

July 16, 2018

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*Via hand delivery and
email (cao@co.santa-barbara.ca.us)*

Board of Supervisors
County of Santa Barbara
105 East Anapamu St.
Santa Barbara, CA 93101

Re: Novim Montecito Community Stakeholder and Community Engagement Effort

Dear Chairman Williams, Vice Chair Lavagnino and Honorable Members of the Board:

We are the attorneys for the *Santa Maria Times*. Along with the *Times*' Publisher, Cynthia Schur, we write in opposition to the County Executive Officer's recommendation that the Board approve a \$5,000 grant to Novim as long as the grant includes a provision funneling County funds to the news website Noozhawk.

As described by the CEO, Novim is a nonprofit scientific research group based out of UC Santa Barbara, and is seeking to raise \$500,000 to lead a community stakeholder process that will gauge the impacts and challenges related to the January 9, 2018 debris flow in Montecito. The *Times* has no objection to this proposal in and of itself. It is the inclusion of Noozhawk that is both troubling and potentially unconstitutional.

According to the CEO's agenda letter, Noozhawk will be paid to "report on the activities and the process of the study groups, and their conclusions, while also providing context and comparisons so readers and residents can stay fully informed." The ethical and legal concerns surrounding the granting of this money to Noozhawk are manifold.

As required by the code of ethics that governs bona fide, unbiased news reporting, most news organizations do not accept payment of any kind for coverage of a specific issue. The reason for this is obvious: by accepting payment, a reporter may be expected to cast the organization that paid for that coverage in the best light possible, rather than adhering to journalistic norms and providing unbiased reporting. It will undoubtedly be very difficult for Noozhawk to maintain any objectivity in its reporting given its own financial involvement in this project. If, for example, the study turns out to be flawed in some way, Noozhawk would have a financial disincentive to report that information to readers because Noozhawk itself is being paid to use its "electronic town hall" to encourage participation in the study. This will obviously harm, rather than benefit, the public. Noozhawk cannot be expected to objectively cover County government – or the Novim Montecito Community Stakeholder Process and Engagement Effort – if it becomes, in effect, a partner with the County and Novim paid to provide coverage.

A second issue, and one that has grave constitutional implications, is the fact that the county would be favoring one news organization over all others through this grant. “[D]iscriminatory access to public forums or information is generally violative of the First Amendment.” *Telemundo of Los Angeles v. City of Los Angeles*, 283 F. Supp. 2d 1095, 1102–03 (C.D. Cal. 2003) (unconstitutional for city to grant preferential access to one television station over another in connection with live coverage of public event, even though it had partnered with station to host event).

The potential First Amendment violation here is not that the *Times* or any other legitimate news outlet wants to compete for a part of the proposed grant. Rather, the problem is that Noozhawk, which holds itself out as a local news outlet, would essentially be entering into a financial partnership with the County and Novim if this grant is approved. The proposal not only envisions Novim, Noozhawk and a third organization as leaders of this project, but also proposes that the County of Santa Barbara, as well as other government agencies, act as “government partners” on this project. This arrangement gives the County and its partners, including Novim, every incentive to give another partner, Noozhawk, preferential access to government information, records and events to ensure the coverage that the County and Novim want.

In short, the dual role envisioned for Noozhawk as both a government vendor partnering on a project partially funded by the County and as a news organization covering that project and the County is untenable and potentially unconstitutional.

For all these reasons, the *Times* respectfully requests that the Board of Supervisors not approve this \$5,000 grant to Novim as currently proposed to include Noozhawk as a partner in the project.

Sincerely,



Bryan Cave Leighton Paisner
Roger Myers
Leila Knox



Publisher, *Santa Maria Times*
Cynthia Schur