

TO: BOARD OF DIRECTORS
FROM: MICHAEL LEBRUN
DATE: MARCH 5, 2010

**AGENDA ITEM
D-3
MARCH 10, 2010**

**ADOPT RESOLUTION APPROVING TEFFT STREET SEWER FACILITY AND
WATER WELL EASEMENT TRANSFERS WITH SLO COUNTY**

ITEM

Adopt a Resolution approving Tefft Street sewer facility and water well easement transfers with County [RECOMMEND APPROVAL].

BACKGROUND

During the District's effort to establish park powers and create a pocket park in Olde Towne, we became aware of historic easements that were either not recorded or unused. The subject parcel is APN 090-142-007 located on the south side of Tefft Street across from the proposed park property.

Currently, the District holds a water well easement that is no longer required. Additionally, the District's Tefft Street lift station is not covered by an easement and thus exists on County owned and controlled property.

The District and the County have agreed, as outlined in the MOU adopted by the County on March 24, 2009, to correct this historical condition. The proposed Resolution initiates the granting of an easement by the County to the District in support of existing District sewer facilities and Quitclaim of a District well site easement back to the County.

FISCAL IMPACT

Staff has expended budget time and legal fees.

RECOMMENDATION

Staff recommends that your Board adopt the Resolution and direct staff to coordinate the easement transfer with the County.

ATTACHMENTS

- Draft resolution and exhibits

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\2010\100310 TEFFT LIFT STATION EASEMENTS.DOC

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2010-1178**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
QUITCLAIMING THE DISTRICTS INTEREST IN
A WATER WELL EASEMENT TO THE COUNTY OF SAN LUIS OBISPO
AND ACCEPTING A SANITARY LIFT STATION AND
PIPELINE EASEMENT FROM THE COUNTY OF SAN LUIS OBISPO**

WHEREAS, the County of San Luis Obispo (the "County") is the owner of certain real property identified as Assessor Parcel Number 090-142-007 (herein the "County Property"). The County Property is situated within the Nipomo Community Services District (the "District") and is located between Tefft Street and Dana Street, Nipomo, California; and

WHEREAS, there is currently constructed a District sewer pipeline and lift station (Sewer Facilities) on the County Property without benefit of a recorded easement; and

WHEREAS, in 1984, the County granted District a seventy-five foot by seventy-five foot (75'x75') water well easement (the "Water Well Easement") on the County Property; and

WHEREAS, the County Property, the Sewer Facilities, the Water Well Easement and an existing gas line easement are depicted on Exhibit "1" attached hereto and incorporated herein by this reference; and

WHEREAS, during the month of January 2009, the District and the County entered into an Agreement titled "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" (the "MOU"); and

WHEREAS, the MOU, in part, requires the following:

- A. The County to grant District an easement (Sewer Facility Easement) to clarify District's access to District Sewer Facilities within the County Property as depicted in Exhibit "1"; and
- B. The District to Quitclaim the District's interest in the Water Well Easement to the County as depicted in Exhibit "1"; and

WHEREAS, based on the staff report, staff presentation and public comment the District makes the following findings regarding the Quitclaim (Exhibit A) of the District's interest in the Water Well Easement to the County:

- A. The Water Well Easement has not been used for the purposes for which it was required for five (5) consecutive years immediately proceeding adoption of this Resolution.
- B. The Water Well Easement is not necessary for present or perspective District purposes; and

WHEREAS, based on the staff report, staff presentation and public comment the District makes the following findings regarding the granting and acceptance of the Sanitary Lift Station and Pipeline Easement, aka Sewer Facility Easement (Exhibit B):

- A. The granting and acceptance of the proposed Sewer Facility Easement (Exhibit B) clarifies the legal authority for the District to enter the County property for the purpose of operating and maintaining the District Sewer Facilities.
- B. The area of the Water Well Easement Quitclaimed to the County is approximately the area of the Sewer Facility Easement.
- C. The County Property is burdened with an existing gas line easement as depicted in Exhibit "1".

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2010-xxxx

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- D. The granting and acceptance of the proposed Sewer Facility Easement does not increase the size or capacity of the existing Sewer Facilities.
- E. The granting and acceptance of the Sewer Facility Easement will not change the land use of the County's property.
- F. The granting and accepting of the Sewer Facility Easement will not result in a direct or reasonably foreseeable indirect physical change to the environment.

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

- 1. The above recitals and findings are true and correct and incorporated herein by reference.
- 2. The President of the District Board of Directors is authorized to execute the Quitclaim Deed attached to this Resolution as Exhibit "A", quitclaiming the District's interest in the Water Well Easement back to the County.
- 3. The District staff is authorized to forward the Sewer Facility Easement attached hereto as Exhibit "B" to the County of San Luis Obispo for approval by the Board of Supervisors.
- 4. The District President is authorized to execute the Certificate of Acceptance upon the County of San Luis Obispo executing the Sewer Facility Easement.
- 5. District staff is authorized to record the Quitclaim Deed (Exhibit A) upon receipt from the County of a fully executed Sewer Facility Easement.
- 6. Based on the recitals and findings of this Resolution the District Board of Directors finds that Quitclaiming the Water Well Easement to the County and acceptance of the Sewer Facility Easement, that clarifies the District's authority to operate and maintain Sewer Facilities, does not constitute a project within the meaning of CEQA, because it can be seen with certainty that the transfers will not result in a direct or reasonably foreseeable indirect physical change in the environment.

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

AYES:
NOES:
ABSENT:
CONFLICT:

the foregoing resolution is hereby adopted this 10th day of March, 2010.

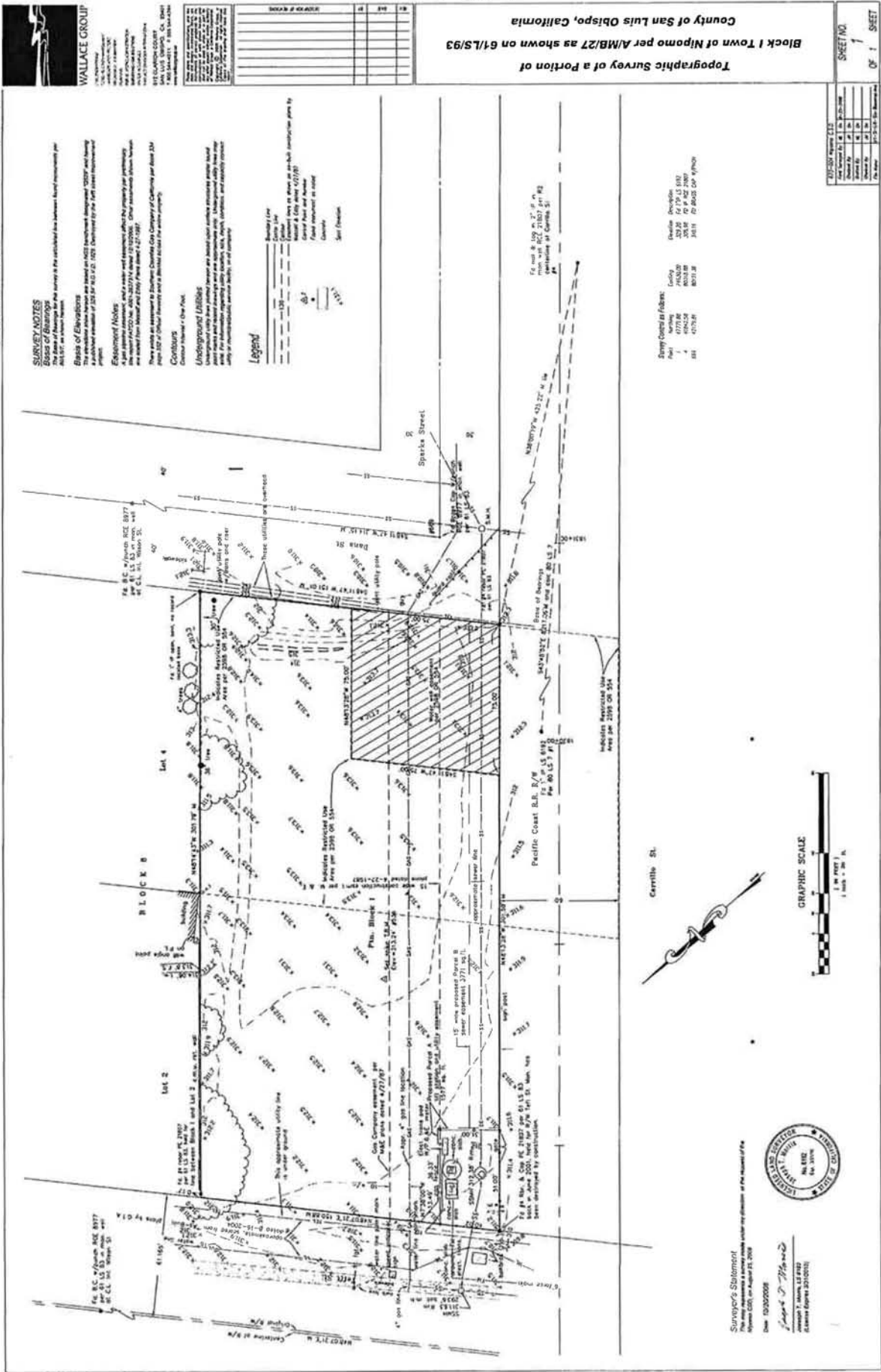
James Harrison, President
Nipomo Community Services District

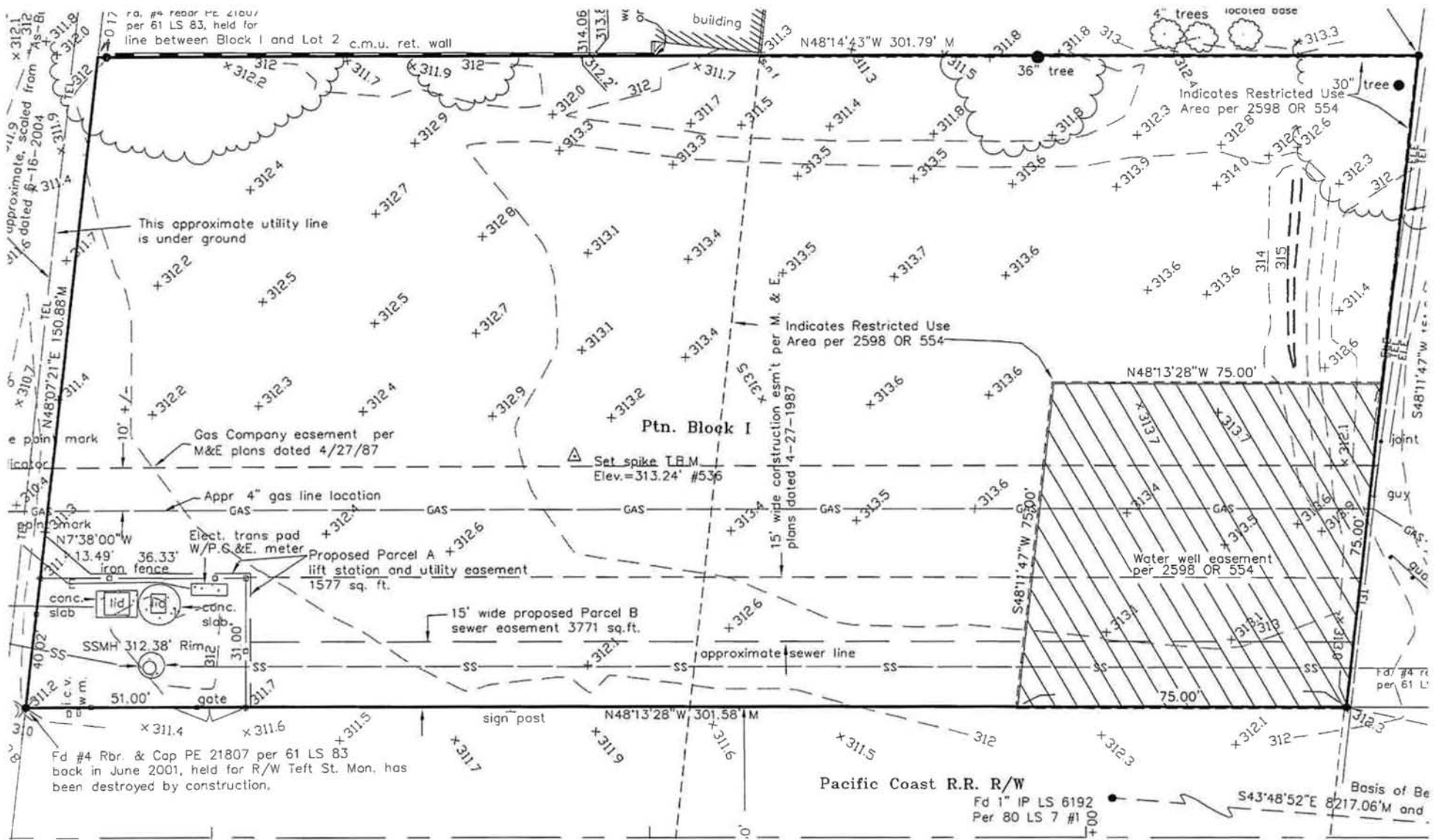
ATTEST:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz, Esq.
General Counsel

Exhibit "1"





ra. #4 rear pt. 21007
per 61 LS 83, held for
line between Block 1 and Lot 2
c.m.u. ret. wall

N48°14'43"W 301.79' M

4" trees located base

Indicates Restricted Use
Area per 2598 OR 554

This approximate utility line
is underground

Indicates Restricted Use
Area per 2598 OR 554

Gas Company easement per
M&E plans dated 4/27/87

Ptn. Block I
Set spike L.B.M.
Elev.=313.24' #536

N48°13'28"W 75.00'

Appr 4" gas line location

Elect. trans pad
W/P.G.&E. meter

Proposed Parcel A
lift station and utility easement
1577 sq. ft.

15' wide proposed Parcel B
sewer easement 3771 sq.ft.

approximate sewer line

Water well easement
per 2598 OR 554

Fd #4 Rbr. & Cap PE 21807 per 61 LS 83
back in June 2001, held for R/W Teft St. Mon, has
been destroyed by construction.

Pacific Coast R.R. R/W
Fd 1" IP LS 6192
Per 80 LS 7 #18

Basis of Be
S43°48'52"E 8217.06'M and

FOR REDUCED PLANS
ORIGINAL SCALE IS IN INCHES



SURVEY NOTES

Basis of Bearings

The Basis of Bearings for this survey is the calculated line between found monuments per 80/LS/7, as shown hereon.

Basis of Elevations

The elevations show hereon are based on NGS benchmark designated "Q529" and having a published elevation of 329.54' N.G.V.D. 1929. Destroyed by the Tefft street improvement project.

Easement Notes

A gas pipeline easement, and a water well easement affect the property per preliminary title report FATCO No. 4001-2637374 dated 12/12/2006. Other easements shown hereon are scaled from Metcalf and Eddy Plans dated 4-27-1987.

There exists an easement to Southern Counties Gas Company of California per Book 334 page 352 of Official Records and is Blanket across the entire property.









Contours

Contour Interval = One Foot.

Underground Utilities

Underground utility lines plotted hereon are based upon surface structures and/or found paint marks and record drawings and are approximate only. Underground utility lines may exist. For information regarding utility location, size, depth, condition, and capacity contact utility or municipal/public service facility, or oil company.

Legend

	Boundary Line
	Center Line
	Contour
	Easement lines as shown on as-built construction Metcalf & Eddy dated 4/27/87
	Control Point and Number
	Found monument as noted
	Concrete
	Spot Elevation

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
1055 Monterey Street
San Luis Obispo, CA 93408

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COUNTY BUSINESS-FREE. THIS DOCUMENT PRESENTED FOR RECORDING PURSUANT TO
GOVT. CODE SECTION 27383.

QUITCLAIM DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

the Nipomo Community Services District, a community services district of the State of California

hereby remise, release and forever quitclaim to

The County of San Luis Obispo, a Public Entity in the State of California

the following described real property in the County of San Luis Obispo, State of California, to wit:

the water well easement and restricted use area described in Articles VI and VII, respectively, in the Grant of Easement and Water Service Agreement Affecting Real Property recorded on May 29, 1984 in Document No. 27332 filed in Book 2598 at Page 554 of Official Records in the Office of the County Recorder of the County of San Luis Obispo, State of California.

APNs: 090-142-007

NIPOMO COMMUNITY SERVICES DISTRICT

BY: _____
President, Board of Directors

Attest:

Secretary, Board of Directors

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On _____, before me, _____, County of San Luis Obispo, State of California, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that **he/she** executed the same in his/her authorized capacity, and that by **his/her** signature on the instrument the person, or the entity upon of which the person acted, executed the instrument.

I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

By:

(SEAL)

RECORDING REQUESTED BY
NIPOMO COMMUNITY SERVICES DISTRICT

WHEN RECORDED, RETURN TO:
Clerk of the Board of Supervisors
County of San Luis Obispo
1055 Monterey Street
San Luis Obispo, CA 93408

No recording fee per Government Code § 6103
No Documentary Transfer Tax per Revenue & Taxation Code § 11922

**SANITARY SEWER LIFT STATION AND PIPELINE EASEMENT
AND AGREEMENT**

Exhibit A – Legal Description of Grantor’s property APN: 090-142-007
Exhibit B – Legal Description of Easement
Exhibit C – Depiction of the Easement Area
Exhibit D – Depiction of Grantee’s Current Access to Easement & District Facilities

For valuable consideration, receipt of which is hereby acknowledged, and subject to the terms and conditions of this Sanitary Sewer Lift Station and Pipeline Easement and Agreement, the County of San Luis Obispo, a political subdivision of the State of California, hereinafter referred to as “Grantor”, hereby grants to the Nipomo Community Services District, a community services district of the State of California, hereinafter referred to as “Grantee”, a perpetual sanitary sewer lift station and pipeline easement described in Exhibit B and depicted in Exhibit C (the “Easement”), for purposes of installing, inspecting, repairing, maintaining, replacing, accessing, and improving existing pipeline and sanitary lift station improvements (including appurtenances), on, over, under and across real property (the “Real Property”) owned by Grantor, which property is more particularly described in Exhibit A.

THE EASEMENT(S) DESCRIBED HEREIN SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. Exhibits A, B, C and D are attached hereto and incorporated herein by this reference.
2. Grantee shall be responsible for the construction, installation, improvement, operation, repair, maintenance and replacement of the pipeline improvements and lift station facilities and appurtenances (collectively “District Facilities”) that are located within the Easement.
3. Plans and specifications for District Facilities as they exist from time to time will be maintained at the Grantee’s principal office and available for inspection by Grantor.
4. Grantee currently has access to the Easement and District Facilities by use of a roadway over adjacent property owned by Grantor, as delineated on Exhibit D. Grantor may, at some future date,

develop the adjacent property separately or conjunction with Grantor's Real Property described in Exhibit A. In the event that such future development is incompatible with Grantee's current access to the Easement and District Facilities (Exhibit D) then Grantor shall provide alternative access to the Easement and District Facilities that is comparable with Grantee's current access over Grantor's Real Property (Exhibit A).

5. Grantor may grant concurrent easements within the Easement that do not unreasonably interfere with Grantee's use of the Easement area. Grantor shall provide Grantee with a minimum of thirty (30) days written notice prior to granting concurrent easements within the Easement. Grantor shall not be prohibited from constructing a parking lot or other improvements on the Easement that do not interfere with Grantee's use of the Easement.

6. Grantor shall keep clear from the Easement all explosives, buildings, structures, walls, and other facilities of a permanent nature that have the potential to interfere with Grantee's use of the Easement.

7. Subject to the terms and conditions of this Easement, Grantor retains the right to make any use of the Real Property described in Exhibit A.

8. Any amendment to this Sanitary Sewer Lift Station and Pipeline Easement and Agreement shall be of no force and effect unless it is in writing and signed by the Grantor and Grantee.

9. The terms and conditions of this Sanitary Sewer Lift Station and Pipeline Easement and Agreement are declared to be covenants which shall run with the land and will be binding on the successors and assigns of the Grantor and the Grantee.

IN WITNESS WEHREOF, the parties hereto have executed this Sanitary Sewer Lift Station and Pipeline Easement and Agreement as of the day and year written below.

GRANTOR:
COUNTY OF SAN LUIS OBISPO

Date: _____

By: _____
Chairperson
San Luis Obispo County Board of Supervisors

ATTEST:

By: _____
Clerk of the Board of Supervisors

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On _____, before me, _____ Deputy County
Clerk-Recorder, County of San Luis Obispo, State of California, personally appeared _____
_____, who proved to me on the basis of satisfactory evidence to be the
person whose name is subscribed to the within instrument and acknowledged to me that **he/she**
executed the same in his/her authorized capacity, and that by **his/her** signature on the instrument
the person, or the entity upon of which the person acted, executed the instrument.

I certify under Penalty of Perjury under the laws of the State of California that the
foregoing paragraph is true and correct.
WITNESS my hand and official seal.

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

By: _____
Deputy County Clerk-Recorder

(SEAL)

CERTIFICATE OF ACCEPTANCE

This is to certify that the **NIPOMO COMMUNITY SERVICES DISTRICT**, Grantee
herein, hereby accepts for public purposes the Real Property, or interest therein, described in the
foregoing Sanitary Sewer Lift Station and Pipeline Easement and Agreement dated
_____, 2010, from the **COUNTY OF SAN LUIS OBISPO**, Grantor
therein, and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of _____,
2010.

NIPOMO COMMUNITY SERVICES DISTRICT

By: _____
James Harrison, President
Nipomo Community Services District Board of Directors

ATTEST:

By: _____
Secretary to the Board of Directors

EXHIBIT "A"

LEGAL DESCRIPTION

Real property in the City of Nipomo, County of San Luis Obispo, State of California, described as follows:

PARCEL ONE:

ALL THAT PORTION OF LOT "I", IN THE TOWN OF NIPOMO, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP FILED AUGUST 18, 1882 IN BOOK A, PAGE 27 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT "I" LYING NORTHWESTERLY OF THE SOUTHWESTERLY PROLONGATION OF THE NORTHWEST LINE OF TEFFT STREET.

APN: 090-141-006

PARCEL TWO:

ALL THAT PORTION OF LOT "I", IN THE TOWN OF NIPOMO, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, AS PER MAP RECORDED AUGUST 18, 1882 IN BOOK A, PAGE 27 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

THAT PORTION OF SAID LOT "I" LYING SOUTHEASTERLY OF THE SOUTHWESTERLY PROLONGATION OF THE SOUTHEAST LINE OF TEFFT STREET AND NORTHWESTERLY OF THE NORTHWESTERLY LINE OF DANA STREET.

APN: 090-142-007

First American Title

Exhibit "B"
LEGAL DESCRIPTION
SANITARY SEWER LIFT STATION, UTILITY, AND SEWER LINE EASEMENT

File no: 0673.0004 (0200)

January 20, 2010

A portion of Block I of the Town of Nipomo, State of California according to the map filed in Book A of Maps at Page 27 in the Office of the County Recorder of San Luis Obispo County, said portion described as Parcels A and B as follows:

Parcel A - LIFT STATION:

Beginning at the most westerly corner of that portion of said Block I as shown on the Record of Survey map filed in Book 61 of Licensed Surveys at Page 83 in said County Recorder's Office, said corner also being on the southeasterly line of Tefft Street and the northeasterly line of the Pacific Coast Railroad right of way as shown on said Record of Survey, said point bearing south 39°02'28" west 387.49 feet, (S 38° 56' 02" W 387.44' calculated from 61/LS/83), from the found brass disk at the centerline intersection of Tefft and Wilson Streets;

Thence along the line common with said Block I and said Pacific Coast Rail Road right of way line south 48°13'28" east 51.00 feet, (L1);

Thence leaving said common line north 41°46'32" east 31.00 feet, (L2);

Thence north 48°13'28" west 36.33 feet, (L3);

Thence north 7°38'00" west 13.49 feet (L4), to a point of the said southeasterly right of way line of Tefft Street;

Thence along said Tefft Street right of way line south 48°07'21" west 40.02 feet, (L5) to the True Point of Beginning.

Containing 1,577 square feet more or less.

Parcel B - SEWER PIPELINE:

The southwesterly fifteen feet (15') of said Block I being bounded on the northwest by the southeasterly line, (L2), of the above described Parcel A.

Containing 3,771 square feet more or less.

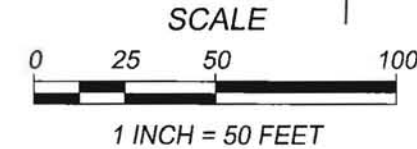
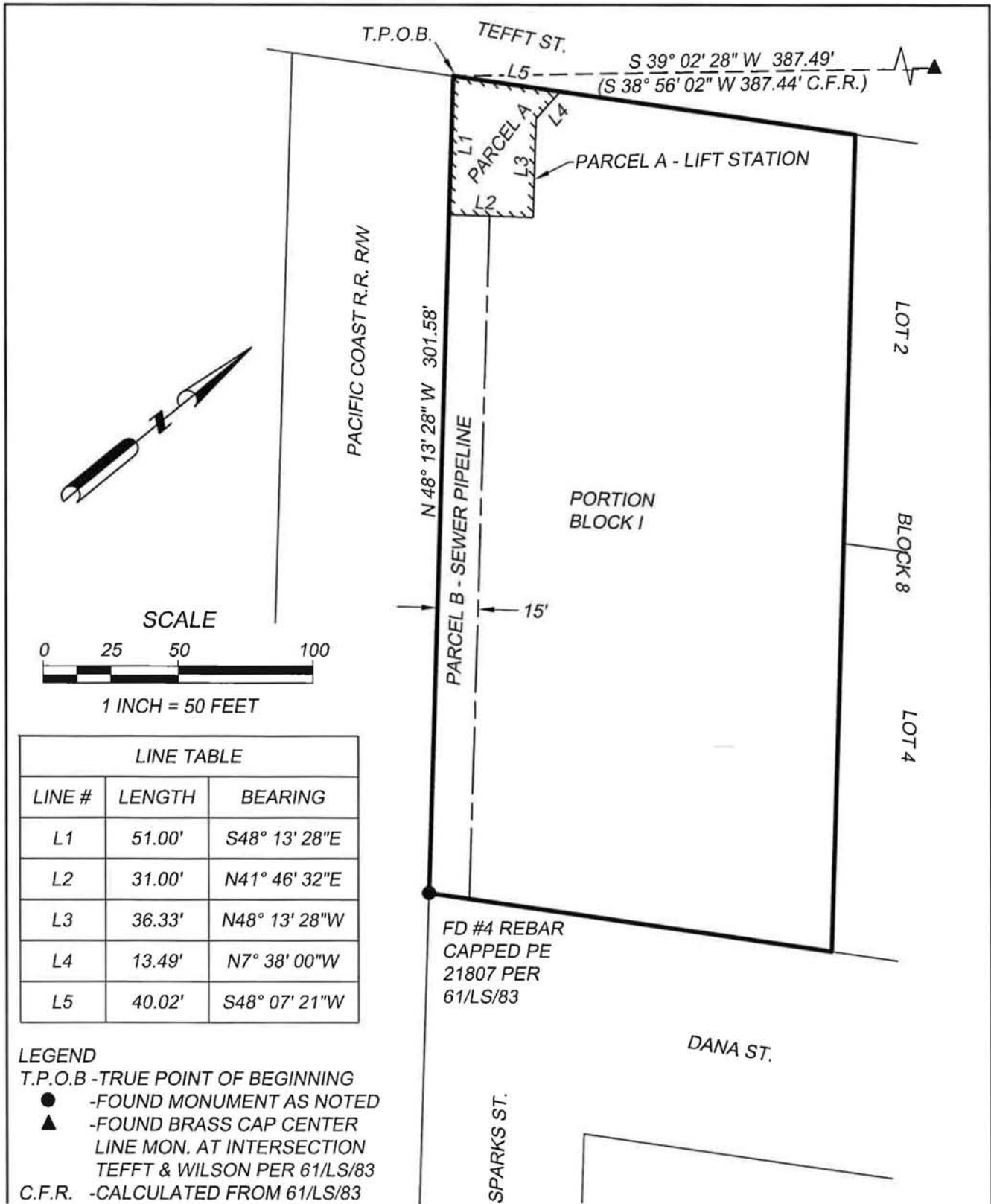
The above-described parcels of land are graphically shown on Exhibit "C" attached hereto and made a part hereof.

End Description

Joseph T. Morris

Joseph T. Morris P.L.S. 6192
License expires 3/31/10





LINE TABLE		
LINE #	LENGTH	BEARING
L1	51.00'	S48° 13' 28"E
L2	31.00'	N41° 46' 32"E
L3	36.33'	N48° 13' 28"W
L4	13.49'	N7° 38' 00"W
L5	40.02'	S48° 07' 21"W

LEGEND
 T.P.O.B. - TRUE POINT OF BEGINNING
 ● - FOUND MONUMENT AS NOTED
 ▲ - FOUND BRASS CAP CENTER LINE MON. AT INTERSECTION TEFFT & WILSON PER 61/LS/83
 C.F.R. - CALCULATED FROM 61/LS/83

FD #4 REBAR
 CAPPED PE
 21807 PER
 61/LS/83

612 CLARION COURT
 SAN LUIS OBISPO, CA 93401
 T 805 544-4011
 F 805 544-4294
 www.wallacegroup.us

**EASEMENT EXHIBIT
 EXHIBIT "C"**

JOB No. :	0673-004
DRAWING :	EASE DRAWING
DRAWN BY :	MM
DATE :	1/20/2010
SCALE :	1" = 50'



WILSON STREET

©1997-2007 AIRPHOTOUSA

OLD PACIFIC

Exhibit D

Carrillo Street

Current Access

Teft Street