

**IN THE LOCAL AGENCY FORMATION COMMISSION**  
**COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA**

Thursday, November 14, 2024

**RESOLUTION NO. 2024-09**

**RESOLUTION APPROVING ANNEXATION NO. 30 TO NIPOMO COMMUNITY SERVICES DISTRICT  
(DANA RESERVE SPECIFIC PLAN)**

The following resolution is now offered and read:

**RECITALS**

**WHEREAS**, on October 13, 2022, interested landowner – NKT Development, LLC – filed a petition to initiate proceedings and an application with the San Luis Obispo County Local Agency Formation Commission, hereinafter referred to as “Commission”, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”); and

**WHEREAS**, the application before the Commission seeks approval of a change of organization of approximately 288-acres of unincorporated territory in the County of San Luis Obispo involving annexation into the Nipomo Community Services District (NCSD) of the Dana Reserve Specific Plan (DRSP) area (LAFCO File No. 4-R-22); and

**WHEREAS**, the affected territory as proposed includes three uninhabited contiguous legal parcels identified by the County of San Luis Obispo’s Assessor’s Office as 091-301-073, 091-301-029, and 091-301-031; and

**WHEREAS**, on July 21, 2022, and September 19, 2024, the Commission heard two separate Study Session items at regular public Commission meetings on Annexation #30 into NCSD; and

**WHEREAS**, on November 17, 2022, the Commission formally received notice of the petition of application initiated by the landowner as required by Government Code Section 56857. Subsequently, a 60-day period began in which the NCSD had an opportunity to terminate the annexation if any financial or service-related concerns existed as outlined in Government Code Section 56857. The NCSD did not request termination during this period, allowing the application to

continue to be processed by staff; and

**WHEREAS**, on April 23, 2024, the San Luis Obispo County Board of Supervisors held a public hearing and approved Resolution 2024-109 which certified the EIR, including a statement of overriding considerations, and Resolution 2024-108 which approved the DRSP and associated actions; and

**WHEREAS**, on July 9, 2024, the San Luis Obispo County Board of Supervisors approved a property tax exchange of 2.36973% to be transferred to the NCSD; and

**WHEREAS**, on August 28, 2024, the NCSD Board of Directors approved resolutions 2024-1721 and 2024-1722 which accepted a Property Tax Agreement for an exchange of 2.36973% to NCSD, approved an Annexation Agreement between NCSD and NKT Development, LLC, and adopted the Plan for Services; and

**WHEREAS**, on October 22, 2024, the Executive Officer filed a Certificate of Filing deeming the application as acceptable for filing; and

**WHEREAS**, the Executive Officer has given the notices required by law and forwarded copies of his report to officers, persons, and public agencies prescribed by law; and

**WHEREAS**, the Executive Officer conducted an analysis on the proposal and prepared a report including staff's recommendations therein, and presented staff's findings for Commission consideration; and

**WHEREAS**, the matter was set for public hearing at 9:00 a.m. on November 14, 2024, and the public hearing was duly conducted and determined, and a decision was made on November 14, 2024; and

**WHEREAS**, at said hearing this Commission heard and received all oral and written protests, objections and evidence, which were made, presented, or filed, and all person's present were given the opportunity to hear and be heard in respect to any matter relating to the proposal and report; and

**WHEREAS**, the reasons for the proposed annexation are as follows:

- 1) It will enable the applicant to receive water, wastewater, and solid waste services from NCS D to meet the needs associated with the development caused by the DRSP.

**WHEREAS**, the Commission determined that the environmental documentation prepared by the County of San Luis Obispo, including the certified Environmental Impact Report (State Clearinghouse Number 2021060558), meets the requirements of the California Environmental Quality Act (CEQA); and

**WHEREAS**, the Commission determined that the Environmental Findings, Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations adopted by the County of San Luis Obispo are appropriate and adequate. Acting as a Responsible Agency, LAFCO adopts its own Findings of Fact and statement of overriding consideration that meets the requirements of the CEQA as contained in Exhibit A hereto; and

**WHEREAS**, the Commission has considered all factors required to be considered by Government Code Sections 56668, 56668.3, as well as adopted local policies and procedures and adopts as its written statements of determinations and record therein, the determinations set in the Executive Officer's Staff report dated November 14, 2024, attachments and testimony, and said record and determinations being incorporated by reference herein as though set forth in full; and

**WHEREAS**, the Commission duly considered the proposal and finds that the proposed annexation into NCS D's service area should be approved.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the Local Agency Formation Commission of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That as a Responsible Agency, this Commission adopts its own Findings of Fact and statement of overriding consideration that meets the requirements of the CEQA as contained in Exhibit A hereto.

3. That the map and legal description approved by this Commission is attached hereto, marked as Exhibit B hereto.
4. That the Executive Officer of this Commission is authorized and directed to mail copies of this resolution in the manner provided by law.
5. That pursuant to Government Code Section 56662(d), the Commission waives protest proceedings and orders the annexation subject to requirements of CKH, because (a) the territory is uninhabited, (b) the proposal is accompanied by proof that the single owner of all land in the DRSP has given his written consent to the proposal, and (c) the NCS D has not submitted written opposition to a waiver of protest proceedings.
6. That Annexation No. 30, annexing the DRSP area into NCS D, is hereby approved with the following conditions:
  1. This condition applies to the extent allowed by law. NKT Development, LLC shall defend, indemnify, hold harmless and release the San Luis Obispo Local Agency Formation Commission (LAFCO), its officers, employees, attorneys, or agents from any claim, action or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul, in whole or in part, LAFCO's action on the proposal or on the environmental documents submitted to or prepared by LAFCO in connection with the proposal. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorneys' fees, and expert witness fees that may be asserted by any person or entity, including the Applicant, arising out of or in connection with the application. In the event of such indemnification, LAFCO expressly reserves the right to provide its own defense at the reasonable expense of the applicant.
7. Completion of the 30-day reconsideration period provided under Government Code Section 56895.
8. The effective date shall be the date of recordation of the Certificate of Completion. The Certificate of Completion must be recorded within one calendar year unless an extension is requested and approved by the Commission.
9. The Commission hereby directs staff to file a Notice of Determination within five working days of this Resolution in compliance with 14 CCR 15094.

Upon a motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and

Upon a motion of Commissioner *Waage*, seconded by Commissioner *Enns*, and  
on the following roll call vote:

COMMISSIONERS ED WAAGE, ROBERT ENNS, DEBBIE ARNOLD, DAVID WATSON,  
AYES: VICE CHAIR STEVE GREGORY, AND CHAIRPERSON MARSHALL OCHYLSKI

NAYS: COMMISSIONER JIMMY PAULDING

ABSENT: NONE

ABSTAIN: NONE

The foregoing resolution is hereby adopted.

  
\_\_\_\_\_  
Marshall Ochylski, Chairperson      Date  
Local Agency Formation Commission

**ATTEST:**

  
\_\_\_\_\_  
Rob Fitzroy      Date  
LAFCO Executive Officer

**APPROVED AS TO FORM AND LEGAL EFFECT:**

  
\_\_\_\_\_  
Holly Whatley      Date  
LAFCO Legal Counsel