

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BB*  
DATE: MARCH 23, 2007

**AGENDA ITEM**  
**E-2**  
**MARCH 28, 2007**

## AMEND SUPPLEMENTAL WATER PROJECT OPTIONS AGREEMENT

### ITEM

Authorize amendment to Boyle Supplemental Water Project Options Evaluation agreement  
[RECOMMEND ADOPTION]

### BACKGROUND

Staff's research into potential supplemental water project options has produced an eight alternative that promises to be competitive with the original seven – purchase of "surplus" water from CCWA or one or more CCWA Members for either direct use in NCSD's system or for recharge in the Nipomo Mesa Groundwater Basin for subsequent retrieval. Staff requested that Boyle and SAIC develop a proposal to evaluate this eighth option such that it could be compared along with the seven other options against the original Waterline Intertie Project. Attached is the resulting proposal, in which Boyle/SAIC propose to perform the defined scope of work on a time and materials basis for a not to exceed expenditure limit of \$50,000. If accepted, this amendment would increase the original not to exceed from \$183,581 to \$233,581. Approval of this agreement would also revise the timeline for Boyle's production of the three technical memorandum by about one month each (TM#1 – 6/11/07; TM#2 – 7/9/07; and TM#3 – October 9, 2007).

### RECOMMENDATION

Staff believes that the addition of this additional work will allow the District to review a potentially cost effective alternative involving conjunctive use. Staff recommends that your Honorable Board authorize the President to execute the amendment and direct staff to work with Boyle/SAIC to implement the additional work.

### ATTACHMENT

- Boyle Proposal

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Bruce Buel  
General Manager  
NIPOMO COMMUNITY SERVICES DISTRICT  
148 S. Wilson  
Nipomo, CA 93444

March 21, 2007  
00197.00-3012

## **Evaluation of Supplemental Water Alternatives: Budget Revision Request 1**

As directed in our Tuesday, March 6, conference call, Boyle has prepared this budget revision request. The objective of this additional work is to evaluate feasibility of acquiring "unused capacity" in the SWP pipeline from one or more CCWA customers. The transmission system may originate from a proposed CCWA turnout near the intersection of Tefft Street and Thompson Road or the Bonita well site. Water would either be delivered directly to the District water system, or indirectly via aquifer storage and recovery.

Our additional services are summarized below. No new deliverables are proposed in this Budget Revision. Instead, the deliverables proposed in the original Agreement will be modified to include these analyses, as described below. A revised schedule for these deliverables is provided at the end of this proposal.

### **Scope of Work**

1. The Project Team (Boyle and SAIC) will review the following information:
  - Published State Water Project reliability data;
  - Central Coast Water Authority (CCWA) production records and capabilities;
  - CCWA record drawings and system schematics; and
  - Published subscriptions and demands from CCWA customers.
2. Technical Memorandum #1 (TM #1) will be revised to include a "constraints analysis" of this alternative. The Project Team will evaluate Department of Water Resources (DWR) Table A allotment to CCWA and its members as planned, during dry year conditions, and in consideration of actual deliveries made historically. SAIC will evaluate purchases made by CCWA members, and the reliability of San Luis Obispo (SLO) County SWP water entitlement considering drought assurances. Institutional, legal, and physical constraints will be identified and compared to the other projects included in TM #1 from the original Agreement.
3. TM #2 will incorporate a conceptual review of this alternative. Boyle will evaluate facilities required to collect, treat (if necessary), pump, and convey 3,000 and 6,300 AFY of water to the

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District's distribution system. It is assumed two delivery methods will be evaluated: direct connection to the District's distribution system at either Tefft & Thompson or near the Bonita Well; and aquifer storage/recovery at each location.

Boyle will compare Department of Health Services (DHS) and Regional Water Quality Control Board (RWQCB) issues for this alternative relative to the others addressed in the original scope of work.

Boyle will develop capital cost opinions for this alternative at a "Master Plan" level of effort. In addition, Boyle will prepare a conceptual level cost opinion of operations and maintenance (O&M).

The following information will be summarized in TM #2 for submittal to the District Board of Directors:

- Identification of permitting issues and requirements for CDHS, RWQCB, and other resource agencies;
- Area required for facilities (including spreading ponds and pumping facilities);
- Available storage capacity within the groundwater aquifer based on the most current conditions and over the previous 5 years
- Expected recovery rates (for aquifer storage and recovery);
- Treatment requirements;
- Capital cost opinion;
- O&M cost opinion; and
- Project implementation schedule.

Draft and final Technical Memoranda will be submitted to the District. The final Technical Memorandum will be prepared following receipt of comments on the draft memorandum from the District.

4. TM #3 will include a comparative analysis of this alternative compared with all the alternatives presented in the original scope of work. Draft and final Technical Memoranda will be submitted. The final Technical Memorandum will be prepared following receipt of comments on the draft memorandum from the District.

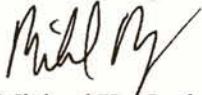
Assuming this Budget Revision is approved by March 28, 2007, the project schedule from the original Agreement would be revised to incorporate this work as proposed below:

Draft TM #1 – June 11  
Draft TM #2 – July 9  
Draft TM #3 – October 9

For completion of this work, we request a budget revision of \$50,000, in accordance with the current fee schedule, terms, and conditions.

Please call if you have questions. If this proposal meets your approval, please sign below.

***Boyle Engineering Corporation***



Michael K. Nunley, PE  
Managing Engineer

***Approved by***

Bruce Buel  
General Manager  
Nipomo Community Services District



TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *B-B*  
DATE: MARCH 23, 2007

**AGENDA ITEM**  
**E-3**  
**MARCH 28, 2007**

## TEMPORARY SUSPENSION OF ANNEXATION APPLICATION PROCESSING

### ITEM

Consider adoption of resolution suspending processing of further annexation applications and review annexation policy issues [PROVIDE POLICY GUIDANCE]

### BACKGROUND

On January 24, 2007, your Honorable Board directed staff to draft a resolution "suspending processing of subsequent annexation requests until a supplemental water project is completed". Your Honorable Board, on January 24, 2007, also agreed to discuss the benefits and detriments of allowing new mutual water companies to be formed. Subsequently, your Honorable Board agreed to discuss tracking of annexation water dedications.

Attached is a draft resolution prepared by District Legal Counsel suspending applications for annexation "until such time as the supplemental water project is completed and/or this resolution is otherwise repealed or amended by the District Board of Directors." It should be noted that alternate trigger points to resume processing could include recordation of the CEQA Notice of Determination, Award of Bids or Mid Point of Construction. It should also be noted that as an option to suspending processing of annexation applications or as an additional action, the Board could suspend processing of Outside User Agreements.

Staff did check with Special Counsel Jim Markman regarding any limitations to adoption of the draft ordinance contained in the Adjudication Stipulated Judgment. According to Mr. Markman, nothing in the Stipulated Judgment would inhibit adoption of the draft resolution.

Staff also discussed this matter with Paul Hood of SLO County LAFCO. Mr. Hood indicated that on a staff level, adoption of the proposed resolution seemed prudent. Mr. Hood also agreed to attend this portion of the Board meeting so that he could answer questions from the Board regarding LAFCO policies and procedures.

In regards to Mutual Water Companies, the adopted Board position is that the District should oppose the formation of new Companies. Staff supports this position and believes that the basin will be better managed with fewer independent purveyors. Additionally, staff believes that reduction of demand in water supply emergencies will be better managed with fewer independent water purveyors.

Regarding tracking of annexation water allocations, staff believes that the appropriate time to record the approved new water dedication resulting from an annexation is when the annexation agreement is approved by the Board. As stated previously by District Legal Counsel, approval of the annexation agreement is equivalent to approval of an Intent to Serve Letter. Thus, staff believes that the projected volume of water for the underlying development dictated by the Allocation Ordinance should be deducted from the Allocation Reserve at the time of approval of the Annexation Agreement. Thus, the water demand for development of the Holloway Annexation should have been deducted from the AY2005-2006 Allocation Reserve and the water demand for development of the Craig Annexation should have been deducted from the AY2005-2006 Allocation Reserve.

**RECOMMENDATION**

Staff recommends that your Honorable Board review the attached resolution and discuss the related policy issues set forth above; amend or adopt the attached resolution; confirm the previously adopted position on formation of new mutual water companies; and provide policy guidance on tracking the new demand resulting from approval of annexations. Should the Board conclude that the new demand resulting from annexations should be deducted from the available allocation reserve, staff should be directed to revised the allocation ordinance accordingly (See Agenda Item E-4).

**ATTACHMENTS**

- **DRAFT RESOLUTION**

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## RESOLUTION NO. 2007- XXX

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
SUSPENDING APPLICATIONS FOR ANNEXATIONS**

**WHEREAS**, pursuant to Government Code §61100 (a), the District provides water service to its customers within the District boundary; 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**, 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**, LAFCO adopted the mitigation measures and conditions for consideration of further annexations to the District including, but not limited to, the following:

" Prior to approval by LAFCO of any annexation, the District shall complete negotiations for a supplemental water source outside the Nipomo Hydrologic Sub-Area and provide documentation that an agreement is in place to deliver such water by January 1, 2009. Documentation shall be consistent with Section 5, Step Two, Documenting Supply, of the SB 610 Guidebook dated October 8, 2003. A Registered Professional Engineer specializing in water planning shall review and certify such documentation"; and

**WHEREAS**, the District has not completed negotiations for supplemental water; and

**WHEREAS**, the District's Annexation Policy, Section VI, states:

"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."; 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. Applications for annexations as required by Section VI of the District's Annexation Policy shall be suspended until such time as the supplemental water project is

completed and/or this Resolution is otherwise repealed or amended by the District Board of Directors.

2. The Board of Directors finds that the adoption of this Resolution constitutes a "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 this Resolution is consistent with 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 this Resolution suspending annexation. 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 and that the Staff Report, reference documents, public comment and Recitals constitute further findings in support of this Resolution.

4. If any section, subsection, sentence, clause or phrase in this Resolution 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. The District Board of Directors hereby declares that it would have passed this Resolution, 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 \_\_\_\_\_, seconded by Director \_\_\_\_\_ and on the following roll call vote, to wit:

AYES:  
NOES:  
ABSENT:  
CONFLICTS:

the foregoing resolution is hereby adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Michael Winn,  
President, 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



TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BEB*  
DATE: MARCH 23, 2007

**AGENDA ITEM**  
**E-4**  
**MARCH 28, 2007**

## PRE-VIEW DRAFT ORDINANCE AMENDING ALLOCATION POLICY

### ITEM

Pre-View draft ordinance amending allocation policy and set hearing for introduction [APPROVE RECOMMENDATION]

### BACKGROUND

On February 14, 2007, your Honorable Board directed staff to conduct research on historic usage per customer class and to prepare a draft ordinance for subsequent consideration (See attached excerpt from the minutes for 2/14/07 Board Meeting). Attached is a summary of the results of the usage research for calendar years 2003 through 2006; a redlined version of the text of the allocation ordinance illustrating the edits staff developed as a result of the direction provided on 2/14/07; and a clean version of the text of the draft ordinance. Please note that this draft ordinance text does not address requiring a separate meter/charge for secondary units since such requirements must be processed according to different standards (AB1600). Staff will address secondary units at a subsequent Board meeting. It should also be noted that the final allocation ordinance will have all required findings in addition to the text.

The detailed information used to calculate the historic usage data is available for inspection at the NCSD office.

### RECOMMENDATION

Staff recommends that your Honorable Board review the data and the draft ordinance; ask any questions of staff or District Legal Counsel; hear from the public; and then order any additional research and any edits to the Draft Ordinance. Staff further recommends that a Hearing be set for April 25, 2007 to introduce the draft ordinance with any edits for first reading and that staff be directed to circulate the draft ordinance with edits to interested parties.

### ATTACHMENTS

- Excerpts from the Minutes from 2/14/07 Board Meeting
- Summary of Usage Research
- Red-Lined Version of Draft Ordinance Text
- Clean Version of Draft Ordinance Text

Nipomo Community Services District  
REGULAR MEETING  
MINUTES

J. PUBLIC COMMENT ON CLOSED SESSION ITEMS

There was no public to comment

K. ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 12:14 p.m.

L. OPEN SESSION

ANNOUNCEMENT OF ACTIONS, IF ANY, TAKEN IN CLOSED SESSION

The Board came back into Open Session at 1:00 p.m. Mike Seitz, District Legal Counsel, announced that the Board heard updates on the items listed above. There was no reportable action.

03:04:00

E-6) REVIEW DISTRICT WATER ALLOCATION POLICY OPTIONS AND DEVELOP PROPOSAL FOR SUBSEQUENT CONSIDERATION

Bruce Buel, General Manager, reviewed the information in the Board letter. The following points were discussed separately.

• ANNUAL ALLOCATION LIMIT

The Board discussed whether the 51 acre feet per year limitation on new water demand should be revised. There was no public comment. Upon motion of Director Eby and seconded by Director Trotter, the Board proposed to change the yearly allocation to 34.3 AFY from the existing 51 acre feet per year. Vote 3-2 with Directors Harrison and Winn voting no.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Trotter, and Vierheilig	Directors Harrison and Winn	None

• DIVISION OF ANNUAL LIMIT AMONGST CATEGORIES (EXISTING ALLOCATION)

The Board discussed whether the existing division of the annual usage amongst categories should be revised. There was no public comment. Upon motion of Director Harrison and seconded by Director Vierheilig, the Board unanimously agreed to stay with the current allocation divisions. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Harrison, Vierheilig, Eby, Trotter, and Winn	None	None

• USE GROUP LIMITATIONS ON FUTURE RESIDENTIAL UNITS (EXISTING)

The Board discussed whether the existing usage estimates for the various categories of land use should be revised. There was no public comment. Upon motion of Director Eby and seconded by Director Harrison, the Board unanimously agreed to use the Actual Values for the proposal. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Eby, Harrison, Vierheilig, Trotter, and Winn	None	None



Nipomo Community Services District  
REGULAR MEETING  
MINUTES

E-6) REVIEW DISTRICT WATER ALLOCATION POLICY OPTIONS AND DEVELOP PROPOSAL FOR SUBSEQUENT CONSIDERATION (continued)

• CERTIFICATION USAGE TARGETS (EXISTING ALLOCATION)

The Board discussed whether the target use values in the water usage certification should be revised. The directors wanted to know what message is being sent to the developers.

The following members of the public spoke:

Greg Parker, Santa Barbara – stated that tying a certification to an observed use will decline. He suggested to tie a developer's allocation to what you say you will serve them and enforce it by covenants that run with the land, on landscaping, internal plumbing fixtures, etc., He stated that you may obtain your ultimate goal without tying it to observed use in the community as the new ones get less and less.

Upon motion of Director Harrison and seconded by Director Trotter, the Board agreed to direct staff to obtain a solid number of observed usage over a 4-5 year period, put a 30% reduction on the new development and have them certify that their homes would meet that reduction as a proposal for subsequent consideration in a draft ordinance. Vote 4-1 with Director Eby voting no.

YES VOTES	NO VOTES	ABSENT
Directors Harrison, Trotter, Vierheilig, and Winn	Director Eby	None

• TRACKING NON-RESIDENTIAL DEMAND (EXISTING ALLOCATION)

The Board discussed whether the District should start adding a non-residential surcharge (additional tracking) from every allocation commitment.

Upon motion of Director Vierheilig and seconded by Director Harrison, the Board unanimously agreed to start adding the additional usage as a proposal for subsequent consideration in a draft ordinance. There was no public comment. Vote 5-0.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Harrison, Trotter, Eby, and Winn	None	None

• REQUIRING A SEPARATE METER/CHARGE FOR SECONDARY UNITS

The Board discussed whether the District should require a separate meter and a separate capacity charge for the addition of a secondary unit to an existing residential lot now that the County is requiring separate meters.

Upon motion of Director Vierheilig and seconded by Director Eby, the Board agreed to require a separate meter and reduced charge, where detached. There was no public comment. Vote 4-1 with Director Harrison voting no.

YES VOTES	NO VOTES	ABSENT
Directors Vierheilig, Eby, Trotter, and Winn	Director Harrison	None

NCSD WATER USAGE BY LAND USE CLASS BY YEAR

(AF/YR/UNIT)

LAND USE CLASS	2003	2004	2005	2006	AVERAGE
Multiple Family	0.45	0.53	0.45	0.45	0.47
Duplex	0.32	0.36	0.34	0.33	0.34
Single Family <4,500sf	0.43	0.42	0.38	0.42	0.41
Sgl Family 4,500-10,000sf	0.52	0.55	0.65	0.49	0.55
Single Family >10,000sf	0.95	1.01	0.98	1	0.98



**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 certifications, including landscaping, are established for the following uses:

- |    |   |             |
|----|---|-------------|
| A. | 0,33 AFY per Multi-Family Dwelling Unit;  | Deleted: 18 |
| B. | 0,24 AFY per Dwelling Unit for duplexes and Secondary Dwellings;  | Deleted: 3  |
| C. | 0,29 AFY per Single Family Dwelling Unit located on a parcel size of four thousand five hundred (4,500) square feet or less;  | Deleted: 3  |
| D. | Subject to subsection C, above 0,39 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.; | Deleted: 45 |
| E. | 0,69 AFY per Single Family Dwelling Unit located on a parcel size that exceeds ten thousand (10,000) square feet.   | Deleted: 55 |

**3.05.040 Water Allocation per Allocation Year.**

A total of 34.3 acre feet (total allocation) per allocation year is allocated to projects on a first come, first served basis as follows:

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- |    |   |               |
|----|---|---------------|
| A. | 34.3 for residential projects as follows: | Deleted: 33.5 |
|----|---|---------------|



1. Category 1: A total of 21.86 AFY, including landscaping, is reserved for:

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- a. For Single Family Dwelling Units; and
- b. Two Family Dwelling Units (duplexes).

2. Category 2: A total of 6.86 AFY, including landscaping, is reserved for Multi-Family Dwelling Units.

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3. Category 3: A total of 3.36 AFY is reserved for Secondary Dwelling Units and local agency maintained landscaping projects.

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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.

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C. Notwithstanding subparagraph B., above, the District shall reserve 2.22 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.

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### 3.05.050 Water Demand Certifications Required.

A. Will Serve Letters: All applications for Will Serve Letters for residential units referenced in 3.05.040 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 Reduction in Total Allocation by Residential Categories**

The total allocation, per allocation year, for each residential category designated in 3.05.040 shall be reduced (or accounted for) by the observed actual use by category plus a multiplier of 1.05 to account for commercial growth in water demand resulting from residential development as follows:

	Observed Actual Use	Commercial Multiplier	Accounted for Reduction
A. Multi-Family	0.47 AFY	1.05	.50 AFY
B. Duplex	0.34 AFY	1.05	.36 AFY
C. SF (<4,500 sf lot)	0.41 AFY	1.05	.43 AFY
D. SF (4,500 to 10,000 sf)	0.55 AFY	1.05	.58 AFY
E. SF (>10,000sf)	0.98 AFY	1.05	1.03 AFY

**3.05.070 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:

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1. Failure of the applicant to provided District with written verification, within two hundred forty (240) calendar days of the date the Intent to Serve Letter is issued, that the County has deemed the County's project application to be complete; 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.

### **3.05.080 Exempt Projects.**

The following projects are exempt from the requirements of Section 3.05.040 and 3.05.060:

- 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.

### **3.05.090 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.

### **3.05.100 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.

**3.05.110 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.

**3.05.120. 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.

**3.05.130 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.

**3.05.140 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.

**3.05.150 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.

**3.05.160 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.



**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 certifications, including landscaping, are established for the following uses:

- A. 0.33 AFY per Multi-Family Dwelling Unit;
- B. 0.24 AFY per Dwelling Unit for duplexes and Secondary Dwellings;
- C. 0.29 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 0.39 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. 0.69 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 total of 34.3 acre feet (total allocation) per allocation year is allocated to projects on a first come, first served basis as follows:

- A. 34.3 for residential projects as follows:



1. Category 1: A total of 21.86 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 6.86 AFY, including landscaping, is reserved for Multi-Family Dwelling Units.
3. Category 3: A total of 3.36 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 2.22 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 residential units referenced in 3.05.040 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 Reduction in Total Allocation by Residential Categories**

The total allocation, per allocation year, for each residential category designated in 3.05.040 shall be reduced (or accounted for) by the observed actual use by category plus a multiplier of 1.05 to account for commercial growth in water demand resulting from residential development as follows:

		Observed Actual Use	Commercial Multiplier	Accounted for Reduction
A.	Multi-Family	0.47 AFY	1.05	.50 AFY
B.	Duplex	0.34 AFY	1.05	.36 AFY
C.	SF (<4,500 sf lot)	0.41 AFY	1.05	.43 AFY
D.	SF (4,500 to 10,000 sf)	0.55 AFY	1.05	.58 AFY
E.	SF (>10,000sf)	0.98 AFY	1.05	1.03 AFY

**3.05.070 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 provided District with written verification, within two hundred forty (240) calendar days of the date the Intent to Serve Letter is issued, that the County has deemed the County's project application to be complete; 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.

**3.05.080 Exempt Projects.**

The following projects are exempt from the requirements of Section 3.05.040 and 3.05.060:

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.

**3.05.090 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.

**3.05.100 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.

### **3.05.110 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.

### **3.05.120. 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.

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### **3.05.140 Implementing Procedures**

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### **3.05.150 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.

### **3.05.160 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.