

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2023-1658**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT ADOPTING A  
REVISED ANNEXATION POLICY**

**WHEREAS**, the Nipomo Community Services District (“District”) is formed under the Community Services District Law (Govt. Code §61100 et seq.) and provides water, sewer, and solid waste services within its service area pursuant to Govt. Code §61100 of the Community Services District Law; and

**WHEREAS**, the Local Agency Formation Commission of San Luis Obispo County (“LAFCO”) is charged with the authority to review and approve all requests for annexations, sphere of influence changes, and other changes in organization of the District; and

**WHEREAS**, LAFCO adopted a Sphere of Influence Update and Municipal Service Review for the District on or about March 15, 2018; and

**WHEREAS**, the District’s Board of Directors has adopted an Annexation Policy by Resolution No. 2020-1540; and

**WHEREAS**, subsequent to the adoption of the District’s most recent Annexation Policy, the Board has determined clarification of the Annexation Policy with regard to the subject of property tax revenue exchange agreements is in order; and

**WHEREAS**, the Board of Directors finds and declares that the policies adopted by this Resolution are consistent, and do not conflict, with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 or with the LAFCO actions described herein.

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

1. The facts and findings stated above are true and correct to the best of the Board’s knowledge and incorporated herein.
2. The Annexation Policy of the Nipomo Community Services District, as adopted in Resolution 2020-1540, is hereby amended as follows:
  - a. Section II, Intent, is amended to read (additions are underlined, deletions are ~~struck through~~):

**“II. INTENT**

The Board of Directors intends to review all annexation requests with the aim of supporting the viability of the District in providing essential services and adhering to the District’s mission statement:

*“Provide our customers with reliable, quality, and cost-effective services now and in the future.”*

The District recognizes the need to preserve and enhance the availability and quality of its services and of the water resources within the Nipomo Mesa Management Area. With this intent and within the framework of this annexation policy, the District acknowledges that, where conditions and findings will preserve and enhance District services and the water

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resources that support District customers, and where, if applicable, the District and the other involved government entities approve an agreement as to the amount of property tax revenues that will be exchanged in future years, consistent with historic property tax revenue sharing agreements with regard to the percentage allocated to the District, thereby ensuring equity between existing customers and customers applying for annexation. Under these expressed conditions, annexations may provide a greater benefit to the community than the formation of homeowners associations or mutual water companies for the operation of water and/or sewer systems in the Nipomo Mesa area.”

- b. Section IV, Annexation Requirements, Paragraph J, is hereby amended to read (additions are underlined, deletions are ~~struck through~~):

“J. The applicant shall apply to and obtain approval from LAFCO for approval of the proposed annexation as required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, or any successor statute. As one requirement of the annexation proceeding, the District will negotiate in good faith with the County of San Luis Obispo, or any other affected local government entity, to achieve a mutually acceptable agreement for the exchange of property tax revenue as provided in Revenue and Taxation Code Sections 99 and 99.01, or any successor statutes. No annexation of property affecting the District may go forward without the District Board’s approval of such an agreement. To promote equity and fairness upon the annexation of customers into the District, it is the policy of the District that every proposed property tax revenue exchange agreement for an annexation shall allocate to the District a percentage of property tax revenue from the annexation that is consistent with the percentages the District has agreed to accept in previously approved annexations, except where the Board makes express written findings that extenuating circumstances apply and that a variation from this Paragraph IV J will not establish precedent for future annexations.”

3. The adoption of this amendment to an administrative policy is not a “project” as defined in Public Resources Code Section 21065, as it is not an activity that may cause a direct or indirect change in the environment and is thus not subject to review under the California Environmental Quality Act (“CEQA”).

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

**AYES:** *Directors Eby, Woodson, Hansen, Gaddis and Malvarose*  
**NOES:** *NONE*  
**ABSENT:** *NONE*  
**CONFLICTS:** *NONE*

the foregoing resolution is hereby passed and adopted this 22<sup>nd</sup> day of March, 2023.



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**RICHARD MALVAROSE**  
President of the Board

ATTEST:



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**MARIO E. IGLESIAS**  
General Manager and Secretary to the Board

APPROVED AS TO FORM:



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**CRAIG A. STEELE**  
District Legal Counsel

## EXHIBIT "A"

### THE ANNEXATION POLICY OF THE NIPOMO COMMUNITY SERVICES DISTRICT

Adopted January 22, 2020 – Resolution 2020-1540

Amended March 22, 2023 – Resolution 2023-1658

#### I. PURPOSE

In order to promote efficient processing of requests for annexation to the Nipomo Community Services District ("District"), this policy sets forth the framework and standards upon which the Board of Directors will consider such requests and provides notice thereof to the owners of the property that is the subject of such requests.

#### II. INTENT

The Board of Directors intends to review all annexation requests with the aim of supporting the viability of the District in providing essential services and adhering to the District's mission statement:

*"Provide our customers with reliable, quality, and cost-effective services now and in the future."*

The District recognizes the need to preserve and enhance the availability and quality of its services and of the water resources within the Nipomo Mesa Management Area. With this intent and within the framework of this annexation policy, the District acknowledges that, where conditions and findings will preserve and enhance District services and the water resources that support District customers, and where, if applicable, the District and the other involved government entities approve an agreement as to the amount of property tax revenues that will be exchanged in future years, consistent with historic property tax revenue sharing agreements with regard to the percentage allocated to the District, thereby ensuring equity between existing customers and customers applying for annexation. Under these expressed conditions, annexations may provide a greater benefit to the community than the formation of homeowners associations or mutual water companies for the operation of water and/or sewer systems in the Nipomo Mesa area.

#### III. SUBMITTAL OF ANNEXATION APPLICATION AND LAYOUT PLAN

Prior to consideration by the Board of Directors, Applicants must submit an application, and payment of the applicable application fees and deposits, to the District, demonstrating that the annexation will conform to these Annexation Policies and submit three (3) standard size (24" x 36") and one reduced copy (8½" x 11") of site plans showing the parcel layout, water and sewer laterals, and general off-site improvements, as applicable for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's water distribution facilities, sewer service, and solid waste services to be provided to the area of annexation by the District.

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#### IV. ANNEXATION REQUIREMENTS

- A. Annexation applications may only be accepted for properties within the District's sphere of influence as delineated by the San Luis Obispo County Local Agency Formation Commission ("LAFCO") at the time of application.
- B. If approved, annexations will be served with water supplied through the Nipomo Supplemental Water Project in accordance with the terms of the Stipulation and Judgment entered in the Santa Maria Groundwater Litigation and with all other District policies and ordinances. Annexations may only be approved if sufficient Nipomo Supplemental Water Project water exists to serve the project.
- C. In order to provide for the orderly development of public service facilities, only those properties will be considered for annexation for which the owners are willing to accept all conditions for service required by the Nipomo Community Services District. Further, requests for annexation solely for sewerage services to the exclusion of water service will be rejected by the Board of Directors, except under extraordinary circumstances.
- D. In order to evaluate the impacts of potential annexations upon the Nipomo Community Services District, the Board will only consider annexation requests that include the submittal of a layout plan that meets the requirement of Section III, a completed annexation application, a deposit agreement, payment of the Annexation Application Fee as established by Resolution of the District Board, and a costs deposit to cover the costs of any District staff time and technical studies required to fully evaluate the application as estimated by the District General Manager. The District General Manager may require such additional information and deposits from the Applicant the District Manager deems reasonably necessary. At the conclusion of the Application, any funds remaining from the costs deposit will be refunded to the Applicant. The annexation application fee is non-refundable.
- E. After review of the completed application, the Board of Directors will consider annexation requests where the application demonstrates all of the following:
  - 1. The proposed annexation area has a need for the requested services.
  - 2. The proposed annexation area boundaries are consistent with this Policy.
  - 3. There is no reasonable alternative manner of providing the requested services to the proposed annexation area.
  - 4. The annexation represents a logical and reasonable expansion of the

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District's boundaries.

5. The proposed annexation is consistent with the District's plans and policies.
  6. The District has the ability to meet the need for the requested services.
  7. The benefits of the proposed annexation outweigh the disadvantages of the proposed annexation to the District.
- F. The proposed annexation area boundaries shall be definite, certain, and conform to lines of assessment whenever possible. The proposed boundary shall include the entirety of any and all properties that may receive the proposed services to be provided. Rear property lines, rather than streets, will be used for the annexation boundary. Properties on both sides of a street that may receive services as a result of annexation may be required to be included in the annexation boundary.
- G. If the intended development within the proposed area of annexation requires discretionary San Luis Obispo County ("County") land use approvals (e.g., zoning, use permits, or subdivision map), the District's approval of the annexation shall not occur until after the owners has obtained such County approvals, unless the County and the District staffs have agreed in advance that the District's approval of an annexation may occur first, in which case the annexation approval shall be expressly conditioned on the owner obtaining County land use approvals. .
- H. Applicants shall abandon any groundwater well existing on the annexation property, in compliance with all applicable County Environmental Health permitting requirements and standards, as a condition of receiving water service from the District, and any future use of groundwater basin water by the Applicant or his/her successors in interest shall be prohibited. The District may, as a condition of approval, require the applicant to record a covenant in form and content satisfactory to District legal counsel, abandoning such use.
- I. Not Used.
- J. The applicant shall apply to and obtain approval from LAFCO for approval of the proposed annexation as required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, or any successor statute. As one requirement of the annexation proceeding, the District will negotiate in good faith with the County of San Luis Obispo, or any other affected local government entity, to achieve a mutually acceptable agreement for the exchange of property tax revenue as provided in Revenue and Taxation Code Sections 99 and 99.01, or

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any successor statutes. No annexation of property affecting the District may go forward without the District Board's approval of such an agreement. To promote equity and fairness upon the annexation of customers into the District, it is the policy of the District that every proposed property tax revenue exchange agreement for an annexation shall allocate to the District a percentage of property tax revenue from the annexation that is consistent with the percentages the District has agreed to accept in previously approved annexations, except where the Board makes express written findings that extenuating circumstances apply and that a variation from this Paragraph IV J will not establish precedent for future annexations.

- K. Prior to final LAFCO consideration of the annexation, the District shall adopt and forward to LAFCO a Resolution verifying the following:
1. The applicant has provided all improvements, payments, fees, and charges, and met all legal requirements, necessary to enable the District to serve the annexation area, including but not limited to the provision of sufficient supplemental water to support full build-out of the annexation area as reflected in the annexation application and the Annexation Agreement.
  2. The applicant has entered into an Annexation Agreement to the satisfaction of the District Board. The Resolution shall attach a copy of the Annexation Agreement, and shall request that LAFCO require compliance with the Annexation Agreement as a condition of approval of the Annexation.
  3. That for each connection or potential connection, the applicant has deposited with the District the then current capacity and connection fees and charges for District services.
- L. Typically, the District will be a "responsible agency" when required for purposes of review under the California Environmental Quality Act ("CEQA"). Approval or completion of an annexation will be conditioned upon compliance with all applicable requirements of CEQA and any mitigation measures or other conditions resulting from the completion of the CEQA process including, without limitation, a final non-appealable judgment in any litigation challenging the Annexation.
- M. Upon annexation, residents and commercial users within the area of the proposed annexation shall become "regular customers" of the District, with no greater entitlements to water or sewer service than any other District customer.
- N. As a condition of the District's approval of any Annexation application, the applicant shall agree to indemnify and defend, with counsel of the District's

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choice, the District, its officers, agents and employees, from and against from and against any and all claims, actions, or proceeding to attack, set aside, void or annul, enjoin, or seek damages arising out of, an approval of the District, County or LAFCO concerning the Annexation or the associated land use project. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses (including, but not limited to, interest, attorneys' fees and expert witness fees), or liability of any kind related to or arising from such claim, action, or proceeding.

#### V. ANNEXATION AGREEMENT

Prior to consideration of the Annexation by the District Board, all applicants for annexation shall be required to execute an annexation agreement with the District, in form and content satisfactory to the District General Manager and legal counsel, to be approved by the District Board of Directors. Said Annexation Agreement shall include, at a minimum, the following:

1. That all infrastructure and service line extensions shall be designed and constructed at no cost to District in accordance with District's standards.
2. Reimbursement to District for its costs in processing and completing the annexation, including administrative, consultant, legal, and engineering costs.
3. Payment for all applicable District fees and charges.
4. The annexation application, layout plan, and the District's then current Annexation Policy shall be incorporated into the Annexation Agreement.
5. The date by which annexation must be completed.
6. Applicable CEQA mitigation measures or requirements.
7. The indemnification and defense requirements of Section IV N, above.
8. Other terms and conditions as determined by the District.