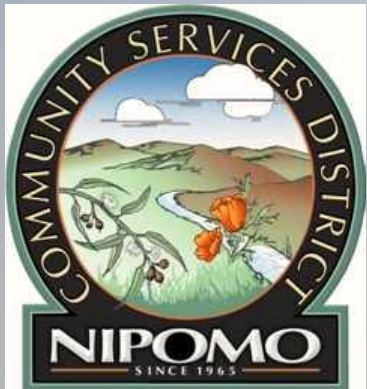


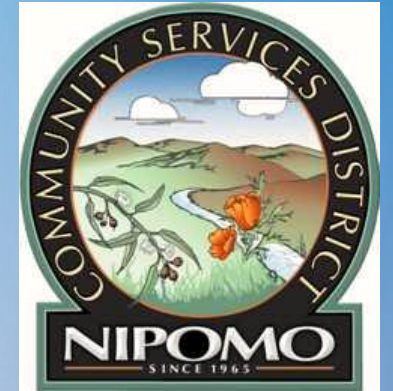
**CONSIDER APPROVING
NEGOTIATED PROPERTY TAX EXCHANGE WITH
THE COUNTY OF SLO, ANNEXATION
AGREEMENT, AND THE LAFCO PLAN FOR
SERVICES, AND MAKING REQUIRED FINDINGS
UNDER CEQA, RELATING TO THE DANA
RESERVE PROJECT**



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General Manager
Nipomo Community Services District
August 28, 2024

PROGRAM OUTLINE

- INTRODUCTION
- PROPERTY TAX SHARE AGREEMENT
- ANNEXATION AGREEMENT
- LAFCO PLAN FOR SERVICES
- CEQA CONSIDERATIONS
- RECOMMENDATIONS

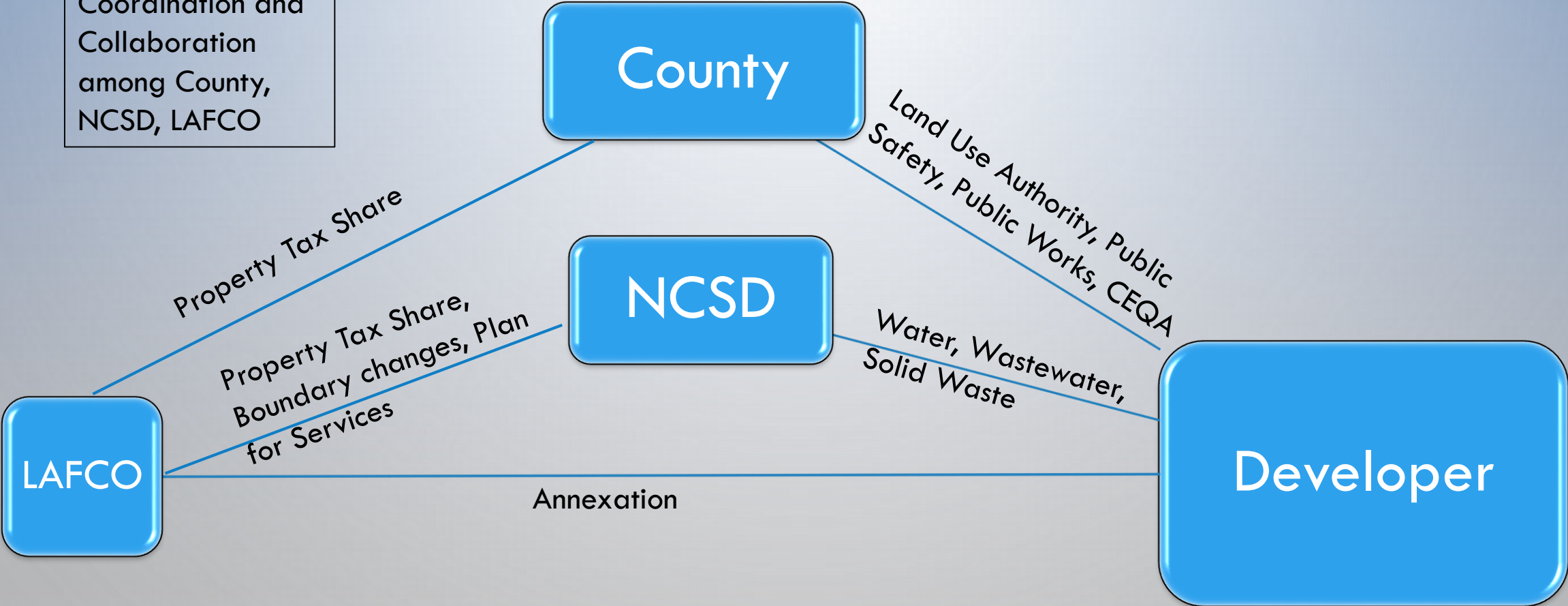


INTRODUCTION

- ACTIONS FOR CONSIDERATION ARE RELATED TO DANA RESERVE PROJECT
 - 288 ACRE PARCEL IN DISTRICT SPHERE OF INFLUENCE PROPOSING TO ANNEX INTO THE DISTRICT SERVICE AREA
 - APPROVED BY SLO COUNTY BOARD OF SUPERVISORS ON APRIL 24, 2024
- RECOMMENDED ACTIONS
 - RECOMMEND ADOPT RESOLUTION ACCEPTING THE NEGOTIATED PROPERTY TAX EXCHANGE WITH COUNTY OF SLO
 - RECOMMEND ADOPT RESOLUTION APPROVING THE ANNEXATION AGREEMENT WITH NKT DEVELOPMENT, AND LAFCO PLAN FOR SERVICES, AND MAKING REQUIRED FINDINGS UNDER CEQA

INTRODUCTION

Coordination and Collaboration among County, NCSD, LAFCO



PROPERTY TAX SHARE AGREEMENT

- **IMPORTANCE OF PROPERTY TAX ALLOCATION**

- REQUIRED BY THE REVENUE AND TAXATION CODE IN ANNEXATION PRIOR TO LAFCO REVIEW.
- ENSURES EQUITABLE DISTRIBUTION OF INCREASED PROPERTY TAX REVENUE POST-ANNEXATION.
- SUPPORTS DISTRICT-WIDE INFRASTRUCTURE AND SERVICES NOT COVERED BY RATE REVENUE.

- **TIMELINE OF NEGOTIATIONS**

- INITIAL PROPOSAL OF 3.72395% REJECTED BY THE COUNTY.
- FINAL NEGOTIATED PERCENTAGE: 2.36973% (~\$270,599 AT PROJECT BUILDOUT).
- CONSIDERATION OF EQUITY AND FAIRNESS FOR NEW PROPERTY OWNERS.
- COUNTY BOARD OF SUPERVISORS APPROVED THE NEGOTIATED PERCENTAGE ON JULY 9, 2024
(COUNTY RESOLUTION 2024-169)

PROPERTY TAX SHARE AGREEMENT

- DISTRICT BOARD POLICY IN RESOLUTION 2023-1658 STATES:

“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 A PRECEDENT FOR FUTURE ANNEXATIONS.”

PROPERTY TAX SHARE AGREEMENT

- BASIS FOR RECOMMENDATION

- DISTRICT BOARD POLICY IN RESOLUTION 2023-1658 STATES:

- “TO PROMOTE **EQUITY AND FAIRNESS** UPON THE ANNEXATION OF CUSTOMERS INTO THE DISTRICT.”

- AT BUILD-OUT – 2.36973% WOULD INCREASE THE DISTRICT PROPERTY TAX SHARE BY 20-30%, THIS CORRELATES WITH THE INCREASE IN POPULATION THIS ANNEXATION WOULD ADD
 - ADDITIONAL PROPERTY TAX FUNDS GO TO THE COUNTY, NOT THE DEVELOPER OR PROPERTY OWNERS

PROPERTY TAX SHARE AGREEMENT

- BASIS FOR RECOMMENDATION

- OTHER “EXTENUATING CIRCUMSTANCES”

- ADDITIONAL CUSTOMERS TO SPREAD THE COSTS OF SUPPLEMENTAL WATER THE DISTRICT IS REQUIRED TO TAKE AND PAY FOR AT SIGNIFICANTLY HIGHER RATES THAN GROUNDWATER.
 - ANNEXED CUSTOMERS WILL PAY WATER RATES THAT ARE BASED ON THE COST OF SUPPLEMENTAL WATER, WHICH WILL HELP KEEP THE WATER RATES PAID BY EXISTING CUSTOMERS LOWER.
 - CAPACITY CHARGES PROVIDE SIGNIFICANT CAPITAL FOR NECESSARY IMPROVEMENTS TO THE DISTRICT’S WASTEWATER INFRASTRUCTURE.

PROPERTY TAX SHARE AGREEMENT

- BASIS FOR RECOMMENDATION CONT.
 - OTHER “EXTENUATING CIRCUMSTANCES”
 - NON-REFUNDABLE PAYMENT TO THE DISTRICT OF \$4.5 MILLION TO BE USED FOR CONSTRUCTION AND IMPROVEMENT OF DISTRICT INFRASTRUCTURE THAT WILL BENEFIT ALL CUSTOMERS, NOT JUST THE NEW CUSTOMERS FROM THE DEVELOPMENT.
 - THE COUNTY'S OBLIGATION TO PROVIDE INCREASED FIRE AND SHERIFF SERVICES IS NOTEWORTHY. SINCE THE DISTRICT DOES NOT DIRECTLY FUND THESE SERVICES, IT IS APPROPRIATE FOR THE DISTRICT TO CONSIDER THIS IN GOOD FAITH NEGOTIATIONS.
 - WHILE THE COUNTY MIGHT ARGUE THAT THE LOWER PERCENTAGE SETS A PRECEDENT FOR FUTURE ANNEXATIONS, IT IS IMPORTANT TO NOTE THAT HISTORICAL DATA SHOWS VARIATIONS IN PROPERTY TAX PERCENTAGES OFFERED BY THE COUNTY, AND THE UNIQUE NATURE OF THIS PROJECT SUGGESTS THAT FUTURE ANNEXATIONS WON'T NECESSARILY FOLLOW THE TERMS OF THIS AGREEMENT

ANNEXATION AGREEMENT

- ANNEXATION IS A CONDITION OF APPROVAL IMPOSED BY THE COUNTY OF SLO
- THE PROJECT WILL NEED TO RECEIVE WATER, WASTEWATER, AND SOLID WASTE SERVICES FROM THE DISTRICT THROUGH AN ANNEXATION
 - STIPULATED JUDGEMENT REQUIRES “NEW URBAN USES” TO “OBTAIN WATER SERVICE FROM THE LOCAL PUBLIC SUPPLIER”
 - “THE LOCAL PUBLIC WATER SUPPLIER SHALL PROVIDE WATER SERVICE ON A REASONABLE AND NON-DISCRIMINATORY BASIS”
 - NCSD IS THE LOCAL PUBLIC WATER SUPPLIER
- DEVELOPER’S COMMITMENTS
 - \$4.5 MILLION NON-REFUNDABLE PAYMENT FOR DISTRICT INFRASTRUCTURE.
 - PAYMENT FOR ALL ON-SITE AND SHARE OFF-SITE INFRASTRUCTURE TO SERVE THE PROJECT.
 - CAPACITY CHARGES AND ADDITIONAL FEES DETAILED.
- FINANCIAL PROTECTIONS FOR THE DISTRICT IF THE PROJECT STALLS.

ANNEXATION AGREEMENT CONT. 2

- CONSISTENT WITH ANNEXATION POLICY (RESO NO. 2020-1540, SECTION V)

- 1. THE PROPOSED ANNEXATION AREA HAS A NEED FOR THE REQUESTED SERVICES.** THE PROPOSED ANNEXATION HAS BEEN APPROVED BY THE COUNTY AND THERE IS NO OTHER AGENCY THAT COULD FEASIBLY PROVIDE SERVICES.
- 2. THE PROPOSED ANNEXATION AREA BOUNDARIES ARE CONSISTENT WITH THIS POLICY.** THE PROPOSED ANNEXATION IS IN THE DISTRICT'S SPHERE OF INFLUENCE AND ADJACENT TO DISTRICT BOUNDARIES AND COMPLIES WITH THE ANNEXATION POLICY.
- 3. THERE IS NO REASONABLE ALTERNATIVE MANNER OF PROVIDING THE REQUESTED SERVICES TO THE PROPOSED ANNEXATION AREA.** THE STIPULATION REQUIRES THE PROJECT, AS A NEW URBAN USER, TO TAKE SERVICE FROM THE DISTRICT. THERE IS NO OTHER WATER PURVEYOR FOR THE SUBJECT PROPERTY.

ANNEXATION AGREEMENT CONT. 3

- CONSISTENT WITH ANNEXATION POLICY (RESO NO. 2020-1540, SECTION V)
- 4. THE ANNEXATION REPRESENTS A LOGICAL AND REASONABLE EXPANSION OF THE DISTRICT'S BOUNDARIES.** THE PROPOSED ANNEXATION IS WITHIN THE DISTRICT'S SPHERE OF INFLUENCE AS DETERMINED BY LAFCO.
 - 5. THE PROPOSED ANNEXATION IS CONSISTENT WITH THE DISTRICT'S PLANS AND POLICIES.** ALL IMPROVEMENTS WOULD BE CONSTRUCTED TO DISTRICT SPECIFICATIONS; WATER WOULD BE SUPPLIED FROM THE SWP. ALL NEW CUSTOMERS WOULD BE REQUIRED TO COMPLY WITH DISTRICT POLICIES.
 - 6. THE DISTRICT HAS THE ABILITY TO MEET THE NEED FOR THE REQUESTED SERVICES.** THE 2020 UWMP AND WSA FOR THE PROJECT SHOW THERE IS SUFFICIENT WATER SUPPLY TO SERVE THE PROJECT, EVEN IN MULTIPLE DRY YEARS. WITH IMPROVEMENTS FUNDED ENTIRELY BY THE PROJECT, THE DISTRICT HAS THE ABILITY TO MEET THE PROJECT'S NEEDS.
 - 7. THE BENEFITS OF THE PROPOSED ANNEXATION OUTWEIGH THE DISADVANTAGES OF THE PROPOSED ANNEXATION TO THE DISTRICT.** THE "EXTENUATING CIRCUMSTANCES" IDENTIFIED IN THE DISCUSSION OF PROPERTY TAX REVENUES OUTWEIGH THE POSSIBLE DISADVANTAGES OF THE PROJECT.

LAFCO PLAN FOR SERVICES

- ITEMS REQUIRED PRIOR TO LAFCO FULLY PROCESSING THE ANNEXATION APPLICATION INCLUDED THE FOLLOWING:
 - ✓ COUNTY APPROVAL OF THE PROJECT, INCLUDING ASSOCIATED ENTITLEMENTS SUCH AS TENTATIVE TRACT MAP, GENERAL PLAN AMENDMENT(S), CONDITIONAL USE PERMIT, DEVELOPER AGREEMENT (COMPLETE)
 - ✓ COUNTY CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT (COMPLETE)
 - APPROVAL OF A TAX EXCHANGE AGREEMENT BETWEEN THE DISTRICT AND THE COUNTY (TODAY'S CONSIDERATION)
 - COMPLETION OF A PLAN FOR SERVICES PREPARED BY THE DISTRICT (TODAY'S CONSIDERATION)
 - ANY OTHER DOCUMENTS, STUDIES OR INFORMATION THAT LAFCO DEEMS TO BE REQUIRED FROM THE APPLICANT OR DISTRICT UPON REVIEW OF THE FINAL PROJECT AND ENTITLEMENTS NOTED ABOVE, AND UPON FURTHER PROCESSING OF THE ANNEXATION APPLICATION REQUEST
- PLAN FOR SERVICES IS THE DISTRICT'S COMPILATION OF INFORMATION THAT HAVE BEEN TECHNICALLY ANALYZED, PUBLICLY VETTED, AND APPROVED BY VARIOUS AGENCIES.
 - DESCRIBES HOW THE DISTRICT WILL PROVIDE WATER, WASTEWATER, AND SOLID WASTE SERVICES

CEQA CONSIDERATIONS

- THE DISTRICT IS IDENTIFIED IN THE COUNTY'S CERTIFIED EIR FOR THE PROJECT AS A "RESPONSIBLE AGENCY."
- DISTRICT HAS NO LAND USE AUTHORITY OVER THE PROJECT AND IS RESPONSIBLE ONLY FOR WATER, WASTEWATER AND SOLID WASTE SERVICES.
- RESOLUTION (SEE ATTACHMENT B) INCLUDES FINDINGS
 - THE SUBSTANTIAL EVIDENCE ON WHICH THOSE FINDINGS ARE BASED INCLUDE ALL THE EVIDENCE PRESENTED TO THE BOARD OVER THE COURSE OF CONSIDERING THIS ANNEXATION, INCLUDING THE TECHNICAL REPORTS REFERENCED IN THIS STAFF REPORT, THE EIR, AND THIS REPORT ITSELF
 - THE BOARD FINDS THAT ALL THE MITIGATION MEASURES FOR THE ENVIRONMENTAL IMPACTS OF THE PROJECT CAN AND SHOULD BE IMPOSED BY THE COUNTY, AS LEAD AGENCY, AND HAVE BEEN IMPOSED

RECOMMENDATIONS

- RECOMMEND ADOPT RESOLUTION ACCEPTING THE NEGOTIATED PROPERTY TAX EXCHANGE WITH COUNTY OF SLO (SEE E.1 BOARD PACKET ATTACHMENT A)
- RECOMMEND ADOPT RESOLUTION APPROVING THE ANNEXATION AGREEMENT WITH NKT DEVELOPMENT, AND LAFCO PLAN FOR SERVICES, AND MAKING REQUIRED FINDINGS UNDER CEQA (SEE E.1 BOARD PACKET ATTACHMENT B)
 - NOTE UNDER THE SECTION REGARDING THE PLAN FOR SERVICES:
 - “8.THE GENERAL MANAGER IS AUTHORIZED TO SUBMIT THE PLAN FOR SERVICES TO SLO LAFCO, AND TO MAKE TECHNICAL CHANGES TO THE PLAN FOR SERVICES IN CONSULTATION WITH SLO LAFCO STAFF PRIOR TO THE SLO LAFCO BOARD’S CONSIDERATION OF THE PROPOSED ANNEXATION. “

QUESTIONS

