

TO: BOARD OF DIRECTORS
FROM: MICHAEL LEBRUN *msl*
INTERIM GENERAL MANAGER

**AGENDA ITEM
E-1
FEBRUARY 23, 2011**

DATE: FEBRUARY 17, 2011

REVIEW WATERLINE INTERTIE PROJECT STATUS

ITEM

Review Waterline Intertie Project (WIP) Schedule [CONSIDER INFORMATION PRESENTED AND PROVIDE INSTRUCTION TO STAFF]

BACKGROUND

For more than twenty years, the District has been evaluating water resources to augment local groundwater supply. Currently groundwater is the District's sole supply source and the source is 'shared' with all residents and businesses across the entire Nipomo Mesa. The District has conducted three formal studies of water supply alternatives since 1994, the most recent is a series of Technical Memorandums completed in 2007. The 2007 study reaffirmed an intertie pipeline and direct purchase of water from the City of Santa Maria as the most cost efficient and technically viable option for obtaining supplemental water.

Upon completion, the WIP will serve to diversify the District's supply portfolio and increase supply dependability through the foreseeable yet uncertain future. The Project design phase is nearing completion and Project funding efforts via an Assessment District and rate charges are currently being evaluated in detail.

Education and Outreach efforts will be coordinated with the Assessment proceedings in order to inform the affected property owners about the Project and proposed charges. Outreach materials are being actively drafted and an Ad-Hoc meeting with the outreach consultant and senior management staff is scheduled.

SCHEDULE

Up until recently, the Project schedule was dictated by design elements. In the coming months the assessment schedule and coordinated outreach efforts will lead project timing. A schedule showing the integration of assessment proceedings and outreach efforts is attached. This schedule is slightly changed from last month – combining intermediate steps, no change in completion date.

Step 33, 'Data Collection' is currently underway via phone polling survey. Over 300 surveys have been completed to date. A presentation and final report on polling results is scheduled before your Board at the March 23, 2011 Regular meeting. Following the survey, the Assessment Engineer's Report and letters to property owners will be revised as necessary. The final Draft Engineer's Report and property owner letters are scheduled to be brought before your Board on May 11.

Following approval, letters describing the assessment and providing property owners an estimate for assessment will be circulated and a 30-day public review period will commence. After the public review, the Assessment Engineer's report will be finalized and the assessment

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ballots will be prepared. Ballots are tentatively scheduled to be mailed on August 29, 2011, and the assessment hearing is tentatively scheduled to be closed by the County Board of Supervisors on October 18, 2011.

PROJECT COSTS

As design has progressed during the past year, the infrastructure cost estimate of building the intertie pipeline has remained relatively stable at near \$23.6 Million. In an effort to provide the Assessment Engineer a final cost estimate for inclusion in the Assessment Report, and with an understanding that this value would set the ceiling for property assessments, staff reviewed project soft costs and increased budget estimates where justified. A table reflecting these changes and the project total capital and soft costs is attached. The resulting \$25.3 million figure does not include financing charges or the cost of delivered water.

Staff feels the current cost estimate is conservatively high, yet reasonable. The estimate represents a balance between insuring the assessment generates enough revenue to complete the project while at the same time keeping the cost to property owners as reasonable as possible.

Currently the cost of delivered water is envisioned to be paid by both property tax assessment (for capital portion of water delivery costs) and rates. Evaluation of these alternatives continues. Currently, the estimated annual assessment cost per Benefit Unit to District property owners is:

Developed Property	\$240-290	(previously \$345 – 410)
Undeveloped Property	\$326-376	(previously \$429 – 496)

These annual assessment estimates do include financing cost and 69% of the delivered cost of water.

Further complicating the rate issue is the fact that the delivery cost of water is variable as defined in the January 5, 2010, Wholesale Water Agreement executed with the City of Santa Maria. The delivery rate is based on two components; the Base Rate and Base Energy Cost. Both factors are variable. Attached is a draft analysis of rate variability.

Clearly, the WIP project is both of paramount importance to the water security of the District and an expensive endeavor.

FISCAL IMPACT

Budgeted staff time was used to prepare this report. The Santa Maria Waterline Intertie Project is, by far, the largest capital improvement project ever undertaken by the District.

RECOMMENDATION

Staff recommends that the Board consider the information presented and provide staff direction.

ATTACHMENTS

- WIP Assessment and Outreach Timeline
- WIP Cost Summary
- Draft Delivery Rate schedule

San Luis Obispo County
Nipomo Mesa Water Infiltration Project
Assessment District No. 1 Schedule

ID	Task Name	Duration	Start	Finish	Month	Day
1	Assessment District	303 days	Fri 10/08/10	Tue 12/01/11	October	10/8
2	Submit Draft Engineer's Report	0 days	Fri 10/08/10	Fri 10/08/10	October	10/8
3	Review Draft Engineer's Report	15 days	Mon 10/11/10	Fri 10/29/10	October	10/29
4	Meeting	0 days	Tue 10/26/10	Tue 10/26/10	October	10/26
5	Revise Draft Engineer's Report	18 days	Tue 10/26/10	Thu 11/18/10	October	10/26
6	Prepare Letters to Property Owners	15 days	Fri 10/29/10	Thu 11/18/10	October	10/29
7	County, NCSD, GSWC, RVC, WMMC to Review Draft Report	15 days	Fri 11/19/10	Thu 12/9/10	November	11/19
8	Meeting w/ All Parties	0 days	Thu 12/09/10	Thu 12/09/10	November	12/9
9	Delay of Project by District	40 days	Mon 12/06/10	Fri 12/03/11	December	12/06
10	Reuse Letters	40 days	Mon 3/28/11	Fri 5/20/11	March	3/28
11	Revised Engineer's Report	60 days	Mon 3/28/11	Fri 6/17/11	March	3/28
12	NCSD Board Meeting	0 days	Wed 5/11/11	Wed 5/11/11	May	5/11
13	Mail Letters to Property Owners	0 days	Mon 5/23/11	Mon 5/23/11	May	5/23
14	30 day Property Owner Review	30 days	Mon 5/23/11	Fri 7/1/11	May	5/23
15	Finalize Engineer's Report, Roll and Diagram	5 days	Mon 7/4/11	Fri 7/8/11	July	7/4
16	Ballot Preparation	20 days	Mon 6/13/11	Fri 7/8/11	June	6/13
17	Review by County, NCSD, GSWC, RVC, WMMC	5 days	Mon 7/11/11	Fri 7/15/11	July	7/11
18	Update Engineer's Report, Roll, Diagram, Ballots per Comments	5 days	Mon 7/18/11	Fri 7/22/11	July	7/18
19	Provide Package Deliverables to County (Engineer's Report, Roll, Diagram, Sample Ballots)	0 days	Fri 7/22/11	Fri 7/22/11	July	7/22
20	NCSD Board Meeting	0 days	Wed 8/10/11	Wed 8/10/11	August	8/10
21	County of SLO Board of Supervisors Meeting: Resolution to Call for Engineer's Report and of Final Proceedings	0 days	Tue 8/23/11	Tue 8/23/11	August	8/23
22	Mail Ballots	0 days	Mon 8/29/11	Mon 8/29/11	August	8/29
23	45-day Protest Hearing	37 days	Mon 8/29/11	Tue 10/18/11	August	8/29
24	County of SLO Board of Supervisors Meeting: Close Protest Hearing	0 days	Tue 10/18/11	Tue 10/18/11	October	10/18
25	Count Ballots	0 days	Tue 10/18/11	Tue 10/25/11	October	10/18
26	County of SLO Board of Supervisors Meeting: Holding of Ballot Results, Resolution Authorizing Bonds	0 days	Tue 10/25/11	Tue 10/25/11	October	10/25
27	30-day Cash Collection	30 days	Wed 10/26/11	Tue 12/01/11	October	10/26
28	Water Purveyor Public Outreach	142 days	Mon 4/4/11	Tue 10/18/11	April	4/4
29	Water Purveyor Public Outreach	142 days	Mon 4/4/11	Tue 10/18/11	April	4/4
30	Public Relations	202 days	Thu 10/21/10	Fri 7/29/11	October	10/21
31	PR Kickoff	0 days	Thu 10/21/10	Wed 12/1/10	October	10/21
32	Phase I - Project Development	30 days	Thu 10/21/10	Wed 12/1/10	October	10/21
33	Phase I - Data Collection	14 days	Mon 2/7/11	Thu 2/24/11	February	2/7
34	Phase I - Data Processing	5 days	Fri 2/25/11	Thu 3/3/11	February	2/25
35	Phase I - Timeline Report	0 days	Thu 3/3/11	Thu 3/3/11	March	3/3
36	Phase I - Report	10 days	Fri 3/4/11	Thu 3/17/11	March	3/4
37	NCSD Board Meeting	0 days	Wed 3/23/11	Wed 3/23/11	March	3/23
38	Phase II - Plan & Refine Measure	43 days	Mon 3/21/11	Wed 5/18/11	March	3/21
39	Phase II - Final Refinements of Measure & Info Piece	15 days	Mon 7/4/11	Fri 7/22/11	July	7/4
40	Phase II - Stakeholder Outreach & Planning	41 days	Mon 1/11/11	Mon 3/28/11	January	1/11
41	Phase II - Develop Communications & Outreach Plan	30 days	Mon 2/21/11	Fri 4/1/11	February	2/21
42	Phase II - Implement Communications & Outreach Plan	64 days	Mon 4/4/11	Thu 6/20/11	April	4/4
43	Phase III - Design & Conduct Mail Tracking System	30 days	Mon 6/20/11	Fri 7/28/11	June	6/20

January 28, 2011

NCSD WATERLINE INTERTIE PROJECT BUDGET
JANUARY 26, 2011

UPDATED COSTS

Construction		NOTES
Construction	\$15,876,900.00	Contingency reduced to 15%, based on 90% Complete Design Cost Opinion
Construction Contingency (15%)	\$2,381,535.00	
Construction Subtotal	\$18,258,435.00	
Additional Expenses		
Right of Way/Property Acquisition	\$357,144.00	Property allowance plus expenses to date
Preliminary Engineering	\$601,355.00	No Change
Testing/Potholing/Peer Review	\$69,095.00	No Change
Permits	\$80,000.00	\$75,000 allowance (SLO County encroachment, CDFG, etc.) plus expenses to date
Design Phase Engineering	\$1,260,180.00	Reflects Budget Amendment 11, and Anticipates minor additional future costs.
Office Engineering During Construction	\$521,814.00	Anticipated Additional construction support (\$270,043) and Ops Plan (\$75,931) plus current contract
Construction Management/Inspection	\$2,299,460.00	Current contract (\$53,700) plus estimated construction CM (\$2,245,760)
EIR Preparation	275000	\$20,000 allowance for EIR Addendum plus expenses to date
Attorney Fees	123662	\$40,000 allowance for attorney fees plus expenses to date
Financial Advisor	17000	No Change
Public Outreach	\$120,000.00	\$45,000 allowance for mailings, postage, etc. plus contract amount
District Administration Expenses	\$371,982.00	\$120,000 allowance for additional capitalized District Costs plus expenses to date
County of San Luis Obispo	\$100,000.00	\$40,000 allowance for additional County costs plus expenses to date
Assessment Engineering	\$180,000.00	
Add. Exp. Sub Total	\$6,376,692.00	
A. Exp. Contingency (10%)	\$637,669.20	10% Contingency excluding estimated construction costs
Additional Expenses Total	\$7,014,361.20	
Construction Subtotal	\$18,258,435.00	
Additional Expenses Subtotal	\$7,014,361.20	
Grand Project Total	\$25,272,796.20	

NIPOMO COMMUNITY SERVICES DISTRICT
 COST OF CITY OF SANTA MARIA WATER PER ACRE FOOT
 PER WHOLESALE WATER SUPPLY AGREEMENT DATED JANUARY 5, 2010

<u>PURCHASE PRICE OF WATER (Per Section 6 of Agreement)</u>				
	<u>7/1/2008</u>	<u>7/1/2009</u>	<u>7/1/2010</u>	<u>7/1/2011</u>
Tier 1 (rate per hundred cubic feet)	\$2.44	\$2.56	\$2.69	\$2.83
Hundred cubic feet in 1 acre-foot	435.6	435.6	435.6	435.6
Cost per acre-foot of water	<u>\$1,063.30</u>	<u>\$1,116.44</u>	<u>\$1,172.20</u>	<u>\$1,230.57</u>
Acre-feet to be delivered	2,000	2,000	2,000	2,000
Total cost of water to be delivered	<u>\$2,126,599.20</u>	<u>\$2,232,885.60</u>	<u>\$2,344,399.20</u>	<u>\$2,461,140.00</u>

<u>COST OF DELIVERY OF WATER (Per Section 7 of Agreement)</u>				
	<u>7/1/2008</u>	<u>7/1/2009</u>	<u>7/1/2010</u>	<u>7/1/2011</u>
Base Energy cost per acre-foot	\$206.85	\$206.85	\$206.85	\$206.85
Percentage Increase (Decrease) in CPI	n/a	-19.10%	12.40%	5.80%
Adjusted by 50%	n/a	50.00%	50.00%	50.00%
	<u>n/a</u>	<u>-9.55%</u>	<u>6.20%</u>	<u>2.90%</u>
Adjusted base energy cost per acre-foot	\$206.85	\$187.10	\$219.67	\$212.84
Acre-feet to be delivered	2,000	2,000	2,000	2,000
Total cost of water to be delivered	<u>\$413,700.00</u>	<u>\$374,200.00</u>	<u>\$439,340.00</u>	<u>\$425,680.00</u>

(assumed 5.8% CPI for 7/1/11 based on annual average increase of CPI over past 7 years)

<u>TOTAL COST OF WATER AND DELIVERY</u>				
	<u>7/1/2008</u>	<u>7/1/2009</u>	<u>7/1/2010</u>	<u>7/1/2011</u>
Total Purchase Price fo Water	\$2,126,599.20	\$2,232,885.60	\$2,344,399.20	\$2,461,140.00
Total Cost of Delivery of Water	<u>\$413,700.00</u>	<u>\$374,200.00</u>	<u>\$439,340.00</u>	<u>\$425,680.00</u>
	<u>\$2,540,299.20</u>	<u>\$2,607,085.60</u>	<u>\$2,783,739.20</u>	<u>\$2,886,820.00</u>
Acre-feet to be delivered	2,000	2,000	2,000	2,000
Total Cost Per Acre-Foot	<u>\$1,270</u>	<u>\$1,304</u>	<u>\$1,392</u>	<u>\$1,443</u>

DRAFT

TO: MICHAEL LEBRUN *ml*
INTERIM GENERAL MANAGER

FROM: PETER SEVCIK
DISTRICT ENGINEER

DATE: FEBRUARY 17, 2011

AGENDA ITEM
E-2
FEBRUARY 23, 2011

EXTENSION OF TRACT 2642 OUTSIDE USER AGREEMENT

ITEM

Consider request to extend term of Outside-User Agreement for Tract 2642, an eighteen (18) lot subdivision on South Oakglen Avenue [ADOPT RESOLUTION].

BACKGROUND

Tract 2642 is a proposed 18 lot residential subdivision on South Oakglen Avenue that is within the District's Sphere of Influence but outside of the District's current boundary. The project is being developed by Carl and Debra Holloway, the applicants.

Water for the project was allocated in Water Year 2006-2007 in the amount of 9.9 acre-feet.

Attached is a request from the applicant dated February 11, 2011 for a two (2) year time extension of the Outside User Agreement. If the Board approves the applicant's request, the applicant would have until March 15, 2013 to begin construction of the water and sewer improvements for the project.

The Outside User Agreement for Tract 2642 was approved by the District Board on February 28, 2007 and was subsequently approved by the Local Agency Formation Commission of San Luis County on March 15, 2007. Based on the LAFCO approval date, the agreement required the applicant to commence construction of water and sewer improvements by September 15, 2008 and allowed the applicant to request a six (6) month extension. In September 2008, the Board approved a six (6) month extension to March 15, 2009. In March 2009, the Board approved Amendment 1 to the agreement that extended the agreement to March 15, 2011.

The improvement plans have been reviewed by the District twice. Staff's understanding is that the project is also concurrently going through the County's subdivision map and plan review process.

FISCAL IMPACT

The Outside User Agreement requires the applicant to pay the District's current Water System Capacity Charges and meter fees as well as Sewer System Capacity Charges. The fee deposit is \$24,892 per 1 inch meter for each lot for a total of \$448,056 based on the current District fee schedule.

RECOMMENDATION

Staff recommends that your Honorable Board adopt the attached Resolution authorizing Amendment No. 2 to the Agreement for Providing Water, Sewer and Solid Waste Services to Tract 2642.

AGENDA ITEM E-2
February 23, 2011

ATTACHMENTS

- Request for Two Year Time Extension Dated February 11, 2011
- Amendment No. 2 to Agreement for Providing Water and Sewer Service to Tract 2642
- Resolution 2011-XXXX Holloway Outside User Agreement Extension 2

February 11, 2011

Michael LeBrun
Nipomo Community Services District
148 S. Wilson Street
Nipomo, CA 93444

**RE: Request for Two Year Time Extension on Outside User Agreement
Tract 2642, Oakglen Avenue, Nipomo**

Dear Mr. LeBrun,

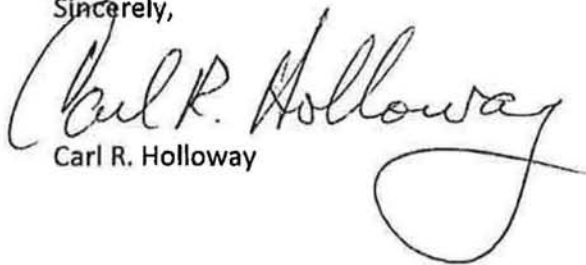
We would like to request a two year time extension on Tract 2642 Outside User Agreement which will expire on March 14, 2011. Our plans have been reviewed twice by the County and your office. The tentative map is approved until 2012 with three or four one year extensions available.

During your last review, there were minor changes needed and resolution of a looped water line. As Terry Orton (Westland Engineering) discussed with Peter Sevcik, there are different ways to resolve the issue.

Please accept this written request to you in order to be scheduled and heard at an NCSB Board Meeting. If you need additional information or have any questions, please contact Terry Orton, Westland Engineering, Inc. at 541-2394 or myself at 929-4326.

Thank you for your consideration of this request.

Sincerely,


Carl R. Holloway

RECEIVED
FEB 11 2011
NIPOMO COMMUNITY
SERVICES DISTRICT

**Recording Requested By and
When Recorded Return to:**

**Nipomo Community Services District
P.O. Box 326
Nipomo, California 93444**

APN# 091-171-005

091-171-027

091-171-028

091-171-029

**AMENDMENT NO. 2 TO
AGREEMENT FOR PROVIDING WATER, SEWER AND SOLID WASTE
SERVICE TO TRACT 2642**

Exhibit "A": Legal Description

THIS AMENDMENT TO AGREEMENT (herein "Amendment") is made this ____ day of _____, 2011, in San Luis Obispo County, California, by and between the Nipomo Community Services District, duly existing and operating pursuant to the provisions of Government Code Sections 61000, *et. seq.*, (hereinafter "District") and Carl Holloway and Debra Holloway, (hereinafter referred to as "Owners"), with reference to the following Recitals:

RECITALS

- A. Owner is the legal fees simple owner of certain real property located in San Luis Obispo County, California, referred to as Tract 2642 (herein "Property" or "Tract 2642), which is located off South Oakglen Avenue, Nipomo, California, and is more particularly described on Exhibit "A", attached hereto and incorporated herein by this reference.
- B. On March 1, 2007, the District and Owners entered into an Agreement titled "Agreement For Providing Water, Sewer and Solid Waste Service to Tract 2642 (herein "Agreement").
- C. The Agreement was recorded on April 6, 2007, in the Official Records of San Luis Obispo County as Document #2007023430.
- D. On March XX, 2009, the District and Owners entered into Amendment #1 to Agreement that amended Paragraph 9 of the Agreement to allow Owners a longer period of time for the construction of water and sewer improvements.

**AMENDMENT NO. 2 TO
AGREEMENT FOR PROVIDING WATER, SEWER AND SOLID WASTE
SERVICE TO TRACT 2642**

- E. District and Owners desire to amend Paragraph 9 of the Agreement to allow Owners a longer period of time for the construction of water and sewer improvements.

NOW, THEREFORE in consideration of the mutual covenants and conditions contained herein, the parties agree to the Second Amendment of the Agreement as follows:

Section 1

Except as amended by Section 2 below, the Terms and Conditions of the Agreement shall remain in full force and effect and such terms and conditions, including Exhibits, are incorporated herein by reference.

Section 2

Paragraph 9 of the Agreement is amended and restated as follows:

9. District's Right to Terminate.

Owner shall be in default, and District shall have the right to terminate this Agreement, if Owner fails:

- A. To make payments as required by this Agreement;
- B. To promptly design and construct the water and sewer improvements in accordance with District's rules, regulations, ordinances and the Plan Check and Inspection Agreement (Exhibit "B");
- C. To commence construction of water and sewer improvements by March 15, 2013; or
- D. To comply with any other terms or conditions of this Agreement.

District shall provide Owner with Notice of Termination and Owner shall have fifteen (15) days from the date of such Notice to cure the default. After the fifteen (15) day period to cure, the District may immediately terminate this Agreement and terminate District services to the Property.

Section 3

**AMENDMENT NO. 2 TO
AGREEMENT FOR PROVIDING WATER, SEWER AND SOLID WASTE
SERVICE TO TRACT 2642**

Owner and District consent to the recordation of this Amendment in the official records of the County Recorder of the County of San Luis Obispo.

Section 4

Recitals A, B, C and D to this Amendment are incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed this Amendment to the Agreement to be effective upon the date executed by District

OWNER:
CARL HOLLOWAY

OWNER:
DEBRA HOLLOWAY

By: _____
[Signature must be notarized]

By: _____
[Signature must be notarized]

NIPOMO COMMUNITY SERVICES DISTRICT

By: _____
JAMES HARRISON, PRESIDENT
Nipomo Community Services District
Board of Directors

Date: _____

ATTEST:

By: _____
MICHAEL LEBRUN, Interim General Manager and
Secretary to the Board of Directors,
Nipomo Community Services District

Date: _____

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2011-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
APPROVING AMENDMENT NO. 2 TO OUTSIDE USER AGREEMENT
FOR WATER, SEWER AND SOLID WASTE SERVICES TO TRACT 2642**

WHEREAS, the Nipomo Community Services District ("District") entered into an Agreement for Providing Water, Sewer and Solid Waste Service to Tract 2642 ("Agreement") on March 1, 2007, with Carl and Debra Holloway ("Owners"); and

WHEREAS, the District and Owners entered into Agreement Amendment #1 for Providing Water, Sewer and Solid Waste Service for Tract 2642 ("Amendment #1") to amend Paragraph 9 of the Agreement to allow Owners a longer period of time for the construction of water and sewer improvements; and

WHEREAS, the District and Owners desire to further amend Paragraph 9 of the Agreement to allow Owners a longer period of time for the construction of water and sewer improvements;

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

1. Amendment No. 2 to Agreement for Providing Water, Sewer and Solid Waste Service for Tract 2642, attached hereto as Exhibit "A", as amended, is hereby approved provided the applicant delivers to the District a fully signed Amendment within fifteen (15) calendar days from the date of the Hearing.
2. The above Recitals are true and correct and incorporated herein by reference.

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

AYES:
NOES:
ABSENT:
CONFLICTS:

the foregoing resolution is hereby adopted this 23rd day of February, 2011.

James Harrison
President, Board of Directors
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM

Michael LeBrun
Interim General Manager
and Secretary to the Board

Jon S. Seitz
District Legal Counsel

TO: MICHAEL LEBRUN *mejl*
INTERIM GENERAL MANAGER

FROM: PETER SEVCIK
DISTRICT ENGINEER

DATE: FEBRUARY 17, 2011

AGENDA ITEM

E-3

FEBRUARY 23, 2011

SERVICE REQUEST – CO 03-0301

ITEM

Consider request for water and sewer service (Intent-to-Serve Letter) for a commercial development at Sandydale Drive and North Frontage Road [RECOMMEND APPROVAL].

BACKGROUND

The District received an application for sewer and water service to CO 03-0301, APN 091-325-022, located at the corner of Sandydale Drive and North Frontage Road. The owner is Estate Financial Inc. and the owner's agent is Mel McColloch, Asset Logic Group. The application is for a three-lot subdivision of a parcel zoned commercial service that is not currently served with District water and sewer. The District has previously issued two (2) Intent-to-Serve letters for the Project since 2003 (the latest in December 2006), both of which have expired.

Commercial projects that submit a landscape plan consistent with best management practices are exempted from District Code Chapter 3.05, Water Service Limitations (annual allocation limits). The District accounts for commercial growth in water demand by reducing the reservation for residential projects by 5%. An irrigation plan, a plant material layout plan, a plant material list, and a hardscape plan, if there are any water features (such as fountains and swimming pools) included in the project, shall be submitted to the District for review and approval. Water demand for the project is estimated at 4.79 acre-feet per year.

FISCAL IMPACT

Water and sewer capacity fees will be based on the domestic meter size and irrigation meter size requested for the final County approved project as well as CAL FIRE's fire service requirements. Assuming a single 1 inch indoor use water service, a single 1 inch irrigation water service, a single 6 inch fire service and single sewer connection is sufficient for each parcel, the estimated fee deposit for each new parcel is \$173,045 for a total of \$519,135 based on the current District fee schedule.

RECOMMENDATION

The Applicant has complied with the District's requirements for an Intent-to-Serve letter application and therefore should be considered for approval with the following conditions:

- This Project shall obtain solid waste, sewer and water service for all parcels.
- Each new parcel shall be served by a single one inch meter for indoor use. Water meter capacity charges will be applicable.
- Each new parcel shall be served by a single one inch meter for outdoor use. Irrigation meter capacity charges will be applicable.
- Each new parcel shall be served by a single appropriately sized dedicated fire service lateral. CAL FIRE of SLO County must approve the development plans prior to District approval. Fire capacity charges will be applicable.

- Record a restriction on the property prohibiting the use of the any existing agricultural well(s) to provide indoor water service to any parcel within the Project.
- Comply with District water conservation program.
- Use of self-regenerating water softeners shall be prohibited.
- Pay all appropriate District fees associated with this development.
- Applicant shall provide the District with a copy of County application approval and County project conditions of approval.
- Enter into a Plan Check and Inspection Agreement and provide a deposit.
- Submit improvement plans in accordance with current District Standards and Specifications for review and approval.
- A sewer and water master plan review of project impacts shall be required. Applicant shall be required to install all master plan water and sewer facilities adjacent to project.
- Any easements required for water and sewer improvements that will be dedicated to the District shall be offered to the District prior to final improvement plan approval.
- An irrigation plan, a plant material layout plan, a plant material list (if not included in the plant material layout plan), and a hardscape plan, if there are any water features (such as fountains and swimming pools) included in the project, shall be submitted to the District for review and approval before the Will-Serve letter is issued.
- A Will-Serve letter for the Project will be issued after improvement plans are approved and signed by General Manager.
- Applicant shall make a non-refundable deposit ("Deposit") at the time the District issues a Will Serve Letter in an amount equal to the then calculated Fees for Connection.
- Fees for Connection shall be calculated and owing as of the date the District sets the water meter(s) to serve the affected property from which the amount of the Deposit shall be deducted.
- Construct the improvements required and submit the following:
 - Reproducible "As Builts" - A mylar copy and digital format disk (AutoCAD) which includes engineer, developer, tract number and water and sewer improvements
 - Offer of Dedication
 - Engineer's Certification
 - A summary of all water and sewer improvement costs
- The District will set water meter(s) upon proof of a building permit from the County of San Luis Obispo and provided that the District has accepted improvements to be dedicated to the District, if applicable.
- All water and sewer improvements to be dedicated to the District shall be bonded for or otherwise secured in the District's name.
- This letter is void if land use is other than commercial service.
- Intent-to-Serve letters shall automatically terminate on the first to occur:
 - Failure of the Applicant to provide District with written verification that County application for the Project has been deemed complete within two hundred forty (240) calendar days of the date the Intent-to-Serve Letter is issued; or
 - Three (3) years. However, Applicant shall be entitled to a one-year extension upon the following conditions:
 - Applicant makes written application for the extension prior to the expiration of the Intent-to-Serve Letter.
 - Applicant provides proof of reasonable due diligence in processing the Project.
 - Applicant agrees to revisions of the conditions contained in the Intent-to-Serve letter consistent with then existing District policies.
- This Intent-to-Serve letter shall be subject to the current and future rules, agreements, regulations, fees, resolutions and ordinances of the District.

AGENDA ITEM E-3

February 23, 2011

Page 3

- This Intent-to-Serve letter may be revoked, or amended, as a result of conditions imposed upon the District by a court or availability of resources, or by a change in ordinance, resolution, rules, fees or regulations adopted by the Board of Directors.
- The Applicant provide a signed copy of the Intent-to-Serve letter within thirty (30) days of issuance.

ATTACHMENTS

- Application dated November 19, 2010
- Proposed Site Plan

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\2011\110223 CO 03-0301 INTENT TO SERVE LETTER APPLICATION.doc



NIPOMO COMMUNITY SERVICES DISTRICT

148 SOUTH WILSON STREET
POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326
(805) 929-1133 FAX (805) 929-1932
Website: ncsd.ca.gov

Office use only:
Date and Time
RECEIVED
Complete
Application and
fees received:
NOV 19 2010

NIPOMO COMMUNITY SERVICES DISTRICT

INTENT-TO-SERVE APPLICATION

- This is an application for: Sewer and Water Service Water Service Only
- SLO County Planning Department/Tract or Development No.: TPM CO-03-0301
- Attach a copy of SLO County application.
Note: District Intent-to-Serve letters expire eight (8) months from date of issue, unless the project's County application is deemed complete.
- Project location: Sandydale Dr. + Frontage Rd.
- Assessor's Parcel Number (APN) of lot(s) to be served: 091-325-022
- Owner Name: Estate Financial, Inc.
- Mailing Address: 333 S. Grand Ave. Ste. 4070
- Email: msorenson@dsl.biz
- Phone: 213-617-2717 FAX: 213-617-2718
- Agent's Information (Architect or Engineer):
Name: Mel McCulloch - Agent for trustee
Address: 1540 Marsh St. Ste. 230 San Luis Obispo, Ca. 93401
Email: mmcculloch@yahoo.com
Phone: 805-459-0220 FAX: 805-543-1980

Call When Ready →

11. Type of Project: (check box) (see Page 3 for definitions)

<input type="checkbox"/> Single-family dwelling units	<input type="checkbox"/> Multi-family dwelling units
<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Mixed Use (Commercial and Residential)

12. Total Number of Dwelling Units 6 Number of Low Income Units 0

13. Does this project require a sub-division? Yes No
If yes, number of new lots created 3

14. Site Plan:
For projects requiring Board approval, submit six (6) standard size (24" x 36") copies and one reduced copy (8½" x 11"). Board approval is needed for the following:

- more than four dwelling units
- property requiring sub-divisions
- higher than currently permitted housing density
- commercial developments

All other projects, submit three (3) standard size (24" x 36") and one reduced copy (8½" x 11").

Show parcel layout, water and sewer laterals, and general off-site improvements, as applicable.

VL no Services

15. Water Demand Certification:

A completed Water Demand Certification, signed by project engineer/architect, must be included for all residential and the residential portion of mixed-use projects.

16. Commercial Projects Service Demand Estimates:

Provide an estimate of yearly water (AFY) and sewer (gallons) demand for the project prepared by a licensed Engineer/Architect. **Please note:** All commercial projects are required to use low water use irrigation systems and water conservation best management practices.

17. Agreement:

The Applicant agrees that in accordance with generally accepted construction practices, Applicant shall assume sole and complete responsibility for the condition of the job site during the course of the project, including the safety of persons and property; that this requirement shall apply continuously and not be limited to normal working hours; and the Applicant shall defend, indemnify, and hold the District and District's agents, employees and consultants harmless from any and all claims, demands, damages, costs, expenses (including attorney's fees) judgments or liabilities arising out of the performance or attempted performance of the work on this project; except those claims, demands, damages, costs, expenses (including attorney's fees) judgments or liabilities resulting from the negligence or willful misconduct of the District.

Nothing in the foregoing indemnity provision shall be construed to require Applicant to indemnify District against any responsibility or liability or contravention of Civil Code §2782

Application Processing Fee.....\$ 549³¹.....See Attached Fee Schedule

Date 11/19/10

Signed Mel McCulloch - Agent
(Must be signed by owner or owner's agent)

Print Name Mel McCulloch

TO: BOARD OF DIRECTORS
FROM: MICHAEL LEBRUN *msl*
INTERIM GENERAL MANAGER
DATE: FEBRUARY 18, 2011



BOARD BY-LAWS REVIEW AND APPROVAL

ITEM

Board By-Laws Review and Approval Including Director Compensation and Reimbursement [RECOMMEND REVIEW BY-LAW DRAFT CHANGES AND APPROVE OR DIRECT STAFF]

BACKGROUND

Pursuant to Section 17 of the Board By-Laws, the Board By-Laws Policy shall be reviewed annually at the first regular meeting in February. The review shall be provided by District Counsel and ratified by Board action.

The Board of Directors reviewed the By-Laws on at the February 9, 2011 Regular Meeting and directed staff to prepare the proposed edits. Attached are the Board By-Laws and Policies, with edits shown, for your review.

RECOMMENDATION

Staff recommends that your Honorable Board review the By-Laws, and adopt the attached Resolution approving the revised By-Laws or direct staff.

ATTACHMENT

- 2011 By-laws with proposed edits
- NCSD 2011 By-Laws Research
- Draft Resolution

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NIPOMO COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTOR
20110 UPDATE
BOARD BY-LAWS AND POLICIES
(ATTACHMENT "A" TO RESOLUTION 20110-xxx)

1. OFFICERS OF THE BOARD OF DIRECTORS

- 1.1 The officers of the Board of Directors are the President and Vice President.
- 1.2 The President of the Board of Directors shall serve as chairperson at all Board meetings. He/She shall have the same rights as the other Directors of the Board in voting, introducing motions, resolutions and ordinances, and any discussion of questions that follow said actions.
- 1.3 In the absence of the President, the Vice President of the Board of Directors shall serve as chairperson over all meetings of the Board. If the President and Vice President of the Board are both absent, the remaining Directors present shall select one of themselves to act as chairperson of the meeting.
- 1.4 The President and Vice President of the Board shall be elected annually at the last ~~regular~~ meeting of each calendar year.
- 1.5 The term of office for the President and Vice President of the Board shall commence on January 1 of the year immediately following their election.
- 1.6 The President, and in his/her absence the Vice President or their designee, are authorized to attend meetings of the San Luis Obispo County Planning Commission and meetings of the San Luis Obispo County Board of Supervisors without compensation except reimbursement for use of his/her private vehicle to attend such meetings pursuant to 10.1(b) of these by-laws.

2. MEETINGS

- 2.1 Subject to holiday and scheduling conflicts, regular meetings of the Board of Directors shall commence at 9:00 a.m. on the second and fourth Wednesday of each calendar month in the Board Room at the District Office located at 148 South Wilson, Nipomo, CA. The Board of Directors reserves the right to cancel and/or designate other dates, places, and times for Director meetings due to scheduling conflicts and holidays.

2.2 Special Meetings.

Special meetings may be called by the President or three (3) Directors with a minimum of twenty-four (24) hours public notice. Special meeting agenda shall be prepared and distributed pursuant to the procedures of the Brown Act by the General Manager or the Assistant General Manager in consultation with the President or in his or her absence, the Vice President or those Directors calling the meeting.

NIPOMO COMMUNITY SERVICES DISTRICT

BOARD BY-LAWS AND POLICIES

~~2010~~ 2011 UPDATE

PAGE 2

(ATTACHMENT "A" TO RESOLUTION ~~2010~~2011-xxx)

- 2.3** Directors shall attend all regular and special meetings of the Board unless there is good cause for absence.
- 2.4** No action or discussion may be taken on an item not on the posted agenda; provided, however, matters deemed to be emergencies or of an urgent nature may be added to the agenda under the procedures of the Brown Act. Pursuant to the Brown Act:
- (a)** Directors may briefly respond to statements or questions from the public;
 - (b)** Directors may, on their own initiative or in response to public questions, ask questions for clarification, provide references to staff or other resources for factual information, or request staff to report back at a subsequent meeting;
 - (c)** The Board may take action to direct the General Manager to place a matter on a future agenda;
 - (d)** Directors may make brief announcements or make a brief report on his/her own activities under the Director Comment portion of the Agenda.
- 2.5** The President, or in his/her absence the Vice President, shall be the presiding officer at District Board meetings. He/She shall conduct all meetings in a manner consistent with the policies of the District. He/She shall determine the order in which agenda items shall be considered for discussion and/or actions taken by the Board. He/She shall vote on all questions and on roll call votes his/her name shall be called last.
- 2.6** Three (3) Directors of the Board shall constitute a quorum for the transaction of business. When a quorum is lacking for a regular, adjourned, or special meeting, the President, Vice President, or any Director shall adjourn such meeting; or, if no Director is present, the District Secretary shall adjourn the meeting.
- 2.7** Except as otherwise specifically provided by law, a majority vote of the total membership of the Board of Directors is required for the Board of Directors to take action.
- 2.8** A roll call vote shall be taken upon the passage of all ordinances and resolutions, and shall be entered in the minutes of the Board, showing those Directors voting aye, those voting no, those abstaining, those not voting because of a conflict of interest, and absent. A roll call vote shall be taken and recorded on any motion not passed unanimously by the Board. Silence shall be recorded as an affirmative vote.
- 2.9** Votes of abstention shall be counted as a no vote.
- 2.10** Any person attending a meeting of the Board of Directors may record the proceedings with an audio or video tape recorder or a still or motion picture

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BOARD BY-LAWS AND POLICIES
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camera in the absence of a reasonable finding that the recording cannot continue without disruptive noise, illumination, or obstruction of view that constitutes or would constitute a disruption of the proceedings.

- 2.11 All video tape recorders, still and/or motion picture cameras shall remain stationary and shall be located and operated from behind the public speakers podium once the meeting begins. The President retains the discretion to alter these guidelines, including the authority to require that all video tape recorders, still and/or motion picture cameras be located in the back of the room.

3. AGENDAS

- 3.1. The General Manager, in cooperation with the Board President, shall prepare the agenda for each regular and special meeting of the Board of Directors. Any Director may call the General Manager and request an item to be placed on the regular meeting agenda no later than 4:30 p.m. twelve calendar days prior to the meeting date. Such a request must be also submitted in writing either at the time of communication with the General Manager or delivered to the office within the next working day.

- 3.2 The following applies to reconsideration of prior Board actions.

- (a) After the passage of 9 months from the effective date of the motion, resolution, or ordinance, the matter may be placed on the agenda pursuant to Section 3.1, above, or other provisions of the Brown Act.
- (b) Prior to the passage of 9 months, any member of the Board of Directors or the General Manager may request the Board of Directors, by motion, to agree to reconsider a prior Board action at a subsequent meeting of the Board.
- (c) The President of the Board of Directors, upon a determination that there is a need to take immediate action, may place an item on the agenda for reconsideration.

- 3.3 ~~A block of 20 minutes time shall be set aside to receive general public comment. Comments on agendized items should be held until the appropriate item is called. Unless otherwise directed by the President, public comment shall be presented from the podium. The person giving public comment shall state his/her name and whether or not he/she lives within the District boundary prior to giving his/her comment. Public comment shall be directed to the President of the Board and limited to three minutes unless extended or shortened by the President at his/her discretion.~~

- 3.3 Subject to the following rules, a block of 20 minutes is set aside for each agenda item for public comment, including general public comment:

- (a) Comments on agendized items should be held until the appropriate item is called.

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BOARD BY-LAWS AND POLICIES
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- (b) Unless otherwise directed by the President, public comment shall be presented from the podium.
- (c) The person giving public comment shall state his/her name and whether or not he/she lives within the District boundary prior to giving his/her comment. Public comment shall be directed to the President of the Board.
- (d) The President, after consideration of the length of the Agenda, the nature of the Agenda item, and the meeting limitations, may expand or further limit the 20 minute time allocation for public comment.
- (e) Each public commenter shall be limited to 3 minutes unless shortened or extended by the President with consideration of the length of the Agenda, the nature of the Agenda item, and the meeting limitations.

3.4 Those items on the District Agenda which are considered to be of a routine and non-controversial nature are placed on the "Consent Agenda". These items shall be approved, adopted, and accepted, etc. by one motion of the Board of Directors; for example, approval of Minutes, approval of Warrants, various Resolutions accepting developer improvements, minor budgetary items, status reports, and routine District operations.

- (a) Directors may request that any item listed under "Consent Agenda" be removed from the "Consent Agenda", and the Board will then take action separately on that item. Members of the public will be given an opportunity to comment on the "Consent Agenda"; however, only a member of the Board of Directors can remove an item from the "Consent Agenda". Items which are removed ("pulled") by Directors of the Board for discussion will typically be heard after other "Consent Agenda" items are approved unless ~~a majority of the Board~~ the President chooses an earlier or later time.
- (b) A Director may ask questions on any item on the "Consent Agenda". When a Director has a minor question for clarification concerning a consent item which will not involve extended discussion, the item may be discussed for clarification and the questions will be addressed along with the rest of the "Consent Agenda". Directors are encouraged to seek clarifications prior to the meeting if possible.
- (c) When a Director wishes to consider/"pull" an item simply to register a dissenting vote, an abstention or conflict of interest, the Director shall inform the presiding officer that he/she wishes to register a dissenting vote, an abstention or conflict of interest, on a particular item without discussion. The item will be handled

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along with the rest of the Consent Agenda, and the District Secretary shall register a "no" vote, an abstention or conflict of interest, in the minutes on the item identified by the Director.

4. PREPARATION OF MINUTES AND MAINTENANCE OF RECORDINGS

- 4.1 The minutes of the Board shall be kept by the District Secretary and shall be neatly produced and kept in a file for that purpose, with a record of each particular type of business transacted set off in paragraphs with proper subheads;
- 4.2 The minutes of the Board of Directors shall record the aye and no votes taken by the members of the Board of Directors for the passage or denial of all ordinances, resolutions or motions.
- 4.3 The District Secretary shall be required to make a record only of such business as was actually considered by a vote of the Board and, except as provided in Sections 4.4 and 4.6 below, shall not be required to record any remarks of Directors or any other person;
- 4.4 The District Secretary shall attempt to record the names and general place of residence of persons addressing the Board during general public comment.
- 4.5 Any Director may request for inclusion into the minutes brief comments pertinent to an agenda item, only at the meeting in which the item is discussed. In addition, the minutes shall include the names of speakers who provided public comment on each agenda item and a summary of the Directors' reports. Materials submitted with such comments shall be appended to the minutes at the request of the General Manager, District Counsel, the Board President, or any Director.
- 4.6 Whenever the Board acts in a quasi-judicial proceeding such as in assessment matters, the District Secretary shall compile a summary of the testimony of the witnesses.
- 4.7 Any recording of a District meeting made for whatever purpose at the direction of the District shall be subject to inspection pursuant to the California Public Records Act. Consistent with Government Code Section 54953.5(b), the District will maintain the recordings for a 30-day period after the recording. During the 30-day period, the District will provide, without charge, the necessary equipment for inspection of said recordings at the District Office during regular business hours. In addition to the 30-day requirement, the District will attempt to maintain the recordings, without legal obligation to do so, for a minimum of 5 years after the date of the recording. However, during this extended period, the District may not be able to provide the necessary equipment to facilitate inspections.

5. DIRECTORS

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- 5.1 Directors shall prepare themselves to discuss agenda items at meetings of the Board of Directors. Directors are encouraged to seek clarification prior to the meeting, if possible.
- 5.2 Members of the Board of Directors shall exercise their independent judgment on behalf of the interest of the entire District, including the residents, property owners and the public as a whole.
- 5.3 Information may be requested from staff ~~or exchanged between Directors~~ before meetings, within such limitations as required by the Brown Act. Information that is requested ~~or exchanged~~ shall be distributed through the General Manager, and all Directors will receive a copy of all information being distributed.
- 5.4 Directors shall at all times conduct themselves with courtesy to each other, to staff and to members of the audience present at Board meetings.
- 5.5 Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and opinions, but without being disagreeable. Once the Board of Directors takes action, dissenting Directors should not create barriers to the implementation of said action.
- 5.6 Pursuant to §54952.2 of the Brown Act:
- (a) Except during an open and public meeting, a majority of the Board of Directors shall not use a series of communications of any kind, directly or thru intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the District. ~~the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the Directors to develop a collective concurrence as to action to be taken on an item by the Board of Directors is prohibited.~~
- (b) Subsection (a) above shall not be construed ~~5.7 Section 5.6 shall not be construed~~ as preventing District management staff from engaging in separate conversations or communications with members of the District Board of Directors in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the District, so long as that management staff person does not communicate to members of the Board of Directors the comments or positions of any other member or members of the Board of Directors.
- 5.7 5-8 Directors shall not be prohibited by action of the Board of Directors from citing his or her District affiliation or title in any endorsement or publication, so long as no misrepresentation is made, or implied, about the District's position on the issue.

6. **AUTHORITY OF DIRECTORS**

- 6.1 The Board of Directors is the unit of authority within the District. Apart from his/her normal function as a part of this unit, Directors have no individual

authority. As individuals, Directors may not commit the District to any policy, act or expenditure.

- 6.2 Directors do not represent any fractional segment of the ~~community~~ District but are, rather, a part of the body which represents and acts for the ~~community~~ District as a whole.
- 6.3 The primary responsibility of the Board of Directors is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are to be delegated to professional staff members of the District.

7. **AUTHORITY OF THE GENERAL MANAGER**

Pursuant to Government Code §61051, the General Manager shall be responsible for all of the following:

- 7.1. The implementation of the policies established by the Board of Directors for the operation of the District.
- 7.2 The appointment, supervision, discipline, and dismissal of the District's employees, consistent with the employee relations system established by the Board of Directors.
- 7.3 The supervision of the District's facilities and services.
- 7.4 The supervision of the District's finances.

8. **DIRECTOR GUIDELINES**

- 8.1 Directors, by making a request to the General Manager or Assistant General Manager, shall have access to information relative to the operation of the District, including but not limited to statistical information, information serving as the basis for certain actions of Staff, justification for Staff recommendations, etc. If the General Manager or the Assistant General Manager cannot timely provide the requested information by reason of information deficiency, or major interruption in work schedules, work loads, and priorities, then the General Manager or Assistant General Manager shall inform the individual Director why the information is not or cannot be made available.
- 8.2 In handling complaints from residents or property owners within the District, or other members of the public, Directors are encouraged to listen carefully to the concerns, but the complaint should be referred to the General Manager for processing and the District's response, if any.
- 8.3 Directors, when seeking clarification of policy-related concerns, especially those involving personnel, legal action, land acquisition and development, finances, and programming, should refer said concerns directly to the General Manager.
- 8.4 When approached by District personnel concerning specific District policy, Directors should direct inquiries to the General Manager or Assistant General

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Manager. The chain of command should be followed. If a Director concludes that a personnel issue is not being adequately addressed in this manner, he/she should refer it to the Board's personnel committee for further consideration, in accordance with District Personnel Policy.

- 8.5 Directors and General Manager should develop a working relationship so that current issues, concerns and District projects can be discussed comfortably and openly.
- 8.6 When responding to constituent request and concerns, Directors should respond to individuals in a positive manner and route their questions to the General Manager, or in his/her absence, to the Assistant General Manager.
- 8.7 Directors are responsible for monitoring the District's progress in attaining its goals and objectives, while pursuing its mission.

9. DIRECTOR COMPENSATION

9.1 Each Director is authorized to receive one hundred dollars (\$100.00) as compensation for each regular, adjourned or special meeting of the Board of Directors attended by him/her.

9.2 Each Director appointed to a committee is authorized to receive one hundred dollars (\$100) as compensation for each public meeting of a standing committee. ~~or ad hoc committee attended by him/her.~~

~~9.3 Each Director appointed to an ad hoc committee is authorized to receive seventy-five dollars (\$75.00) as compensation for each ad hoc committee meeting attended by him/her.~~

~~9.4~~ 9.4 Each Director is authorized to receive one hundred dollars (\$100) per day as compensation for representation of the District at a public meeting or public hearing conducted by another public agency and/or participation in a training program on a topic that is directly related to the District, provided the Board of Directors has previously approved the member's participation and the member delivers a written report to the Board of Directors at the District's next regular meeting regarding the member's participation.

OPTIONAL/DISCUSSION ONLY

~~9.5 The following training programs are authorized/approved for Director compensation~~

~~(a) Ethics Training as required by Gov't. Code §53235~~

~~(b) New Director orientation program provided by District~~

~~(c) New Director orientation provided by the Local Chapter of Special Districts Association~~

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~~(d) One California Special Districts Seminar/Educational Program, per year, sponsored by the California Special Districts Association~~

9.56 In no event shall Director compensation exceed \$100 per day.

9.67 Director compensation shall not exceed six full days in any one calendar month.

10. DIRECTOR REIMBURSEMENT

~~10.1 Subject to the following rules and budgetary limitations, each Director is entitled to reimbursement for their for their actual and necessary expenses, (including the cost of programs and seminars) for his/her attendance at programs, conferences, and seminars that are related to District functions and/or Director development.
10.1 Each Director is entitled to reimbursement for their actual and necessary expenses, including the cost of programs and seminars, incurred in the performance of the duties required or authorized by the Board.~~

(a) It is the policy of the District to exercise prudence with respect to hotel/motel accommodations. It is also the policy of the District for Directors and staff to stay at the main hotel/motel location of a conference, seminar, or class to gain maximum participation and advantage of interaction with others whenever possible.

If lodging is in connection with a conference or organized education activity, lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of the Board of Directors at the time of booking. If the group rate is not available, the Director shall use lodging that is comparable with the group rate. Personal phone calls, room service, and other discretionary expenditures are not reimbursable.

(b) Members of the Board of Directors shall use government and group rates offered by a provider of transportation for travel when available. Directors, using his/her private vehicle on District business, shall be compensated at the prevailing IRS per diem mileage rate.

(c) Any Director traveling on District business shall receive in addition to transportation and lodging expenses, a per diem allowance to cover ordinary expenses such as meals, refreshments and tips. The amount set for per diem shall be considered fair reimbursement. The per diem shall include \$10.00 for breakfast, \$15.00 for lunch and \$30.00 for dinner, for a daily total of \$55.00.

(d) All travel and other expenses for District business, conferences, or seminars outside of the State of California shall require separate

Board authorization, with specific accountability as to how the District shall benefit by such expenditure.

- 10.2 All expenses that do not fall within the reimbursement policy set forth in 10.1, above, shall be approved by the Board of Directors, at a public meeting, before the expense is incurred.
- 10.3 Board members shall submit an expense report on the District form within ten (10) calendar days after incurring the expense. The expense report shall be accompanied by receipts documenting each expense, ~~except for per diem allowances.~~ Expense reports for mileage, as referenced in Section 10.1(b), shall be submitted no later than the end of each quarter (March, June, September and December).
- 10.4 Members of the Board of Directors shall provide brief reports on the program, conferences, and seminars attended at the expense of the District at the next regular meeting of the Board of Directors. ~~meetings attended at the expense of the District at the next regular meeting of the Board of Directors.~~

11 ETHICS TRAINING

11.1 Pursuant to sections 53234 et seq. of the Government Code all Directors and designated District personnel shall receive at least 2 hours of ethics training every two years.

11.2 Each newly elected Board Member and designated District personnel shall receive ethics training no later than one year from the first day of service with the District and thereafter shall receive ethics training at least once every two years.

1112. COMMITTEES

1112.1 Ad Hoc Committees

The Board President shall appoint such ad hoc committees as may be deemed necessary or advisable by himself/herself and/or the Board. The duties of the ad hoc committees shall be outlined at the time of appointment, and the committee shall be considered dissolved when its final report has been made.

1112.2 Standing Committees

(a) The Board may create standing committees at its discretion. Standing committees shall be advisory committees to the Board of Directors and shall not commit the District to any policy, act or expenditure. Each standing committee may consider District-related issues, on a continuing basis, assigned to it by the Board of Directors. Members of the standing committees shall be appointed by the Board of Directors.

(b) All standing committee meetings shall be conducted as public meetings in accordance with the Brown Act and Sections 2, 3 and

4 of these By-Laws. Summary notes for each meeting of each committee shall be forwarded to the NCS D Board of Directors as a public record.

1213. CORRESPONDENCE DISTRIBUTION POLICY

Time permitting, the following letters and other documents shall be accumulated and delivered to the Board of Directors on Monday of each week and/or with agenda packet.

1213.1 All letters approved by the Board of Directors and/or signed by the President on behalf of the District; and

1213.2 All letters and other documents received by the District that are of District-wide concern, as determined by District staff.

1314. CONFLICTS AND RELATED POLICY

State laws are in place which attempt to eliminate any action by a Director or the District which may reflect a conflict of interest. The purpose of such laws and regulations is to insure that all actions are taken in the public interest. Laws which regulate conflicts are very complicated. The following provides a brief policy summary of various conflict related laws. Directors are encouraged to consult with District Legal Counsel and/or the FPPC at 1-800-ASK-FPPC (1-800-275-3772), prior to the day of the meeting, if they have questions about a particular agenda item.

1314.1 Conflict of Interest

Each Director is encouraged to review the District Conflict Code on an annual basis. The general rule is that an official may not participate in the making of a governmental decision if it is: reasonably foreseeable that the decision will have a material financial effect on the official or a member of his or her immediate family or on an economic interest of the official, and the effect is distinguishable from the effect on the public generally. Additionally, the FPPC regulations relating to interests in real property have recently been changed. If the real property in which the Director has an interest is located within 500 feet of the boundaries of the property affected by decision, that interest is now deemed to be directly involved in the decision.

1314.2 Interest in Contracts, Government Code Section 1090

The prohibitions of Government Code Section 1090 provide that the Board of Directors may not contract with any business in which another Director has a financial interest.

1314.3 Incompatible Office, Government Code Section 1099

The basic rule is that public policy requires that when the duties of two offices are repugnant or overlap so that their exercise may require contradictory or inconsistent action, to the detriment to the other public interest, their discharge by

one person is incompatible with that interest. When a Director is sworn in for such a second office, he/she is simultaneously terminated from holding the first office.

1415. EVALUATION OF CONSULTANTS

The District's legal counsel shall be evaluated by the Board of Directors annually during the months of May and June of each year.

1516. CONTINUING EDUCATION

Directors are encouraged to attend educational conferences and professional meetings when the purposes of such activities are to improve District operation. Subject to budgetary constraints, there is no limit to the number of Directors attending a particular conference or seminar when it is apparent that their attendance is beneficial to the District.

1617. BOARD BY-LAWS REVIEW POLICY

Subject to 3.1 the Board By-Laws and Policies shall be reviewed annually at the first regular meeting in February. The review shall be provided by District Counsel and ratified by Board action.

1718. RESTRICTIONS ON RULESBY-LAWS

The rules contained herein shall govern the Board in all cases to which they are applicable, and in which they are not inconsistent with State or Federal laws.

NCSD 2011 BY-LAWS

RESEARCH

GOVERNMENT CODE

Division 3. Community Services Districts

§ 61000. Short title This division shall be known and may be cited as the Community Services District Law.

Chapter 3. Board Of Directors

§ 61047. Compensation; expenses

- (a) The board of directors may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for each day of service. A member of the board of directors shall not receive compensation for more than six days of service in a month.**
- (b) The board of directors, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation that may be received by members of the board of directors.**
- (c) The board of directors may provide, by ordinance or resolution, that its members may receive their actual and necessary traveling and incidental expenses incurred while on official business. Reimbursement for these expenses is subject**

to Sections 53232.2 and 53232.3. (SEE BELOW PAGE)

(d) A member of the board of directors may waive any or all of the payments permitted by this section.

(e) For the purposes of this section, a "day of service" means any of the following:

(1) A meeting conducted pursuant to the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

(2) Representation of the district at a public event, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and that the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the public event.

(3) Representation of the district at a public meeting or a public hearing conducted by another public agency, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and that the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the public meeting or public hearing.

(4) Representation of the district at a meeting of a public benefit nonprofit corporation on whose board the district has membership, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the corporation's meeting.

(5) Participation in a training program on a topic that is directly related to the district, provided that the board of directors has previously approved the member's participation at a board of directors' meeting, and that the member delivers a written report to the board of directors regarding the member's participation at the next board of directors' meeting following the training program.

Title 5. Local Agencies

Part 1. Powers And Duties Common To Cities, Counties, And Other Agencies

Chapter 2. Officers And Employees

Article 2.3. Compensation

§ 53232.1. Local agencies; compensation of legislative body members for attendance at specified occurrences; compensation for other occasions; application to salaried members

(a) When compensation is otherwise authorized by statute, a local agency may pay compensation to members of a legislative body for attendance at the following occurrences:

- (1) A meeting of the legislative body.
- (2) A meeting of an advisory body.
- (3) A conference or organized educational activity conducted in compliance with subdivision (c) of Section 54952.2, including, but not limited to, ethics training required by Article 2.4 (commencing with Section 53234).

(b) A local agency may pay compensation for attendance at occurrences not specified in subdivision (a) only if the governing body has adopted, in a public meeting, a written

policy specifying other types of occasions that constitute the performance of official duties for which a member of the legislative body may receive payment.

(c) This section shall not apply to any local agency that pays compensation in the form of a salary to members of a legislative body, including, but not limited to, those local agencies whose legislative bodies' compensation is subject to Section 36516 or 36516.1, subparagraph (B) or (C) of paragraph (2) of subdivision (a) of Section 21166 or Section 22840 of the Water Code, Section 11908.1 of the Public Utilities Code, Section 6060 of the Harbors and Navigation Code, or subdivision (b) of Section 1 or Section 5 of Article XI of the California Constitution.

§ 53232.2. Local agencies; reimbursement of members of legislative body for expenses incurred in performance of official duties; written policy; reimbursement rates; costs incurred at own expense (a) When reimbursement is

otherwise authorized by statute, a local agency may reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties, including, but not limited to, activities described in Article 2.4 (commencing with Section 53234).

(b) If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then the governing body shall adopt a written policy, in a public meeting, specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses.

(c) The policy described in subdivision (b) may also specify the reasonable reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses. If it does not, the local agency shall use the Internal Revenue Service rates for reimbursement of travel, meals, lodging, and other actual and necessary expenses as established in Publication 463, or any

successor publication.

(d) If the lodging is in connection with a conference or organized educational activity conducted in compliance with subdivision (c) of Section 54952.2, including, but not limited to, ethics training required by Article 2.4 (commencing with Section 53234), lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of a legislative body at the time of booking. If the group rate is not available, the member of a legislative body shall use comparable lodging that is consistent with the requirements of subdivisions (c) and (e).

(e) Members of the legislative body shall use government and group rates offered by a provider of transportation or lodging services for travel and lodging when available.

(f) All expenses that do not fall within the adopted travel reimbursement policy or the Internal Revenue Service reimbursable rates as provided in subdivision (c), shall be approved by the governing body, in a public meeting before the expense is incurred, except as provided in subdivision (d).

(g) If a member of a legislative body chooses to incur additional costs that are above the rates established pursuant to this section and those costs have not been approved pursuant to subdivision (f), then the member of a legislative body may do so at his or her own expense.

(h) This section shall not supersede any other laws establishing reimbursement rates for local agencies.

§ 53232.3. Expense report forms (a) If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then a local agency shall provide expense report forms to be filed by the members of the legislative body for reimbursement for actual and necessary expenses incurred on behalf of the local agency in the performance of official duties. Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel.

(b) Expense reports shall document that expenses meet the existing policy, adopted pursuant to Section 53232.2, for expenditure of public resources.

(c) Members of a legislative body shall submit expense reports within a reasonable time after incurring the expense, as determined by the legislative body, and the reports shall be accompanied by the receipts documenting each expense.

(d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

(e) All documents related to reimbursable agency expenditures are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

§ 53232.4. Penalties for misuse of public resources or falsifying expense reports Penalties for misuse of public resources or falsifying expense reports in violation of expense reporting polices ¹ may include, but are not limited to, the following:

(a) The loss of reimbursement privileges.

(b) Restitution to the local agency.

(c) Civil penalties for misuse of public resources pursuant to Section 8314.

(d) Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code.

Chapter 9. Meetings

§ 54950.5. Short title This chapter shall be known as the Ralph M. Brown Act.

§ 54952.2. Meeting; prohibited communications; exclusions from chapter

(a) As used in this chapter, "**meeting**" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

(b)(1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

(2) Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person that do not violate subdivision (b).

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of

the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

§ 54954.3. Opportunity for public to address legislative body; adoption of regulations; public criticism of policies

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the

subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

Article 2.4. Ethics Training

§ 53234. Definitions For the purposes of this article, the following terms have the following meanings:

(a) "Legislative body" has the same meaning as specified in

Section 54952.

(b) "Local agency" means a city, county, city and county, charter city, charter county, charter city and county, or special district.

(c) "Local agency official" means the following:

(1) Any member of a local agency legislative body or any elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties.

(2) Any employee designated by a local agency governing body to receive the training specified under this article.

(d) "Ethics laws" include, but are not limited to, the following:

(1) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.

(2) Laws relating to claiming perquisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.

(3) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.

(4) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

§ 53235. Ethics training for officials of local agencies that provide compensation, salary, stipend, or expense reimbursement to members of a legislative body

(a) If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides

reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive training in ethics pursuant to this article.

(b) Each local agency official shall receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service every two years.

(c) If any entity develops curricula to satisfy the requirements of this section, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding the sufficiency and accuracy of any proposed course content. When reviewing any proposed course content the Fair Political Practices Commission and the Attorney General shall not preclude an entity from also including local ethics policies in the curricula.

(d) A local agency or an association of local agencies may offer one or more training courses, or sets of self-study materials with tests, to meet the requirements of this section. These courses may be taken at home, in-person, or online.

(e) All providers of training courses to meet the requirements of this article shall provide participants with proof of participation to meet the requirements of Section 53235.2.

(f) A local agency shall provide information on training available to meet the requirements of this article to its local officials at least once annually.

§ 53235.1. Training timetable and frequency (a) Each local agency official in local agency service as of January 1, 2006, except for officials whose term of office ends before January 9, 2007, shall receive the training required by subdivision (a) of Section 53235 before January 1, 2007. Thereafter, each local agency official shall receive the training required by subdivision (a) of Section 53235 at least once every two years.

(b) Each local agency official who commences service with a local agency on or after January 1, 2006, shall receive the training required by subdivision (a) of Section 53235 no later than one year

from the first day of service with the local agency. Thereafter, each local agency official shall receive the training required by subdivision (a) of Section 53235 at least once every two years. (c) A local agency official who serves more than one local agency shall satisfy the requirements of this article once every two years without regard to the number of local agencies with which he or she serves.

§ 53235.2. Training records and contents; period to

maintain (a) A local agency that requires its local agency officials to complete the ethical training prescribed by this article shall maintain records indicating both of the following:

(1) The dates that local officials satisfied the requirements of this article.

(2) The entity that provided the training.

(b) Notwithstanding any other provision of law, a local agency shall maintain these records for at least five years after local officials receive the training. These records are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2011-xxx**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING AMENDED BOARD BY-LAWS AND POLICIES (2011)**

WHEREAS, the Board of Directors of Nipomo Community Services District (District) is committed to providing excellence in legislative leadership; and

WHEREAS, the District is a member of the Special District Risk Management Authority (**SDRMA**); and

WHEREAS, **SDRMA** has adopted a Credit Incentive Program whereby the District can receive a credit on insurance premiums for the annual review of Board Policies and Procedures (Board By-Laws and Policies); and

WHEREAS, Section 17 of the Board By-Laws and Policies provides for the annual review of the Board By-Laws and Policies by District Legal Counsel; and

WHEREAS, Government Code §§ 61045 and 61047 requires the Board of Directors to:

- A Rules or By-laws governing its proceedings;
- B Administrative Policies;
- C Director Compensation Policies; and
- D Director Reimbursement Policies; and .

WHEREAS, Government Code Section § 54954.3(b) provides in relevant part:

“The legislative body of a local agency may adopt reasonable regulations -----
-- limiting the total amount of time allocated for public testimony on particular
issues and for each individual speaker;” and

WHEREAS, **ON** February 9, 2011, District Legal Counsel did reviewed the District’s previously adopted Board By-Laws and Policies and the District Board of Directors instructed Staff to return with a revised version for Board adoption; and

WHEREAS, on February 23, 2011, the District conducted a public hearing and considered public comment regarding the adoption of the revised Board By-laws and Policies (2011 update).

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

1. The Nipomo Community Services District Board By-Laws and Policies (2011 update) attached hereto as Exhibit “A” are hereby approved and adopted.

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2011-xxx**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING AMENDED BOARD BY-LAWS AND POLICIES (2011)**

2. All prior Director By-Laws, Resolutions and Policies of the District that are inconsistent with the Board By-Laws and Polices (2011 update) attached hereto as Exhibit "A" are hereby repealed.

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

AYES: Directors
NOES: None
ABSENT: None
ABSTAIN: None

the foregoing resolution is hereby passed and adopted this 23rd day of February, 2011.

JAMES HARRISON,
President of the Board of Directors

ATTEST:

APPROVED:

Michael LeBrun General Manager and
Secretary to the Board

JON S. SEITZ
District Legal Counsel