

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: MAY 22, 2009

**AGENDA ITEM
E-1
MAY 27, 2009**

ACTIVATE LIMITED PARKS AUTHORITY

ITEM

Authorize submittal of application of LAFCO to activate limited parks authority and initiate property owner outreach program [RECOMMEND APPROVAL]

BACKGROUND

On April 22, 2009, your Honorable Board set this hearing and directed staff to prepare a financial plan for activation of parks authority limited to construction and operation of the proposed Jim O. Miller Park and a proposal for formation of a zone of benefit for funding the operations cost in anticipation of filing the activation petition with LAFCO.

District Staff and LAFCO Staff have met to discuss the process for activation of the latent authority. LAFCO Staff has confirmed that NCSD needs to submit a complete application (including an initial study) along with \$3,500 in fees before they can set a hearing. Should LAFCO deem NCSD's application as complete in early June, then the LAFCO hearing could take place in August or September.

Attached is staff's proposed Draft Financial Plan and a Draft Resolution seeking LAFCO Activation of limited Parks Latent Authority. This Draft Financial Plan is a required component of the Application and it must address the mechanisms that the District proposes to fund the current and future exercise of the latent authority.

Also attached is printout of the process for activation of Parks Authority, a summary of the process for formation of a zone of benefit and a rough draft resolution initiating the formation of a zone of benefit. As detailed in the activation process flowchart, we are at steps 5 (Financial Plan), 6 (LAFCO Application), and 7 (Zone of Benefit) with steps 8 and 9 (CEQA) scheduled for July 8, 2009.

FISCAL IMPACT

Submission of the LAFCO application involves the expenditure of \$3,500 in fees and the use of previously budgeted staff time, materials and consultant expense. Formation of the Zone of Benefit and the Assessment District would require the commitment of previously budgeted staff time, materials and consultant expense. Development of the Park could involve the commitment of property tax reserves. Operation of the Park could involve expenditure of current property tax receipts.

RECOMMENDATION

Staff recommends that the Board:

1. Edit the attached Financial Plan;
2. Adopt the Resolution authorizing Staff to Submit a completed application to LAFCO;

3. Direct staff to mail information on the Proposal and the Zone of Benefit to the 417 properties in the proposed zone of benefit;
4. Request the Parks Committee (Harrison and Winn) to hold at least one evening briefing on the Proposal and the Zone of Benefit prior to July 8, 2009
5. Set a Hearing for July 9, 2009 to consider Formation of the Zone of Benefit
6. Direct Staff to publish the notices required for the July 9, 2009 Hearing and invite all 417 property owners to the Hearing;
7. Adopt the Attached Resolution initiating the Formation of the Zone of Benefit;

ATTACHMENTS

- Draft Financial Plan and Resolution Authorizing Filing
- Process Flow Chart
- Zone of Benefit Process Summary
- Rough Draft Resolution of Initiation for Zone of Benefit

t:\documents\board matters\board meetings\board letter 2009\Miller Park Activation.doc

FINANCING PLAN – NCSD PROPOSAL TO ACTIVATE PARKS AUTHORITY

The NCSD is requesting limited authority to exercise park powers pursuant to Government Code Section 61100(e).

Initially, NCSD proposes to develop and operate the Jim O. Miller Park at the North-East corner of West Tefft Street and Carrillo Street in Nipomo. Following is a description of the financing plan for this facility. The transfer of additional park facilities to the NCSD will require the NCSD's prior written approval.

The proposed Jim O. Miller Park would occupy the 1.4 acres encompassing San Luis Obispo County Assessor Parcel 090-141-006 and the adjacent Railway Right of Way. As set forth in the attached San Luis Obispo County Resolution, the Board of Supervisors has adopted a Memorandum of Understanding providing for the conditional donation of the 1.4 acre site to NCSD for the development of the park following activation of parks authority by LAFCO. Thus, cost of the land portion for the park is zero to NCSD.

NCSD proposes to develop the park with restrooms, parking, paths, a gazebo, a pole barn, a rose garden and a community Christmas Tree. The NCSD Board has approved the use of existing property tax reserves to pay for the planning, design, environmental review, permits, approvals and the formation of an assessment district to pay for a portion of the operations and maintenance cost. As detailed in the attached "Miller Park Assessment District Formation" report, NCSD estimates that development of the park could cost as much as \$922,022. The NCSD Board has agreed to spend up to \$500,000 of existing property tax reserves towards the actual cost of development. The Board proposes to pay for the development of the balance of the facilities through Public Facility Fee Grants, Donations, and Sponsorships by Groups and Service Clubs.

The attached Miller Park Assessment District Formation report estimates the initial annual operation and maintenance cost at \$20,766. The NCSD Board has agreed to pay 40% of the annual Operating and Maintenance Budget with current Property Tax revenues. The remaining 60% is proposed to be paid by property owners in two zones of benefit adjacent to the Park. The 125 parcels in the Primary Zone of Benefit would pay \$35.03 per benefit unit per year in assessments. The 292 parcels in the Secondary Zone of Benefit would pay \$12.60 per benefit unit per year in assessments. The successful formation of the assessment district would precede LAFCO's final approval of the District's request to exercise parks powers.

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF SAN LUIS OBISPO AND
THE NIPOMO COMMUNITY SERVICES DISTRICT
REGARDING THE TRANSFER OF OWNERSHIP IN
COUNTY-OWNED REAL PROPERTY

This Memorandum of Understanding ("MOU") is entered by and between the County of San Luis Obispo (hereinafter "County") and the Nipomo Community Services District (hereinafter "District") with reference to the following Recitals:

RECITALS

- A. The District is a Community Services District formed and operated pursuant to California Government Code, Sections 61000 et seq. Pursuant to said code, the District is authorized to acquire, construct, improve, maintain, and operate recreational facilities, including, but not limited to, parks and open space; and
- B. The District is considering the activation of Park Powers pursuant to the Cortese-Knox-Hertzberg Act and the rules and regulations of the Local Agency Formation Commission (hereinafter "LAFCO"); and
- C. The County is the owner of certain real property consisting of approximately one (1) acre located at the northeast corner of West Tefft and Carrillo Street (APN 090-141-006) along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (a portion of APN 090-151-008), hereinafter referred to as "Property", as depicted in Exhibit "A"; and
- D. The District has requested the County to transfer ownership of the Property to the District, without compensation, for the purpose of constructing and operating a park; and
- E. The District has a 75' by 75' easement for water well purposes on County land across the street from said Property on APN 090-142-007, recorded on May 29, 1984 as Document No. 27332; and
- F. The District has not developed this site for water well purposes and no longer requires the easement; and
- G. The District requires an easement for a sewer lift station and sewer lines installed in the early 1980's on County-owned land, APN 090-142-007; and
- H. District requests a grant of easement from County for the sewer lift station and sewer lines and offers, in lieu of monetary compensation, to quitclaim the 75' x 75' water well easement currently held by District, described in Paragraph E above; and

- I. Pursuant to Government Code, Section 56824.14, in order to maintain a public park, the District's exercise of Park Powers must be approved by LAFCO; and
- J. Pursuant to Government Code, Section 25365, the Board of Supervisors may, upon determination that said Property is not required for County use and with a four-fifths vote of the Board, transfer fee title of said Property to District; and
- K. It is the purpose of this MOU to identify the responsibilities of the parties in developing the Property for use as a park and the transfer of the property to the District as well as the trading of easements.
- L. County wishes to cooperate with District's request to transfer the property to the District in order to provide a park to the community of Nipomo.

NOW, THEREFORE, the parties agree as follows:

1. County hereby determines that subject Property is not required for County use.
2. In lieu of monetary compensation and in consideration of District's offer to construct and maintain a public park on the Property, County intends to transfer ownership of the Property to District free of charge following completion of the steps outlined below. Nothing contained in this MOU shall be interpreted to predetermine the transfer of the property or to restrict County's full review and implementation of environmental review related to the transfer of this Property pursuant to CEQA. Said transfer shall require a future public hearing before the Board of Supervisors pursuant to Government Code Section 25365 after the environmental determination and General Plan Conformity Report are completed.
3. District will develop a plan identifying park features and improvements for approval by County Planning and Building Department.
4. District will provide County an analysis of the costs and the funding sources for construction of park improvements and for ongoing operation and maintenance. If such funding shall require the formation of an assessment district, transfer of ownership of the Property shall not occur prior to approval of the assessment district by the affected property owners.
5. Transfer of the property shall not occur prior to LAFCO activation of the District's Park Powers.
6. If required, District shall apply for a public lot split with County Planning and Building Department and provide all documentation necessary to obtain approval of the County Subdivision Review Board prior to recordation of the Quitclaim Deed. District shall provide, at District's expense, a legal description of the property to be transferred, which shall be an original exhibit to the Quitclaim

Deed. District agrees to submit a Voluntary Merger or Certificate of Compliance Application and processing fees, if required, to County Planning and Building Department.

7. County shall process a General Plan Conformity Report and Environmental Determination for the transfer of the Property. Transfer of the property shall not occur prior to filing of the General Plan Conformity Report and Environmental Determination with the County Planning Commission or, if appealed, approval by the County Board of Supervisors.
8. The Property shall be improved in substantial conformity to development plans as submitted to County and shall be open to the public within three years following date of recordation of the Quitclaim Deed.
9. The Property must be used for public park purposes. The property may not be used to provide a parking in-lieu program for nearby commercial development.
10. The Quitclaim Deed shall contain a reversionary clause giving County the right to require the Property to be transferred back from District to the County if the requirements of paragraphs 7 and 8 are not fulfilled.
11. District shall, at District's sole cost and expense, prepare an Easement Deed with original stamped legal description attached describing easement to be granted by County to District for sewer lift station area and sewer lines.
12. District shall, at District's sole cost and expense, provide an Environmental Determination for said sewer lift station and sewer line easement for review and approval by County Environmental Coordinator. Said Environmental Determination must be reviewed by the County Board of Supervisors prior to granting of the easement.
13. District shall, at District's sole cost and expense, prepare an Easement Quitclaim Deed to release the 75' x 75' water well easement on APN 090-142-007, recorded on May 29, 1984 as Document No. 27332.
14. Easement Quitclaim Deed for water well shall be signed by District in a timely manner and delivered to County along with a signed Certificate of Acceptance for the Easement Deed for sewer lift station and sewer lines. This action shall proceed independently of actions related to transfer of Property for park purposes. County staff shall present the Easement Quitclaim Deed to the County Board of Supervisors concurrently with the Easement Deed for sewer lift station and sewer lines in District's name. Subject to approval by the County Board of Supervisors, both documents shall be recorded concurrently. In the event that County Board of Supervisors does not approve the Easement Deed, Easement Quitclaim deed shall be returned by County to District

15. District does not object to County's intention to develop their vacant land across the street from the Property (APN 090-142-007 and adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way, portion of APN 090-151-008) for future County facilities, so long as said development is consistent with the County's existing General Plan, General Plan policies, and zoning regulations.
16. Good Faith and Fair Dealing: Where the terms of this Agreement provide for action to be based upon opinion, judgment, approval, review or determination of either party hereto, such terms are not intended to and shall never be construed to permit such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable. The County and the District shall each act in good faith in performing their respective obligations as set forth in this Agreement.

/////////////////////////////////NOTHING FURTHER PAST THIS POINT EXCEPT SIGNATURES/////////////////////////////////

COUNTY OF SAN LUIS OBISPO:

By: Russ S. Lichten
 Chairman of the Board of Supervisors

Approved by the Board of Supervisors this
24th day of MARCH, 2009.

ATTEST:
JULIE L. RODEWALD
 Clerk of the Board of Supervisors

By: Jandy Currens
 Deputy Clerk
**APPROVED AS TO FORM AND
 LEGAL EFFECT:**

WARREN R. JENSEN
 County Counsel
 By: Warren R. Jensen
 Assistant County Counsel

Date: 1/13/09

**NIPOMO COMMUNITY SERVICES
 DISTRICT:**

By: Jim Harrison
 Jim Harrison, President

Dated: _____

ATTEST:
[Signature]
 District Secretary

**APPROVED AS TO FORM AND
 LEGAL EFFECT:**

[Signature]
 Jon S. Seitz, District Legal Counsel
 Nipomo Community Services District

Dated: 1-22-09



A11-11
3-24-2009

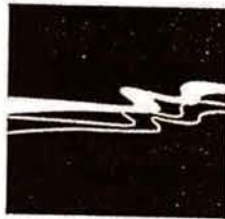
Nipomo Community Services District

Miller Park Assessment District Formation

-FINAL-

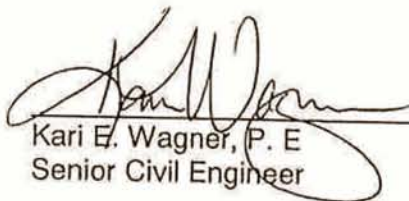
Landscape and Lighting Act of 1972 and Proposition 218 Research
Project Costs and Assessment District Boundary

Report Prepared By:



WALLACE GROUP®

February 29, 2008


Kari E. Wagner, P. E.
Senior Civil Engineer



The Nipomo Community Services District has requested Wallace Group to provide information regarding the formation of an assessment district for the purposes of constructing a park on the east side of Nipomo. See Figure 1. In addition, the District has requested Wallace Group to complete a description of the facilities proposed and a preliminary cost estimate to form the assessment district and a cost estimate to construct, operate, and maintain the park.

The County of San Luis Obispo (County) owns a parcel (APN 090-141-006) located on the northeast corner of Carrillo and West Tefft Streets within the Nipomo Community Services District (District). West Tefft Street borders the parcel to the south, Pacific Coast Railway right-of-way and Carrillo Street to the west, Branch Street, which is currently a "paper" street, to the north, and vacant land, zoned commercial, to the east. This site is also the entrance to the east side of the Olde Towne Design Area. The parcel will be used for a park that will include areas for picnics, farmer's market, and outdoor events.

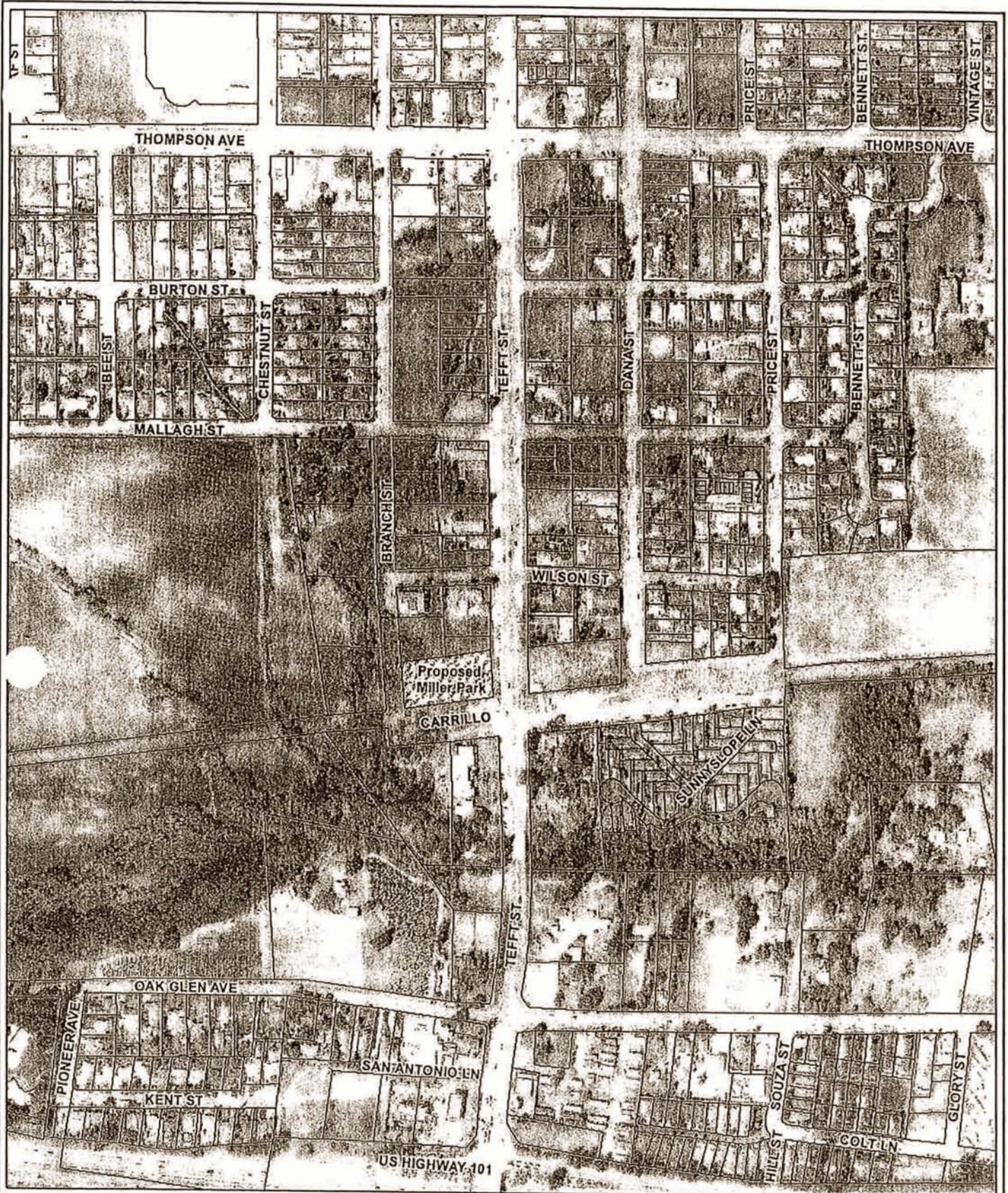
ASSESSMENT DISTRICT FORMATION

The District is pursuing the formation of an assessment district as the primary means to construct, operate, and maintain Miller Park. The Landscaping and Lighting Assessment Act of 1972 provides the District the means to pursue this funding mechanism for the construction, operations, and maintenance of Miller Park. In addition, the District must follow the requirements of Proposition 218, which was instituted subsequent to the 1972 Landscaping and Lighting Assessment Act and requires public hearing notification. The following is a discussion of the requirements for the formation of an assessment district under the 1972 Act and Proposition 218.

Under the 1972 Act, improvements to a site may be assessed to an established boundary that consists of all parcels that will benefit from such improvements. These improvements include the installation and maintenance of park or recreational improvements, including, but not limited to all of the following:

- Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.
- Lights, playground equipment, play courts, and public restrooms.
- The maintenance or servicing, or both, of any of the foregoing.
- The acquisition of land for park, recreational, or open-space.
- Repair, removal, or replacements of all or any part of any improvement.
- Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.
- The removal of trimmings, rubbish, debris, and other solid waste.
- The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

In addition to the costs for improvements listed above, incidental expenses can also be paid through the assessment formation. The incidental expenses include the following:



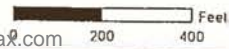
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Nipomo Community Services District
 Miller Park Vicinity Map
 Figure 1



1 inch equals 400 feet



- The costs of preparation of the report, including plans, specifications, estimates, diagrams, and assessment.
- The costs of printing, advertising, and providing of published, posted, and mailed notices.
- Compensation payable to the County for collection of assessments.
- Compensation of any engineer or attorney employed to render services in proceedings pursuant to this part.
- Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.
- Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.
- Costs associated with any elections held for the approval of a new or increased assessment.

A resolution initiating the assessment district proceedings is required once the District accepts the description of the improvements, the costs for construction, operations, and maintenance, and the boundary of the assessment district. Included in the resolution shall be the authorization for the Engineer to complete the Engineer's Report. The Engineer's Report shall include the following:

- The fiscal year(s) to which the Engineer's Report applies.
- Plans and specifications (preliminary) for the improvements.
- An estimate of the costs to design, construct and operate the facility.
- A diagram of the assessment district.
- If bonds or notes will be issued, an estimate of their principal amount.

Upon completion of the Engineer's Report, the engineer shall file the report with the District for approval. The District must approve the report, as filed, or it may be modified and approved as modified. Upon approval of the report, the District must adopt a resolution of intention. The notice of intention shall give notice of, and fix a time and place, for a protest hearing by the District. The protest hearing under Proposition 218 must be at least 45 days and requires notices be mailed to each record owner of each parcel. During the 45-day protest period, several public hearings may be held. During the public hearing(s), parcel owners may provide verbal protests to the assessment; however, such verbal protests do not count in the assessment district voting. Only paper votes from parcel owners are accepted towards the protest hearing. The final vote under Proposition 218 would occur at the last required public hearing. A majority vote, 50.1% of the submitted votes based on the weighted assessment, must be in favor of the assessment district in order for the assessment district to pass.

LAFCO

At this time, the District has the latent powers to construct, operate, and maintain Miller Park, but the powers have not been activated. If the latent powers are activated, the District may pursue this project. The District must apply to the Local Agency Formation Commission (LAFCO) in order to activate the District's latent park's powers. LAFCO will require the District to establish a financial means to fund the construction, operations, and maintenance of Miller Park and an environmental assessment of the parcel, for which the project will be built, in order to activate the District's latent powers. The District is pursuing the formation of an assessment district as a financial means to fund the construction, operations, and maintenance of Miller Park.

Assessment District Formation Timeline

It is recommended that the District take the following steps to complete the assessment district formation process:

1. Establish the costs of the project and the boundary of the proposed assessment district. This step is completed within this report.
2. Establish the costs to each parcel based on the costs and boundary established in step 1. Wallace Group is under contract to complete this task once the report in step 1 is approved.
3. Complete an initial CEQA study to determine the environmental impact on the site to determine if a mitigated negative declaration or an environmental impact report (EIR) is required. It is anticipated that the following will be required in the initial CEQA study:
 - a. Traffic Analysis
 - b. Archaeological Investigation
 - c. Biological Investigation
 - d. Botanical Investigation
 - e. Water Usage Evaluation

If no impact is found, it is anticipated that only a mitigated negative declaration will be required. If an EIR is required, the costs of the project will need to be re-evaluated.

4. Issue a resolution of intention that authorizes the Engineer to prepare the Engineer's Report.
5. Accept the Engineer's Report, or modify and accept the Engineer's Report as modified.
6. It is recommended at this time to apply to LAFCO to activate the District's latent parks powers. This process may take 3 to 6 months.
7. Once the District's latent parks powers are activated by LAFCO, the District should issue a resolution of intention to start the protest hearings. The protest hearing is required to last, at minimum, 45 days. A final public hearing is held on the last day. At this time, the hearing is closed and votes are processed. A majority vote, 50.1% of the submitted votes, based on the weighted assessment, are required to pass the assessment district formation.

MILLER PARK PROJECT FORMATION

The District has been working with the County to obtain the parcel noted on Figure 1 (APN 090-141-006) for the location of the Miller Park. In addition, the District is anticipating obtaining the 60-foot abandoned right of way adjacent to the County parcel from the Pacific Coast Railway to be used for parking. Both parcels are anticipated to be donated to the District. The following provides a discussion on the costs of the project and the assessment district boundary.

Project Assumptions

As noted previously, Miller Park will be used for picnics, farmer's market, and outdoor events. Figure 2 provides an illustration of a potential layout of the various facilities

that are anticipated to be included in the final design. The locations of the facilities and landscaping will be modified during final design. The figure is provided for schematic purposes only and provides the basis for the cost assumptions. The costs for the project are based on the following assumptions:

- Parking – The parking lot will be located within the 60-foot Pacific Coast Railway ROW. The parking lot will be comprised of 8-inches of class II base or redrock. Subsurface to be compacted to 95%. There will be two paved stalls for ADA compliance. The parking lot will include one row of parking and two lanes of traffic. There shall be a turnabout at the north end of the parking lot for vehicles and emergency access. The turnabout is assumed to utilize a small portion of the open space parcel to the north. Branch Street shall not be extended to connect to the parking lot. Landscaping is not anticipated to be incorporated into the parking lot.
- Gazebo – The Gazebo shall be approximately 30-ft diameter Craftsman style gazebo with a 2-foot high raised concrete foundation with steps and an ADA compliant access ramp. The Gazebo shall have interior lighting and electrical outlets.
- Railroad Memorial – The Railroad Memorial shall not be modified as part of this project. The memorial includes the existing signs located on the northeast corner of Carrillo and West Tefft Streets, and the proposed 12-foot easement west of the parking lot to be used for a future railroad monument.
- Restroom – The restroom shall be a prefabricated restroom building with a men's and women's side, each with one stall. The restroom shall have shielded exterior lighting. The restroom shall be situated on a concrete foundation. The District shall provide lights, water and sewer service to the restroom.
- Pole Barn – The Pole Barn, suitable for public use, shall be approximately 20-ft wide by 80-ft long. It shall be situated on a DG base with a 6-inch concrete band around the perimeter. The Pole Barn shall have interior lighting and electrical outlets.
- Paths – Within the park area, 6-foot wide paths shall be incorporated into the design, including access to the various facilities. A 12-foot wide path shall also be included for vehicular access to the Pole Barn. All trails shall be constructed of 4-inch DG with bender board on both sides of the trail. Subsurface to be compacted to 95%.
- Softscape – Turf shall comprise a portion of the park as designated on Figure 1. The turf shall be installed as a hydroseed mix.
- Trees/Shrubs – Trees and shrubs shall be planted throughout the park. Trees shall be installed as 24-inch box specimens. A Christmas tree shall be located in the approximate center of the park.
- Picnic Facilities – The picnic facilities shall include benches and two water fountains. The benches shall be concrete. DG shall be located under the

benches. Two drinking fountains shall be located onsite. The drinking fountain shall be free standing and include a pet pool.

- Fence – A fence shall border three sides of the park, excluding path entrances. The east side of the park shall not be fenced. The fence shall be a two rail, vinyl fence.
- Lighting – There shall be no lighting in the park except as previously noted in the gazebo, the pole barn, and restroom.
- Utilities – The park shall need to have power, water and sewer utilities. Water and sewer service will be provided by the District.
- Pedestrian/Bike Path – A pedestrian/bike path shall be developed from the end of Branch Street to the northeast corner of Miller Park to serve as access for the parcels located northeast of the park. The trail shall be comprised of DG and shall be lined on both sides with a two rail fence to protect the open space around the trail.

Project Costs

Table 1 provides a summary of capital and operations and maintenance costs for Miller Park. Appendix A provides a detailed breakdown of the costs for each component. The following costs are expressed in August 2007 dollars, using an ENR index of 8007, and will need to be escalated to the year (midpoint of construction) scheduled for the work.

Table 1. Estimated Miller Park Construction, Operations, and Maintenance Costs

	Cost
Hardscape/Parking	\$86,125
Softscape	\$94,300
Trees	\$4,300
Furnishings	\$268,600
Utilities	\$82,250
90-Day Maintenance	\$10,000
Total Construction Cost	\$545,575
30% Construction Contingency	\$164,500
Grand Total Construction Cost	\$710,075
Soft Costs (30%) ¹	\$212,000
Total Project Costs	\$992,075
Annual Operation and Maintenance Costs	\$20,770

¹ Costs for bond administration are not included. Environmental costs are for a mitigated negative declaration. If an EIR is required, costs must be re-evaluated.

ASSESSMENT DISTRICT BOUNDARY AND METHODOLOGY

Miller Park is located on the corner of Tefft and Carrillo Street on the east side of the freeway within the Nipomo Community Services District. The Assessment District is broken into three benefit groups; Primary, Secondary, and General. Each are described below.

Primary Benefit Assessment District

Miller Park will have a primary benefit to those parcels that immediately surround the park. Residents or employees of the parcels that surround the park are within walking/biking distance and can use the facilities at the park on a daily basis. The Primary Benefit Assessment District boundary coincides with the Olde Towne Design Area, which is established in the Olde Towne Nipomo Design and Circulation Plan. Figure 3 depicts the Primary Assessment District boundary. A total of 125 parcels are included in the Primary Assessment District.

The Olde Towne Design Area is a defined boundary within Nipomo Community Services District. Miller Park will be located in the approximate center of the Olde Towne Design Area. All parcels within the Olde Towne Design Area are less than 0.4 miles from the park. Parcels within this Olde Towne Design Area boundary shall have safe access to Miller Park via walking, biking or driving. There shall be a safe pedestrian crossing on Tefft Street for access from the east side of Tefft Street. There shall be a bike/walking path from the end of Branch Street to the north edge of the park. This path shall provide access to pedestrians coming from the northwest side of Tefft Street. Parcels located on the southwest side of Tefft Street shall access the park via sidewalks along Tefft Street. A parking lot at Miller Park shall be available for those driving to the park.

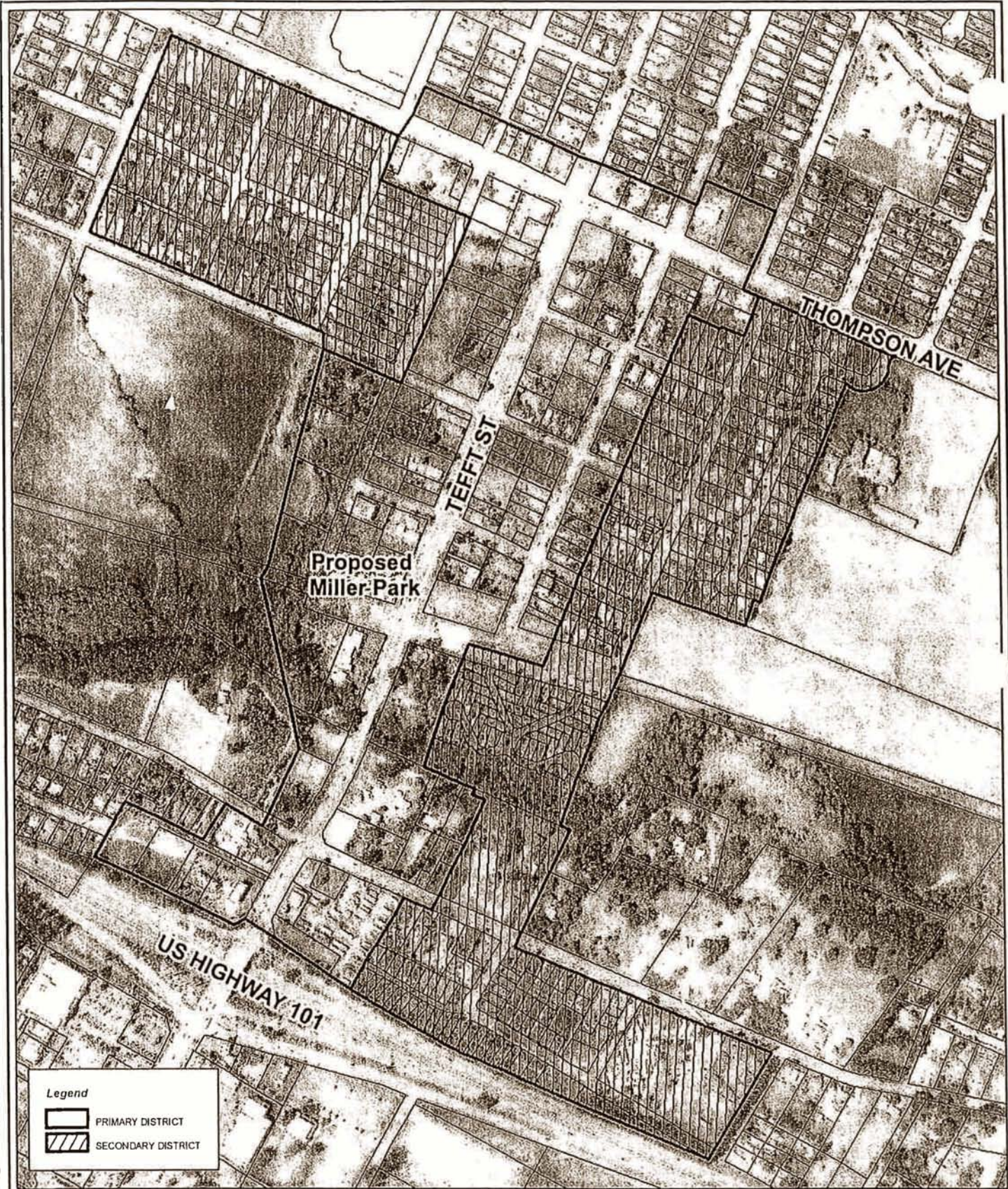
Secondary Benefit Assessment District

Miller Park will have a secondary benefit to additional parcels outside of the Primary Assessment District. These parcels are still within walking/biking distance to the park. The Secondary Benefit Assessment District boundary includes parcels outside the Olde Towne Design Area, bordered to the west by Highway 101 and to the east by Thompson Avenue. Figure 3 depicts the Secondary Assessment District boundary. A total of 292 parcels are included in the Secondary Assessment District.

All parcels within the Secondary Assessment District are within 0.75 miles of the park and will not need to cross either Highway 101 or Thompson Avenue to access the park. Miller Park shall have safe accessibility via walking, biking or driving. There shall be a safe pedestrian crossing on Tefft Street for access from the east side of Tefft Street. There shall be a bike/walking path from the end of Branch Street to the north edge of the park. This path shall provide access to pedestrians coming from the northwest side of Tefft Street. Parcels located on the southwest side of Tefft Street shall access the park via sidewalks along Tefft Street. A parking lot at Miller Park shall be available for those driving to the park.

General Benefit

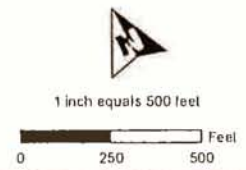
Miller Park will have a general benefit to the entire community due to its unrestricted access to all residents. All residents within Nipomo Community Services District shall be



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Nipomo Community Services District
 Miller Park Assessment
 Primary and Secondary Districts

Figure 3



able to attend the farmer's market, use the picnic facilities, and/or attend functions at the gazebo. The General Benefit will include all parcels within the Nipomo Community Services District.

ASSESSMENT DISTRICT FUNDING AND METHODOLOGY

The construction costs of Miller Park will be funded by three entities; San Luis Obispo County, Nipomo Community Services District property tax (General Fund), and volunteers. The total capital cost of the project is estimated at \$922,000. It is assumed at this time that the park and the parking lot will be donated to the District by the County. Table 2 provides a debt service schedule of the capital costs for Miller Park. The debt service schedule is based on a 6% interest rate paid out over 20 years. Payee(s) are unknown at this time.

Table 2. Debt Service Schedule

Debt Service 6% OVER 20 Years					
Year	Principal Balance	Interest	Principal	Payment	Principal Balance
1	\$922,000	\$55,320	\$25,080	\$80,400	\$896,920
2	\$896,920	\$53,815	\$26,585	\$80,400	\$870,335
3	\$870,335	\$52,220	\$28,180	\$80,400	\$842,155
4	\$842,155	\$50,529	\$29,871	\$80,400	\$812,285
5	\$812,285	\$48,737	\$31,663	\$80,400	\$780,622
6	\$780,622	\$46,837	\$33,563	\$80,400	\$747,059
7	\$747,059	\$44,824	\$35,576	\$80,400	\$711,483
8	\$711,483	\$42,689	\$37,711	\$80,400	\$673,772
9	\$673,772	\$40,426	\$39,974	\$80,400	\$633,798
10	\$633,798	\$38,028	\$42,372	\$80,400	\$591,426
11	\$591,426	\$35,486	\$44,914	\$80,400	\$546,511
12	\$546,511	\$32,791	\$47,609	\$80,400	\$498,902
13	\$498,902	\$29,934	\$50,466	\$80,400	\$448,436
14	\$448,436	\$26,906	\$53,494	\$80,400	\$394,942
15	\$394,942	\$23,697	\$56,703	\$80,400	\$338,239
16	\$338,239	\$20,294	\$60,106	\$80,400	\$278,133
17	\$278,133	\$16,688	\$63,712	\$80,400	\$214,421
18	\$214,421	\$12,865	\$67,535	\$80,400	\$146,886
19	\$146,886	\$8,813	\$71,587	\$80,400	\$75,299
20	\$75,299	\$4,518	\$75,882	\$80,400	-\$583
		\$685,417	\$922,583	\$1,608,000	

able to attend the farmer's market, use the picnic facilities, and/or attend functions at the gazebo. The General Benefit will include all parcels within the Nipomo Community Services District.

ASSESSMENT DISTRICT FUNDING AND METHODOLOGY

The construction costs of Miller Park will be funded by three entities; San Luis Obispo County, Nipomo Community Services District property tax (General Fund), and volunteers. The total capital cost of the project is estimated at \$922,000. It is assumed at this time that the park and the parking lot will be donated to the District by the County. Table 2 provides a debt service schedule of the capital costs for Miller Park. The debt service schedule is based on a 6% interest rate paid out over 20 years. Payee(s) are unknown at this time.

Table 2. Debt Service Schedule

Debt Service 6% OVER 20 Years					
Year	Principal Balance	Interest	Principal	Payment	Principal Balance
1	\$922,000	\$55,320	\$25,080	\$80,400	\$896,920
2	\$896,920	\$53,815	\$26,585	\$80,400	\$870,335
3	\$870,335	\$52,220	\$28,180	\$80,400	\$842,155
4	\$842,155	\$50,529	\$29,871	\$80,400	\$812,285
5	\$812,285	\$48,737	\$31,663	\$80,400	\$780,622
6	\$780,622	\$46,837	\$33,563	\$80,400	\$747,059
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11	\$591,426	\$35,486	\$44,914	\$80,400	\$546,511
12	\$546,511	\$32,791	\$47,609	\$80,400	\$498,902
13	\$498,902	\$29,934	\$50,466	\$80,400	\$448,436
14	\$448,436	\$26,906	\$53,494	\$80,400	\$394,942
15	\$394,942	\$23,697	\$56,703	\$80,400	\$338,239
16	\$338,239	\$20,294	\$60,106	\$80,400	\$278,133
17	\$278,133	\$16,688	\$63,712	\$80,400	\$214,421
18	\$214,421	\$12,865	\$67,535	\$80,400	\$146,886
19	\$146,886	\$8,813	\$71,587	\$80,400	\$75,299
20	\$75,299	\$4,518	\$75,882	\$80,400	-\$583
		\$685,417	\$922,583	\$1,608,000	

The on-going Operations and Maintenance costs for the park will be funded by three entities as well; Nipomo Community Services District property tax (General Fund), primary beneficiaries, and secondary beneficiaries. The annual operations and maintenance costs are anticipated to be \$20,766.

Assessment Methodology

The costs for the operations and maintenance will be apportioned based on the benefit to each of the various land uses. The following is a description of the land uses and their equivalent benefit.

Residential Single Family (RSF). All developed or vacant residential single family parcels will be assessed 1.0 benefit unit or one share in the cost.

Residential Multi-Family (RMF). All developed or vacant residential multi-family parcels will be assessed $\frac{3}{4}$ (0.75) benefit units per unit, unless only one unit is developed on the parcel. If only one unit is built on a RMF zoned lot, the parcel is assessed 1.0 benefit units.

Commercial (CR, CS, OP, PF). The County Land Use Ordinance permits a wide range of uses within these zones in particular, rendering an assessment based on land use impractical. To avoid conjecture regarding ultimate land use, commercial parcels being used as Commercial were assessed according to parcel size. Improved parcels up to 10,000 square feet were assessed the same as an occupied single family residence. Larger parcels are assessed at increasing increments of benefit units for each 10,000 square foot increment of land. For example, a 25,000 square foot lot is assessed at a full 2.50 benefit units. In circumstances where the County Land Use Ordinance would permit the addition of a residential unit to the commercial use, the parcel size was still used as the basis for the assignment of benefit.

Improved commercial parcels used for residential purposes are assessed the same as RSF or RMF parcels, based on existing use.

Assessment Roll

A list of names and addresses of the owners of all parcels, and the description of each lot or parcel within the Primary and Secondary Assessment District is shown in Appendix B of this report. This list is keyed to the Assessor's Parcel Numbers (APN) as shown on the Assessment Roll, which includes the proposed amount of assessment apportioned to each lot or parcel. There are a total of 237.11 benefit units in the Primary Boundary and 329.50 benefit units in the Secondary Boundary.

Funding Apportionment for Operations and Maintenance

The cost of the operations and maintenance for Miller Park will be paid by money from the General Fund, the Primary District and the Secondary District. The General Fund will cover 40% of the operations and maintenance costs associated with the Park. The Primary District will be responsible for 40% of this cost and the Secondary District will be responsible for the remaining 20% of the operations and maintenance costs. Table 3 provides a summary of the costs for each fund and the associated per annum cost per benefit unit for the Primary and Secondary Districts.

Table 3. Funding Apportionment for Operations & Maintenance

		Apportioned Per Annum Cost	Total Benefit Units	Cost per Benefit Unit per Annum
Total O&M Costs	100.00%	\$20,766		
General Fund	40.00%	\$8,306		
Primary District	40.00%	\$8,306	237.11	\$35.03
Secondary District	20.00%	\$4,153	329.50	\$12.60

Miller Park, Nipomo, CA

APPENDIX A. STATEMENT OF PROBABLE CONSTRUCTION COST

September 25, 2007

Costs are expressed in August 2007 dollars, using an ENR index of 8007

ITEM	QUANTITY		COST	TOTAL COST
HARDSCAPE / PARKING				
DG	29,500	sf	\$0.75	\$22,125
CONCRETE MOW BAND	200	lf	\$20.00	\$4,000
CONCRETE FOUNDATION FOR RESTROOM AND GAZEBO	1	ls	\$25,000.00	\$25,000
GRUB / EARTHWORK / GRADING	1	ls	\$35,000.00	\$35,000
HARDSCAPE / PARKING TOTAL				\$86,125
SOFTSCAPE				
GROUND COVERS / SHRUBS	18,000	sf	\$1.25	\$22,500
TURF	20,000	sf	\$1.00	\$20,000
ROOT BARRIER	20,000	sf	\$1.72	\$34,400
MULCH	18,000	sf	\$0.15	\$2,700
BENDER BOARD	1,400	lf	\$1.00	\$1,400
SOIL PREPARATION	38,000	sf	\$0.35	\$13,300
SOFTSCAPE TOTAL				\$94,300
TREES				
GROVE	20	ea	\$200.00	\$4,000
TREE STAKES & TIES	20	ea	\$15.00	\$300
TREE COST				\$4,300
FURNISHINGS				
POLE BARN 20'X80'	1	ea	\$98,000.00	\$98,000
GAZEBO 30' OCTAGON	1	ea	\$72,000.00	\$72,000
RESTROOM - 2 STALLS	1	ea	\$65,000.00	\$65,000
PICNIC TABLES - CONCRETE	4	ea	\$2,400.00	\$9,600
FENCING	950	lf	\$20.00	\$19,000
MISCELLANEOUS	1	LS	\$5,000.00	\$5,000
FURNISHINGS COST				\$268,600
UTILITIES				
IRRIGATION	38,000	sf	\$1.25	\$47,500
1" WATER SERVICE	2	ls	\$2,500.00	\$5,000
DRINKING FOUNTAINS	2	ea	\$3,500.00	\$7,000
4" PVC SEWER MAIN	50	lf	\$55.00	\$2,750
ELECTRICAL / LIGHTING	1	ls	\$20,000.00	\$20,000
UTILITIES COST				\$82,250
90 DAY MAINTENANCE				\$10,000
TOTAL				\$545,575
CONTINGENCY (30%)				\$163,673
CONSTRUCTION GRAND TOTAL				\$709,248
SOFT COSTS* (30%)				\$212,774
PROJECT TOTAL COSTS				\$922,022

* Soft costs include construction engineering, construction management, legal review, assessment engineering, administration costs, and environmental review. It is assumed that a mitigated negative declaration will only be required. Costs for Bond administration is not included at this time.

Operations and Maintenance Expenses for Miller Park
September 20, 2007

	Capital Costs	O&M Monthly Costs	O&M Yearly Costs	Replacement Costs over 30 years	Pro-Rated Costs Per Annum
Landscape Maintenance	\$25,000	\$800	\$9,600	\$833	
Pole Barn	\$98,000	\$100	\$1,200	\$0	
Restroom	\$72,000	\$250	\$3,000	\$2,400	
Gazebo	\$65,000	\$100	\$1,200	\$0	
Fence	\$19,000	\$75	\$900	\$633	
Insurance			\$1,000		
Total			\$16,900	\$3,866	\$20,766

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

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
REQUESTING THE LOCAL AGENCY FORMATION COMMISSION TO INITIATE
PROCEEDINGS FOR ACTIVATION OF LIMITED PARKS AUTHORITY**

WHEREAS, the Nipomo Community Services District (herein "District") Board of Directors (herein "Board") is a local governmental agency formed and authorized to provide services within its jurisdiction, pursuant to Section 61000 et seq. of the California Government Code; and

WHEREAS, Government Code Section 61,110(e) enables Community Services District to provide parks and recreation services if activated by LAFCO; and

WHEREAS, the District Board of Directors desires to develop and operate Jim O. Miller Park and to do so must secure LAFCO activation of the latent Parks authority set forth in Government Code Section 61,110(e); and

WHEREAS, the District Board of Directors does not desire to own or operate the Nipomo Community Park, currently owned and operated by the County of San Luis Obispo; and

WHEREAS, the site for the Jim O. Miller Park is inside NCSD's current boundaries and there is no need for annexation or reorganization pursuant to the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000;

WHEREAS, The NCSD Board of Directors wishes to assume the role of lead agency in compliance with the California Environmental Quality Act and requests that LAFCO exercise its authority as a responsible agency; and

WHEREAS, The NCSD Board of Directors conducted a public hearing on May 27, 2009 to consider adoption of this resolution; and

NOW, THEREFORE, the Board of Directors of the Nipomo Community Services District does hereby resolve, declare, determine and order as follows:

1. SECTION 1 – This Resolution of Application is hereby adopted requesting LAFCO to process NCSD's application to activate the Parks Latent Authority for the purposes of owning and operating the Jim O. Miller Park until and unless the County and NCSD execute a written agreement providing for NCSD to provide additional parks services and subject to the successful formation of an assessment district to fund a portion of the cost of operating the Jim O. Miller Park; and
2. SECTION 2 – This resolution shall become effective immediately upon adoption.

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

AYES:

NOES:

ABSENT:

CONFLICTS:

the foregoing resolution is hereby passed, approved and adopted by the Board of Directors of the Nipomo Community Services District this 27th day of May, 2009.

James Harrison, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
General Counsel

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REVISED NCSD PARKS POWERS ACTIVATION & MILLER PARK PROCESS

1. Conduct Survey to Determine Interest in Community
2. Define Project with Stakeholders (OTNA and Property Owners)
 - A. Miller Park Design
 - B. Streetscape and Off-Site Improvements
3. Prepare Assessment Engineer's Report
 - A. Estimate Construction and Maintenance Costs
 - B. Establish Zone(s) of Benefit Boundary (ies)
 - C. Negotiate Allocation of Property Taxes & Assessments
 - D. Publish Draft Report
 - E. Conduct Public Review (PCAS, SCAC, Parks Comm., Board, Workshop)
 - F. Adopt Proposed Report
4. Prepare and Adopt MOU with SLO County
5. Prepare and Adopt Financial Plan
6. Apply to LAFCO
7. Propose Park Project and Prepare CEQA Initial Study
8. Complete CEQA Review
9. Form Assessment Zone of Benefit
10. Secure Conditional LAFCO Approval
11. Conduct Assessment Election

If election is successful
12. Transfer Property
13. Construct Core Improvements
14. Construct Additional Improvements
15. Implement Collection of Funding
16. Operate and Maintain

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NIPOMO COMMUNITY SERVICES DISTRICTS ZONE OF BENEFITS

GOVERNMENT CODE SECTIONS

§ 61140. Authority to form zones; procedures

(a) Whenever a board of directors determines that it is in the public interest to **provide different services, provide different levels of service, provide different facilities, or raise additional revenues within specific areas of the district, it may form one or more zones pursuant to this chapter.**

(b) The board of directors shall initiate proceedings for the formation of a new zone by adopting a resolution that does all of the following:

(1) States that the proposal is made pursuant to this chapter.

(2) Sets forth a description of the boundaries of the territory to be included in the zone.

(3) States the reasons for forming the zone.

(4) States the different services, different levels of service, different facilities, or additional revenues that the zone will provide.

(5) Sets forth the methods by which those services, levels of service, or facilities will be financed.

(6) Proposes a name or number for the zone.

(c) A proposal to form a new zone may also be initiated by a petition signed by not less than 10 percent of the registered voters residing within the proposed zone. The petition shall contain all of the matters required by subdivision (b).

(d) Upon the adoption of a resolution or the receipt of a valid petition, **the board of directors shall fix the date, time, and place for the public hearing on the formation of the zone.** The board of directors shall publish notice of the hearing, including the information required by subdivision (b), pursuant to Section 6061

in one or more newspapers of general circulation in the district. The board of directors shall mail the notice at least 20 days before the date of the hearing to all owners of property within the proposed zone. The board of directors shall post the notice in at least three public places within the territory of the proposed zone.

§ 61141. Hearing; protests; funding methods

(a) At the hearing, the board of directors shall hear and consider any protests to the formation of the zone. If, at the conclusion of the hearing, the board of directors determines either that more than 50 percent of the total number of voters residing within the proposed zone have filed written objections to the formation, or that property owners who own more than 50 percent of the assessed value of all taxable property in the proposed zone have filed written objections to the formation, then the board of directors shall terminate the proceedings. If the board of directors determines that the written objections have been filed by 50 percent or less of those voters or property owners who own 50 percent or less than the assessed value of all taxable property, then the board of directors may proceed to form the zone.

(b) If the resolution or petition proposes that the zone use special taxes, benefit assessments, fees, standby charges, bonds, or notes to finance its purposes, the board of directors shall proceed according to law. If the voters or property owners do not approve those funding methods, the zone shall not be formed.

§ 61142. Boundary changes

A board of directors may change the boundaries of a zone or dissolve a zone by following the procedures in Sections 61140 and 61141.

§ 61143. Powers and duties of local agency formation commission relating to zones

A local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to form a zone, a proposal to change the boundaries of a zone, or a proposal to dissolve a zone.

§ 61144. Powers of district within zone; funding

(a) As determined by the board of directors, a district may provide any service, any level of service, or any facility within a zone that the district may provide in the district as a whole.

(b) As determined by the board of directors and pursuant to the requirements of this division, a district may exercise any fiscal powers within a zone that the district may exercise in the district as a whole.

(c) Any special taxes, benefit assessments, rates, fees, charges, standby charges, bonds, or notes which are intended solely for the support of services or facilities within a zone, shall be levied, assessed, and charged within the boundaries of the zone.

(d) A district shall not incur a general obligation bonded indebtedness for the benefit of a zone pursuant to this section that exceeds 5 percent of the assessed value of all taxable property in the zone at the time that the bonds are issued. In computing this limit, the 5 percent shall include any other general obligation bonded indebtedness applicable to that zone.

(e) A district shall not issue promissory notes for the benefit of a zone pursuant to Section 61131 that exceed 5 percent of the zone's total enterprise and nonenterprise revenues in the preceding fiscal year. In computing this limit, the 5 percent shall include any other promissory notes applicable to that zone.

RESOLUTION NO. 2009- _

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
INITIATING PROCEEDINGS TO ESTABLISH THE ZONE OF BENEFIT FOR
THE OPERATION AND MAINTENANCE OF THE PROPOSED MILLER PARK**

WHEREAS, subject to Local Agency Formation Commission ("LAFCO") approval, the Nipomo Community Services District ("District") is authorized by Government Code §61100 (e) to acquire, construct, improve, maintain, and operate recreation facilities including, but not limited to, parks ---; and

WHEREAS, the District is considering applying to LAFCO for the authority to exercise parks powers within the District ("LAFCO Application"); and

WHEREAS, the District's LAFCO Application must include a plan for services that includes, among other things;

(1) The total estimated cost to provide the new or different function or class of services within the special district's jurisdictional boundaries.

(2) The estimated cost of the new or different function or class of services to customers within the special district's jurisdictional boundaries. The estimated costs may be identified by customer class.

(3) A plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.; and

WHEREAS, the District is in receipt of a Draft Assessment Report dated February 29, 2008, ("Draft Assessment Report") that, among other things, summarizes the anticipated construction, operation and maintenance costs to establish an approximate one (1) acre park at the northeast corner of Carrillo and West Tefft Street ("Miller Park"); and

WHEREAS, the proposed Miller Park is located within the boundaries of the District and the proposed zone of benefit; and

WHEREAS, the Draft Assessment Report estimates the construction costs for Miller Park at nine hundred ninety-two thousand and seventy-five dollars (\$992,075) (includes contingencies); and

WHEREAS, the Draft Assessment Report, estimates that the operation and maintenance costs of Miller Park to be twenty thousand seven hundred seventy-six dollars (\$20,776) per year, to be adjusted annually by inflation; and

WHEREAS, the Draft Assessment Report includes the formation of an assessment district ("Assessment District") within the proposed zone of benefit to partially pay the annual operation and maintenance costs of the Miller Park; and

WHEREAS, the proposed Assessment District would consist of two (2) sub-districts: a primary district and a secondary district. The Assessment District with sub-districts is depicted on Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the Draft Assessment Report includes a benefit formula, for paying of operation and maintenance costs for Miller Park, as follows:

1. 40 percent paid by District through property tax revenues, representing the general benefit District wide.
2. 40 percent paid by the primary district.
3. 20 percent paid by the secondary district; and

WHEREAS, the District initiates these proceedings pursuant to §§61140 et seq. of the Government Code, to establish a zone of benefit consistent with the boundary of the above referenced Assessment District to partially offset the operation and maintenance costs of the proposed Miller Park.

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

1. It is in the public interest to raise additional revenues to partially finance operation and maintenance costs from those residential and commercial properties that either immediately surround Miller Park or are within easy walking distance to Miller Park to partially offset the annual operation and maintenance costs of Miller Park.
2. This proposal to establish the proposed zone of benefit is made pursuant to Chapter 5 of the Community Services District Law commencing with Government Code §61140.
3. The description of the boundaries of the territory to be included in the proposed zone of benefit is attached hereto as Exhibit "A" and incorporated herein by this reference.
4. The reason for forming the zone of benefit is to raise additional revenues from those residential and commercial properties that immediately surround Miller Park or who are within easy walking distance of Miller Park to partially finance the yearly operation and

maintenance of the proposed Miller Park that will be located within the zone of benefit.

5. Based on special benefit the District intends, at a future date, to form an assessment district within the zone of benefit pursuant to the provisions of the Landscape and Lighting Act of 1972 and Article XIII D of the California Constitution (Proposition 218) to partially finance operation and maintenance of the proposed Miller Park.
6. The construction, operation and maintenance costs of the park services offered by Miller Park, as referenced in the Draft Assessment Report, are summarized as follows:
 - a. Construction Costs - The County of San Luis Obispo will donate the Miller Park property and provide for the construction of limited improvements within Miller Park. The construction of the remaining improvements will be paid by donations and property tax revenues received by the District. Construction costs include: hardscape parking, trees, furnishings, and utilities. The cost of construction is currently estimated at nine hundred ninety-two thousand and seventy-five dollars (\$992,075) (including contingencies).
 - b. Yearly Operation and Maintenance Costs - The long term operation and maintenance costs of Miller Park are currently estimated at twenty thousand seven hundred seventy-six dollars (\$20,776) per year adjusted annually by inflation. The long term operation and maintenance costs are proposed to be paid through, a yet to be established, assessment district based on the benefit formula contained in the Draft Assessment Report as follows:
 - 1) 40 percent to be paid by District through property tax revenues representing the general benefit to District residents;
 - 2) Based on the draft assessment formula described in paragraph (c), below, 40 percent to be paid from the primary district at thirty-five dollars and three cents (\$35.03) per year, per unit of benefit, adjusted annually by inflation;
 - 3) Based on an assessment formula described in paragraph (c), below, 20 percent from the secondary

district at twelve dollars and sixty cents (\$12.60) per year, per unit of benefit, adjusted by inflation.

- c. The assessment methodology, for units of benefit, as referenced in the Draft Assessment Report is summarized as follows:
- 1) Residential single family (RSF). All developed or vacant residential or single family parcels will be assessed at 1.0 benefit unit.
 - 2) Residential multi-family (RMF). All developed or vacant residential multi-family parcels will be assessed $\frac{3}{4}$ (0.75) benefit units per unit, unless only one unit is developed on the parcel. If only one unit is built on a RMF zoned lot, the parcel is assessed 1.0 benefit units.
 - 3) Commercial (CR, CS, OP, PF). Commercial units will be assessed on parcel size based on square footage. Improved commercial parcels, up to ten thousand square feet (10,000) will be assessed the same as RSF (1 unit of benefit). Larger parcels are assessed at increasing increments of benefit units per each one thousand square feet increment of land.

7. The proposed name for the zone of benefit is the Miller Park Zone of Benefit.

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

1. _____, 2009, at 9:00 a.m. at the District Office located at 148 South Wilson, Nipomo, California, is the date and time for the public hearing on the formation of the proposed zone of benefit;
2. District Staff is directed to publish and mail all notices required by law and to post notices in at least three (3) public places within the territory of the proposed zone of benefit.

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

DIRECTORS

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

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

Jim Harrison, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
District Legal Counsel

**NIPOMO COMMUNITY SERVICES DISTRICT
MEMORANDUM
PARKS AND ASSESSMENT DISTRICT FORMATION
(LEGAL RESEARCH ONLY INCLUDES FORMATION)**

GOVERNMENT CODE

Division 3. Community Services Districts

§ 61100. Authorized services and facilities within district boundaries

Within its boundaries, a district may do any of the following:

(e) Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

(f) Organize, promote, conduct, and advertise programs of community recreation, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code.

(g) Acquire, construct, improve, maintain, and operate street lighting and landscaping on public property, public rights-of-way, and public easements.

§ 61106. Exercise of latent power; approval by commission

(a) If a board of directors desires to exercise a latent power, the district shall first receive the approval of the local agency

formation commission, pursuant to Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of Division 3.

(b) After receiving the approval of the local agency formation commission, the board of directors may, by ordinance, order the exercise of that power.

Chapter 5. Zones

§ 61140. Authority to form zones; procedures

(a) Whenever a board of directors determines that it is in the public interest to provide different services, provide different levels of service, provide different facilities, **or raise additional revenues within specific areas of the district, it may form one or more zones pursuant to this chapter.**

(b) The board of directors shall initiate proceedings for the formation of a new zone by adopting a resolution that does all of the following:

(1) States that the proposal is made pursuant to this chapter.

(2) Sets forth a description of the boundaries of the territory to be included in the zone.

(3) States the reasons for forming the zone.

(4) States the different services, different levels of service, different facilities, or additional revenues that the zone will provide.

(5) Sets forth the methods by which those services, levels of service, or facilities will be financed.

(6) Proposes a name or number for the zone.

(c) A proposal to form a new zone may also be initiated by a petition signed by not less than 10 percent of the registered voters residing within the proposed zone. The petition shall contain all of the matters required by subdivision (b).

(d) Upon the adoption of a resolution or the receipt of a valid petition, the board of directors shall fix the date, time, and

place for the public hearing on the formation of the zone. The board of directors shall publish notice of the hearing, including the information required by subdivision (b), pursuant to Section 6061 in one or more newspapers of general circulation in the district. The board of directors shall mail the notice at least 20 days before the date of the hearing to all owners of property within the proposed zone. The board of directors shall post the notice in at least three public places within the territory of the proposed zone.

§ 61141. Hearing; protests; funding methods

- (a) **At the hearing, the board of directors shall hear and consider any protests to the formation of the zone. If, at the conclusion of the hearing, the board of directors determines either that more than 50 percent of the total number of voters residing within the proposed zone have filed written objections to the formation, or that property owners who own more than 50 percent of the assessed value of all taxable property in the proposed zone have filed written objections to the formation, then the board of directors shall terminate the proceedings.** If the board of directors determines that the written objections have been filed by 50 percent or less of those voters or property owners who own 50 percent or less than the assessed value of all taxable property, then the board of directors may proceed to form the zone.
- (b) If the resolution or petition proposes that the zone use special taxes, benefit assessments, fees, standby charges, bonds, or notes to finance its purposes, the board of directors shall proceed according to law. If the voters or property owners do not approve those funding methods, the zone shall not be formed.

§ 61142. Boundary changes

A board of directors may change the boundaries of a zone or dissolve a zone by following the procedures in Sections 61140 and 61141.

§ 61143. Powers and duties of local agency formation
commission relating to zones

A local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to form a zone, a proposal to change the boundaries of a zone, or a proposal to dissolve a zone.

§ 61144. Powers of district within zone; funding

(a) As determined by the board of directors, a district may provide any service, any level of service, or any facility within a zone that the district may provide in the district as a whole.

(b) As determined by the board of directors and pursuant to the requirements of this division, a district may exercise any fiscal powers within a zone that the district may exercise in the district as a whole.

(c) Any special taxes, benefit assessments, rates, fees, charges, standby charges, bonds, or notes which are intended solely for the support of services or facilities within a zone, shall be levied, assessed, and charged within the boundaries of the zone.

(d) A district shall not incur a general obligation bonded indebtedness for the benefit of a zone pursuant to this section that exceeds 5 percent of the assessed value of all taxable property in the zone at the time that the bonds are issued. In computing this limit, the 5 percent shall include any other general obligation bonded indebtedness applicable to that zone.

(e) A district shall not issue promissory notes for the benefit of a zone pursuant to Section 61131 that exceed 5 percent of the zone's total enterprise and nonenterprise revenues in the preceding fiscal year. In computing this limit, the 5 percent shall include any other promissory notes applicable to that zone.

§ 61129. Benefit assessments

A district may levy benefit assessments to finance facilities consistent with the requirements of Article XIII D of the California Constitution, including, but not limited to, benefit assessments levied pursuant to any of the following:

- (a) The Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code.
- (b) The Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code.
- (c) The Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code.
- (d) The Landscaping and Lighting Assessment Act of 1972, Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code, notwithstanding Section 22501 of the Streets and Highways Code.
- (e) Any other statutory authorization enacted on or after January 1, 2006.

STREETS AND HIGHWAYS CODE

DIVISION 15. TREE PLANTING, LANDSCAPING,
AND LIGHTING

Part 2. Landscaping And Lighting Act Of 1972

Chapter 1. Introductory Provisions

Article 1. General

§ 22500. Short title

This part shall be known and may be cited as the "Landscaping and Lighting Act of 1972."

§ 22503. Assessment district; benefited territory

An assessment district shall consist of all territory which, as determined by the legislative body, will be benefited by the improvements and is to be assessed to pay the costs thereof.

§ 22504. Assessment district; territory within local agency

An assessment district may consist of all or any part of the territory within the local agency and, in the case of a county, may consist of all or any part of the unincorporated territory of the county.

§ 22508. Reference to plan or map on file and open to public inspection; construction

Any resolution, notice, report, diagram or assessment which is required to contain a description of the improvements, the boundaries of the assessment district or any zones therein, or the lines and dimensions of any lot or parcel of land may, for a full and detailed description thereof, refer to any plan or map which is on file with the clerk, the county auditor, or the county assessor and which is open to public inspection. The plan or map so referred to shall govern for all details of the description.

Article 2. Definitions

§ 22522. Clerk

"Clerk" means the clerk or secretary of a local agency or its legislative body.

§ 22523. Engineer

"Engineer" means the city engineer, county engineer, engineer of the district, or any other person designated by the legislative body as the engineer for the purposes of this part, including any officer, board, or employee of the local agency or any private person or firm specially employed by the local agency as engineer for the purposes of this part.

§ 22524. Fiscal year

"Fiscal year" means a 12-month period commencing on July 1 and ending on the following June 30.

§ 22525. Improvement

"Improvement" means one or any combination of the following:

- (a) The installation or planting of landscaping.
- (b) The installation or construction of statuary, fountains, and other ornamental structures and facilities.
- (c) The installation or construction of public lighting facilities, including, but not limited to, traffic signals.
- (d) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.
- (e) The installation of park or recreational improvements, including, but not limited to, all of the following:
 - (1) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

- (2) Lights, playground equipment, play courts, and public restrooms.
- (f) The maintenance or servicing, or both, of any of the foregoing.
- (g) The acquisition of land for park, recreational, or open-space purposes.
- (h) The acquisition of any existing improvement otherwise authorized pursuant to this section.
- (i) The acquisition or construction of any community center, municipal auditorium or hall, or similar public facility for the indoor presentation of performances, shows, stage productions, fairs, conventions, exhibitions, pageants, meetings, parties, or other group events, activities, or functions, whether those events, activities, or functions are public or private.

§ 22526. Incidental expenses
"Incidental expenses" include all of the following:

- (a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment.
- (b) The costs of printing, advertising, and the giving of published, posted, and mailed notices.
- (c) Compensation payable to the county for collection of assessments.
- (d) Compensation of any engineer or attorney employed to render services in proceedings pursuant to this part.

(e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.

(f) Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.

(g) Costs associated with any elections held for the approval of a new or increased assessment.

§ 22531. Maintain or maintenance

"Maintain" or "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

(a) Repair, removal, or replacement of all or any part of any improvement.

(b) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.

(c) The removal of trimmings, rubbish, debris, and other solid waste.

(d) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

§ 22532. Property owner

"Property owner" means: any person shown as the owner of land on the last equalized county assessment roll; when such person is no longer the owner, then any person entitled to be shown as owner on the next county assessment roll, if such person is known to the local agency; where land is subject to a recorded written agreement of sale, any person shown therein as purchaser.

§ 22538. Service or servicing
"Service" or "servicing" means the furnishing of:

(a) Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements.

(b) Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.

Article 3. Notice

§ 22552. Publication; law governing
Published notice shall be made pursuant to Section 6061 of the Government Code.

§ 22553. Completion of publication; time
Publication of notice of hearing shall be completed at least 10 days prior to the date of hearing specified therein.

§ 22556. Levy of new assessment; notice of public hearing
Prior to levying a new assessment pursuant to Chapter 2 (commencing with Section 22585), the legislative body shall cause notice of the public hearing to be given pursuant to Section 53753 of the Government Code.

Chapter 2. Organization Of The Assessment District; Levy Of First Assessment

§ 22585. Resolution initiating proceedings; contents
Proceedings for the formation of an assessment district shall be initiated by resolution. The resolution shall:

- (a) Propose the formation of an assessment district pursuant to this part.
- (b) Describe the improvements.
- (c) Describe the proposed assessment district and specify a distinctive designation for the district.
- (d) Order the engineer to prepare and file a report in accordance with Article 4 (commencing with Section 22565) of Chapter 1.

The descriptions need not be detailed but shall be sufficient if they enable the engineer to generally identify the nature, location, and extent of the improvements and the location and extent of the assessment district.

§ 22586. Filing of report; submission to legislative body;
modification; approval

Upon completion, the engineer shall file the report with the clerk for submission to the legislative body. The legislative body may

approve the report, as filed, or it may modify the report in any particular and approve it as modified.

§ 22587. Resolution of intention; contents

After approval of the report, either as filed or as modified, the legislative body shall adopt a resolution of intention. The resolution shall do all of the following:

- (a) Declare the intention of the legislative body to order the formation of an assessment district, to levy and collect assessments, and, if desired, to issue bonds or notes pursuant to this part.
- (b) Generally describe the improvements.
- (c) Refer to the proposed assessment district by its distinctive designation and indicate the general location of the district.
- (d) Refer to the report of the engineer, on file with the clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, any bonds or notes to be issued, and the proposed assessments upon assessable lots and parcels of land within the district.
- (e) Give notice of, and fix a time and place for, a hearing by the legislative body on the question of the formation of the assessment district and the levy of the proposed assessment.

§ 22588. Notice, protest, and hearing procedures

The legislative body shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(Prop 218 – see below)

§ 22592. Existence of majority protest; adjustment of

territory

Upon the conclusion of the hearing, the legislative body shall determine whether a majority protest exists. For that purpose, the extent of the territory of the proposed assessment district shall be adjusted in accordance with any orders excluding territory from or including additional territory within the district.

§ 22593. Abandonment of proceedings; majority protest
Proceedings for the formation of the assessment district shall be abandoned if there is a majority protest , as defined in Section 53753 of the Government Code.

§ 22594. Resolution; adoption; order for improvements and formation of district; levy of assessment

(a) If a majority protest has not been filed, the legislative body may adopt a resolution ordering the improvements and the formation of the assessment district and confirming the diagram and assessment, either as originally proposed by the legislative body or as changed by it. Except as provided in subdivision (b), the adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the assessment.

(b) If bonds or notes are to be issued pursuant to Section 22662.5, the adoption of the resolution shall constitute the levy of an assessment for a principal amount which may be collected in annual installments. The clerk shall record a notice and map describing the assessment pursuant to Division 4.5 (commencing with Section 3100).

Article 4. Reports

§ 22565. Preparation by engineer
The engineer shall prepare reports in accordance with this article.

§ 22566. Fiscal year

A report shall be prepared for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements described in the report.

§ 22567. Contents

A report shall refer to the assessment district by its distinctive designation, specify the fiscal year to which the report applies, and, with respect to that year, shall contain all of the following:

- (a) Plans and specifications for the improvements.
- (b) An estimate of the costs of the improvements.
- (c) A diagram for the assessment district.
- (d) An assessment of the estimated costs of the improvements.
- (e) If bonds or notes will be issued pursuant to Section 22662.5, an estimate of their principal amount.

§ 22568. Plans and specifications; zones

The plans and specifications shall show and describe existing and proposed improvements. The plans and specifications need not be detailed, but shall be sufficient if they show or describe the general nature, location, and extent of the improvements. If the assessment district is divided into zones, the plans and specifications shall indicate the class and type of improvements to be provided for each such zone. The plans or specifications may be prepared as separate instruments or either or both may be incorporated in the diagram as a combined instrument.

§ 22569. Estimates of costs; contents

The estimate of the costs of the improvements for the fiscal year shall contain estimates for all of the following:

(a) The total costs for improvements to be made that year, being the total costs of constructing or installing all proposed improvements and of maintaining and servicing all existing and proposed improvements, including all incidental expenses. This may include a reserve which shall not exceed the estimated costs of maintenance and servicing to December 10 of the fiscal year, or whenever the city expects to receive its apportionment of special assessments and tax collections from the county, whichever is later.

(b) The amount of any surplus or deficit in the improvement fund to be carried over from a previous fiscal year.

(c) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(d) The amount, if any, of the annual installment for the fiscal year where the legislative body has ordered an assessment for the estimated cost of any improvements to be levied and collected in annual installments.

(e) The net amount to be assessed upon assessable lands within the assessment district, being the total improvement costs, as referred to in subdivision (a), increased or decreased, as the case may be, by any of the amounts referred to in subdivision (b), (c), or (d).

§ 22570. Diagram of district

The diagram for an assessment district shall show (a) the exterior boundaries of the assessment district, (b) the boundaries of any zones within the district, and (c) the lines and dimensions of each

lot or parcel of land within the district. Each lot or parcel shall be identified by a distinctive number or letter.

§ 22571. Lines and dimensions of lots or parcels;
conformance and reference to assessor's maps

The lines and dimensions of each lot or parcel of land shown on the diagram shall conform to those shown on the county assessor's maps for the fiscal year to which the report applies. The diagram may refer to the county assessor's maps for a detailed description of the lines and dimensions of any lots or parcels, in which case, those maps shall govern for all details concerning the lines and dimensions of such lots or parcels.

§ 22572. Assessment; reference to fiscal year; contents

The assessment shall refer to the fiscal year to which it applies and shall do all of the following:

(a) State the net amount, determined in accordance with Section 22569, to be assessed upon assessable lands within the assessment district, which shall include an amount sufficient to pay the principal and interest due during the fiscal year from each parcel on any bonds or notes issued pursuant to Section 22662.5.

(b) Describe each assessable lot or parcel of land within the district.

(c) Assess the net amount upon all assessable lots or parcels of land within the district by apportioning that amount among the several lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

The assessment may refer to the county assessment roll for a description of the lots or parcels, in which case that roll shall govern for all details concerning the description of the lots or parcels.

§ 22573. Net amount; apportionment

The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.

The determination of whether or not a lot or parcel will benefit from the improvements shall be made pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000)).

§ 22574. Classification into zones

The diagram and assessment may classify various areas within an assessment district into different zones where, by reason of variations in the nature, location, and extent of the improvements, the various areas will receive differing degrees of benefit from the improvements. A zone shall consist of all territory which will receive substantially the same degree of benefit from the improvements.

§ 6061. One time

Publication of notice pursuant to this section shall be for one time.

PROPOSITION 218

Procedures For New Assessments

The procedures and substantive requirements for assessments established by Proposition 218 are contained in article XIID, section 4.[3] They are summarized in the following outline.

- A. Identify all parcels which will have a special benefit conferred upon them, including property owned by federal, state or local governmental agencies.

(1) “Special benefit” means a “particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.”

(2) General enhancement of property value is not a “special benefit.” The key word is “general.” A special and particular enhancement of property value is a traditional measure of special benefit.[4]

B. Determine the “proportionate special benefit” to each property in relationship to the entirety of cost of acquiring or constructing an improvement or of “maintaining and operating” such an improvement. The assessment on a parcel may not exceed the reasonable cost of the “proportional special benefit” conferred on such parcel. Apportioning special benefit does not require mathematical precision. So long as the apportionment is reasonable and is justified by the engineer’s report, it should be upheld. (See discussion of burden of proof in following sections of this guide)

C. Only “special benefits” are assessable (see discussion of distinguishing special from general benefit at page 29 of this guide). Prior to Proposition 218, only properties receiving special benefit were assessable, but the fact that some incidental general benefit also resulted from capital improvement or maintenance did not invalidate an assessment apportioning some or all of that general benefit to specially benefited properties within the district. Under article XIID, costs associated with general benefit must be paid from other resources of the local agency.

D. Notice requirements.

(1) Proposition 218 requires 45 day mailed notice to record owner of each parcel. It eliminates the published notice option established in the Brown Act for assessment districts which are

coterminous with local government boundaries or for assessment districts of 50,000 parcels or more. The record owner is the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll. Cal. Gov't Code § 53752(j).

(2) Notice of hearings required by the statutory provisions under which the agency is levying the assessment must also be followed. In some instances this will require combined notices and multiple public hearings. The vote under Proposition 218 would occur at the last required public hearing.

(3) Contents of notice.

(a) total assessment for entire assessment district;

(b) assessment chargeable on owner's parcel;

(c) duration of proposed assessment;

(d) reason for assessment;

(e) basis on which amount of proposed assessment was calculated;

(f) date, time and place of public hearing;

(g) summary of voting procedures and effect of majority protest.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BBB*
DATE: MAY 22, 2009

**AGENDA ITEM
E-2
MAY 27, 2009**

AUTHORIZE SUBMITTAL OF GRAFFITI POWER ACTIVATION TO LAFCO

ITEM

Authorize submittal of application to LAFCO to activate Graffiti Abatement Authority [ADOPT RESOLUTION OR TAKE ALTERNATE ACTION]

BACKGROUND

Your Honorable Board set this hearing at your April 22, 2009 and directed staff to prepare a financing plan predicated on the use of property tax reserves and revenues. Attached is staff's draft Financing Plan. Also attached is a draft Resolution requesting LAFCO consideration of activating this latent authority. LAFCO staff has estimated the cost for processing this application at \$500.

It should be noted that the County had previously considered proposing a graffiti abatement pilot program, but the Sheriff does not support this program and Code Enforcement has withdrawn its request to make a presentation to the Board.

FISCAL IMPACT – The cost of applying to LAFCO is \$500 plus staff time. Staff has proposed a program and listed expected costs in the attached Financing Plan. 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.

RECOMMENDATION

Staff recommends that the Board consider adoption of the attached resolution. Should the Board not wish to adopt the attached resolution, staff respectfully requests policy guidance regarding any next steps.

ATTACHMENTS

- Financing Plan
- Resolution

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FINANCING PLAN – NCSD PROPOSAL TO ACTIVATE GRAFFITI ABATEMENT AUTHORITY

Pursuant to Government Code Section 61100(q), NCSD proposes to develop and offer a program for removal of graffiti on private property where the property owner consents to access and to coordinate with the County of San Luis Obispo for County abatement of graffiti in public rights of way. NCSD's program would involve the development of ordinances providing for access guidelines, record keeping, abatement where permission has been granted, and education. NCSD estimates that the initial start up cost at \$20,000 for removal equipment and paint. NCSD estimates the initial annual cost at approximately \$30,000 for a part time staff coordinator, removal supplies, coatings, and outreach. The NCSD Board has approved the use of existing property tax reserves to pay for the initial start up cost and the use of current property tax revenues to pay for the annual costs.

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

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
REQUESTING THE LOCAL AGENCY FORMATION COMMISSION TO INITIATE
PROCEEDINGS FOR ACTIVATION OF GRAFFITI REMOVAL AUTHORITY**

WHEREAS, the Nipomo Community Services District (herein "District") Board of Directors (herein "Board") is a local governmental agency formed and authorized to provide services within its jurisdiction, pursuant to Section 61000 et seq. of the California Government Code; and

WHEREAS, Government Code Section 61,110(e) enables Community Services District to provide graffiti removal services if activated by LAFCO; and

WHEREAS, the District Board of Directors desires to provide graffiti removal services and to do so must secure LAFCO activation of the latent Parks authority set forth in Government Code Section 61,110(q); and

WHEREAS, The NCSD Board of Directors wishes to LAFCO to assume the role of lead agency in compliance with the California Environmental Quality Act; and

WHEREAS, The NCSD Board of Directors conducted a public hearing on May 27, 2009 to consider adoption of this resolution; and

NOW, THEREFORE, the Board of Directors of the Nipomo Community Services District does hereby resolve, declare, determine and order as follows:

1. SECTION 1 – This Resolution of Application is hereby adopted requesting LAFCO to process NCSD's application to activate Graffiti Removal Latent Authority inside NCSD; and
2. SECTION 2 – This resolution shall become effective immediately upon adoption.

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

AYES:
NOES:
ABSENT:
CONFLICTS:

the foregoing resolution is hereby passed, approved and adopted by the Board of Directors of the Nipomo Community Services District this 27th day of May, 2009.

James Harrison, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
General Counsel