'somewhere' is in improved energy efficiencies in industry, residential/commercial heating, autos and power generation. The second 'somewhere' is to become less timid in honestly assessing the people problem.

It is disconcerting that among popular "save-the-planet" causes, no one seems willing to address the problem of population. Every person is a small heat engine inhaling 350 ppm of CO<sub>2</sub> with every breath and exhaling about 5.26% or 52,600 ppm. Using an average oxygen consumption rate based on a day of sleeping and light-to-moderate activities, the world's 6 billion people will dump some 3.3 x 10<sup>9</sup> tons of CO<sub>2</sub> into the atmosphere in 2001.

As significant as our collective breathing is becoming, developed countries per capita consumption of energy also warrants consideration. Protrating American energy usage, each American consumes about 340 million BTUs annually, plus tons of food and goods. Each morsel of prepared food or plastic toy

campaign promise with respect to CO<sub>2</sub> emissions is of no concern here.

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As soon as plants die, their rotting and decomposition only add to the CO<sub>2</sub> content. Topsoil is almost lifelike matter and transform animal and plant debris into chemical forms suitable for root uptakes and next generation growth. The massive global amounts of plant life and topsoil actually produce much more CO<sub>2</sub> than man does.

The vast oceans play a similar role. CO<sub>2</sub> is moderately soluble in water (0.002 lbs per lb at 60°F) but is not very stable, as anyone whose beer or soda has gone flat realizes. The oceans are full of life with huge amounts of phytoplankton in the surface waters. Oceans actually absorb and dump massive amounts of CO<sub>2</sub> from and into the atmosphere, amounts in the range of that emitted by the world's plant life and topsoil combined.

Whether from natural or fossil fuel combustion sources, enormous amounts of CO<sub>2</sub> are involved and it would seem logical to get some sort of handle on the relative quantities. Some-

gas, 162 lbs for refined oil, and 210 lbs for coal. Weighing the relative amounts consumed, a reasonable average for all fossil fuels should be close to 170 lbs per million BTUs. The amount of CO<sub>2</sub> dumped into the air worldwide is then roughly 32 billion tons annually. Or, the annual CO<sub>2</sub> loading from fossil fuels amounts to about 0.1% increase per year if the atmosphere loss processes are unchanged.

#### Some Emission Perspectives

For comparative purposes, a listing of CO<sub>2</sub> emissions has been tabulated. The data has been extracted from several sources and there are no claims for any high degree of accuracy. But, the data selected did correspond reasonably well and is felt to be suitably representative.

The table provides a perspective of the relative quantities of CO<sub>2</sub> being emitted into the atmosphere. The "Soil and Vegetation" amounts are offset by plant photosynthesis. Similarly, the ocean emissions are offset by ocean absorption.

#### Atmospheric CO<sub>2</sub> Data in U.S. Tons

CO <sub>2</sub> in the earth's atmosphere	5.7 x 10 <sup>13</sup> tons
CO <sub>2</sub> emitted by global soil and vegetation	4.7 x 10 <sup>11</sup> tons/yr
CO <sub>2</sub> emitted by the world's oceans	3.6 x 10 <sup>11</sup> tons/yr
CO <sub>2</sub> emitted globally from fossil fuels	3.2 x 10 <sup>10</sup> tons/yr
CO <sub>2</sub> emitted by world's fossil fuel power plants	7.4 x 10 <sup>9</sup> tons/yr
CO <sub>2</sub> emitted by global transportation	5.6 x 10 <sup>9</sup> tons/yr
CO <sub>2</sub> emitted by American power plants	2.3 x 10 <sup>9</sup> tons/yr
CO <sub>2</sub> emitted by the world population breathing	3.3 x 10 <sup>9</sup> tons/yr

The point of these listings is to indicate the large amounts involved in these processes, roughly two orders of magnitude beyond those from fuel combustion. Obviously, a few percentage points in ocean or soil uptakes or emissions can overwhelm increases or reductions in combustion emissions.

The table also indicates that little will be accomplished by restricting emissions from American power plants or even from all industrialized nations' power plants as was proposed at Kyoto. But, we should, and must, begin somewhere. It turns out that the best 'somewhere' is in improved energy efficiencies in industry, residential/commercial heating, autos and power generation. The second 'somewhere' is to become less timid in honestly assessing the people problem.

It is disconcerting that among popular "save-the-planet" causes, no one seems willing to address the problem of population. Every person is a small heat engine inhaling 350 ppm of CO<sub>2</sub> with every breath and exhaling about 5.26% or 52,600 ppm. Using an average oxygen consumption rate based on a day of sleeping and light-to-moderate activities, the world's 6 billion people will dump some 3.3 x 10<sup>9</sup> tons of CO<sub>2</sub> into the atmosphere in 2001.

As significant as our collective breathing is becoming, developed countries per capita consumption of energy also warrants consideration. Prorating American energy usage, each American consumes about 340 million BTUs annually, plus tons of food and goods. Each morsel of prepared food or plastic toy has an associated CO<sub>2</sub> cost, as does the clearing of each acre of land.

Agricultural advances and projections imply that the world's resources can feed perhaps 12 billion people or more. But, can the earth handle the wastes and trash? Should we be thinking about some approaches that will better assure a quality of life for people and posterity worldwide. In the shorter term, could we reduce vehicle miles in some non-onerous manner by 20%? What about really encouraging zero or negative population growth? Some such approaches seem to make more sense, physically and economically. A nationwide campaign to slightly reduce emissions from certain fossil fueled power plants