

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BSB*
DATE: APRIL 17, 2009

AGENDA ITEM
E-2
APRIL 22, 2009

WIP CAPITAL FUNDING BASIS OF ASSESSMENT AND ENGINEER'S REPORT

ITEM

Discuss basis of assessment, creation of JPA with SLO County, agreements with mesa purveyors, and execution of agreement for preparation of Engineer's Report for Waterline Intertie Project capital funding [RECOMMEND APPROVAL]

BACKGROUND

Your Honorable Board has previously: (1) agreed, in concept, to fund the capital cost of the Waterline Intertie Project through the formation of an assessment district; (2) reviewed an assessment feasibility study for assessment funding within the District; (3) received a draft report on the basis of assessment for properties within the District; (4) directed staff to negotiate with the other purveyors on the Nipomo Mesa regarding participation of property owners within their respective service areas in such an assessment district; (5) directed staff to negotiate with the County of SLO regarding the formation of a JPA enabling the formation of an assessment district including lands outside of NCSD's boundaries and (6) directed staff to present a proposal for completion of the Assessment Engineer's Report.

Regarding the basis of assessment for parcels within the District, the Wallace Group has submitted the attached Memorandum documenting the ownership, size, current land use, potential land use and historic water use of every parcel and proposing the project benefit and costs associated with various classes of similar properties (basis of assessment). This memorandum is supported with a detailed database (available for review at NCSD) that allows for additional research and evaluation of the relationships of classes of property with land use and water consumption. Table 1 is the Wallace Group's Benefit Unit Recommendation for the five broad classes of land use and for ten special cases. There may be additional land use classes identified in subsequent research, but Table 1 provides an initial spread of benefits and costs amongst the parcels inside of NCSD. Kari Wagner of the Wallace Group is scheduled to present this memorandum to the SWP Committee on Monday April 20, 2009 and to the Board at the Board Meeting.

It should be noted that the benefit unit relationships set forth in Table 1 do not differentiate between parcels that are already developed and parcels that are under-developed or undeveloped. District Legal Counsel believes that the Board has discretion to charge developed properties less than under-developed or undeveloped properties based on the historic payments into the existing water system and the potential commitment of reserves as an offset to the funds actually borrowed to finance construction.

Regarding negotiations with the three mesa purveyors, staff has had a series of meetings to discuss the options for funding the project. Golden State Water Company, Rural Water Company and Woodlands Mutual Water Company have all indicated an interest in allowing properties within their respective service areas to be included into a larger assessment district. All three purveyors understand that they would be responsible for paying for their respective share of the cost of forming the assessment district and those costs would be at risk should the property owners reject the formation of an assessment district. All three purveyors have indicated that they will need to see a firm estimate of such costs before they could commit to execution of agreements.

Regarding negotiations with the County of San Luis Obispo, staff has had a series of meetings with County Staff to discuss the adoption of a Joint Powers Agreement (JPA) enabling the formation of a larger than NCS D assessment district. Attached is a Concept Draft of a potential JPA. As set forth in the Concept Draft, NCS D (and our funding partners) would be responsible for all of the process and the County would lend its authority and issue the bonds on our behalf.

Regarding the completion of the Assessment Engineer's Report for the formation of the larger assessment district, the Wallace Group has submitted the attached proposal for all remaining work to actually form the assessment district. This proposal duplicates the NCS D research already completed for the other three purveyors, completes all of the required documentation for compiling the assessment role and all of the tasks necessary to conduct the proposition 218 election proceeding. The proposal breaks out the cost for NCS D and the other three purveyors as a function of the research required to complete the analysis of parcels in the four service areas (NCS D \$40,751, GSWC \$40,808, RWC \$28,440, Woodlands \$37,601). The proposal also proposes a timeline based on assumptions regarding approvals from NCS D, the other purveyors and the County. As currently envisioned the assessment ballots would be mailed out in at the end of October and the ballots would be counted in December. A major time commitment in the process is the two month window allowed for property owners to petition the Board for an alternate assessment from that proposed in the preliminary role.

FISCAL IMPACT – All of the negotiations set forth above involve the use of previously budgeted staff time along with charges related to the services rendered by District Legal Counsel. Retention of the Wallace Group to complete the assessment proceeding involves a commitment of an additional \$40,751. Funding for this amount is included in the Capital Section of this year's budget and next year's budget. It is staff's expectation that this expenditure will be offset by much greater future savings to the customers.

RECOMMENDATION

Staff believes that the research done to date provides a solid basis to calculate assessments and that the negotiations set the stage to proceed with completion of the assessment district formation. Staff does need feedback from the Board regarding the relationships set forth in Table 1 of the Memorandum and regarding the possibility of differentiating between developed properties and underdeveloped/undeveloped properties.

Staff recommends that the Board receive the Wallace Group Presentation, receive the report from the Supplemental Water Project Committee, and receive public feedback. Following closure of the Hearing, staff recommends that the Board:

1. Provide feedback on the Memorandum in general and Table 1 in particular;
2. Provide feedback on the differentiation between developed properties and underdeveloped/undeveloped properties;
3. Direct Staff to secure written agreements from the three purveyors to pay for their share of the cost of implementing the Wallace Group Proposal;
4. Direct Staff to secure feedback from SLO County regarding their willingness to form the proposed JPA;
5. Schedule authorization to execute an agreement with the Wallace Group to perform the work set forth in their attached proposal once #3 and #4 are completed.

ATTACHMENTS

- Wallace Group Memorandum re Basis of Assessment
- Concept Draft JPA with SLO County
- Wallace Group Proposal

CONTRACT AMENDMENT



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Project Name: Inter-tie Assessment District	CA No. 1
Client Name: Nipomo Community Services District	Project/Phase No.0673-0008
Attention: Bruce Buel	Date: April 15, 2009
Address: PO Box 326, Nipomo, California 93444	

Wallace Group requests the Client's authorization to proceed with revisions to the contract agreement for the above referenced project as herein described. Approval below incorporates this document as a part of the original contract signed January 29, 2009. If approved, please return one signed original Contract Amendment to Wallace Group.

Description and Purpose of the Revision(s)

PROJECT UNDERSTANDING

In January 2009, the Nipomo Community Services District (NCSD) authorized Wallace Group to complete the research required for the development of the database for the assessment district. The assessment district will be formed as the method of payment for the waterline inter-tie between the City of Santa Maria and NCSD. Since the signing of this agreement, NCSD has had additional discussions with three neighboring water companies; Golden State Water Company (GSWC), Rural Water Company (RWC), and Woodlands Mutual Water Company (WMWC). Each water purveyor has shown interest in participating in the assessment district. NCSD is currently pursuing a Joint Powers Agreement between the four water purveyors and the County of San Luis Obispo.

With the addition of the three water purveyors, Wallace Group is being requested to research and prepare a database, similar to NCSD's database, which will ultimately be used for the preparation of the assessment roll and diagram. This contract amendment addresses the Scope of Services required to complete this additional work similar to efforts already provided for the NCSD water service boundary.

Wallace Group will extend our services to include the following tasks for each of these three additional water utility agencies for the purpose of using the combined data to develop an assessment district that incorporates all four agencies.

Wallace Group has been asked to coordinate with each of these three agencies to create three additional, separate databases and methodology with the intent to develop a single, combined assessment district, generally summarized as follows:

1. Determine the boundary and number of parcels to be included in the proposed assessment district formation for each agency
2. Obtain a current Assessor's database of the identified parcels from San Luis Obispo County
3. Format database for the requirements of this project
4. Correlate County Land Use maps to assessor's parcels maps
5. Group parcels by applicable County General Plan or Specific Plan land use
6. Evaluate parcels to identify existing use and development potential
7. Review, refine, and/or develop a GIS parcel base map for each agency
8. Evaluate water use of existing customers for each agency by Land Use
9. Evaluate the basis of assessment for each of the water purveyors

In addition to the research for the three water purveyors, Wallace Group is also providing Scope of Services for the development of the assessment engineer's report, assessment roll, and the assessment diagrams for all four water purveyors. It is our assumption that all four water purveyors will be under one assessment

district formation. The Scope of Services also includes support services required to answer questions from customers, prepare ballots, coordinate ballot counting, and other tasks required to complete a Proposition 218 vote.

SCOPE OF SERVICES

Task 1: Project Management and Meetings

Wallace Group will provide day-to-day coordination of project activities, including scheduling and budget controls, staffing needs and coordination, Client coordination, monthly status updates, and other related project management activities.

Wallace Group will attend up to eight (8) meetings. The meetings will include District Board meetings, Committee meetings, meetings with District staff, and meetings with other water purveyors. At this time, it is not anticipated that the District will be holding any workshops for formation of the assessment district. If the District does choose to hold a workshop, Wallace Group can attend this event on a time and materials basis.

Task 2: GIS Parcel Base Map Review and Development

After initial contact and discussion with staff at GSWC, RWC, and WMWC Wallace Group has determined the level of effort required for developing a GIS base map for each of the participating agencies and is presented below:

- **GSWC:** GSWC provided Wallace Group with a boundary map and GIS file of their service area in Nipomo. Wallace Group determined that their service area is within NCSD's Sphere of Influence (SOI). The NCSD's current GIS parcel base map contains GIS data for the parcels within GSWC's service area. Required tasks for this base map will be to compare the NCSD GIS data, for the GSWC service area, to current SLO County APN maps to ensure that APN numbers and lot configurations are current and will match the APNS in the assessment project database.
- **WMWC:** Wallace Group has access to the project base map that was developed for the Woodlands development in Nipomo. After an initial review, Wallace Group has determined that the base map information is not currently in a GIS format and time will be required to modify the information to be compatible with the assessment project database. The existing base map only contains the boundary lines of the parcels and does not contain APN information required to link to the assessment project database. Required tasks for this base map will include importing the current AutoCAD base map into a GIS database, review current SLO County APN maps for the development, assign APN numbers to the individual lots, and ensure that this information will match the assessment project database.
- **RWC:** Wallace Group received a hard copy 8" x 11" map of the RWC service area boundary. RWC is outside the NCSD's SOI and there is no existing base mapping that has been provided for this project. Wallace Group will be required to create the parcel base map for the RWC service to allow for the information to be compatible with the assessment project database. Required tasks for this base map will include downloading APN maps for the RWC service area, creating the GIS parcel base map, assigning APN numbers to the individual lots, and ensuring that this information will match the assessment project database.

With GIS parcel base maps reviewed/modified/created for the agencies listed above, Wallace Group will provide each agency with a map of the proposed assessment boundary line/service area boundary. Wallace Group will require each agency to review and provide written authorization to proceed with the boundary as noted or modified per their direction. This review will be required prior to Wallace Group submitting a draft summary report.





Task 3: SLO County Assessor Database Review and Correction

Using the boundaries and parcel base maps created in Tasks 1 and 2, Wallace Group will develop an assessment project database based on current assessor information provided by the County of San Luis Obispo. The assessor information for the parcels in the project area consists of the following attributes:

- Assessor Parcel Number (APN)
- Property Owner
- Site address
- Property Owners' mailing address
- Lot area (square feet)
- County Zoning as reported to the Assessor
- Assessment land use (basis for tax assessment)

Wallace Group will correlate the Assessor's data with the applicable County General Plan and Specific Plan land use maps to ensure correct current land use and zoning designation by parcel and complete a review of the parcels to verify conformance with the County's zoning and land use maps. The GIS base maps developed in Task 2 will be combined with the verified/corrected County database to develop an assessment project database that will be used to identify development potential, water use analysis, assessment roll creation, and assessment diagram development.

Task 4: Development Potential Database

Task 4.1: Identify Focus Parcels

Using information provided in the above Tasks 2 and 3, Wallace Group will group residential lots into those that are under the minimum lot size for secondary dwelling unit and those that are more than twice the minimum lot size (and therefore have subdivision potential). Wallace Group will compare assessment information with Land Use information to identify those parcels that are in conformance with County zoning and fully built-out and will, therefore, not need additional evaluation. We estimate that approximately half the parcels will fall into this category. The remaining parcels will be considered the focus parcels.

The focus parcel types will include:

- Lots listed as "vacant" with assessment value for structures
- Non-conforming lots with assessed uses not matching Land Use designation
- Large-lot residential parcels with subdivision potential
- Residential multi-family (determine existing units and any density potential)
- Secondary Unit potential of single-family parcels
- Parcels with anomalies (too small to develop, vague assessor's descriptions, etc.)
- Split-zoned parcels

Task 4.2: Review Focus Parcels

Using online information such as the County's GIS database, aerial photography, and the Tidemark permit tracking system, Wallace Group will perform individual review of each focus parcel. Wallace Group will use County of San Luis Obispo General Plan, Specific Plan, and zoning information to evaluate and resolve discrepancies between County Land Use and Assessor's use information.

We will make a preliminary determination of development potential based on existing land uses, allowed land use by zoning, lot size and other factors in the database. We will make notes of unusual circumstances on specific lots where observed in the data review. We will also identify public facility parcels in existing residential areas to verify use (such as well locations, pump stations, churches, etc.). We estimate that 20 percent or fewer of these focus parcels will require field verification techniques to correct remaining discrepancies and determine existing density for multi-family parcels in the project database.



We will provide the assumptions used to evaluate the parcels and determine development potential in a summary memorandum that includes a listing of the County Land Uses within the boundary for each District and a description of the type of development permitted within each Land Use zone. This information will be used to evaluate the appropriate basis for water use assessment.

Task 4.3: Field Survey Preparation

Based on the information from Task 4.2, we will prepare instructions and a checklist for use in field surveys. The field surveyors will attempt to resolve by visual inspection any remaining land use discrepancies and determine the number of dwelling units on sites where the number of units is not specified in the County's permit system.

Task 4.4: Field Review Survey

A field survey will be conducted using the information prepared in Task 4.3. This survey will provide additional information on the focus parcels, will spot check built-out areas, and will check public facilities parcels in residential districts.

Task 4.5: Estimate Development Potential

Based on the information from the previous tasks, Wallace Group will estimate the development potential of each of the focus parcels. This information will be included in the GIS database. We anticipate that 40 to 50 parcels will require one (1) additional field check to provide additional clarity and/or information. Development potential for those parcels will be evaluated after the one (1) additional check.

Task 4.6: Tentative Maps in Progress

We will contact the County of San Luis Obispo to determine the status of any approved Tentative Tracts Map within the current boundaries of the District.

Task 5: Water Use Analysis of Existing Customers

Wallace Group will review GSWC, RWC, and WMWC water use information for 2007 and 2008 to develop a correlation between water use, parcel size, and land use. We will prepare a memorandum with accompanying graphs and maps to document our findings of the water use analysis.

Task 6: Basis of Assessment

Wallace Group has already prepared a Basis of Assessment for NCSD. Wallace Group will evaluate this methodology and determine its adequacy for the other three water purveyors and make recommendations for either maintaining the same Basis of Assessment or making modifications to the Basis of Assessment for the other three water purveyors.

Task 7: Assessment Engineering Report

Task 7.1: Assessment Spread, County Database Update, and Engineer's Report

The following are the tasks Wallace Group will complete for the development of the assessment engineering report:

1. Wallace Group will prepare a matrix of the proposed assignment of benefit units to various types of properties based on the results from Task 6.
2. We will utilize existing property information to apply these assignments and summarize the results by property type.
3. We will provide a written description of the method of assessment, including special cases.
4. After determining the special benefit for the project and receiving the relevant cost information from the NCSD, Wallace Group will draft the complete Engineer's Report and address the NCSD's comments prior to finalizing the document.



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Task 7.2: Assessment Rolls

Based on the final version of the assessment spread completed in Task 7.1, Wallace Group will prepare a draft assessment roll showing the proposed assessment of special benefit to each parcel within the assessment district. The assessment roll will refer to the parcels by their respective assessment number as assigned and shown on the assessment diagram provided in Task 7.4.

Task 7.3: Assessment Boundary Map

Wallace Group will prepare an official assessment district boundary map in the required format. The final assessment boundary map will show the following:

- Exterior boundaries of the proposed assessment district.
- Lines of each parcel of land within the assessment district.

Task 7.4: Assessment Diagram

Wallace Group will prepare an assessment district diagram. This diagram will be 11" x 17" with one (1) hard copy provided to each water purveyor. The final assessment diagram will show the following:

- Exterior boundaries of the proposed assessment district.
- Lines of each parcel of land within the assessment district.
- Each parcel will be given a separate assessment number upon the diagram. This assessment district will include four water purveyors and over 8,000 parcels. To differentiate between the parcels within each service area, Wallace Group will develop several assessment numbers series.
- The diagram may refer to the County Assessor's maps for a detailed description of the lines and dimensions of any parcels, in which case those maps shall govern for all details concerning the lines and dimensions of the parcels.

Task 7.5: Development Potential Notification to Property Owners

Wallace Group will prepare and mail letters to all property owners notifying them of their development and estimated assessment costs. Wallace Group will develop "templates" for up to four (4) versions of letters to the owners of parcels with unused development potential. We will develop sample "insert paragraphs" to describe specific situations of specific focus parcels.

We will work with District staff to prepare and mail the letters, and respond to and track telephone calls. This task will be completed on a time and materials basis.

Task 8: Proposition 218 Vote

Task 8.1: Ballot Development

Wallace Group will prepare the documents required to be included in the ballot. Wallace Group will have all documents reviewed by District staff and legal counsel prior to printing.

Task 8.2: Ballot Mailing

Wallace Group will duplicate the required documents for inclusion in the ballot. Wallace Group will collate and stuff all of the ballots. It is assumed that ballots will be sent to each owner of each of the properties.

Task 8.3: Ballot Processing

Once the ballots are received and the protest hearing is completed, Wallace Group will work with the League of Women Voters or the County Clerks office to count and record each ballot received. Wallace Group will provide the District with the certified results of the assessment district.



Deliverables:

Task 2

- GIS assessment parcel base maps for the parcels within GSWC, WMWC, and RWC service areas (ESRI Geodatabase).
- GIS assessment boundary for the parcels within GSWC, WMWC, and RWC service areas (ESRI Geodatabase).
- Zoning layer based on the County's Zoning Information and GIS assessment parcel base maps (ESRI Geodatabase).

Task 3

- Corrected assessment project database (Access and Excel spreadsheets).

Task 4

- Database designating development potential (Access and Excel spreadsheets).
- Memorandum discussing the findings of Database Development in Task 4 (PDF).

Task 5

- Memorandum describing the results of the water use analysis (PDF).

Task 6

- Memorandum describing the basis of assessment for the parcels within the proposed assessment district (PDF).

Task 7

- Engineers Report (PDF and four (4) hard copies).
- Assessment Roll (PDF and four (4) hard copies).
- Official Assessment Boundary Map (PDF, four (4) hard copies, one (1) mylar to SLO County).
- Assessment Diagram (PDF and four (4) hard copies).
- Distribution of letters to the public about parcel development potential (PDF to District and hard copy to each owner).
- Wallace Group will prepare and mail the ballots. Wallace Group assumes that postage will be paid by the District.

SCHEDULE

Wallace Group will work with the District to meet a reasonable schedule. Based on discussions with staff, the following schedule is proposed:

Project accepted by Board:	April 22, 2009
Project Kickoff:	May 15, 2009 (Project will not start until Joint Powers Authority (JPA) is approved by all parties. Following tasks are based on the noted kickoff date.)
Provide Board with Results from research:	July 8, 2009 (Technical Memorandum due July 1)
Engineering Report Completed:	August 12, 2009 (Draft Report due August 5)
Final Review:	October 14, 2009 (Final Report due October 7)
Ballots Mailed Out:	October 30, 2009 (45-day Protest Period Begin)

Ballots Due: December 14, 2009 (45-day Protest Period Ends)
 Ballots Counted: Week of December 14, 2009



TO BE PROVIDED BY THE CLIENT

- Water use information for 2007 and 2008 by customer/account

ITEMS NOT INCLUDED IN SCOPE OF SERVICES

The following services are not included in this Scope of Services or estimate of fees for this project. However, Wallace Group can provide these services at the request of the District.

- Boundary survey of properties
- Cost for facilities to count ballots
- Cost for utilizing the services of the League of Women Voters or the County Clerks Office

FEE SUMMARY

Original Fee: \$56,100
 T&M Services: \$10,000
Total: \$66,100

CA 1 Fee

Task 1:	Project Management and Meetings	\$13,375
Task 2:	GIS Parcel Base Map Review and Development	\$9,150
Task 3:	County Assessor Database Correction and Review	\$3,675
Task 4:	Development Potential Database	\$38,075
Task 5:	Water Use Analysis of Existing Clients	\$7,450
Task 6:	Basis of Assessment	\$3,725
Task 7:	Assessment Engineering Report	\$26,900
Task 8:	Proposition 218 Vote	\$35,250
Total		\$137,600
T&M Services: Task 7		\$10,000
Total Contract Amount:		\$213,700

Revision(s) Represent:

- a change in previous instructions
- a change in Scope of Services
- other:

Revision(s) Fee:

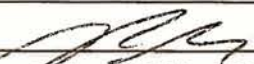
- hourly (time & materials) \$
- progress billing: \$
- not-to-exceed w/o authorization: \$

Revision(s) will be invoiced as:

- increase to an item within the existing contract
- a new item added to existing contract

Issued by,
WALLACE GROUP, a California Corporation

Approved by Client

Signature: 	Signature:
Print Name: Robert S. Miller, PE 57474	Print Name:
Title: Principal	Title:
Date: April 15, 2009	Date:



WALLACE GROUP

MEMORANDUM

Date: April 16, 2009
To: Bruce Buel
From: Kari Wagner, P.E.
Subject: Addendum to Contract Amendment #1

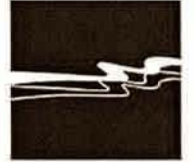
As requested, Wallace Group is providing NCSD with a breakdown of the fees attributed to each of the water purveyors for the additional work provided in Contract Amendment #1. Based on our understanding, the total number of parcels is 8,340. The approximate breakdown is as follows:

- | | |
|---|-------|
| • Nipomo Community Services District (NCSD) | 4,500 |
| • Golden State Water Company (GSWC) | 1,550 |
| • Rural Water Company (RWC) | 920 |
| • Woodlands Mutual Water Company (WMWC) | 1,370 |

There are a few unknowns at this time. They are as follows:

- We received only the number of services from GSWC and RWC. It is unknown the number of vacant parcels that are in their service area. This information will not be known until the mapping is completed for each of the water purveyor's boundaries.
- Woodlands Mutual Water Company is not completely built-out. The last two phases still have only one APN assigned to the larger parcel and have not broken into smaller parcels. Wallace Group will use the Specific Plan to determine the anticipated uses and number of parcels for the second two phases.

Based on this information, Table 1 provides a breakdown of the fees for each Task for each water purveyor.



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Table 1
 Nipomo Community Services District
 Addendum to Contract Amendment #1
 Breakdown of Fees

		NCSD	GSWC	RWC	WMWC	Total	Notes
# of Parcels		4,500	1,550	920	1,370	8,340	
Original Fee		\$56,100	\$0	\$0	\$0	\$56,100	
T&M Services		\$10,000	\$0	\$0	\$0	\$10,000	
Total						\$66,100	
CA #1							
Task 1	Project Management & Meetings	\$7,217	\$2,486	\$1,475	\$2,197	\$13,375	Costs appropriated based on number of parcels
Task 2	GIS Parcel Base Map Review & Development	\$0	\$1,373	\$5,033	\$2,745	\$9,150	GSWC - 15%, RWC - 55%, WMWC - 30%
Task 3	County Assessor Database Correction & Review	\$0	\$1,483	\$880	\$1,311	\$3,675	Costs appropriated based on number of parcels, excluding NCSD
Task 4	Development Potential Database	\$0	\$15,369	\$9,122	\$13,584	\$38,075	Costs appropriated based on number of parcels, excluding NCSD
Task 5	Water Use Analysis of Existing Clients	\$0	\$3,007	\$1,785	\$2,658	\$7,450	Costs appropriated based on number of parcels, excluding NCSD
Task 6	Basis of Assessment	\$0	\$1,504	\$892	\$1,329	\$3,725	Costs appropriated based on number of parcels, excluding NCSD
Task 7	Assessment Engineering Report	\$14,514	\$4,999	\$2,967	\$4,419	\$26,900	Costs appropriated based on number of parcels
Task 7	T&M Services	\$0	\$4,036	\$2,396	\$3,568	\$10,000	Costs appropriated based on number of parcels, excluding NCSD
Task 8	Proposition 218 Vote	\$19,020	\$6,551	\$3,888	\$5,790	\$35,250	Costs appropriated based on number of parcels
Total						\$147,600	
Grand Total							
		\$106,851	\$40,808	\$28,440	\$37,601	\$213,700	

MEMORANDUM

Date: April 15, 2009
To: Bruce Buel
From: Kari Wagner, P.E.
Subject: DRAFT NCSD Assessment District Research

The Nipomo Community Services District (District) is currently in the process of designing an inter-tie water main between the City of Santa Maria and the District to bring a supplemental water supply for existing and future water demands. This project is estimated to cost the District \$21 million dollars. Wallace Group prepared a Preliminary Assessment Report discussing the formation of the assessment District in November 2008. The Board authorized staff to proceed with the formation of an Assessment District as the method of payment for the project.

As Wallace Group prepared the Preliminary Assessment Report, the database that was used to estimate the benefit units was determined to be unreliable. The information received was from the County's Assessor's database, which has errors in the information that is inputted. At the time of the Preliminary Assessment Report, Wallace Group made some assumptions in order to provide preliminary estimates on a per unit basis for the assessment district.

Following the completion of the Preliminary Assessment Report, Wallace Group discussed the database with District staff and it was recommended to review the entire database to confirm two things: 1) The accuracy of the information inputted. 2) Determine the development potential for each parcel. It was recommended to complete this task prior to the preparation of the engineer's report to allow adequate time for the research.

The District authorized Wallace Group to proceed with the review of the database on January 28, 2009. Wallace Group has been diligently working on reviewing over 5,000 parcels for the past 6 weeks and analyzing the data against water consumption. The following are the assumptions that were made, the references that were used, and various other information that was used to assist us with developing the database. Finally, an analysis was completed on the existing development against water consumption to determine a correlation between water use and parcel size.

DATABASE ANALYSIS

Below describes the means and methods Wallace Group took to determine the existing uses and the development potential for every parcel within the District.



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Reference Sources

1. SLO County Land Use Ordinance Title 22
2. South County Planning Area Standards Chapter 22.112
3. Black Lake Specific Plan
4. County Tax Assessor's database
5. County GIS parcel aerial database and Tidemark permit tracking system
6. Google Earth aerial information

Notes on the Data Evaluation

1. Assessor's land use descriptions were not necessarily reliable. If the descriptions were backed by other information, we accepted it.
2. Assessor's parcels are not necessarily legal parcels – some legal lots contain several Assessor's parcels with different tax bases due to use.
3. Land Uses listed as "allowed" include those allowed with a conditional use permit.
4. Secondary units in a SF zone are on the same meter and subordinate to the primary residence, while in MF zoning, multiple detached units are each on their own meter and are each considered a "primary" unit.
5. Although nearly all RSF lots over 6,000 sf in size are potentially allowed a secondary unit, in reality the configuration of existing development may preclude the ability to construct one without demolition.
6. Although most RSF lots over 12,000 sf in size are potentially allowed by ordinance to subdivide, the configuration of the parcel shape, regardless of existing development, may preclude that ability due to frontage requirements. Where these lots are already developed, many could only be subdivided with demolition of the existing unit.
7. Parcels with incorrect or retired Assessor's numbers were placed on a separate tab along with split-zoned parcels to be analyzed individually.

Assumptions & Thresholds

1. All parcels within District boundary are, or will be, served by community water and wastewater (Sec. 22.22.080).
2. Residential Single-Family lots of less than 6,000 sf do not have Secondary Dwelling Unit capability (Sec. 22.10.130.B.2).
3. All RSF lots over 6,000 sf in size have potential for adding a Secondary Dwelling unit, unless on septic systems. If parcel is on a septic system, all RSF lots under two acres do not have Secondary Dwelling Unit capability.
4. Black Lake parcels do not have Secondary Unit potential, regardless of size, because REC zoning does not permit them (22.06.030 Table 2-2). We



assume that any attempt to increase density would require a Specific Plan Amendment.

5. Residential Multi-Family lots do not have potential for Secondary Dwelling units, regardless of parcel size (22.10.130).
6. Residential Multi-Family lots may have two (or more) units if over 6,000 sf; where if less than 6,000 sf only one unit is allowed (22.10.110.C).
7. Specific density standards for RMF and certain RSF lots were evaluated per South County Area Plan Section 22.112.080.
8. Minimum lot size for an existing, legally created lot to establish a SF residence is 1,750 sf (22.10.110.C).
9. Minimum newly created lot size in AG zoning is 20 acres (22.22.040).
10. Minimum newly created lot size in RR zone is 5 acres (22.22.050).
11. Minimum newly created lot size in RS is 1 acre (22.22.060).
12. Minimum newly created lot size in RSF is 6,000 sf (22.22.070), except where density is dictated by the Area Plan standards
13. Development potential for parcels with split zoning will be evaluated per Section 22.02.020.D, and/or in consult with County staff
14. If parcel is on septic, the minimum lot size is 1 acre.

Verification Method

Assessor's Information Accepted (AI)

1. Parcels described as "vacant", with no assessed improvement value, and no address, were accepted as vacant.
2. Parcels in RSF, RS, and RR zones, assessed for improvement value, less than 6,000 square feet in size, and not described by the Assessor as having more than one unit, were assumed to have one residential unit as a maximum.
3. Parcels in RSF, RS, and RR zones, assessed for improvement value, more than 6,000 sf in size but less than twice minimum lot size, and not described as having more than one unit, were assumed to have one residential unit, with potential for a secondary unit, and no potential for further subdivision, unless the parcel is on a septic system. If parcel is on a septic system, parcels under 2 acres do not have the potential for a secondary unit. In addition, parcels on septic systems can not be subdivided to less than 1 acre.
4. Residential parcels in single-family zoning described as "Duplex", "SFR w/2nd Living", "SFR w/Sec" etc. were assumed to have legally permitted secondary dwelling units, and were evaluated for further development potential on that basis.



5. We assumed that parcels in zones other than OS that are designated as open space by the assessor (and assessed as such) have a deed restriction limiting any development.

Online Data Verification (OD)

1. Where the Assessor Land Use description was unclear (ie, "Government", Residual Land Segment", Misc Imps"), we reviewed the parcel online using County GIS aerial, permit tracking system, and/or Google Earth to verify use and development status.
2. All CR and CS parcels were checked online against aeriels and the County's permit tracking system.
3. Because residential MF density on CR-zoned lots is determined by Conditional Use Permit, the density is discretionary. Secondary units are not allowed on CR-zoned lots.
4. Well parcels located within residential lots, smaller than 1,500 sf in size, are assumed to have no development potential. Most are probably not separate legal lots and were created to assess a well site that may or may not still contain a functioning well.

Field Check (FC):

Field checking was used to verify construction or demolition on parcels where the data suggested that a building permit was in effect, but the aerial did not show it (or vice versa). In some cases, the field review did not clarify the uses on site because it was not possible to tell the use of some structures from the public right-of-way.

County Land Uses

- AG (Agriculture); 3 parcels
- CR (Commercial Retail); 126 parcels
- CS (Commercial Services); 26 parcels
- OP (Office Professional); 34 parcels
- OS (Open Space); 2 parcels
- PF (Public Facilities); 9 parcels
- REC (Recreation); 605 parcels
- RL (Rural Lands); 2 parcels
- RMF (Residential Multi-Family); 526 parcels
- RR (Residential Rural); 277 parcels
- RS (Residential Suburban); 835 parcels

RSF (Residential Single-Family); 2044 parcels

There are also parcels in several land use categories with split zoning that are grouped separately. These were addressed individually per County requirements.



ENGINEERING ANALYSIS

Wallace Group requested the water use records from the District for the past two years to assist in the benefit unit analysis. This information was linked to the database and sorted based on existing development. The analysis was completed on developed parcels since vacant parcels do not have water use.

There were some anomalies and assumptions in the data that required the data to be either set aside and not used or slightly altered. These anomalies or assumptions that were made are as follows:

- Not all records were provided to Wallace Group. Since water records are tied to an account number, the account number changes if residents change. Therefore, if the account number changed within the past two years, this information was not provided to Wallace Group
- Some records were provided to Wallace Group that still did not contain two full years of data. Any records that did not have two full years of water data were not included in the analysis.
- Some water records were altered slightly to adjust water usage that did not appear to be correct. Example, typical bi-monthly water usage of 120 units. One of the month's readings was 1,137 units. This is most likely a data entry error and was altered to a typical bi-monthly reading.

Once all the viable parcels were either altered or non-viable parcels were removed from the selection, Wallace Group separated the database according to the following categories:

- Residential Single Family (RSF) – All parcels that had one RSF home, regardless of lot size or zoning.
- Residential Single Family – 2 (RSF-2) – All parcels that have two RSF units on a parcel, regardless of lot size or zoning. These second units are either granny units or two RSF houses. These parcels were identified to have permitted second units. Those parcels that may have a granny unit or second dwelling unit on the parcel that is not permitted is not accounted for.
- Residential Single Family >2 (RSF>2) – All parcels that have more than two RSF units on the same parcel. This includes triplex units. This does not include identified residential multi-family parcels such as apartments or condominiums.
- Residential Multi-Family (RMF) – All identified residential multi-family parcels such as apartments and condominiums. These are individual units that typically do not have any land attributed to the parcel. They typically have a central common area for several units, which has its own parcel number.
- Commercial (Com) – All non-residential parcels providing services to the community. This includes office and professional, retail services, industrial, etc.



- Other – There are other parcels, such as public facilities, schools, parks, churches, open space, etc. These parcels will ultimately need to be assessed on a case by case basis and therefore, were not analyzed at this time. Once a method of assessment is identified, these parcels will be re-evaluated to determine their proper assessment.

Water Use Analysis Results

Over 2,700 RSF parcels were evaluated ranging in size from 0.10 acres to 18.20 acres. When the water usage for all viable parcels is plotted against parcel size, the amount of water used by any one parcel of the same size was vastly different. For example: A parcel of 0.10 acres used between 23 gpd on the low end and 1,080 gpd on the high end. The delta between high and low got even greater for larger parcels. For the 1.00 acre parcels, on the low end, parcels used only 25 gpd. On the other hand, there were parcels that used up to almost 3,800 gpd. Exhibit 1 depicts the water usage for all viable RSF parcels against the parcel size. For clarity, Exhibit 1 only shows parcels up to 10 acres. There are few parcels greater than 10 acres and these parcels all used less water than any 10 acre parcels. This analysis does not provide any concrete method for assessment, except that it can be determined that the larger parcels have the "potential" for significantly more water use.

The next step in the analysis used the law of averages to determine how much water RSF parcels of the same size were using. The parcel sizes were rounded to the nearest 0.10 of an acre and grouped together. The water use was averaged for both 2007 and 2008 and plotted on Exhibit 2. The parcels were graphed for every 0.10 acre up to 1.0 acre. Parcels between 1.10 and 2.00 acres were grouped together and parcels greater than 2.00 acres were grouped together. This grouping method gave a large enough sample size that reduces the impacts from those few parcels that used small or large quantities of water and skewed the results.

This analysis provided interesting results. The average water use consistently increased as parcel size increased excluding those parcels greater than 1.0 acre. Parcels greater than 1.0 acre used approximately the same amount of water or less water than 1.0 acre parcels. The average consumption for 2007 and 2008 were similar for each grouping, except 0.70 acres. There was a difference of 110 gpm between 2007 water consumption and 2008 water consumption for 0.7 acre parcels.

Although the water usage continuously goes up, there are three obvious breaks in the water consumption.

- Group 1: Includes parcel sizes of 0.10, 0.20, and 0.30 acres. These parcels used between 370 and 480 gpd.
- Group 2: Includes parcel size of 0.40, 0.50, and 0.60 acres. These parcels used between 680 and 740 gpd.
- Group 3: Includes parcel sizes 0.7 acres and greater. These parcels used between 760 and 950 gpd.

Once this was established, Wallace Group then broke down the other remaining categories to see how their water usage compared to the RSF. Their water usage was again broken into the same 0.10 acre parcel groupings. The law of averages is more skewed for this analysis since the quantity of the parcels was not nearly as



high as they are for RSF. In some instances, there were only one or two parcels that fell into certain groupings. Exhibit 3 provides the analysis of the various categories versus parcel size for 2007 and 2008. Exhibit 4 provides the same information as Exhibit 3, except years 2007 and 2008 are averaged to simplify the exhibit.

The following is an analysis for each category:

- **RSF-2:** There were only 32 parcels analyzed for this category. If parcel size was not considered, parcels with two RSF units used between 135 and 3,600 gpd. Again, this range is too great to extract any useful information from it. The largest groupings were for 0.20, 1.00, 1.10 to 2.00, and greater than 2.00 acre parcels. These groupings had five or more parcels that provided a better average water consumption. For parcels 0.2 and 1.10 to 2.00 acres, the water consumption for RSF and RSF-2 were identical. For parcels greater than 2.00 acres, the water consumption for RSF-2 was higher than RSF parcels. For 1.00 acre parcels, the water consumption for RSF-2 was significantly higher than the RSF parcels.
- **RSF>2:** There are only 14 parcels that are RSF with more than 2 parcels on the lot. Their water consumption ranged between 443 and 2,101 gpd. On the smaller lots (under 0.50 acre), the water use was higher than the RSF parcels. For parcels between 0.50 and 1.00 acres, the water use was the same or less than the RSF parcels. For parcels between 1.10 and 2.00 acres, the water consumption was higher. For parcels greater than 2.00 acres, the water consumption was approximately the same as RSF.
- **RMF:** The RMF lots are parcels that really don't have any land attributed to the parcel. Therefore, these parcels were compared to parcels with 0.10 acres. There were 206 RMF parcels analyzed. The RMF parcels used approximately 200 gpd. This is 170 gpd less than 0.10 acre RSF parcels.
- **Commercial:** There were 47 commercial parcels analyzed. Again, the water consumption was vastly different, 18 gpd versus 8,600 gpd. There was one anomaly with commercial that was dependent on use of the parcel. There are several fairly large commercial parcels that had storage uses and therefore, used little water as compared to other parcels of the same size. These uses should be considered as a separate condition than typical commercial uses since parcels with storage units will most likely not convert their use. For the most part, parcels 0.90 acre and below use approximately the same quantity of water as their corresponding RSF parcel size. Parcels 1.00 acre and parcels greater than 2.0 acres used significantly more water than their corresponding RSF parcels. Parcels between 1.10 and 2.00 acres used about the same as RSF parcels. However, if the parcels with storage units are taken out of the average, then the water consumption for commercial parcels becomes significantly higher than RSF parcels.

Basis of Assessment

The data that is extracted from this analysis can be manipulated in many ways than were analyzed for this report at this time. Since the number of parcels in each category is not the same, the potential for discrepancies is higher. Again, not all parcels were included in the analysis and therefore, the entire District is not represented. With this knowledge, Table 1 provides a summary of recommendations for proceeding with the basis of assessment.

Table 1. Basis of Assessment

Group	Zoning	Description	Parcel Sizes Included	Recommendations
1	RSF	All residential parcels with one unit	0.10, 0.20, 0.30	Basis of Assessment, 1.0 Equivalent Benefit Unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 & Greater	2.00 benefit units
2	RSF-2	Second Unit	<1.0	0.00 benefit units
			1.0 & Greater	0.30 benefit unit for second unit
3	RSF>2	Greater than two units	All Parcel Sizes	0.30 benefit unit for each additional unit beyond two units
4	RMF	Multi-family units w/ no land (i.e. condos, apartments, mobile homes)	<0.1	0.70 benefit units per unit
5	Com	Commercial Services, Office Professional, Commercial Retail	0.10, 0.20, 0.30	1.0 benefit unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 to 1.99	3.00 benefit units
			2.00 & Greater	6.00 benefit units
Special Cases				
6	Mini Storage	Storage units with physical storage structures	All Parcel Sizes	0.50 benefit units
7	School	School	0.10, 0.20, 0.30	1.00 benefit unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 to 2.00	3.00 benefit units
			2.01 & Greater	3.00 benefit units plus 1.0 benefit unit for every acre above 2.0 acres
8	Church	Church	0.10, 0.20, 0.30	1.00 benefit unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 to 2.00	2.00 benefit units
			2.01 & Greater	2.00 benefit units plus 1.0 benefit unit for every acre above 2.0 acres
9	Recreational	Parks, Fields, etc	All Parcel Sizes	1.00 benefit units per acre
10	Government	Government (i.e. Fire Station, Police, etc)	0.10, 0.20, 0.30	1.00 benefit unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 to 2.00	3.00 benefit units
			2.01 & Greater	3.00 benefit units plus 1.0 benefit unit for every acre above 2.0 acres
11	PF w/ No Irrig.	Public Facilities with no irrigation (i.e. wells, tanks, lift stations)	All Parcel Sizes	0.00 benefit units
12	PF w/ Irrig.	Public Facilities with irrigation	All Parcel Sizes	1.00 benefit units per acre
13	OS w/ No Irrig. Potential	Open Space w/ no potential for irrigation (i.e. medians, parking lots, etc)	All Parcel Sizes	0.00 benefit units
14	OS w/ Irrig.	Open Space w/ existing or potential for irrigation	All Parcel Sizes	1.00 benefit units per acre
15	WWTP	Wastewater Treatment Plant		1.00 benefit unit

**Exhibit 1
Residential Single Family**

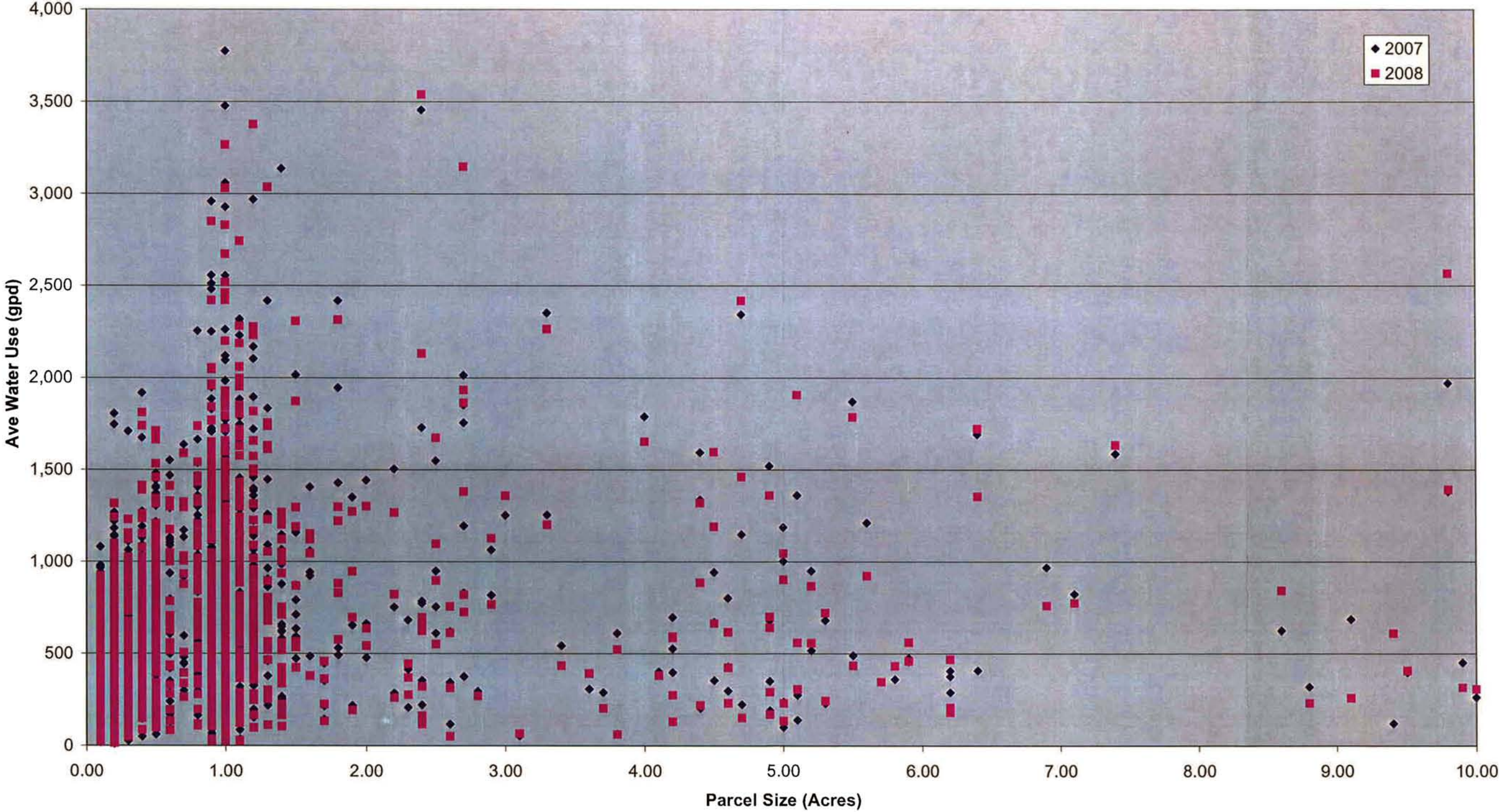
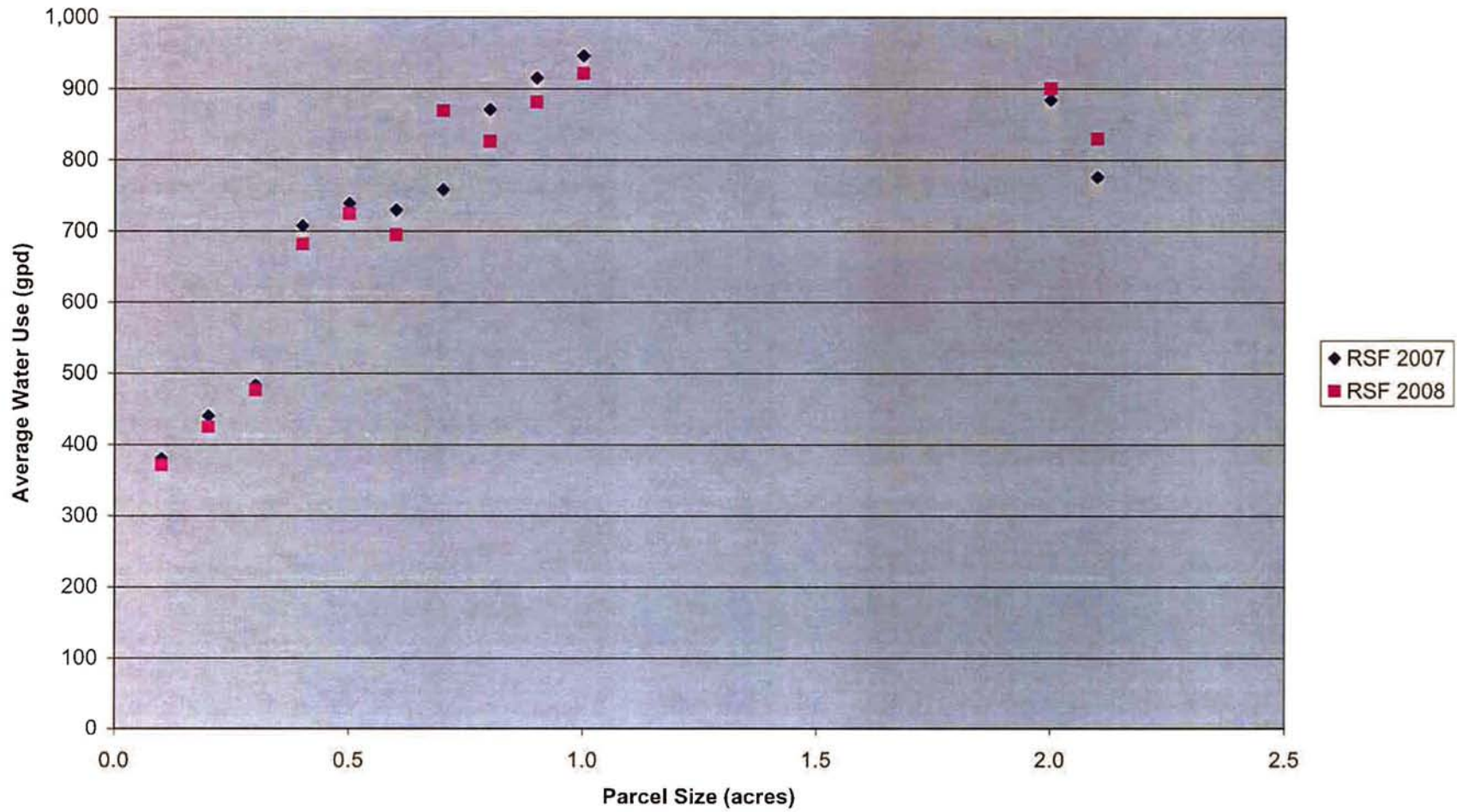


Exhibit 2
Average Water Use vs Parcel Size
Residential Single Family Onle



**Exhibit 3
Average Water Use vs Parcel Size
2007 and 2008**

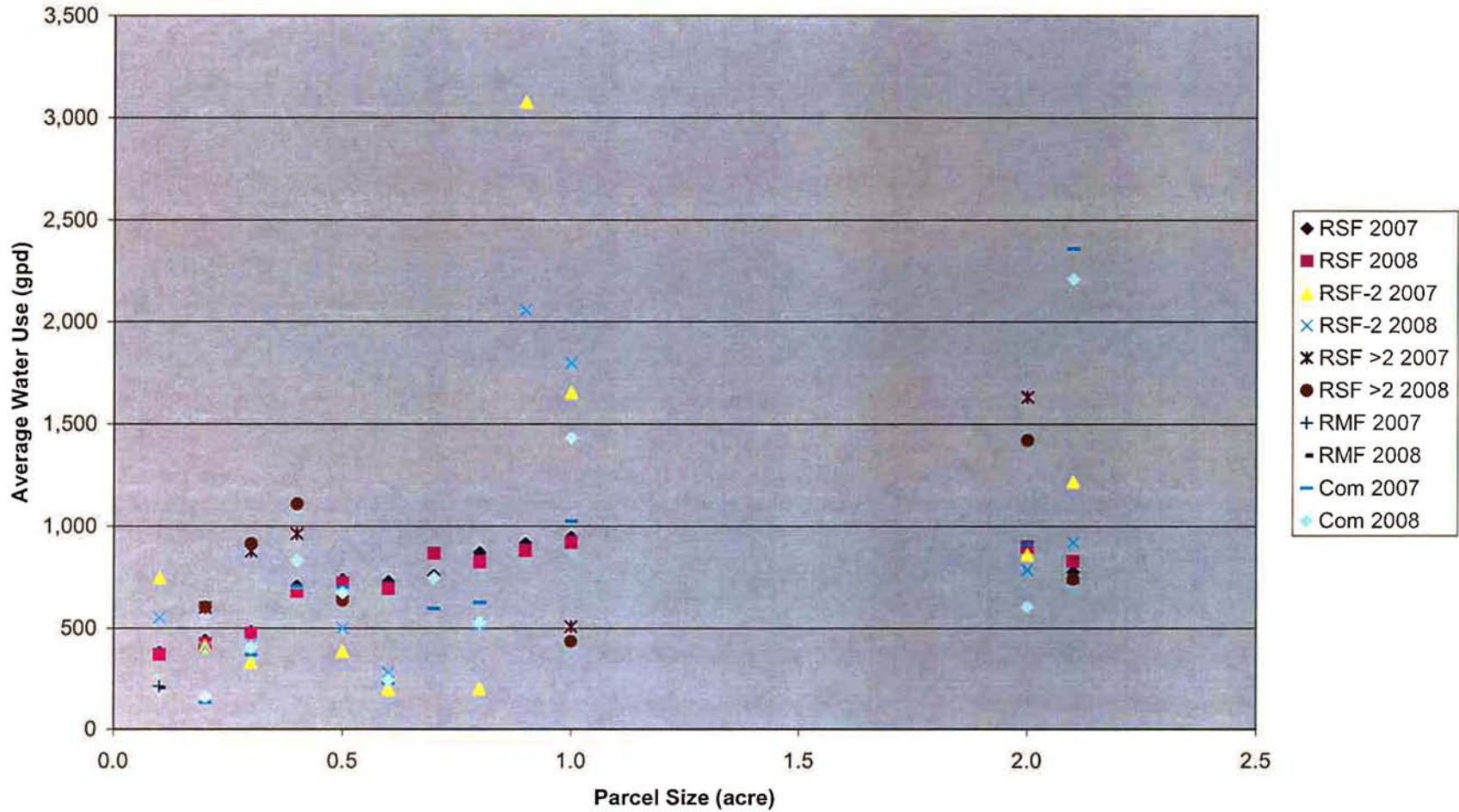
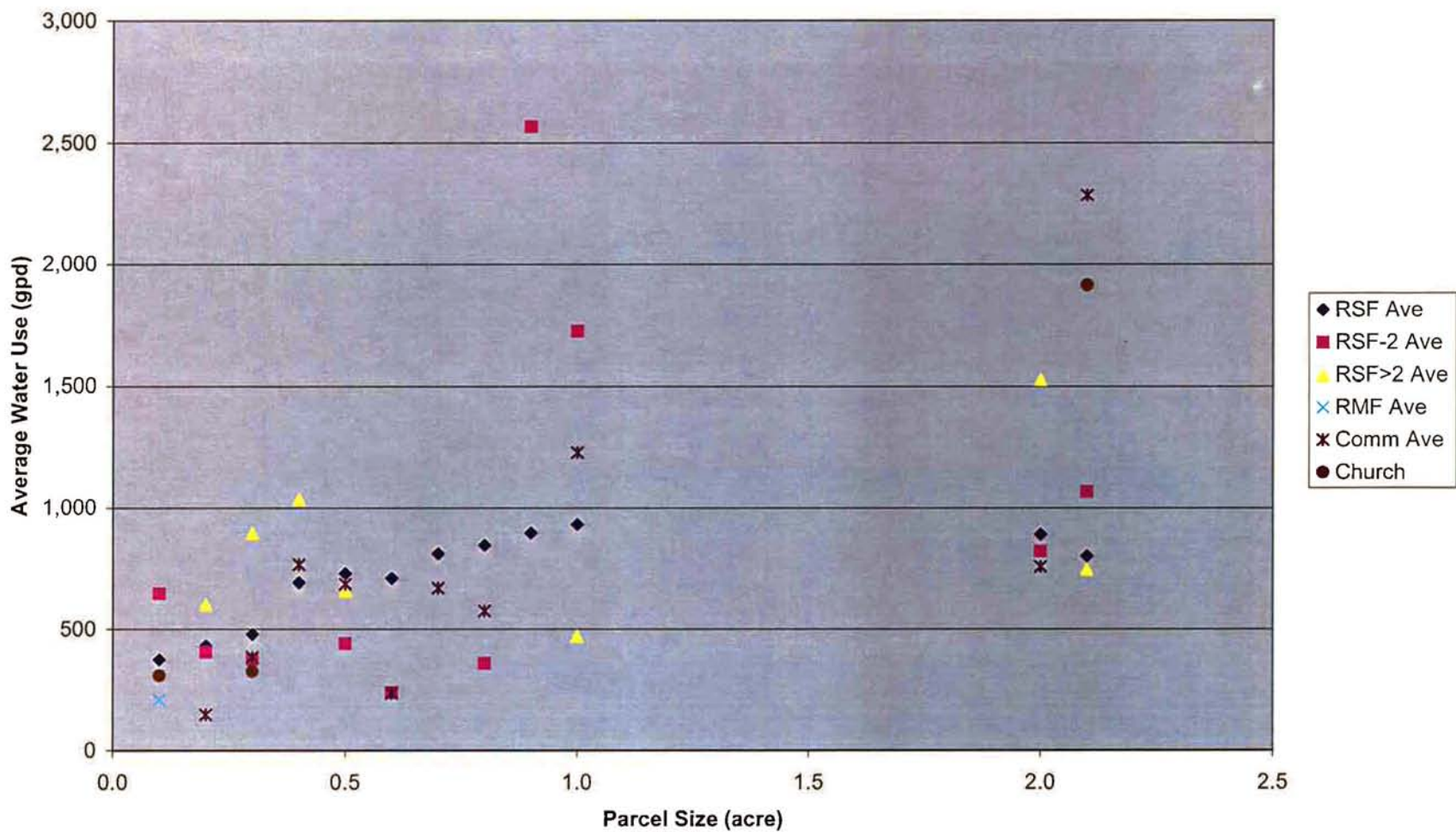


Exhibit 4
Average Water Use vs Parcel Size
Average of 2007 and 2008



**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2009-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
CERTIFYING THE WATER INTERTIE PROJECT ENVIRONMENTAL IMPACT REPORT**

WHEREAS, the Nipomo Community Services District ("District") proposed Water Intertie Project ("Project"), is more particularly described in the Final Environmental Impact Report and is summarized as follows:

The proposed Project involves the construction of a waterline from the City of Santa Maria to the Nipomo Community Services District water distribution system and the potential importation of a maximum of 6,200 acre feet of water per year to the District. The pipeline will be constructed beneath the Santa Maria River by horizontal directional drilling. A pump station(s) and water storage facilities will be constructed to boost the water pressure into the District system and provide operational or emergency water storage as necessary. Several water transmission facilities within the NCS D will be upgraded or replaced. A final element of the proposed Project involves the conversion of District water supply wells from chlorination to chloramination treatment in order to provide disinfection that is compatible with the imported water supply; and

WHEREAS, an Initial Study for the District Waterline Intertie Project was prepared by the District in December, 2008, which identified potential environmental impacts attributable to the proposed Project. These potential impact areas included land use and planning, population and housing, water, biological resources, aesthetics, cultural resources, geology, traffic, noise, and air quality; and

WHEREAS, as a result of the Initial Study, it was determined that the proposed Project may have a significant impact on the environment and an Environmental Impact Report ("EIR") was required; and

WHEREAS, a Notice of Preparation ("NOP") for the Project EIR was distributed to local Responsible and Trustee Agencies, the State Clearinghouse and other interested parties between June 27, 2008 and July 28, 2008; and

WHEREAS, a Draft Environmental Impact Report dated November, 2008 ("DEIR") was forwarded to all Responsible/Trustee Agencies and interested groups and individuals; and

WHEREAS, the State-mandated 45-day public review of the DEIR began on November 20, 2008 and ended on January 9, 2009; and

WHEREAS, a Response to Comments package was prepared which presented responses to all written comments received in response to the public review of the DEIR; and

WHEREAS, a Final Project EIR dated March, 2009 ("FEIR") has been prepared; and

WHEREAS, based on the Staff Report, the FEIR and public comment the District finds as follows:

1. The contents of the DEIR, the responses to Comments to the DEIR, the Mitigation Monitoring/Reporting Program, the Staff Report, documents, reports, and studies referenced in the FEIR, and any other related attachments or additional materials comprise the FEIR for the proposed Project;
2. Based upon its review of the FEIR, the FEIR is an adequate assessment of the potentially significant environmental impacts of the Project as described in the FEIR, sets forth a reasonable range of alternatives to the Project, and reflects the independent judgment of the District;
3. The hearing to certify the FEIR has been properly noticed; and

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2009-XXXX

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
CERTIFYING THE WATER INTERTIE PROJECT ENVIRONMENTAL IMPACT REPORT

4. Public hearings have been held on the Project's environmental impacts by the District prior to the certification of the FEIR.

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

1. The District has independently reviewed and analyzed the FEIR and considered the information contained therein and all comments, written and oral, received prior to approving this Resolution.
2. The Board of Directors certifies that the FEIR has been completed in compliance with the California Environmental Quality Act (CEQA) and State CEQA guidelines.
3. The Board of Directors hereby finds that the FEIR reflects the District's independent judgment and analysis, as required by Public Resources Code Section 21082.1.
4. The above recitals are true and correct, incorporated herein, and constitute additional findings in support of this Resolution.

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

AYES:
NOES:
ABSTAIN:

the foregoing resolution is hereby passed and adopted this _____ day of _____, 2009.

JAMES HARRISON
President of the Board

ATTEST:

APPROVED:

DONNA K. JOHNSON
Secretary to the Board

JON S. SEITZ
District Legal Counsel

JOINT POWERS AGREEMENT
BETWEEN THE COUNTY OF SAN LUIS OBISPO
AND THE NIPOMO COMMUNITY SERVICES DISTRICT

Providing for the Creation of an Assessment District
To Fund Costs and Capital Improvements
For the Santa Maria Intertie Project

THIS AGREEMENT (“Agreement”) is made in multiple parts and is entered into this ____ day of _____, 2009 by and between the Nipomo Community Services District, a community services district formed and operated pursuant Section 61000 et seq. of the Government Code (hereinafter referred to as “District”), the County of San Luis Obispo Flood Control and Water Conservation District (hereinafter referred to as “County FLCWCD”), the County of San Luis Obispo, a political subdivision of the State of California (hereinafter referred to as “County”), and the Agreeing Water Companies (as defined herein) with reference to the following recitals:

RECITALS

WHEREAS, the District, the County, and the County FLCWCD are each a “public agency” as that term is defined in the California Government Code, Section 6500; and

WHEREAS, the District is a signator to a June 30, 2005 Stipulation approved by the Superior Court of the State of California, County of Santa Clara, in that certain groundwater adjudication commonly referred to as the Santa Maria Valley Water Conservation District vs. the City of Santa Maria, et al. (lead case number CV770214) (herein “Stipulation”); and

WHEREAS, the Stipulation was later incorporated into a final judgment in the above-referenced litigation on January 25, 2008; and

WHEREAS, pursuant to said Stipulation, the District is in the process of designing a supplemental water intertie project with the City of Santa Maria (herein “Project”); and

WHEREAS, the Project is designed to transport up to 3,000 AFY; and

WHEREAS, pursuant to said Stipulation, the Woodlands Mutual Water Company, the Golden State Water Company and Rural Water Company have agreed to purchase a portion of the Project water. Said companies are referred to herein collectively as the Private Water Companies; and

WHEREAS, the boundaries of the Private Water Companies are established by the California Public Utility Commission; and

WHEREAS, the Agreeing Water Companies are the Private Water Companies who signed this Agreement; and

WHEREAS, the Private Water Companies and the District are within the Nipomo Mesa Water Conservation Area as established by the County. Pursuant to the County's resource management system, the Nipomo Mesa Water Conservation Area is designated as Severity Level III; and

WHEREAS, the District is in the process of designing the Project and intends to create an assessment district pursuant to Street and Highway Code Section _____ to finance the District's costs to construct the Project; and

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State of California, commonly known as the Joint Exercise of Powers Act, two or more public agencies may, by Agreement, jointly exercise any power common to the contracting parties; and

WHEREAS, the District and the County find and determine that it would be in their mutual interest and the public benefit to coordinate their power, authority, and expertise and to cooperate in the formation of a single assessment district to finance the Project costs including the construction of the Project; and

WHEREAS, pursuant to Water Code Section 71722, the District may join with one or more other public agencies, private corporations, or other persons for the purpose of carrying out any of the powers of the District and for that purpose may contract with such other public agencies, private corporations or persons to finance acquisition, constructions, and operations.

PART I: JOINT POWERS AGREEMENT

THE COUNTY, THE COUNTY FLCWCD, AND THE DISTRICT ENTER INTO THIS JOINT POWERS AGREEMENT WITH THE FOLLOWING TERMS AND CONDITIONS:

A. Purpose. The purpose of this Part I of this Agreement is the formation of an Assessment District pursuant to Streets and Highway Code Section _____ to finance the construction of the Project.

B. Assessment District Boundaries. The Assessment District boundaries shall include the District boundary and the boundaries of the Agreeing Water Companies

C. District's Responsibilities. The District shall have the following responsibilities under this Part I of this Agreement.

- 1) Pay for the formation of the Assessment District;
- 2) Provide a financial advisor;
- 3) Provide an assessment engineer;
- 4) Produce an assessment report;
- 5) Provide information to property owners; and
- 6) Construct the Project.

D. County of San Luis Obispo Flood Control and Water Conservation District's Responsibilities. The County FLCWCD shall have the following responsibilities.

- 1) Process the formation of an Assessment District to fund the Project including the adoption of all necessary resolutions.
- 2) Prepare and transmit assessment ballots;
- 3) Tabulate assessment ballots;
- 4) Confirmation of ballot tabulation;
- 5) Prepare annual transmission of assessment roll to County auditor; and
- 6) Prepare annual transmission of assessment proceeds to the bond trustee.

E. County's Responsibilities. The County of San Luis Obispo shall, through the San Luis Obispo Finance Authority, have the following responsibilities.

- 1) Retention of bond issuance team;
- 2) Adoption of bond issuance resolutions;
- 3) Sale of bonds;
- 4) Pay for the issuance of bonds;
- 5) Transmittal of the proceeds of bond sales to District for Project construction;
- 6) Preparation and transmittal of annual disclosure statements; and
- 7) Tracking of bond retirement.

**PART II: AGREEMENT BETWEEN AGREEING WATER COMPANIES AND THE
DISTRICT**

THE DISTRICT AND THE AGREEING WATER COMPANIES AGREE AS
FOLLOWS:

A. Agreeing Water Companies' Responsibilities. The Agreeing Water Companies shall have the following responsibilities.

- 1) Advance the District's estimated cost for the formation of the Assessment District within their respective boundaries including but not limited to those costs referenced in Part I, Section C, Paragraphs 1 through 5 and payments to the San Luis Obispo County Flood Control and Water Conservation District (Part I, Section D) and to the County of San Luis Obispo (Part I, Section E), above. The estimated costs attached hereto as Exhibit A. In the event the estimated costs are insufficient to reimburse District, then the Private Water Companies agree to pay the difference upon demand of the District; and
- 2) In the event the bond proceeds are insufficient to construct the Project, then the Private Water Companies, on a pro rata basis agree to pay such additional costs upon demand of District.

B. District's Responsibilities. The District shall have the following responsibilities.

- 1) Reimburse Private Water Companies for costs referenced in Part II, Paragraph A(1), above, to the extent the District is reimbursed from bond proceeds.

PART III: MISCELLANEOUS PROVISIONS APPLICABLE TO

PART I AND PART II

ALL PARTIES AGREE AS FOLLOWS:

A. Other Agreements. This Agreement, will be in addition to other agreements, between the District and Agreeing Water Companies that will address, among other things, the costs for delivery of supplemental water and the operation and maintenance of the Project.

B. Cooperation of Parties. The Parties recognize that it is essential to cooperate fully concerning the handling of data and information contemplated in this Agreement. In connection with this Agreement, the Parties agree to provide any data, information, and documentation reasonably necessary to the performance of this Agreement.

C. Modification. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions,

alternatives, substitutes or revisions are valid or binding unless authorized by the Parties in writing.

D. Successors and Assigns. The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties.

E. Review for Legal Adequacy. Each Party to this Agreement acknowledges and agrees that this Agreement has been reviewed by each Party's respective legal counsel for legal adequacy.

F. Waiver. No waiver of the breach of any of the covenants, agreements, restrictions, or conditions of this Agreement by any Party shall be construed to be a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement. No delay or omission of any Party in exercising any right, power or remedy herein provided in the event of default shall be construed as a waiver thereof, or acquiescence therein, or be construed as a waiver of a variation of any of the terms of this Agreement.

G. Severability Provision. If any term or portion of this Agreement is held to be invalid, illegal, void, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

H. Signature in Counterparts. This Agreement may be executed in counterparts by all Parties. The Agreement is effective as to any signatory Party on execution and, for purposes of enforcement, true copies of signatures shall be deemed to be original signatures.

I. Term of Agreement. This Agreement shall automatically terminate on ____ days after the District adopts the Resolution accepting Project construction.

Bruce Buel

From: Neil McCormick [neilm@csda.net]
Sent: Wednesday, March 04, 2009 9:35 PM
To: Neil McCormick; Arlene Schafer; Bill Morton; Brenda Krout (for Jack Curtis); Bruce Buel; Cathrine Lemaire; David McMurchie; Deborah Young; Diana Zavala; Jack Curtis; Jeff Stava; Jim Acosta; Jo MacKenzie; John Fox; John Rossi; Judy Cofer; Saul Rosenbaum; Sonya Bloodworth (for John Rossi); Steve Ruetters
Subject: CSDA Finance Corporation Board mtg - March 12-Confirmed
Attachments: CSDA FC Packet 3-12-09.pdf

CSDA FC Board Members & Consultants -

We have confirmed a quorum for the March 12th meeting from noon to 4pm in Sacramento in the CSDA Conference Room. Attached is the agenda including a couple background items.

For those that indicated they would be calling in, below is the conference call information:
(866) 704-7500
Passcode is 978772#

See you next week.
Neil

Neil McCormick
Administrator
CSDA Finance Corporation

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: APRIL 16, 2009

AGENDA ITEM
E-3
APRIL 22, 2009

ADOPT COMMERCIAL FEE PHASING ORDINANCE

ITEM

Conduct second reading and adopt ordinance adding fee payment phasing provisions to Intent-To-Serve process [ADOPT ORDINANCE].

BACKGROUND

At the January 14, 2009 Board meeting, the Board directed staff to present possible code changes for the Board's consideration in response to the request from George Newman, representative for Nipomo Business Park, LP, developer of Tract 2652, for phasing payment of fees for the project. At the February 25, 2009 Board meeting, the Board reviewed staff's concept of allowing phasing of supplemental water capacity charges for multi-parcel commercial projects and directed staff to present possible code changes for the Board's consideration. Your Honorable Board previewed and edited a rough draft of the text at your March 25, 2009 Board Meeting and introduced and edited the draft ordinance at your April 8, 2009 Board Meeting.

Attached is the proposed final version of the ordinance providing for the amendment of Section 3.04.051 and the addition of Section 3.04.052 including the revisions ordered by the Board. Any substantive changes made to the ordinance will require restarting the ordinance adoption process.

FISCAL IMPACT

Preparation of the ordinance involves the use of pre-funded staff time. Adoption of the Ordinance will obligate the District to publish the text of the ordinance in a newspaper of general circulation and to implement the prescribed procedures that defer payment of a portion of the Fees for Connection related to supplemental water for qualifying commercial projects.

RECOMMENDATION

Staff believes that the ordinance provides temporary relief for new commercial development by deferring payment of a portion of the Fees for Connection related to supplemental water and supports adoption. Staff recommends that the Board receive public feedback on the proposed final version of the ordinance and then adopt a motion to approve the ordinance.

ATTACHMENTS

- Proposed Final Ordinance (Section 3.04.051 Amendment and New Section 3.04.052)

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**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009-XXX**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 OF THE NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH NEW PROCEDURES FOR PAYMENT OF
DISTRICT FEES FOR CONNECTION FOR
COMMERCIAL PROJECTS DEVELOPED ON TWO OR MORE
COMMERCIAL ZONED PARCELS**

WHEREAS, it is a major responsibility of the Nipomo Community Services District ("District")
to:

- A. Operate and maintain its water production and distribution facilities so as to provide adequate water service and fire protection to District water customers; and
- B. Maintain adequate levels of revenue, equitably collected from District water customers and future customers, to meet the District's financial commitments including acquiring supplemental water to augment the District's current water production facilities to prevent impairment to the Groundwater Basin.

WHEREAS, pursuant to District Code Section 3.04.051, the District currently requires the initial deposit for "Fees for Connections" to be paid prior to issuance of District Will-Serve Letter; and

WHEREAS, San Luis Obispo County ("County") requires a District Will-Serve Letter prior to recording final maps; and

WHEREAS, due to the current credit crisis, the above policies severely impact large commercial projects developed on two or more parcels where one or more of the parcels requires a 1.5 inch or larger water meter; and

WHEREAS, the District recognizes that large commercial projects provide jobs and income to District residents who, in turn, are responsible for payment of District's rates and charges; and

WHEREAS, the District held public meetings and received public comment on the rules and regulations adopted herein on February 25, 2009, and March 25, 2009; and

WHEREAS, based upon the Staff Report, this Ordinance, Staff Presentation and public testimony received, the Board of Directors finds:

- A. The public meetings adopting this Ordinance have been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act);
- B. The purpose of this Ordinance is to provide temporary relief for large commercial projects by deferring payment of a portion of the Fees for Connection related to supplemental water capacity charges as provided in Section 3.04.052, below.

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

Section 1. Authority.

This Ordinance is enacted pursuant to Government Code Sections 61600(a), 61060 (a) and (b) and 6115(a)(2).

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PROJECTS DEVELOPED ON TWO OR MORE COMMERCIAL ZONED PARCELS

Section 2. Section 3.04.051 of the District Code is hereby amended and restated as follows:

Section 3.04.051 Payment of Connection Fees and Capacity Charges.

Except as provided in Section 3.04.052, below, the applicant shall pay the water capacity charges (including supplemental water capacity charges), sewer capacity charges, reimbursement charges (if applicable), meter fee and account set-up fee, collectively "Fees for Connection" as follows:

- A. The Applicant shall make a non-refundable deposit ("Deposit") at the time the District issues a Will-Serve Letter in an amount equal to the then calculated Fees for Connection.
- B. The Fees for Connection shall be calculated and owing as of the date the District sets the water meter(s) to serve the affected property from which the amount of the Deposit shall be deducted.
- C. The District will set water meter(s) upon proof of a building permit from the County of San Luis Obispo and that the District has accepted improvements to be dedicated to the District, if applicable.

Section 3. Section 3.04.052 is added to the District Code as follows:

Section 3.04.052 Payment of Connection Fees and Capacity Charges for Commercial Development

For commercial projects developed on commercially-zoned properties within the District, the applicant shall pay the water capacity charges (including supplemental water capacity charges), sewer capacity charges, reimbursement charges (if applicable), meter fee and account set-up fee (collectively "Fees for Connection") as follows:

- A. For commercial projects that do not meet the requirements of subparagraph B, below, the payment provisions of Section 3.04.051 shall apply.
- B. For commercial projects under a single application for a final map, developed on two or more parcels, where one or more of the parcels requires a 1.5 inch or larger water meter, the following payment provisions shall apply.
 - (1) The applicant shall make a non-refundable deposit ("Deposit") at the time the District issues a Will-Serve Letter in an amount equal to the total project Fees for Connection minus 90% (ninety percent) of the water capacity charges attributed to supplemental water.
 - (2) The remaining 90% (ninety percent) of the project's supplemental water Deposit shall be due and payable on the first of the following to occur:

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- a. Sale of any one of the parcels;
 - b. Applicant's request to set the first water meter at any one parcel; or
 - c. 18 (eighteen) months from the date the Will-Serve Letter is issued.
- (3) Prior to issuing the Will-Serve Letter, Applicant shall provide District, to the satisfaction of District Legal Counsel, the following:
- a. A recordable document referencing Applicant's obligation for payment of Fees for Connection as outlined in this subparagraph B; and
 - b. A subordination agreement.
- C. The Fees for Connection shall be calculated and owing as of the date the District sets the first water meter(s) to serve the project from which the amount of the Deposit shall be deducted.
- D. The District will set water meter(s) upon proof of a building permit from the County of San Luis Obispo and that the District has accepted improvements to be dedicated to the District, if applicable.

Section 4. Incorporation of Recitals

The Recitals are true and correct and incorporated herein by this reference.

Section 5. Effect of Repeal on Past Actions and Obligations.

This Ordinance does not affect prosecutions for Ordinance violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any Ordinance.

Section 6. CEQA Findings

The Board of Directors of the District finds that the revisions of the policies and procedures adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378 (b) (2) because such amendments constitute general policy and procedure making. The Board of Directors further finds that the adoption of the rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen with certainty that the revisions will not result in either a direct physical change in the environment, nor is there a reasonable indirect physical change in the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 7. Severance Clause.

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

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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 8. 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 9. Effective Date.

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

Introduced at its regular meeting of the Board of Directors held on April 8, 2009, and passed and adopted by the Board of Directors of the Nipomo Community Services District on the ____ day of _____, 2009, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

CONFLICTS:

James Harrison, President
Nipomo Community Services District
Board of Directors

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 *BB*
DATE: APRIL 17, 2009

AGENDA ITEM
E-4
APRIL 22, 2009

COLD CANYON LANDFILL AND RECYCLING FACILITY TOUR

ITEM

Discuss educational tour of Cold Canyon Landfill and Recycling Facility [SET DATE]

BACKGROUND

Your Honorable Board on April 8, 2009 directed staff to coordinate with SCSS regarding a tour of the Cold Canyon Landfill and Recycling Facility. Tom Martin has indicated that he is available to facilitate such a two hour tour on Friday May 8th; Monday May 11th or Friday May 15th. Tom suggests that the tour start at Cold Canyon at 10:30am and end with a lunch at the education center. If staff were to rent a van, the van could leave the office at 10am and return at approximately 1:30pm.

FISCAL IMPACT – total cost for the tour including van rental is estimated at \$700. Funds are available to cover this cost in the Solid Waste Fund.

RECOMMENDATION

Staff recommends that the Board pick one of the three open dates and direct staff to organize the tour.

ATTACHMENT – NONE

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TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BBB*
DATE: APRIL 17, 2009

AGENDA ITEM
E-5
APRIL 22, 2009

CONSIDER DIRECTOR EBY'S REQUEST RE GRAFFITI POWER ACTIVATION

ITEM

Consider Director Eby's request to seek activation of graffiti abatement powers [PROVIDE POLICY GUIDANCE]

BACKGROUND

Attached is a request from Director Eby.

When the Board last discussed this matter, there was no agreement on where funding would come from to pay for this service and staff was directed to coordinate with the County to determine what the County could do without NCSD's involvement. Although the County is currently only removing graffiti in public right-of-ways, Art Trinidad from Code Enforcement has requested an opportunity to present a pilot program to the Board at the Board's May 27th Meeting, however, involvement in the pilot program would involve the expenditure of District Funds. This is the same date that the Board is scheduled to consider authorizing NCSD's formal request to LAFCO to activate parks powers.

FISCAL IMPACT – The cost of a graffiti abatement program would depend on the type of program and the assignment of responsibilities between the participants. NCSD has two potential sources of funding, either the Solid Waste Fund or Property Taxes, however, the Board has previously not reached agreement on using either source for this purpose. It should be noted that the current staff compliment is occupied and implementation of a District program would involve either the hiring of a part time coordinator or a contract employee. Participation in a County driven program would involve payment to the County.

RECOMMENDATION

Staff recommends that the Board discuss its willingness to spend funds for Graffiti Removal including new staff for a District Program or participation in a County Program and if so, determine which source might be used. If the Board agrees, in concept, then Art Trinidad should be invited to make his presentation and staff should be directed to develop more detail for Board consideration at the May 27th Board Meeting.

ATTACHMENTS

- Ed Eby Request

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Bruce Buel

From: edeby@charter.net
Sent: Monday, April 13, 2009 10:35 AM
To: Bruce Buel
Cc: Jim Harrison; Jon Seitz

As I mentioned in last week's meeting, I would like to see the outline of a plan for the NCSD to adopt graffiti abatement powers in conjunction with park powers.

In the Tribune article copied below, Grover's graffiti ordinance is outlined. Their budget of \$2,000 per year is dwarfed by our planned maintenance cost (~\$17,000) for a pocket park. We should adopt a similar ordinance, backed by graffiti abatement powers that we could get for virtually free from LAFCO if we combine its application for park powers. It wouldn't even hurt to ask the County for additional funds for the NCSD to do what the County is supposed to be doing (seen any County abatement on the old rec center graffiti lately?). This strategy of gradually adopting powers a city might eventually have certainly is in line with incorporation desires.

Ed Eby

Grover Beach ordinance fights increase in graffiti

Penalties will be stiffer and police will remove tags more quickly; number of incidents hit 224 last year

Nick Wilson

A dramatic increase in graffiti incidents in Grover Beach in the past year has prompted city officials to take steps to remove the graffiti far more quickly, stiffen the penalties for possessing graffiti tools and increase community education. The number of reported graffiti incidents hit 224 last year, up from 38 in 2007, police Chief Jim Copsey said. Already this year, 88 reports have been filed. About 17 percent of the markings this year were tied to gangs, Copsey said, down from 25 percent in 2008 and 34 percent in 2007.

That's less than the communities of Oceano and Nipomo, where authorities say more than 50 percent of tags, or graffiti scrawls, are gang-related.

Grover Beach's new ordinance, approved April 6 by the City Council, will take effect next month.

It reduces the time until police can remove

the graffiti to 72 hours after notification of a private owner. The previous ordinance allowed 15 days from the time of notification.

It also makes possession of graffiti implements and tools a violation of the municipal code and creates a clearer eradication process with plans for education in the community and schools, beneficial reporting and tracking of incidents, and volunteer cleanup efforts. In addition, it will be the responsibility of the police chief —instead of the city manager — to recover costs incurred by the city from the violators.

City Manager Bob Perrault said that he's not sure why the graffiti increase has occurred, and Copsey was unavailable for comment Friday.

But a community group in conjunction with the police initiated the new ordinance, which includes working with youth to stop the trend.


Copsey said that graffiti depreciates property values and can lead to other types of crime. The sooner graffiti is removed the better, Copsey said, for preventing future vandalism.

The tags often are made with aerosol spray paint or felt tip markers by teenagers or young adults who want to leave their mark in a public place, city officials say.

Many of the violators are repeat offenders. Catching a perpetrator can significantly reduce graffiti in a community.

The city has budgeted about \$2,000 a year to remove graffiti on public property.

This expenditure is expected to continue with the goal of reducing the cost through the help of volunteers.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL 
DATE: APRIL 17, 2009

**AGENDA ITEM
E-6
APRIL 22, 2009**

RECEIVE DIRECTOR TROTTER'S RESIGNATION

ITEM

Receive resignation of Director Cliff Trotter, thank Director Trotter for his service, revise Committee assignments and adopt process to select replacement [RECOMMEND APPROVAL]

BACKGROUND

Attached are Director Trotter's resignation letter and an excerpt from state law detailing the process for selection of a replacement director. As set forth in the statutes, the Board has 60 days from the effective date of the resignation to make an appointment. Given the effective date of April 25, 2009, the Board could appoint a replacement as late as June 24, 2009. Staff recommends that the Board call for nominations from registered voters in the District, set a nomination deadline for May 29, 2009, set a Special Meeting for 9am on Wednesday June 3, 2009 to interview prospective nominees, and place an item on the June 10, 2009 Agenda for selection of the replacement.

Also attached is a copy of the current committee assignments. Staff proposes that the Board revise the committee structure and the appointees on an interim basis until the new Director can be seated. Specifically, staff proposes that the Supplemental Water Project Committee be combined with the Southland Upgrade Project Committee to form an Infrastructure Committee with a new member to replace Director Trotter and that the Personnel Committee be combined with Finance and Audit to form a Finance, Audit and Personnel Committee with the current members continuing to serve. However, the Committees are restructured; the President should nominate the membership for Board ratification.

FISCAL IMPACT – the special meeting would cost approximately \$600.

RECOMMENDATION

Staff recommends that the Board receive Director Trotter's resignation and thank him for his excellent service. Then, staff requests that the Board provide direction regarding the replacement process and the committee assignments.

ATTACHMENTS

- Cliff Trotter Resignation
- Excerpts from State Law
- Current Committee Assignments

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April 13, 2009

To: Board of Directors, Nipomo Community Services District

From: Clifford E. Trotter

Dear Sirs:

I hereby submit my resignation from the Board of Directors of the Nipomo Community Services District to become effective at 4 PM Saturday, April 25, 2009.

Sincerely, C.E. Trotter

**NCSD LEGAL RESEARCH:
DIRECTOR VACANCIES**

GOVERNMENT CODE

Division 3. Community Services Districts

Chapter 1. Introductory Provisions

§ 61008. Elections; law governing

(a) Except as otherwise provided in this division, districts are subject to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

(b) A board of directors may require that the election of members to the board of directors shall be held on the same day as the statewide general election pursuant to Section 10404 of the Elections Code.

(c) A district may conduct any election by all-mailed ballots pursuant to Division 4 (commencing with Section 4000) of the Elections Code.

(d) A district may hold advisory elections pursuant to Section 9603 of the Elections Code.

Chapter 3. Board Of Directors

§ 61040. Members; duties; eligibility; representation of interests; dual officeholding

(a) A legislative body of five members known as the board of directors shall govern each district. The board of directors shall establish policies for the operation of the district. The board of directors shall provide for the implementation of those policies which is the responsibility of the district's general manager.

(b) No person shall be a candidate for the board of directors unless he or she is a voter of the district or the proposed district. No person shall be a candidate for the board of directors that is elected by divisions or from divisions unless he or she is a voter of that division or proposed division.

(c) All members of the board of directors shall exercise their independent judgment on behalf of the interests of the entire district, including the residents, property owners, and the public as a whole in furthering the purposes and intent of this division. Where the members of the board of directors have been elected by divisions or from divisions, they shall represent the interests of the entire district and not solely the interests of the residents and property owners in their divisions.

(d) Service on a municipal advisory council established pursuant to Section 31010 or service on an area planning commission established pursuant to Section 65101 shall not be considered an incompatible office with service as a member of a board of directors.

(e) A member of the board of directors shall not be the general manager, the district treasurer, or any other compensated employee of the district, except for volunteer firefighters as provided by Section 53227.

§ 61042. Terms; vacancies

(a) The term of office of each member of a board of directors is four years or until his or her successor qualifies and takes office. Directors shall take office at noon on the first Friday in December following their election.

(b) For districts formed before January 1, 2006, where the members of the board of directors are not serving staggered terms, at the first meeting after January 1, 2006, the members shall classify themselves by lot into two classes. One class shall have three members and the other class shall have two members. For the class that has three members, the terms of the offices that begin

after the next general district election shall be four years. For the class that has two members, the initial terms of the offices that begin after the next general district election shall be two years. Thereafter, the terms of all members shall be four years.

(c) Any vacancy in the office of a member elected to a board of directors shall be filled pursuant to Section 1780.

Division 4. Public Officers and Employees

Chapter 4. Resignations and Vacancies

Article 1 Resignations

§ 1750. Manner of making

§ 1750.5. Informing Governor of certain resignations and appointments

Article 1 Resignations

§ 1750. Manner of making

Resignations shall be in writing, and made as follows:

(a) By the Governor and Lieutenant Governor, to the Legislature, if it is in session; and if not, then to the Secretary of State.

(b) By all officers commissioned by the Governor, to the Governor.

(c) By Senators and Members of the Assembly, to the presiding officers of their respective houses, who shall immediately transmit the resignation to the Governor.

(d) By all officers of a county or judicial district or **special district** other than an air pollution control district which includes territory in more than one county or a school district, not commissioned by the Governor, to the clerk of the board of supervisors of their respective counties, unless by the terms of the act under which a district is formed appointment to vacancies is made by other than

the board of supervisors, **in which case the resignation shall be submitted to the appointing body.**

(e) By officers of a municipal corporation, to the clerk of the legislative body of their corporation.

(f) By all other appointed officers, to the body or officer that appointed them.

§ 1752. Eligibility for appointment to vacancy

(a) Except as provided in subdivision (b), no person elected or appointed to the governing body of any city, county, or district having an elected governing body, shall be appointed to fill any vacancy on such governing body during the term for which he or she was elected or appointed.

(b) With respect to a general law city, if a vacancy in the elected office of mayor occurs, the council may fill that vacancy by appointing a member of the council to the office of mayor. Any person appointed to fill the vacancy shall hold the office of mayor for the unexpired term of the former mayor. Any vacancy created in the membership of a city council as the result of an appointment of a member to the office of mayor shall be filled in accordance with Section 36512, 36512.1, or 36512.2.

Article 2 Vacancies

§ 1770. Events causing vacancy in office

An office becomes vacant on the happening of any of the following events before the expiration of the term:

(a) The death of the incumbent.

(b) An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the

duties of his or her office for the remainder of his or her term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.

(c) His or her resignation.

(d) His or her removal from office.

(e) His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen or appointed, or within which the duties of his or her office are required to be discharged. However, the office of judge of a municipal or justice court shall not become vacant when, as a result of a change in the boundaries of a judicial district during an incumbent's term, the incumbent ceases to be an inhabitant of the district for which he or she was elected or appointed to serve.

(f) His or her absence from the state without the permission required by law beyond the period allowed by law.

(g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.

(h) His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For the purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(i) His or her refusal or neglect to file his or her required oath or bond within the time prescribed.

- (j) The decision of a competent tribunal declaring void his or her election or appointment.
- (k) The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.
- (l) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

§ 1780. Special districts; vacancies in elective offices of governing board; election dates; term

(a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in Section 1781, shall be filled pursuant to this section.

(b) The district shall notify the county elections official of the vacancy no later than 15 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later.

(c) The remaining members of the district board may fill the vacancy either by appointment pursuant to **subdivision (d)** or by calling an election pursuant to subdivision (e).

(d)(1) The remaining members of the district board shall make the appointment pursuant to this subdivision within 60 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later. The district shall post a notice of the vacancy in three or more conspicuous places in the district at

least 15 days before the district board makes the appointment. The district shall notify the county elections official of the appointment no later than 15 days after the appointment.

(2) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(3) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office.

(e)(1) In lieu of making an appointment the remaining members of the board may within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election.

(f)(1) If the vacancy is not filled by the district board by appointment, or if the district board has not called for an election within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is

later, then the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may appoint a person to fill the vacancy within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, or the city council or board of supervisors may order the district to call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the city council or board of supervisors calls the election.

(g)(1) If within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, the remaining members of the district board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, then the district board shall call an election to fill the vacancy.

(2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election.

(h)(1) Notwithstanding any other provision of this section, if the number of remaining members of the district board falls below a quorum, then at the request of the district secretary or a remaining member of the district board, the appropriate board of supervisors or the city council shall promptly appoint a person to fill the vacancy, or may call an election to fill the vacancy.

(2) The board of supervisors or the city council shall only fill enough vacancies by appointment or by election to provide the district board with a quorum.

(3) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold the office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(4) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office.

(5) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is held 130 or more days after the date the city council or board of supervisors calls the election.

2009 NCSD Committee Assignments

Standing Committee Assignments (2 members)	Chairperson	Member
Supplemental Water Project Design & Construction	Ed Eby	Cliff Trotter
Finance And Audit	Larry Vierheilig	Jim Harrison
Parks	Jim Harrison	Michael Winn
Southland Wastewater Treatment Facility Upgrade	Michael Winn	Jim Harrison
Water Conservation	Michael Winn	Larry Vierheilig
Personnel	Cliff Trotter	Larry Vierheilig

DELEGATES	Member	Alternate
South County Advisory Committee (Includes Land Use Committee)	Michael Winn	None per SCAC Bylaws - no alternate allowed
Water Resources Advisory Committee (WRAC)	Bruce Buel	Ed Eby
Chamber of Commerce (meets last Wed. @ noon)	Cliff Trotter	-----
City of Santa Maria/CCWA	Bruce Buel	Jim Harrison
Olde Towne Nipomo Association	Larry Vierheilig	Jim Harrison
Blacklake Village Council/Committees	Michael Winn	Jim Harrison
Liaison to the Nipomo Incorporation Committee for Education (NICE)	Jim Harrison	-----
Representative to the Board of Supervisors	Jim Harrison	Michael Winn
Representative to the Planning Commission	Michael Winn	Jim Harrison

Delegates are appointed by the President of the Board of Directors.

*Subject to other requirements of the Brown Act, Committee appointments are not to be interpreted as limiting contacts between individual Board members or any other person or persons.