

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BBB*  
DATE: NOVEMBER 8, 2006

**AGENDA ITEM  
D  
NOVEMBER 15, 2006**

REVIEW GROUNDWATER STATUS AND WATER ALLOCATION ORDINANCE

**ITEM**

Review status of Nipomo Mesa Groundwater Management Basin and discuss potential edits to the Water Allocation Ordinance [Action to be requested at subsequent meeting].

**BACKGROUND**

In September, your Honorable Board directed staff to bring back information on the Groundwater Basin, current consumption by use class and information on commercial use. On October 11, 2006 your Honorable Board received SAIC's Technical Memorandum #1 and discussed the three topics of concern. On October 25, 2006 your Honorable Board received SAIC's Technical Memorandum #2 and discussed answers to questions raised regarding Technical Memorandum #1. This item was set on this agenda so that representatives from SAIC could attend and so that potential edits to the Allocation Policy for development inside NCSD's boundaries could be discussed at the same time the Board reviewed a proposed policy for allocation of water to future annexations. Following is a discussion of the three topics of concern.

- ANNUAL ALLOCATION LIMIT – A representative of SAIC will participate in the meeting and answer questions regarding both Technical Memorandums. The issue before your Honorable Board is whether the 51 acre feet per year limitation on new demand should be revised. SAIC has opined that there is 121,000 acre feet of useable storage available and that the average drawdown of that storage over the past six years has been 500 acre feet per year. If all 51 acre feet were appropriated each year for the next five years the storage drawdown per year would increase from 551 acre feet per year up to 755 acre feet per year with a cumulative total drawdown of 3,265 acre feet. The Water Year 2006-07 Allocation Summary suggests that the current rate of new residential growth is approximately 27 acre feet per year, but this rate does not include commercial projects and it does not account for grandfathered projects.
- USE GROUP LIMITATIONS ON FUTURE RESIDENTIAL UNITS – Attached is a copy of the staff analysis of FY05-06 consumption by residential use class. As illustrated on the attached analysis, the current customers are using more water than the targets set forth in the allocation ordinance, however, new construction should be more water efficient than the average of existing customers. It should be noted that staff is still evaluating the impact of zero reads on the average and will report the results of that research to your Honorable Board at the Board Meeting.
- TRACKING NON-RESIDENTIAL DEMAND – As noted on the comparison sheet, the aggregate of all FY05-06 commercial use constitutes 5.06% of the aggregate of all FY05-06 residential use.

The Board should note that staff is not asking for action at this meeting. It is staff's expectation that your Honorable Board will consider action at your December 13, 2006 Board Meeting. Staff is requesting Policy Direction regarding these three issues so that staff can draft an ordinance amendment. Also attached is a copy of the existing Allocation Ordinance for reference.

**RECOMMENDATION**

Staff recommends that your Honorable Board:

- ANNUAL ALLOCATION LIMIT – Staff recommends that the Board stay with the 51 acre feet per year as the aggregate limit, subject to annual review;
- USE GROUP LIMITATIONS – Staff recommends that the Board use the FY05-06 Observed Use Values as the new values for Section 3.05.030 Limitations per residential unit in the various classes with the caveat that the certification of future use by applicants would be 15% less (or some other discount) than the respective limitation;
- NON-RESIDENTIAL TRACKING – Staff recommends that the Board debit an extra 5% to each residential project to account for the expected increase in non-residential consumption so that the allocation tracking accounts for both the commercial and the related non-commercial use.

**ATTACHMENT**

- Staff's Analysis of FY05-06 Water Usage
- Adopted Allocation Policy

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**COMPARISON OF ALLOCATION USE LIMITS, UWMP ESTIMATES & OBSERVED AVERAGES**

<b>USE GROUP</b>	<b>ALLOCATION LIMIT (AF/DU/YR)</b>	<b>FY05-06 OBSERVED AVERAGE USE (AF/DU/YR)</b>	<b>UWMP ESTIMATES (AF/DU/YR)</b>	
<b>MULTI-FAMILY</b>		0.18	0.25	0.146
<b>DUPLEX</b>		0.3	0.32	NA
<b>SF (&lt;4,500sf Lot)</b>		0.3	0.42	0.473
<b>SF (4,500 to 10,000sf)</b>		0.45	0.6	0.473
<b>SF (&gt;10,000sf)</b>		0.55	0.98	0.619

TOTAL COMMERCIAL USE AS A PERCENTAGE OF RESIDENTIAL USE = 5.06%

ORDINANCE NO. 2004 - 100

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING RULES AND REGULATIONS FOR ALLOCATING  
~~INTENT-TO-SERVE LETTERS FOR PROJECTS WITHIN~~  
~~THE DISTRICT BOUNDARY~~  
CHAPTER 3.05 OF THE DISTRICT CODE

**WHEREAS**, it is essential for the protection of the health, welfare, and safety of the residents of the Nipomo Community Services District ("District"), and the public benefit of the State of California ("State"), that the groundwater resources of the Nipomo Mesa be conserved; and

**WHEREAS**, all of the current water supply requirements for the District are met by the use of groundwater; and

**WHEREAS**, the District is a party to a groundwater litigation matter, Santa Maria Valley Water Conservation District v. City of Santa Maria, etc. et al., Case No. CV 770214 ("Groundwater Litigation"). Until the Groundwater Litigation is resolved or settled the District's ability to rely on groundwater from the Santa Maria Groundwater Basin cannot be quantified; and

**WHEREAS**, the District's Urban Water Management Plan acknowledges that the District's future water supply will be dependent on the Court's decision on the adjudication of the Santa Maria Groundwater Basin with the possibility of the District having to curtail its pumpage from the Nipomo Sub-Area of the Santa Maria Groundwater Basin; and

**WHEREAS**, S.S. Papadopoulos and Associates, Inc. has prepared a report titled *Nipomo Mesa Groundwater Resource Capacity Study, San Luis Obispo, California* for the San Luis Obispo County Board of Supervisors (said Report and referenced documents are incorporated herein by this reference). Said Report included the following opinions and findings:

1. That groundwater pumping in the Nipomo Mesa area is in excess of the dependable yield. Since current and projected pumping beneath Nipomo Mesa exceeds inflow (natural recharge plus subsurface inflow), the Nipomo Mesa portion of the Santa Maria Groundwater Basin is currently in overdraft and projections of future demand indicate increasing overdraft.
2. DWR's findings for groundwater beneath the Nipomo Mesa Area are consistent with the County's Resource Management System Water Supply Criterion, Level of Severity III - existing demand equals or exceeds the dependable supply.

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3. Although, existing and projected future water demand at Nipomo Mesa exceeds sustainable groundwater supply based on local water balance analyses, associated potential impact such as seawater intrusion of the aquifer system is not an imminent threat. Hydraulic analyses indicate that a time lag of many decades is likely before heavy groundwater pumping a few miles from the coast results in evidence of seawater intrusion near the coastline.
4. Analysis of historical rainfall data indicate a 30% likelihood that another 10-year period will occur within the next 100 years with annual rainfall nearly 2 inches below average. This would result in major declines in groundwater levels in the Santa Maria River Valley and Nipomo Mesa accompanied by reduced production capability from many wells, increased energy costs for pumping, and increased risk of seawater intrusion of the aquifers near the coastal margin.
5. Management response to these findings could include increased use of recycled water, increased importation of supplemental water, implementation of additional conservation measures, and appropriate limits on development; and

**WHEREAS**, the San Luis Obispo County Department of Planning and Building's 2004 Resource Capacity Study for the Water Supply in the Nipomo Mesa Area recommends a Level of Severity III (existing demand equals or exceeds dependable supply) be certified for the Nipomo Mesa Area and that measures be implemented to lessen adverse impacts of future development (said Study and referenced documents are incorporated herein by reference); and

**WHEREAS**, SAIC, the District's groundwater expert, has testified to Phase III of the above referenced Groundwater Adjudication that the Nipomo Mesa Area is in overdraft (said testimony and exhibits are incorporated herein by this reference); and

**WHEREAS**, the County of San Luis Obispo has adopted a "Growth Management Ordinance" (Title 26 of the County Code) that imposes a 2.3 percent growth limitation for non-exempt projects for the Nipomo Mesa area (said Title 26 and implementing Ordinance and supporting studies, including the supporting CEQA analysis are incorporated herein by this reference). The stated

ORDINANCE NO. 2004 - 100

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THE DISTRICT BOUNDARY  
CHAPTER 3.05 OF THE DISTRICT CODE

purpose of Title 26 is to establish regulations to protect and promote the public health, safety and welfare including:

1. To establish an annual rate of growth that is consistent with the ability of community resources to support the growth, as established by the Resource Management System (RMS) of the County General Plan;
2. To establish a system for allocating the number of residential construction permits to be allowed each year by the annual growth rate set by the County Board of Supervisors; and
3. To minimize adverse effects on the public resulting from a rate of growth which will adversely affect the resources necessary to support existing and proposed new development as envisioned by the County General Plan; and

**WHEREAS**, it is essential for conservation purposes, and for the protection of groundwater resources, that the District adopt procedures allocating water service.; and

**WHEREAS**, the District Board of Directors, at a public meeting, on June 16, 2004, considered a Staff Report, and public testimony regarding potential actions to implement restrictions on water service within the District boundary; and

**WHEREAS**, on September 7, 2004, the District Board of Directors conducted a public hearing, considered the Staff Report and public testimony on the proposed Ordinance (Chapter 3.05 to the District Code); and

**WHEREAS**, on September 29, 2004, the District Board of Directors conducted a Public Hearing, considered the Staff Report and public testimony on the proposed Ordinance (Chapter 3.05 to the District Code) and continued the Public Hearing; and

**WHEREAS**, on October 13, 2004, the District Board of Directors, at a continued Public Hearing, took the following actions in considering the adoption of this Ordinance:

- A. Considered the facts and analysis as presented in the Staff Report prepared for the adoption of this Ordinance;

ORDINANCE NO. 2004 - 100

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
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INTENT-TO-SERVE LETTERS FOR PROJECTS WITHIN  
THE DISTRICT BOUNDARY  
CHAPTER 3.05 OF THE DISTRICT CODE

- B. Conducted a public hearing to obtain public testimony on the proposed Ordinance;
- C. Considered the contents of an environmental initial study and adopted a negative declaration status for the Ordinance.

**WHEREAS**, in adopting this Ordinance, the District does not intend to limit other authorized means of managing, protecting and conserving the groundwater basin, and intends to work cooperatively with other agencies to implement joint groundwater management practices; and

**WHEREAS**, based on the Staff Report, Staff presentation, and public comment, the District Board of Directors finds:

- A. That it is the purpose and intent in adopting this Ordinance includes those purposes found in Section 3.05.010 of the Ordinance;
- B. Adopting and allocating Intent-to-Serve Letters for water service, based on resource quantities, will provide greater assurance that there will be adequate groundwater to meet present and future needs of District residents;
- C. That imposing a 2.3 percent cap on water allocation to non-exempt projects provides a logical, consistent approach to water allocation;
- D. That adopting this Chapter 3.05 will conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection.
- E. That the hearing adopting this Ordinance has been appropriately noticed as required by law.

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

**Section 1. Adoption of Chapter 3.05 to the District Code**

Chapter 3.05 to the District Code, attached hereto as Exhibit "A", is hereby incorporated herein by reference and adopted by the Board of Directors of the Nipomo Community Services District.

**Section 2. Incorporation of Recitals**

The recitals to this Ordinance are true and correct, support the

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THE DISTRICT BOUNDARY  
CHAPTER 3.05 OF THE DISTRICT CODE

implementation of conservation measures and procedures adopted by this Ordinance and are incorporated herein by this reference.

**Section 3. Severability**

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 4. 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 5. Inconsistency**

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations or any County Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

**Section 6. Effective Date**

This Ordinance shall take effect immediately upon its adoption. 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 the Five Cities Times Press Recorder.



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On motion of Board Member Vierheilig, seconded by Board Member Trotter, and on the following roll call vote, to wit:

AYES: Directors Vierheilig, Trotter, Winn  
NOES: Directors Wirsing and Blair  
ABSENT: None

The foregoing Ordinance was passed and adopted this 13<sup>th</sup> day of October, 2004.



MICHAEL WINN,  
President of the Board of Directors  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:



DONNA K. JOHNSON  
Secretary to the Board



JON S. SEITZ  
District Legal Counsel

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**NIPOMO COMMUNITY SERVICES DISTRICT**

**EXHIBIT "A"**

**CHAPTER 3.05 OF THE DISTRICT CODE**

**WATER SERVICE LIMITATIONS**

**3.05.010 Purpose.**

The purposes of this Chapter include the following:

- A. To promote public health and safety and to avoid water shortage emergencies by establishing a maximum annual water allocation for residential water service within the District boundaries.
- B. To promote conservation by establishing goals for the maximum beneficial use of water by residential category.
- C. To allocate water service by categories to avoid a particular category from being excluded from participation and receiving water service.
- D. To establish a maximum allocation for any one project during an allocation year, so as to allow greater opportunity for all projects in a category to participate and to receive water service.
- E. To avoid speculation by requiring applicants to diligently process their projects consistent with the rules and regulations of the County of San Luis Obispo.
- F. To grant a priority for the provision of available resources to proposed housing developments which help meet the County of San Luis Obispo's share of regional housing need for lower income households as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisors.
- G. To provide flexibility by allowing the Board to consider redistributing allocations at the end of the second (2<sup>nd</sup>) quarter and in the middle of the fourth (4<sup>th</sup>) quarter of each allocation year.

**3.05.020 Definitions.**

- A. ~~AFY~~ – means acre feet per year.
- B. ~~Allocation Year~~ – means October 1<sup>st</sup> through September 30<sup>th</sup> of each calendar year.

C. **Lower income housing** – means lower income housing as identified in the Housing Element of the San Luis Obispo County General Plan, as amended from time to time.

D. **Multi-family dwelling unit** – means a building or portion thereof designed and used as a residence for three or more families living independently of each other under a common roof, including apartment houses, apartment hotels and flats, but not including automobile courts, or boardinghouses.

E. **Two family dwelling unit (duplex)** – means a building with a common roof containing not more than two kitchens, designed and/or used to house not more than two families living independently of each other.

F. **Single family dwelling unit** – means a building designed for or used to house not more than one family.

G. **Secondary dwelling units** – means an attached or detached secondary residential dwelling unit on the same parcel as an existing single-family (primary) dwelling. A secondary unit provides for complete independent living facilities for one or more persons.

### 3.05.030. Limitations on Water Use.

The following total demand limitations, including landscaping, are established for the following uses:

- A. 0.18 AFY per Multi-Family Dwelling Unit;
- B. 0.3 AFY per Dwelling Unit for duplexes and Secondary Dwellings;
- C. 0.3 AFY per Single Family Dwelling Unit located on a parcel size of four thousand five hundred (4,500) square feet or less;
- D. Subject to subsection C, above 0.45 AFY per Single Family Dwelling Unit located on a parcel size between four thousand five hundred (4,500) and ten thousand (10,000) square feet.;
- E. 0.55 AFY per Single Family Dwelling Unit located on a parcel size that exceeds ten thousand (10,000) square feet.

### 3.05.040 Water Allocation per Allocation Year.

A. Fifty-one (51) acre feet per allocation year is allocated to non-exempt projects on a first come first served basis as follows:

1. Category 1: A total of thirty-five (35) AFY, including landscaping, is reserved for:
  - a. For Single Family Dwelling Units; and

b. Two Family Dwelling Units (duplexes).

2. Category 2: A total of eleven (11) AFY, including landscaping, is reserved for Multi-Family Dwelling Units.
3. Category 3: A total of five (5) AFY is reserved for Secondary Dwelling Units and local agency maintained landscaping projects.

B. During the end of the second (2<sup>nd</sup>) quarter and in the middle of the fourth (4<sup>th</sup>) quarter of each allocation year the unused allotments for Categories referenced in Section A, above, may be re-allocated by the Board of Directors to other Categories referenced in Section A, above.

C. Notwithstanding subparagraph B, above, the District shall reserve 3.3 AFY for proposed housing developments which help meet the County of San Luis Obispo's share of regional housing needs for lower income housing as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisor's. Said reservation shall be applied only to Category 1 and Category 2 projects referenced in Subparagraph A, above. Further, said reservation may only be re-allocated during the fourth (4<sup>th</sup>) quarter of each allocation year.

**3.05.050 Water Demand Certifications Required.**

A. Will Serve Letters: All applications for Will Serve Letters for Single Family Dwelling Units on existing parcels and for Secondary Dwelling Units require an engineer's or architect's certification that:

1. Low use landscape irrigation systems will be installed to irrigate landscaping; and
2. The Maximum total water demand, including landscaping does not:
  - a. For Single Family Dwelling Units – exceed the limitations established in Section 3.05.030, above for single family dwelling units;
  - b. For Secondary Dwelling Units – exceed a total water demand of 0.8 AFY for both the secondary and the primary dwelling units.

B. Intent to Serve Letters: All applications for Intent to Serve Letters require a registered engineer's or architect's certification that:

1. That low use landscape irrigation systems will be installed to irrigate landscaping; and

2. That the design maximum total water demand, including landscaping, does not exceed the limitations on water use established in 3.05.030, above.

**3.05.060 Application for Intent-to-Serve Letters, Will-Serve Letters and Termination**

The following procedures, are in addition to other District Rules and Regulations relating to Intent-to-Serve Letters and Will-Serve Letters, and shall apply to all applications for Intent-to-Serve Letters and Will-Serve Letters approved by the District:

A. Application shall be made on District's Application for Intent-to-Serve Letter or Will-Serve Letter form. In order to be considered for an Intent-to-Serve Letter or Will-Serve Letter applications shall contain a verification that applicant has submitted the proposed project for initial review to the County Planning and Building Department.

B. Intent-to-Serve Letters shall automatically terminate on the first to occur:

1. Failure of the applicant to provide District with written verification that County application for the project has been deemed complete within two hundred forty (240) calendar days of the date the Intent-to-Serve Letter is issued; or
2. Two (2) years. However, applicant shall be entitled to a one year extension upon proof of reasonable due diligence in processing the project.

**3.05.70 Exempt Projects.**

The following projects are exempt from the requirements of Section 3.05.040:

A. Commercial Projects that submit a landscape plan consistent with best management practices, including that low use landscape irrigation systems will be installed.

B. Projects with existing Intent-to-Serve Letters that have not expired.

C. Projects with existing Will-Serve Letters.

D. Remodels, and changes of use (i.e. commercial to residential) where the resulting water demand does not exceed the requirements of Section 3.05.030, above.

E. Projects that require annexation and are supported by supplemental water pursuant to the District's Annexation Policy as amended from time to time.

#### **3.05.080 Mixed Use Projects.**

Projects that include both commercial and dwelling units (mixed use) will only be approved if the dwelling units associated with the project meet the Dwelling Unit Standard set forth in Section 3.05.030 (A), above.

#### **3.05.090 Limitation on Secondary Units**

In addition to the other requirements contained in this Chapter, applications for water service to secondary units will only be accepted that include an engineer's or architect's certification that the total water demand for the secondary unit and the primary dwelling unit will not exceed 0.8 AFY. Applications for secondary units will be allocated Will-Serve Letters under 3.05.040 (A)(3), above.

#### **3.05.100 Limitations on Allocations**

A. Only one (1) request for an Intent-to-Serve Letter will be considered for any one (1) project or parcel. The District will not allocate more than twenty percent (20%) of the allocations referenced in 3.05.040 (A) (1) (2) or (3) to a project during any one allocation year.

B. A maximum of fifty percent (50%) of the annual water allocation for each successive allocation year may be reserved for projects requiring phasing of water commitments.

#### **3.05.110. Waiting List**

A. The General Manager shall maintain a waiting list for the issuance of Intent-to-Serve Letters.

B. Only applicants who have submitted a completed Intent to Serve/Will Serve application shall be placed on the waiting list and/or considered for approval.

### **3.05.120 Transfer of Allocations**

Allocations provided in the District's Intent-to-Serve Letter shall run with the land and cannot be transferred to other parcels.

### **3.05.130 Implementing Procedures**

The General Manager is hereby authorized to develop and implement procedures for allocating Intent to Serve Letters and Will Serve Letters consistent with this Chapter and its purposes and intent.

### **3.05.140 Annual Review**

A. During the fourth quarter of each allocation year, the District Board of Directors shall hold a public hearing to:

- Evaluate the water allocation formulas contained in this Ordinance; and
- To evaluate the water allotment for ensuing year.

B. The Board of Directors reserves the right, at any time, to evaluate, amend or modify this Ordinance.

### **3.05.150 Re-evaluation**

The District Board of Directors will re-evaluate Chapter 3.05 concurrently with any final agreement that obligates the parties for the delivery of supplemental water.

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TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BB*  
DATE: NOVEMBER 8, 2006

**AGENDA ITEM  
E  
NOVEMBER 15, 2006**

DISCUSS WATER ALLOCATION POLICY FOR FUTURE ANNEXATIONS

**ITEM**

Discuss development of water allocation policy for future annexations [Action to be requested at subsequent meeting].

**BACKGROUND**

In September, your Honorable Board directed staff to bring back a proposed policy to guide the allocation of water for new annexations. Staff subsequently requested that this item be discussed at a workshop in conjunction with the Board's discussion of potential amendments to the Allocation Policy for the existing service area. It is staff's expectation that your Honorable Board will be able to provide guidance on the Allocation Policy (Agenda Item D) that will be useful to the discussion of the policy on allocation of water for new annexations.

Attached is staff draft Annexation Allocation Policy Concepts and Policy Proposal. Also attached for reference is a copy of the existing Annexation Policy and a copy of the 2004 Memorandum of Agreement with SLO County regarding the NCSD's Sphere of Influence.

The Board should note that staff is not asking for action at this meeting. It is staff's expectation that your Honorable Board will consider action at your December 13, 2006 Board Meeting. Staff is requesting Policy Direction regarding the attached Policy Proposal and discussion of the concepts that support the Policy Proposal.

**RECOMMENDATION**

Staff recommends that your Honorable Board review the attachments; discuss the underlying concepts; and provide edits to the Policy Proposal.

**ATTACHMENT**

- Staff's Draft Annexation Policy Concepts and Proposal
- Adopted Annexation Policy
- 2004 MOA with SLO County

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## ANNEXATION ALLOCATION POLICY CONCEPTS & POLICY PROPOSAL

### CONCEPTS

1. Section 2C of the Stipulation specifies that within the adopted sphere of influence, NCSD shall provide water service on a reasonable and non-discriminatory basis.
2. Section 4 of the Memorandum of Agreement between NCSD and the County of SLO specifies that NCSD is committed to serving the area in the Sphere of Influence as currently zoned.
3. The LAFCO Sphere of Influence Study projects new demand in the next twenty years in Sphere area to be 737 acre-feet per year without zone changes and 1,872 acre-feet per year with increased densities in areas #1, #2, and #3. Annual growth would thus range from 37 acre-feet to 93.6 acre-feet (average = 65.3).
4. NCSD's Urban Water Management Plan projects demand in the next twenty five years in the Sphere area to range from 550 acre-feet per year to 2,370 acre-feet per year. Annual growth would thus range from 22 acre-feet up to 94.8 acre-feet (Average = 58.4).
5. The 2006 SAIC Technical Memorandum estimates that there are 121,000 acre feet of groundwater in storage underneath the Nipomo Mesa Groundwater Management Area. Between 2000 and 2006 the storage volume decreased by 3,000 acre feet suggesting an current average annual rate of decrease of 500 acre feet. If the maximum residential growth permissible under the current allocation policy of 51 acre feet per year were to occur, then the average annual rate of decrease could grow to 755 acre feet per year at the end of five years. The Water Year 2005-2006 suggests that the current rate of new residential growth is approximately 27 acre feet per year, but this rate excludes commercial projects and does not account for projects previously approved or grandfathered.
6. NCSD staff estimates that the NCSD-City of Santa Maria Waterline Intertie Project could be completed as early as January 1, 2009. This timeline could be delayed if the Board decides to re-circulate a revised draft EIR or if there is litigation. For this analysis, staff assumes that supplemental water will be available within 5 years. If the Board set the annexation limitation equal to 60 acre feet per year, then the rate of storage decline could increase from 755 acre feet per year to 1,055 acre feet per year by the end of the five year by the end of the planning horizon.

7. The adopted District Annexation Policy requires the developers of property proposed for annexation into the District to purchase supplemental water rights in addition to the 3,000 acre feet per year already included in the MOU between NCSD and the City of Santa Maria. The MOU does set forth a schedule of minimum charges based on a presumed volumes of supplemental water delivered to Santa Maria's Turnout, but NCSD has not determined if it will take more than the minimum volumes.
8. The Stipulated Judgment calls for importation of 2,500 acre feet per year of supplemental water per year, however, it provides for increases and decreases from that volume based on the determination of the NMMA Technical Group. If 2,500 acre per year was imported NCSD would pay for 66.7%; the Woodlands would pay for 16.7%; Golden State would pay for 8.3% and Rural Water Company would pay for 8.3%.
9. Based on the adopted Supplemental Water Agreement with the Woodlands, NCSD would receive 2,136 acre feet of the supplemental water from the City of Santa Maria, if the District imported the full 3,000 acre feet per year referenced in the MOU. This annual volume would likely be sufficient to meet the full build out needs of the existing service area according to the Urban Water Management Plan. Since it is unknown when or if the existing service area will achieve full build out it may be possible to "borrow" against a portion of the initial 3,000 acre feet per year until supply beyond the initial installment is available.
10. The City of Santa Maria has made no commitment to supply water beyond the 3,000 acre feet per year to the District, nor has it processed the pending requests for additional water from third parties. Additionally, the hydraulics studies have not advanced to a level where it is possible to determine the feasibility and the impacts of exporting more than 3,000 acre feet per year out of the City's delivery system.
11. The District's current annexation policy requires annexers to pay the same capacity fee as paid by developers inside the District. For FY06-07, each single family residential dwelling unit is required to pay \$11,556 towards the supplemental water project. Of this total, \$1,268 is apportioned to the Supplemental Water Project construction. The County of San Luis Obispo is generating an "In-Lieu" Fee Ordinance with a maximum in-lieu fee per single family residential unit of \$13,200 but this Fee Ordinance is not yet available for public review.
12. Rejection of Annexations by NCSD would result in the development of existing resources to serve new growth in the area proposed for development instead of relying on supplemental water.

## **POLICY PROPOSAL**

Staff proposes that the Board amend its allocation policy (and/or the annexation policy) to add an annexation component similar to the allocation policy already in place for development inside NCSD (as it may be modified).

The policy should allow for annexations:

- Up to X Acre Feet per year (22 to 94.8 acre feet per year) on a first-come; first serve, basis
- With a 20% limitation on the amount of the total for that class of development that could be dedicated to any one development in any one year and
- A 50% limitation on the total amount of the allocation in any class that can be phased in any one year.
- No annexation allocation can be carried over from one year to another, if it is not used it is gone.

Additionally, this policy amendment should set demand limitations per unit for each use classification (For Example, .18 acre feet per year of each multi-family dwelling unit). These limits should mimic the limit set forth in the allocation policy as revised.

The status of the annexation allocation should be reviewed twice per year.

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**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2006-981**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING AND RESTATING THE DISTRICT'S ANNEXATION POLICY**

**WHEREAS**, the Nipomo Community Services District ("District") last updated its Annexation Policy on or about September 10, 2003 ("Annexation Policy"); and

**WHEREAS**, the Local Agency Formation Commission ("LAFCO") is charged with the authority to review and approve all requests for sphere of influence, annexations, and other changes in organizations to the District; and

**WHEREAS**, LAFCO considers CEQA for all proposed annexations and sphere of influence changes and other changes in organizations; and

**WHEREAS**, on or about May 30, 2004, LAFCO adopted a Sphere of Influence Update ("SOI"), Municipal Service Review ("MSR") for the District. Said Sphere of Influence Update and Municipal Service Review are incorporated herein by this reference; and

**WHEREAS**, as part of the SOI and Municipal Service Review LAFCO considered and certified an Environmental Impact Report. Said Environmental Impact Report ("EIR") is incorporated herein by this reference; and

**WHEREAS**, on or about January 25, 2006, the District adopted its Urban Water Management Plan ("UWMP");

**WHEREAS**, on April 26, 2006, May 8, 2006 and May 24, 2006, the Board held public meetings related to amending the District's current Annexation Policy; and

**WHEREAS**, the District Board of Directors finds that the policies adopted herein by this Resolution do not conflict with the actions taken by LAFCO as referenced above.

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

1. The amended and restated Annexation Policy, as referenced in Exhibit "A", are hereby approved and adopted.
2. The amended and restated Annexation Policy, Exhibit "A", applies to requests for annexations that have not previously been approved by the District Board of Directors.
3. The Board of Directors finds that the adoption of the amendments to the existing Annexation Policies constitute "general policy and procedure making" described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Further, and independently, the District Board of Directors finds that the amendments to the Annexation Policy are within the scope of the program EIR adopted by LAFCO within the meaning of CEQA Guideline §§15168 and 15162 and that no new effects could occur as a result of adopting the amendments to the District's current Annexation Policy. The District

NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2006-981

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING AND RESTATING THE DISTRICT'S ANNEXATION POLICY

General Manager is authorized to prepare, execute and file a Notice of Exemption pursuant to the above provisions.

4. The above Recitals are true and correct and incorporated herein by reference and that the Staff Report, reference documents, public comment and Recitals constitute further findings in support of this Resolution.

5. If any section, subsection, sentence, clause or phrase in this Resolution and/or the amended Annexation Policy are 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 Resolution and/or the amended Annexation Policy. The District Board of Directors hereby declares that it would have passed this Resolution and/or the amended Annexation Policy, 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.

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

AYES: Directors Eby, Winn, Wirsing, Trotter and Vierheilig  
NOES: None  
ABSENT: None  
CONFLICTS: None

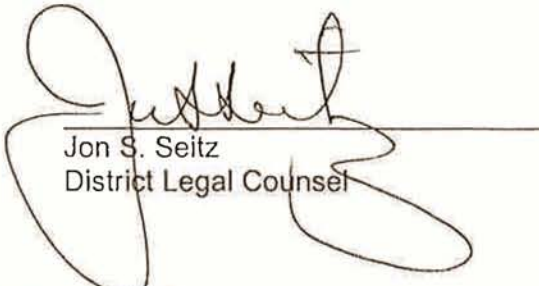
the foregoing resolution is hereby adopted this 24<sup>th</sup> day of May, 2006.

  
Lawrence Vierheilig,  
President, Board of Directors  
Nipomo Community Services District

ATTEST:

  
Donna K. Johnson  
Secretary to the Board

APPROVED AS TO FORM

  
Jon S. Seitz  
District Legal Counsel

**THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
EXHIBIT "A" TO RESOLUTION 2006-981**

**I. PURPOSE**

In order to promote efficient processing of requests for annexation to the Nipomo Community Services District ("District"), this policy sets forth the framework and standards upon which the Board of Directors will consider such requests and provides notice thereof to the owners of the property that is the subject of such requests.

**II. INTENT**

The Board of Directors intends to review all annexation requests with the aim of supporting the viability of the District in providing essential services. The District must be operated so as best to provide:

Good quality, economical and dependable water, sewerage and other authorized services for the residents of the Nipomo Community Services District.

The District recognizes San Luis Obispo County Department of Planning and Building's, August, 2004, Resource Capacity Study ("Water Supply in the Nipomo Mesa Area") and the recommendations contained therein and the degradation of the water resources within the Nipomo Mesa Management Area and the need for conservation of natural and environmental resources, including local resources, their availability and quality, consistent with the South County General Plan of San Luis Obispo County.

**III. GENERAL POLICIES**

- A. Annexations shall provide a reliable water source, other than water from the Nipomo Mesa Management Area also known as the Nipomo Mesa Hydrologic Sub Area. A map of the Nipomo Mesa Hydrologic Sub Area is attached hereto as Exhibit "A".
- B. In order to provide for the orderly development of public service facilities, only those properties will be considered for annexation for which the owners are willing to accept all conditions for service required by the Nipomo Community Services District. Further, requests for annexation solely for sewerage services to the exclusion of water service will be rejected by the Board of Directors, except under extraordinary circumstances.
- C. In order to evaluate the impacts of potential annexations upon the Nipomo Community Services District, the Board will only consider annexation requests that include the submittal of a layout plan, that meets the requirement of Section VI, below, and a completed Annexation application. The District reserves the discretion to require additional information from the Applicant.
- D. If the intended development within the proposed area of annexation requires further County approvals (e.g., zoning or subdivision), the District's approval of the annexation may be conditioned upon the owners obtaining such County approvals before the annexation becomes effective.

THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
EXHIBIT "A" TO RESOLUTION 2006-981

- E. After review of the layout plan and Application, the Board of Directors will consider annexation requests where it can be demonstrated that the benefits of the proposed annexation outweigh the disadvantages of the proposed annexation.
- F. The proposed annexation area boundary shall include all properties that may receive the proposed services to be provided (i.e., use rear property lines rather than streets as boundary lines).
- G. The District is opposed to the formation of homeowners associations or mutual water companies for the operation of water and/or sewer systems in the Nipomo Mesa area.
- H. The applicant shall apply to the Local Agency Formation Commission ("LAFCO") for approval of the proposed annexation.

IV. GENERAL STANDARDS

- A. Non-Agricultural Uses of Groundwater Basin Water Prohibited:  
Applicants shall covenant, in a form acceptable to District Legal Counsel, for recording at the San Luis Obispo County Recorder's Office, not to pump from the underlying groundwater basin except for agricultural uses and or open space irrigation.
- B. Prior to final LAFCO approval the District shall adopt and forward to LAFCO a Resolution verifying the following:
  - 1. The Applicant has acquired and dedicated to the District's satisfaction, a volume of supplemental water (from a source acceptable to the District other than Nipomo Mesa Management Area groundwater), equal to that necessary to support full build-out as reflected in the Annexation Application and the Annexation Agreement.
  - 2. The Applicant has complied with the terms and conditions of the Annexation Agreement.
  - 3. That for each connection or potential connection, Applicant has deposited with the District the then current capacity and connection fees and charges for District services.
- C. California Environmental Quality Act.  
The Applicant shall be responsible for compliance with the California Environmental Quality Act ("CEQA") as part of the LAFCO approval process.
- D. Water Service:
  - 1. The District will not set water meters for residential and/or commercial service until such time that the dedicated source of supplemental water is delivered to the District and improvements to be dedicated to the District have been dedicated and accepted by the District.



THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
EXHIBIT "A" TO RESOLUTION 2006-981

2. Final capacity and connection fee charges will be determined and owing at the time the water meter(s) are set by the District.

E. Customers of the District:

Subject to subparagraph D, above, upon annexation, residents and commercial users within the area of the proposed annexation shall become "regular customers" of the District, with no greater entitlements to water service than any other District customer.

F. Cluster Developments:

1. The District will only consider annexations of cluster developments that comply with County policy relating to clustering and that include the requirement for ongoing management of the open space parcel(s) for the purposes of:
  - a. Conserving water drawn from the underlying groundwater basin;
  - b. Preventing the accumulation of solid waste, litter, and construction and demolition waste; and
  - c. Preventing the accumulation of weeds and other fire hazards that would create further demand on the District's water resources.
2. A cluster division is to include at least one (1) open space parcel that may be used for one of the allowable residential units, provided that the building site does not exceed six thousand (6,000) square feet and is defined on the recorded map. Otherwise the open space parcel is not to be developed with structural uses other than agriculture accessory buildings. The open space parcel may be used for any one of the following: crop production or range land; historic site, archaeological preserve, wildlife preserve, water storage or recharge area; leach field, scenic area, protection from hazardous areas; public outdoor recreation; or other similar use.
3. The use and restrictions referenced in Paragraphs 1 and 2 above, are to be guaranteed by a "Dedication", approved in writing by the District, as a party to the "Dedication". The Dedication shall be in the form of an open space easement, recordable agreement, dedication of fee, or partial fee title to a public or quasi-public agency.
4. If the open space parcel is designated for crop production or range land, then the Dedication related to water use shall include:
  - a. Water pumped from the groundwater basin will only be used for agricultural purposes consistent with crop production and/or grazing livestock;
  - b. A reference to the ongoing groundwater adjudication shall be identified, along with a statement that Owner acknowledges that Owner is the party subject to limitations imposed by a Court or

THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
EXHIBIT "A" TO RESOLUTION 2006-981

other agency with jurisdiction related to pumping from the underlying groundwater basin; and

- c. That Owner will not transport water from the open space parcel to other parcels that do not share a common boundary and common ownership with the open space parcel. Under no circumstances shall the Owner transport water from the open space parcel to a residential parcel.
5. If the District accepts responsibility for the open space parcel, then Applicant shall form an Assessment District, Special Tax District, or establish an endowment acceptable to District for the purposes of the operation and maintenance of the open space parcel.
6. Applicant shall establish a Homeowners Association for the purposes of assuming obligations in Subparagraph 5 above in the event the District is required to abandon the Assessment District or Special Tax District.

V. ANNEXATION AGREEMENT

All applicants for annexation shall be required to enter into an Annexation Agreement. Said Annexation Agreement shall include the following:

- A. That all infrastructure and service line extensions shall be designed and constructed at no cost to District in accordance with District's standards;
- B. Reimbursement to District for its costs in processing the annexation, including administrative costs, legal costs and engineering costs; and
- C. Payment for all applicable District capacity, meter and connection charges.
- D. Dedication to the District of a volume of supplemental water (from a source acceptable to the District other than Nipomo Mesa Management Area groundwater) equal to that necessary to support full build-out of the annexed lands.
- E. The annexation application, layout plan and the District's then current Annexation Policy shall be incorporated into the Annexation Agreement.
- F. Other terms and conditions as determined by the District.

VI. SUBMITTAL OF ANNEXATION APPLICATION AND LAYOUT PLAN

Prior to consideration by the Board of Directors, Applicants must submit an application to the District, demonstrating that the annexation will conform to these Annexation Policies and submit a layout plan for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's water distribution facilities, sewer service and other services to be provided to the area of annexation by the District.

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

Tuesday, May 18, 2004

PRESENT: Supervisors Shirley Bianchi, Peg Pinard, K.H. 'Katcho' Achadjian, Michael P. Ryan and  
Chairperson Harry L. Ovitt

ABSENT: None

In the matter of Memorandum of Agreement - NCSO Sphere of Influence Update:

This is the time set for consideration of a proposed memorandum of agreement with the Nipomo Community Services District regarding their Sphere of Influence Update; 4th District.

Mr. Chuck Stevenson, Planning, presents the staff report and recommendation.

**(SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.)**

Board Members: discuss various issues, comments and concerns regarding: discouraging other water suppliers; proposed change to page E-1-7 to include the name of the consultant and that the County has received the report; the Nipomo Community Service District (NCSO) taking over water districts; annexation policy, with staff and Mr. Paul Hood, LAFCO, and Mr. Mike Winn, NCSO, responding.

Mr. Winn: thanks everyone who has participated and the NCSO appreciates the finished project.

Mr. Doug Jones: General Manager of the NCSO, clarifies a situation that Supervisor Pinard referred to relating to the Cypress Ridge Project, the Public Utility Commission (PUC) and NCSO.

Mr. Eric Greening: addresses the water levels of severity in the Nipomo Mesa area and questions when this will come before the Board.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi and on the following roll call vote:

AYES: Supervisors Achadjian, Bianchi, Pinard, Ryan, Chairperson Ovitt

NOES: None

ABSENT: None

the Board amends the last paragraph on the first page of the agreement to read "WHEREAS, the County has commissioned S.S. Papadopulos and Associates, Inc., to assist the County in clarifying and reconciling the information, conclusions and recommendations contained in studies of the Nipomo HSA conducted by the Department of Water Resources and other hydrologic consultants and to be used in the preparation of the Water Resource Capacity Study, and is in receipt of said report; and"; and adopts the proposed

**"Memorandum of Agreement between the Nipomo Community Services District and the County of San Luis Obispo regarding the Sphere of Influence" as amended.**

cc: Planning 2  
Auditor  
LAFCO 5-28-04 cla

RECEIVED  
JUL 27 2004  
NIPOMO COMMUNITY  
SERVICES DISTRICT

STATE OF CALIFORNIA )  
                                  )     ss.  
County of San Luis Obispo )

I, **JULIE L. RODEWALD**, County Clerk and Ex-Officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 28<sup>th</sup> day of May, 2004.

(SEAL)

**JULIE L. RODEWALD**  
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By *Chris Ayres*  
Deputy Clerk

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

**ADOPTED BY THE NCSD MAY 12, 2004**

MAY 18 2004

This Agreement is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2004, by and between the Nipomo Community Services District (hereafter "District") and the County San Luis Obispo County (hereafter "County").

**WITNESSETH**

**WHEREAS**, the Cortese/Knox/Hertzberg Act ("the Act" Government Code 56000 et seq.) 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**, the District and the County enter into this agreement with the common goals of preserving and protecting the rural character of Nipomo, identifying areas of potential urban and suburban growth using the existing South County Area Plan (SCAP), implementing the District's annexation policies, and planning for future resource and service needs; and

**WHEREAS**, Section 56001 of the Act declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well being of the state; and

**WHEREAS**, the purposes of the Local Agency Formation Commission as stated in Section 56301 of the Government Code are to discourage urban sprawl, preserve open space and prime agriculture lands, efficiently provide government services, and to encourage the orderly formation and development of local agencies based upon local conditions and circumstances; and

**WHEREAS**, Section 56425 of the Government Code states that LAFCO shall determine the sphere of influence of each local government agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere; and

**WHEREAS**, a Sphere of Influence is defined by Government Code Section 56076 as a "plan for the probable physical boundaries and service area of a local agency, as determined by the Local Agency Formation Commission", and is further defined as a 20-year growth boundary for a jurisdiction's physical development in SLO LAFCO's Policies and Procedures; and

**WHEREAS**, the District and the County voluntarily enter into this agreement for the purpose of enhancing and promoting the orderly and logical development of the Nipomo Community; and

**WHEREAS**, the 2003 Annual Resources Summary Report indicates a Level 2 severity for the Nipomo Hydrologic Sub-Area, and that the County Board of Supervisors has directed the preparation of a Resource Capacity Study to determine the status of groundwater supply and demand; and

**WHEREAS**, the County has commissioned S.S. Papadopoulos and Associates, Inc., to assist the County in clarifying and reconciling the information, conclusions and recommendations contained in studies of the Nipomo HSA conducted by the Department of Water Resources and other hydrologic consultants and to be used in the preparation of the Water Resources Capacity Study, and is in receipt of said report; and

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

**ADOPTED BY NCSD MAY 12, 2004**

**WHEREAS**, all water rights in the Nipomo Hydrologic Sub-Area (HSA) are being adjudicated (Exhibit C);

**WHEREAS**, the District has adopted an Annexation Policy designed to defend the Nipomo HSA by requiring all annexations into the District to be supplied by supplemental water (Exhibit E); and

**WHEREAS**, while this agreement clarifies the intent and purpose of the District's and the County's policies regarding the Sphere of Influence, the agreement does not establish the Sphere of Influence for the District; and

**WHEREAS**, the County, through the Inland South County Area Plan adopted in 1994, has established provision for development in the rural areas, village areas and within the Nipomo Urban Reserve Line that identifies the areas of urban and suburban development for the community; and

**WHEREAS**, the District and County have reached an agreement regarding the intent and purpose of the District's Sphere of Influence and the County's Urban Reserve Line as described in Exhibit A, Provisions; and

**WHEREAS**, the Sphere of Influence Boundary shall be established by the Local Agency Formation Commission based on the evaluation of the eight Study Areas shown in Exhibit B and may include all of the eight areas, a combination of Study Areas, a portion of some areas, or other configuration as approved by LAFCO. (Exhibit B is not intended to be the proposed Sphere of Influence and this agreement does not establish the Sphere of Influence.)

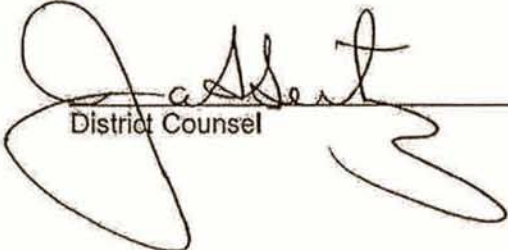
**NOW, THEREFORE**, the parties agree as follows:


1. The provisions found in Exhibit A are intended to clarify the relationship and definition of the District's Sphere of Influence and the County's Urban Reserve Line respectively.
2. The provisions found in Exhibit A are intended to provide the District and the County with guidance for evaluating future annexation proposals for the areas in the District's Sphere of Influence and do not supersede or limit either agency's mission or legislatively established function and do not bind either agency.
3. The parties agree that the above recitals are true and correct.

  
\_\_\_\_\_  
President, Board of Directors  
Nipomo Community Services District

HARRY LOWITT  
\_\_\_\_\_  
Chair, Board of Supervisors  
County of San Luis Obispo

APPROVED AS TO FORM AND LEGAL EFFECT:

  
\_\_\_\_\_  
District Counsel

  
\_\_\_\_\_  
County Counsel  
Deputy

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

ADOPTED BY NCSD MAY 12, 2004

Dated: \_\_\_\_\_

Dated: MAY 18 2004

ATTEST:

*Donna K. Johnson*  
District Secretary

JULIE L. RODEWALD  
County Clerk Recorder

Dated: 5-18-04

Dated: 5-24-04

By: CHERIE AISPURO  
Deputy Clerk

E-1  
9

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

ADOPTED BY NCSD MAY 12, 2004

**Exhibit A**

**PROVISIONS**

The following provisions are agreed to and shall be used by the District and the County to guide the development decisions within the Sphere of Influence as eventually approved by the San Luis Obispo Local Agency Formation Commission.

1. **Intent.** It is the intent of the District and the County to work cooperatively towards the goals of preserving and protecting the rural character of the Nipomo area by: identifying areas of potential urban and suburban growth using the existing South County Area Plan (Inland, adopted 1994); implementing the District's annexation policies and procedures; and planning for future resource and service needs. These goals shall be achieved in accordance with the Cortese/Knox/Hertzberg Act, the County's General Plan, the Policies and Procedures of the District, the California Environmental Quality Act and any other applicable laws and regulations.
2. **Term.** Upon adoption of the SOI by LAFCO, this agreement shall be reviewed, evaluated, or amended as necessary at such time as the Sphere of Influence is updated by LAFCO, or concurrent with a comprehensive update of the South County Area Plan as initiated by the County.
3. **Interagency Cooperation.** The District and the County shall work cooperatively regarding, but not limited to issues and policies relating to water, its supply, and legal entitlements for the area within the Nipomo Hydrologic Sub-Area and Nipomo Valley as shown in Exhibit C. For project referrals concerning planning for land use, the provision of public services, utility and road rights-of-way, traffic and circulation, agricultural land and open space preservation, and General Plan Amendments Planning staff will continue to use the map shown in Exhibit D. Each jurisdiction shall refer proposals, applications and actions related to the above issues to the other for review and comment prior to taking action on a proposal/project. Information about the proposal/project shall be referred immediately to the following address for review and comment:

Principal Planner, Long-Range Planning  
Department of Planning and Building  
County Government Center  
San Luis Obispo, CA 93408

General Manager  
Nipomo Community Services District  
148 South Wilson Street - P.O. Box 326  
Nipomo, CA 93444

This provision shall not supersede 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.

4. **Commitment by the Nipomo Community Services District.** The District intends to provide an adequate and reliable water supply to its existing and future customers. The District, in cooperation with the County, shall work to provide efficient and effective public services to residents in the Nipomo area. The District is committed to serving the area in the Sphere of Influence (to be determined by LAFCO) as currently zoned consistent with the District's Annexation Policy and the South County Area Plan (Inland) adopted in 1994 and as amended from time to time by the County Board of Supervisors.



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

**ADOPTED BY NCSD MAY 12, 2004**

The District's Sphere of Influence is not intended to increase density or encourage urbanization in areas outside the Urban Reserve Line. The District does not encourage or promote projects that are inconsistent with the community's vision for Nipomo, as described in the South County Area Plan. The District will not extend sewer services into Study Area 1 west of Hetrick Road. The District will support extension of services into Study Areas 2 and 3 only with the approval of LAFCo. The District shall not extend future/new sewer services into Study Area 4 except for the area south of Southland Street identified as the Southland Specific Plan area in the South County Area Plan, unless the General Plan is amended, nor will it even then extend sewer service into Study Areas 4, 5, 7, or 8. The District does not request that Study Area 6 (Woodlands) be included in its Sphere of Influence.

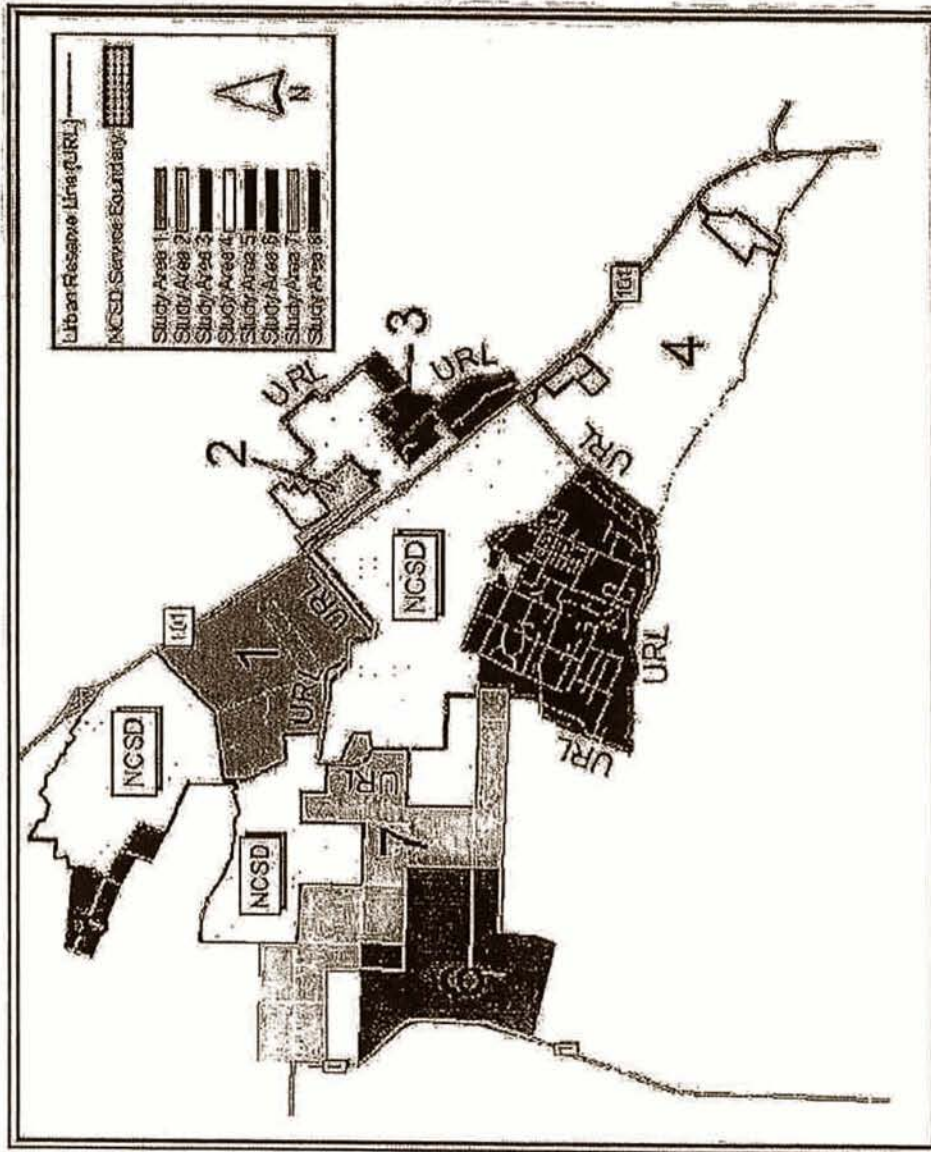
5. **Commitment by the County of San Luis Obispo.** The County shall work cooperatively with the District to efficiently and effectively provide for public services to residents in the Nipomo area. The County intends to continue implementing the vision, goals and policies of the existing South County Area Plan adopted in 1994 and as amended from time to time by the County Board of Supervisors. The County does not intend, nor does it promote, expanding the existing Urban Reserve Line for the purpose of increasing the density allowed on a particular parcel of land unless approved as a General Plan Amendment or Specific Plan by the Board of Supervisors. The County shall discourage moving the Urban Reserve Line into Study Area 7 and shall discourage the creation of new Private or Mutual Water Companies, or service by such entities, if water service can be adequately and reliably provided by the District for development projects approved within the District's Sphere of Influence
6. **Urban Reserve Line and Sphere of Influence.** The District's Sphere of Influence boundary and the County's Urban Reserve Line are intended to be coordinated such that the Urban Reserve Line shall not extend beyond the Sphere of Influence, except in areas where an emergency water situation has been documented (e.g., Summit Station), or under circumstances when the District may be best suited to provide efficient and effective public services. The County does not intend for areas that are zoned Agriculture, Rural Lands, and Residential Rural to be included within the Urban Reserve Line. Areas that are zoned Residential Suburban, Residential Single Family, and Residential Multi-Family are intended to be within the Urban Reserve Line and should also be included in the Sphere of Influence.
7. **General Plan Update / Specific Plans.** The County should begin a comprehensive update of the South County Area Plan in approximately five years, or as directed by the County Board of Supervisors. The South County Area Plan calls for the preparation of Specific Plans to identify land uses within the areas known as Cañada Ranch and the area just south of Southland Street. These Specific Plans shall be prepared and adopted by the County prior to the annexation of the property into the District

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

ADOPTED BY NCSD MAY 12, 2004

Exhibit B – Study Areas for the Sphere of Influence

Figure 3-2: Sphere of Influence Study Areas

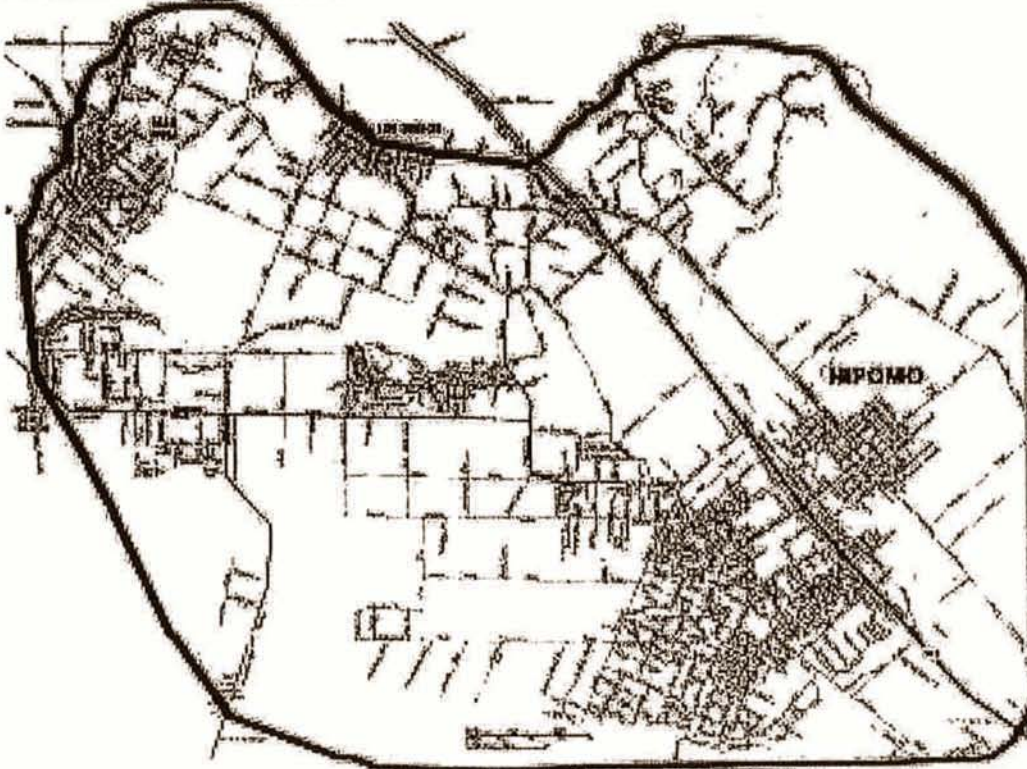




MEMORANDUM OF AGREEMENT  
BETWEEN THE NIPOMO COMMUNITY SERVICES DISTRICT AND  
THE COUNTY OF SAN LUIS OBISPO  
REGARDING THE NCSD'S SPHERE OF INFLUENCE

ADOPTED BY NCSD MAY 12, 2004

Exhibit D – Project Referral Area



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

ADOPTED BY NCSD MAY 12, 2004

Exhibit E – NCSD's Annexation Policy

RESOLUTION NO. 2003-878

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

**WHEREAS**, the Nipomo Community Services District (District) adopted its Annexation Policy on April 23, 2003 ("Annexation Policy"); and

**WHEREAS**, the District Board of Directors considered amendments to the Annexation Policy at its regular meeting of August 27, 2003 and instructed Staff to return to the Board with amendments to the Annexation Policy for further consideration and approval; and

**WHEREAS**, the Local Agency Formation Commission is charged with the authority to review and approve all requests for sphere of influence, annexations, and other changes in organizations to the District; and

**WHEREAS**, the Local Agency Formation Commission considers CEQA for all proposed annexations and sphere of influence changes.

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

1. The amendments to the Annexation Policy as referenced in Exhibit "A" are hereby approved and adopted.
2. The Board of Directors of the District finds that the amendment of the Annexation Policy does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.) or its implementing Guidelines (14 California Code of Regulations Section 15000 et seq.) ("CEQA Guidelines"). The Board further finds that the adoption of the Amendment falls within the activities described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of the Amendment is a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of this Resolution and the approval of the provisions contained herein may have a significant effect on the environment. The District General Manager is authorized to prepare, execute and file a notice of exemption pursuant to the above provisions.
3. The above Recitals are true and correct and incorporated herein by reference.
4. If any section, subsection, sentence, clause or phrase in this Resolution and/or the amendments to the Annexation Policy are 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

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

ADOPTED BY NCSD MAY 12, 2004

decision shall not affect the validity of the remaining portions of this Resolution and/or the amendments to the Annexation Policy. The Governing Board of the District hereby declares that it would have passed this Resolution and/or the amendments to the Annexation Policy, 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.

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

AYES: Directors Trotter, Wirsing, Blair, Vierhellig and Winn  
NOES: None  
ABSENT: None  
CONFLICTS: None

the foregoing resolution is hereby adopted this 10<sup>th</sup> day of September, 2003.



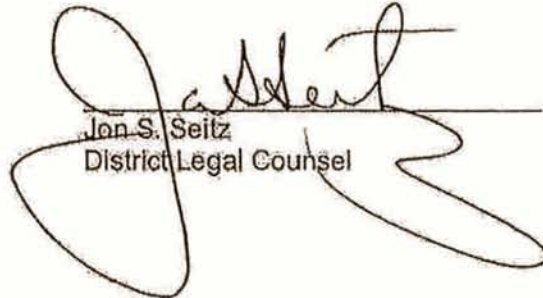
Michael Winn  
President, Board of Directors  
Nipomo Community Services District

ATTEST:



Donna K. Johnson  
Secretary to the Board

APPROVED AS TO FORM



Jon S. Seitz  
District Legal Counsel

Resolutions 2003/878 Annex Policy 9-03

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

ADOPTED BY NCSD MAY 12, 2004

RESOLUTION 2003-878  
EXHIBIT A

THE ANNEXATION POLICY OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT

ADOPTED SEPTEMBER 10, 2003

I. PURPOSE

In order to promote efficient processing of all requests for annexation to the Nipomo Community Services District, this policy documents the present basis upon which the Board of Directors will evaluate such requests and provides notice thereof to the owners of the property that is the subject of such requests.

II. INTENT

The Board of Directors intends to review all annexation requests with the aim of supporting the viability of the Nipomo Community Services District in providing essential services. The Nipomo Community Services District must be operated so as best to provide:

Good quality, economical and dependable water, sewerage and other authorized services for the residents of the Nipomo Community Services District.

The District recognizes the need for conservation of natural and environmental resources, including local resources, their availability and quality, consistent with the South County General Plan of San Luis Obispo County.

III. GENERAL POLICIES

- A. Annexations shall provide a reliable water source, other than water from the Nipomo Hydrologic Sub-Area (HSA) or pay for the costs of supplemental water for the area of annexation as a condition of District approval.
- B. In order to provide for the orderly development of public service facilities, only those properties will be considered for annexation for which the owners are willing to accept all conditions for service required by the Nipomo Community Services District. Further, requests for annexation solely for sewerage services to the exclusion of water service will be rejected by the Board of Directors, except under extraordinary circumstances.
- C. In order to evaluate the impacts on potential annexations upon the Nipomo Community Services District, the Board will only consider annexation requests which include the submittal of a layout plan and Annexation application pursuant to Section VI of these Policies. The District reserves the discretion to require additional information from the Applicant.

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

ADOPTED BY NCSD MAY 12, 2004

If the intended development within the proposed area of annexation requires further County approvals (e.g., zoning or subdivision), the District's approval of the annexation may be conditioned upon the owners obtaining such County approvals before the annexation becomes effective.

- D. After review of the layout plan and Application, the Board of Directors will consider annexation request where it can be demonstrated that:

The proposed annexation will provide identified benefits to: (1) the residents and property owners of the remainder of the Nipomo Community Services District; and (2) the future residents and property owners within the annexed area.

- E. The proposed annexation area boundary should include all properties that may receive the proposed services to be provided (i.e., use rear property lines rather than streets as boundary lines).

- F. The District is opposed to the formation of homeowner associations for the operation of water and/or sewer systems in the Nipomo Mesa area. Typically, such associations lose efficiency over time, requiring a public entity to take over their operations. A public entity operating from the beginning would eliminate the need for later acquisition and rejuvenation of such systems at additional cost to the property owners.

- G. The District recognizes two (2) general classes of proposed annexations, as follows:

1. Those areas of proposed annexations that overlie a sufficient source of groundwater to serve the proposed development within the area of annexation; and
2. those areas of proposed annexations that do not overlie a sufficient source of groundwater to serve the proposed development within the area of annexation.

- H. The Board will not contract for State Project Water as a supplemental water supply without first obtaining the approval of the District voters. \*

\*Note: The Court may have jurisdiction to order State Project Water as part of the Adjudication Resolution.

- I. The Board shall make the final determination about the suitability of any water source.

IV. GENERAL STANDARDS FOR AREAS OVERLYING SUFFICIENT RELIABLE GROUNDWATER RESOURCES

- A. Dedications and Covenants:

Applicants who are connected to the District water system shall covenant not to pump from the underlying groundwater basin for non-agricultural uses consistent with the following:



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

ADOPTED BY NCSD MAY 12, 2004

1. Applicants that connect to the District's water system may continue to pump for agriculture-related uses on Applicant's property, subject to any limitations imposed by a Court or other agency with jurisdiction.
2. Subject to paying the financial obligations referenced in subsections C and D below and further subject to any limitations imposed by a Court or other agency with jurisdiction, Applicants who do not receive District water service may :
  - Continue using existing well production for existing residential and commercial uses on Applicant's property.
  - Continue to pump for agriculture-related uses on Applicant's property

B. District Processing Costs:

At the time of entering into an Annexation Agreement with District, Applicant shall make deposit for District administrative, consultant and legal costs in processing the annexation;

C. Financial Obligations Prior to LAFCO Approval:

1. For each residential connection to the District's water system or for each existing residential unit that does not connect to District water system, Applicants shall deposit with the District ten thousand dollars (\$10,000) or equivalent securities acceptable to District, to be applied to District administrative and consultant costs in acquiring supplemental water and to offset costs of supplemental water. \*
2. Commercial and/or other uses that exceed a 1" meter shall pay a multiple of the deposit referenced in subsection 1 above based on flow capacity.
3. Each connection or potential connection shall pay District capacity and connection fees and charges. The District's water capacity charge shall be reduced by that portion attributed to well production.

\* To be returned if LAFCO does not approve annexation. Further, to the extent the supplemental water deposit exceeds District's costs, as prorated among other applicants for annexation, the remainder will be used to reduce Section D water charges. A legal "granny" unit served by the same 1" meter as the primary residence shall not be counted as an additional connection.

D. Payment of Monthly Supplemental Water Charge:

Applicants shall agree to establish a zone of benefit with a rate covenant wherein those residents and commercial users within the area of annexation will pay

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

ADOPTED BY NCS D MAY 12, 2004

eighty percent (80%) of the actual costs of supplemental water for the area of proposed annexation plus one hundred percent (100%) of the reserve that may be required to obtain supplemental water.

E. Customers of the District:

1. Upon annexation, residents and commercial users within the area of the proposed annexation shall become "regular customers" of the District, with no greater entitlements to water service than any other District customer.
2. Subject to compliance with the Annexation Agreement, LAFCO conditions, the District Inspection and Public Facility Agreement, District Rules and Regulations, and a determination by the Board of Directors that there are adequate water resources to supply the area of annexation during the period of time specified in the Annexation Agreement, reasonably determined to acquire supplemental water, District agrees to provide water to the area of annexation upon LAFCO final approval.

F. Cluster Developments:

1. The District will only consider annexations of cluster developments that comply with County policy relating to clustering and that include the requirement for ongoing management of the open space parcel(s) for the purposes of:
  - a. Conserving water drawn from the underlying groundwater basin;
  - b. Preventing the accumulation of solid waste, litter, and construction and demolition waste; and
  - c. Preventing the accumulation of weeds and other fire hazards that would create further demand on the District's water resources.
2. A cluster division is to include at least one (1) open space parcel that may be used for one of the allowable residential units, provided that the building site does not exceed six thousand (6,000) square feet and is defined on the recorded map. Otherwise the open space parcel is not to be developed with structural uses other than agriculture accessory buildings. The open space parcel may be used for any one of the following: crop production or range land; historic site, archaeological preserve, wildlife preserve, water storage or recharge area; leach field, scenic area, protection from hazardous areas; public outdoor recreation; or other similar use.
3. The use and restrictions referenced in Paragraphs 1 and 2 above, are to be guaranteed by a "Dedication", approved in writing by the District, as a party to the "Dedication". The Dedication shall be in the form of an open space easement, recordable agreement, dedication of fee, or partial fee title to a public or quasi-public agency.
4. If the open space parcel is designated for crop production or range land, then the Dedication related to water use shall include:

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

ADOPTED BY NCSD MAY 12, 2004

- a. Water pumped from the groundwater basin will only be used for crop production or grazing livestock;
  - b. A reference to the ongoing groundwater adjudication shall be identified, along with a statement that Owner acknowledges that Owner is the party subject to limitations imposed by a Court or other agency with jurisdiction related to pumping from the underlying groundwater basin; and
  - c. That Owner will not transport water from the open space parcel to other parcels that do not share a common boundary and common ownership with the open space parcel. Under no circumstances shall the Owner transport water from the open space parcel to a residential parcel.
5. If the District accepts responsibility for the open space parcel, then Applicant shall form an Assessment District, Special Tax District, or establish an endowment acceptable to District for the purposes of the operation and maintenance of the open space parcel.
  6. Applicant shall establish a Homeowners Association for the purposes of assuming obligations in Subparagraph 5 above in the event the District is required to abandon the Assessment District or Special Tax District.

**V. GENERAL STANDARDS FOR AREAS OF ANNEXATION THAT DO NOT OVERLIE SUFFICIENT RELIABLE GROUNDWATER RESOURCES.**

- A. The Applicant shall comply with all conditions set forth in Section III above for proposed annexations that overlie a sufficient groundwater resource; and
- B. Pay one hundred percent (100%) of the monthly supplemental water charge (see IV D above); and
- C. District will not deliver water to the area of annexation until:
  1. Sufficient supplemental water is under contract and available in the NCSD system for delivery; and
  2. CEQA review, including challenges, are completed.
  3. In addition, the construction phase shall not begin until steps C-1 and C-2 are completed and the Board determines that there is sufficient water to serve the proposed area of annexation during the construction phase.

**VI. DISPUTE RESOLUTION**

If an Applicant disputes District determination that the area of proposed annexation does not overlie a sufficient groundwater resource, then Applicant, at Applicant's sole cost, may request District to perform reliability tests, possibly including pump tests, to the District Engineer's standards, to determine sufficiency of underlying groundwater resources. The Board of Directors' determination of the sufficiency of the groundwater supply shall be final.

**VII. ANNEXATION AGREEMENT**

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

ADOPTED BY NCSD MAY 12, 2004

All applicants for annexation shall be required to enter into an Annexation Agreement. Said Annexation Agreement shall include the following:

- A. That all infrastructure and service line extensions shall be designed and constructed at no cost to District in accordance with District's standards;
- B. Reimbursement to District for its costs in processing the annexation, including administrative costs, legal costs and engineering costs; and
- C. Payment for all applicable District capacity, meter and connection charges.

**VIII. SUBMITTAL OF ANNEXATION APPLICATION AND LAYOUT PLAN**

Prior to consideration by the Board of Directors, Applicants must submit an application to the District, demonstrating that the annexation will conform to these Annexation Policies and submit a layout plan for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's water distribution facilities, sewer service and other services to be provided to the area of annexation by the District.