

NIPOMO COMMUNITY SERVICES DISTRICT

AGENDA

MAY 14, 2003

REGULAR MEETING 9:00 A.M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

MICHAEL WINN, PRESIDENT
JUDITH WIRSING, VICE PRESIDENT
ROBERT BLAIR, DIRECTOR
CLIFFORD TROTTER, DIRECTOR
LARRY VIERHEILIG, DIRECTOR

STAFF

DOUG JONES, GENERAL MANAGER
JON SEITZ, GENERAL COUNSEL

Sumner
15³⁰
-
18²⁰

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson. Consistent with the Americans with Disabilities Act, NCSD Board agendas and other writings will be made available to disabled persons in an appropriate alternate format. (If assistance is needed, please contact the District office at least one day before the meeting.)

A. CALL TO ORDER AND FLAG SALUTE

NEXT RESOLUTION 2003-861

B. ROLL CALL

NEXT ORDINANCE 2003-97

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) CONSIDER ALTERNATIVE SEWER SERVICE-TRACT 1802 AND 1856 (TRINCON)

Review alternative to eliminate on-site sewer design and utilize District's WWTP to serve Tract 1802 and 1856

D-2) REVIEW CONCEPT DRAFT ANNEXATION AGREEMENT

Review concept draft annexation agreement based on the District's new annexation policy

D-3) MEMORANDUM OF AGREEMENT FOR SERVICES

Request by President Winn to review possible Memorandum of Agreement with SLO County regarding Sphere of Influence

D-4) REVIEW POSSIBLE FORMATION OF NCSD ADVISORY GROUP

Request by President Winn to review possible formation of NCSD Advisory Group

D-5) APPROVAL OF CONTRACT FOR INCORPORATION FEASIBILITY STUDY

Review and approval of contract with The Davis Company to perform an incorporation feasibility study

D-6) DISTRICT INSTALLED SEWER LINE REIMBURSEMENT FEE

Second reading and adoption of Ordinance establishing District installed sewer line reimbursement fee

E. OTHER BUSINESS

E-1) AMENDING DISTRICT BY-LAWS

Consider change of Board meeting time to 9:30 a.m. from 9:00 a.m.

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 April 21, 2003, Special Board meeting

Minutes of April 23, 2003, Regular and Special Board meeting

F-3) TEFFT STREET WATER LINE PROJECT [RECOMMEND APPROVAL]

Filing the Notice of Completion

G. MANAGER'S REPORT

G-1) REQUEST BY JIM KINNINGER TO AGENDIZE LATENT POWER OF PARK & RECREATION

G-2) BOARD OF DIRECTOR INTERVIEWS WITH THE DAVIS COMPANY

H. COMMITTEE REPORTS

I. DIRECTORS COMMENTS

I-1) UCLA SEMINAR

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

A. SMVWCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.

B. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR - DOUG JONES, CONFERENCE WITH NEGOTIATOR GC§54956.8 COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE

C. ANTICIPATED/INITIATE LITIGATION, ONE CASE

ADJOURN

The regular meeting of May 21, 2003 has been canceled.
The meeting has been rescheduled to Wednesday, May 28, 2003.

Copy of document found at www.NoNewWipTax.com

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

**AGENDA ITEM
D-1
MAY 14, 2003**

CONSIDER ALTERNATIVE SEWER SERVICE – TRACT 1802 AND 1856 (TRINCON)

Attachments:

1. Request for Annexation
2. Resolution No. 2002-806 adopting a Mitigated Negative Declaration for the Maria Vista Annexation
3. A January 15, 2003 letter from the California Regional Water Quality Control Board
4. An April 29, 2003 letter from Michael Hodge to the Nipomo Community Services District requesting this item be placed on the Board's Agenda.

ITEM

Consider alternative sewer service – Tract 1802 and 1856 (Trincon)

BACKGROUND

On October 3, 2001, Trincon, Inc. executed an Amended Annexation Agreement ("Agreement") with NCSD. The Agreement was primarily based on the District providing water service to the Maria Vista development. Sewer service was to be provided by the District by operating and maintaining a community on-site septic system.

To facilitate the Annexation, NCSD contracted with Douglas Wood & Associates, Inc. to prepare the environmental review. Mr. Wood's review involved two elements: 1) extension of a twelve-inch water supply line from these tracts to the existing boundary and 2) activation of two existing wells in order to contribute to the NCSD water supply facilities and offset the water use for the area of Annexation.

On January 23, 2002, after numerous public hearings the Board of Directors adopted Resolution 2002-806 which adopted a Mitigated Negative Declaration for the water main extension and the activation of the Dana Wells to serve the Annexation.

The Annexation is now complete and the Maria Vista Tract is now located within the District boundary.

On January 15, 2003, Michael Hodge of EDA (Engineer for Maria Vista Development) received a letter from the Regional Water Quality Control Board ("RWQCB") that states, "Of the approaches we discussed for wastewater disposal for these tracts, we most strongly recommend lifting the sewage to the NCSD treatment plant." (a copy of this letter is attached). On April 29, 2003, Michael Hodge requested that the sewer options for the Maria Vista Development be placed on the Board's agenda for discussion.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003
CONSIDER ALTERNATIVE SEWER SERVICE – TRACT 1802 AND 1856 (TRINCON)
PAGE 2

DISCUSSION

1. Scott Phillips from the RWQCB has been invited to attend the meeting to make a presentation to the Board to explain the Basin Plan, water quality issues and the RWQCB's request that the Maria Vista Development be connected to the District's Southland Wastewater Treatment Plant.
2. Michael Hodge of EDA has been invited to attend the meeting and make a presentation to the Board to discuss the alternate approach recommended by the RWQCB for sewer service to the Maria Vista Project.

The Board of Directors prior to making a determination should consider the following:

- Is there excess capacity in the Southland WWTP after considering build out of the current boundary?
- Is there enough flow from this project to warrant the maintenance and repair of such a line and lift station versus maintenance and repair of an on-site system?

RECOMMENDATION

Option 1

The Board of Directors deny the proposed alternative to connect to the Southland WWTP and require Trincon to install the community on-site septic tank system as originally proposed. .

Option 2

The Board of Directors approve the proposed alternative in concept to connect to the Southland WWTP and direct Staff to draft an agreement that includes the following:

1. Provide District with an Engineer's Report verifying that there is excess capacity in the Southland WWTP
2. Pursuant to CEQA, provide the District for District's approval, the Project description with Trincon to incur all costs related to Project compliance with CEQA.
3. Payment of all fees, including, but not limited to sewer capacity fees, lift station fees, plan, check and inspection fees.
4. Design and construct on-site and off-site sewer infrastructure to collect, transport and treat the wastewater, including acquisition of all easements and right-of-ways.
5. Developer to provide on-going maintenance and repair for the proposed sewer line extension.

Staff requests direction from the Board of Directors.

NIPOMO COMMUNITY SERVICES DISTRICT

Request For Annexation

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

1. Property Owner: TRINCON, INC.
Address: 124 W. MAIN ST.#C, SANTA MARIA
2. Developer: TRINCON, INC.
3. Engineer: _____
4. Assessor's Parcel Number: 090-301-018, 034
5. Location: NIPOMO, CALIFORNIA
A. Text/Legal Description: ATTACHED ALL LEGAL
DESCRIPTIONS.

B. Provide Map (attachments)
6. General Description of Project: 77. LOT SUBDIVISION
CONSISTING OF LOTS RANGING IN SIZE FROM 11,200 TO
38,355 SQUARE FEET.

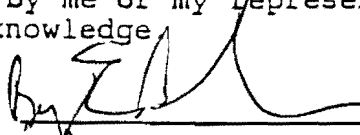
7. Services Requested from NCSD: _____
A. Water: PROVIDED BY NCSD
B. Sewer: ON SITE SEPTIC /COMMUNITY
8. Current Zoning: ONE ACRE MINIMUM
9. Identify any proposed or pending zone changes on the
property to be annexed (Ref. District Resolution
No. 197):
A. Maximum number of units based on current zoning:
77 UNITS
B. Maximum number of units based on proposed zoning:
77 UNITS
10. Proposed number of Residential Units: 77 UNITS
(Describe phased construction plan if applicable)
N/A

11. If non-residential use, provide information as to number of plumbing fixtures, manloading, intended use, etc. (Describe phased construction plan if applicable):
N/A
-
12. Total acreage of proposed project: 82 ACRES
13. Total acreage of proposed annexation: 82 ACRES
14. If total acreage to be annexed differs from the acreage to be developed, explain the difference:
N/A
-
15. Status of water resources available on proposed annexation acreage:
A. Quantity (pumping log and date: 100/ 05-20-89)
B. Quality (quality tests and date: _____)
C. Other information: COORDINATING AND TESTING
APPLICABLE WELLS POSSIBLY LOCATED ON ADJACENT
PROPERTY AND/OR DAWN ROAD.
D. Water resources to be dedicated to NCSD: _____
APPLICABLE WELLS
-
16. Description of existing and proposed wastewater disposal system: ONSITE SEWER SEPTIC SYSTEM DESIGN
IN ACCORDANCE WITH ENGINEER ACCORDANCE TO TITLE 19.
-
17. Reason proponents are requesting annexation: _____
-
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:  for Tricon, Inc.

Full Name: DERIK BENHAM TRICON INC.

Street Address: 124 W. MAIN ST#C, SANTA MARIA, CA

Mail Address (If different): _____

Home telephone number: (805)925-0031

Work telephone number: (805)925-0031

RESOLUTION NO. 2002-806

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A MITIGATED NEGATIVE DECLARATION AND
AUTHORIZING THE GENERAL MANAGER TO
FILE A NOTICE OF DETERMINATION FOR
THE MARIA VISTA DEVELOPMENT, TRACTS 1802 AND 1856**

WHEREAS, the Nipomo Community Services District ("District") is a community services district with limited purposes and powers as identified in Sections 61600 et seq. of the Government Code; and

WHEREAS, the Local Agency Formation Commission ("LAFCO") has conditionally approved Annexation No. 20, the Maria Vista development, which include Tracts 1802, and 1856 to be included within the District boundaries; and

WHEREAS, in order for the District to provide water service to Annexation No. 20, certain water production and water transportation facilities will require construction (herein the "Project"); and

WHEREAS, the Project will include the construction of a water line in Orchard Road to Annexation No. 20 and the completion of two wells to be connected to the District's infrastructure in Nipomo, California. Said Project is more fully described in the initial study prepared by Douglas Woods and Associates and Garing and Taylor and Associates ("Initial Study"). The Initial Study, including the detailed description of the Project is incorporated herein by reference; and

WHEREAS, California Environmental Quality Act (CEQA) requires the District to assess the impact of the Project on the environment, circulate such assessment and hold a public hearing on the findings thereof; and

WHEREAS, the Initial Study proposes that a Mitigated Negative Declaration be approved. The analysis and findings of said Initial Study are incorporated herein by reference; and

WHEREAS, public notice of the proposed negative declaration was given as required by Section 21092 of the Public Resource Code; and

WHEREAS, on Wednesday, December 12, 2001, the District held a Public Hearing on the proposed Mitigated Negative Declaration, reviewed written comments, and accepted public testimony regarding the proposed Mitigated Negative Declaration. The Public Hearing on the proposed Mitigated Negative Declaration was continued; and

WHEREAS, on Wednesday, January 23, 2002, the District held a second Public Hearing on the proposed Mitigated Negative Declaration, reviewed written comments, and accepted public testimony regarding the proposed Mitigated Negative Declaration; and

WHEREAS, the hearings on this Project have been appropriately noticed under the Brown Act and the California Environmental Quality Act; and

RESOLUTION NO. 2002-806

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING A MITIGATED NEGATIVE DECLARATION AND
AUTHORIZING THE GENERAL MANAGER TO FILE A NOTICE OF DETERMINATION FOR
THE MARIA VISTA DEVELOPMENT, TRACTS 1802 AND 1856

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WHEREAS, based on the information contained in the Initial Study prepared for the Project, the proposed mitigation measures, the staff report, and testimony received as a result of the public notice, the District, using its own independent and objective judgment, finds that all potentially significant effects of the Project on the environment can and will be avoided or mitigated to a level of insignificance by imposing the mitigation measures identified in the Initial Study and imposing the mitigation measures identified in the independent study of cultural resources.

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

1. That the Board of Directors of the Nipomo Community Services District, based on the Board of Directors independent judgment does hereby approve and adopt a Negative Declaration for the Maria Vista Tract Project, including the adoption of the mitigation measures identified in the Initial Study and the mitigation measures identified in the independent study of cultural resources.
2. The General Manager is authorized to file a Notice of Determination in compliance with Section 21108 and/or 21152 of the Public Resource Code and the State Department of Fish & Game, Certificate of Fee Exemption.
3. The above Recitals are true and correct and incorporated into the Order by reference.

PASSED AND ADOPTED by the Board of Directors of the Nipomo Community Services District this 23rd day of January, 2002, on the following roll call vote:

AYES: Directors Blair, Winn, Trotter, and Mobraaten

NOES: Director Wirsing

ABSENT: None

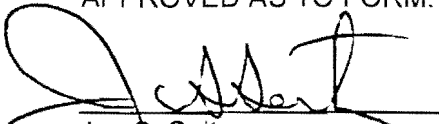
ABSTAIN: None


RICHARD MOBRAATEN, President
Nipomo Community Services District

ATTEST:


Donna K. Johnson
Secretary to the Board

APPROVED AS TO FORM:


Jon S. Seitz
District Legal Counsel



California Regional Water Quality Control Board Central Coast Region



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov>
81 Higuera Street, Suite 200, San Luis Obispo, California 93401-5427
Phone (805) 549-3147 • FAX (805) 543-0397

Gray Davis
Governor

January 15, 2003

Michael Hodge
EDA
1998 Santa Barbara St.
San Luis Obispo, CA 93401

Dear Mr. Hodge;

TRACTS 1802 AND 1856 DEVELOPMENT WITHIN NIPOMO COMMUNITY SERVICES DISTRICT, SAN LUIS OBISPO COUNTY

In response to your December 16, 2002 letter and our earlier discussions regarding your tentative wastewater disposal plans for Tracts 1802 and 1865, we have a few comments for your consideration.

Of the approaches we discussed for wastewater disposal from these tracts, we most strongly recommend lifting the sewage to the Nipomo Community Services District (NCSD) treatment plant. It has historically been the Regional Board's policy not to recommend projects that will require exemptions from standard policy. Furthermore, the Basin Plan states its standard policy in its Management Principles on page V-5, Section III.B.2.:

"The number of waste sources and independent treatment facilities shall be minimized and the consolidated systems shall maximize their capacities for wastewater reclamation..."

In other words, we would highly encourage using the existing treatment facilities in the vicinity of your development before considering other means of disposal.

If after thorough searching of all options, the final design is to use an onsite treatment system, it will require drafting waste discharge requirements for Regional Board consideration in order to discharge. This process can be lengthy and requires the public hearing process. Though historically the Regional Board has issued this type of waste discharge requirements for similar centralized leachfield systems, before doing so we want to be sure that all other more regional approaches have been thoroughly explored.

Finally, though we would not encourage continued distributed treatment solutions on the Nipomo Mesa, individual treatment systems may be also be used, if they meet Basin Planning siting criteria. The regulation of individual and small cluster treatment systems would be coordinated through the San Luis Obispo County Department of Planning and Building. A memorandum of understanding between the County and the Regional Board provides more local regulation of this scale of wastewater disposal and ensures that water quality impacts are minimized through the application of the Basin Plan.

California Environmental Protection Agency



Michael Hodge

January 15, 2003

If you have any further questions, please call Scott Phillips at (805) 549-3550 or Gerhardt Hubner at (805) 542-4647.

Sincerely,



for Roger W. Briggs
Executive Officer

C.c.
Doug Jones
Nipomo Community Services District
P.O. Box 306
Nipomo, CA 93444

Pat Beck or Forrest Wermuth
County Department of Planning and Building
County Government Center
San Luis Obispo, CA 93406

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Task:12101
File:Pismo

California Environmental Protection Agency



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April 29, 2003

Nipomo Community Services District (NCSD)
148 South Wilson
Nipomo, Ca. 93444

Attention: Doug Jones
Re: Sewer Options for Tracts 1802 and 1856

Dear Doug:

Please schedule tracts 1802 and 1856 on your May 7th Board agenda for discussion of on-site (leach fields) or off-site (sewage treatment plant) sewage disposal.

Sincerely,

Michael Hodge, P.E. #34804

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

**AGENDA ITEM
D-2
MAY 14, 2003**

ANNEXATION AGREEMENT

ITEM

Review concept draft annexation agreement based on the District's new Annexation Policy

BACKGROUND

Your Honorable Board has adopted a new Annexation Policy, which differs substantially from the previous one. Therefore, staff has prepared a concept draft annexation agreement for the Board's review. Please note that this draft is based on the assumption that the proposed annexation overlies sufficient groundwater resources and that the District has adequate water resources to serve the project pending acquisition of supplemental water. If a request for annexation does not meet these assumptions, the agreement would have to be modified accordingly.

District legal counsel, Jon Seitz, will review the concept draft agreement with the Board.

RECOMMENDATION

After your Honorable Board reviews the concept draft annexation agreement, staff recommends that Board comments be incorporated into the agreement.

Board 2003/Annex Agreement.DOC

Drafting Notes:

- Draft Agreement assumes property overlies sufficient groundwater resources (Policy IV applies)
- Staff comments are bolded.
- Draft Agreement assumes District has adequate water resources to serve Project pending acquisition of supplemental water – Policy IV E (2) applies.

**Concept Draft for
Board of Director Approval
05-14-03**

RECORDING REQUEST BY AND
WHEN RECORDED RETURN TO:
NIPOMO COMMUNITY SERVICES DISTRICT
P.O. Box 326
Nipomo, CA 93444

DRAFT

APN# _____

- Exhibit "A" – Legal Description of Property
- Exhibit "B" - District Annexation Policy
- Exhibit "C" - Hourly Rates for District Staff and Consultants

ANNEXATION AGREEMENT AND
PETITION TO FORM ZONE OF BENEFIT
BETWEEN THE NIPOMO COMMUNITY SERVICES DISTRICT
AND

THIS AGREEMENT, made this ___ day of _____, 2003 by and between the Nipomo Community Services District, (herein referred to as District), and _____, a _____, (herein referred to as ("Applicant")), with reference to the following recitals.

RECITALS

A. Applicant is the fee title owner of certain real property (herein the "Property" or the "Area of Annexation") located at _____, otherwise known as Tract _____. The subject Property is approximately ___ acres in area, is _____. The Property is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

B. The Property is located outside the District's Sphere of Influence as established by the Local Agency Formation Commission ("LAFCO"). Further LAFCO is in the process of updating the District's Sphere of Influence.

Comment: Subject to LAFCO's current Sphere of Influence Study and Determination.

C. Applicant desires to annex the Property into the District. The annexation process is referred to herein as the "Project".

D. The Project will be processed in accordance with this Agreement and the District's Annexation Policies attached hereto as Exhibit "B".

E. The cost of processing the Project includes District costs (including legal, engineering, environmental assessment and administrative costs) and Local Agency Formation Commission (LAFCO) costs (including administrative costs and environmental assessment costs). Applicant acknowledges responsibility for payment of the District and LAFCO costs.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Project Description:

The Project shall consist of the Annexation of approximately _____ acres to be developed into _____ residential _____ multi-family, and _____ commercial parcels.

Comment: Describe number of residential units, commercial units and open space units to determine supplemental water charge of ten thousand dollars (\$10,000) per residential equivalency.

2. Water Service Limitations:

The District's obligation to provide water service to the Area of Annexation and parcels therein is limited to the number of residential units/multi-family units and commercial units identified in paragraph 1 above. Additional water service to the Area of Annexation will require a written agreement and shall be based on the availability of and payment for supplemental water.

DRAFT

3. Groundwater Resources:

The proposed Area of Annexation does/does not overlie sufficient groundwater resources.

Comment: See Policy IV. If Applicant disputes District's determination, then pursuant to Section VI of the Annexation Policy the Applicant shall pay the District to perform reliability tests.

4. District Processing Costs:

A. At the time of execution of this Agreement, Applicant shall deposit with the District the sum of _____ dollars for District services more particularly described in Recital E above. The Applicant authorizes the District to withdraw from the deposit payment for services pursuant to this Agreement as they are incurred by District.

District will notify Applicant whenever the deposit is reduced to \$ _____ or less. Within 15 days after such notification is mailed, Applicant shall make an additional deposit in the same amount as the initial deposit.

B. Upon completion of the annexation, any funds deposited by Applicant in excess of the District's costs shall be refunded to the Applicant. Conversely, any costs incurred by the District over and above the amount requested by Applicant shall be paid by Applicant upon demand.

5. Payment of District's Fees and Charges

A. Annexation Fees: Prior to final LAFCO approval of the proposed Annexation Applicant shall deposit with District the sum of _____ (\$ _____) representing the District's Annexation fees.

B. District Connection and Capacity Charges: Prior to recording the final map or providing District services, whichever occurs first, Applicant shall pay District, District's then established connection and capacity charges for District services. The District's water capacity charge shall be reduced by that portion attributed to well production.

DRAFT

C. Supplemental Water Charges: Prior to final LAFCO approval Applicant shall deposit with the District the sum of _____ or equivalent securities acceptable to the District to be applied to District administrative and consultant costs in acquiring supplemental water and to offset costs of supplemental water.

6. Obligations of Applicant: In addition to the obligations of Applicant referenced in this Agreement, the Applicant shall have the following additional obligations:

A. Provide information, studies and proposals as requested by District for analysis, processing and/or approvals.

B. At Applicant's sole cost, Applicant shall promptly and diligently process the Project through LAFCO. If annexation has not been completed within _____ months from the date of this Agreement, the District shall have the right to terminate this Agreement at any time thereafter, unless such time for completion is extended by written agreement. Such extension must be requested in writing by the Applicant prior to the expiration of said _____ month period. If the Agreement is terminated the District shall have no further obligation under this Agreement. Upon termination the District shall refund any deposits made by Applicant which have not been used by the District prior to the date of termination.

Comment: The number of months would depend on the nature of the Project and whether or not LAFCO has adopted a new SOI.

C. Pursuant to District's Standard Plan Check and Inspection Agreement, design and construct, at its sole cost, water infrastructure, sewer infrastructure and other infrastructure improvements to be dedicated to the District, to the Area of Annexation and the development contained therein.

D. Applicant shall, be responsible for determining whether the infrastructure improvements to be constructed pursuant to subparagraph C above, require the payment of prevailing wages and if so, Applicant shall to the extent required by the California Labor Code, pay no less than the applicable prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the wage determination are on file at the District's office or are otherwise available on the Web at www.cslb.ca.gov.

DRAFT

E. Comply with all conditions placed on the Project by LAFCO.

7. Obligations of District:

Applicant and the District understand and agree that processing the Project by the District and the LAFCO will require many discretionary approvals. Therefore, there are no promises or guarantees that the Project will be successfully processed/approved by the District and/or LAFCO.

In the event that the Project is withdrawn or not approved, then the District will return the unused deposit to Applicant as provided in Section 3B, above.

District staff time and consultant time will be charged at the rates described in Exhibit "C", attached hereto. If environmental consultants are required by District then Applicant shall be responsible for payment of such costs.

8. Delivery of Water Service

The District's current water resources are adequate to supply the Area of Annexation consistent with the service levels identified in paragraph 1 above. The District will provide water to the Area of Annexation upon LAFCO's final approval and the District's acceptance of infrastructure improvements.

Comment: The District may consider the following options related to this Section:

1. **Require the Applicant to pay for independent engineering analysis to determine whether or not the District has excess capacity to serve the Area of Annexation particularly for large scale annexations; or**
2. **Rely on the District's water management plan (yet to be approved) to determine availability of water resources.**
3. **Delay water service until delivery of supplemental water.**

9. Dedications and Covenants: Applicant hereby promises, agrees and covenants not to pump water from wells that draw from the groundwater basin underlying the Area of Annexation for non agricultural uses consistent with the following:

A. District customers that connect to the District's water system may continue to pump for agriculture related uses on individual parcels within the Area of Annexation, subject to any limitations imposed by a Court or other agency with jurisdiction;

Or

B. Subject to the payment of the financial obligations referenced in Section 4A, B, and C of this Agreement and further subject to any limitations imposed by a Court or other agency with jurisdiction, District residents who do not receive District water service may:

- Continue using existing well production for existing residential and commercial use on individual parcels; and
- Continue to pump for agricultural related uses on individual parcels.

Comment: Staff would work with Applicant to refine A or B.

10. Petition to Establish Zone of Benefit: Pursuant to §61700 et seq. of the Government Code, Applicant hereby petitions the District to form a Zone of Benefit as follows:

A. The boundaries of the zone shall be co-terminus with the Area of Annexation.

B. The purpose of the zone of benefit is for fixing and collecting special rates for furnishing supplemental water to the Area of Annexation.

11. Rate Covenants: Applicant hereby covenants and agrees on behalf of Applicant and future residents and property owners within the zone established by Section 9, above to pay special water rates and charges within the zone for providing supplemental water. Said rates and charges shall provide for:

- Full capital recovery for the purchase of supplemental water including administrative costs, CEQA costs, administrative costs, engineering costs, legal costs, and capital improvement costs; and
- Eighty percent (80%) of the operation and maintenance costs of the capital infrastructure referenced in the above paragraph.

12. Customer of the District: Upon annexation the residents and commercial users within the Area of Annexation shall become "regular customers" of the District with no greater entitlements to water service than any other District resident.

13. Indemnification and Hold Harmless

To the extent allowable by law, Applicant agree to hold District harmless from costs and expenses, including attorneys' fees, incurred by District or held to be the liability of District in connection with District's defense of its actions in any proceeding brought in any State or Federal court challenging the District's actions with respect to the project. Applicant understands and acknowledges that District is under no obligation to defend any legal actions challenging the District's actions with respect to The Project.

The Applicant recognizes and hereby agrees that the District and its directors, officers, employees and agents shall not be liable for any injury or death to any person or damage to any property arising from the performance of any work required hereunder by the Applicant, its officers, employees, independent contractors or agents. The Applicant shall protect, indemnify and hold the District harmless from any and all claims, causes of actions, demands or charges and from any loss or liability, including all costs, penalties, expenses, attorney's fees, litigation costs, and other fees arising out of or in any way connected with the performance or with the failure to perform under this Agreement by Applicant, its officers, employees, independent contractors or agents, including, but not limited to, the construction of the Project. In addition, if the District, its directors, officers, employees or agents should be sued as a result of such performance, the District may notify the Applicant which then shall have the duty to defend the District, its directors, officers, employees or agents, or, at the District's option, pay for such defense including, but not limited to, payment of all reasonable attorney's fees and expenses incurred by the District, its directors, officers, employees or agents.

14. Term of Agreement and Termination

This Agreement shall become effective on the date first above written and shall remain in effect until terminated by the mutual consent of the parties or as otherwise provided in this Agreement

Further, Applicant may terminate this Agreement with fifteen (15)

days written notice to District. Termination shall not relieve Applicant of its responsibility for payment of costs incurred by District to the date of termination as provided in Section 3 of this Agreement.

15. Waiver of Rights

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

16. Entire Agreement

This Agreement is freely and voluntarily entered into by the parties after having the opportunity to consult with their respective attorneys. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. The parties, in entering into this Agreement, do not rely on any inducements, promises, or representations made by each other, their representatives, or any other person, other than those inducements, promises, and representations contained in this Agreement. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the Applicant and the District.

17. Notices

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

NIPOMO COMMUNITY SERVICES DISTRICT

Doug Jones, General Manager
Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444

APPLICANT:

18. Successors and Assigns: The District and Applicant agree that Applicant's Obligations, Agreements and Covenants contained in this Agreement shall run with the land and shall be binding upon Applicant, its heirs, successors, executors, administrators, and assigns and shall inure to the benefit of District and its successors and assigns.

19. Headings

The paragraph headings used in this Agreement are for reference only, and shall not in any way limit or amplify the terms and provisions hereof, not shall they enter into the interpretation of this Agreement.

20. Cooperation

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

21. Interpretation of this Agreement

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

contemplated by this Agreement.

22. Venue

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

23. Agreement to be Recorded: Applicant and District intend and consent to the recordation of this Annexation Agreement and Petition to Form Zone of Benefit between the Nipomo Community Services District and Applicant in the office of the County Recorder of the County of San Luis Obispo.

24. Recitals

The recitals A through D of this Agreement are incorporated herein by this reference and made a part hereof.

25. Authority to Execute Agreement :

A. Applicant represents and warrants that: (a) it is duly organized and legally existing under the laws of the State of California and is duly qualified to do business in the State of California; (b) this Agreement will constitute, legal, valid and binding obligations of Applicant enforceable in accordance with its terms; and (c) the execution and delivery of this Agreement is within Applicant's power and authority without the joinder or consent of any other party.

B. Indemnity. Applicant and the undersigned jointly and severally agree to defend, indemnify and hold the District harmless against any loss, claim, damage, liability or expense (including, without limitation, reasonable attorneys' fees) arising out of the representations and warranties of Subsection A above.

In Witness Whereof, District and Applicant have executed this

Agreement the day and year first above written.

APPLICANT:

By: _____

(Note: Signature must be notarized)

By: _____

(Note: Signature must be notarized)

DISTRICT:

By: _____

Michael Winn, President of
the District Board of Directors,

Attest:

Approved as to Form

Donna Johnson
Secretary to the Board

Jon S. Seitz,
District Legal Counsel

\\MAGUS\data\Jon\CLIENT\1NCSD\Matters\2003 Annexation Agreements F-292\Model Agreement revised 05-06-03.doc

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

**AGENDA ITEM
D-3
MAY 14, 2003**

MEMORANDUM OF AGREEMENT
FOR SERVICES

ITEM

Possible Memorandum of Agreement with SLO County limiting District services

BACKGROUND

President Winn requested this item be placed on the board agenda for consideration.

LAFCO is reviewing the District's Sphere of Influence for future services for the next 20 years. Director Winn requested that a Memorandum of Agreement with SLO County limiting District services for certain areas in this proposed Sphere of Influence, (LAFCO Study Area No. 7).

President Winn has drafted the attached Memorandum of Agreement between NCSD and the County of San Luis Obispo regarding the District's Sphere of Influence. He will review the draft with your Honorable Board.

RECOMMENDATION

At the conclusion of Board comments and public comments, staff requests direction from the Board.

Partially Adapted Version for Use as Template
DRAFT **DRAFT**

**MEMORANDUM OF AGREEMENT
BETWEEN
THE NIPOMO COMMUNITY SERVICES DISTRICT
AND THE COUNTY OF SAN LUIS OBISPO
REGARDING THE DISTRICT'S SPHERE OF INFLUENCE**

This Agreement is entered into on this _____ day of _____, 2003, by and between the Nipomo Community Services District (hereafter "District") and San Luis Obispo County (hereafter "County").

WITNESSETH

WHEREAS, the Cortese/Knox/Hertzberg Act ("the Act") requires the Local Agency Formation Commission (LAFCo) to update the Spheres of Influence for all applicable jurisdictions in the County every five years; and

WHEREAS, a Sphere of Influence is defined by Government Code 56076 as a plan for the probable physical boundaries and service area of a local agency, and pursuant to Government Code 56425 has been identified by the County of San Luis Obispo and the Nipomo Community Services District as contained in Exhibit A; and

WHEREAS, the Act further requires that a review of services be conducted prior to or, in conjunction with, the update of a Sphere of Influence and such a review has been prepared by LAFCo staff in accordance with Section 56430 of the California Government Code as a means of identifying and evaluating public services provided by the District and changes to the District's Sphere of Influence; and

WHEREAS, the Act strongly encourages the District and County to reach agreement regarding the boundaries (Exhibit A), development standards, and zoning requirements (Exhibit B) to ensure that development within the sphere occurs in an orderly and logical manner; and

DRAFT

DRAFT

Page 2

WHEREAS, the District and County have reached an agreement regarding the boundaries (Exhibit A), development standards and zoning requirements (Exhibit B); and

WHEREAS, LAFCo is required by Government Code 56425 (b) to give great weight to this agreement in making its final determination of the city's Sphere of Influence.

NOW, THEREFORE, the parties agree as follows:

1. The Sphere of Influence boundary contained in Exhibit A provides for the orderly and logical growth for the District and represents an appropriate 20-year growth boundary based on existing information.
2. The development standards and zoning requirements contained in Exhibit B provide a framework for completing updates to the General Plans of both the District and the County for the areas in the Sphere of Influence.
3. The development standards and zoning requirements contained in Exhibit B are intended to provide the District and the County with the basis for developing specific land use policies and standards for the areas in the District's Sphere of Influence and do not supercede or limit the planning or environmental review process of either jurisdiction.

President, Board of Directors
Nipmo Community Services District

Chair, Board of Supervisors
County of San Luis Obispo

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DRAFT

Page 3

APPROVED AS TO FORM AND LEGAL EFFECT:

District Counsel

County Counsel

Dated: _____

Dated: _____

ATTEST:

District Secretary

County Clerk Recorder

Dated: _____

Dated: _____

DRAFT

DRAFT

Page 4

Exhibit A

[Insert LAFCo Study Areas Map]
with appropriate modifications per wishes of NCSD Board

EXHIBIT B

DEVELOPMENT STANDARDS AND ZONING REQUIREMENTS

The following development standards and zoning requirements are agreed to and shall be used by the District and the County to develop the proposed Sphere of Influence as described in Exhibit A and to update their General Plans.

1. **Intent.** It is the intent of the County and the District to work cooperatively towards the goal of developing the agreed upon Sphere of Influence (as shown in Exhibit A) in an orderly and logical manner consistent with the Cortese/Knox/Hertzberg Act, the District Urban Water Management Plan, the County General Plan, the California Environmental Quality Act, and any other applicable laws and regulations.

2. **Interagency Cooperation.** The District and the County shall work cooperatively on planning for land use, circulation connections, agricultural land and open space preservation by referring discretionary development projects, and General Plan Amendments within the agencies' overlapping jurisdictions to the other for review and comment prior to action on a development proposal. In particular, the County shall consult and provide the District with opportunities to comment on projects that propose to intensify the land use pattern along the western boundary. The District shall seek the County's comment regarding projects that affect unannexed areas surrounding the service area of the District. When a discretionary project application is accepted for processing, it shall be referred immediately to the following contact person(s) for early review and comment:

Warren Hoag, Principal Planner
Department of Planning and Building
County Government Center
San Luis Obispo, CA 93401

Doug Jones, General Manager
NCSD
148 South Wilson Street
Nipomo, CA 93444

This provision shall not supercede or terminate other methods of commenting or providing feedback regarding a proposal or project, but is meant to enhance and increase interagency cooperation and communication.

3. **Interim Development.** To the extent possible, the County shall limit any extension of the Urban Reserve Line west of its current location. This includes compliance with the standards regarding the Residential Rural and Residential Suburban land use categories found in the County's South County Area Plan.

4. **District/County Shared Services, Infrastructure, and Facilities.** The County and District will evaluate the creation and implementation of various assessment and financing mechanisms to provide for the construction and maintenance of public improvements and services, such as; roads, Fire and Police emergency response, utilities, recreation and trail improvements, historical and cultural parks, and similar improvements that could serve visitors and residents of the District and the County. Special consideration shall be given to the possible development of impact fees that could assist the County in maintaining roads, and other transportation infrastructure in the unincorporated area adjacent to the District where impact fees are not currently charged.

5. **Environmental Constraints.** The District and the County shall base their recommendations and decisions for the 180 acre Frederick site (already within the District's SOI) and the 200 acre Williams site (to be added to the SOI) on an environmental constraints analysis that studies resources such as, but not limited to; sensitive habitats, 100 year flood plain areas, agricultural lands with class I, II or III soils, open space resources, cultural resources, and areas of greater than 30% slopes. The Constraints Analysis shall be used to help prepare the Specific Plan for these SOI areas. Further, the SOI areas shall be developed in a phased manner, with the SOI area closest to the District (Fredericks) being considered first as called for in the District's General Plan, and the Williams property being considered after the Frederick project receives approval and is annexed into the District.

6. **Agriculture and Open Space.** To the greatest extent possible, the District and the County shall work together to preserve the agricultural and open space resources in the SOI area. Special attention shall be given to addressing the criteria contained in Agricultural Policy 24 (Exhibit C) of the County's Agriculture and Open Space Element. This shall be evident in the preparation of the Constraints Analysis and Specific Plan. The remainder of agricultural area outside the SOI shall not be included in the Constraints Analysis and District Specific Plan.

7. **Land Uses.** The proposed area being added to the SOI as described in Exhibit A may include, but are not limited to residential, mixed-use, public facilities, visitorserving, agriculture uses, and/or recreational uses dependent upon the preparation of a Specific Plan for the area.

8. **General Plan Amendment.** The District intends to complete pre-zoning, preannexation, and any necessary pre-general plan amendment activities prior to or concurrent with an annexation proposal being processed by LAFCo. The County intends to complete any necessary amendments to its General Plan in the San Luis Bay Area Plan to reflect the annexation of territory to the District. The County shall also consider policies for the northern part of the District/County boundary, currently zoned Residential Suburban, that limit the intensification of land uses in the area. The County shall consider placing the southeast portion of the Sphere of Influence into one Planning Area, preferably the South County Planning area.

9. **Zoning Requirements/Specific Plan.** A Specific Plan, which identifies land uses within the Sphere of Influence areas, shall be prepared and adopted by the District prior to the annexation of the property into the District. The Plan shall be prepared in accordance with the District's General Plan and subject to environmental review which shall include analysis of issues related to completing the annexation, such as a reliable and adequate water supply, sewer capacity, and other services for the proposed project. Policies in the District's General Plan may apply to the SOI area include, but are not limited to:

DRAFT

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Page 8

??**Land Use #10** Utilize Conservation/Open Space, Planned Development and/or Specific Plan districts or combining designations for areas of special site development concerns.

??**Land Use #11** Promote a pattern of land use that protects the integrity of existing land uses, area resources and infrastructure and involves logical jurisdictional boundaries with adjacent communities and the County.

??**Land Use #12** Components of “rural setting” and “small town character” shall be protected.

Each of the above policies have “sub-policies” that more clearly define the elements and issues to be considered in the Specific Plan prepared for the SOI area.

Policies in the County’s Agricultural and Open Space Element that may apply to the SOI area include, but are not limited to:

??**Agricultural Policy #24** Conversion of Agricultural Land, which is attached to this agreement in Exhibit C.

EXHIBIT C
COUNTY AGRICULTURE AND OPEN SPACE POLICY #24

Ver. 030506

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

**AGENDA ITEM
D-4
MAY 14, 2003**

REVIEW POSSIBLE FORMATION OF NCSD ADVISORY GROUP

ITEM

Request by President Winn to review possible formation of NCSD Advisory Group

BACKGROUND

President Winn has requested that this item be placed on the agenda for Board consideration. President Winn will present his concepts regarding the possible formation of a NCSD Advisory Group.

For information purposes, attached is Resolution 96-592 that established a Blacklake Area Oversight Advisory Committee. This advisory committee is not currently active.

RECOMMENDATION

At the conclusion of Board comments and public comments, staff requests direction from the Board.

RESOLUTION NO. 96-592

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT ESTABLISHING
BLACK LAKE AREA OVERSIGHT ADVISORY COMMITTEE**

WHEREAS, the Black Lake development was annexed into the Nipomo Community Services District ("District") in 1992; and

WHEREAS, at the time of annexation, the development had stand alone Street Lighting District, sewage collection, sewage treatment, sewage disposal and water production and distribution systems; and

WHEREAS, the Black lake area has distinct issues which merit the District's Board and staff seeking and obtaining input from representatives of the Black Lake community prior to making decisions which will impact the community; and

WHEREAS, this can be accomplished through establishment of a Black Lake Oversight Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of District as follows:

1. There is hereby established a Black Lake Area oversight Advisory Committee ("Committee"). The Committee is an advisory committee to the District's Board of Directors.
2. The purpose of the Committee is to allow the District to obtain input from representatives of the residents and property owners of the Black lake development before action by the District on matters of concern to that area. The Committee shall be responsible for reviewing proposed additions to, changes in, extensions or deletion of services; changes in rate or charges; and other matters of concern to Black lake residents and property owners; and conveying opinions and recommendations to the District's Board and staff.
3. The Advisory Committee shall be a committee of the whole of the Board of Directors of the Black Lake Management Association ("BLMA"). Each member of the BLMA may appoint an alternate to sit as a voting member of the Committee in his or her absence. The District Board of Directors shall approve the appointment of alternates. Committee member terms shall be concurrent with the member's term on the BLMA Board. The Advisory Committee shall provide District with the names of the Advisory Committee members and update the membership list as needed.
4. District staff will provide staff assistance to the Committee and attend meetings of the Committee when requested by the Committee. The District Manager will be the principal staff liaison to the Committee. The Committee Chairman shall be the principal liaison to the District.
5. The District will provide written notice to the Committee prior to proposed staff or District Board action or policy or administrative decision that relates to Committee purposes identified in paragraph 2 of this Resolution. Such notice will be given sufficiently in advance of action by the District Board or staff so as to allow the Committee to meet and review the matter and make recommendations to the District staff and Board. With notice of proposed action, staff will also provide data and reports prepared to support the proposed action. Recommendations shall be made to District by roll call vote at the Committee Meeting.

RESOLUTION NO. 96-592
PAGE TWO

6. In the case of proposed action by staff, not related to a matter previously considered by the Committee, and which would not disrupt the routine operation of the District, staff will refer the matter to the Committee as provided in Paragraph 5. If the Committee disagrees with the staff's proposed action, the matter will be placed on the District Board's agenda, with both the Committee's and staff's recommendations, before action is taken.

7. In the event of the need for emergency action, the staff and District Board need not follow the formal procedures for referral to the Committee, but will use their best efforts to consult with the Committee or a designated subcommittee prior to emergency action.

8. Upon request of the Committee, the District shall place issues of concern involving the Black Lake community on the District Board's agenda for consideration that pertain to District powers.

9. Meetings of the Committee shall be open to the public to the extent required by the Brown Act, Government Code Sections 54950 et seq.

10. District administrative expenses related to staffing the Advisory Committee will be budgeted to a Black Lake Advisory Committee account.

11. The initial set of bylaws and all adopted revisions, deletions, and changes shall be subject to approval of the District Board of Directors. The Committee will meet and prepare bylaws establishing meeting dates, conduct of meetings, voting and election of officers consistent with this resolution.


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

AYES: Directors Blair, Fairbanks, Mendoza, Simon and Small

NOES: None

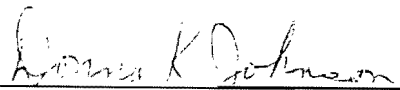
ABSENT: None

the foregoing resolution was passed and adopted this 18 th day of September 1996.



Steven S. Small,
President of the Board of Directors

ATTEST:



Donna K. Johnson
Board Secretary

APPROVED AS TO FORM:



Jon S. Seitz
General Counsel

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

**AGENDA ITEM
D-5
MAY 14, 2003**

REVIEW AND APPROVAL OF CONTRACT FOR INCORPORATION FEASIBILITY STUDY

ITEM

Review and approval of contract with The Davis Company to perform an incorporation feasibility study

BACKGROUND

On April 21, 2003, the Board of Directors interviewed three candidates to perform an incorporation feasibility study. The Board of Directors unanimously selected The Davis Company to perform the study.

District legal counsel has prepared the attached Agreement for Services of Independent Consultant for Incorporation Feasibility Report for your review and approval.

Staff has reviewed The Davis Company's certificates of insurance and they appear to be in order.

RECOMMENDATION

At the conclusion of Board comments and public comments, staff recommends approving the contract with The Davis Company and direct staff to issue a Notice to Proceed.

Board 2003/davis company agreement.

**Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444**

**AGREEMENT FOR SERVICES OF INDEPENDENT CONSULTANT
INCORPORATION FEASIBILITY REPORT**

Exhibit "A" – Description of Scope of Work ("Incorporation Feasibility Report" or "Scope of Work") to be performed by Consultant.

Exhibit "B" – A Contract Budget and a definition of and budget for reimbursable costs (expenses).

THIS AGREEMENT (hereinafter referred to as "Agreement") is made by and between the Nipomo Community Services District, a community services district duly existing and operating pursuant to the provisions of Government Code Section 61000 et seq. (hereinafter referred to as "NCSD" or "District") and The Davis Company, (herein referred to as "Consultant"), with reference to the following recitals:

RECITALS

WHEREAS, District desires to retain a qualified firm to provide services in examining the feasibility for city incorporation of the Nipomo Area.

WHEREAS, District desires to engage Consultant to provide services by reason of its qualifications and experience in performing such services, and Consultant has offered to provide the required services on the terms and in the manner set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVES.** DOUG JONES, General Manager at telephone number (805) 929-1133 is the representative of NCSD and will administer this Agreement for and on behalf of NCSD ("District Contract Administrator"). MICHAEL DAVIS at telephone number (916) 567-9510 is the authorized representative for Consultant. Changes in designated representatives shall be made only after advance written notices to the other party.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first-class mail, postage prepaid, or otherwise delivered as follows:

NCSD: Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444
Attn: Doug Jones, General Manager
Facsimile: (805) 929-1932

CONSULTANT: The Davis Company
555 University Avenue, Ste. 116
Sacramento, CA 95825
Attn: Michael Davis
Facsimile: (916) 567-9540

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. ATTACHMENTS. Attached to this Agreement are the following Exhibits that are incorporated herein by reference.

A. Description of Scope of Work ("Incorporation Feasibility Report" or "Scope of Services") to be performed by Consultant and schedule for deliverables.

B. A Contract Budget and a definition of and budget for reimbursable costs.

4. SCOPE OF SERVICES.

Consultant agrees to provide the services to NCSD as provided in Exhibit "A".

5. TERM. Consultant shall complete the Scope of Services and deliver the Annexation Feasibility Report within twelve (12) weeks of the NCSD's authorization to proceed.

6. COMPENSATION OF CONSULTANT.

A. The Consultant will be paid for services provided to NCSD on a time and material basis.

B. Payment of undisputed amounts are due within thirty (30) days of receipt of invoices. Invoices shall reflect the date the service was provided, the person who performed the service, the amount of time spent on the date the service was provided, and reimbursable costs. Disputed amounts shall be resolved pursuant to the dispute resolution provisions of Section 23 below.

C. The following Contract Budgets shall not be exceeded without the prior written authorization of NCSD:

1. Fifteen thousand dollars (\$15,000) for Scope of Services as provided in Exhibit "A".
2. Three thousand dollars (\$3,000) for Reimbursable Costs as provided in Exhibit "B".

D. Payment to Consultant shall be considered as full compensation of all personnel, materials, supplies, and equipment used in carrying out the services as stated in Exhibit "A".

E. NCSD's failure to discover or object to any unsatisfactory work or billing prior to payment will not constitute a waiver of NCSD's right to:

1. Require Consultant to correct such work or billings; or
2. Seek any other legal remedy.

7. CONTINGENCY BUDGET. A Contingency Budget of fifteen hundred dollars (\$1,500) is approved. Upon receipt of written justification acceptable to the District's Contract Administrator, the District's Contract Administrator is authorized to increase the total Contract Budget of eighteen thousand dollars (\$18,000) by fifteen hundred dollars (\$1,500). The Contingency Budget shall not be exceeded without authorization from the Board of Directors.

8. EXTRA SERVICES. Should services be requested by Consultant which are considered to be beyond the Scope of Services referenced in Exhibit "A" to this Agreement, the Consultant shall provide a written request, with a timeline, for consideration of Additional Services to the NCSD Contract Administrator. The NCSD Contract Administrator will make due consideration of this request for Additional Services and will forward his/her recommendation to the NCSD Board of Directors for approval. Consultant shall not provide any Additional Services until Consultant has received written approval by the NCSD to perform same. Should the Consultant elect to proceed prior to receiving written approval by the NCSD for Additional Services, the Consultant does so at Consultant's own risk.

9. INDEPENDENT CONTRACTOR. Consultant, its agents and contractors, are independent contractors, responsible for all methods and means used in performing the Consultant's services under this agreement, and are not employees, agents or partners of NCSD.

10. PERFORMANCE STANDARDS.

A. Compliance with laws. Consultant shall (and shall cause its agents and contractors), at its sole cost and expense, comply with all NCSD, County, State and Federal ordinances, regulations and statutes now in force or which may hereafter be in force with regard to the Incorporation Feasibility Report and this Agreement.

B. **Standard of Performance.** Consultant represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, Consultant shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Consultant is engaged. All products of whatsoever nature which Consultant delivers to NCSD pursuant to this Agreement shall conform to the standards of quality normally observed by a person practicing in Consultant's profession. Consultant shall correct or revise any errors or omissions at NCSD's request without additional compensation.

C. It is understood and agreed that the NCSD relies upon the professional skills of Consultant to do and perform the services in a skillful and professional manner without errors and omissions.

11. TAXES. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant

12. CONFLICT OF INTEREST.

Consultant covenants that neither it, nor any officer or principal of its firm, or Contractors retained by Consultant has, or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of NCSD or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the District Manager. Consultant agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the District in the performance of this Agreement.

13. RESPONSIBILITIES OF NCSD. NCSD shall provide all information reasonably necessary by Consultant in performing the services provided herein.

14. OWNERSHIP OF DOCUMENTS. All data, reports, information, or other material given to, or prepared or assembled, by Consultant under this Agreement shall be the property of District and shall not be made available to any individual or organization by Consultant without the prior written approval of District.

15. RECORDS, AUDIT AND REVIEW. Consultant and Consultant's Contractors shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Consultant's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. NCSD shall have the right to audit and review all such documents and

records at any time during Consultant's regular business hours or upon reasonable notice.

16. INDEMNIFICATION.

A. Except as otherwise provided in subparagraphs B and C below Consultant shall defend, indemnify and save harmless NCSD, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of the Consultant's performance or attempted performance of this Agreement or occasioned by the performance or attempted performance of other subcontractors and consultants directly responsible to Consultant.

B. Nothing contained in the foregoing Indemnity shall be construed to require indemnification for claims resulting from the sole negligence or willful misconduct of the NCSD.

C. Nothing contained in the foregoing indemnity provisions shall be construed to require Consultant to indemnify NCSD, against any responsibility or liability in contravention of Civil Code 2782.

D. Neither termination of this Agreement or completion of the Incorporation Feasibility Report pursuant to this Agreement shall release Consultant from its obligations referenced in subsections A, above, as to any claims, so long as the event upon which such claims is predicated shall have occurred prior to the effective date of any such termination or completion and arose out of or was in any way connected with performance or operations under this Agreement by Consultant, its employees, agents or consultants, or the employee, agent or consultant of any one of them.

E. Submission of insurance certificates or submission of other proof of compliance with the insurance requirements in the Agreement does not relieve Consultant from liability referenced in subsection A, above. The obligations of this article shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

17. INSURANCE.

A. The Consultant shall maintain worker's compensation insurance to statutory limits, in compliance with state and federal statutes.

B. The Consultant shall maintain comprehensive general liability and automobile liability insurance protecting it against claims arising from bodily or personal injury or damage to property, including loss of use thereof, resulting from operations of Consultant pursuant to this Agreement or from the use of automobiles and equipment of the Consultant. The amount of this insurance shall not be less than \$1 million combined

single limit. The District, its employees, officers, General Manager and directors, shall be listed as additional insureds.

C. The Consultant shall maintain a policy of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions of Consultant pursuant to this Agreement, in the amount of not less than \$1 million combined single limit.

D. Consultant shall provide client with the following prior to commencement of work under this Agreement:

1. Proof of workman's compensation insurance and professional liability insurance;

2. An endorsement of the comprehensive general liability and automobile liability insurance (pursuant to subparagraph {b}) listing DISTRICT, its employees, officers, General Manager and Directors as additional insureds.

3. Proof of errors and omission insurance.

18. PERSONNEL.

A. The Consultant represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by the Consultant or under Consultant's supervision, and all personnel engaged in the work shall be qualified to perform such services.

B. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's employees, associates and sub-consultants assigned to perform the services required under this Agreement.

19. NONEXCLUSIVE AGREEMENT. Consultant understands that this is not an exclusive Agreement and that NCSD shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Consultant as the NCSD desires.

20. ASSIGNMENT. Consultant shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of NCSD and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

21. TEMPORARY SUSPENSION. The NCSD's Contract Administrator shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as he/she deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement.

Consultant will be paid for services performed through the date of temporary suspension. In the event that Consultant's services hereunder are delayed for a period in excess of six (6) months due to causes beyond Consultant's reasonable control, Consultant's compensation shall be subject to renegotiation.

22. TERMINATION.

A. Right to terminate. NCSD retains the right to terminate this Agreement for any reason by notifying Consultant in writing five (5) days prior to termination. Upon receipt of such notice, Consultant shall promptly cease work and notify NCSD as to the status of its performance. NCSD shall pay Consultant for its reasonable costs and expenses through the date of termination. However, if this Agreement is terminated for fault of Consultant, then NCSD shall be obligated to compensate Consultant only for that portion of Consultant services which are of benefit to NCSD, up to and including the day Consultant receives notice of termination from NCSD. Disputes regarding "reasonable costs and expenses" shall be resolved pursuant to the dispute resolution procedures contained in Section 23 below.

B. Termination of this Agreement shall not relieve Consultant of its obligations referenced in this Agreement up and until the date of termination as provided in Subparagraph A, above.

C. Should NCSD fail to pay Consultant undisputed payments set forth in Section 6, above, Consultant may, at Consultant's options, suspend its services or terminate this agreement if such failure is not remedied by NCSD within thirty (30) days of written notice to NCSD of such late payment.

23. DISPUTE RESOLUTION CLAIMS UNDER \$50,000.

A. Prior to seeking any other relief permitted by law, NCSD and Consultant agree that disputes between them arising out of or relating to this Agreement where the amount in controversy is less than \$50,000.00 shall be submitted to Non-Binding Mediation, unless the parties mutually agree otherwise. If the parties are unable to agree on a mediator, then either party can request the Presiding Judge of the San Luis Obispo County Superior Court to appoint a mediator. Said appointment shall be binding on the parties. The cost of mediation shall be borne equally by NCSD and Consultant.

B. If the parties are unable to resolve the dispute through mediation, the parties shall resolve the dispute through binding arbitration pursuant to Section 1280 et seq. of the California Code of Civil Procedure, with an arbitrator mutually acceptable to the parties. If the parties are unable to agree on an arbitrator, then either party can request the Presiding Judge of San Luis Obispo Superior Court to appoint an arbitrator. Said appointment shall be binding on the parties. The cost of the arbitrator shall be borne equally by the parties. The arbitrator shall have the authority to include in his award the payment of the prevailing parties attorney's fees.

24. NCS D NOT OBLIGATED TO THIRD PARTIES. NCS D shall not be obligated or liable for payment hereunder to any party other than the Consultant.

25. NON-DISCRIMINATION. Consultant shall not discriminate in any way against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with, or related to, the performance of this Agreement.

26. UNAUTHORIZED ALIENS. Consultant hereby promises and agrees to comply with all the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against NCS D for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse NCS D for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by NCS D.

27. COSTS AND ATTORNEY'S FEES. Except for disputes that are resolved by non-binding mediation, the prevailing party in any action between the parties to this Agreement brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorney's fees expended in connection with such an action from the other party.

28. SECTION HEADINGS. The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

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

30. REMEDIES NOT EXCLUSIVE. Except as provided in Sections 22 and 23, no remedy herein conferred upon or reserved to the Parties is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

31. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement and each covenant and term is a condition herein.

32. NO WAIVER OF DEFAULT. No delay or omission of NCS D to exercise any right or power arising upon the occurrence of any event of default shall impair any such

right or power or shall be construed to be a waiver of any such default of an acquiescence therein; and every power and remedy given by this Agreement to NCSD shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of NCSD.

33. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

34. SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

35. CALIFORNIA LAW. This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of San Luis Obispo, if in state court, or in the federal court nearest to San Luis Obispo County, if in federal court.

36. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

37. AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Consultant hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Consultant is obligated, which breach would have a material effect hereon.

38. FORCE MAJEURE. Neither party shall hold the other responsible for damages or delays in performance caused by force majeure (acts of nature) or other events beyond the reasonable control of either party.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by the NCSD.

CONSULTANT

By: THE DAVIS COMPANY

Date: _____

Name: MICHAEL DAVIS

Title:

Date: _____

Name:

Title:

NIPOMO COMMUNITY SERVICES DISTRICT

ATTEST:

MICHAEL WINN, PRESIDENT
Nipomo Community Services District
Board of Directors

Date: _____

DONNA K. JOHNSON
Secretary to the Board

Date: _____

EXHIBIT A
SCOPE OF WORK

TASK	DELIVERABLE
On-site meeting with NCSD officials, including the governing board to confirm all facets of the feasibility engagement. (Week 1)	On-site Meetings. Final feasibility assessment work plan.
Demographics, community services and financial data base investigation. (Weeks 2-3)	A factual profile of the broadest area that is under consideration for incorporation.
Refine proposed boundaries and alternatives for municipal formation. {Note: more than one boundary option can be evaluated if needed} (Weeks 4-6)	Confirmation of boundaries and alternatives. Refinement of the demographic and financial data base for the specified alternatives.
Specify services to be assumed from the County or other agencies. Estimate municipal revenues and expenditures upon transfer of local government services. (Weeks 7-9)	Stage 1 determination of incorporation feasibility.
Complete analysis re: impact of municipal formation on established governmental identities. Specify and define all service related and financial impacts. (Week 10)	Identify all agencies affected; fiscal implications on all agencies; range of revenue neutrality options and financial transactions and amounts.
Prepare the Preliminary Feasibility Report; present report to the Board of Directors. Attend up to three public meetings. (Week 12)	Comprehensive Preliminary Report including Stage 2 Feasibility Assessment.
Prepare Final Report: prepare written responses to all written comments to the Preliminary Report. (as scheduled by the District). Final Report to be prepared within two weeks of final on-site meeting.	Ten copies of the Final Feasibility Report, including a reproducible copy.

EXHIBIT B

CONTRACT BUDGET

Project, as outlined in Scope of Work (Exhibit A), shall not exceed \$15,000.00 plus reimbursement of expenses subject to a specific budget limit. Reimbursements for expenses will include any charges by other governmental agencies for data that is required for analysis (typically this amount is zero to negligible), travel (our closest office is in Los Angeles), printing and long-distance/fax/delivery charges. The reimbursement budget shall not be exceeded without the prior written approval of NCSD.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

**AGENDA ITEM
D-6
MAY 14, 2003**

DISTRICT-INSTALLED SEWER LINE REIMBURSEMENT FEE

ITEM

Adopt ordinance for District-installed sewer line reimbursement fee

BACKGROUND

The District has contracted with Tierra Contracting to install a sewer line on Story Street, which is part of the Montecito Verde II sewer connection project. The portion of the Montecito Verde II sewer project, which serves MVII, has been funded with a Community Grant Block Fund. The off-site construction of the sewer lines has been paid with District funds. The District has an ordinance in place for a reimbursement fee schedule for District-installed water lines. A similar reimbursement fee is being proposed for District-installed sewer lines.

At the last regular Board meeting held on April 23, 2003, your Honorable Board had the first reading and introduction of an ordinance establishing District-installed sewer line reimbursement fees. After the introduction and first reading of an ordinance, adoption of the ordinance is in order at a following regular Board meeting. Attached is the ordinance for the Board's review. It amends Chapter 4.12 of the District code, allowing District-installed sewer line reimbursement fees.

RECOMMENDATION

Staff recommends that your Honorable Board adopt Ordinance 2003-97 establishing District-installed sewer line reimbursement fees. After adoption, staff will proceed with setting a public hearing to establish district-installed sewer line reimbursement fee for the Story and Meredith sewer line as outlined in Section 5.01.030 (c) of the District Code.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2003-97**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 4.12 OF THE DISTRICT CODE**

WHEREAS, the District desires to provide an equitable procedure for at least partial reimbursement of District's costs in constructing sewer mains if such sewer mains are also used thereafter to directly serve and benefit private property of others; and

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

Section 1. Authority

This Ordinance is enacted pursuant to Government Code §61600(b) and §61621.

Section 2. Section 4.12.085

Section 4.12.085 is added to the District Code as follows:

4.12.085 Sewer Connection Fees:

A. District installed sewer main.

1. When a new service is connected to an existing District installed sewer main, the Applicant shall be charged a front footage fee based on the pro rata cost of constructing the sewer main.

2. The front footage fee shall be established pursuant to the provisions of §5.01.030 (C) of the District Code.

B. Developer installed sewer main.

When a new service is connected to a developer installed sewer main pursuant to Title 5 of the District Code, the Applicant shall pay a supplemental charge pursuant to the reimbursement agreement.

Section 3. CEQA Findings

The Board of Directors of the District finds that the fees and charges adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The Board of Directors further finds that the adoption of the Rules and Regulations established by this Ordinance fall within the activities described in Section 15061(b)(3) of the CEQA Guidelines which are deemed not to be "projects" for the purposes of CEQA, because it can be seen with certainty that the adoption of the Regulations that establish the reimbursement amount will not have a significant effect on the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2003-97
AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 4.12 OF THE DISTRICT CODE

Section 4. Severance Clause.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 5. Effect of Headings in Ordinance.

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

Section 6. Effective Date.

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage it shall be posted in three (3) public places with the names of the members voting for and against the Ordinance and shall remain posted thereafter for at least one (1) week. The Ordinance shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in a newspaper of general circulation within the District.

Introduced at a regular meeting of the District Board of Directors held on April 23, 2003, and passed and adopted by the District Board of Directors on the 14th day of May, 2003, by the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
CONFLICTS:

Michael Winn, President
Board of Directors, Nipomo
Community Services District

ATTEST:

Donna K. Johnson,
Secretary to the Board

paid as provided in the reimbursement agreement.

⇔ (C.) Proration of Costs.

1. The district's engineer shall prorate the approved excess costs against all lots or parcels which in the future may be served by direct connection thereto. The district shall send written notice of the prorated amount to the person shown on the latest county assessor's roll as the owner or agent of record for assessment purposes for each parcel. Such person may protest the proration in writing within fourteen days after the notice is mailed. If not protested within the fourteen days, the proration shall become final for the purposes of this section.

2. A protest shall be concerned only with the division or spread of the actual and necessary construction costs between or among the builder's property and all other properties to be included in the area subject to the proration procedure. A protest shall not be concerned with the actual construction costs unless the protester can demonstrate fraud or wilful concealment of actual cost information as presented by the applicant or his agent to the district's engineer.

3. The district's board of directors shall hold a public hearing to consider all such written protests. All evidence in support of the protest shall be submitted in writing to the district at least ten days before the meeting. The engineer shall prepare a written report and recommendation to the board on each protest. A copy of the engineer's report shall be mailed, or otherwise delivered, to the concerned protester at least five days before the board meeting to consider the protest.

4. The board's decision on the protest shall be in writing, and shall be final. If the board's decision results in an increased proration amount for properties owned by

anyone other than the protester or the applicant, a new notice and a new fourteen-day period shall be given for each such property.

5. If no protest is filed for a property within the fourteen-day period after the first or any subsequent notice of prorated amount is mailed for that property, the proration shall be come final as to the property. (Ord. 98-87 § 38 (part), 1998)

5.01.031 Applications for reimbursement.

A. In order to qualify for reimbursement of excess costs, pursuant to this chapter, applicant shall, within ninety days of district's acceptance of district facilities, deliver to district the following:

1. Written application requesting reimbursement of excess costs; and

2. A certified statement showing the applicant's actual costs in constructing district facilities.

B. The applicant shall cooperate with the district engineer in reviewing costs. If applicant does not submit the request and the certified statement of costs within ninety days of district's acceptance, applicant shall have waived all right to reimbursement. (Ord. 99-88 § 8, 1999)

5.01.040 Ten-year repayment obligation.

For a period of ten years from the date of official acceptance of any such sewer facility, the subdivider shall be eligible for reimbursement of the foregoing prorated amount from each parcel as the parcel, or portion thereof, connects to the facility. (Ord. 98-87 § 38 (part), 1998)

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

**AGENDA ITEM
E-1
MAY 14, 2003**

AMENDING DISTRICT BY LAWS

ITEM

Consider change of Board meeting time to 9:30 a.m. from 9:00 a.m.

BACKGROUND

At the regular Board meeting held on April 23, 2003, Director Blair requested this item to be put on the agenda. He requested the regular Board meeting be changed to 9:30 a.m. from 9:00 a.m. so he may have time to address the SLO County Governments (SLO-COG). This would require amending Section 2.1 of the Board of Directors By-Laws. Director Blair felt that his speaking during the public comment period would influence the COG representative paying more attention the South County with respect to expenditures of road fees and other fees.

Other possible methods the Board may communicate with SLO COG:

- Regular letter correspondence
- E-mail

RECOMMENDATION

This is a policy decision by the Board. Staff has no recommendation.

NIPOMO COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTOR
(ATTACHMENT "A" TO RESOLUTION 2003-852)

1. OFFICERS OF THE BOARD OF DIRECTORS

- 1.1 The officers of the Board of Directors are the President and Vice President.
- 1.2 The President of the Board of Directors shall serve as chairperson at all Board meetings. He/She shall have the same rights as the other members of the Board in voting, introducing motions, resolutions and ordinances, and any discussion of questions that follow said actions.
- 1.3 In the absence of the President, the Vice-President of the Board of Directors or his/her designee shall serve as chairperson over all meetings of the Board. If the President and Vice President of the Board are both absent, the remaining members present shall select one of themselves to act as chairperson of the meeting.
- 1.4 The President and Vice President of the Board shall be elected annually at the last regular meeting of each calendar year.
- 1.5 The term of office for the President and Vice President of the Board shall commence on January 1 of the year immediately following their election.

2. MEETINGS

- 2.1 Subject to holiday and scheduling conflicts, regular meetings of the Board of Directors shall commence at 9:00 a.m. on the first and third Wednesday of each calendar month in the Board Room at the District Office currently located at 148 South Wilson, Nipomo, CA. The Board of Directors reserves the right to cancel or designate other dates and times for Director meetings due to scheduling conflicts and holidays.
- 2.2 **Special Meetings.**
Special meetings may be called by the President or three (3) members of the Board of Directors with a minimum of twenty-four (24) hours public notice. Special meeting Agendas shall be prepared and distributed pursuant to the procedures of the Brown Act by the General Manager or the Administrative Assistant;
- 2.3 Members of the Board of Directors shall attend all regular and special meetings of the Board unless there is good cause for absence.
- 2.4 No action or discussion may be taken on an item not on the posted agenda; provided, however, matters deemed to be emergencies or of an urgent nature may be added to the agenda under the procedures of the Brown Act. Pursuant to the Brown Act:
 - (a) Board Members may briefly respond to statements or questions from the public;
 - (b) Board Members may, on their own initiative or in response to public questions, ask questions for clarification, provide references to staff or other resources for factual information, or request staff to report back at a subsequent meeting;
 - (c) A Board Member or the Board itself may take action to direct staff to place a matter on a future agenda.
 - (d) Directors may make brief announcements or make a brief report on his/her own activities under the Director Comment portion of the Agenda.
- 2.5 The President, or in his/her absence the Vice President (or his/her designee), shall be the presiding officer at District Board meetings. He/She shall conduct all meetings in a manner consistent with the policies of the District. He/She shall determine the order in which agenda items shall be considered for discussion and/or actions taken by the Board. He/She shall announce the Board's decision on all subjects. He/She shall vote on all questions and on roll call his/her name shall be called last.

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

AGENDA ITEM
F
MAY 14, 2003

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 April 21, 2003, Special Board meeting
Minutes of April 23, 2003, Regular and Special Board meeting
- F-3) TEFFT STREET WATER LINE PROJECT [RECOMMEND APPROVAL]
Filing the Notice of Completion

WARRANTS MAY 14, 2003

**AGENDA ITEM
F-1
MAY 14, 2003**

HAND WRITTEN CHECKS

18618	04-23-03	SLO CLERK RECORDER	59.00
18619	05-05-03	STATE COMP INSURANCE	2028.44
18620	05-07-03	POSTMASTER	61.25

COMPUTER GENERATED CHECKS

8048	04/25/03	EMP01	EMPLOYMENT DEVELOP DEPT	A30421	04/21/03	STATE INCOME TAX	04-03	350.60	350.60
8049	04/25/03	MID01	MIDSTATE BANK-PR TAX DEP	A30421	04/21/03	COMBINED CHECK	04-03	1950.60	1950.60
8050	04/25/03	MID02	MIDSTATE BANK - DIRECT DP	A30421	04/21/03	NET PAY DEDUCTION	04-03	12976.68	12976.68
8051	04/25/03	PER01	PERS RETIREMENT	A30421	04/21/03	COMBINED CHECK	04-03	2376.09	2376.09
8052	04/25/03	SIM01	SIMMONS, DEBRA	A30421	04/21/03	WAGE ASSIGNMENT	04-03	150.00	150.00
8053	04/25/03	STA01	STATE STREET GLOBAL	A30421	04/21/03	DEFERRED COMP	04-03	735.00	735.00
8054	05/09/03	EMP01	EMPLOYMENT DEVELOP DEPT	A30505	05/05/03	STATE INCOME TAX	05-03	430.67	430.67
8055	05/09/03	MID01	MIDSTATE BANK-PR TAX DEP	A30505	05/05/03	COMBINED CHECK	05-03	2197.20	2197.20
8056	05/09/03	MID02	MIDSTATE BANK - DIRECT DP	A30505	05/05/03	NET PAY DEDUCTION	05-03	13420.89	13420.89
8057	05/09/03	PER01	PERS RETIREMENT	A30505	05/05/03	COMBINED CHECK	05-03	2376.09	2376.09
8058	05/09/03	SIM01	SIMMONS, DEBRA	A30505	05/05/03	WAGE ASSIGNMENT	05-03	150.00	150.00
8059	05/09/03	STA01	STATE STREET GLOBAL	A30505	05/05/03	DEFERRED COMP	05-03	735.00	735.00
008060	05/14/03	ADV01	ADVANTAGE ANSWERING PLUS	82.95	.00	82.95	52237		ANSWERING SERVICE
008061	05/14/03	AME02	AMERICAN INDUSTRIAL SUPPL	77.23	.00	77.23	117156		PAINT
				153.39	.00	153.39	0116962		PAINT
				153.02	.00	153.02	0117460		HIGH HEAT ALUM PAINT
			Check Total.....	383.64	.00	383.64			
008062	05/14/03	AQU01	AQUA-METRIC SALES CO.	4904.54	.00	4904.54	20113		TWO 4 INCH METERS
008063	05/14/03	BAS01	BASIC CHEMICAL SOLUTIONS	334.45	.00	334.45	S1328132		SODIUM HYPOCHLORITE
				829.98	.00	829.98	S1328133		SODIUM HYPOCHLORITE-BLWTP
			Check Total.....	1164.43	.00	1164.43			
008064	05/14/03	BLA01	BLAIR, ROBERT L	100.00	.00	100.00	051403		REGULAR BOARD MTG 5/14/03
008065	05/14/03	BLA02	BLAIR, ROBERT L	40.00	.00	40.00	042503		PER DIEM-SEMINAR AT UICLA
008066	05/14/03	BLU01	BLUEPRINT EXPRESS	4.24	.00	4.24	24573		BLUEPRINTS
				2.90	.00	2.90	24646		BLUEPRINT COPY
				.05	.00	.05	24646A		BLUEPRINTS
			Check Total.....	7.19	.00	7.19			
008067	05/14/03	BOG01	BOGNUDA, LISA	21.60	.00	21.60	042803		TRAVEL TO SLO LAFCO
008068	05/14/03	CHA02	CHARTER COMMUNICATIONS	54.90	.00	54.90	050703		INTERNET SERVICE
008069	05/14/03	COM02	COMMUNICATION SOLUTIONS	1897.20	.00	1897.20	3145		OAKGLEN L/S DATA LOGGER
008070	05/14/03	COR01	CORBIN WILLITS SYSTEMS	2080.00	.00	2080.00	A30415		CUSTOMIZE LASER BILLING P
				587.08	.00	587.08	A304151		MONTHLY MAINTENANCE-MAY
			Check Total.....	2667.08	.00	2667.08			
008071	05/14/03	COU01	COURIER SYSTEMS	90.00	.00	90.00	A30505		COURIER LAB TESTS
008072	05/14/03	CRE01	CREEK ENVIRONMENTAL LABS	30.00	.00	30.00	K1415		BLWWTP LAB TEST
				30.00	.00	30.00	K1447		BLWWTP LAB TEST
				30.00	.00	30.00	K1517		BLWWTP LAB TEST
				30.00	.00	30.00	K1538		BLWWTP LAB TEST
			Check Total.....	120.00	.00	120.00			
008073	05/14/03	CSU01	CSUS FOUNDATION	63.60	.00	63.60	043003		TRAINING MANUALS-RICE
				84.36	.00	84.36	A30430		TRAINING MANUALS-DMH
			Check Total.....	147.96	.00	147.96			
008074	05/14/03	CUL02	CULLIGAN WATER CONDITION	1.75	.00	1.75	A30430		DELIVERY
008075	05/14/03	DEN01	DENDY & ASSOCIATES	3071.00	.00	3071.00	MARCH2003		LITIGATION SERVICES
008076	05/14/03	FAR01	FARM SUPPLY COMPANY	68.94	.00	68.94	44822		ROUNDUP
008077	05/14/03	FED01	FED EX	37.50	.00	37.50	466882105		DELIVERY-DATA/MATIC
008078	05/14/03	FER01	FERGUSON ENTERPRISES INC	281.53	.00	281.53	481973		PIPE/ADAPTORS
				52.08	.00	52.08	489427		FLANGE/GASKET
			Check Total.....	332.61	.00	332.61			

COMPUTER GENERATED CHECKS

Check No	Date	Code	Payee	Amount	Rate	Amount	Check No	Description
008079	05/14/03	FGL01	FGL ENVIRONMENTAL	44.80	.00	44.80	303296A	BL WWTP LAB TEST
				44.80	.00	44.80	303297A	NIPOMO WWTP LAB TEST
				44.80	.00	44.80	303568A	NIPOMO WWTP LAB TEST
				44.80	.00	44.80	303569A	BL WWTP LAB TEST
				41.00	.00	41.00	304069A	CHURCH WELL-GROSS ALPHA
			Check Total.....	370.20	.00	370.20		
008080	05/14/03	FLO01	FLOYD V. WELLS, INC.	16251.52	.00	16251.52	12832	SUNDALE WELL REPAIR
008081	05/14/03	GAR01	GARING TAYLOR & ASSOC	154.50	.00	154.50	3447	WOODLANDS
				277.79	.00	277.79	3448	TEFFT ST WATERLINE
				1857.53	.00	1857.53	3449	TANK SITE INSPECTION
				383.25	.00	383.25	3450	TEFFT ST L/S
				733.39	.00	733.39	3451	MONTECITO VERDE II
				3877.00	.00	3877.00	3453	OLD TOWN WATER/SEWER SERV
				515.00	.00	515.00	3447A	DANA WELLS-MARIA VISTA
			Check Total.....	7798.46	.00	7798.46		
008082	05/14/03	GEO01	GEOSOLUTIONS, INC.	1302.00	.00	1302.00	2728	SOIL REPORT-TANK CONSTRUCT
008093	05/14/03	GIL01	GLM, INC.	90.00	.00	90.00	043003	BL LANDSCAPE MAINTENANCE
				318.67	.00	318.67	A30501	MONTHLY LANDSCAPE MAINTEN
			Check Total.....	408.67	.00	408.67		
008094	05/14/03	GRA01	GRANDFLOW, INC.	1301.24	.00	1301.24	68910	UTILITY LASER FORMS
008085	05/14/03	GRA03	GRAYBAR ELECTRIC CO	222.80	.00	222.80	660150	ELECTRICAL SUPPLIES
008086	05/14/03	GWA01	GWA INC	25.00	.00	25.00	A30430	ALARM SERVICE-MAY
008087	05/14/03	IKO01	IKON OFFICE SOLUTIONS	47.20	.00	47.20	16202280	COPIER MAINTENANCE
008088	05/14/03	JOR01	JOHNSON, DONNA	32.00	.00	32.00	A30430	OFFICE SUPPLIES
008089	05/14/03	KAM01	KAMAN INDUSTRIAL TECH	84.46	.00	84.46	C413991	DAYCO POLY FLO TUBE
008090	05/14/03	LUC01	LUCIA MAR UNIFIED SCHOOL	51.00	.00	51.00	030525	USE OF NIPOMO HS-4/02 03
008091	05/14/03	MIL01	MILLS-KOEHLER	50.00	.00	50.00	100430	BACKFLOW TEST/REPORT
008092	05/14/03	MIS01	MISSION UNIFORM SERVICE	315.06	.00	315.06	A30505	UNIFORM SERVICE
008093	05/14/03	NEX01	NEXTEL COMMUNICATIONS	235.35	.00	235.35	7314-017	CELLULAR SERVICE
008094	05/14/03	NIC01	NICKSON'S MACHINE SHOP	2041.73	.00	2041.73	68635	SUNDALE-DRIVE SHAFT/ENR
008095	05/14/03	NIP01	NIPOMO ACE HARDWARE INC	136.65	.00	136.65	A30506	MISC SUPPLIES
008096	05/14/03	NIP03	NIPOMO SHELL	1006.40	.00	1006.40	174675	FUEL-MARCH
				1149.55	.00	1149.55	174678	FUEL-APRIL
			Check Total.....	2155.95	.00	2155.95		
008097	05/14/03	NIP06	NIPOMO AUTO PARTS	23.87	.00	23.87	A30430	VEHICLE PARTS
008098	05/14/03	PAC01	PACBELL/WORLDCOM	40.37	.00	40.37	T1295811	TELEPHONE
				80.47	.00	80.47	T1295813	TELEPHONE
				63.64	.00	63.64	T1295814	TELEPHONE
			Check Total.....	184.48	.00	184.48		
008099	05/14/03	PLA01	PLATINUM PLUS FOR BUSINES	106.30	.00	106.30	043003	OFFICE SUPPLIES
008099	05/14/03	PLA01	PLATINUM PLUS FOR BUSINES	480.00	.00	480.00	A30430	UCLA SEMINAR-MIKE & E
				-140.00	.00	-140.00	A30502C	CREDIT
			Check Total.....	446.30	.00	446.30		
008100	05/14/03	PRE01	PRECISION JANITORIAL	275.00	.00	275.00	113	JANITORIAL-APRIL
008101	05/14/03	PUL01	PULITZER CENTRAL COAST NP	429.00	.00	429.00	429.	SOI PUBLIC MEETING AD
				18.00	.00	18.00	140645	LANDSCAPE RFP PUBLIC
			Check Total.....	447.00	.00	447.00		
008102	05/14/03	QUI03	QUINN RENTAL SERVICES	12.11	.00	12.11	2042539	TROWEL/ANCHOR
				16.82	.00	16.82	2042539	CONCRETE
				5.31	.00	5.31	2042603	DRILL BIT
				70.66	.00	70.66	2042659	ADAPTORS
			Check Total.....	104.90	.00	104.90		
008103	05/14/03	RAY01	RAYNE WATER CONDITIONING	241.96	.00	241.96	A30501	RO UNIT REPAIR
008104	05/14/03	RIC	RICHARDS, WATSON, GERSHON	36465.55	.00	36465.55	126578	GROUNDWATER LITIGAT
008105	05/14/03	PAID	PAID	6778.28	.00	6778.28	399450	GROUNDWATER LITIGAT

COMPUTER GENERATED CHECKS

008106	05/14/03	SHI01	SHIPSEY & SEITZ, INC	8733.40	.00	8733.40	4/15/03	LEGAL SERVICES TRAVEL
008107	05/14/03	SLO01	SAN LUIS OBISPO COUNTY	40.00	.00	40.00	A30430	PLANNING COMMISSION AGENT
008108	05/14/03	SOU01	SOUTH COUNTY SANITARY	14.58	.00	14.58	298009	TRASH SERVICE
008109	05/14/03	SPI01	SPIESS CONSTRUCTION CO.	133354.80	.00	133354.80	A30505	TANK CONSTRUCTION-SPRESS
008110	05/14/03	STA03	STATEWIDE SAFETY & SIGNS	22.52	.00	22.52	29834	12 REFLEXITES
008111	05/14/03	STA05	STATE WATER RESOURCES CB	130.00	.00	130.00	A30506	GRADE II WW-SIMMONS
008112	05/14/03	STR01	STREET TREE SEMINAR, INC.	41.00	.00	41.00	A30430	STREET TREES BOOK,MAP
008113	05/14/03	THE01	THE GAS COMPANY	58.62	.00	58.62	A30430	OFFICE HEAT
				58.92	.00	58.92	A30505	SUNDALE GAS
			Check Total.....	117.54	.00	117.54		
008114	05/14/03	TRI03	THE TRIBUNE	390.00	.00	390.00	464060	SOI PUBLIC NOTICE
008115	05/14/03	TRO01	TROTTER, CLIFFORD	100.00	.00	100.00	051403	REGULAR BOARD MTS 3 1 0 1
008116	05/14/03	VAL01	VALLEY SEPTIC SERVICE	1333.80	.00	1333.80	1114	SEWER JETTING
				1836.70	.00	1836.70	1138	PUMP BRACKEN LIFT STATION
				969.60	.00	969.60	1141	JET SEWER LINES
				1586.10	.00	1586.10	1145	JET SEWER LINE
				1759.80	.00	1759.80	1152	JET SEWER LINES
				756.50	.00	756.50	1156	SEWER JETTING
			Check Total.....	8242.50	.00	8242.50		
008117	05/14/03	VER01	VERIZON	31.02	.00	31.02	041903	BL TELEPHONE
				29.62	.00	29.62	A30501	BL TELEPHONE
			Check Total.....	60.64	.00	60.64		
008118	05/14/03	VIE01	VIERHEILIG, LARRY	100.00	.00	100.00	051403	REGULAR BOARD MTS 3 1 0 1
008119	05/14/03	VIK01	VIKING OFFICE PRODUCTS	161.24	.00	161.24	381025	OFFICE SUPPLIES
				214.47	.00	214.47	384547	SHOP FAX MACHINE
			Check Total.....	375.71	.00	375.71		
008120	05/14/03	WHI01	WHITAKER CONTRACTORS INC.	106997.26	.00	106997.26	0220-5A	PROGRESS BILLING
				19260.40	.00	19260.40	0220-6A	PROGRESS BILLING
			Check Total.....	126257.66	.00	126257.66		
008121	05/14/03	WIN01	WINN, MICHAEL	100.00	.00	100.00	051403	REGULAR BOARD MTS 3 1 0 1
008122	05/14/03	WIN02	WINN, MICHAEL	40.00	.00	40.00	042503	PER DIEM-SEMINAR AGENT
				125.80	.00	125.80	A30506	MILEAGE/PARKING TRIP
			Check Total.....	165.80	.00	165.80		
008123	05/14/03	WIR02	WIRSING, JUDY	100.00	.00	100.00	051403	REGULAR BOARD MTS 3 1 0 1
008124	05/14/03	XER01	XEROX CORPORATION	80.17	.00	80.17	95133588	COPIER MAINTENANCE
008125	05/14/03	\N004	NELSON CONSTRUCTION,	463.05	.00	463.05	000A30501	MO CUSTOMER REFUND
008126	05/14/03	\N005	HIPOMO HOMES,	92.56	.00	92.56	000A30501	MO CUSTOMER REFUND

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

SPECIAL MEETING

APRIL 21, 2003 MONDAY 9:00 A. M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

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

STAFF

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

CALL TO ORDER AND FLAG SALUTE

President Winn called the meeting to order at 9:05 a.m. and led the flag salute.

ROLL CALL

At Roll Call, all Board members were present.

Public Comment on Agenda Items

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

The following member of the public spoke:

Guy Murray, inside District resident – Asked consultants to address specific issues. He informed consultant that Nipomo residents wish to have Nipomo stay rural not grow big.

ADMINISTRATIVE ITEM

1. INITIAL CITY INCORPORATION FEASIBILITY STUDY

Interview And Possible Selection Of Consultant To Perform The Study

The Board heard presentations from representatives from the consultant companies.

The Natelson Co. Inc.	Roger Dale
Economic & Planning Sys	James Edison
The Davis Co.	Michael Davis

After the presentations, the following member of the public spoke:

Guy Murray, inside District resident – He felt that Davis made the best presentation.

Ed Eby, inside District resident – Felt each consultant would do a good job. Felt EPS has the most expertise.

MINUTES SUBJECT TO BOARD APPROVAL

MINUTES
SPECIAL MEETING
APRIL 21, 2003

Dick Mobraaten, inside District resident - Felt Davis would do a good job. Recommended doing the study.

Alessia Passalacqua - Felt Davis was the most knowledgeable

Upon motion of Director Blair and seconded by Director Trotter, the Board unanimously approved Davis as the consultant to perform the feasibility study. Vote 5-0

ADJOURN

President Winn adjourned the meeting at 12:11 p.m.

MINUTES SUBJECT TO BOARD APPROVAL

NIPOMO COMMUNITY SERVICES DISTRICT

MINUTES

APRIL 23, 2003

REGULAR MEETING 9:00 A.M.

BOARD ROOM 148 S. WILSON STREET NIPOMO, CA

BOARD MEMBERS

MICHAEL WINN, PRESIDENT
JUDITH WIRSING, VICE PRESIDENT
ROBERT BLAIR, DIRECTOR
CLIFFORD TROTTER, DIRECTOR
LARRY VIERHEILIG, DIRECTOR

STAFF

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

NOTE: All comments concerning any item on the agenda are to be directed to the Board Chairperson. Consistent with the Americans with Disabilities Act, NCSD Board agendas and other writings will be made available to disabled persons in an appropriate alternate format. (If assistance is needed, please contact the District office at least one day before the meeting.)

A. CALL TO ORDER AND FLAG SALUTE

NEXT RESOLUTION 2003-860

President Winn called the meeting to order at 9:00 a.m. and led the flag salute.

B. ROLL CALL

NEXT ORDINANCE 2003-97

At Roll Call, all Board members were present.

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.

The following members of the public spoke:

Larry Vierheilig, NCSD customer – stepped down from the Board to comment. He informed the public of a meeting with Cal Trans, May 8 to discuss a 20-year plan for Highway 1.

Jim Kinninger, Nipomo resident, NCAC President – discussed the meeting with Supervisor Achadjian about a possible General Plan Amendment for Nester's proposed project at the Kaminaka property.

Homer Fox, NCSD customer – He was served by the District again and would like to get it settled.

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

D-1) DISTRICT ANNEXATION POLICY

Review/approve revisions to the District's Annexation Policy

The following member of the public spoke:

Ed Eby, NCSD customer – discussed his written comments about the Annexation Policy with Board.

The Board discussed the policy and made some changes.

Upon motion of Director Blair and seconded by Director Vierheilig, the Board unanimously approved Resolution 2003-860 as amended. Vote 5-0

Ed Eby, NCSD customer – commented on the amendments.

**RESOLUTION NO. 2003-860
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REVISING THE DISTRICT'S ANNEXATION POLICY**

D-2) MONTECITO VERDE II – SEWER CAPACITY FEE

Review sewer capacity payment options

The following member of the public spoke:

Homer Fox, NCSD customer – wanted to know if MVII customers paid the same sewer fee as others in the District. Answer – yes

There was no Board action.

MINUTES SUBJECT TO BOARD APPROVAL

- D-3) URBAN WATER MANAGEMENT PLAN
Administrative draft to be circulated for comments

The following member of the public spoke:

Ed Eby, NCSD customer – commented on the plan

Jesse Hill, Arroyo Grande - commented on the plan

The Board reviewed each page of the Urban Water Management Plan and made comments and suggestions.

The Board suggested making adjustments and sending the amended Plan to various agencies for comments.

E. OTHER BUSINESS

- E-1) DISTRICT INSTALLED SEWER LINE REIMBURSEMENT
Introduction and first reading of Ordinance for District-installed Sewer Line Reimbursement costs

The Board discussed the proposed ordinance establishing District-installed sewer line reimbursement fees.

Upon motion of Director Vierheilg and seconded by Director Trotter, the Board agreed to have the ordinance read in title only. There was no public comment. Vote 5-0. Mr. Seitz, District Legal Counsel, read the ordinance title. Upon motion of Director Vierheilg and seconded by Director Wirsing, the Board unanimously approved the introduction and first reading of Ordinance 2003-97. There was no public comment. Vote 5-0.

- 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 April 9, 2003, Regular Board meeting
F-3) THIRD QUARTER FINANCIAL REPORT (Receive and File) [RECOMMEND APPROVAL]
F-4) FIRST QUARTER INVESTMENT REPORT (Receive and File) [RECOMMEND APPROVAL]

Upon motion of Director Blair and seconded by Director Vierheilg, the Board approved the consent Agenda. There was no public comment. Vote 5-0.

G. MANAGER'S REPORT

Doug Jones, District General Manager, presented information on the following.

- G-1) DISTRICT BOND RATING GETS AN "A"

H. COMMITTEE REPORTS

The Finance Committee will meet to discuss the proposed budget for Fiscal Year 2003-04.

I. DIRECTORS COMMENTS

Director Vierheilg spoke about a High-Density meeting at Embassy Suites, May 31 with Cal Trans. Also informed the Board about a meeting for parks and recreation at the Vets Hall in SLO April 24 and May 22.

Director Blair spoke about PGE meeting about housing. They are looking to the government for solutions. He also asked if item could be put on agenda to change Board meeting to 9:30 am. from 9:00 a.m. to allow him time to attend the SLO-COG meetings in SLO.

Director Winn spoke of the advertisement about the Spring Clean Up getting lost between time ad sent and event date. Would like to discuss further.

MINUTES SUBJECT TO BOARD APPROVAL

I. DIRECTORS COMMENTS (continued)

Hazardous Material place on Southland will take computer monitors free.

Spoke about a possible water service for residents on Joshua Rd.

WRAC will not meet in May.

There will be a tour of the Arvin-Edison facilities and possibly Polonio Pass in May.

Also spoke of the high-density housing meeting May 31.

Jon Seitz informed Board of the annual CSDA dinner meeting May 9, 2003.

They will elect a CSDA president.

Jon Seitz, District Legal Counsel, announced the need to go into Closed Session.

There was no public comment on the items to be discussed in Closed Session.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL Pending Litigation GC§54956.9

- A. SMVWCD VS NCSD SANTA CLARA COUNTY CASE NO. CV 770214 AND ALL CONSOLIDATED CASES.
- B. SAVE THE MESA vs. NCSD CASE NO. CV 020181
- C. WATER LINE EASEMENT ACROSS COUNTY PARK - DISTRICT NEGOTIATOR - DOUG JONES, CONFERENCE WITH NEGOTIATOR GC§54956.8 COUNTY NEGOTIATOR - PETE JENNY, REGARDING TERMS & PRICE.
- D. ANTICIPATED/INITIATE LITIGATION, ONE CASE

The Board came out of Closed Session. The Board was given an update on items A and C above. There was no reportable action.

Upon motion of Director Blair and seconded by Director Trotter, the Board unanimously agreed to adjourn this meeting at 12:35 p.m. to a special meeting at Nipomo High School at 7:00 p.m.

**ADJOURN TO A SPECIAL MEETING AT NIPOMO HIGH SCHOOL IN THE FORUM AT 7:00 P.M.
525 NORTH THOMPSON AVENUE, NIPOMO, CALIFORNIA**

Minutes to Special Meeting on next page.

ADMINISTRATIVE ITEM (The following may be discussed and action may be taken by the Board.)

REVIEW AND CONSIDER PROPOSED NCSD SPHERE OF INFLUENCE BOUNDARIES

Review LAFCO study areas for NCSD Sphere Of Influence and make recommendations to Local Agency Formation Commission (LAFCO)

ADJOURN

The second half of the meeting was adjourned at 9:00 p.m.

MINUTES SUBJECT TO BOARD APPROVAL

**NIPOMO COMMUNITY SERVICES DISTRICT
SPECIAL MEETING
MINUTES**

APRIL 23, 2003 WEDNESDAY
7:00 P. M.

**NIPOMO HIGH SCHOOL FORUM
525 N. THOMPSON AVENUE
NIPOMO, CALIFORNIA**

BOARD MEMBERS

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

STAFF

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

CALL TO ORDER

President Winn called the meeting to order at 7:05 p.m.

ROLL CALL

At Roll Call, all Board members were present.

Public Comment on Agenda Items

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

ADMINISTRATIVE ITEM (The following may be discussed and action may be taken by the Board.)

REVIEW AND CONSIDER PROPOSED NCSD SPHERE OF INFLUENCE BOUNDARIES
Review LAFCO study areas for NCSD Sphere Of Influence and make recommendations to Local Agency Formation Commission (LAFCO)

Jon Seitz, District Legal Counsel, reviewed some terms that are used in the subject of Sphere of Influence.

Doug Jones, District General Manager, explained the process.

Paul Hood, LAFCO Executive Officer, went through the steps involved in Sphere of Influence boundary consideration.

Step 1	Information Gathering
Step 2	Preparing documents
Step 3	Public Review – a 45-60 day period
Step 4	Public Hearing

MINUTES SUBJECT TO BOARD APPROVAL

**SPECIAL MEETING
MINUTES**

APRIL 23, 2003
Page Two

David Church, LAFCO – showed slides of the Study Areas and briefly described each one.
Chuck Stevenson, SLO County Planning – presented information
Jim Kinninger, NCAC Board President –

The public was given opportunity to speak on each Study Area.
The following members of the public spoke:

STUDY AREA	SPEAKER
1	Bob Blair, NCSD Resident
1	Jim Kinninger, NCAC Bd Pres.
2	No one spoke
3	Ed Eby, NCSD Ratepayer
3	Spike Wheeler, Study area Landowner
3	Jim Kinninger, NCAC Bd Pres.
3	Vince McCarthy, NCSD Ratepayer
4	No one spoke
5	Jim Kinninger, NCAC Bd Pres.
6	No one spoke; but a letter was received from Woodlands asking not to be in service area.
7	Jim Tefft, Study Area landowner
7	Cheryl Muffin, Study Area landowner
7	Marilyn Tefft, Study Area landowner
8	No one spoke
General	Stephanie Franks, NCSD Business owner
General	Rick De Amorelli, NCSD Ratepayer
5	Raul Morales, Study Area landowner
General	Jesse Hill

Upon motion of Director Vierheilig and seconded by Director Wirsing, the Board decided to omit Study Area 6 and include Study Area 8 from the proposed Sphere of Influence boundary. There was no public comment on this motion. Vote 5-0
The Board chose to wait to make a decision on the other Study Areas.

ADJOURN

President Winn adjourned the meeting at 9:00 p.m.

MINUTES SUBJECT TO BOARD APPROVAL

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

**AGENDA ITEM
F-3
MAY 14, 2003**

TEFFT STREET WATER MAIN PROJECT
NOTICE OF COMPLETION

ITEM

Filing a Notice of Completion for the Tefft Street water main project.

BACKGROUND

Whitaker Contractors, Inc. was awarded the contract to construct the Tefft Street water main. The work has been completed. Filing a "Notice of Completion" of the construction work is now in order.

RECOMMENDATION

Staff recommends that your Honorable Board approve the "Notice of Completion" and authorize the General Manager to file the Notice of Completion for the Tefft Street water main project.

Board 2003/Tefft St Notice of Completion



*Civil Engineering
 Surveying
 Project Development*

May 2, 2003

Mr. Doug Jones, General Manager
 Nipomo Community Services District
 148 South Wilson Street
 Nipomo, CA 93444

Re: Tefft Street Water Main Project from Dana School to Thompson Avenue

Dear Doug / Lisa:

This letter is to serve as notice that all construction work on the Tefft Street Water Main Project from Dana School to Thompson Avenue is now complete.

Although the bulk of the construction of this project has been complete since January, the last of the extra work / change order negotiations have been completed and the last progress payment request has been submitted. As far as can be ascertained by our inspections, all work on the project has been completed satisfactorily and in accordance with the Plans, Contract Special Provisions and District Standards.

Based upon the foregoing, it is our recommendation that the project be formally accepted by the District and that a Notice of Completion be filed with the Office of the San Luis Obispo County Recorder.

Please let me know if you have any questions or need additional information.

Respectfully submitted,

Garing, Taylor & Associates, Inc.

Michael R. Ratty, Project Engineer

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

NIPOMO COMMUNITY SERVICES DISTRICT
P.O. Box 326
Nipomo, CA 93444

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE OF COMPLETION

Notice pursuant to Civil Code Section 3093, must be filed within 10 days after completion.

Notice is hereby given that:

- 1. The undersigned is owner or corporate officer of the owner of the interest or estate stated below in the property hereinafter described:
- 2. The full name of the owner is Nipomo Community Services District
- 3. The full address of the owner is P O Box 326
Nipomo, CA 93444
- 4. The nature of the interest or estate of the owner is: In fee.

(If other than fee, strike "In fee; and insert, for example, "purchaser under contract of purchase." or "lessee")

- 5. The full names and full addresses of all persons, if any, who hold title with the undersigned as joint tenants or as tenants in common are:

NAMES	ADDRESSES
None	

- 6. A work of improvement on the property hereinafter described was completed on April 28, 2003. The work done was:
Construction of water main
- 7. The name of the contractor, if any, for such work of improvement was
Whitaker Contractors, Inc., P O Box 910, Santa Margarita, CA 93453-0910

- 8. The property on which said work of improvement was completed is in the city of Nipomo.

County of San Luis Obispo, State of California, and is described as follows: Tefft Street water main

- 9. The street address of said property is Tefft Street from Dana School to Mallagh Street, Nipomo, California

Dated: _____
Verification for Individual Owner

Signature of owner or corporate officer of owner
named in paragraph 2 or his agent

VERIFICATION

I, the undersigned, say: I am the _____ General Manager _____ the declarant of the foregoing
("President of", "Manager of", "A partner of", "Owner of", etc.)

notice of completion; I have read said notice of completion and know the contents thereof; the same is true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2003, at Nipomo, California.
(Date of signature) (City where signed)

(Personal signature of the individual who is swearing that the contents of
the notice of completion are true.)

TO: BOARD OF DIRECTORS
FROM: DOUG JONES
DATE: MAY 14, 2003

AGENDA ITEM
G
MAY 14, 2003

MANAGER'S REPORT

G-1) REQUEST BY JIM KINNINGER TO AGENDIZE LATENT POWER OF PARK & RECREATION

NCSD received a request from Jim Kinninger to agendiize the possible activation of the latent power of Park & Recreation. This request was received after the agenda was prepared.

G-2) BOARD OF DIRECTOR INTERVIEWS WITH THE DAVIS COMPANY

Mr. Davis would like to conduct Board of Director interviews on Tuesday, May 27. Please place this date on your calendar. A time schedule will be forthcoming.

G-1

May 7, 2003

**F. Y. I.
FOR YOUR INFORMATION**

To: Mike Winn, Chair, Nipomo Community Services District

From: Jim Kinninger, Resident, Nipomo Mesa

Date: Wednesday, May 7, 2003

Re: Latent Powers of the NCSD, Parks & Recreation

Dear Mike,

I am requesting that you agendaize the above topic at your next Board meeting on Wednesday, May 14, 2003. I am hoping that the NCSD can take a lead roll in addressing the issue of Open Space in our community. As it is now, Open Space parcels can create fire hazards and eyesores. Whereas, if there was a method to take advantage of them, the community could benefit with groomed parks and ball fields.

I realize that there will be many hurdles in this path, but I believe your Board should have the opportunity to lead the way in this important area of community service. With the proposed project for clustering on the Kaminaka property and a potential offer of thirty-six acres of open space on the table, the timing of this discussion is very pertinent.

Sincerely,

Jim Kinninger
1730 Woodhaven Way
Nipomo, CA 93444
343-9494

RECEIVED

MAY 09 2003

NIPOMO COMMUNITY
SERVICES DISTRICT