



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: Flood Control  
Department No.: 054  
For Agenda Of: 05/07/13  
Placement: Administrative  
Estimated Tme: N/A  
Continued Item: yes  
If Yes, date from: 04/16/13  
Vote Required: Majority

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**TO:** Board of Directors, Flood Control and Water Conservation District

**FROM:** Department Scott D. McGolpin, Public Works Director, 568-3010  
Director(s)  
Contact Info: Thomas D. Fayram, Deputy Public Works Director, 568-3436

**SUBJECT:** License Agreement with the Nipomo Community Services District for the Waterline Intertie Project, Fifth Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management

As to form: Yes

**Recommended Actions:**

- a) Certify that the Board, acting as a Responsible Agency, has considered the environmental effects of the 2009 Final Environmental Impact Report (FEIR) for the Nipomo Community Services District Waterline Intertie Project, SCH # 2005071114, and the Addendum to that EIR dated April 25, 2012, pursuant to the California Environmental Quality Act (CEQA) Section 15096(f), (Attachments [1](#) [and 4](#));
- b) Certify that the Board, acting as a Responsible Agency, has reviewed and considered the information contained in the 2009 FEIR for the Nipomo Community Services District Waterline Intertie Project, and the Addendum dated April 25, 2012, and adopts the CEQA Findings pursuant to CEQA Section 15091 as required by Section 15096(h), (Attachment 2);
- c) Approve and authorize the Chair to execute the License Agreement with the Nipomo Community Services District for the Waterline Intertie Project that crosses the Santa Maria River Levee (Attachment 3); and
- d) After considering the Final Environmental Impact Report (FEIR) that the Nipomo Community Services District's Board of Directors certified on April 22, 2009, and the Addendum to that FEIR that the Nipomo Community Services District's Board of Directors received and considered on April 25, 2012, determine pursuant to 14 CCR 15162(a) that no subsequent EIR or Negative Declaration is required for this project because of the following: 1) No substantial

changes are proposed in the project which require major revisions of the 2009 Final EIR; 2) No substantial changes have occurred with respect to the circumstances under which the project is undertaken which require major revisions of the 2009 Final EIR; and 3) No new information of substantial importance concerning the project's significant effects or mitigation measures, which was not known and could not have been known with the exercise of reasonable diligence at the time that the Final EIR was certified in 2009, has been received.

### **Summary Text:**

The Nipomo Community Services District (NCSD) proposes to construct a waterline connection from the City of Santa Maria water distribution system, across the Santa Maria River, to an existing water distribution system within the Nipomo Community Services District.

The proposed project would cross the Santa Maria River Levee at the northerly extension of Blosser Road. The pipeline would be constructed under the Levee System as to not disrupt the integrity of the Levee. This section of Levee was recently repaired by the U.S. Army Corps of Engineers (Corps) with new soil cement facing from the top of the Levee to approximately 15 feet below the riverbed. The Santa Maria River Levee is one of the many parcels the NCSD project would cross.

Pursuant to the requirements of CEQA, an EIR for the Project was prepared by the NCSD to identify alternatives, analyze impacts, and identify associated mitigation measures for the Waterline Intertie Project. Acting as the lead agency under CEQA, the NCSD certified that EIR in 2009. Subsequently, NCSD considered an Addendum to that EIR dated April 25, 2012.

Due to consideration of the issuance of the License Agreement that would allow the project across about 240 linear feet of Flood Control District-owned property, the Flood Control District becomes a Responsible Agency under CEQA. Other than approval of the License Agreement as recommended herein, the Flood Control District will not physically implement any portion of the project. Therefore, pursuant to CEQA Guidelines Section 15096(g)(1), the Flood Control District is a Responsible Agency that has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carryout, finance or approve.

The NCSD will construct a sleeve below all Levee improvements which will then contain the actual pipeline. The Corps has also reviewed the plan and has approved the work. Other utilities cross the Levee in similar fashion, such as other waterlines, gas lines, oil lines, and others.

The License Agreement allows the NCSD to construct their Waterline Intertie Project within District-owned property and it also indemnifies the Flood Control District from both responsibility of maintenance of the NCSD's project and liability from the Licensed use.

As the Fee owner of the subject property, your Board has the authority to issue a License Agreement for the prescribed use, subject to the approval of the Corps of Engineers, which has since been received.

A 2008 Judgment After Trial, for consolidated cases involving Santa Maria groundwater litigation, approved a 2005 Stipulation among some of the litigating parties which:

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[G:\Board Letters\2013\Water Resources\Nipomo CSD License Agreement\replacement Nipomo Community Services License Agreement \(BL\).doc](G:\Board Letters\2013\Water Resources\Nipomo CSD License Agreement\replacement Nipomo Community Services License Agreement (BL).doc)

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- Stated that NCSD agrees to purchase from the City of Santa Maria and transmit to the Nipomo Mesa Management Area a minimum of 2,500 acre-feet of water each year; and
- Required stipulating parties to support and not to oppose, among other items, alignment and construction of a pipeline to deliver the above water from Santa Maria to the Nipomo Mesa Management Area.

The parties to the 2005 Stipulation included, among others: the County of Santa Barbara, the Santa Barbara County Flood Control and Water Conservation District, and the Santa Barbara County Water Agency.

**Background:** The NCSD approached the Flood Control District in 2010 to seek rights for construction of the intertie project. That project requires ~~acquisition~~ acquisition of rights over many properties including the Levee Fee parcel.

The Corps of Engineers has since completed construction of Levee Improvements on the Santa Maria River Levee. The work proposed by the NCSD will go under the new Levee improvements and will not affect these ~~improvements~~ improvements.

### **Fiscal and Facilities Impacts:**

Budgeted: No

Narrative:

There are no fiscal impacts associated with this action. The agreement indemnifies the Flood Control District from any and all liability associated with the proposed secondary use of this facility.

### **Special Instructions:**

Direct the Clerk of the Board to send two certified copies of the License Agreement and minute order of these actions to the Flood Control District, Attn: Christina Lopez.

### **Attachments:**

Final EIR Nipomo Community Services District Waterline Intertie Project SCH # 2005071114

(Attachment No. 1 on disc)

CEQA Findings (Attachment 2 on disc)

License Agreement (Attachment 3)

Addendum to the EIR (Attachment 4)

**Authored by:** Thomas Fayram, Deputy Public Works Director, 568-3436

