

TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: MARCH 22, 2013

**AGENDA ITEM  
E-1  
MARCH 27, 2013**

**HEARING REGARDING PROPOSED RESOLUTION OF NECESSITY  
FOR THE ACQUISITION OF PERMANENT AND TEMPORARY  
INTERESTS FOR THE WATERLINE INTERTIE PROJECT  
DURLEY ASSESSOR'S PARCEL NUMBERS  
090-331-005, 006, 008 AND 090-341-019**

**ITEM**

Should the Board of Directors adopt the proposed Resolution of Necessity, declaring certain real property necessary for the Waterline Intertie Project ("Project") described on Exhibit "1" to this staff report, which is incorporated by this reference.

The owners set forth on Exhibit "1" have been given written notice of this hearing pursuant to statute.

[RECOMMENDATION – It is recommended that the Board of Directors open and conduct a hearing on the adoption of the proposed Resolution of Necessity, receive from staff the evidence stated and referred to herein, take testimony from the property owners or their representatives if they ask to be heard on issues A, B, C, and D set forth below, and consider all the evidence. If the Board of Directors finds, based on its consideration of this staff report and testimony submitted in connection thereto, the staff report and other materials submitted in connection with the District's certification of the EIR and the Addendum to the EIR for the Project, all other testimony that may be presented, and all other evidence and records pertaining to this matter, that the evidence warrants the necessary findings as to the proposed Resolutions of Necessity, then staff recommends that the Board of Directors, in the exercise of its discretion, adopt the Resolutions of Necessity and authorize and direct that eminent domain proceedings be filed to acquire the subject properties.]

**BACKGROUND**

The Board of Directors has before it a request from staff to consider adoption of a Resolution of Necessity regarding the taking of real property interests (consisting of a permanent pipeline easement and a temporary construction easement on the subject property) located within the Santa Maria Riverbed in San Luis Obispo County, just north of the boundary between San Luis Obispo County and Santa Barbara County, as more fully described in the accompanying Resolution of Necessity (Attachment A). The environmental impacts of the acquisitions described in the proposed Resolution of Necessity were considered in connection with the certification of the Environmental Impact Report and Addendum for the Project on April 22, 2009 and April 25, 2012, respectively. The proposed acquisitions are in furtherance of the Project.

~ Next Page ~

In order to adopt a Resolution of Necessity, the Board of Directors must, by vote of two-thirds or more of its members, find and determine that:

- A. The public interest and necessity require the project;
- B. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- C. The property is necessary for the proposed project; and
- D. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.

This hearing relates only to issues A, B, C, and D above as they may apply to the subject property. Any other issues, including value, are not proper subjects for this hearing. Staff recommends the following:

A. *The Public Interest and Necessity Require the Project.*

The Waterline Intertie Project ("Project") is a District project for the purpose of obtaining a supplement to its water supply from the City of Santa Maria. Pursuant to the stipulated agreement in the Santa Maria Groundwater Basin adjudication, the District is to purchase and transmit to the Nipomo Mesa Management Area (NMMA) 2,500 acre-feet of supplemental water each year. In furtherance of that requirement, the District entered into a Wholesale Water Supply Agreement with the City of Santa Maria ("Agreement") for the purchase of supplemental water. The Project and the Agreement will implement the District's obligations under the stipulated agreement in the groundwater adjudication.

The Project includes construction of a water pipeline beginning at a pipeline connection at the intersection of West Taylor Street and North Blosser Road approximately one mile south of the Santa Maria River in the City of Santa Maria. The District's pipeline will run north on Blosser Road to the Santa Maria River levee. The pipe will then be constructed under the levee towards the bank of the river through an agricultural area, then directionally drilled beneath the Santa Maria River to a point on the Nipomo Mesa. Connection will then be made to an existing District pipeline on Orchard Road.

Phase I of the Project will have a capacity to deliver 650 to 900 acre-feet of water per year. This will offset current District groundwater production in order to avoid further depletion and assist in balancing of groundwater levels of the Nipomo Mesa Management Area (NMMA). It will also reduce the potential for seawater intrusion on the Nipomo Mesa.

This acquisition of easements necessary for construction of the pipeline system for the Water Intertie Project is required in the public interest, in order to replenish groundwater supplies within the NMMA and to provide a more reliable water supply for the District's customers.

A map which generally depicts the proposed easement acquisitions is attached to this staff report as Exhibit "2".

B. *The Project is Planned and Located in the Manner That Will be Most Compatible With the Greatest Public Good and the Least Private Injury.*

The pipeline easements are described in the accompanying Resolution of Necessity. The property subject to this hearing is owned by Katherine P. Durley, Trustee. The property

consists of a total of 81.36 acres, and is located in the southern portion of the Santa Maria Riverbed, outside the recently active river channel. It is farmed with row crops. The District seeks to acquire a permanent easement of 0.32 acres, and a temporary construction easement of 1.65 acres. The District's pipeline will be placed below ground, at a depth that will allow the farming to continue within the permanent easement area. The District will replace or compensate the owner for any crops that are damaged during the construction.

The trajectory of the easements has been designed by the District's engineers to take up the smallest possible portion of the property.

*C. The Property is Necessary for the Project.*

The subject easements will be used for the construction of Phase 1 of the Project. The subject easements are important and integral to the Project improvements as planned, and are thus necessary for the overall Project. If the easements are not acquired, the District is unaware of other methods by which this important water supply may be delivered across the Santa Maria Riverbed.

*D. The Offer Required by Government Code Section 7267.2 Has Been Made to the Owners of Record.*

The District retained the appraisal firm of Reeder, Gilman & Associates in Santa Maria to prepare appraisals of the easements to be acquired. Reeder, Gilman prepared appraisals of the two properties in 2009 and 2011. The appraisals were recently updated with a date of value as of March 2013. Formal detailed offers have been provided to the property owner, including all of the pertinent appraisal data.

The offers have not resulted in a negotiated agreement of sale. The adoption of the Resolutions of Necessity will not terminate negotiations with the property owner. Negotiations will continue. The adoption of the Resolutions will allow the eminent domain process to commence, including securing rights of possession so that the District can timely commence construction this calendar year.

Adoption of a Resolution of Necessity requires approval by two-thirds or more of the members of the authorizing body. Therefore, to adopt the proposed Resolution, no fewer than four members of your Board must approve.

**FISCAL IMPACT**

Funds to cover the cost of acquiring easements for the project are included in the approved funding plan for the project and the District's 2012-2013 budget.

**STRATEGIC PLAN**

Strategic Plan Goal 1.2 – Secure New Water Supplies

**RECOMMENDATION**

If the Board of Directors finds, based on its consideration of this staff report and testimony submitted in connection thereto, the staff report and other materials submitted in connection with the District's certification of the EIR and the Addendum to the EIR for the Project, all other

testimony that may be presented, and all other evidence and records pertaining to this matter, that the evidence warrants the necessary findings as to the proposed Resolutions of Necessity, then staff recommends that the Board of Directors, in the exercise of its discretion, adopt the Resolution of Necessity and authorize and direct that eminent domain proceedings be filed to acquire the subject property.

**ATTACHMENTS**

- A. Resolution of Necessity 2013-XXXX DURLEY
- B. Exhibit 1 Property Description
- C. Exhibit 2 Property Depiction



MARCH 27, 2013

ITEM E-1

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2013-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DECLARING CERTAIN REAL PROPERTY NECESSARY FOR THE CONSTRUCTION OF THE WATERLINE INTERTIE PROJECT AND AUTHORIZING THE ACQUISITION THEREOF (KATHERINE P. DURLEY, TRUSTEE OF THE ANNIE PREISKER LIFE TRUST, APNS 090-331-005, 006, 008, and 090-341-019)**

**WHEREAS**, the Board of Directors of the Nipomo Community Services District does hereby find, determine, order and resolve as follows:

- A. The Nipomo Community Services District wishes to acquire certain parcels of real property described herein below for public use by the exercise of the power of eminent domain. The acquisition of such property is required to complete the construction and acquisition of improvements approved in connection with the Nipomo Community Services District Waterline Intertie Project ("the Project"). A general description of the Project is contained in the Staff Report dated March 27, 2013, and incorporated by reference.
- B. The Nipomo Community Services District previously certified an Environmental Impact Report for the Project on April 22, 2009 and also certified an Addendum to said Environmental Impact Report on April 25, 2012. The staff reports and other materials submitted at those hearings are incorporated by reference.
- C. Pursuant to Chapter 4, Title 7, Part 3 of the Code of Civil Procedure, written notice of the intent to consider the adoption of this resolution of necessity was sent on March 12, 2013 to the owners of record of the said property.
- D. Due consideration of all oral and documentary evidence introduced has been given;

**NOW THEREFORE, BY VOTE OF TWO-THIRDS OR MORE OF ITS MEMBERS, THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DOES FIND AND RESOLVE AS FOLLOWS:**

1. The findings and declarations contained in this resolution are based upon the record with respect to the Project before the Board of Directors at its hearing of March 27, 2013, the Staff Report dated March 27, 2013, and the hearings regarding the Environmental Impact Report, and the Addendum thereto of April 22, 2009 and April 25, 2012, the staff reports relating thereto dated April 22, 2009 and April 25, 2012, and the testimony, records and documents produced at all referenced hearings, all of which are incorporated by this reference;
2. The real property to be acquired consists of a permanent water pipeline easement and associated temporary construction easement, over and through that certain parcel of real property more specifically described in Exhibit "A," attached hereto and made a part hereof;
3. The said property is to be acquired as permanent and temporary construction easements for public waterline purposes, pursuant to the authority granted in California Constitution Article I Section 19; California Government Code Sections 61060 and 61100; Title 7, Part 3 of the Code of Civil Procedure; and other provisions of law;

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2013-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DECLARING CERTAIN REAL PROPERTY NECESSARY FOR THE CONSTRUCTION OF THE WATERLINE INTERTIE PROJECT AND AUTHORIZING THE ACQUISITION THEREOF (KATHERINE P. DURLEY, TRUSTEE OF THE ANNIE PREISKER LIFE TRUST, APNS 090-331-005, 006, 008, and 090-341-019)**

4. The public interest and necessity require the proposed project;
5. The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
6. The real property described herein is necessary for the proposed project; and
7. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.
8. The District's General Counsel, and/or counsel designated by the General Counsel, are hereby **AUTHORIZED AND EMPOWERED**:
  - a. To acquire in the Nipomo Community Services District's name, by condemnation, the said real property in accordance with the provisions of the eminent domain law, the Code of Civil Procedure and the Constitution of California;
  - b. To prepare and prosecute in the Nipomo Community Services District's name such proceedings in the proper court as are necessary for such acquisition; and
  - c. To deposit the probable amount of compensation, based on an appraisal, and to apply to said court for an order permitting the Nipomo Community Services District to take possession and use said property for said public uses and purposes.

**PASSED, APPROVED AND ADOPTED** by the Board of Directors of the Nipomo Community Services District this 27th day of March, 2013.

AYES:  
NOES:  
ABSENT:  
CONFLICT:

\_\_\_\_\_  
JAMES HARRISON,  
President, Board of Directors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MICHAEL S. LEBRUN  
Secretary to the Board

\_\_\_\_\_  
MICHAEL W. SEITZ  
Deputy District Legal Counsel

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MARCH 27, 2013

ITEM E-1

ATTACHMENT B



EXHIBIT 1

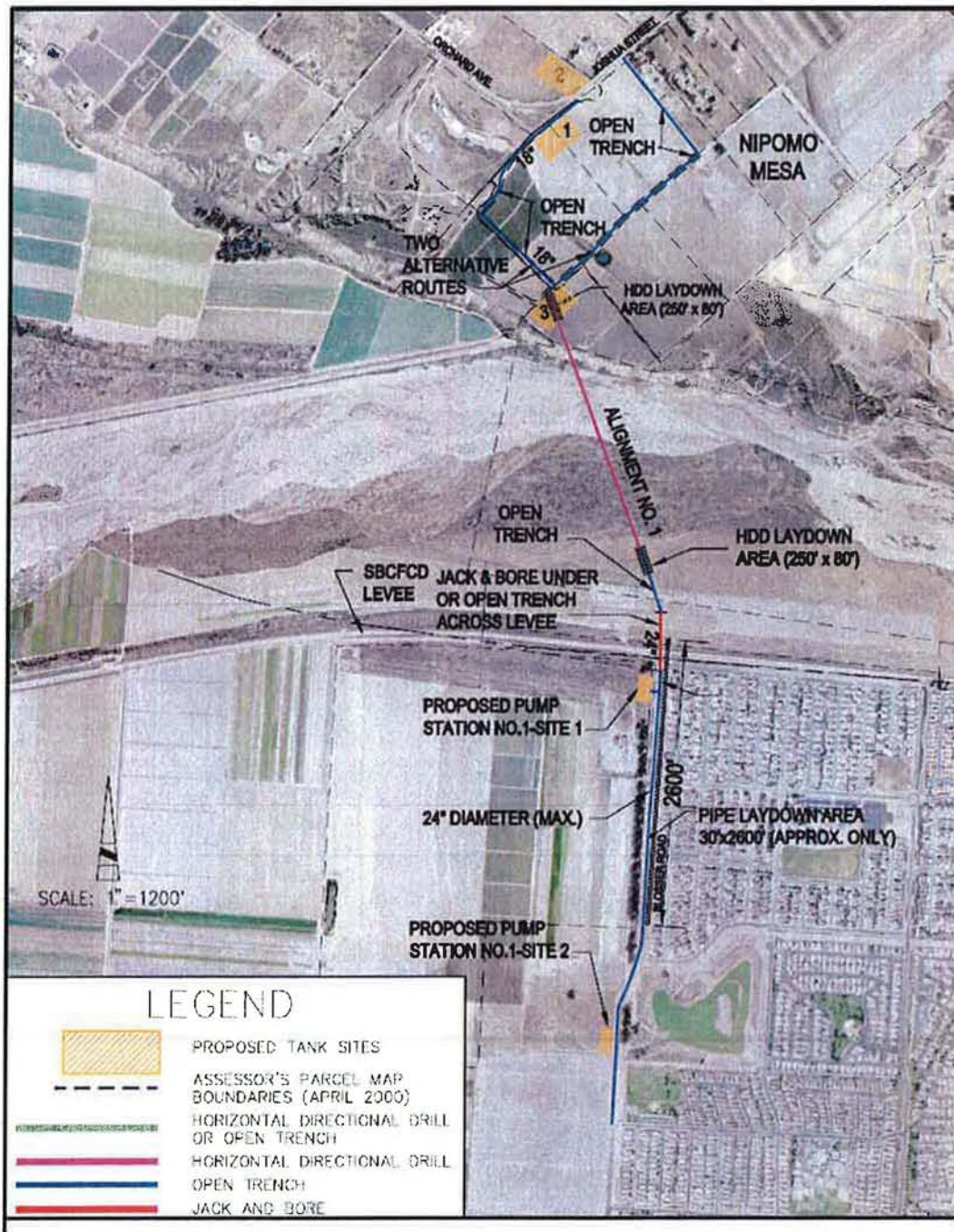
Resolution No.	Parcel Number	Name of Owner	Date of Offer
	090-331-005, 006, 008, and 090-341-019	Katherine P. Durley, Trustee of the Annie Preisker Life Trust	October 4, 2010 and March 8, 2013

MARCH 27, 2013

ITEM E-1

ATTACHMENT C

**FIGURE 6**  
Blosser Road Waterline



*NCSD Supplemental Water Project*



TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: MARCH 22, 2013

**AGENDA ITEM  
E-2  
MARCH 27, 2013**

**HEARING REGARDING PROPOSED RESOLUTION OF NECESSITY  
FOR THE ACQUISITION OF PERMANENT AND TEMPORARY  
INTERESTS FOR THE WATERLINE INTERTIE PROJECT  
TROESH ASSESSOR'S PARCEL NUMBERS  
090-341-002, 023, 033**

**ITEM**

Should the Board of Directors adopt the proposed Resolution of Necessity, declaring certain real property necessary for the Waterline Intertie Project ("Project") described on Exhibit "1" to this staff report, which is incorporated by this reference.

The owners set forth on Exhibit "1" have been given written notice of this hearing pursuant to statute.

[RECOMMENDATION – It is recommended that the Board of Directors open and conduct a hearing on the adoption of the proposed Resolution of Necessity, receive from staff the evidence stated and referred to herein, take testimony from the property owners or their representatives if they ask to be heard on issues A, B, C, and D set forth below, and consider all the evidence. If the Board of Directors finds, based on its consideration of this staff report and testimony submitted in connection thereto, the staff report and other materials submitted in connection with the District's certification of the EIR and the Addendum to the EIR for the Project, all other testimony that may be presented, and all other evidence and records pertaining to this matter, that the evidence warrants the necessary findings as to the proposed Resolutions of Necessity, then staff recommends that the Board of Directors, in the exercise of its discretion, adopt the Resolutions of Necessity and authorize and direct that eminent domain proceedings be filed to acquire the subject properties.]

**BACKGROUND**

The Board of Directors has before it a request from staff to consider adoption of a Resolution of Necessity regarding the taking of real property interests (consisting of a permanent pipeline easement and a temporary construction easement on the subject property) located within the Santa Maria Riverbed in San Luis Obispo County, just north of the boundary between San Luis Obispo County and Santa Barbara County, as more fully described in the accompanying Resolution of Necessity (Attachment A). The environmental impacts of the acquisitions described in the proposed Resolution of Necessity were considered in connection with the certification of the Environmental Impact Report and Addendum for the Project on April 22, 2009 and April 25, 2012, respectively. The proposed acquisitions are in furtherance of the Project.

~ Next Page ~



In order to adopt a Resolution of Necessity, the Board of Directors must, by vote of two-thirds or more of its members, find and determine that:

- A. The public interest and necessity require the project;
- B. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- C. The property is necessary for the proposed project; and
- D. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.

This hearing relates only to issues A, B, C, and D above as they may apply to the subject property. Any other issues, including value, are not proper subjects for this hearing. Staff recommends the following:

A. *The Public Interest and Necessity Require the Project.*

The Waterline Intertie Project ("Project") is a District project for the purpose of obtaining a supplement to its water supply from the City of Santa Maria. Pursuant to the stipulated agreement in the Santa Maria Groundwater Basin adjudication, the District is to purchase and transmit to the Nipomo Mesa Management Area (NMMA) 2,500 acre-feet of supplemental water each year. In furtherance of that requirement, the District entered into a Wholesale Water Supply Agreement with the City of Santa Maria ("Agreement") for the purchase of supplemental water. The Project and the Agreement will implement the District's obligations under the stipulated agreement in the groundwater adjudication.

The Project includes construction of a water pipeline beginning at a pipeline connection at the intersection of West Taylor Street and North Blosser Road approximately one mile south of the Santa Maria River in the City of Santa Maria. The District's pipeline will run north on Blosser Road to the Santa Maria River levee. The pipe will then be constructed under the levee towards the bank of the river through an agricultural area, then directionally drilled beneath the Santa Maria River to a point on the Nipomo Mesa. Connection will then be made to an existing District pipeline on Orchard Road.

Phase I of the Project will have a capacity to deliver 650 to 900 acre-feet of water per year. This will offset current District groundwater production in order to avoid further depletion and assist in balancing of groundwater levels of the Nipomo Mesa Management Area (NMMA). It will also reduce the potential for seawater intrusion on the Nipomo Mesa.

This acquisition of easements necessary for construction of the pipeline system for the Water Intertie Project is required in the public interest, in order to replenish groundwater supplies within the NMMA and to provide a more reliable water supply for the District's customers.

A map which generally depicts the proposed easement acquisitions is attached to this staff report as Exhibit "2".

B. *The Project is Planned and Located in the Manner That Will be Most Compatible With the Greatest Public Good and the Least Private Injury.*

The pipeline easements are described in the accompanying Resolution of Necessity. The property subject to this hearing is owned by Troesh Properties and Investments, LLC. It

consists of a total of 305.75 acres and is located within the Santa Maria Riverbed. The District seeks to acquire a permanent easement of 5.25 acres, and a temporary construction easement of 1.05 acres. A sand and gravel mining operation is conducted on the property. However, this operation is located about 1 mile to the east of the easements sought to be acquired by the District through the property. The District's pipeline within the Troesh property will be installed by directional drilling to minimize disturbance to the surface areas. Staging for the directional drilling will be confined to the area of the construction easement which is outside the active river channel. There will be no disturbance of the existing mining operation. There is no evidence to suggest that any mining has ever taken place in the area through which the easement will traverse. There is no current farming within the easement area either. The owner will retain the right to pass through the easement area, so that the owner can access and use the remaining lands to the west of the easement, as necessary and appropriate in the future. However, no mining will be allowed within the easement area in order to protect the integrity of the pipeline.

The trajectory of the easements has been designed by the District's engineers to take up the smallest possible portion of the property.

*C. The Property is Necessary for the Project.*

The subject easements will be used for the construction of Phase 1 of the Project. The subject easements are important and integral to the Project improvements as planned, and are thus necessary for the overall Project. If the easements are not acquired, the District is unaware of other methods by which this important water supply may be delivered across the Santa Maria Riverbed.

*D. The Offer Required by Government Code Section 7267.2 Has Been Made to the Owners of Record.*

The District retained the appraisal firm of Reeder, Gilman & Associates in Santa Maria to prepare appraisals of the easements to be acquired. Reeder, Gilman prepared appraisals of the two properties in 2009 and 2011. The appraisals were recently updated with a date of value as of March 2013. Formal detailed offers have been provided to the property owner, including all of the pertinent appraisal data.

The offers have not resulted in a negotiated agreement of sale. The adoption of the Resolutions of Necessity will not terminate negotiations with the property owner. Negotiations will continue. The adoption of the Resolutions will allow the eminent domain process to commence, including securing rights of possession so that the District can timely commence construction this calendar year.

Adoption of a Resolution of Necessity requires approval by two-thirds or more of the members of the authorizing body. Therefore, to adopt the proposed Resolution, no fewer than four members of your Board must approve.

**FISCAL IMPACT**

Funds to cover the cost of acquiring easements for the project are included in the approved funding plan for the project and the District's 2012-2013 budget.

**STRATEGIC PLAN**

Strategic Plan Goal 1.2 – Secure New Water Supplies

**RECOMMENDATION**

If the Board of Directors finds, based on its consideration of this staff report and testimony submitted in connection thereto, the staff report and other materials submitted in connection with the District's certification of the EIR and the Addendum to the EIR for the Project, all other testimony that may be presented, and all other evidence and records pertaining to this matter, that the evidence warrants the necessary findings as to the proposed Resolutions of Necessity, then staff recommends that the Board of Directors, in the exercise of its discretion, adopt the Resolution of Necessity and authorize and direct that eminent domain proceedings be filed to acquire the subject property.

**ATTACHMENTS**

- A. Resolution of Necessity 2013-XXXX TROESH
- B. Exhibit 1 Property Description
- C. Exhibit 2 Property Depiction

MARCH 27, 2013

ITEM E-2

ATTACHMENT A



**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2013-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DECLARING CERTAIN REAL PROPERTY NECESSARY FOR THE CONSTRUCTION OF THE WATERLINE INTERTIE PROJECT AND AUTHORIZING THE ACQUISITION THEREOF (TROESH PROPERTIES & INVESTMENTS, LLC, APNS 090-341-002, 023 AND 033)**

**WHEREAS**, the Board of Directors of the Nipomo Community Services District does hereby find, determine, order and resolve as follows:

- A. The Nipomo Community Services District wishes to acquire certain parcels of real property described herein below for public use by the exercise of the power of eminent domain. The acquisition of such property is required to complete the construction and acquisition of improvements approved in connection with the Nipomo Community Services District Waterline Intertie Project ("the Project"). A general description of the Project is contained in the Staff Report dated March 27, 2013, and incorporated by reference.
- B. The Nipomo Community Services District previously certified an Environmental Impact Report for the Project on April 22, 2009 and also certified an Addendum to said Environmental Impact Report on April 25, 2012. The staff reports and other materials submitted at those hearings are incorporated by reference.
- C. Pursuant to Chapter 4, Title 7, Part 3 of the Code of Civil Procedure, written notice of the intent to consider the adoption of this resolution of necessity was sent on March 12, 2013 to the owners of record of the said property.
- D. Due consideration of all oral and documentary evidence introduced has been given;

**NOW THEREFORE, BY VOTE OF TWO-THIRDS OR MORE OF ITS MEMBERS, THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DOES FIND AND RESOLVE AS FOLLOWS:**

- 1. The findings and declarations contained in this resolution are based upon the record with respect to the Project before the Board of Directors at its hearing of March 27, 2013, the Staff Report dated March 27, 2013, and the hearings regarding the Environmental Impact Report, and the Addendum thereto of April 22, 2009 and April 25, 2012, the staff reports relating thereto dated April 22, 2009 and April 25, 2012, and the testimony, records and documents produced at all referenced hearings, all of which are incorporated by this reference;
- 2. The real property to be acquired consists of a permanent water pipeline easement and associated temporary construction easement, over and through that certain parcel of real property more specifically described in Exhibit "A," attached hereto and made a part hereof;
- 3. The said property is to be acquired as permanent and temporary construction easements for public waterline purposes, pursuant to the authority granted in California Constitution Article I Section 19; California Government Code Sections 61060 and 61100; Title 7, Part 3 of the Code of Civil Procedure; and other provisions of law;
- 4. The public interest and necessity require the proposed project;

NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2013-XXXX

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DECLARING CERTAIN REAL PROPERTY NECESSARY FOR THE CONSTRUCTION OF THE WATERLINE INTERTIE PROJECT AND AUTHORIZING THE ACQUISITION THEREOF (TROESH PROPERTIES & INVESTMENTS, LLC, APNS 090-341-002, 023 AND 033)**

5. The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
6. The real property described herein is necessary for the proposed project; and
7. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.
8. The District's General Counsel, and/or counsel designated by the General Counsel, are hereby **AUTHORIZED AND EMPOWERED**;
  - a. To acquire in the Nipomo Community Services District's name, by condemnation, the said real property in accordance with the provisions of the eminent domain law, the Code of Civil Procedure and the Constitution of California;
  - b. To prepare and prosecute in the Nipomo Community Services District's name such proceedings in the proper court as are necessary for such acquisition; and
  - c. To deposit the probable amount of compensation, based on an appraisal, and to apply to said court for an order permitting the Nipomo Community Services District to take possession and use said property for said public uses and purposes.

**PASSED, APPROVED AND ADOPTED** by the Board of Directors of the Nipomo Community Services District this 27th day of March, 2013.

AYES:  
NOES:  
ABSENT:  
CONFLICT:

\_\_\_\_\_  
JAMES HARRISON,  
President, Board of Directors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MICHAEL S. LEBRUN  
Secretary to the Board

\_\_\_\_\_  
MICHAEL W. SEITZ  
Deputy District Legal Counsel

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MARCH 27, 2013

ITEM E-2

ATTACHMENT B

EXHIBIT 1

Resolution No.	Parcel Number	Name of Owner	Date of Offer
	090-341-002, 023, 033	Troesh Properties & Investments, LLC	August 25, 2011 and March 8, 2013

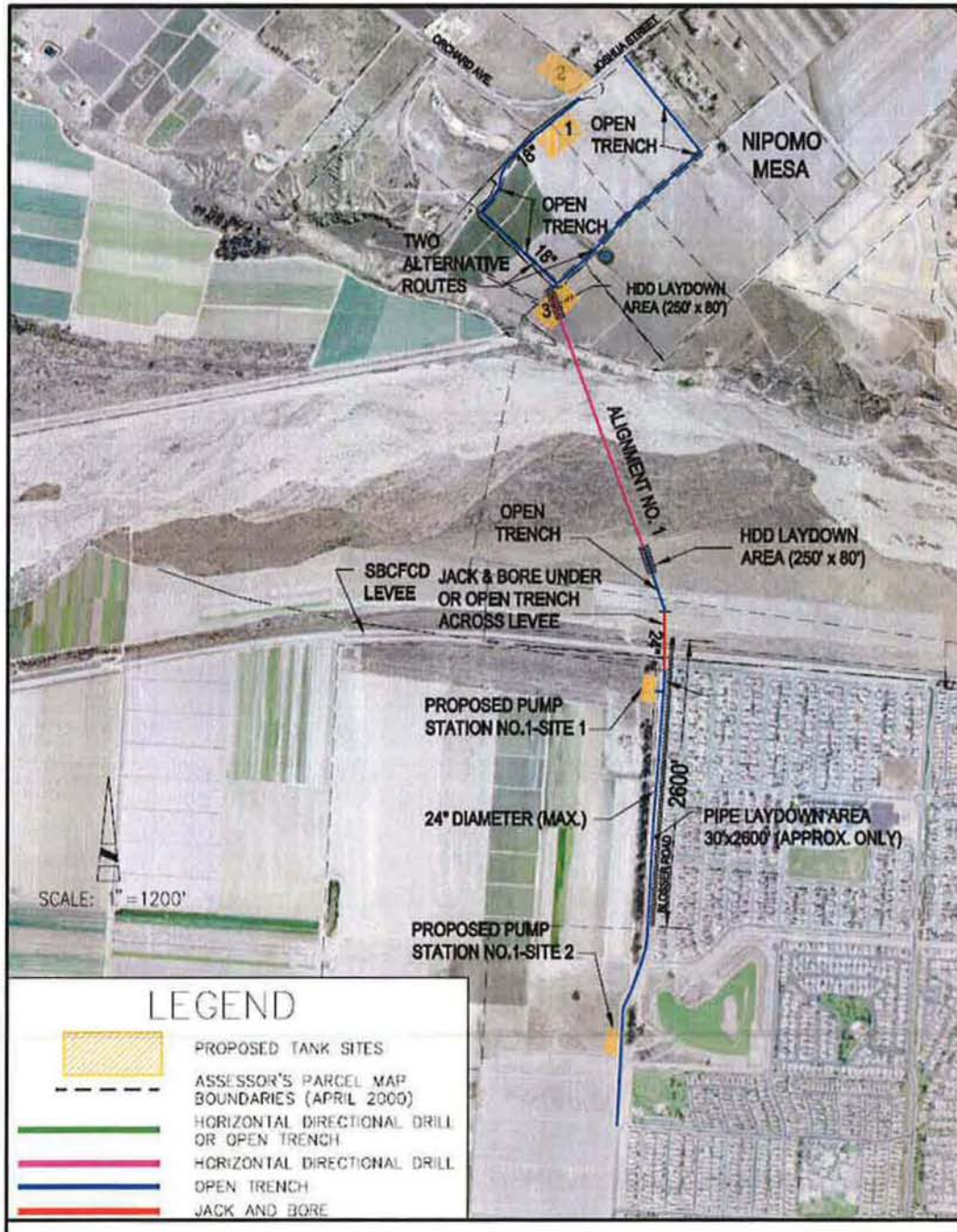


MARCH 27, 2013

ITEM E-2

ATTACHMENT C

**FIGURE 6**  
Blosser Road Waterline



*NCS D Supplemental Water Project*

Douglas Wood & Associates, Inc.

*Addendum EIR*

TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: MARCH 22, 2013

**AGENDA ITEM  
E-3  
MARCH 27, 2013**

**APPROVE LICENSE AGREEMENT WITH SANTA BARBARA COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
FOR ACCESSING SANTA MARIA RIVER LEVEE IN SUPPORT OF  
CONSTRUCTING SUPPLEMENTAL WATER PROJECT**

**ITEM**

Approve a License Agreement with Santa Barbara County Flood Control and Water Conservation District to facilitate access to Santa Maria River levee and construction of supplemental water project. [RECOMMEND APPROVE AGREEMENT]

**BACKGROUND**

Santa Barbara County Board of Supervisors, acting in their role as the governing body of the Santa Barbara County Flood Control and Water Conservation District are tentatively scheduled to approve the attached License Agreement on April 16, 2013.

The Agreement has been negotiated by District Property Negotiator, staff, and staff of Santa Barbara County Public Works Department.

**FISCAL IMPACT**

There is no fee associated with the Agreement. The cost of complying with the requirements of the Agreement is included in the overall construction costs of the project.

**STRATEGIC PLAN**

Strategic Plan Goal 1.2 – Secure New Water Supplies

**RECOMMENDATION**

By motion and roll call vote, approve License Agreement

**ATTACHMENTS**

- A. License Agreement Nipomo Community Services District Waterline Intertie Project, March 27, 2013.

MARCH 27, 2013

ITEM E-3

ATTACHMENT A

## License Agreement

### Nipomo Community Services District Waterline Intertie Project

This Agreement is made and entered into on the date last written below, by and between the SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a political subdivision of the State of California (hereinafter called "Licensor"), and the NIPOMO COMMUNITY SERVICES DISTRICT (hereinafter called "Licensee").

#### WITNESSETH:

That Licensor, in consideration of the faithful performance and observance by Licensee of all of the terms and conditions herein contained, does hereby grant to Licensee a license for the construction, reconstruction, maintenance, removal, and use of a waterline, together with the necessary appurtenances thereto (hereinafter referred to as the "Waterline") across and under a portion of the Property.

1. Definitions. As used in this License, the "Property" shall refer to that portion of the Santa Maria Levee and surrounding property as shown on the map attached hereto as Exhibit "A" and incorporated herein by this reference.

As used in this License, the Waterline shall refer to a waterline that will be installed on and under the Property within the alignment shown in Exhibit "A".

2. Title of Licensor. Licensee hereby acknowledges the title of Licensor in and to the Property and agrees never to assail or to resist said title. Licensee agrees that it has not acquired nor will it hereafter acquire any rights or interest in the Property, nor does Licensee have nor will it obtain any right or claim to the use of the Property beyond those explicitly granted in this License.

3. Term. This License to construct, operate and maintain the Waterline shall continue for an indefinite term, to terminate 180 days after written notice of termination is given to either party by the other pursuant to paragraph 6 hereunder.

4. Primary Use of Property. The Property consists of a levee that is used for flood control purposes. Use of the Property is subject to any limitations which may be imposed by the United States Army Corps of Engineers ("USACE"), which has an interest in the Property. Licensee, their agents and contractors agree to abide by the Code of Federal Regulations (CFR) which governs underground clearance and location of mains and transmission lines. Underground utility facilities may already be in place and it is anticipated that in the future, additional utility facilities may be constructed or installed on the Property. Licensor reserves all rights to grant others the right to install such additional facilities upon the Property.



Licensee acknowledges that the use of the Property for flood control purposes constitutes the primary use of the Property and that Licensee's use of the Waterline pursuant to this License is secondary and subordinate to said primary uses. Licensee shall not use the rights granted herein in any manner that will materially interfere with or impair said primary use of the Property. All rights granted to Licensee hereunder are subject to all existing and future rights, rights of way, reservations, franchises, and licenses in the Property, regardless of who holds it.

Licensee further acknowledges and agrees that this License is subject to and authorized by Resolution Number 98-266 of the Santa Barbara County Flood Control and Water Conservation District, a copy of which is attached hereto as Exhibit "B" and which is hereby incorporated by this reference as though fully set forth.

5. Limitation of Use. Licensors shall not be held responsible or liable for damage or removal of any of Licensee's facilities when Licensors find it necessary to accomplish work for the maintenance, repair, construction or alteration of Licensors Property. If this work can be carried out without revocation of this License, Licensors will exercise reasonable care to minimize adverse impacts of such work and to protect Licensee's facilities installed upon the Property.

6. Revocation. The parties acknowledge that no money or other payment was made by Licensee to Licensors in return for the License granted hereunder. In the event, in the sole discretion of Licensors, the primary uses of the Property by Licensors or Licensors's permittees reasonably require some permanent use of a portion or portions of the Property which, by nature thereof, precludes Licensee's use thereof, Licensors may, upon a minimum of 180 days prior notice, revoke this License for any area Licensors deems necessary for such permanent primary use. Licensors shall supply Licensee with a map or drawing identifying the area(s) as to which this License is so revoked.

7. Indemnification. Licensee shall indemnify, save, protect, defend, and hold harmless Licensors, its Boards, officers, and employees from and against any and all loss, liability, expense, claims, costs, suits, and damages, including attorney fees, arising out of or connected with Licensee's operations and performance, the presence of the Waterline, or use of the Waterline or Property. It is the intent of this paragraph that Licensee shall so indemnify, save, protect, defend and hold harmless Licensors to the fullest extent permitted by law. Licensee shall notify Licensors immediately in the event of any claim, accident or injury arising out of or in connection with this License Agreement.

8. Insurance Requirements.

(a) Workers' Compensation. Licensee warrants that it has Workers' Compensation and/or will require its agents and contractors that provide waterline work to have Workers' Compensation Insurance for all injuries arising out of or occurring in the course and scope of their employment.

(b) **General and Automobile Liability.** The Licensee shall maintain and/or shall require its construction contractors to maintain general and automobile liability coverage for the period covered by this agreement in the amount of at least \$5,000,000 per occurrence combined single limit coverage. Such coverage shall include, but shall not be limited to, protection against claims arising from the activities contemplated under this License. The Licensor, its officers, agents, and employees shall be named as additional insured. The Licensee shall furnish the Licensor with a Certificate of Insurance and endorsements effecting coverage by the contract.

9. **Approval and Inspection of Work.** Licensee shall not perform any construction, reconstruction, remodeling, removal, or other work upon the Property without first obtaining approval in writing from Licensor and USACE. In seeking these approvals, Licensee shall furnish Licensor a complete description and plans of the work proposed to be performed. In performing work approved by Licensor and USACE, Licensee shall comply with all terms, conditions, and requirements imposed by Licensor and not deviate in any material manner from the description and plans approved by Licensor without first obtaining additional approval in writing. Upon completion of the initial waterline construction work, Licensee shall do no further construction work on the Property without first obtaining approval in writing from Licensor and USACE. As used in this section, the term "further work" would include upgrades to the waterline and projects requiring open cutting.

Licensee shall not be required to obtain Licensor's prior written approval for the performance of routine maintenance or emergency repairs. As used in this section, the term "routine maintenance" refers to work that does not alter the original condition of improvements previously approved in writing by Licensor, which work is required to prevent deterioration of said improvements. As used in this section, the term "emergency repairs" refers to repairs that do not alter the original condition of improvements previously approved in writing by Licensor, which repairs are promptly necessary to protect the safety of the public and others. Licensee shall consult Licensor at least 7 days before Licensee performs any major maintenance operations. Work shall be done in such a manner that Licensor shall at all times be able to use and gain access to its facilities.

All work performed by Licensee under this section shall be subject to inspection by Licensor.

10. **Assignment.** No rights of Licensee hereunder shall be transferred or assigned unless to successor public agency and unless the written consent of Licensor is first secured. With that exception, this License and each and all of the covenants herein contained shall inure to the benefit of and be binding upon the successor and assigns of the respective parties hereto.

11. **Abandonment by Licensee.** If Licensee shall, for a period of at least 120 consecutive days, fail to use or maintain the Waterline or any portion thereof in a manner consistent with this agreement, then all rights of Licensee in and to portions not used or maintained may be temporarily terminated by Licensor until properly maintained per this agreement.

12. Restricted Use. The rights granted hereunder are for the construction, operation, maintenance, and repair of a Waterline intertie from the City of Santa Maria to the Nipomo Community Services District. The use of this license is subject to the following restrictions;

a. No type of motor-driven vehicle shall be permitted on the Property, except those of Licensee, Licensor, or Licensor's permittees being used for construction, maintenance, repair, patrol, or public safety purposes.

b. Licensee shall install such barricades as are necessary to prevent unauthorized access by motor-driven vehicles.

c.. Licensee agrees that at no time will an annual delivery of water exceed 3,000 acre feet per calendar year. Further, Licensee acknowledges that exceeding a delivery of 3,000 acre feet in any calendar year is grounds for revocation of this Agreement.

13. Reporting. Licensee shall provide Licensor with annual report documenting total water delivery during the previous calendar year. The report shall be provided to the Licensor at the address listed below no later than February 15 of each year following the first year during which water deliveries are made. The report shall be signed by an appropriate level official of Licensor and provide a concise and accurate statement as to the total volume of delivery during the reporting period.

Santa Barbara County  
Public Works Director

XXXX  
XXXX  
XXXX

14. Damage to Property. It is understood and agreed by and between the parties hereto that the Property is subject to sliding, erosion, subsidence, and flooding, and that Licensor is under no obligation to maintain the Property or repair any damage resulting from slide erosion, subsidence, or flooding unless in the sole discretion of Licensor such damage affects the integrity of the flood control facilities. It is also agreed and understood that the Licensee is responsible for maintaining the Waterline and related facilities at all times, including after maintenance or other activities by Licensor which may affect Licensee's Waterline facilities. In the event of any lesser damage, Licensee shall perform such maintenance or repair as Licensee may deem necessary for proper and safe operation of the Waterline.

15. Pollution. Licensee, at its sole expense, shall comply with all applicable laws, regulations, rules and others with respect to the use of the Property, regardless of when they become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and water and air quality, and furnish satisfactory evidence of such compliance upon request of Licensor.

No hazardous materials shall be handled by Licensee at any time upon the Property. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the Property caused by Licensee's employees, contractors and agents, Licensee, at its expense, shall be obligated to clean all the Property affected thereby, whether owned or controlled by Licensor

or any third person, to the satisfaction of Licensor (insofar as the Property owned or controlled by Licensor is concerned) and any governmental body having jurisdiction therefor.

To the extent permitted by law, Licensee shall indemnify, hold harmless, and defend Licensor and such holders of user rights against all liability, cost, and expense (including, without limitation, any fines, penalties, judgments, litigation costs, and attorney fees) incurred by Licensor and such other users as a result of Licensee's breach of this section or as a result of any such discharge, leakage, spillage, emission or pollution.

16. Signs. Licensee shall maintain existing signs and install appropriate informational and warning signs. Licensee shall also post any other signs required by law, recognizing that Licensor utilizes pesticides, herbicides and other dangerous chemicals for the purpose of maintaining the Levee as a flood control improvement.

17. Waterline Maintenance. Licensee shall maintain, at its expense, all Waterline improvements. It is acknowledged that all impacts of the construction and operation of the Waterline cannot be foreseen at the present time. Licensor may require changes to the Waterline improvements, and Licensee agrees to make such changes to the Waterline improvements or operations to Licensor's satisfaction.

18. Drainage. Licensee agrees to maintain, at its expense, drainage facilities necessary for Waterline installation and operation.

19. Fencing. Licensee agrees to maintain, at its expense, all fencing and barricades for Property and facilities installed by Licensee. Licensee shall not be responsible for the maintenance of residential fencing installed by parties other than Licensee.

20. Vandalism. Licensee shall, at its own expense, promptly repair all damage to Waterline improvements and to the Property.

21. Encroachment Permits. Licensor shall have the sole right to grant encroachment permits or rights of entry within the Property. Notification of encroachment permits granted and approved by Licensor will be forwarded to Licensee. Licensor shall consult Licensee on safety requirements for future utilities and if Licensee has not responded within 15 working days, then it is presumed Licensee is in concurrence. Licensee shall obtain permits from all other agencies as required for construction of the Waterline improvements, including but not limited to USACE.

22. Modification. This License shall be subject to modification or amendment only by the written, mutual consent of both parties.

23. Entire Agreement. It is understood that this document contains the entire agreement between the parties hereto and all prior understandings or agreements, oral or written, of whatsoever nature regarding the rights hereby granted are superseded by this License and are hereby abrogated and nullified.

24. Construction. The parties have negotiated the terms of this Agreement. They have consulted their respective attorneys as needed. The terms of this License reflect this negotiation and the intentions of both parties. These terms shall be interpreted with regard to each party equally.

25. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this License shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

26. Dispute Resolution. Any dispute, disagreement or termination of this License shall first be addressed and resolved at the lowest possible staff level between the appropriate representatives of the Licensor and Licensee. If it cannot be resolved at this level, it is to be elevated to the County Administrator (Licensor) and the District General Manager (Licensee). If it cannot be resolved at this level, it may be appealed by the Licensee to the Santa Barbara Flood Control and Water Conservation District Board.

27. Approvals and Acknowledgements. This License is conditioned on the approval of the Waterline construction plans by the USACE. Licensee shall abide by and acknowledge all applicable CFR Standards and all other structural and separation standards as determined by the USACE.

28. Good Faith and Fair Dealing. Where the terms of this Agreement provide for action to be based upon opinion, judgment, approval, review or determination of either party hereto, such terms are not intended to and shall never be construed to permit such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable. Licensor and Licensee shall each act in good faith in performing their respective obligations as set forth in this Agreement.

IN WITNESS WHEREOF, the parties hereby have executed this License, in duplicate, the day and year last written below.

LICENSEE:

NIPOMO COMMUNITY SERVICES DISTRICT

Dated: \_\_\_\_\_

By \_\_\_\_\_

Name:

Title:



LICENSOR:

SANTA BARBARA COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Chair, Board of Directors

ATTEST:  
Chandra L. Wallar  
Clerk of the Board

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
Dennis A. Marshall  
County Counsel

APPROVED AS TO ACCOUNTING FORM:  
Robert W. Geis, CPA  
Auditor-Controller

By \_\_\_\_\_  
Deputy County Counsel

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
Ray Aromatorio, ARM, AIC  
Risk Manager

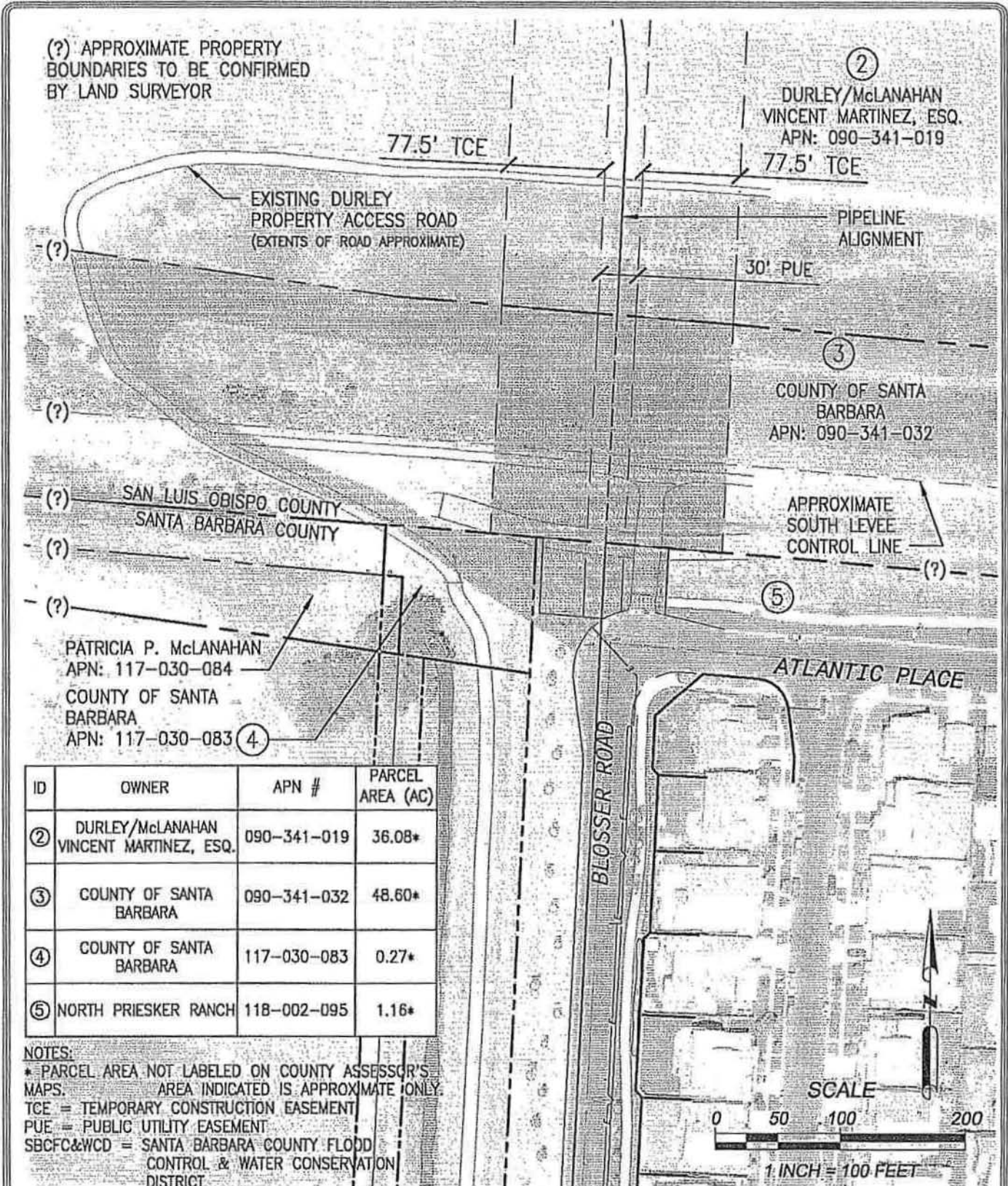
APPROVED AS TO FORM:  
Scott D. McGolpin  
Public Works Director

By \_\_\_\_\_

By \_\_\_\_\_

**EXHIBIT A**

**ALIGNMENT EXHIBIT**



AECOM  
 AECOM USA, Inc.  
 1194 Pacific Street, Suite 204  
 San Luis Obispo, California 93401  
 T 805.542.9810 F 805.542.9990  
 www.aecom.com

# WATERLINE INTERTIE PROJECT PIPELINE ALIGNMENT

EXHIBIT  
**A**

BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
CLERK OF THE BOARD OF SUPERVISORS

\*\*\*\*\*

MINUTE ORDER

July 7, 1998, In the a. m.

Present: Supervisors Naomi Schwartz, Jeanne Graffy, Gail Marshall,  
Timothy J. Staffel, and Thomas Urbanske

Michael F. Brown, Clerk (Florillo)

Supervisor Marshall in the Chair

RE: Flood Control & Water Conservation District Hearing - To consider establishing a policy regarding secondary use of County and Flood Control District owned rights-of-way, All Districts, as follows:  
(98-20,715) (FROM JUNE 23, 1998; EST. TIME: 20 MIN.)

- a) Adopt the resolution establishing a policy entitled "A Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway and Recreation Purposes; and
- b) Direct staff with regard to the recommendations included in the "Supplemental Report of County Counsel" concerning the proposed Santa Maria River Levee Bikeway.

COUNTY ADMINISTRATOR'S RECOMMENDATION: POLICY

Graffy/Marshall

a) Adopted.

The preamble of Exhibit A, "A Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway and Recreation Purposes," was amended as follows: *"In order to maximize the public benefit and public convenience, it is the policy of the Santa Barbara County Flood Control District that the secondary use of Flood Control property for recreational and trail purposes shall be encouraged. To this end, the District may license or permit the use of a right-of-way for development and use for bicycle, hiking and riding trails, and other park and recreation purposes, under the following criteria and conditions..."*

RESOLUTION NO. 98-266

b) Approved recommendations included in the "Supplemental Report of County Counsel" dated June 24, 1998.

EXHIBIT B page 1 of 5

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
SANTA BARBARA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT**

**IN THE MATTER OF ADOPTING THE )  
POLICY ENTITLED "A POLICY FOR )  
SECONDARY USES OF FLOOD CONTROL ) RESOLUTION NO. 98-266  
& WATER CONSERVATION FACILITIES )  
FOR BIKEWAY AND RECREATIONAL )  
PURPOSES" )**

**WHEREAS**, the Santa Barbara County Flood Control & Water Conservation District (District) owns and/or operates flood control facilities on certain real properties throughout the County of Santa Barbara, and

**WHEREAS**, continued uninhibited operation of these facilities is in the interest of the citizens of Santa Barbara County, and

**WHEREAS**, the District operates and maintains these facilities on District owned, County owned, or easement rights-of-way, and

**WHEREAS**, the District desires to institute a uniform policy controlling permitted secondary uses on all County and District property used primarily for flood control purposes, and

**WHEREAS**, various other entities have an increased interest to make use of these properties and/or rights-of-way for recreation or other uses, and

**WHEREAS**, the District may be agreeable to such other uses on these properties provided that the primary use of the properties as flood control facilities is not affected.

**NOW, THEREFORE** be it resolved that Board of Directors of the Santa Barbara County Flood Control & Water Conservation District hereby adopt a policy entitled "A Policy for Secondary Uses of Flood Control & Water Conservation Facilities For Bikeway and Recreation Purposes" for secondary uses of properties originally constructed primarily for flood control purposes, which policy is attached here to as Exhibit A and is incorporated here in by this reference.

**PASSED AND ADOPTED** by the Board of Directors of Santa Barbara County Flood Control and Water Conservation District, State of California, this seventh day of July, 1998, by the following vote:

**RESOLUTION IN THE MATTER OF ADOPTING THE  
POLICY ENTITLED "A POLICY FOR SECONDARY USES  
OF FLOOD CONTROL AND WATER CONSERVATION  
FACILITIES FOR BIKEWAY AND RECREATION PURPOSES"  
PAGE: 2**

**AYES:** Supervisors Schwartz, Graffy, Marshall, Staffel, Urbanske.  
**NOES:** None.  
**ABSTAIN:** None.  
**ABSENT:** None.

  
\_\_\_\_\_  
Chair, Board of Director  
Santa Barbara County Flood Control and  
Water Conservation District

**ATTEST:**  
MICHAEL F. BROWN  
CLERK OF THE BOARD

BY:   
\_\_\_\_\_  
Deputy

**APPROVED AS TO FORM:**  
STEPHEN SHANE STARK  
COUNTY COUNSEL

BY:   
\_\_\_\_\_  
Deputy

**APPROVED AS TO INSURANCE:**  
CHARLES MITCHELL  
RISK MANAGER

BY:   
\_\_\_\_\_

**EXHIBIT B page 3 of 5**



## EXHIBIT A

### **"A POLICY FOR SECONDARY USES OF FLOOD CONTROL AND WATER CONSERVATION FACILITIES FOR BIKEWAY AND RECREATION PURPOSES" BY THE BOARD OF DIRECTORS OF THE SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

**In order to maximize the public benefit and public convenience, it is the policy of the Santa Barbara County Flood Control District that the secondary use of Flood Control property for recreational and trail purposes shall be encouraged. To this end, the District may license or permit the use of a right-of-way for development and use for bicycle, hiking and riding trails, and other park and recreation purposes, under the following criteria and conditions:**

1. A public agency empowered to engage in and finance the proposed park and/or recreation use shall enter into a formal written agreement with the District regarding such use. The District reserves the right to deny such use at its sole discretion. The public agency shall pay all District costs for developing such agreement.
2. The public agency's use shall not conflict with the District's use of its rights-of-way, which is primarily for flood control purposes. All other uses shall be subordinate to flood control purposes. The public agency shall compensate the District for any increased costs and/or decreases in revenues associated with any granted secondary uses.
3. Joint use of District fee property and /or right-of-way are limited to those uses and locations that are compatible with District operation and maintenance activities.
4. The cost of any improvements and associated maintenance necessary to accommodate the public agency's use shall be borne by that agency. Such improvements and maintenance activities shall be designed and carried out in accordance with District standards subject to District approval. Such maintenance activities shall include any litter and graffiti abatement.
5. The public agency shall establish rules and regulations for public use of the District's rights-of-way. Such rules and regulations shall be subject to District's approval.
6. Where the District's interest in its right-of-way is less than fee ownership, the public agency shall secure written permission from the fee owner for its intended use.

Exhibit A, Page 1

**EXHIBIT B    page 4 of 5**

7. The public agency shall secure all other required permits for the intended use from any other agencies having jurisdiction. Any and all conditions of such permits which may affect the District's property shall be approved by the District.
8. Any changes to District facilities necessary to accommodate the public agency's use shall be made, and any damage to District facilities arising from the public agency's use shall be repaired forthwith, at the public agency's sole expense.
9. The District shall not be liable for any damage to improvements made by the public agency which arise from the District's use of its rights-of-way for flood control purposes, including changes which the District may make to its facilities.
10. The District shall not be liable for any injury or damage to persons or property arising out of the use of its rights-of-way for park and recreation purposes.
11. The public agency shall defend, indemnify and hold harmless the District against any and all claims or lawsuits arising out of or connected with the use of the District's rights-of-way for park, recreation, or other uses. Such indemnification language in the agreement shall be in a form acceptable to County Counsel and Risk Management.
12. All proposed uses are subject to approval by the District and must be compatible with the use and maintenance needs of the District.
13. Recreational facilities planned along a flood control facility either constructed by, or in cooperation with a federal agency, must receive approval from the federal agency in addition to the District. Federal requirements may specify whether a license or permit will be issued.
14. Only approved uses will be granted a license or permit for the use. The District reserves the right to suspend or revoke a license or permit if, in the District's sole opinion, the permitted activities become incompatible with District activities or if the interests of the District should so require.

Exhibit A, Page 2

**EXHIBIT B**    page 5 of 5

TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: MARCH 22, 2013



**AUTHORIZE PURCHASE AGREEMENT WITH LINDA VISTA FARMS  
IN AMOUNT OF \$113,500 TO ACQUIRE EASEMENTS AND FEE TITLE  
PROPERTY (APN 090-291-039, -040, -043, & -044) IN SUPPORT OF  
CONSTRUCTING SUPPLEMENTAL WATER PROJECT**

**ITEM**

Authorize purchase agreement. [RECOMMEND APPROVE PURCHASE AGREEMENT IN AMOUNT OF \$113,500]

**BACKGROUND**

District property negotiators, working at the direction of your Board and in support of acquiring necessary right of way for construction of Supplemental Water Project have obtained a signed Real Property Purchase Agreement, Easement Deed and Covenants Running with the Land, and Memorandum of Real Property Purchase Agreement.

The District is purchasing 0.77 acres of fee title property for placement of a pump station and storage facilities and over four (4) acres of permanent and temporary easements to facilitate construction of supplemental water project facilities. The agreed to purchase price is \$113,500.

**FISCAL IMPACT**

The funds for this easement purchase are included the overall budget for supplemental water project development.

**STRATEGIC PLAN**

Strategic Plan Goal 1.2 – Secure New Water Supplies

**RECOMMENDATION**

Staff recommends that the Board approve the easement purchase for \$113,500 with Linda Vista Farms Association Inc.

**ATTACHMENT**

- A. Legal Description of easements and fee parcel

MARCH 27, 2013

ITEM E-4

ATTACHMENT A

### LEGAL DESCRIPTION

Over a portion of APN's: 090-291-039, 040, 042, 043, & 044 (County of SLO)

Portions of Lots 1, 2, 4, 5, and 6 of Tract No. 2034 in the County of San Luis Obispo, State of California, according to the map filed in Book 18 at Page 78 of Maps in the Office of the County Recorder of said County, and being more particularly described as Parcels "A", "B", "D", and "E" below:

#### **PARCEL "A" (Exhibit C-2, Permanent Easement Area)**

A strip of land, thirty feet (30 feet) wide, the center line described as follows:

Commencing at a found 1 inch diameter iron pipe marking the Section Corner between Sections 33 and 34, Township 11 North, Range 34 West, and Sections 3 and 4, Township 10 North, Range 34 West, S.B.M. in the County of Santa Barbara, State of California, as shown on Tract 5764, Phase 3, Unit 2, in the City of Santa Maria, County of Santa Barbara, State of California, according to the map filed in Book 188 at Pages 31 through 36 of Maps, in the Office of the County Recorder of said Santa Barbara County, and having grid coordinates of (northing) 2,188,882.615 feet, (easting) 5,826,896.812 feet of the California Coordinate System 1983 (CCS83), Zone 5, epoch date 2002.00 using Continuous Operating Reference Stations, 1996 adjustment [NAD83(CORS96)];

Thence north  $07^{\circ}03'04''$  east 2,406.08 feet to a found two inch diameter iron pipe and brass cap stamped "LS 5565" marking the point of intersection of Blosser Road and Atlantic Place as shown on said map and having grid coordinates of (northing) 2,191,270.493 feet (easting) 5,827,192.174 feet of said CCS83, Zone 5;

Thence south  $88^{\circ}33'41''$  west 8.19 feet to the **True Point of Beginning** and for convenience called **Point "A"**;

Thence north  $02^{\circ}44'34''$  east 512.30 feet;

Thence north  $21^{\circ}53'43''$  west 3,162.47 feet to a point lying south  $36^{\circ}54'15''$  east 1,098.08 feet from a found one inch iron pipe and plastic plug stamped "RCE 25366" marking the corner common to said Lot 1 and Lot 2 and on the northwesterly boundary line of said Tract No. 2034 and having grid coordinates of (northing) 2,195,594.427 feet (easting) 5,825,369.804 feet of said CCS83, Zone 5.

The sidelines of the above described strip shall be extended and/or shortened so as to begin and/or end on the southeasterly line of the below described Parcel "C" and on the southerly line of said Lot 4.

Containing 19,319 square feet more or less.

**PARCEL "C" (Exhibit D, Pump Station and Reservoir Fee Parcel on Lot 4, PL 10-0032)**

A strip of land, one hundred and twenty five feet (125.00 feet) wide, the northwesterly line described as follows:

**Beginning** at the corner common to said Lots 1 and 2, and on the northwesterly line of said Lot 4 and for convenience called **Point "C"**;

Thence along the said northwesterly line south 43°20'05" west 268.00 feet (L3).

Containing 33,500 square feet more or less.

This description is not intended to create an illegal parcel with respect to the Subdivision Map Act or any local governmental agency's subdivision ordinance. This Parcel "C" is the subject of a Public Lot application and map number PL 10-0032 and in progress and is being described and shown to act as an aid in describing additional easement parcels.

**PARCEL "B" (Exhibit E, Temporary Construction Easement)**

Strips of land lying in said Lots 1 and 4 and described as follows:

A strip of land, one hundred feet (100 feet) wide, in said Lot 1 more particularly described as follows:

**Beginning** at the above described **Point "C"**;

Thence along the southeasterly line of said Lot 1 south 43°20'05" west 303.00 feet;

Thence north 46°39'55" west 100.00 feet;

Thence north 43°20'05" east 301.49 feet to a point on the northeasterly line of said Lot 1;

Thence along the said northeasterly line south 47°30'26" east 100.00 feet (L6) to the Point of Beginning.



Containing 30,222 square feet more or less.

Together with a parcel of land in said Lot 4 more particularly described as follows:

**Beginning** at the above described **Point "C"**;

Thence along the northwesterly line of said Lot 4 south 43°20'05" west 303.00 feet;

Thence south 46°39'55" east 195.00 feet;

Thence north 43°20'05" east 338.00 feet;

Thence north 46°39'55" west 165.00 feet;

Thence south 43°20'05" west 35.00 feet to a point in the northeasterly line of the above described Parcel "C";

Thence along the said northeasterly line north 46°39'55" west 30.00 feet to the Point of Beginning.

Excepting therefrom the above described Parcels A and C.

Containing 29,041 square feet more or less.

Together with a strip of land, one hundred feet (100 feet) wide, in said Lot 4 and the center line described as follows:

**Beginning** at the above described **Point "A"**;

Thence north 02°44'34" east 512.30 feet;

Thence north 21°53'43" west 3,162.47 feet to a point lying south 36°54'15" east 1,098.08 feet from a found one inch iron pipe and plastic plug stamped "RCE 25366" marking the corner common to said Lot 1 and Lot 2 and on the northwesterly boundary line of said Tract No. 2034 and having grid coordinates of (northing) 2,195,594.427 feet (easting) 5,825,369.804 feet of said CCS83, Zone 5.

Excepting therefrom the land described in Parcels "A" and "C" above and any portion lying within the immediately above described parcel of land.

The sidelines of the above described strip shall be extended and/or shortened so as to begin and/or end on a line lying 195.00 feet southeasterly of and parallel with the northwesterly line of said Lot 4 and on the southerly line of said Lot 4.

Containing 39,681 square feet more or less.

The total area of Parcel B sums to 98,944 square feet more or less.

**PARCEL "D" (Exhibit F, Permanent Easement in portions of Alta Vista Lane and Santa Maria Vista Road)**

An irregular strip of land lying in said Lots 1, 2, 4, 5, 6, and within portions of Alta Vista Lane and Santa Maria Vista Road as shown on said Tract 2034 map and described as follows:

**Beginning** at the above described **Point "C"**;

Thence along the common line to said Lots 1 and 2 and the centerline of said Alta Vista Lane north 47°30'26" west 49.55 feet (L1);

Thence leaving said centerline north 43°16'14" east 4.49 feet (L2);

Thence south 77°53'38" east 6.82 feet (L3) to the beginning of a non tangent curve concave to the northwest having a radius of 66.79 feet and to which beginning a radial line bears south 11°37'43" west;

Thence southeasterly and northeasterly 65.76 feet along said curve through a central angle of 56°24'49" (C1);

Thence north 45°12'54" east 49.95 feet (L4);

Thence north 50°55'22" east 40.20 feet (L5);

Thence north 45°13'28" east 94.96 feet (L6) to the beginning of a curve concave to the southeast having a radius of 563.48 feet;

Thence northeasterly 45.16 feet along said curve through a central angle of 04°35'32" (C2);

Thence north 49°49'01" east 557.07 feet (L7);

Thence south 40°12'10" east 3.12 feet (L8) to a point on the centerline of said Alta Vista Lane;

Thence along said centerline and its northeasterly projection north  $49^{\circ}48'30''$  east 869.09 feet (L9) to the southeasterly corner of Lot 3 of said Tract 2034 and being marked by a 3/4 inch iron pipe with tag stamped LS 2391;

Thence south  $40^{\circ}11'30''$  east 25.00 feet (L10) to a point on the northeasterly projection of the southeasterly sideline of said Alta Vista Lane;

Thence along said northeasterly projection and said southeasterly sideline south  $49^{\circ}48'30''$  west 1,462.75 feet (L11);

Thence continuing along said sideline south  $43^{\circ}20'02''$  west 155.31 feet (L12) to the beginning of a curve concave to the southeast having a radius of 40 feet;

Thence southwesterly 16.11 feet along said curve through a central angle of  $23^{\circ}04'33''$  (C3) to the beginning of a reverse curve concave to the northwest having a radius of 85.00 feet;

Thence southwesterly 85.03 feet along said curve through a central angle of  $57^{\circ}18'47''$  (C4) to a point in the northeasterly line of the above described Parcel "C";

Thence along said northeasterly line north  $46^{\circ}39'55''$  west 20.27 feet to said Point "C" (L13);

Thence along the northwesterly line of said Parcel "C" south  $43^{\circ}20'05''$  west 20.92 feet (L14) to the beginning of a non tangent curve concave to the north having a radius of 85.00 feet and to which beginning a radial line bears south  $07^{\circ}18'13''$  west;

Thence northwesterly 52.95 feet along said curve through a central angle of  $35^{\circ}41'30''$  (C5);

Thence north  $43^{\circ}15'05''$  east 36.45 feet (L15) to a point in the common line to said Lots 1 and 2 and the centerline of said Alta Vista Lane;

Thence along the said common line and said centerline south  $47^{\circ}30'26''$  east 49.55 feet (L1) to said Point "C".

Containing 49,489 square feet more or less.

**PARCEL "E" (Exhibit G, Temporary Construction Easement)**

An irregular strip of land lying within portions of Alta Vista Lane and Santa Maria Vista Road as shown on said Tract 2034 and portions of said Lots 2, 4, 5, and 6 described as follows:

**Beginning** at the above described **Point "C"**;

Thence along the common line to said Lots 1 and 2 and the centerline of said Alta Vista Lane north 47°30'26" west 49.55 feet (L1);

Thence leaving said centerline north 43°16'14" east 25.00 feet (L2);

Thence south 47°30'22" east 0.77 feet (L3) to the beginning of a non tangent curve concave to the north having a radius of 32.00 feet and to which beginning a radial line bears south 42°29'38" west;

Thence southeasterly and northeasterly 48.75 feet along said curve through a central angle of 87°16'44" (C1);

Thence north 45°12'54" east 57.06 feet (L4);

Thence north 50°55'22" east 40.20 feet (L5);

Thence north 45°13'28" east 94.71 feet (L6) to the beginning of a curve concave to the southeast having a radius of 568.48 feet;

Thence northeasterly 45.56 feet along said curve through a central angle of 04°35'32" (C2);

Thence north 49°49'01" east 557.07 feet (L7);

Thence south 40°12'10" east 5.00 feet (L8) to a point on the center line of said Alta Vista Lane;

Thence along said center line and it's northeasterly projection north 49°48'30" east 869.09 feet (L9) to the southeasterly corner of Lot 3 of said Tract 2034 and being marked by a 3/4 inch iron pipe with tag stamped LS 2391;

Thence south 40°11'30" east 30.00 feet (L10) to a point lying 5.00 feet southeasterly of the northeasterly projection of the southeasterly sideline of said Alta Vista Lane;

Thence along a line lying 5.00 feet southeasterly of said northeasterly projection and said southeasterly sideline south 49°48'30" west 1,462.47 feet (L11);

Thence continuing along said line lying 5.00 feet southeasterly of said southeasterly sideline south 43°20'02" west 155.03 feet (L12) to the beginning of a curve concave to the southeast having a radius of 35 feet;

Thence southwesterly 14.10 feet along said curve through a central angle of 23°04'33" (C3) to the beginning of a reverse curve concave to the northwest having a radius of 90.00 feet;

Thence southwesterly 49.12 feet along said curve through a central angle of 31°16'08" (C4);

Thence north 46°32'27" west 5.01 feet (L13) to a point in the said southeasterly sideline of said Alta Vista Lane;

Thence leaving said southeasterly sideline south 87°31'13" west 48.83 feet (L14) to said Point "C".

Excepting therefrom the above described Parcel D.

Containing 12,821 square feet more or less.

All distances are grid distances CCS 83 (2002.00), Zone 5. The combined scale factor is 0.999923491.

The above described Parcels "A", "C", "B", "D" and "E" are graphically shown on the Exhibits "C-1", "C-2", "D", "E", "F", and "G", attached hereto and made a part hereof.

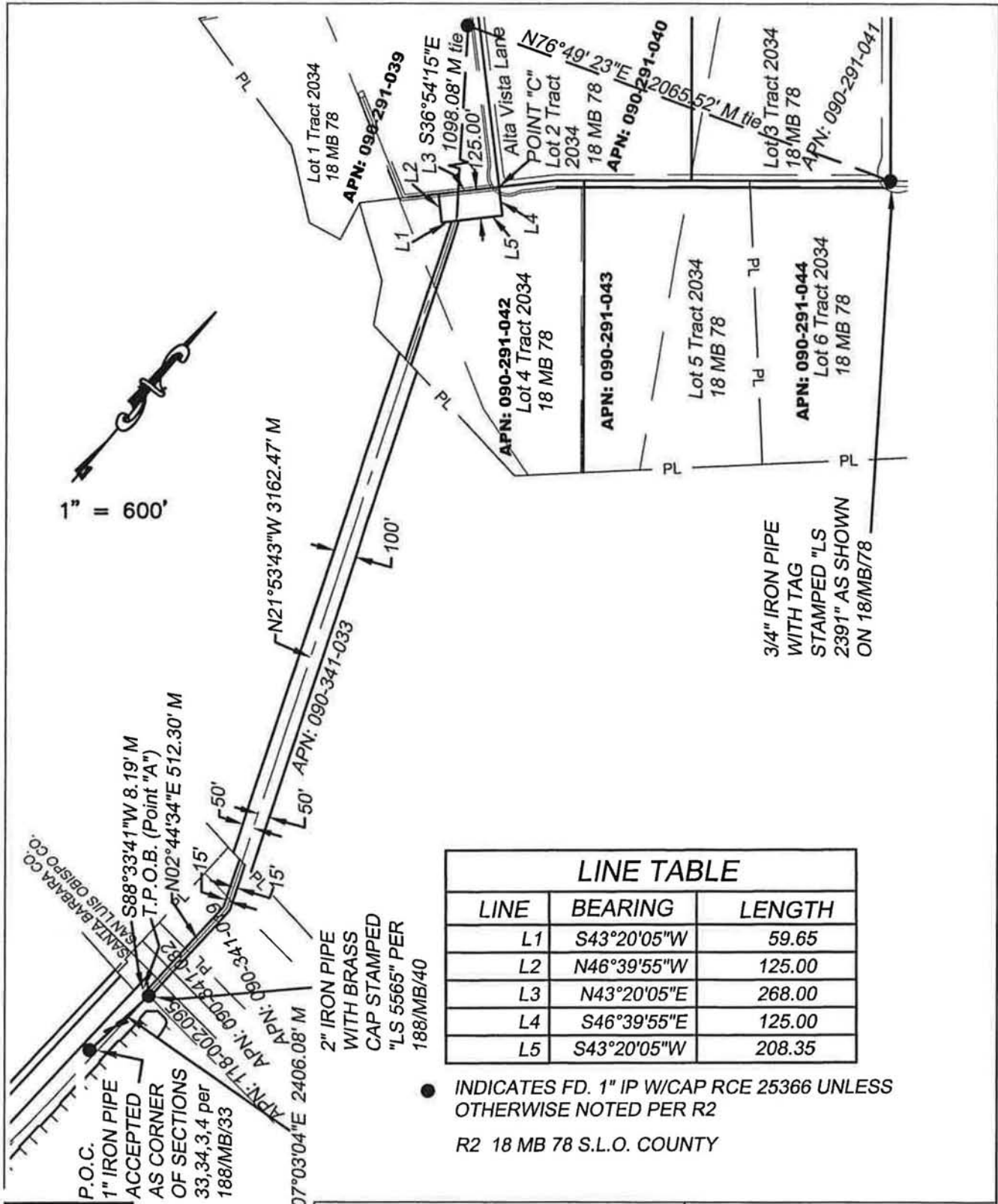
**END DESCRIPTION**

*Joseph T. Morris*

Joseph T. Morris, PLS 6192 7/06/11







1" = 600'

LINE TABLE		
LINE	BEARING	LENGTH
L1	S43°20'05"W	59.65
L2	N46°39'55"W	125.00
L3	N43°20'05"E	268.00
L4	S46°39'55"E	125.00
L5	S43°20'05"W	208.35

● INDICATES FD. 1" IP W/CAP RCE 25366 UNLESS OTHERWISE NOTED PER R2  
 R2 18 MB 78 S.L.O. COUNTY



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**EXHIBIT C-1,  
 PARTIAL MAP OF  
 PROJECT EASEMENTS**

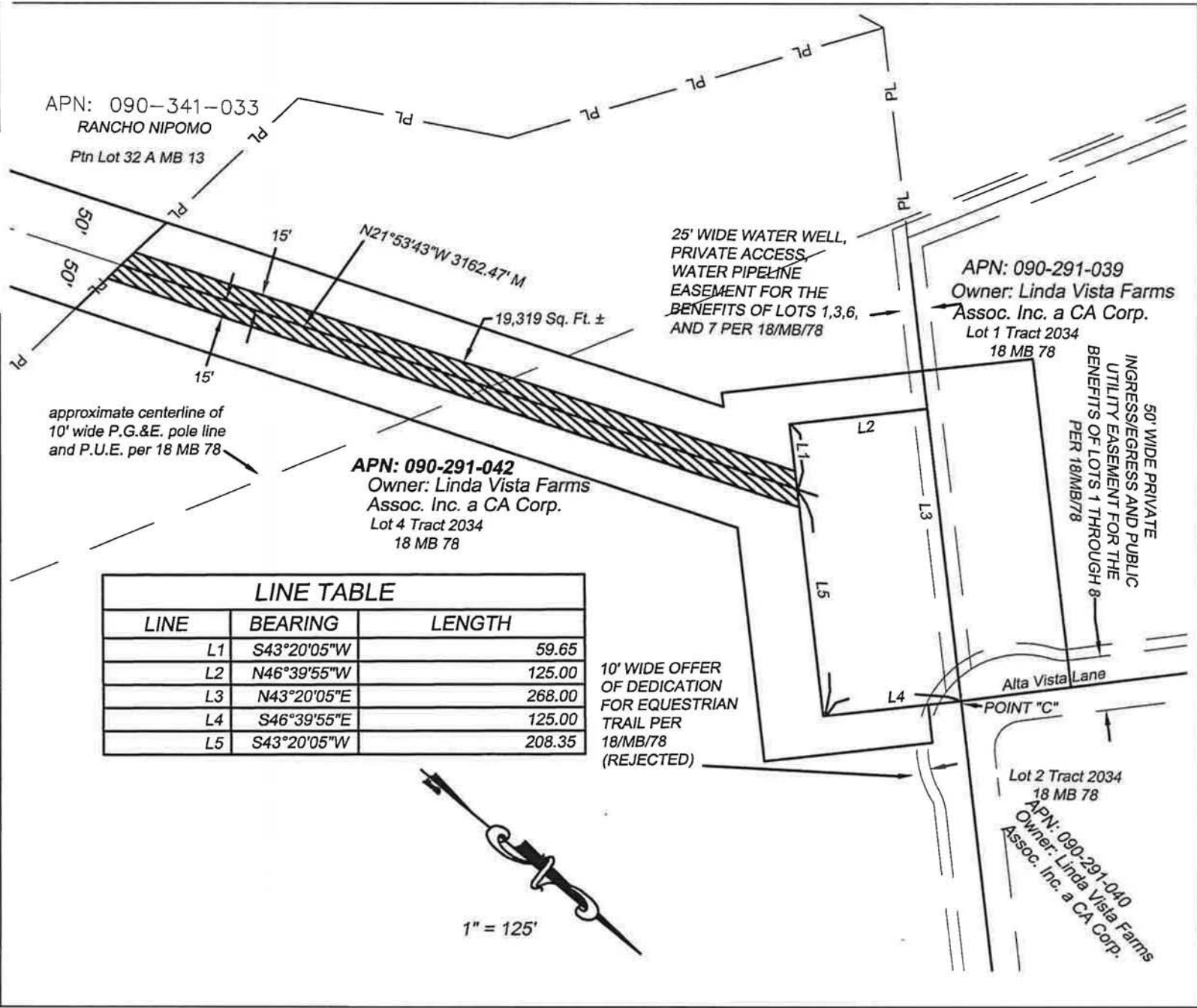
PROJECT NO. 0532-0024
532-0024 Legal-6C.dwg
SURVEYED BY: EMR 10-12/2008
DRAFTED BY: MM 7-6-2011
CHECKED BY: JTM 7-6-2011



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**EXHIBIT C-2, PARCEL A,  
 PERMANENT EASEMENT  
 PORTION OF LOT 4 TRACT  
 2034 COUNTY OF SAN LUIS  
 OBISPO, CA**

PROJECT NO. 0532-0024  
 532-0024 Legal-6.dwg  
 SURVEYED BY: EMR 10-12/2008  
 DRAFTED BY: MM 7-6-2011  
 CHECKED BY: JTM 7-6-2011



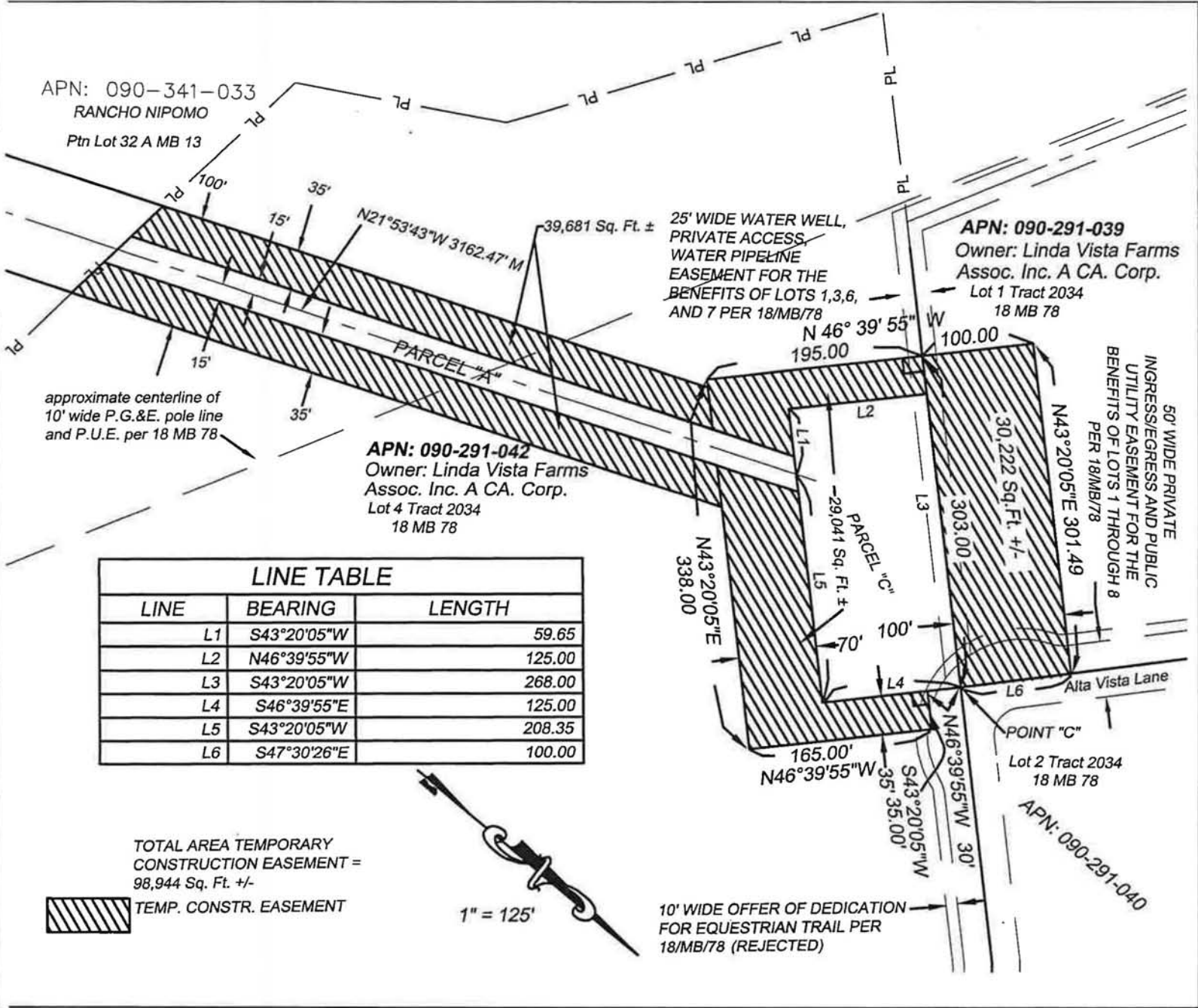




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**EXHIBIT E, PARCEL B,  
 TEMP. CONST. EASEMENT  
 PORTION OF LOTS 1 AND 4  
 TRACT 2034 COUNTY OF  
 SAN LUIS OBISPO, CA**

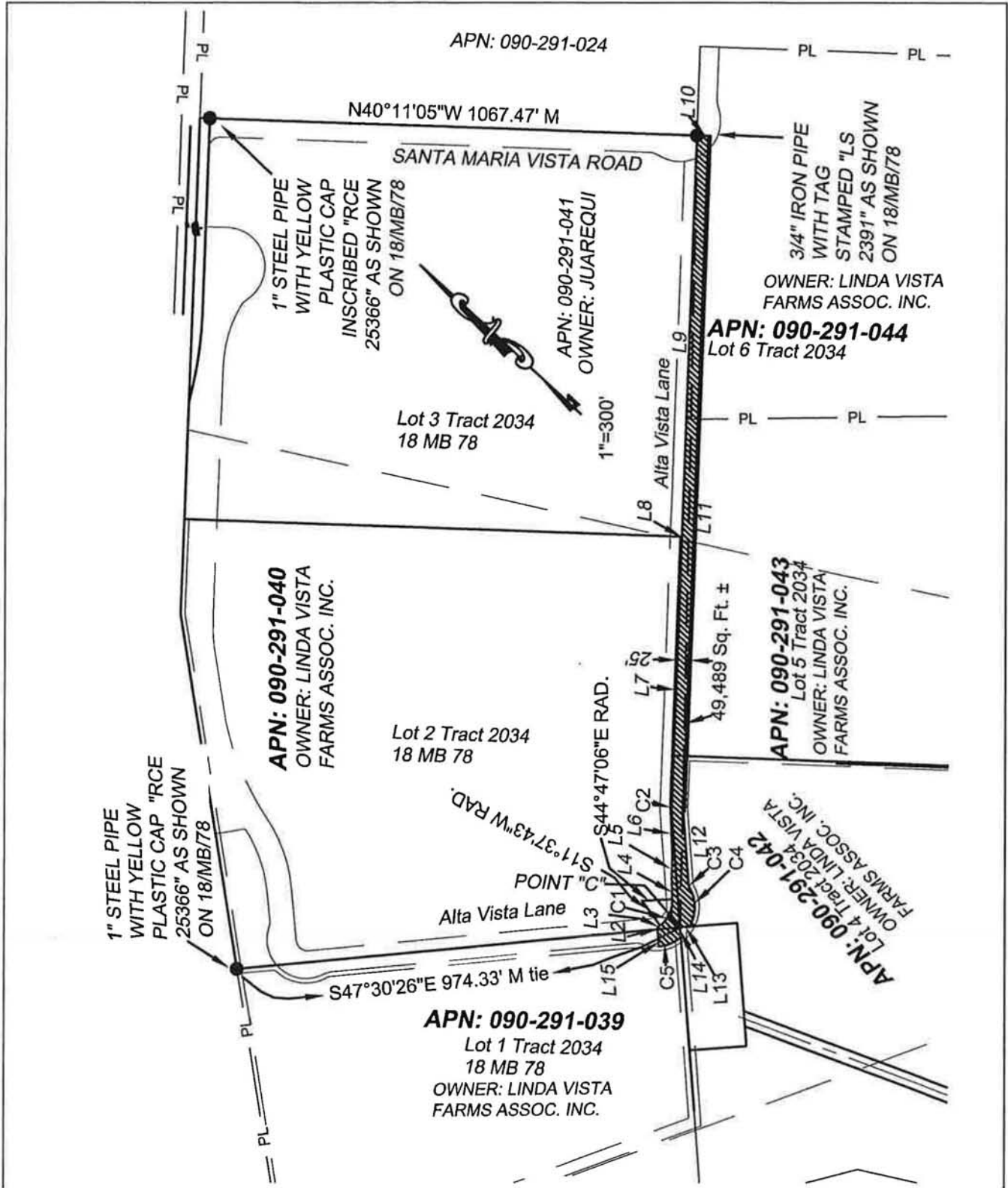
PROJECT NO. 0532-0024  
 532-0024 Legal-6A.dwg  
 SURVEYED BY: EMR 10-12/2008  
 DRAFTED BY: MM 7-6-2011  
 CHECKED BY: JTM 7-6-2011



LINE TABLE		
LINE	BEARING	LENGTH
L1	S43°20'05"W	59.65
L2	N46°39'55"W	125.00
L3	S43°20'05"W	268.00
L4	S46°39'55"E	125.00
L5	S43°20'05"W	208.35
L6	S47°30'26"E	100.00

TOTAL AREA TEMPORARY  
 CONSTRUCTION EASEMENT =  
 98,944 Sq. Ft. +/-

TEMP. CONST. EASEMENT



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**EXHIBIT F, PARCEL D  
 PERMANENT EASEMENT  
 PORTIONS OF ALTA VISTA LANE  
 & SANTA MARIA VISTA ROAD  
 IN THE COUNTY OF  
 SAN LUIS OBISPO, CA**

PROJECT NO. 0532-0024
532-0024 Lega-A1.dwg
SURVEYED BY: EMR 10-12/2008
DRAFTED BY: MM 7-6-2011
CHECKED BY: JTM 7-6-2011



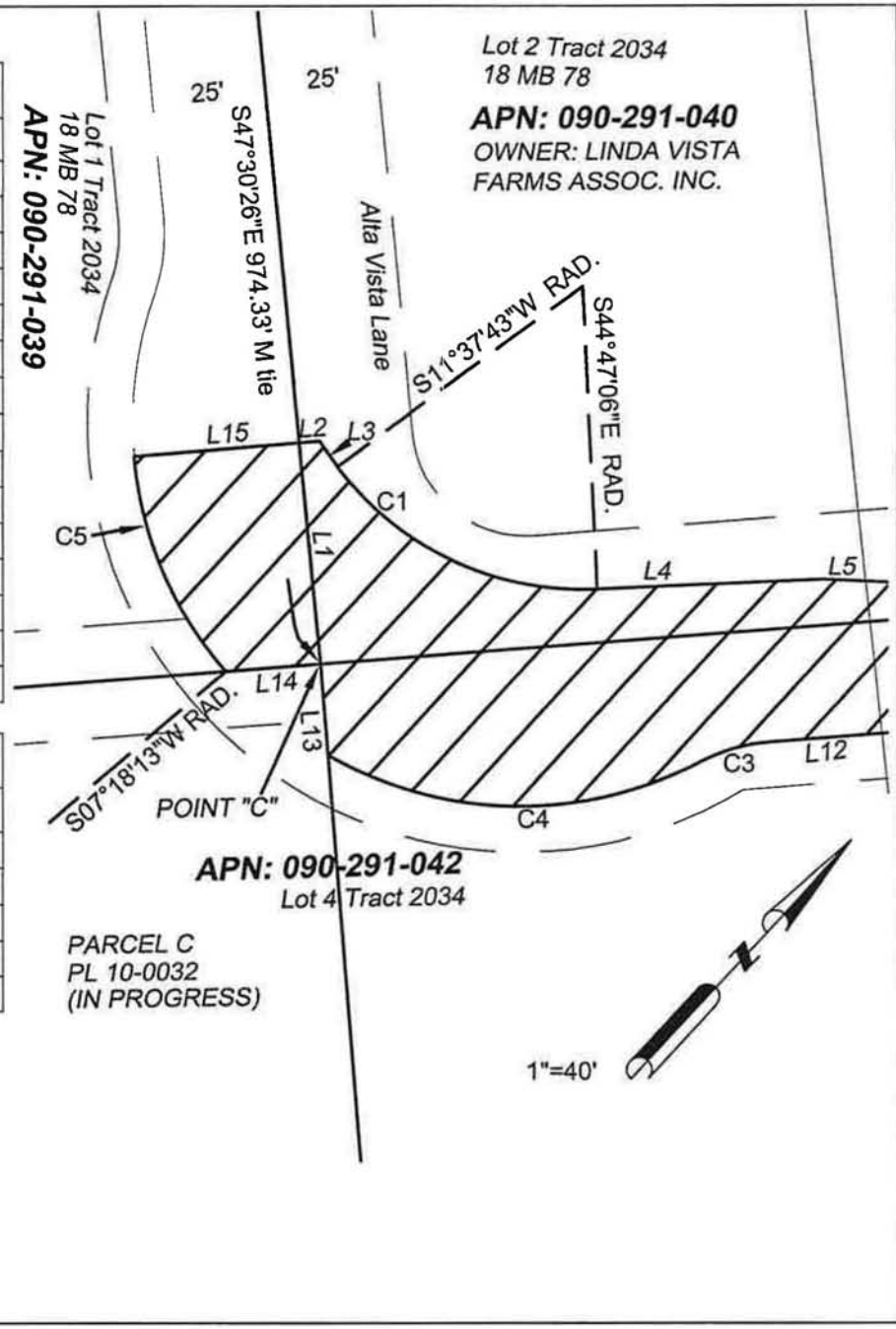
812 CLARION COURT  
 SAN LUIS OBISPO, CA 93401  
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 F 805 544-4294  
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**EXHIBIT F CONT., PARCEL D  
 PERMANENT EASEMENT  
 PORTIONS OF ALTA VISTA LANE  
 & SANTA MARIA VISTA ROAD  
 IN THE COUNTY OF  
 SAN LUIS OBISPO, CA**

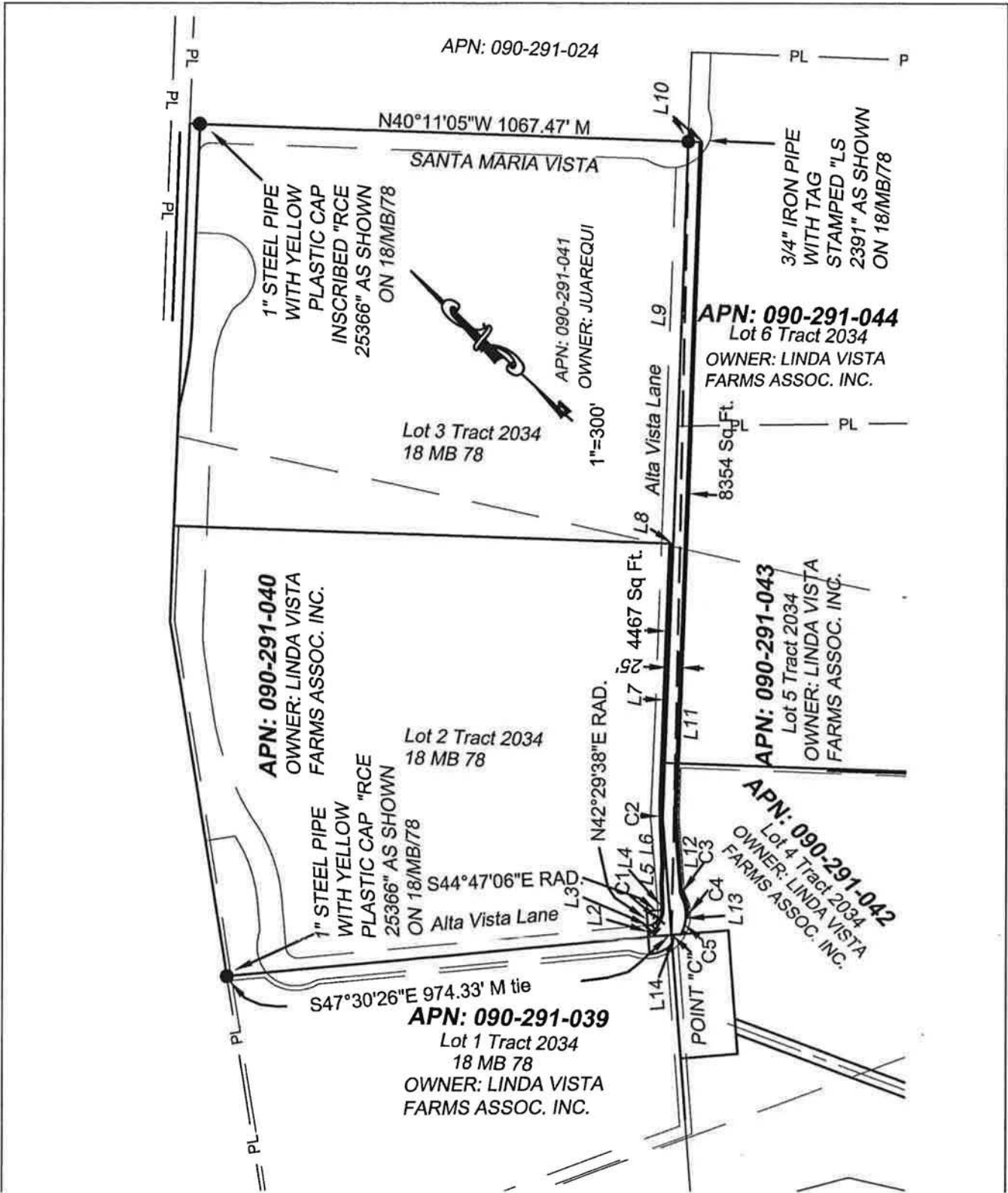
**PROJECT NO. 0532-0024**  
 532-0024 Lega-A1-2.dwg  
 SURVEYED BY: EMR 10-12/2008  
 DRAFTED BY: MM 7-6-2011  
 CHECKED BY: JTM 7-6-2011

LINE TABLE		
LINE	BEARING	LENGTH
L1	N47°30'26"W	49.55
L2	N43°16'14"E	4.49
L3	S77°53'38"E	6.82
L4	N45°12'54"E	49.95
L5	N50°55'22"E	40.20
L6	N45°13'28"E	94.96
L7	N49°49'01"E	557.07
L8	S40°12'10"E	3.12
L9	N49°48'30"E	869.09
L10	S40°11'30"E	25.00
L11	S49°48'30"W	1462.75
L12	S43°20'02"W	155.31
L13	N46°39'55"W	20.27
L14	S43°20'05"W	20.92
L15	N43°15'05"E	36.45

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	65.76	66.79	56°24'49"
C2	45.16	563.48	04°35'32"
C3	16.11	40.00	23°04'33"
C4	85.03	85.00	57°18'47"
C5	52.95	85.00	35°41'30"







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**EXHIBIT G, PARCEL E  
 TEMPORARY CONST. EASEMENT  
 PORTIONS ALTA VISTA LANE  
 SANTA MARIA VISTA ROAD &  
 LOTS 2, 4, 5 & 6 OF TRACT 2034  
 COUNTY OF SAN LUIS OBISPO, CA**

PROJECT NO. 0532-0024	
532-0024 Lega-9.dwg	
SURVEYED BY: EMR 10-12/2008	
DRAFTED BY: MM 7-6-2011	
CHECKED BY: JTM 7-6-2011	



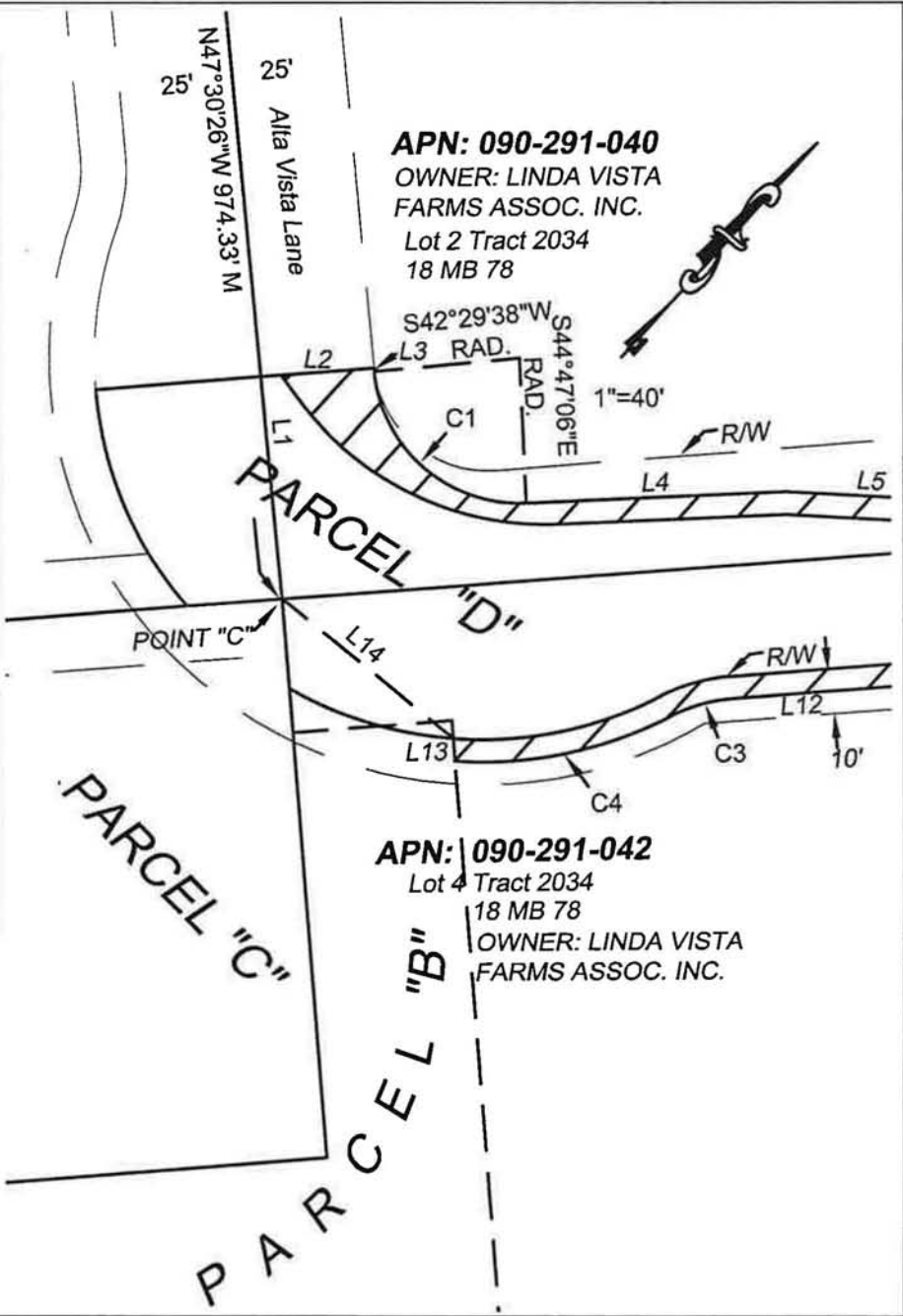
812 CLARION COURT  
 SAN LUIS OBISPO, CA 93401  
 T 805 544-4011  
 F 805 544-4294  
 www.wallacegroup.us

**EXHIBIT G CONT. PARCEL E,  
 TEMP. CONSTR. EASEMENT  
 PORTIONS OF ALTA VISTA LANE  
 AND SANTA MARIA VISTA ROAD &  
 LOTS 2,4,5,86 OF TRACT2034  
 IN THE COUNTY OF  
 SAN LUIS OBISPO, CA**

PROJECT NO. 0532-0024  
 532-0024 Legal-11.dwg  
 SURVEYED BY: EMR 10-12/2008  
 DRAFTED BY: MM 7-6-2011  
 CHECKED BY: JTM 7-6-2011

LINE TABLE		
LINE	BEARING	LENGTH
L1	N47°30'26"W	49.55
L2	N43°16'14"E	25.00
L3	S47°30'22"E	0.77
L4	N45°12'54"E	57.06
L5	N50°55'22"E	40.20
L6	N45°13'28"E	94.71
L7	N49°49'01"E	557.07
L8	S40°12'10"E	5.00
L9	N49°48'30"E	869.09
L10	S40°11'30"E	30.00
L11	S49°48'30"W	1462.47
L12	S43°20'02"W	155.03
L13	N46°32'27"W	5.01
L14	S87°31'13"W	48.83

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	48.75	32.00	87°16'44"
C2	45.56	568.48	4°35'32"
C3	14.10	35.00	23°04'33"
C4	49.12	90.00	31°16'08"



TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: MARCH 22, 2013



## **CONSIDER FORMATION OF A SOLID WASTE COMMITTEE**

### **ITEM**

Consider forming a Committee to review District solid waste program and make recommendations to the Board [RECOMMEND FORM COMMITTEE AND APPOINT MEMBERS]

### **BACKGROUND**

Solid waste franchise fees fund District solid waste programs, grants, and administration. A committee focused on reviewing program services to advise your Board may be desired.

### **FISCAL IMPACT**

None

### **STRATEGIC PLAN**

Strategic Plan Goal 7.A.2 – Provide additional solid waste services  
Strategic Plan Goal 7.A.3 – Communicate with customers

### **RECOMMENDATION**

Consider, by motion and roll call vote, forming a Solid waste Committee, should a Committee be formed, appoint a Chairperson and Member and direct staff to post updated 2013 NCSD Committee Assignments.

### **ATTACHMENT**

- A. 2013 NCSD Committee Assignments

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\2013\130327 APPOINT SW COMMITTEE.docx

MARCH 27, 2013

ITEM E-5

ATTACHMENT A

# 2013 NCSD COMMITTEE ASSIGNMENTS

Approved January 9, 2013

## Standing Committee Assignments (2 members)

Supplemental Water Project Design & Construction  
 Finance and Audit  
 Parks  
 Southland Wastewater Treatment Facility Upgrade  
 Water Conservation  
 Personnel

## Chairperson

Jim Harrison  
 Larry Vierheilig  
 Jim Harrison  
 Jim Harrison  
 Larry Vierheilig  
 Larry Vierheilig

## Member

Craig Armstrong  
 Craig Armstrong  
 Dan Gaddis  
 Dan Gaddis  
 Craig Armstrong  
 Dan Gaddis

## DELEGATES

SCAC  
 Water Resources Advisory Committee (WRAC)  
 Chamber of Commerce meets last Thursday Blacklake at noon  
 City of Santa Maria/CCWA  
 Olde Towne Nipomo Association  
 Blacklake Village Council/Committees  
 Liaison to the Nipomo Incorporation Committee for Education (NICE)  
 Representative to the Board of Supervisors  
 Representative to the Planning Commission

## MEMBER

Craig Armstrong  
 Larry Vierheilig  
 Jim Harrison  
 Craig Armstrong  
 Bob Blair  
 Larry Vierheilig  
 Jim Harrison  
 Jim Harrison  
 Jim Harrison

## ALTERNATE

None  
 Michael LeBrun  
 Dan Gaddis  
 Bob Blair  
 Jim Harrison  
 Craig Armstrong  
 none  
 Larry Vierheilig  
 Larry Vierheilig

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

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