San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

SAN DIEGO COUNTY
LOCAL AGENCY FORMATION COMMISSION

REGULAR MEETING AGENDA
Monday, December 4, 2023

Doors Open: 8:00 A.M.

Meeting Starts: 8:15 A.M.

In-Person Participation
County Administration Center
1600 Pacific Highway, Room 302
San Diego, California

Video-Teleconference Participation
https://www.zoom.us/join
Meeting ID 895 6767 7168
Passcode 508649
(669) 900-9128

Video Viewing Only
YouTube Channel
@sandiegolafco9909

San Diego LAFCO		
Commissioner	**Appointing Authority**	**Affiliation**
Chair Jim Desmond	Board of Supervisors	County of San Diego
Vice Chair Stephen Whitburn	Mayor of the City of San Diego	City of San Diego
Joel Anderson	Board of Supervisors	County of San Diego
Kristi Becker	Cities Selection Committee	City of Solana Beach
Jo MacKenzie	Independent Special Districts	Vista ID
Andy Vanderlaan	Commission	General Public
Dane White	Cities Selection Committee	City of Escondido
Barry Willis	Independent Special Districts	Alpine FPD
Alternate David A. Drake	Independent Special Districts	Rincon del Diablo MWD
Alternate Harry Mathis	Commission	General Public
Alternative Nora Vargas	Board of Supervisors	County of San Diego
Alternate Marni von Wilpert	Mayor of the City of San Diego	City of San Diego
Alternate John McCann	Mayor of the City of Chula Vista	City of Chula Vista

Participation Instructions:

In person attendance by the public is welcomed. LAFCO meets in Room 302 in the County Administration Center (1600 Pacific Highway). Three-hour visitor parking is available using the Ash Street entrance. To provide comments on any item, please turn in a speakers slip to LAFCO staff before the item commences.

Remote participation by video or telephone is welcomed through Zoom by following these instructions.

Comments by Video	Comments by Telephone
1. Click or type the link found at the top of the agenda	1. Dial + 1-669-900-9128
2. Type the Meeting ID identified on the top of this agenda followed by the Passcode	2. Dial the Meeting ID identified at the top of the agenda followed by the Passcode
3. Click the raise hand icon	3. Dial *9 to raise your hand
4. LAFCO will announce your name as it appears when it is your turn to speak	4. LAFCO will call out the last 4 digits of your phone number when it is your turn to speak
5. Click the speaker icon to unmute to speak	5. Dial *6 to unmute yourself

All comments – whether provided in person or remotely (video and telephone) – are limited to three minutes for individuals and five minutes for agencies and community organizations. The Chair may adjust the time allowance as they deem appropriate in managing the Commission's business.

Remote participation by e-mail is also welcomed by sending comments to Executive Assistant Erica Sellen at erica.sellen@sdcounty.ca.gov.

- All e-mails received before 3:00 P.M. one business day before the meeting will be forwarded to the Commission and posted online prior to the start of the meeting. These comments will also be referenced at the meeting.

- All e-mails received after 3:00 P.M. one business day before the meeting and up until the conclusion of the item by the Commission will be noted for the record by LAFCO staff with a good-faith summary and subsequently posted online.

Public Accommodations:

Assistance for the disabled is available by contacting LAFCO staff prior to the meeting. To the extent possible, accommodation requests should be submitted at least 72 hours in advance.

Spanish language translation services are readily available at LAFCO meetings. Translation services covering other languages may be made available upon request at least 72 hours prior to the meeting.

Contact Information:

Erica Sellen
Executive Assistant / Acting Commission Clerk
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T: 619-321-3380
F: 619-404-6508
E: erica.sellen@sdcounty.ca.gov

1. **8:15 A.M. – CALL TO ORDER BY CHAIR**

   a) **Roll Call of Commissioners Present**

   b) **Pledge of Allegiance**

2. **STATEMENT (JUST CAUSE) AND/OR CONSIDERATION OF A REQUEST TO PARTICIPATE REMOTELY (EMERGENCY CIRCUMSTANCES) BY A COMMISSIONER, IF APPLICABLE.**

3. **AGENDA REVIEW**
   The Executive Officer will summarize the agenda as well as to advise of any requested changes. The Chair will also consider requests from Commissioners.

4. **PUBLIC COMMENT AND RELATED REQUESTS**
   Opportunity for members of the public to speak to the Commission on any subject matter within the Commission's growth management duties/interests but not on an item listed on the agenda. Three-minute limit. This is also an opportunity for the public to request the Commission pull an item listed on the consent calendar for discussion.

5. **CONSENT ITEMS**
   All items calendared as consent are considered ministerial and subject to a single motion approval. The Chair will entertain requests by Commissioners to pull any items for discussion.

   a) **Approval of Meeting Minutes for November 6, 2023 (action)**
   The Commission will consider action minutes prepared by the Acting Commission Clerk for the November 6, 2023 meeting. Recommendation to approve as presented. (Pages 7-16)

   b) **Commission Ratification | Recorded Payments for October 2023 (action)**
   The Commission will review a report identifying all payments made and received for October 2023. Recommendation to ratify payments as presented. (Pages 17-24)

   c) **Proposed "North Iris Lane - Hallmark Development Reorganization" | Annexation to the City of Escondido with Concurrent Detachment from County Service Area No. 135 and Related Actions (RO23-06) (action)**
   The Commission will consider a reorganization proposal initiated by landowner petition with the principal action to annex 7.7 unincorporated acres near the intersection of North Iris Lane and Robin Hill Lane to the City of Escondido. A concurrent detachment from CSA No. 135 and its regional communication service function is also part of the reorganization. The affected territory includes five contiguous legal parcels. The purpose of the proposal is to facilitate Escondido's tentative approval to develop the affected territory into 102 airspace residential condominiums with ancillary amenities. Staff recommends conditional approval of the proposal as submitted to include removal of the affected territory from Rincon del Diablo Municipal Water District's authorized fire protection and emergency medical service area (Improvement District E). Other standard terms would apply. It is also recommended the Commission waive protest proceedings along with making parallel findings to the Environmental Impact Report (EIR) adopted by Escondido. The affected parcels are identified by the County Assessor's Office as 224-310-05, -06, -07, -08, & -20. (Pages 25-78)

CONSENT ITEMS CONTINUED…

d) Progress Report on the Adopted Workplan (action)
The Commission will receive a progress report on accomplishing the 30 projects included in the adopted workplan for 2023-2024. The report is being presented to the Commission to receive and file with the opportunity to identify potential amendments for future consideration. (Pages 79-84)

e) Authorize Holiday Office Closures (action)
The Commission will consider an Executive Officer recommendation to authorize the closing of the office for the four workdays following Christmas – Tuesday, December 26th through Friday, December 29th. Participating staff would take compensatory time-off should the closures be approved. Staff choosing not to take compensatory time off would work their regular schedules, but the office would remain closed to the public. (Pages 85-86)

f) Approval of 2024 Meeting Calendar (action)
The Commission will consider approving a regular meeting schedule for the 2024 calendar year. It is recommended the Commission follow recent practice and approve regular meetings on the first Monday of each month except for January, July, and September with the former (New Years) and latter (Labor Day) both falling on State holidays. No special meetings are proposed at this time. (Pages 87-98)

g) Commissioner Terms (information)
The Commission will receive its annual report on individual Commissioner terms. One term is set to expire in April 2024 and involves one of the two voting special district seats currently held by Commissioner MacKenzie, which necessitates an election administered by LAFCO as detailed. The report is being presented for information. (Pages 99-104)

h) Report on Active Proposals and Related Activities (information)
The Commission will receive a status report on the 32 active proposals currently on file as well as anticipated filings based on ongoing discussions with proponents. The item is for information and concurrently satisfies LAFCO's reporting requirement involving petition-initiated proposals. (Pages 105-118)

6. PUBLIC HEARING ITEMS |
COMMISSIONER DISCLOSURE OF EX PARTE COMMUNICATIONS
Public hearing items require expanded public notification per provisions in State law or have been voluntarily scheduled by the Executive Officer to ensure opportunity for public input. All public hearing items require verbal disclosures by Commissions regarding any material communications.

PUBLIC HEARING ITEMS CONTINUED…

a) **Proposed "Colina Fuerte – Via Ascenso Reorganization" | Annexation to the Santa Fe Irrigation District with Concurrent Detachment from Olivenhain Municipal Water District and Conforming Sphere of Influence Actions (RO23-08) (action)**
The Commission will consider a reorganization proposal filed by landowner petition with the principal action to annex approximately 5.14 unincorporated acres in the Rancho Santa Fe community to the Santa Fe Irrigation District. A concurrent detachment from Olivenhain Municipal Water District is also proposed. The proposal purpose is to facilitate the development of a single-family residence within the lone subject parcel by redirecting potable water service from Olivenhain to Santa Fe and in doing so avoid disturbing an existing open space easement. Staff recommends conditional approval of the proposal as submitted, conforming sphere of influence amendments for both subject agencies, and a municipal service review waiver under L-106. It is also recommended the Commission waive protest proceedings and make exemption findings under the California Environmental Quality Act. The subject parcel is identified by the County Assessor's Office as 265-441-01. (Pages 119-150)

7. BUSINESS CALENDAR
Business items involve regulatory, planning, or other items that do not require a noticed hearing.

a) **Preliminary Assessment | Commission Oversight Duties and Port of San Diego (discussion)**
The Commission will receive a preliminary assessment on LAFCO's oversight duties as they relate to the Port of San Diego – formally the San Diego Unified Port District – for discussion and feedback. Based on available information, the assessment concludes the Port is a district subject to LAFCO oversight. It similarly concludes the Port qualifies as an "independent" district, and accordingly eligible to seat members on the Commission and responsible for proportionally paying part of the districts' share of the LAFCO budget. The assessment is qualified given the potential for additional information to be provided by the Port. Staff will draw on the discussion and related public comments in finalizing the assessment for future Commission consideration. (Pages 151-236)

b) **Draft Comprehensive Update to Personnel Policies (discussion)**
The Commission will review a draft update to the personnel policies as part of the adopted workplan. The draft update has been prepared by LAFCO's contract human resources consultant – Regional Government Services Authority – with input from senior staff. The draft follows a Commission approved scope of work and transitions personnel policies away from relying on the County of San Diego and towards a stand-alone document scaled to LAFCO's unique setting as a public agency with less than 10 employees. The draft is being presented for discussion and feedback and ahead of its finalization for future action. (Pages 237-314)

c) **LAFCO Fee Waivers (discussion)**
The Commission will receive a review of existing policies relating to available applicant fee waivers. The review is being presented in response to a request by Commissioner Willis and provides preliminary analysis on potential revisions to accommodate additional waivers for funding agencies going forward. Discussion only. (Pages 315-XX)

8. EXECUTIVE OFFICER REPORT

9. COMMISSIONER ANNOUNCEMENTS & REQUESTS FOR FUTURE ITEMS

10. CLOSED SESSION

a) **Conference with Legal Counsel; Existing Litigation**
Government Code Section 54956.9(d)(1)
The Commission finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the Commission in the litigation
San Diego County Water Authority v. San Diego County Local Agency Formation Commission et al. (San Diego County Superior Court Case No. 37-2023-000036018-CU-TT-CTL)

11. ADJOURNMENT

Attest to Posting:



Erica Sellen
Executive Assistant
Acting Commission Clerk

5a

AGENDA REPORT
Consent | Action

December 4, 2023

TO: Commissioners

FROM: Erica Sellen, Executive Assistant

SUBJECT: **Approval of Meeting Minutes | Regular Meeting of November 6, 2023**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider draft minutes prepared for the regular meeting held on November 6, 2023. The minutes are in action-form and being presented for formal Commission approval.

BACKGROUND

The Ralph M. Brown Act was enacted by the State Legislature in 1953 and – among other items – requires public agencies to maintain written minutes for qualifying meetings.

DISCUSSION

This item is for San Diego LAFCO to consider approving action minutes for the November 6, 2023, regular meeting. The attendance record for the meeting follows.

- All regular Commissioners were present except Andy Vanderlaan (Public).
- All alternate Commissioners were present except John McCann (City of Chula Vista), Nora Vargas (County of San Diego) and Marni von Wilpert (City of San Diego).

Administration
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
www.sdlafco.org
lafco@sdcounty.ca.gov

Chair Jim Desmond, County of San Diego
Joel Anderson, County of San Diego
Nora Vargas, Alt., County of San Diego
Kristi Becker, City of Solana Beach
Dane White, City of Escondido
John McCann Alt., City of Chula Vista
Vice Chair Stephen Whitburn, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Jo MacKenzie, Vista Irrigation
Barry Willis, Alpine Fire Protection
David Drake, Alt., Rincon del Diablo
Andy Vanderlaan, General Public
Harry Mathis, Alt., General Public

ANALYSIS

The attached draft minutes for the November 6, 2023, regular meeting accurately reflect San Diego LAFCO's deliberations as recorded by the Acting Commission Clerk. A video recording of the meeting has also been posted on the Commission's website (www.sdlafco.org).

RECOMMENDATION

It is recommended San Diego LAFCO approve the draft minutes prepared for the November 6, 2023, regular meeting as presented. This recommendation is consistent with Alternative One outlined in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO:

Alternative One (recommended):
Approve the attached draft minutes prepared for the November 6, 2023, regular meeting with any requested corrections or clarifications.

Alternative Two:
Continue item to the next regular meeting and provide direction to staff as needed.

PROCEDURES

This item has been placed on San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission.

Respectfully,

Erica A. Sellen

Erica Sellen
Executive Assistant

Attachment:

1) Draft Meeting Minutes for November 6, 2023

DRAFT MINUTES
SAN DIEGO LAFCO
November 6, 2023 REGULAR MEETING

1. 8:15 A.M. – CALL TO ORDER BY CHAIR

Item 1a
ROLL CALL

The regular meeting was called to order at 8:15 a.m. by Chair Desmond. The Acting Commission Clerk performed the roll call with the following attendance recorded.

Regulars Present:	Joel Anderson, County of San Diego Kristi Becker, City of Solana Beach Jim Desmond, County of San Diego (CHAIR) Jo MacKenzie, Vista Irrigation District Stephen Whitburn, City of San Diego (VICE CHAIR) Dane White, City of Escondido Barry Willis, Alpine Fire Protection District
Alternates Present:	David Drake, Rincon del Diablo Municipal Water District Harry Mathis, Public (voting)
Members Absent:	John McCann, City of Chula Vista (alternate) Andy Vanderlaan, Public (regular) Nora Vargas, County of San Diego (alternate) Marni von Wilpert, City of San Diego (alternate)

The Acting Commission Clerk confirmed a quorum with seven voting members present at the time of roll. (An eight voting member – Commissioner Anderson – arrived at 8:25 a.m.) Also present at the time of roll were the following LAFCO staff members: Executive Officer Keene Simonds; Commission Counsel Holly Whatley; Local Government Analyst II Carolanne Ieromnimon; Local Government Analyst I Michaela Peters; GIS/IT Analyst Dieu Ngu; and Executive Assistant Erica Sellen serving as the Acting Commission Clerk.

Item 1b
PLEDGE OF ALLEGIANCE

Commissioner MacKenzie led the Pledge of Allegiance.

2. STATEMENT (JUST CAUSE) AND/OR CONSIDERATION OF A REQUEST TO PARTICIPATE REMOTELY (EMERGENCY CIRCUMSTANCES) BY A COMMISSIONER, IF APPLICABLE

None.

3. AGENDA REVIEW

Chair Desmond asked the Executive Officer if there were any requests to remove or rearrange items on the agenda. Executive Officer Simonds stated no changes to the agenda were needed but cited the previously announced cancellation of Item 6b. With no requested changes, the Chair asked the Commission to proceed with the agenda as noted with all members confirming in the affirmative.

4. PUBLIC COMMENT AND RELATED ITEMS

Chair Desmond invited anyone from the public to address the Commission on a matter not directly related to an agenda item. The Acting Commission Clerk confirmed there were no registered speakers or live e-mail comments.

5. CONSENT ITEMS

Item 5a
Approval of Meeting Minutes for October 2, 2023
Item presented to approve draft action minutes prepared for the Commission's October 2, 2023 meeting. Recommendation to approve.

Item 5b
Commission Ratification | Recorded Payments for September 2023
Item presented to ratify recorded payments made and received by the Executive Officer for the month of September 2023. Recommendation to ratify.

Item 5c
Budget Update for 2023-2024 | 1st Quarter Actuals with Year-End Projections
Item presented to review a report comparing budgeted and actual transactions through the first quarter of 2023-2024 and related analysis. The report is being presented to the Commission to formally accept and provide direction to staff as needed.

Item 5d
Proposed "Escondido North LLC-Stanley Avenue Reorganization" (Ash) | Annexation to the City of Escondido with Concurrent Detachment from County Service Area No. 135 and Related Actions (RO23-07-B)
Item presented to consider a reorganization proposal initiated by landowner petition with the principal action to annex 5.35 unincorporated acres to the City of Escondido. A concurrent detachment from County Service Area No. 135 and its regional communication service function is also part of the reorganization. The affected territory includes two non-contiguous legal parcels with the larger of the two undeveloped and subject to a tentatively approved 20-unit subdivision ("Ash Residential Subdivision"). The purpose of the proposal is to accommodate the planned development for the larger parcel while also extending wastewater service to the other parcel already developed with a single-family residence. Recommendation to approve as submitted along with waving protest and make an exemption finding under the California Environmental Quality Act.

CONSENT ITEMS CONTINUED…

Item 5e
Proposed "Cambier - West El Norte Parkway Reorganization" | Concurrent Annexation to the Vallecitos Water District and Detachment from Vista Irrigation District (RO23-05)
Item presented to consider a reorganization proposal filed by landowner petition with the principal action to annex approximately 0.17 acres of incorporated territory to the Vallecitos Water District. A concurrent detachment from Vista Irrigation District is also part of the reorganization. The affected territory as submitted involves one legal parcel presently undeveloped and located in northwest Escondido. The proposal purpose is to make available Vallecitos' wastewater and water services to accommodate the planned development of a new single-family residence as part of a recently approved lot split. Recommendation to approve as submitted along with waving protest and make an exemption finding under the California Environmental Quality Act.

Item 5f
Progress Report on the Adopted Workplan
Item presented to receive a progress report on accomplishing the 30 projects included in the adopted workplan for 2023-2024. The report is being presented to the Commission to receive and file with the opportunity to identify potential amendments for future consideration.

Item 5g
Report on Active Proposals and Related Activities
Item presented to receive a status report on active proposals currently on file with LAFCO. Information only.

**

Commissioner Willis motioned with a second from Commissioner White to approve the consent calendar items with staff recommendations (Alternative One) as presented.

Roll call requested:

AYES:	Becker, Desmond, MacKenzie, Mathis (voting), Whitburn, White, and Willis
NOES:	None
ABSENT:	Anderson, Vanderlaan, Vargas, and von Wilpert
ABSTAINING:	None

The Acting Commission Clerk confirmed the motion was approved 7-0 with one voting member (Anderson) absent.

6. PUBLIC HEARING ITEMS | COMMISSIONER DISCLOSURE OF EX PARTE COMMUNICATIONS

Item 6a
Proposed "Yerba Valley Road Reorganization" |
Concurrent Annexations to Lakeside Water District, San Diego County Water Authority, and the Metropolitan Water District and Related Actions (RO23-02)
Item presented to consider a reorganization proposal filed by resolution from the Lakeside Water District with the principal action to annex approximately 80.34 unincorporated acres in the Lakeside community. Concurrent annexations to the San Diego County Water Authority and Metropolitan Water District of Southern California are also proposed. The purpose of the proposal is to make available potable wholesale and retail water services to 17 developed parcels within the affected territory and in doing so remedy uncertain groundwater flows. No new development is proposed as part of the reorganization. Staff recommends conditional approval of the proposal along with conforming sphere of influence amendments for all three subject agencies. It is also recommended the Commission waive protest proceedings assuming no written objections from landowners or registered voters with the affected territory are received through the close of the hearing. Exemption findings are also recommended under the California Environmental Quality Act.

Chair Desmond invited any disclosures from Commissioners on material ex parte communications. Commissioner Willis reported speaking to Brett Sanders, Lakeside WD.

Local Government Analyst I Michaela Peters provided the staff presentation.

Chair Desmond proceeded to open the public hearing and invited comments from the public.

The Acting Commission Clerk confirmed there were no registered speakers or live e-mail comments.

Chair Desmond proceeded to close the public hearing.

**

Commissioner Willis motioned with second from Commissioner Becker to approve the staff recommendation (Alternative One) as listed in the agenda report.

Roll call requested:

AYES:	Becker, Desmond, MacKenzie, Mathis (voting), Whitburn, White, and Willis
NOES:	None
ABSENT:	Anderson, Vanderlaan, Vargas, and von Wilpert
ABSTAINING:	None

The Acting Commission Clerk confirmed the motion was approved 7-0 with one voting member (Anderson) absent.

PUBLIC HEARING ITEMS CONTINUED…

Item 6b
CANCELLED
"AJX Homes LLC- Carmichael Drive Reorganization" |
Proposed Annexation to the City of La Mesa with Concurrent Detachment from San Miguel Fire Protection District and Related Sphere of Influence Actions (RO22-04)
This reorganization has been initiated by a landowner petition with the principal action to annex approximately 0.27 acres of unincorporated territory to the City of La Mesa. A concurrent detachment from San Miguel Consolidated Fire Protection District is also part of the reorganization. The affected territory as submitted comprises one entire legal parcel presently developed with a single-family residence within the unincorporated community of Valle De Oro. Sphere of influence amendments for both subject agencies are required. A LAFCO hearing notice for the proposal was issued on October 16, 2023. The Executive Officer subsequently cancelled the LAFCO hearing to sync with a planned – but not yet scheduled – hearing by the City of La Mesa to establish an updated land use designation for the affected territory. There is no written report.

Chair Desmond restated this item has been cancelled by staff and will be considered at a future meeting with new noticing. The Acting Commission Clerk confirmed there were no registered speakers or live e-mail comments.

7. BUSINESS ITEMS

Item 7a
Proposed Update to the Study Schedule
Item presented to consider approving a proposed update to its five-year Study Schedule. The proposed update has been initiated by staff to reset the anticipated timing of studies to reflect current progress and provide a more accurate projection of start dates going forward over the next five years. It also transitions from a fixed to a rolling schedule where only the first year listing is set while the remaining four years' listings are tentative. The Commission would proceed to reset the Study Schedule and its five-year coverage each year in concert with adopting an annual budget and workplan.

Local Government Analyst II Carolanne Ieromnimon provided the staff presentation.

Commission discussion followed.

The Acting Commission Clerk confirmed there were no registered speakers or live e-mail comments.

**

Commissioner Anderson motioned with a second from Commissioner Willis to approve the consent calendar items with staff recommendations (Alternative One) as presented.

BUSINESS ITEMS CONTINUED...

Item 7a continued
Roll call requested:

AYES:	Anderson, Becker, Desmond, MacKenzie, Mathis (voting), Whitburn, White, and Willis
NOES:	None
ABSENT:	Vanderlaan, Vargas, and von Wilpert
ABSTAINING:	None

The Acting Commission Clerk confirmed the motion was approved 8-0.

Item 7b
Report on Outside Travel to the CALAFCO Annual Conference
Item presented to receive a verbal report from attendees at the recent CALAFCO Annual Conference held in Monterey on October 18th–20th. Attendees included Commissioners MacKenzie and Willis. No written report.

Executive Officer Keene Simonds thanked the Commission for budgeting the travel for staff to be able to attend the CALAFCO Annual Conference.

Commissioners Willis and MacKenzie reported their attendance and discussed networking opportunities as well as notable Conference sessions.

Commission discussion followed. No action.

8. EXECUTIVE OFFICER REPORT

Executive Officer Keene Simonds noted copies of a letter from RCD of Greater San Diego County thanking LAFCO Consultant Adam Wilson's efforts on the RCD Ad Hoc Committee were on the dais. The Executive Officer thanked Mr. Wilson for his service to LAFCO on the topic as well as Deputy Commission Counsel Aleks Giragosian.

9. COMMISSIONER ANNOUNCEMENTS | REQUESTS FOR FUTURE ITEMS

Commissioner Willis reminded the Executive Officer of an earlier request to explore opportunities to reduce and/or waive application fees for special districts given their current contribution to the LAFCO budget. Executive Officer Keene Simonds stated he would provide an informational item on the subject at a future meeting.

10. CLOSED SESSION

None.

11. ADJOURNMENT TO NEXT MEETING

With no further business the Chair adjourned the meeting at 10:36 a.m.

I hereby attest the minutes above accurately reflect the deliberations of the Commission at its November 6, 2023 meeting.

ATTEST,

Erica Sellen
Acting Commission Clerk

Blank for Photocopying

5b

AGENDA REPORT
Consent | Action

December 4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Erica Sellen, Executive Assistant

SUBJECT: **Commission Ratification | Recorded Payments for October 2023**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a report identifying payments made and received for October 2023. The payments cover all recorded transactions for the one-month period and include $0.243 million in total distributions made by the Executive Officer. Slightly more than one-half of the payments made tie to the County of San Diego for payroll reimbursements as well as charges for general overhead and information technology services. Most of the remaining payments made tie to professional services and marked by legal and consultant usage. The payments received total $0.138 million with most tied to collecting application fees.

BACKGROUND

Accounting Policies and Procedures

San Diego LAFCO's policies provide direction to the Executive Officer to maintain appropriate accounting controls for all financial transactions on behalf of the Commission. Spending allowances are specified and include bid procedures for financial transactions at or above $10,000 (unless waived due to unique circumstances) and separate Commission approval for any transactions at or above $125,000.

Administration
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
www.sdlafco.org
lafco@sdcounty.ca.gov

Chair Jim Desmond, County of San Diego
Joel Anderson, County of San Diego
Nora Vargas, Alt., County of San Diego
Kristi Becker, City of Solana Beach
Dane White, City of Escondido
John McCann Alt., City of Chula Vista
Stephen Whitburn, Vice Chair, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Jo MacKenzie, Vista Irrigation
Barry Willis, Alpine Fire Protection
David Drake, Alt., Rincon del Diablo
Andy Vanderlaan, General Public
Harry Mathis, Alt., General Public

DISCUSSION

This item is for San Diego LAFCO to consider ratification of all payments made and received by the Executive Officer in October 2023. A detailing of these transactions is provided in Attachment One. The item separately provides the Commission the opportunity to provide feedback and inform potential changes in accounting procedures going forward.

ANALYSIS

San Diego LAFCO's recorded payments made by the Executive Officer covering October 2023 totals $242,893 with 51% – or $124,686 – tied to transactions with the County of San Diego. This includes payroll reimbursements covering two pay periods as well as expenses for general overhead and information technology services. All expenses are consistent with the adopted budget. Revenues collected during the one month period totals $137,992 and largely tied to collecting application fees.

RECOMMENDATION

It is recommended San Diego LAFCO ratify the payments made and received by the Executive Officer for October 2023 as presented. This recommendation is consistent with Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO:

Alternative One (recommended):
Ratify the recorded payments received and made by the Executive Officer in October 2023 as shown in Attachment One.

Alternative Two:
Continue to the next regular meeting and provide direction to staff as needed.

Alternative Three
Take no action.[1]

[1] Payment ratifications are not required under LAFCO policy but are presented to the Commission per practice.

PROCEDURES

This item has been placed on San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

On behalf of the Executive Officer:

Erica Sellen
Executive Assistant

Attachment:

1) Recorded Transactions in October 2023

Blank for Photocopying

SAN DIEGO LAFCO
Expenses by Vendor Detail
October 2023

Payable | Receivable Party	Date	Account	Amount	Purpose	Type	Funding Account
E | 3MC Strategies LLC						
	10/18/2023	52370.F · Professional Services	12,075.00	Consultant Services | Financial Analysis	electronic	1000 · County Account (44595)
E | Ace Parking						
	10/2/2023	52530 · Office Lease	960.00	Monthly Parking Rent	electronic	1000 · County Account (44595)
E | ADW Consulting LLC						
	10/4/2023	52370.F · Professional Services	12,075.00	Consultant Services | Planning + Governance Analysis	electronic	1000 · County Account (44595)
	10/23/2023	52370.F · Professional Services	9,900.00	Consultant Services | Planning + Governance Analysis	electronic	1000 · County Account (44595)
			21,975.00			
E | After Effects (Adobe)						
	10/11/2023	52270 · Memberships	20.99	Monthly Video Editing Software Subscription	credit card	3558-60 · SDCCU Visa Credit Card
	10/15/2023	52270 · Memberships	19.99	Monthly Adobe DC Pro Upgrade	debit card	3558 · SDCCU Checking
			40.98			
E | Alaska Airlines						
	10/15/2023	52622 · Training/Registration Out-County	329.00	CALFCO Annual Conference | Flight (MP)	credit card	3558-60 · SDCCU Visa Credit Card
	10/18/2023	52622 · Training/Registration Out-County	90.00	CALFCO Annual Conference | Bag Check (CI & KS)	credit card	3558-60 · SDCCU Visa Credit Card
	10/20/2023	52622 · Training/Registration Out-County	60.00	CALFCO Annual Conference | Bag Check (MP & KS)	debit card	3558 · SDCCU Checking
			479.00			
E | Alliant Insurance Services						
	10/11/2023	52138 · Public Liability Insurance	14,193.69	FY23-24 Special Liability Insurance	electronic	1000 · County Account (44595)
E | Amazon						
	10/4/2023	52344 · Stores Unallocated	57.85	General Office Supplies	credit card	3558-60 · SDCCU Visa Credit Card
	10/15/2023	52344 · Stores Unallocated	45.52	General Office Supplies	credit card	3558-60 · SDCCU Visa Credit Card
			103.37			
E | Ambius						
	10/16/2023	52344 · Stores Unallocated	395.07	Monthly Service for Office Plants	check	3558 · SDCCU Checking
E | ARCC (Assessor Recording County)						
	10/10/2023	52490 · Publications	50.00	NOE Fee | Escondido North LLC Stanley Ave.-A (RO23-07a)	check	3558 · SDCCU Checking
	10/10/2023	52490 · Publications	50.00	NOD Fee | Escondido North LLC Stanley Ave.-A (RO23-07a)	check	3558 · SDCCU Checking
	10/10/2023	52490 · Publications	50.00	NOE Fee | Camino de la Fuenta-Wick (CO22-20)	check	3558 · SDCCU Checking
	10/10/2023	52490 · Publications	50.00	NOE Fee | Camino de la Fuenta-Wick SOI (CO22-20)	check	3558 · SDCCU Checking
			200.00			
E | AT&T Mobility						
	10/16/2023	52074 · Telecommunications	544.55	Monthly Cell Phone | LAFCO Staff	check	3558 · SDCCU Checking
E | Blue Barn Creative LLC						
	10/9/2023	52370 · Professional Services	3,000.00	Video Recording Services	electronic	1000 · County Account (44595)
E | Bronx Pizza						
	10/4/2023	52610 · Non-Travel/In-County	60.00	Staff Meeting	cash	3558 · SDCCU Checking
E | Captain & Stoker						
	10/19/2023	52622 · Training/Registration Out-County	29.05	CALFCO Annual Conference | 10/18/23 Coffee	credit card	3558-60 · SDCCU Visa Credit Card
E | Chipotle						
	10/19/2023	52622 · Training/Registration Out-County	34.39	CALFCO Annual Conference | 10/18/23 Lunch	credit card	3558-60 · SDCCU Visa Credit Card
E | Colantuono, Highsmith & Whatley						
	10/25/2023	52370.B · Professional Services	8,700.97	Commission Counsel Services	electronic	1000 · County Account (44595)
E | Copy 2 Copy						
	10/16/2023	52334 · Printing	2,019.18	Agencies Directory	check	3558 · SDCCU Checking
E | Corodata						
	10/26/2023	52330 · Office Expense	58.11	Document Storage	check	3558 · SDCCU Checking
E | County of San Diego						
	10/1/2023	52504 · Equipment Rental	3.29	County Surcharge | Xerox	electronic	1000 · County Account (44595)
	10/1/2023	52354 · Mail/Postage ISF	607.60	Mail/Postage Services	electronic	1000 · County Account (44595)
	10/1/2023	52178 · Vehicle Maintenance	139.87	Vehicle Maintenance Services	electronic	1000 · County Account (44595)
	10/1/2023	52182 · Vehicle Fuel	56.89	Vehicle Fuel	electronic	1000 · County Account (44595)
	10/1/2023	52758 · Vehicle Lease	165.49	Vehicle Lease	electronic	1000 · County Account (44595)
	10/1/2023	52721 et al. · Communications (IT) Services	7,754.36	County IT Services (ITRACK)	electronic	1000 · County Account (44595)
	10/13/2023	51110 et al. · Employee Payroll	60,725.34	Payroll | Pay Period 2024-08	electronic	1000 · County Account (44595)
	10/27/2023	51110 et al. · Employee Payroll	47,141.49	Payroll | Pay Period 2024-09	electronic	1000 · County Account (44595)
	10/31/2023	52550.B · County Overhead Costs	8,076.75	A-87 2nd Quarter	electronic	1000 · County Account (44595)

SAN DIEGO LAFCO
Expenses by Vendor Detail
October 2023

Payable | Receivable Party	Date	Account	Amount	Purpose	Type	Funding Account
	10/31/2023	52374 · Inter-Departmental	14.74	County Surcharge | A-87 2nd Quarter	electronic	1000 · County Account (44595)
			124,685.82			
E | Erica Sellen						
	10/26/2023	52622 · Training/Registration Out-County	337.17	CALFCO Annual Conference | Rental Car Reimbursement	check	3558 · SDCCU Checking
E | Fax Plus						
	10/8/2023	52330 · Office Expense	9.26	Monthly Fax Machine Payment	debit card	3558 · SDCCU Checking
E | Gifts & More Monterey						
	10/22/2023	52622 · Training/Registration Out-County	10.75	CALFCO Annual Conference | Water Bottles	credit card	3558-60 · SDCCU Visa Credit Card
E | Google Grill						
	10/22/2023	52622 · Training/Registration Out-County	115.18	CALFCO Annual Conference | 10/20/23 Lunch	debit card	3558 · SDCCU Checking
E | Hyatt Hotels						
	10/2/2023	52622 · Training/Registration Out-County	233.78	Accommodations | CALAFCO Annual Conf. (Speaker BB)	credit card	3558-60 · SDCCU Visa Credit Card
	10/22/2023	52622 · Training/Registration Out-County	3,566.70	Accommodations | CALAFCO Annual Conf. (CI, DN, MP, ES & KS)	credit card	3558-60 · SDCCU Visa Credit Card
	10/22/2023	52622 · Training/Registration Out-County	26.97	Misc. Charges | CALAFCO Annual Conf. (Coffee)	credit card	3558-60 · SDCCU Visa Credit Card
			3,827.45			
E | Jo MacKenzie						
	10/26/2023	52622 · Training/Registration Out-County	1,068.50	CALAFCO Annual Conference | Travel Reimbursements	check	3558 · SDCCU Checking
E | Leaf & Cole LLP						
	10/4/2023	52370.H · Professional Services	885.00	Accounting Services	electronic	1000 · County Account (44595)
E | Manchester Financial 5th Ave LP						
	10/4/2023	52530 · Office Lease	11,450.42	Office & Storage Rent	electronic	1000 · County Account (44595)
E | Michaela Peters						
	10/26/2023	52622 · Training/Registration Out-County	229.00	CALAFCO Annual Conference | Travel Reimbursements	check	3558 · SDCCU Checking
E | Monterey Cookhouse						
	10/19/2023	52622 · Training/Registration Out-County	338.90	CALFCO Annual Conference | 10/17/23 Dinner	debit card	3558 · SDCCU Checking
E | Motivational Systems Inc						
	10/17/2023	52330 · Office Expense	953.16	Deposit for Office Suite Name Signs	debit card	3558 · SDCCU Checking
E | Old Town News						
	10/19/2023	52622 · Training/Registration Out-County	19.48	CALFCO Annual Conference | 10/17/23 Lunch (KS)	debit card	3558 · SDCCU Checking
E | Panda Express						
	10/16/2023	52622 · Training/Registration Out-County	56.78	CALFCO Annual Conference | 10/17/23 Lunch (Staff)	credit card	3558-60 · SDCCU Visa Credit Card
E | Parking Meters						
	10/19/2023	52622 · Training/Registration Out-County	2.25	CALFCO Annual Conference | Street Parking	credit card	3558-60 · SDCCU Visa Credit Card
E | Peterson Donut						
	10/2/2023	52330 · Office Expense	44.00	Commission Meeting Refreshments	debit card	3558 · SDCCU Checking
E | Quick Stop						
	10/20/2023	52622 · Training/Registration Out-County	12.34	CALFCO Annual Conference | Gas for Rental Car	debit card	3558 · SDCCU Checking
E | RGS						
	10/4/2023	52370 · Professional Services	18,890.52	HR Support Services	electronic	1000 · County Account (44595)
	10/23/2023	52370 · Professional Services	11,530.55	HR Support Services	electronic	1000 · County Account (44595)
			30,421.07			
E | Sloan Sakai Yeung & Wong LLP						
	10/4/2023	52370.B · Professional Services	678.50	Special Counsel Services	electronic	1000 · County Account (44595)
E | Starbucks						
	10/4/2023	52330 · Office Expense	40.00	Commission Meeting Refreshments	credit card	3558-60 · SDCCU Visa Credit Card
E | Stationary						
	10/20/2023	52622 · Training/Registration Out-County	121.29	CALFCO Annual Conference | 10/18/23 Breakfast	credit card	3558-60 · SDCCU Visa Credit Card
E | Stephen Abbott						
	10/18/2023	52370.F · Professional Services	1,160.00	Consultant Services | MSR & Fire	electronic	1000 · County Account (44595)
E | The Market Place						
	10/4/2023	52610 · Non-Travel/In-County	7.55	Staff Meeting | PM Baby Shower Refreshments	debit card	3558 · SDCCU Checking
E | The Sardine Factory						
	10/20/2023	52622 · Training/Registration Out-County	635.91	CALFCO Annual Conference | 10/18/23 Dinner	credit card	3558-60 · SDCCU Visa Credit Card
E | UCSD						
	10/3/2023	52610 · Non-Travel/In-County	495.50	Registration for CEQA Classes (CI)	debit card	3558 · SDCCU Checking
E | Xerox						

SAN DIEGO LAFCO
Expenses by Vendor Detail
October 2023

Payable | Receivable Party	Date	Account	Amount	Purpose	Type	Funding Account
	10/11/2023	52504 · Equipment Rental	373.67	Xerox Rental	electronic	1000 · County Account (44595)
E | YouTube						
	10/29/2023	52270 · Memberships	13.99	Monthly Streaming Support Services	debit card	3558 · SDCCU Checking
E | Zoom						
	10/4/2023	52270 · Memberships	15.99	Staff Monthly Video Conferencing Subscription	debit card	3558 · SDCCU Checking
	10/12/2023	52270 · Memberships	15.99	EO Monthly Video Conferencing Subscription	debit card	3558 · SDCCU Checking
			31.98			
EXPENSE TOTAL			242,893.28			
R | Alta Parcels LP						
	10/26/2023	52490 · Publications	1,427.04	PHN & SBE Fees (CO22-02)	check	3558 · SDCCU Checking
R | County of San Diego						
	10/31/2023	45918 · LAFCO Apportionment	35,972.08	LAFCO Apportionment FY23-24	electronic	1000 · County Account (44595)
	10/31/2023	49200 · Interest & Dividends	92.71	Interest Payment to Account 46725	electronic	1001 · Committed - Stabilization (min. balance of $250k)
	10/31/2023	49200 · Interest & Dividends	191.10	Interest Payment to Account 46726	electronic	1002 · Committed - Opportunity (min. balance of $300k)
	10/31/2023	49200 · Interest & Dividends	69.22	Interest Payment to Account 46727	electronic	1003 · Assigned - Executive Officer (up to $125k)
			36,325.11			
R | Escondido North LLC						
	10/26/2023	52490 · Publications	100.00	Recording Fees (RO23-07a)	check	3558 · SDCCU Checking
R | Fallbrook PUD						
	10/26/2023	52490 · Publications	3,959.36	Recording, PHN & SBE Fees (RO20-05)	check	3558 · SDCCU Checking
	10/26/2023	52304 · Application Fees	47,080.52	LAFCO Staff Billing Time: Additional Deposit	check	3558 · SDCCU Checking
			51,039.88			
R | Rainbow MWD						
	10/26/2023	52490 · Publications	2,019.40	PHN & SBE Fees (RO20-04)	check	3558 · SDCCU Checking
	10/26/2023	52304 · Application Fees	47,080.52	LAFCO Staff Billing Time: Additional Deposit	check	3558 · SDCCU Checking
			49,099.92			
REVENUE TOTAL			137,991.95			

Blank for Photocopying

5c

AGENDA REPORT
Consent | Action

December 4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Michaela Peters, Analyst I

SUBJECT: **Proposed "North Iris Lane - Hallmark Development Reorganization" | Annexation to the City of Escondido with Concurrent Detachment from County Service Area No. 135 and Related Actions (RO23-06)**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a reorganization proposal initiated by landowner petition with the principal action to annex 7.7 unincorporated acres to the City of Escondido. A concurrent detachment from County Service Area (CSA) No. 135 and its regional communication service function is also part of the reorganization. The affected territory is part of a larger unincorporated island near Escondido's Country Club neighborhood. It includes five contiguous legal parcels with four containing existing single-family residences. The purpose of the proposal is to facilitate Escondido's tentative approval to develop the affected territory into 102 airspace residential condominiums with ancillary amenities. The affected territory lies within the sphere of influence set for Escondido. Staff recommends conditional approval of the proposal as submitted to include removal of the affected territory from Rincon del Diablo Municipal Water District's authorized fire protection and emergency medical service area (Improvement District E). Other standard terms would apply. It is also recommended the Commission waive protest proceedings along with making parallel findings to the Environmental Impact Report (EIR) adopted by Escondido.

Administration:
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
E lafco@sdcounty.ca.gov
www.sdlafco.org

Chair Jim Desmond
County of San Diego
Joel Anderson
County of San Diego
Nora Vargas, Alt.
County of San Diego
Kristi Becker
City of Solana Beach
Dane White
City of Escondido
John McCann, Alt.
City of Chula Vista
Vice Chair Stephen Whitburn
City of San Diego
Marni von Wilpert, Alt.
City of San Diego
Jo MacKenzie
Vista Irrigation
Barry Willis
Alpine Fire Protection
David A. Drake, Alt.
Rincon del Diablo
Andy Vanderlaan
General Public
Harry Mathis, Alt.
General Public

BACKGROUND

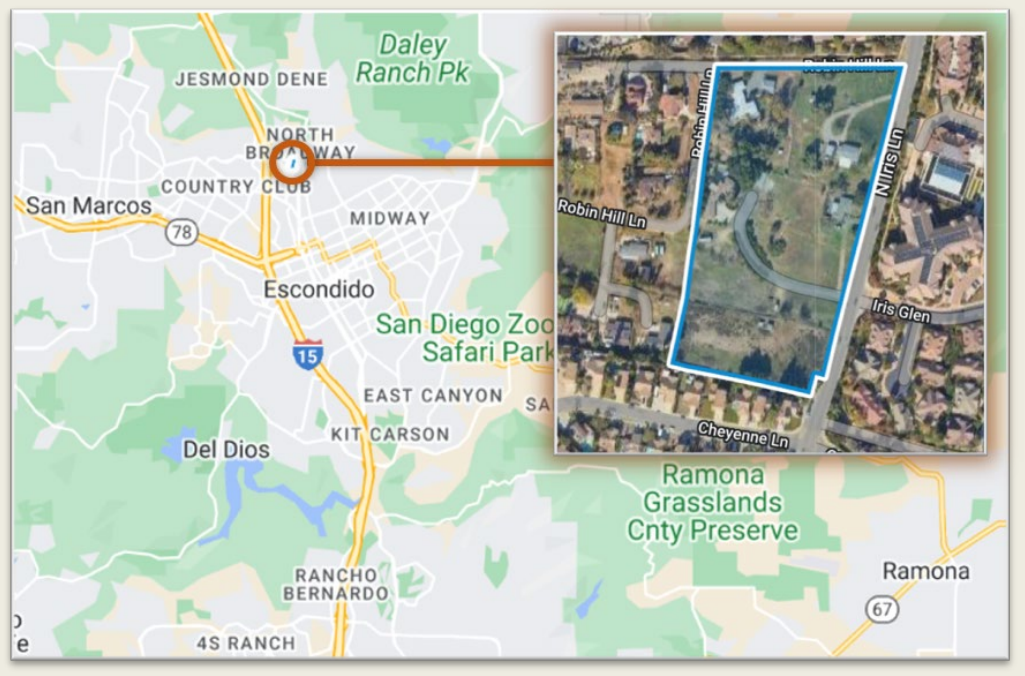
Applicant Request

San Diego LAFCO has received a proposal initiated by landowner petition (Hallmark Development Company, LLC) for the primary purpose of annexing approximately 7.7 acres of unincorporated territory to the City of Escondido within its sphere of influence. A secondary action to detach the affected territory from CSA No. 135 and its regional communication function is also part of the proposed reorganization. The affected territory as submitted comprises five contiguous parcels currently developed with four single-family residences and an animal/horse corral. The County of San Diego Assessor's Office assigns the four developed subject parcels with situses at 2039, 2047, 2085, and 2089 North Iris Lane with corresponding assessor numbers of 224-310-05, -06, -07, and -08, respectively. The fifth subject parcel does not have an assigned situs and is otherwise identified as 224-310-20.

No approval terms accompany the landowner petition.

Regional Setting

The affected territory is located within a larger unincorporated island completely surrounded by the City of Escondido near the northwest Country Club neighborhood and largely adjacent to low to moderate single-family residential densities. Primary and secondary access is provided by Robin Hill Road and North Iris Lane, respectively. The affected territory lies within County Supervisorial District No. 5 (Jim Desmond), Assembly District No. 76 (Brian Maienschein), and Senate District No. 40 (Brian W. Jones). An aerial map of the affected territory and its regional setting follows with a more detailed map – including the existing parcel and jurisdictional boundaries – provided at Attachment One.



Subject Agencies

The proposed reorganization filed with San Diego LAFCO involves two subject agencies: the City of Escondido and CSA No. 135.[1] Summaries of the subject agencies in terms of governance, resident population, municipal functions, and financial standing follows.

- **City of Escondido** was incorporated in 1888 as a general-law municipality with an existing estimated resident population of 152,292. Escondido spans 23,971 acres or 37 square miles and bordered by the unincorporated community of Valley Center to the north and east, the Cities of San Diego and Poway to the south, and the City of San Marcos to the west. Escondido is a full-service municipality and headlined by directly providing community planning, fire protection, parks and recreation, police protection, wastewater, and water services with the latter – water – geographically limited and supplemented by other special districts within City limits. LAFCO last reviewed and updated Escondido's sphere in 2023 with a larger-than-agency designation that includes several unincorporated areas – including Hidden Meadows. Escondido's most recent audit shows its net position at $527.1 million as of June 30, 2022 with an unrestricted balance of ($108.0) million. The unrestricted amount is adjusted to $98.7 million less pension and related retiree liabilities. The ending non-restricted balance within the General Fund separately finished at $32.2 million. Overall, Escondido's total net position has changed by (19.9%) over the prior three audited years.

- **CSA No. 135** is a dependent special district of the County of San Diego encompassing 3,739.8 square miles and includes all unincorporated lands as well as 10 of the 18 cities in San Diego County. CSA No. 135 was formed in 1994 to provide public safety radio communications through a funding agreement with a third-party (Regional Communication Systems, LLC) and involves operating an 800-megahertz system. Administration of this municipal function is provided by County Sheriff. The current estimated resident population within CSA No. 135 is 1,074,319. LAFCO established a sphere of influence in 1994 coterminous to San Diego County. The sphere was last reviewed and affirmed in 2007. The most recent audit shows the County's net position at $3.790 billion as of June 30, 2022 with an unrestricted portion of ($1.858 billion) that adjusts to $1.297 billion less retiree obligations. Overall, the County's total net position has changed by 5.4% over the prior three audited years.

Affected Local Agencies

The affected territory presently lies within the jurisdictional boundaries and/or spheres of influence of 10 local agencies directly subject to San Diego LAFCO's planning and regulatory responsibilities. These agencies qualify as "affected agencies" relative to the proposed reorganization for noticing purposes and listed below.[2]

1 State law defines "subject agency" to mean any district or city for which a change of organization or reorganization is proposed.
2 State law defines "affected local agency" as any entity that contains, or would contain, or whose sphere contains or would contain, any territory for which a change of organization is proposed or ordered. Notice of the proposal and hearing were provided to the agencies.

- CSA No. 135 (Regional Communications)
- Metropolitan Water District of Southern California
- North County Cemetery District
- North County Transit District
- Palomar Healthcare District
- Rincon del Diablo MWD
- Resource Conservation District of Greater San Diego County
- San Diego County Flood Control District
- San Diego County Street Lighting District
- San Diego County Water Authority

The affected territory also lies within the following school and college districts, and accordingly received notice of the proposal: Escondido Union High School District; Escondido Union School District; and Palomar Community College District.

DISCUSSION

This item is for San Diego LAFCO to consider approving – with or without discretionary modifications to the physical footprint – the reorganization proposal and its principal action to annex the affected territory to the City of Escondido. The Commission may also consider applying conditions so long as it does not directly regulate land use, property development, or subdivision requirements. Additional discussion with respect to proposal purpose, development opportunities, and Commission focus follows.

Proposal Purpose

The principal purpose of the proposed reorganization before San Diego LAFCO is to accommodate the planned development of 102 airspace condominiums under the City of Escondido's land use authority and as part of the "North Iris Residential Project". The timing of the proposal ties directly to the discretionary approval of the North Iris Residential Project approved by Escondido in January 2023.

Current and Planned Development Opportunities

The affected territory is presently unincorporated and entirely designated by the County of San Diego as Village Residential (VR-24) with a standard density allowance of up 24 dwelling units per acre. The County zones all five subject parcels as Residential Single with a 1.0 acre minimum lot size. Escondido separately designates the affected territory as Urban III with a standard density allowance of up to 18 dwelling units per acre. Escondido prezones all five subject parcels as Planned Development Residential with a 1.0-acre minimum lot size.

The following table summarizes development density/intensity potentials within the affected territory under the County and Escondido.

Development Density + Intensity Potential within the Affected Territory Less Setbacks and Separate Allowances
(Table X | Source: San Diego LAFCO)

	County of San Diego	City of Escondido
General Plan Designation	Village Residential	Urban III
… Minimum Lot Size	1.0 acres	1.0 acres
Zoning Assignment	Residential Single	Planned Development Residential
… Maximum No. of Units Per Acre	18 dwelling units	14.6 dwelling units
… Maximum No. of Units		
APN 224-310-05	23	19
APN 224-310-06	63	51
APN 224-310-07	9	7
APN 224-310-08	21	17
APN 224-310-20	25	21
TOTAL	**141**	**114**

On January 11, 2023, Escondido conditionally approved a series of actions as part of proposed North Iris Residential Project filed by the same applicant. This is marked for LAFCO purposes by prezoning all five subject parcels as Planned Development Residential with a maximum allowance of 14.6 units dwelling units per acre. This and other conditional approvals collectively allows for the demolition of all existing structures within the affected territory and construction thereafter of a 102-unitairspace condominium units along with supporting open space and recreational amenities.

Commission Focus

San Diego LAFCO's current sphere of influence designation for the City of Escondido includes the affected territory and can readily accommodate the proposed annexation without amendment. Similarly, the current sphere of influence designation for CSA No. 135 is countywide and amendments have not been made by practice to exclude detached territory. These existing sphere determinations narrows the Commission's consideration of the proposed reorganization to two central and sequential policy items. These policy items ultimately take the form of determinations and orient the Commission to consider the stand-alone merits of the (a) timing of the reorganization and (b) whether discretionary modifications or terms are appropriate. The Commission must also consider other relevant statutes in and outside LAFCO law as detailed.

ANALYSIS

San Diego LAFCO's analysis of the proposed reorganization is divided into two subsections. The first subsection pertains to evaluating the central policy issues referenced in the preceding section relative to both statutory and local policy considerations. The second subsection considers other germane issues required for the LAFCO proposal consideration and this include complying with the California Environmental Quality Act (CEQA).

Central Policy Items

Item No. 1 |
Reorganization Timing

San Diego LAFCO's consideration of the proposed reorganization's timing draws on analyzing baseline factors required in statute as well as applicable policies set by the Commission. Most of the baseline factors in statute focuses on disclosing and otherwise addressing compatibility issues with external goals and policies of other State, regional, and local agencies as well as assessing the ability of subject agencies providing services going forward.[3] Applicable local policies prompted for consideration are headlined by L-107 and its attention to disclosing and/or addressing any known or perceived jurisdictional disputes.

Analysis of these two related timing factors follows.

- Timing Factor No. 1:
  Baseline Considerations: Regional Policies + Service Relationships

  State law prescribes the mandatory consideration of certain and multifaceted factors anytime LAFCOs consider jurisdictional changes. These factors range in substance from disclosures – such as the affected territory's current land uses, assessed values, register voter counts, and so on – to discretionary analyses. This latter category is highlighted by evaluating the proposed annexation's relationship to community needs as well as the service capacities and related financial resources of the subject agencies. A summary of key conclusions generated in reviewing these discretionary matters for the proposed reorganization with an emphasis on the receiving entity (City of Escondido) regarding (a) service needs, (b) service availability and capacities, and (c) related financial considerations follow.

  - With respect to **service needs**, the planned and otherwise high density residential land uses of the affected territory merits organized public services and would be aided by the reorganization and annexation to Escondido and its ability to provide a range of urban-supporting services. The Commission has previously designated Escondido as the appropriate future land use authority and primary service provider for the affected territory and its five subject parcels through standing inclusion in the City's sphere of influence. Annexation to Escondido memorializes

3 Reference to Government Code Section 56668.

this standing expectation and accommodates the expressed interest of all affected landowners as evident by their written consent to the proposal.

- With respect to **service availability and capacities**, Escondido would directly assume most municipal service responsibilities for the affected territory upon reorganization and highlighted by providing the following core functions: community development; wastewater; integrated fire protection and emergency medical; and police protection. (Other key municipal service functions that would continue to be provided to the affected territory post reorganization include water by Rincon del Diablo MWD and public transportation by North County Transit District.) Additional details on these core Escondido functions and relationship – availability and capacity – with the affected territory follows.

  Escondido would assume community planning responsibilities for the affected territory from the County of San Diego as part of the reorganization. The transition is contemplated in the Escondido General Plan (2012) and further prescribed by the City prezoning the subject lots as Planned Development Residential in step with approving the underlying development project.

  Escondido would assume wastewater service responsibilities for the affected territory upon reorganization. An existing Escondido wastewater main is located immediately adjacent to the affected territory within the public rights-of-way of North Iris Lane and Robin Hill Lane via a 20-foot lateral main line. It is estimated the current average day wastewater flow generated within the affected territory via its four existing residential units and presently accommodated by private septic's is 1,000 gallons. It is projected the maximum average day wastewater flow generated within the affected territory post reorganization and immediately planned uses is 25,500 gallons based on a development footprint of 102 dwelling units. This projected amount can be readily accommodated by the City of Escondido and represents 0.2% of its available treatment capacity remaining within its wastewater system based on current flows.

  Escondido would formally assume integrated fire protection and emergency medical service responsibilities for the affected territory. This change would have no material impact on service levels given Escondido is the existing contract provider for Rincon del Diablo Municipal Water District (via its Improvement District E). First-response would continue to be provided from Escondido's Station No. 3, located nearby at 1808 N. Nutmeg Street. Response times to the affected territory are estimated to be less than 7.3 minutes for priority calls and non-priority calls. Total response time would fall within the City's response time standard of 7.5 minutes for urban areas and 8.5 minutes for suburban areas.

Escondido would formally assume police protection responsibilities from the County of San Diego as part of the reorganization. This change would have no material impact on service levels given Escondido's automatic aid agreement with the County Sherriff already commits the City to serve as first responder for all high proximity calls for the region given its proximity to City resources.

- With respect to **related financial considerations**, staff analysis shows the City of Escondido has financial resources and administrative controls to readily assume municipal service responsibilities to the affected territory in support of its existing and planned uses without significant adverse impacts. This macro comment considers the relatively limited scale of the proposed annexation to Escondido paired with acknowledging recent City stresses due to escalating resources requiring redirection to cover pension costs. Escondido, nonetheless, finished with positive total margins in each of the last three completed fiscal years with a period average of 8.3% ending in June 2022.

- Timing Factor No. 2:
  Consideration of Policy L-107

San Diego LAFCO adopted L-107 in May 2010 to require all applicants to disclose jurisdictional disputes or related items that are associated with their proposal filings. If applicable, and unless waived by the Executive Officer, the policy requires applicants and/or their representatives to consult with opponents to resolve any known issues – concerns, disputes, etc. – before the item is formally considered by the Commission.[4] If an agreement is reached through the consultation process, the policy states the Commission shall consider the provisions as part of the application. If an agreement is not reached despite exhausting good-faith efforts, the policy states the Commission shall proceed to consider the application as submitted.

No jurisdictional disputes have been disclosed by the City of Escondido, CSA No. 135, or County of San Diego through the administrative review with LAFCO.

CONCLUSION |
MERITS OF REORGANIZATION TIMING

The timing of the reorganization and its principal action to annex the affected territory to the City of Escondido is warranted. Justification is marked by the preceding analysis and facilitates a known and otherwise orderly infill development project consistent with the Escondido General Plan. Further, the reorganization readily syncs with Escondido's existing infrastructure with sufficient capacities to accommodate the maximum potential demands projected within the affected territory post reorganization. Additional analysis supporting the conclusion is provided in Appendix A.

4 The Executive Officer retains discretion to determine the extent of consultation needed.

Item No. 2 |
Modifications and Terms

No modifications to the submitted reorganization have been identified by San Diego LAFCO staff meriting Commission consideration at this time. This includes confirmation that the annexation of the affected territory would not generate any corridors and/or otherwise illogical jurisdictional features. Standard terms are appropriate along with the condition the landowners' consent to the formal removal of the subject parcels from Rincon del Diablo MWD's Improvement District-E with related authorization for LAFCO staff to process the change with the County Auditor and State Board of Equalization.

CONCLUSION |
MODIFICATIONS AND TERMS

No modifications – expansions or reductions – to the physical footprint of the proposal appears warranted. Standard approval terms are recommended as well as requiring the affected landowners to consent to the removal of their subject parcels from Rincon del Diablo MWD's Improvement District E along with any related authorizations.

Other Statutory Considerations

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement by the affected local agencies before San Diego LAFCO can consider any jurisdictional change involving an annexation and/or detachment unless an applicable master agreement applies. Staff has confirmed with the City of Escondido and County of San Diego to apply an existing master agreement to govern the tax exchange for the proposed reorganization. This master agreement specifies Escondido shall receive 36% of the County's existing apportionment of the 1% property tax collected within the affected territory going forward. The estimated annual value of the exchange is currently $3,117. based on current assessed values (land and structures). [5] There are no property taxes to be exchanged with respect to the detachment from CSA No. 135.

Environmental Review

San Diego LAFCO is obligated under CEQA to assess whether environmental impacts would result from activities approved under the Commission's authority, either as a lead or responsible agency. Accordingly, the Commission is tasked with making findings under CEQA in consideration of the proposed reorganization. Staff's analysis follows.

- The City of Escondido serves as lead agency under CEQA for considering the reorganization and specifically the principal action to annex the affected territory to the City as part of its discretion to approve the underlying development project at

5 The current 1% property tax received by the County from the five subject lots is $8,658.35.

2039, 2047, 2085, and 2089 North Iris Lane. In this role as lead agency, on January 12th, 2023, Escondido certified a Final Environmental Impact Report (EIR) and Notice of Determination (NOD) for the project and identified potential significant environmental impacts for all of the following categories: biological resources; cultural and tribal resources; geology and soils; hazards and hazardous materials; noise; and transportation and traffic. Escondido attests the implementation of mitigation measures via a Mitigation Monitoring and Reporting Program (MMRP) reduce these potential impacts to less than significant levels. Staff independently believes Escondido has prepared a sufficient document as lead agency and it would be appropriate for the Commission to adopt the findings of the EIR and MMRP as a responsible agency.

- LAFCO serves as lead agency under CEQA for considering the secondary action to detach the affected territory from CSA No. 135 and its regional communication service function. Staff believes the detachment is a project under CEQA but qualifies for exemption under Guidelines Section 15320. This exemption appropriately applies given the subject service – regional communications – will be entirely transferred and assumed by Escondido without any material changes in the scope, scale, or adequacy post reorganization.

Protest Proceedings

Protest proceedings for the proposed reorganization may be waived by San Diego LAFCO should the Commission proceed with an approval under Government Code Section 56662. The waiver appropriately applies under this statute given the affected territory is uninhabited as defined under LAFCO law (i.e., less than 11 voters), the subject agencies have not filed objections to the waiver, and the landowners have consented to the underlying action.[6]

RECOMMENDATION

Staff recommends conditional approval of the reorganization proposal as submitted without any physical modifications. This recommendation is consistent with the action outlined as Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO:

Alternative One (recommended):
Adopt the attached draft resolution approving the reorganization proposal as submitted with terms – including removal of the affected territory from Rincon del Diablo MWD's ID-E – along with waiving protest proceedings. CEQA findings are also included.

6 LAFCO law defines uninhabited as territory in which less than 11 registered voters reside.

Alternative Two:
Continue consideration to the next regular meeting.

Alternative Three:
Disapprove the reorganization proposal with direction to staff to return at the next regular meeting with a conforming resolution for adoption.

PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified.

On behalf of the Executive Officer,

Michaela Peters
Analyst I

Appendices:

A) Analysis of Proposal Review Factors

Attachments:

1) Vicinity Map of the Affected Territory
2) Draft LAFCO Resolution of Approval
3) Application Materials
4) Escondido Resolution Certifying a FEIR
   - North Iris Project
5) Escondido Mitigation Monitoring and Reporting Program
   - North Iris Project
6) *Clickable link* Final EIR (North Iris Residential Project)

Blank for Photocopying

APPENDIX A
Government Code Section 56668
Proposal Review Factors

a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent areas, in the next 10 years.

The affected territory as submitted comprises one contiguous area consisting of five unincorporated parcels spanning 7.7-acres within the City of Escondido. Four of the subject parcels are developed with single-family residences and located at 2039, 2047, 2085, and 2089 North Iris Lane. The fifth subject is located at 2049 North Iris Lane and presently undeveloped. The estimated population within the four developed parcels is 4. Total number of registered voters is 4. The affected territory is part of a larger unincorporated island near Escondido's Country Club residential neighborhood. Additional growth is expected within the next 10 years as undeveloped and/or undeveloped land further intensifies and highlighted by the nearby approved Conway and Ash Subdivisions. The total assessed land value of the five subject parcels is $342,437 and divided as follows:

- 2039 North Iris Lane, APN 224-310-08
  Land value is $22,396
- 2047 North Iris Lane, APN 224-310-07
  Land value is $206,000
- 2085 North Iris Lane, APN 224-310-06
  Land value is $65,920
- 2089 North Iris Lane, APN 224-310-05
  Land value is $24,616
- 0 North Iris Lane, APN 224-310-20
  Land value is $23,505

b) The need for municipal services; the present cost and adequacy of municipal services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

The City of Escondido would assume the primary role in providing core municipal service functions for the affected territory if the reorganization is approved. This would include the need and related provision of community planning, wastewater, fire protection and emergency medical, and police protection. (Potable water service to the affected territory

would continue to be provided by Rincon del Diablo MWD). A summary of the existing adequacy of these core services follows.

- Escondido would assume community planning responsibilities for the affected territory from the County of San Diego as part of the reorganization. This transition is explicitly contemplated in the Escondido General Plan (2012) and further prescribed by the City pre-zoning the subject lot as Planned Development-Residential PD-R 14.6

- An existing Escondido wastewater main is located immediately adjacent to the affected territory within the public rights-of-way of North Iris Lane and Robin Hill Lane via a 20-foot lateral main line. It is estimated the current average day wastewater flow generated within the affected territory via its four existing residential units and presently accommodated by private septics is 1,000 gallons. It is projected the maximum average day wastewater flow generated within the affected territory post reorganization and immediately planned uses is 25,500 gallons based on a development footprint of 102 dwelling units. This projected amount can be readily accommodated by the City of Escondido and represents 0.2% of its available treatment capacity remaining within its wastewater system based on current flows.

- Escondido would formally assume integrated fire protection and emergency medical service responsibilities for the affected territory. This change would have no material impact on service levels given Escondido is the existing contract provider for Rincon del Diablo Municipal Water District (via its Improvement District E). First-response would continue to be provided from Escondido's Station No. 3, located 1.6 miles away from the affected territory at 1808 N. Nutmeg Street. Response times to the affected territory are estimated to be less than 7.3 minutes for priority calls and non-priority calls. Total response time would fall within the City's response time standard of 7.5 minutes for urban areas and 8.5 minutes for suburban areas.

- Escondido would formally assume police protection responsibilities from the County of San Diego as part of the reorganization. This change would have no material impact on service levels given Escondido's automatic aid agreement with the County Sheriff which already commits the City to serve as first-responder for all high priority calls for the region given its proximity to the City boundary.

c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on local governmental structure.

Approving the reorganization and annexation therein to the City of Escondido would reflect and strengthen existing economic and social ties between the City and the affected territory based on proximity and current service provisions involving automatic public safety aid. These existing social and economic ties are relatedly reflected in the Commission's standing inclusion of the affected territory within Escondido's sphere of influence.

d) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies/priorities set forth in G.C. Section 56377.

Approving the proposed reorganization and annexation to Escondido would facilitate the orderly expansion of the City's jurisdictional boundary consistent with the sphere of influence. The affected territory does not contain "open-space" as defined under LAFCO law and no conflicts exists under Government Code Section 56377. Additional analysis concerning conformance with germane Commission policies follows.

- San Diego LAFCO Policy L-107 requires applicants to disclose and address potential jurisdictional issues associated with their proposals and if applicable, requires a consultation process with affected agencies, interested parties, or organizations to help discuss and potentially remedy concerns unless waived by the Executive Officer. No jurisdictional disputes or related concerns were identified or disclosed by the applicant, by affected agencies, or interested parties in the review of the proposal.

e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.

The affected territory does not presently contain "agricultural land" as defined under LAFCO law. Specifically, the affected territory does not contain lands currently used for any of the following purposes: producing an agricultural commodity for commercial purposes; left fallow under a crop rotational program; or enrolled in an agricultural subsidy program. Approval of the proposal and annexation to the City of Escondido would have no effect on maintaining the physical and economic integrity of agricultural lands.

f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment, the creation of islands or corridors of unincorporated territory, and other similar matters.

LAFCO is in receipt of a draft map and geographic description of the affected territory that details metes and bounds that appears consistent with the standards of the State Board of Equalization and conforming with lines of assessment. LAFCO approval would be conditioned on approval of the map and geographic description by the County Assessor's Office and address any modifications enacted by the Commission.

g) A regional transportation plan adopted pursuant to Section 65080.

The proposed reorganization involves the principal action to annex four developed parcels containing existing single-family residences and an animal/horse corral – to be demolished – and one undeveloped parcel to the City of Escondido as part of a larger planned 120-unit condominium project. The proposal and its anticipated outcomes do not generate any known conflicts with *San Diego Forward*, the regional transportation plan adopted by the San Diego Association of Governments.

h) Consistency with the city or county general and specific plans.

The affected unincorporated territory is presently designated by the City of Escondido as Urban III with a prezoning assignment of Planned Development Residential (PD-R 14.6). The prezoning provides a minimum parcel size of 1.0 acres and a maximum of 14.6 dwelling units per acre. These planned uses are consistent with the proposal's core purpose to annex the affected territory into Escondido and accommodate the development of a 102-unit airspace condominium project.

i) The sphere of influence of any local agency affected by the proposal.

The affected territory lies entirely within the existing sphere of influence designated for the City of Escondido.

j) The comments of any affected local agency or other public agency.

Notice of the submitted reorganization proposal was distributed to all affected and subject agencies as required under LAFCO law. Notices were also provided to all local college and school districts. No written comments on the proposal were received ahead of preparing this agenda report for distribution on November 22, 2023.

k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Information collected and reviewed as part of this proposal indicates the City of Escondido has overall sufficient and available financial resources and administrative controls therein relative to serving the affected territory without adversely impacting existing constituents. This statement is supported by the following factors.

- Escondido's last outside audit covers 2021-2022 and shows the City finished with sufficient liquidity levels with an agency-wide current ratio of 2.21 (i.e., $2.21 in current assets for every $1.00 in current liabilities).

- Escondido finished 2021-2022 with good capital levels and marked by a debt ratio of 45.4% (i.e., only $45.00 out of every $100.00 in net assets are financed.)

- Escondido finished 2021-2022 with an overall total margin of 5.5%.

l) Timely availability of adequate water supplies for projected needs as specified in G.C. Section 65352.5.

The affected territory's existing residential uses are presently within and connected to Rincon del Diablo MWD's retail potable water system with wholesale supplies provided by the San Diego County Water Authority and Metropolitan Water District of Southern California. Approval of the proposed reorganization would not affect these existing relationships and/or commitments. Further, Rincon del Diablo did not request any approval terms in the course of receiving a notice of review on the reorganization.

m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments.

The proposed reorganization would not impact any local agencies in accommodating their regional housing needs. All potential units tied to the lands are already assigned to the City of Escondido by the region's council of governments through the standing inclusion of the land within the City sphere of influence.

n) Any information or comments from the landowners, voters, or residents.

The affected territory is considered uninhabited as defined by LAFCO law (containing 11 registered voters or less). The landowners support the proposed reorganization and have provided written consent to the proceedings as the petitioners.

o) Any information relating to existing land use designations.

See above analysis for (h).

p) The extent to which the proposal will promote environmental justice.

The reorganization is expected to aid and/or otherwise promote environmental justice by enhancing wastewater and integrated public safety services within the affected territory and for any groups that are susceptible to pollution burdens and their effects. This latter category – notably – includes low-income communities, communities of color, tribal nations, and other disadvantaged groups. Consideration of existing environmental justice factors within the affected territory draw on staff analyzing data available from the California Environmental Protection Agency through its online assessment tool (CalEnviroScreen 4.0).

Two composite percentile rankings for the affected territory are generated within this analysis and involves (a) pollution burdens and (b) susceptible population to pollution burdens relative to all census tracts in California. These rankings follow.

- The affected territory's **composite pollution burden ranking** falls in the ninth percentile with an internal range between 0 to 53 percentiles. One pollution burden measurement – ozone – exceed the 50 percentile and is considered relatively high.

- The affected territory's **composite susceptible population** ranking falls in the forty-second percentile with an internal range between 27 to 58 percentiles. Three of these at-risk groups exceeds the 50 percentile and involves low birth rate, cardiovascular disease, and unemployment.

A summary of all tracked pollution burdens and susceptible population follows.

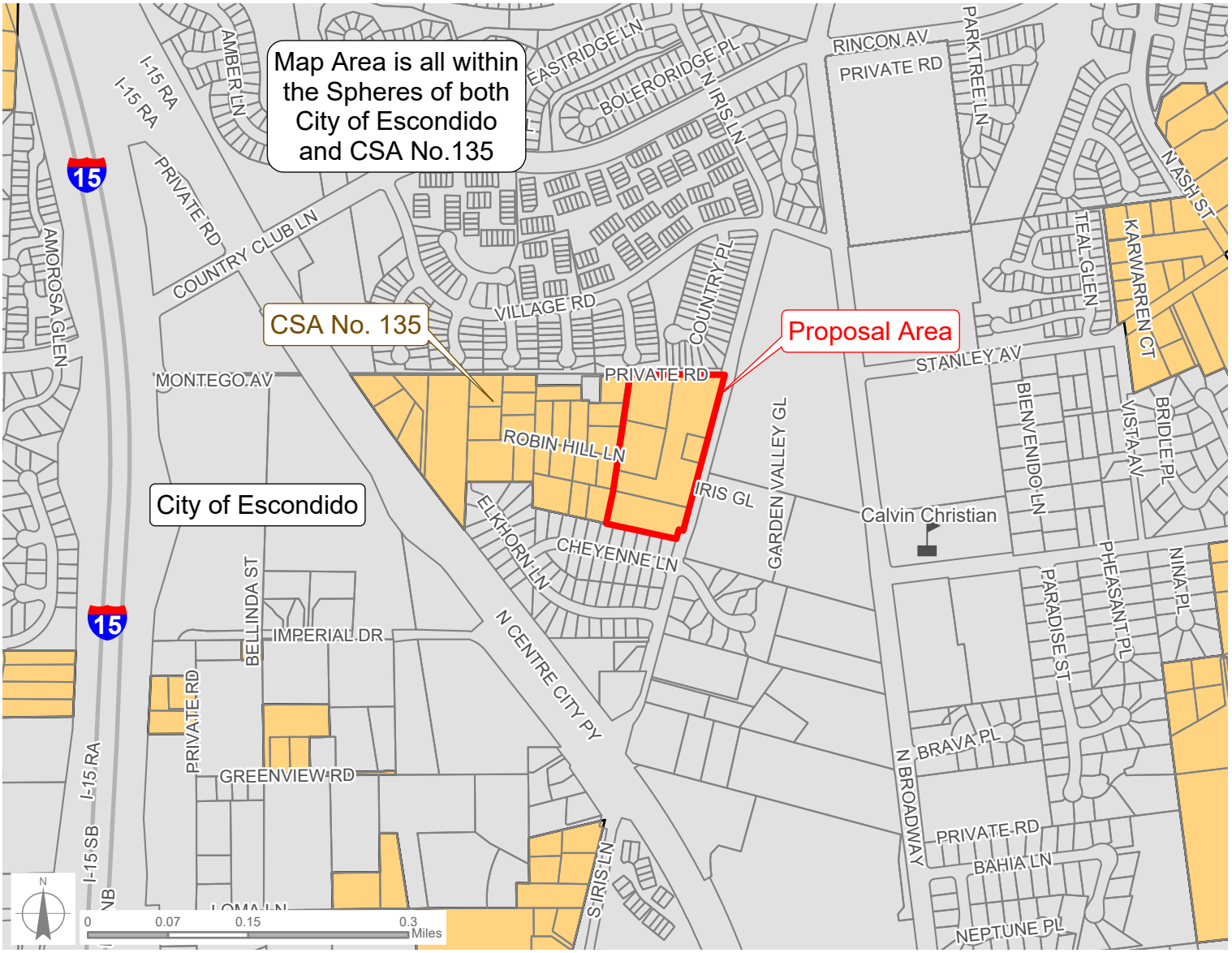
Census Tract 6073020106
Pollution Burdens and Susceptible Population
Table 2.6a (Source: California Environmental Protection Agency and SD LAFCO)

Factor	Census Tract 6073020105
No. of Census Tracts	1
Estimated Population within Tract(s)	4,029
Pollution Burden	**Weighted Percentile**
… Percentile	**9.4**
Indicator | Air Quality: Ozone	53.7
Indicator | Air Quality: PM 2.5:	16.3
Indicator | Air Quality: Diesel PM:	48.1
Indicator |Pesticides:	22.0
Indicator | Toxic Releases:	12.4
Indicator |Traffic:	37.8
Indicator | Drinking Water Contaminants:	42.6
Indicator | Lead in Housing:	28.4
Effects | Cleanup Sites:	0.00
Effects | Groundwater Threats:	0.00
Effects | Hazardous Waste:	31.4
Effects | Impaired Water:	23.9
Effects | Solid Waste:	0.00
Sensitive Population	**Weighted Percentile**
… Percentile	**42.3**
Population | Asthma:	27.2
Population | Low Birth Weight:	56.1
Population | Cardiovascular Disease:	58.0
Population | Education:	44.3
Population | Linguistic Isolation:	34.7
Population | Poverty:	33.0
Population | Unemployment:	58.4
Population | Housing Burden:	41.9

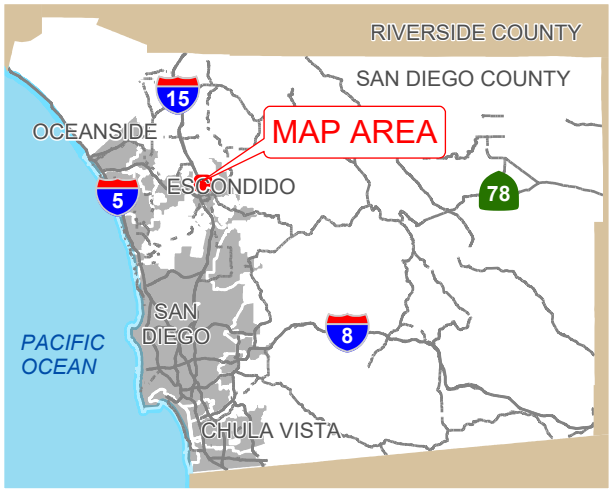
q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone or maps that identify land determined to be in a state responsibility area, if it is determined that such information is relevant to the affected territory.

The City of Escondido's General Plan contains a hazard mitigation plan for potential fire, flooding, and earthquakes. The affected territory lies within a "Low-level" fire hazard zone and a "Low-Level" earthquake hazard zone.

Blank for Photocopying







RO23-06

"NORTH IRIS LANE - HALLMARK DEVELOPMENT REORGANIZATION" | ANNEXATION TO THE CITY OF ESCONDIDO WITH CONCURRENT DETACHMENT FROM CSA NO. 135

- Proposal Area
- CSA 135 (SD Regional Comm)
- City of Escondido

SOI = Sphere of Influence

San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

This map is provided without warranty of any kind, either express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. Copyright LAFCO and SanGIS. All Rights Reserved.This product may contain information from the SANDAG Regional Information System which cannot be reproduced without the written permission of SANDAG. This map has been prepared for descriptive purposes only and is considered accurate according to SanGIS and LAFCO data.

G:\GIS\Vicinity_Maps\agendamaps2023\23-06 City Escondido Hallmark.aprx

Created by Dieu Ngu -- 5/19/2023

Blank for Photocopying

RESOLUTION NO. _____

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING, AND ORDERING A REORGANIZATION

"NORTH IRIS LANE-HALLMARK DEVELOPMENT REORGANIZATION"
ANNEXATION TO THE CITY OF ESCONDIDO WITH CONCURRENT DETACHMENT FROM COUNTY SERVICE AREA NO. 135
LAFCO FILE NO: RO23-06

WHEREAS, on April 10, 2023, interested landowner – Hallmark Development Company, LLC – filed a petition to initiate proceedings and an application with the San Diego County Local Agency Formation Commission, hereinafter referred to as "Commission", pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the application before the Commission seeks approval of a reorganization of approximately 7.7 acres of unincorporated territory in the County of San Diego involving annexation to the City of Escondido with concurrent detachment from the County Service Area 135; and

WHEREAS, the affected territory as proposed includes five contiguous legal parcels with four containing existing single-family residences and identified by the County of San Diego's Assessor's Office as 224-310-05, -06, -07, -08. The fifth subject parcel does not have an assigned situs and is otherwise identified as 224-310-20; and

WHEREAS, on December 5, 1984, the County of San Diego and the City of Escondido approved a Master Property Tax Transfer Agreement that will govern the property tax exchange associated with the reorganization of the affected territory to the City of Escondido; and

WHEREAS, the Commission's Executive Officer has reviewed the proposed reorganization and prepared a report with recommendations; and

WHEREAS, the Executive Officer's report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a noticed public meeting on the proposal on December 4, 2023;

WHEREAS, the Commission considered all the factors required by law under Government Code Section 56668 as well as adopted local policies and procedures.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The public meeting was held on the date set therefore, and due notice of said meeting was given in the manner required by law.

2. At the public meeting, the Commission considered the Executive Officer's report.

3. With respect to considering the effects of the proposed reorganization under the California Environmental Quality Act (CEQA), the Commission's makes the following findings:

    a) The City of Escondido serves as lead agency under CEQA for considering the reorganization and specifically the principal action to annex the affected territory to the City as part of its discretion to approve the underlying development project. In this role as lead agency, on January 12, 2023, Escondido certified a Final Environmental Impact Report (EIR) and Notice of Determination (NOD) and identified potential significant environmental impacts for all of the following categories: biological resources; cultural and tribal resources; geology and soils; hazards and hazardous materials; noise; and transportation and traffic. Escondido attests the implementation of mitigation measures via a Mitigation Monitoring and Reporting Program (MMRP) reduce these potential impacts to less than significant levels. The Commission independently believes Escondido has prepared a sufficient document as lead agency and it would be appropriate for the Commission to adopt the findings of the EIR and MMRP as a responsible agency.

    b) LAFCO serves as lead agency under CEQA for considering the secondary action associated with the reorganization to detach the affected territory from CSA No. 135 and its regional communication service function. The Commission concurs the detachment is a project under CEQA but qualifies for exemption under Guidelines Section 15320. This exemption appropriately applies given the subject service – regional communications – will be entirely transferred and assumed by Escondido without any material changes in the scope, scale, or adequacy post reorganization.

4. The Commission APPROVES the reorganization without modifications and subject to conditions as provided. Approval involves all the following:

    a) Annexation of the affected territory to the City of Escondido as shown in "Exhibit A-1" and described in "Exhibit A-2".

    b) Detachment of the affected territory from County Service Area No. 135 as shown in "Exhibit A-1" as described in Exhibit A-2".

5. The Commission CONDITIONS all approvals on the following terms being satisfied by December 4, 2024 unless an extension is requested in writing and approved by the Executive Officer:

    a) Completion of the 30-day reconsideration period provided under Government Code Section 56895.

    b) Submittal to the Commission of final map and geographic description of the affected territory as approved by the Commission conforming to the requirements of the State Board of Equalization – Tax Services Divisions.

    c) Written consent and related authorizations from the applicant – Hallmark Development Company, LLC – to remove the subject parcel from Rincon del Diablo

Municipal Water District's Improvement District "E" involving fire protection and emergency medical.

d) Submittal to the Commission of the following payments:

- A check made payable to LAFCO in the amount of $100.00 for the County of San Diego-Clerk Recorder to reimburse for filing a CEQA Notice of Determination and Notice of Exemption consistent with the finding in the resolution.

- A check made payable to the State Board of Equalization for processing fees in the amount of $350.00.

6. The Commission assigns the proposal the following short-term designation: "North Iris Lane-Hallmark Development Reorganization".

7. The affected territory as designated by the Commission is uninhabited as defined in Government Code Section 56046.

8. The Commission waives conducting authority proceedings under Government Code Section 56662.

9. The County Service Area 135 are registered-voter districts.

10. The City of Escondido and County Service Area 135 all utilize the County of San Diego assessment roll.

11. The affected territory will be liable for any existing bonds, contracts, and/or obligations of the City of Escondido as provided under Government Section 57328, and will be subject to any previously authorized taxes, benefit assessments, fees or charges of the City of Escondido as provided under Government Code Section 57330.

12. The effective date of the approval shall be the date of recordation but not before the completion of a 30-day reconsideration period and only after all terms have been completed as attested by the Executive Officer.

13. As allowed under Government Code Section 56107, the Commission authorized the Executive Officer to make non-substantive corrections to the resolution to address any technical defects, errors, irregulates, or omissions.

14. The Executive Officer is hereby authorized and directed to transmit copies of this resolution as provided in Sections 56880-56882 of the Government Code.

15. The Executive Officer is further authorized and directed to prepare, execute, and record a Certificate of Completion, make the required filings with the County Assessor, County Auditor, and the State Board of Equalization as required by Section 57200, et seq., of the Government Code.

**

PASSED AND ADOPTED by the Commission on December 4, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

**

ATTEST:

_____
Keene Simonds
Executive Officer

EXHIBIT A-1
MAP OF AFFECTED TERRITORY

-Placeholder-

Blank for Photocopying

EXHIBIT A-2
GEOGRAPHIC DESCRIPTION OF THE AFFECTED TERRITORY

-Placeholder-

Blank for Photocopying

Part IVb: LANDOWNER PETITION

Petitions must meet minimum signature requirements (see Part V). Signatures must be secured within six months of the date on which the first signature was affixed. Petitions must be submitted to the LAFCO Executive Officer within 60 days after the last signature is affixed (Govt. Code § 56705).

Each of the undersigned states:

- I personally signed this petition.
- I am a landowner of the affected territory.
- I personally affixed hereto the date of my signing this petition and the Assessor's Parcel Number(s), or a description sufficient to identify the location of my land.

Name of Signer	Assessor's Parcel Number(s)	Date Signed	Official Use
Sign [signature] Print Christopher Hall Iris Lane 102, LLC	224-310-05 224-310-06 224-310-07 224-310-08 224-310-20	4-5-2023	
Sign Print			
Sign Print			
Sign Print			
Sign Print			
Sign Print			

Blank for Photocopying

RESOLUTION NO. 2023-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTING FINDINGS OF FACT AND A MITIGATION MONITORING AND REPORTING PROGRAM PREPARED FOR THE N. IRIS CONDOMINIUM PROJECT LOCATED AT 2039, 2047, 2085 AND 2089 N. IRIS LANE

CASE NOS.: PHG20-0032, PL20-0738, PL20-0739, PL21-0126, PL21-0127 and PL21-0128

WHEREAS, Hallmark Communities, Inc., ("Applicant") filed a land use development application (Planning Case Nos. PHG20-0032, PL20-0738, PL20-0739, PL21-0126, PL21-0127 and PL21-0128) constituting a request for an Annexation/Reorganization, Prezone to Planned Development-Residential (PDR-14.6), General Plan Amendment from Suburban (S) to Urban III (U3), Tentative Subdivision Map, and a Planned Development Permit (Master and Precise Development Plan) for the development of 102 condominium units on a 7.7 gross acre (6.98 net acre) site located at 2039, 2047, 2085 and 2089 N. Iris Lane (APNs 224-310-05-00, 224-310-06-00, 224-310-07-00, 224-310-08-00 and 224-310-20-00), as more particularly described in Exhibit "A" to this Resolution, attached hereto and incorporated herein by this reference ("Property"); and

WHEREAS, pursuant to the authority of Government Code sections 65450 – 65457, 65350 et seq., 66410 et. seq., and 65864 – 65869.5, said verified application in its entirety constitutes the project ("Project"); and

WHEREAS, the Project proposes the development of the Property, which includes the demolition of all existing structures on the project site, and construction of a 102-unit air-space condominium project with a resulting residential density of 14.6 dwelling units per acre. The Project would also provide supporting open space and recreational amenities, landscaping, parking and associated site and street improvements; and

WHEREAS, said verified application was submitted to, and processed by, the Planning Division of the Development Services Department in accordance with the rules and regulations of the Escondido Municipal and Zoning Codes, and the applicable procedures and time limits specified by the Permit Streamlining Act (Government Code section 65920 et seq.) and the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"); and

WHEREAS, pursuant to CEQA and its implementing regulations (14 California Code of Regulations Section 15000 et. seq.) ("CEQA Guidelines"), the City is the lead agency for the Project, as the public agency with the principal responsibility for approving the proposed Project; and

WHEREAS, pursuant to CEQA Guidelines section 15063, the City opted to forego the preparation of an Initial Study, and determined that an Environmental Impact Report ("EIR") would be prepared to address potential direct and cumulative impacts associated with biological resources, cultural/tribal cultural resources, geology and soils, hazards and hazardous, noise, and transportation; and

WHEREAS, in accordance with CEQA Guidelines section 15082, the City issued and distributed a Notice of Preparation ("NOP") of an EIR to the State Clearinghouse, local and regional responsible agencies, and other interested parties on July 1, 2021, for a 30-day comment period, which ended on August 2, 2021. In addition to distribution of the NOP, a public scoping meeting was held on July 22, 2021; and

WHEREAS, the City prepared and circulated a Draft EIR for the Project for review and comment by the public, agencies, and organizations pursuant to the CEQA Guidelines by filing a Notice of Availability ("NOA") of the Draft EIR for review with the County Clerk of the County of San Diego. The NOA was also mailed to organizations and parties expressing interest in the Project on September 14, 2022, notifying the general public, public agencies, and interested individuals and organizations that a 45-day public review period would begin on September 20, 2022, and end on November 3, 2022. The NOA was also

filed with the City Clerk, published in the Escondido Times-Advocate, and posted on the City's website; and

WHEREAS, on September 13, 2022, pursuant to CEQA Guidelines section 15085, the City filed a Notice of Completion of the Draft EIR with the Office of Planning and Research through the State Clearinghouse (SCH No. 2021060702), circulating the Draft EIR to State Agencies for review; and

WHEREAS, during the 45-day public comment period of the Draft EIR, the City consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies and others pursuant to CEQA Guidelines sections 15086 and 15087; and

WHEREAS, the City received comments concerning the Draft EIR from public agencies, organizations, and individuals, and, pursuant to CEQA Guidelines section 15088, the City prepared responses to all written comments received on the Draft EIR which raised environmental issues; and

WHEREAS, the City has determined that the comments received on the Draft EIR did not contain any significant new information within the meaning of CEQA Guidelines section 15088.5 and therefore, recirculation of the Draft EIR is not required; and

WHEREAS, the City prepared a Final EIR that contains the information required by CEQA Guidelines section 15132, including the Draft EIR; the technical appendices and referenced documents; revisions and additions to those documents; public and agency comments on the Draft EIR; a list of persons, organizations, and agencies who commented on the Draft EIR; and the City's responses to said comments; and

WHEREAS, the Final EIR concludes that all potentially significant environmental impacts would be mitigated to less-than-significant levels; and

WHEREAS, the Planning Commission did hold a duly noticed public hearing as prescribed by law to consider the certification of the Final EIR on December 13, 2022, during which it considered all factors

relating to the EIR and the Project, including additional evidence and public testimony from those wishing to be heard regarding certification of the Final EIR; and

WHEREAS, at that meeting, the Planning Commission adopted Planning Commission Resolution No. 2022-14, recommending that the City Council certify the Final EIR, adopt the CEQA Findings of Fact, and adopt the Mitigation Monitoring and Reporting Program ("MMRP"), and approve the Project; and

WHEREAS, pursuant to Public Resources Code section 21092.5, the City provided a Notice of City Council Public Hearing to all organizations and individuals who had previously requested such notice, and published the Notice of Public Hearing in the Escondido Time-Advocate and The Paper, and posted the Notice on the City's website; and

WHEREAS, on January 11, 2023, the City Council held a duly noticed public hearing as prescribed by law to consider the Planning Commission's recommendation to certify the Final EIR and approve the Project, during which it considered all factors relating to the EIR and the Project, including additional evidence and public testimony from those wishing to be heard regarding certification of the Final EIR; and

WHEREAS, the City Council has carefully reviewed and considered all environmental documentation comprising the Final EIR, including the Draft EIR and the revisions and additions thereto, the technical appendices and referenced documents, and the public comments and the responses thereto, contained in Exhibit "B" on file in the Office of the City Clerk and incorporated herein by this reference as though fully set forth herein, and has found that the Final EIR considers all potentially significant environmental impacts of the Project and is complete and adequate, and fully complies with all requirements of CEQA and the CEQA Guidelines; and

WHEREAS, at the January 11, 2023, public hearing, City Council members independently and jointly reviewed and analyzed the Draft and Final EIR, and these documents reflect the independent judgment of the City Council and the City as the Lead Agency for the Project. The City Council considered all significant impacts, mitigation measures, Project alternatives identified in the Final EIR, and considered

all written and oral communications from the public regarding the environmental analysis, and found that all potentially significant impacts of the Project have been reduced to a less-than-significant level; and

WHEREAS, CEQA and the CEQA Guidelines provide that no public agency shall approve or carry out a project for which an EIR has been completed that identifies one or more significant effects of the project unless the public agency makes certain written findings for each of the significant effects, accompanied by a statement of facts supporting each finding; and

WHEREAS, pursuant to CEQA Guidelines sections 15091 and 15097, the City of Escondido has prepared CEQA Findings of Fact, attached as Exhibit "C," and an MMRP, attached as Exhibit "D," which are incorporated herein by this reference as though fully set forth herein.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Escondido, in its independent judgment, hereby finds that:

1. The foregoing recitations are true and correct.

2. In determining whether the proposed Project has a significant impact on the environment, and in adopting these Findings pursuant to Public Resources Code section 21081, the City has based its decision on substantial evidence and has complied with Public Resources Code sections 21081.5 and 21082.2 and CEQA Guidelines section 15901(b). In addition, the City has analyzed the potential for adverse secondary impacts that could result from the mitigation measures proposed as part of the Project pursuant to CEQA Guidelines section 15126.4(a)(1)(D), and finds that no additional significant adverse impacts would result from implementation of Project mitigation measures.

3. The Record of Proceedings upon which the City Council bases its decision includes, but is not limited to: (1) the Final EIR and the appendices and technical reports cited in and/or relied upon in preparing the Final EIR; (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the Final EIR and the Project itself; (3) the evidence, facts, findings and other determinations set forth herein; (4) the General Plan and the Escondido Municipal Code; (5) all

designs, plans, studies, data and correspondence submitted to the City in connection with the Final EIR and the Project itself; (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Final EIR and/or elsewhere during the course of the review of the Project itself; (7) the recommendations of the Planning Commission and City staff; and (8) all other matters of common knowledge to the City, including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City and its surrounding areas.

4. The Final EIR was published on the City's web site, made available for public review on December 8, 2022, and response to comments were forwarded to public agencies and others that provided comments on the draft EIR. The Final EIR also has been made available to the City Council to enable ample opportunity for individual review in advance of the public hearing.

5. The Final EIR is adequate and provides good-faith disclosure of available information on the Project and all reasonable and feasible alternatives thereto.

6. The information provided in the various reports submitted in connection with the Project and in the responses to comments on the Draft EIR, the information added to the Final EIR, and the evidence presented in written and oral testimony at public hearings on the Project, do not constitute significant new information that would require recirculation of the EIR pursuant to Public Resources Code section 21092.1 and CEQA Guidelines section 15088.5.

7. The findings of the Planning Commission, contained in Planning Commission Resolution No. 2022-14, on file with the Office of the City Clerk and incorporated herein by reference, are hereby adopted as the findings of the City Council.

8. The City has made no decisions that constitute an irretrievable commitment of resources toward the proposed Project prior to certification of the Final EIR, nor has the City previously committed to a definite course of action with respect to the proposed Project.

9. The City Council finds and determines that the applicable provisions of CEQA and the State CEQA Guidelines have been duly observed in conjunction with said hearing and the considerations of this matter and all of the previous proceedings related thereto. The City Council finds and determines that (a) the Final EIR is complete and adequate in scope and has been completed in compliance with CEQA and the State CEQA Guidelines for implementation thereof; (b) the Final EIR was presented to the City Council, and the City Council has fully reviewed and considered the information in Final EIR prior to approving the Project; and (c) the Final EIR reflects the City Council' s independent judgment and analysis; and, therefore, the Final EIR is hereby declared to be certified in relation to the subject of this Resolution. The Final EIR and CEQA Findings of Fact are attached hereto as Exhibit “B” and Exhibit “C,” respectively, and are incorporated herein by reference as though fully set forth herein.

10. Pursuant to Public Resources Code section 21081.6 and CEQA Guidelines section 15091(d), the City Council hereby adopts and approves the MMRP with respect to the significant environmental effects identified in the Final EIR, and hereby makes and adopts the provisions of the MMRP as conditions of approval for the Project. The MMRP is attached hereto as Exhibit “D,” which is incorporated herein by reference as through fully set forth herein.

11. This action is final on the date this Resolution is adopted by the City Council. Time limits for judicial review, as governed by Code of Civil Procedure section 1094.6, shall apply.

12. Pursuant to Public Resources Code section 21081.6(a)(2) and CEQA Guidelines section 15091(e), all documents and other materials which constitute the record of proceedings are located at the City of Escondido, City Hall. The City Clerk, whose office is located at 201 North Broadway, Escondido CA 92025, is hereby designated as the custodian of the documents and other materials which constitute the record of proceedings upon which the City Council' s decision is based, which documents and materials shall be available for public inspection and copying in accordance with the provisions of the California Public Records Act.

Blank for Photocopying

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

North Iris Project (PHG20-0032, PL20-0738, PL20-0739, PL21-0126, PL21-0127 PL21-0128 and PHG20-0032). SCH No. 2021060702

INTRODUCTION AND SUMMARY

Pursuant to Section 21081.6 of the Public Resources Code and the *California Environmental Quality Act (CEQA) Guidelines* Section 15097, public agencies are required to adopt a monitoring or reporting program to assure that mitigation measures and revisions identified in Final Environmental Impact Report (FEIR) are implemented. As stated in Section 21081.6 of the Public Resources Code:

> *"... the public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment."*

Pursuant to Section 21081(a) of the Public Resources Code, findings must be adopted by the F5 makers coincidental to certification of the FEIR. The Mitigation Monitoring and Reporting Program (MMRP) must be adopted when making the findings (at the time of approval of the project).

As defined in the CEQA Guidelines, Section 15097, "reporting" is suited to projects that have readily measurable or quantitative measures or which already involve regular review. "Monitoring" is suited to projects with complex mitigation measures, such as wetland restoration or archaeological protection, which may exceed the expertise of the local agency to oversee, are expected to be implemented over a period of time or require careful implementation to assure compliance. Both reporting and monitoring would be applicable to the proposed project.

MITIGATION MATRIX

To sufficiently track and document the status of mitigation measures, a mitigation matrix has been prepared and includes the following components:

- Impact
- Mitigation Measure
- Action
- Timing
- Responsibility

The mitigation matrix is included in Table 0.4-1. Additionally, the project will be required to adhere to the project design and compliance measures listed in Table 0.4-2.

Table 0.4-1. North Iris Residential Project Mitigation Monitoring and Reporting Program

Impact	Mitigation Measure	Action	Timing	Responsibility
BIOLOGICAL RESOURCES				
BIO-1 The Project has the potential to impact avian species protected under the MBTA if tree removal, vegetation removal, or other construction activities occur during the nesting season.	**MM-BIO-1** Trimming, grubbing, and clearing of vegetation shall be avoided during the avian breeding season, which generally runs from February 15 to August 31 (as early as January 1 for some raptors) to the extent feasible. If trimming, grubbing, or clearing of vegetation is proposed to occur during the general avian breeding season, a pre-construction survey shall be conducted by a qualified biologist no more than seven days prior to vegetation clearing to determine if active bird nests are present in the affected areas. If there are no nesting birds (includes nest building or other breeding/nesting behavior) within this area, trimming, grubbing, and clearing of vegetation shall be allowed to proceed. If active bird nests are confirmed to be present during the pre-construction survey, a buffer zone will be established by the biologist. Construction activities shall avoid any active nests until a qualified biologist has verified that the young have fledged, or the nest has otherwise become inactive.	If construction is proposed during the breeding season, conduct a pre-construction survey. If nesting birds are present, implement buffer zone and avoidance measures. If nesting birds are not detected during the preconstruction survey, no further mitigation is required.	For construction activities proposed for the period of February 15 through August 31, conduct survey within seven days prior to the start of construction activities.	Applicant/Land Owner, Project Biologist, Contractor
BIO-2 Direct impact to 0.1 acre of disturbed wetland and 2.5 acres of non-native grassland.	**MM-BIO-2** Prior to impacts to any sensitive habitats (disturbed wetland and non-native grassland), the applicant shall purchase off-site mitigation credits at a mitigation bank approved by the City. Mitigation ratios shall be consistent with regional standards (i.e., the Escondido Draft Subarea Plan): non-native grassland minimum 0.5:1 and disturbed wetland minimum 1:1. The disturbed wetland mitigation shall consist of establishment/re-establishment mitigation to achieve regional no-net-loss standards for potential wetlands. Proof of mitigation purchase shall be provided to the City prior to issuance of the grading permit. Prior to	Provide proof of off-site mitigation credits at a city-approved mitigation bank submitted to the City Director of Development Services	Prior to issuance of grading permit.	Applicant/Land Owner, Project Biologist

Impact	Mitigation Measure	Action	Timing	Responsibility
	impacts to any sensitive habitats (disturbed wetland and non-native grassland), the applicant shall purchase off-site mitigation credits at a mitigation bank approved by the City. Mitigation ratios shall be consistent with regional standards (i.e., the Escondido Draft Subarea Plan): non-native grassland minimum 0.5:1 and disturbed wetland minimum 1:1. The disturbed wetland mitigation shall consist of establishment/re-establishment mitigation to achieve regional no-net-loss standards for potential wetlands. Proof of mitigation purchase shall be provided to the City prior to issuance of the grading permit.			
BIO-3 Direct impact to a total of 0.05 acre (494 linear feet) of USACE/RWQCB jurisdiction (non-wetland water of the US/ water of the State) and to 0.12 acre of CDFW jurisdictional areas consisting of 0.10 acre of disturbed wetland and 0.02 acre of streambed. The 0.05 acre of USACE/RWQCB occur within the CDFW jurisdictional limits.	**MM-BIO-3** Prior to any project impacts to potentially jurisdictional resources, demonstration that regulatory permits from USACE, RWQCB, and CDFW have been issued or that no such permits are required shall be provided to the City. Permanent impacts to 0.05 acre of USACE/RWQCB jurisdictional non-wetland waters of the United States/State, 0.10 acre of CDFW jurisdictional habitat, and 0.02 acre of CDFW jurisdictional streambed shall be mitigated at a minimum 1:1 ratio through one or a combination of the following off-site options, unless otherwise required by the USACE, RWQCB, and/or CDFW during the regulatory permitting process: • Purchase of establishment/re-establishment, rehabilitation, enhancement, and/or preservation credits from an off-site mitigation bank with a service area that overlaps the project and that is approved by the USACE, RWQCB, and CDFW, such as the San Luis Rey Mitigation Bank, and Brook Forest Conservation/Mitigation Bank; and/or • Acquisition or use of other off-site mitigation lands in the region to include establishment/re-establishment, rehabilitation, enhancement, and/or	Provide proof of regulatory permits or documentation that permits are not required. Provide proof of purchase of mitigation credits and /or acquisition or use of other off-site mitigation lands submitted to City Director of Development Services.	Prior to issuance of grading permit.	Applicant/Land Owner, Project Biologist, Contractor

Impact	Mitigation Measure	Action	Timing	Responsibility
	preservation of USACE, RWQCB, and CDFW jurisdictional resources. Mitigation for RWQCB-jurisdictional waters shall include a minimum 1:1 establishment/ reestablishment to ensure no-net-loss. Final mitigation requirements shall be determined during the permitting process in coordination with the USACE, RWQCB, and CDFW, as appropriate.			
BIO-4 Potential for impacts to 11 protected oak trees and 12 mature oak trees both on- and off-site.	**MM-BIO-4** The project applicant shall replace impacted mature trees at a minimum 1:1 ratio, unless otherwise determined by the City. The project applicant shall replace protected trees at a minimum 2:1 ratio, unless otherwise determined by the City. The number, size, and species of replacement trees shall be determined on a case-by-case basis by the City's Director of Community Development. This condition can be satisfied on-site if the project's landscape plans include the appropriate number of oak trees and other tree species.	Review/approve landscape plans	Prior to certificate of occupancy.	Applicant/Land Owner, Project Biologist, Director of Community Development
BIO-5 Removal of trees on the project site has the potential to result in the spread of tree insect pests and disease leading to expediting the loss of oaks, alders, sycamore, and other trees in California which support a high biological diversity including special status species.	**MM-BIO-5** The project applicant shall prepare an infectious tree disease management plan for the project. This plan should include a description of how the infectious tree disease management plan will be implemented. All trees that would be removed by the project should be inspected for contagious tree diseases including, but not limited to, thousand canker fungus (*Geosmithia morbida*), polyphagous shot hole borer (*Euwallacea spp.),* and goldspotted oak borer (*Agrilus auroguttatus*). To avoid the spread of infectious tree diseases, diseased trees should not be transported from the project site without first being treated using best available management practices relevant for each tree disease observed.	Review/approve infectious tree disease management plan. Implement management and avoidance measures.	Prior to issuance of grading permit.	Applicant/Land Owner, Project Biologist or Arborist.

Impact	Mitigation Measure	Action	Timing	Responsibility
CULTURAL RESOURCES/TRIBAL CULTURAL RESOURCES				
CR-1 Due to grading and ground disturbing activities, the Project has the potential to impact unidentified archaeological resources on the Project site.	**MM-CR-1** Prior to the issuance of a grading permit, the Applicant shall enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a Pre-Excavation Agreement) with a tribe that is traditionally and culturally affiliated with the Project Location ("TCA Tribe"). The purposes of the agreement are (1) to provide the Applicant with clear expectations regarding tribal cultural resources, and (2) to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through a monitoring program in conjunction with the construction of the Project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground-disturbing activities. The agreement shall incorporate, at a minimum, the performance criteria and standards, protocols, and procedures set forth in mitigation measures MM-CR-2 through MM-CR-10, and the following information: • Parties entering into the agreement and contact information. • Responsibilities of the Property Owner or their representative, archaeological monitors, and tribal monitors. • Project grading and development scheduling, including determination of authority to adjust in the event of unexpected discovery, and terms of compensation for the monitors, including overtime and weekend rates, in addition to mileage reimbursement.	Enter into Tribal Cultural Resources Treatment and Repatriation Agreement.	Prior to issuance of Grading Permit and/or during all earth moving and ground disturbing activity.	Applicant/ Landowner, TCA Tribe

Impact	Mitigation Measure	Action	Timing	Responsibility
	• Requirements in the event of unanticipated discoveries, which shall address grading and grubbing requirements including controlled grading and controlled vegetation removal in areas of cultural sensitivity, analysis of identified cultural materials, and on-site storage of cultural materials. • Treatment of identified Native American cultural materials. • Treatment of Native American human remains and associated grave goods. • Confidentiality of cultural information including location and data. • Negotiation of disagreements should they arise. • Regulations that apply to cultural resources that have been identified or may be identified during project construction.			
	MM-CR-2 Prior to issuance of a grading permit, the Applicant shall provide written verification to the City that a qualified archaeologist and a Native American monitor associated with a TCA Tribe have been retained to implement the monitoring program. The archaeologist shall be responsible for coordinating with the Native American monitor. This verification shall be presented to the City in a letter from the Project archaeologist that confirms the selected Native American monitor is associated with a TCA Tribe. The City, prior to any pre-construction meeting, shall approve all persons involved in the monitoring program.	Provision of written verification that qualified archaeologist and Native American monitor associated with a TCA Tribe.	Prior to issuance of Grading Permit.	Applicant/Land Owner

Impact	Mitigation Measure	Action	Timing	Responsibility
	MM-CR-3 The qualified archaeologist and a Native American monitor shall attend all applicable pre-construction meetings with the General Contractor and/or associated subcontractors to explain and coordinate the requirements of the monitoring program.	Attend pre-construction meetings	Prior to and during all earth moving and ground disturbing activity.	Applicant/ Landowner, Archaeologist, Native American Monitor.
	MM-CR-4 During the initial grubbing, site grading, excavation or disturbance of the ground surface (including both on- and off-site improvement areas), the qualified archaeologist and the Native American monitor shall be present full-time. If the full-time monitoring reveals that the topsoil throughout the Project impact area (both on and off-site) has been previously removed during the development of the roads and buildings within the Project area, then a decrease of monitoring to part-time monitoring or the termination of monitoring can be implemented, as deemed appropriate by the qualified archaeologist in consultation with the Native American monitor. The frequency of subsequent monitoring shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in California Public Resources Code Section 21074. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring considering these factors. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits (i.e., soil conditions are comprised solely of fill or granitic bedrock).	Full-time Monitoring and determination of duration and frequency of subsequent monitoring.	During the initial grubbing, site grading, excavation or disturbance of the ground surface (including both on- and off-site improvement areas)	Archaeologist, Native American Monitor
	MM-CR-5 In the event that previously unidentified tribal cultural resources are discovered, all work must halt within a 100-foot radius of the discovery. The qualified archaeologist and the Native American monitor shall evaluate the significance of the find and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The qualified archaeologist and Native American	If potential tribal cultural resources are found, halt ground disturbance and follow	During all earth moving and ground disturbing activity.	Archaeologist, Native American Monitor

Impact	Mitigation Measure	Action	Timing	Responsibility
	Monitor shall consider the criteria identified by California Public Resources Code sections 21083.2(g) and 21074, and CEQA Guidelines sections 15064 and 15064.5(c) in determining the significance of a discovered resource. If the professional archaeologist and Native American monitor determine that the find does not represent a culturally significant resource, work may resume immediately, and no agency notifications are required. Isolates and clearly non-significant deposits shall be documented in the field and collected and monitored grading can immediately proceed. All unearthed archaeological resources or tribal cultural resources shall be collected, temporarily stored in a secure location, and repatriated for later reburial on the project site, pursuant to the terms of the Pre-Excavation Agreement.	procedures listed for discovery.		
	MM-CR-6 If the qualified archaeologist and Native American monitor determine that the find does represent a potentially significant tribal cultural resource, considering the criteria identified by California Public Resources Code sections 21083.2(g) and 21074, and CEQA Guidelines sections 15064 and 15064.5(c), the archaeologist shall immediately notify the City of said discovery. The qualified archaeologist, in consultation with the City, the consulting TCA Tribe(s), and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the tribal cultural resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the TCA Tribe(s) and be submitted to the City for review and approval. If the find is determined to be a Tribal Cultural Resource under CEQA, as defined in California Public Resources Code Section 21074(a) though (c), appropriate treatment measures will be implemented. Work may not resume within the no-work radius until the City, through consultation as set forth herein, determines either that: 1) the discovery does not constitute a Tribal Cultural Resource under CEQA, as defined in California Public Resources Code Section 21074(a) through (c); or 2) the	If potential tribal cultural resource is determined to be significant, notify the City and follow agreed upon treatment and disposition measures.	During all earth moving and ground disturbing activity.	Archaeologist, Native American Monitor, City Director of Development Services

Impact	Mitigation Measure	Action	Timing	Responsibility
	approved treatment and disposition measures have been completed.			
	MM-CR-7 All sacred sites, significant tribal cultural resources, and unique archaeological resources encountered within the Project area shall be avoided and preserved as the preferred mitigation. The avoidance and preservation of the significant tribal cultural resource or unique archaeological resource must first be considered and evaluated in consultation with the TCA Tribe(s) as required by CEQA and in compliance with all relevant mitigation measures for the Project. If any significant tribal cultural resource or unique archaeological resource has been discovered and such avoidance or preservation measure has been deemed to be infeasible by the City's Director of Community Development (after a recommendation is provided by the qualified archaeologist, in consultation with the TCA Tribe(s), making a determination of infeasibility that takes into account the factors listed in California Public Resources Code sections 21061.1, 21081(a)(3), and CEQA Guidelines section 15091, and in accordance with all relevant mitigation measures for the Project), then culturally appropriate treatment of those resources, including but not limited to funding an ethnographic or ethnohistoric study of the resource(s), and/or developing a research design and data recovery program to mitigate impacts shall be prepared by the qualified archaeologist (using professional archaeological methods), in consultation with the TCA Tribe and the Native American monitor, and shall be subject to approval by the City. No artifact sampling for analysis is allowed, unless requested and approved by the consulting TCA Tribe(s). Before construction activities are allowed to resume in the affected area, the research design and data recovery program activities must be concluded to the satisfaction of the City.	If sacred sites, significant tribal cultural resources, and unique archaeological resources are found, halt ground disturbance and follow procedures listed for discovery including avoidance, treatment and disposition.	During all earth moving and ground disturbing activity.	Archaeologist, Native American Monitor, City Director of Development Services

Impact	Mitigation Measure	Action	Timing	Responsibility
	MM-CR-9 If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during any cataloging of those resources. Moreover, if the qualified archaeologist does not collect the cultural resources that are unearthed during the ground-disturbing activities, the Native American monitor may, at their discretion, collect said resources for later reburial on the Project site or storage at a local curation facility. Any tribal cultural resources collected by the qualified archaeologist shall be repatriated to the TCA Tribe for reburial on the Project site. Should the TCA Tribe(s) decline the collection, the collection shall be curated at the San Diego Archaeological Center. All other resources determined by the qualified archaeologist, in consultation with the Native American monitor, to not be tribal cultural resources, shall be curated at the San Diego Archaeological Center.	Follow procedures for collection of tribal cultural resources.	During all earth moving and ground disturbing activity.	Archaeologist, Native American Monitor
	MM-CR-10 Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, that describes the results, analysis, and conclusions of the archaeological monitoring program and any data recovery program on the Project site, shall be submitted by the qualified archaeologist to the City. The Native American monitor shall be responsible for providing any notes or comments to the qualified archaeologist in a timely manner to be submitted with the report. The report will include California Department of Parks and Recreation Primary and Archaeological Site Forms for any newly discovered resources. A copy of the final report will be submitted to the South Coastal Information Center after approval by the City.	Preparation of a monitoring report and/or evaluation report if necessary.	Prior to release of Grading Bond.	Archaeologist, Native American Monitor
CR-2 There is a potential for Project construction activities to disturb previously unidentified human	**MM-CR-8** As specified by California Health and Safety Code section 7050.5, if human remains are found on the Project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office. Determination of whether the	If human remains are found, halt ground disturbance and follow	During all earth moving and ground disturbing activity.	Archaeologist

Impact	Mitigation Measure	Action	Timing	Responsibility
remains on the Project site.	remains are human shall be conducted on site and in situ where they were discovered by a forensic anthropologist, unless the forensic anthropologist and the Native American monitor agree to remove the remains to a temporary off-site location for examination. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition. A temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. If the Coroner determines the remains are Native American and not the result of a crime scene, the Coroner will notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the project (California Public Resources Code § 5097.98) for proper treatment and disposition in accordance with California Public Resources Code section 5097.98. The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the City does not agree with the recommendations of the MLD, the NAHC can mediate (California Public Resources Code § 5097.94). If no agreement is reached, the remains shall be kept in situ, or reburied in a secure location in close proximity to where they were found and where they will not be further disturbed (California Public Resources Code § 5097.98). Work may not resume within the no work radius until the lead agency, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction. The analysis of the remains shall only occur on site in the presence of the MLD, unless the forensic anthropologist and the MLD agree to remove the remains to an off-site location for examination.	procedures listed for discovery.		

Impact	Mitigation Measure	Action	Timing	Responsibility
GEOLOGY AND SOILS				
GEO-1 The Project has the potential to disturb previously unknown paleontological resources during Project grading.	**MM-GEO-1** Prior to project grading the project applicant shall retain a qualified paleontologist to review the proposed project area to determine the potential for paleontological resources to be encountered. If there is a potential for paleontological resources to occur, the paleontologist shall identify the area(s) where these resources are expected to be present, and a qualified paleontological monitor shall be retained to monitor the initial cut in any areas that have the potential to contain paleontological resources.	Site review and if potential for paleontological resources is identified, monitoring of initial cut in any areas that have the potential for resources. construction activities and filing of mitigation report.	Prior to grading and if applicable during initial cut.	Paleontologist
HAZARDS AND HAZARDOUS MATERIALS				
HAZ-1 Improper removal of asbestos-containing materials and lead-based paint during demolition could expose construction workers to a hazardous release of asbestos or lead.	**MM HAZ-1a** Prior to demolition activities on the project site, the Applicant shall submit verification to the City of Escondido Building Department that an asbestos survey has been conducted on any buildings that are to be demolished or removed from the project site. If asbestos is found, the Applicant shall follow all procedural requirements and regulations of to properly abate and dispose of all on-site asbestos-containing materials before general demolition activities commence. **MM HAZ-1b** Prior to demolition activities on the project site, the Applicant shall submit verification to the City of Escondido Building Department that a lead-based paint survey has been conducted at all existing buildings located on the project site. If lead-based paint is found, the applicant shall follow all OSHA procedural requirements and regulations for its proper removal and disposal before general demolition activities commence.	Submit verification that asbestos and lead-based paint surveys have been conducted. If found, follow all procedural requirements for abatement, removal and disposal.	Prior to demolition activities.	Applicant/ Landowner/ Contractor

Impact	Mitigation Measure	Action	Timing	Responsibility
HAZ-2 Undocumented fill material located at 2039 North Iris Lane may contain contaminated materials.	**MM HAZ-2** Prior to construction activities on the project site, the Applicant shall submit verification that the undocumented fill material placed in front of 2039 North Iris Lane has been removed or evaluated for the potential for contaminants. If contaminated, the soil must be removed and disposed of according to local and state regulations. If contaminated soil is identified, the applicant shall follow all procedural and regulatory requirements for its proper removal and disposal before general construction activities commence.	Submit verification that the undocumented fill has been removed or evaluated for contaminants. If contaminated, follow local and state regulations for removal and disposal.	Prior to construction	Applicant/ Landowner/ Contractor
NOISE				
N-1 If rock drill staging occurs within 160 feet of any occupied noise sensitive land uses, sound levels could exceed 75 dBA at property lines.	**MM-N-1** If rock drill staging occurs within 160 feet of any occupied noise sensitive land uses, sound levels could exceed 75 dBA at property lines. A noise mitigation plan based upon the location of the construction equipment, topography and construction schedule shall be prepared by an acoustical consultant. The noise mitigation plan shall identify measures to reduce sound levels to below 75 dBA. Such measures could include a temporary noise barrier along any property line where the impacts could occur. The proposed noise barrier shall be of solid non-gapping material to adequately reduce construction noise levels below the noise threshold of 75 dBA at the property lines. The noise mitigation plan shall determine the final height and location of a temporary barrier if one is necessary. The mitigation plan may also identify location and timing restrictions on drilling equipment usage. The mitigation plan shall be submitted to the City for review and approval prior to initiation of rock drill staging activities within 160 feet of any occupied noise sensitive land use.	Preparation of noise mitigation plan and implementation of identified measures including construction of temporary noise barriers.	Prior to commencement of rock drilling activities.	Applicant/ Landowner, Acoustical Engineer, City (Planning Division Manager)

Impact	Mitigation Measure	Action	Timing	Responsibility
TRANSPORTATION				
TR-1 The project's per capita VMT exceeds the significance threshold of 15% below regional average.	**MM-TR-1a** The project shall implement CAPCOA reduction measure T-1 (Increase Residential Density). **MM-TR-1b** The project applicant shall pay the City of Escondido $67,500 for pedestrian improvements at the following five intersections to reduce VMT impacts: • Intersection of Centre City Pkwy at Iris Lane (Install high visibility crosswalks on each leg (4 crosswalks) and install pedestrian countdown timers on each corner (4 countdown timers)). • Intersection of El Norte at South Iris Lane (Install high visibility crosswalks on each leg (4 crosswalks) and install pedestrian countdown timers on each corner (4 countdown timers)). • Intersection of Broadway at Vista Ave (Install high visibility crosswalks on each leg (4 crosswalks) and install pedestrian countdown timers on each corner (4 countdown timers)). • Intersection of El Norte Parkway at Mountain View (Install pedestrian countdown timers on each corner (4 countdown timers)). • Intersection of Country Club Lane at Broadway (Install high visibility crosswalk (3 crosswalks)).	Implement CAPCOA reduction measure and make payment for pedestrian improvements.	Fee payment shall be made prior to submittal of grading plans.	Applicant/Land Owner

5d

AGENDA REPORT
Consent | Action

December4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer

SUBJECT: **Progress Report on the Adopted Workplan**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a progress report on accomplishing the 30 priority projects set in the adopted workplan for 2023-2024. More than one half – 16 of 30 – of all priority projects have been substantively initiated through the first four full months with six either complete or nearing completion. The report is being presented to the Commission to receive and file with the opportunity to identify potential amendments for future consideration.

BACKGROUND

San Diego LAFCO's current fiscal year workplan was adopted at a noticed hearing held in May 2023. The workplan is a multi-year planning tool that is developed and updated annually. The current workplan includes 30 projects and is divided into two distinct categories – statutory and administrative – along with priority assignments set by the Commission. Internal amendments to reset priorities and advance the placement of municipal service reviews on the San Diego County Water Authority and healthcare districts were approved in August.

Administration
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103-6624
T 619.321.3380
www.sdlafco.org
lafco@sdcounty.ca.gov

Chair Jim Desmond
County of San Diego
Joel Anderson
County of San Diego
Nora Vargas, Alt.
County of San Diego
Kristi Becker
City of Solana Beach
Dane White
City of Escondido
John McCann
City of Chula Vista
Vice Chair Stephen Whitburn
City of San Diego
Marni von Wilpert, Alt.
City of San Diego
Jo MacKenzie
Vista Irrigation
Barry Willis
Alpine Fire Protection
David A. Drake, Alt.
Rincon del Diablo
Andy Vanderlaan
General Public
Harry Mathis, Alt.
General Public

DISCUSSION

This item provides San Diego LAFCO with its regular progress report on workplan projects for the current fiscal year. This includes staff assigning one of four status categories to projects ranging from pending to complete and detailed in Attachment One.

ANALYSIS

San Diego LAFCO is generally proceeding as planned through the first four full months of the fiscal year. This includes an emphasis to address the Commission's high and medium priority projects with 14 of the 20 related activities having advanced in some substantive manner. Two of these projects are now complete and involve approving a formal scope of work on personnel policy update and publishing a countywide local agency directory. Four others are nearing completion and marked by task-setting the first year of new planning grant with the State of California as well as the second year of the Ad Hoc on Resource Conservation Districts. Policy updates on personnel procedures and out-of-agency services are similarly nearing their completion. No amendments are proposed at this time.

RECOMMENDATION

It is recommended San Diego LAFCO receive and file the item consistent with practice and identified as Alternative Action One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO:

Alternative One (recommended):
Receive and file the item.

Alternative Two:
Continue consideration of the item and provide direction to staff as needed.

Alternate Three:
Take no action.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

Respectfully,



Keene Simonds
Executive Officer

Attachment:

1) 2023-2024 Workplan with Status Notations

Blank for Photocopying

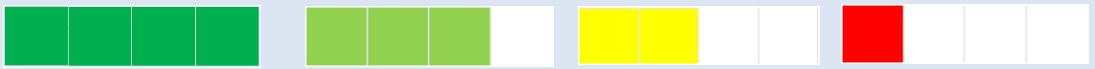
ADOPTED WORKPLAN FOR FY2023-2024

As Amended

Priority	Level	Type	Project	Description	Status
Ongoing	...	Statutory	Applicant Proposals and Requests	Prioritize resources to address all applicant proposals and related requests	
Ongoing	...	Administrative	Targeted LAFCO Presentations	Coordinate timely public outreach; emphasis on informing stakeholders ahead of MSR work	
Ongoing	...	Statutory	Workplan and Budget Management	Actively manage the workplan and budget resources with quarterly updates to the Commission	
1	High	Statutory	MSR | CWA-MET	Initiate scheduled review of wholesale water suppliers – CWA (comprehensive) and MET (abbreviated)	
2	High	Statutory	MSR | Healthcare Districts	Initiate a comprehensive study of the four healthcare districts in San Diego County	
3	High	Administrative	Recruit, Hire + Support Staff	Ensure all 9.0 budgeted positions are filled in a timely manner with ongoing resource support	
4	High	Administrative	Commissioner Onboarding	Create onboarding resources and related training for new and continuing Commissioners	
5	High	Administrative	Online Accounting	Transition QuickBooks accounting from desktop to online platform + make use of public-facing features	
6	High	Administrative	Policy | Personnel: Part I	Develop and approve a scope of work to guide update to personnel policies to reflect best practices	
7	High	Administrative	Policy | Personnel: Part II	Complete a comprehensive update to LAFCO's personnel policies	
8	High	Statutory	MSR | Oceanside Region	Complete the scheduled reviews of the City of Oceanside, Oceanside SC Harbor District, and Moreno Hills CSD	
9	High	Statutory	MSR | Carlsbad Region	Complete the scheduled reviews of the City of Carlsbad, Carlsbad MWD, and Leucadia WWD	
10	High	Administrative	SALC Planning Grant 2.0	Initiate two-year grant (contracts, etc.) to expand SALC 1.0 to establish ag costs/revenues with gap analysis	
11	Medium	Administrative	RCD Ad Hoc Committee: Year Two	Approve scope of work for Year Two activities and proceed accordingly towards completion	
12	Medium	Statutory	Policy | Out-of-Agency Services	Complete policy establishment to guide approval process for out-of-agency services (G.C. 56133)	
13	Medium	Statutory	MSR | San Marcos Region	Complete the scheduled reviews of the City of San Marcos, Marcos FPD, & Vallecitos WD	
14	Medium	Statutory	MSR | Vista Region	Complete the scheduled reviews of the City of Vista, Vista ID, Vista FPD, & Buena SD	
15	Medium	Administrative	White Paper | Public Recreation Opportunities	Evaluate potential governance models involving San Diego-owned reservoirs in unincorporated areas	
16	Medium	Administrative	White Paper | Growth Management + Housing	Evaluate growth management policies + connectivity between LAFCO, County, and SANDAG	
17	Medium	Administrative	Special Districts Advisory Committee	Provide administrative support to Advisory Committee and hold no less than three formal meetings in FY	
18	Medium	Administrative	Cities Advisory Committee	Provide administrative support to Advisory Committee and hold no less than two formal meetings in FY	
19	Medium	Administrative	Website Content Expansion	Proceed with content expansion for newly redesigned LAFCO website with multi-media enhancements	
20	Medium	Administrative	2022-2023 Audit	Complete outside audit of financial statements for FY2023	

Priority	Level	Type	Project	Description	Status
21	Low	Statutory	Legislative Proposal | G.C. 56133	Continue work to support amendment clarifying authority to determine out-of-agency service exemptions	
22	Low	Statutory	Policy | Applicant Procedures	Update and streamline application materials and establish protocols in terminating proposals	
23	Low	Statutory	MSR | Encinitas Region	Initiate a regional study covering the City of Encinitas + San Dieguito WD et al.	
24	Low	Statutory	MSR | Del Mar-Solana Beach Region	Initiate a regional study covering the Cities of Del Mar and Solana Beach + Santa Fe ID et al.	
25	Low	Statutory	Legislative Proposal | G.C. 56430	Sponsor and/or facilitate amendment establishing community engagement enhancements in MSR statute	
26	Low	Administrative	Service + Fiscal Indicators	Develop online browser feature to depict service + fiscal indicators among local agencies in San Diego County	
27	Low	Administrative	White Paper | School Districts	Evaluate scope and scale of school districts + their baseline capacities for reference in MSRs	
28	Low	Administrative	Liaison with Local Tribes	Establish communication protocols with local tribes with respect to shared interests in regional services	
29	Low	Administrative	Annual Local Agency Directory	Update and publish an annual local agency directory subject to LAFCO oversight	
30	Low	Administrative	White Paper | Community Choice Aggregations	Evaluate scope and scale of CCAs and their operations in San Diego County and connectivity to LAFCO	
	Bullpen	Statutory	Policy Review | Island Annexations	Consider options to define "substantially surrounded" and provide related mapping services	
	Bullpen	Administrative	White Paper | Garbage Services	Evaluate the scope and scale of garbage collection services and possible governance alternatives	
	Bullpen	Administrative	White Paper | Homeless Services	Evaluate the scope and scale of homeless services and possible governance alternatives	
	Bullpen	Administrative	LAFCO Workshop	Organize a Commission Workshop to discuss core responsibilities + powers and implementing preferences	
	Bullpen	Administrative	Public Access Television	Broadcast LAFCO meetings on local government channels	
	Bullpen	Statutory	MSR | Pauma Valley Region	Initiate a regional study covering the north county special districts in the Pauma/Rincon communities	
	Bullpen	Administrative	SOI/MSR Annual Report	Update and publish an annual report documenting all recorded municipal service review and sphere of influence actions	
	Bullpen	Statutory	Policy | Fee Schedule	Review and update fee schedule to sync with current costs and related considerations	
	Bullpen	Statutory	Policy | CEQA Guidelines	Review and update existing implementing guidelines relative to current statute and best practices	
	Bullpen	Administrative	County Planning Groups	Monitor regular meetings of the County's 28 Planning and or Sponsor Groups and directly engage as appropriate	
	Bullpen	Statutory	Disadvantaged Unincorporated Communities	Update DUC mapping designations (DUC) in San Diego County based on current census information	
	Bullpen	Administrative	Local Agency Finder Tool	Develop online feature for users to enter address to identify all overlapping local jurisdictions (cities and districts)	
	Bullpen	Administrative	Southern California LAFCOs	Participate in quarterly meetings with other Southern California LAFCOs and related projects and/or trainings	
	Bullpen	Administrative	CALAFCO	Participate in CALAFCO sponsored programs and related trainings (conferences, workshops, committees, etc.)	
	Bullpen	Statutory	Policy | Commission Rule No. 4	Modernize Rule No. 4 and its provisions to regulate special districts' service functions and classes	
	Bullpen	Statutory	Escondido Region Governance Study	Study options to consolidate (functional and political) the City of Escondido and Rincon del Diablo MWD	
	Bullpen	Administrative	White Paper | JPAs	Evaluate the status of JPA filings in San Diego County relative to LAFCO's task in SB 1261	
	Bullpen	Statutory	Policy | Cities Advisory Committee	Coordinate with CAD in updating bylaws and related procedures to sync with current member interests/priorities	
	Bullpen	Statutory	Policy | Special Districts Advisory Committee	Coordinate with SDAC in updating bylaws and related procedures to sync with current member interests/priorities	

Complete | Near Complete | Underway | Pending



September 20, 2023

5e

AGENDA REPORT
Consent | Action

December 4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer

SUBJECT: **Authorize Holiday Office Closures**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider an Executive Officer recommendation to authorize the closing of the office for the four workdays following Christmas – Tuesday, December 26th through Friday, December 29th. Participating staff would take compensatory time-off should the closures be approved. Staff choosing not to take compensatory time off would work their regular schedules, but the office would remain closed to the public.

BACKGROUND

San Diego LAFCO's adopted policy specifies the Commission shall maintain regular business hours between 8:00 a.m. to 5:00 p.m. Monday through Friday less any holidays observed by the County of San Diego. All other office closures require Commission approval.

DISCUSSION

This item is for San Diego LAFCO to consider approving the closure of the office for the full week following Christmas Day on Monday, December 25th. The office would be closed to the public for four regular workdays and reopen following New Years Day on Tuesday, January 2nd. Participating staff would take compensatory time-off should the closures be approved. Remaining staff would work their regular work hours with the qualification the office would remain closed to the public.

Administration
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103-6624
T 619.321.3380
www.sdlafco.org
lafco@sdcounty.ca.gov

Chair Jim Desmond
County of San Diego
Joel Anderson
County of San Diego
Nora Vargas, Alt.
County of San Diego
Kristi Becker
City of Solana Beach
Dane White
City of Escondido
John McCann
City of Chula Vista
Vice Chair Stephen Whitburn
City of San Diego
Marni von Wilpert, Alt.
City of San Diego
Jo MacKenzie
Vista Irrigation
Barry Willis
Alpine Fire Protection
David A. Drake, Alt.
Rincon del Diablo
Andy Vanderlaan
General Public
Harry Mathis, Alt.
General Public

ANALYSIS

The requested action is consistent with San Diego LAFCO's family-friendly practices given a number of staff are expected to be home with children and/or traveling during the Christmas holiday. Approval would separately produce cost-savings by participating staff using their compensatory balances during a period when minimal business activity is typically transacted.

RECOMMENDATION

It is recommended San Diego LAFCO approve holiday office closures beginning Tuesday, December 26th through Friday, December 29th. This action is provided as Alternative One below.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO through a single motion:

Alternative One (recommended):
Authorize the LAFCO office to be closed on the following dates in 2023:

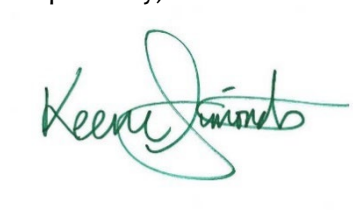
- Tuesday, December 26th
- Wednesday, December 27th
- Thursday, December 28th
- Friday, December 29th

Alternative Two:
Take no action.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

Respectfully,



Keene Simonds
Executive Officer

Attachment: none

5f

AGENDA REPORT
Consent | Action

December 4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Erica Sellen, Acting Commission Clerk

SUBJECT: **Approval of 2024 Meeting Calendar**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider approving a regular meeting schedule for the 2024 calendar year. It is recommended the Commission follow recent practice and approve regular meetings on the first Monday of each month except for January, July, and September with the former (New Years) and latter (Labor Day) both falling on State holidays. No special meetings are proposed at this time.

BACKGROUND

Policy and Practice

San Diego LAFCO's adopted policy specifies the Commission shall hold regular meetings every month on the first Monday unless provided otherwise due to holidays and/or anticipated lack of business. The policy also provides all regular meetings of the Commission be held starting at 8:00 a.m. in the County of San Diego Administration Center at 1600 Pacific Highway, Room 302 in San Diego. It is also the practice of the Commission to review its upcoming workload each December and formally approve a meeting schedule for the upcoming calendar year. Special meetings are also scheduled by practice either in advance by the Commission as part of the annual calendar or as needed through the Chair.

Administration
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103-6624
T 619.321.3380
www.sdlafco.org
lafco@sdcounty.ca.gov

Chair Jim Desmond
County of San Diego
Joel Anderson
County of San Diego
Nora Vargas, Alt.
County of San Diego
Kristi Becker
City of Solana Beach
Dane White
City of Escondido
John McCann
City of Chula Vista
Vice Chair Stephen Whitburn
City of San Diego
Marni von Wilpert, Alt.
City of San Diego
Jo MacKenzie
Vista Irrigation
Barry Willis
Alpine Fire Protection
David A. Drake, Alt.
Rincon del Diablo
Andy Vanderlaan
General Public
Harry Mathis, Alt.
General Public

DISCUSSION

This item is for San Diego LAFCO to consider approving a meeting schedule for the upcoming calendar year. This includes considering anticipated workload and needs therein for scheduling regular and/or special meetings over the next 12-month period. The item also serves as an opportunity for the Commission to review its policies and practices in conducting meetings (place, time, location, frequency, etc.) and provide related direction to staff for possible actions at a future meeting.

ANALYSIS

San Diego LAFCO's adopted workplan coupled with current and expected proposal activities suggests it would be appropriate to schedule regular meetings for each month in 2024 except for January, July, and September. This proposed schedule is consistent with recent practice and avoids the need to find alternative meetings dates in January and September given their first Mondays fall on observed holidays (New Years and Labor Days). No special meetings are proposed at this time.[1]

RECOMMENDATION

It is recommended San Diego LAFCO schedule regular meetings for each month in 2024 except for January, July, and September as well as confirm direction to continue to meet at the place and time provided under policy. This recommendation is consistent with Alternative Action One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO through a single motion:

Alternative One (recommended):

(a) Approve regular meetings on the following dates in 2024:

- Monday, February 5th
- Monday, March 4th
- Monday, April 1st
- Monday, May 6th
- Monday, June 3rd
- Monday, August 5th
- Monday, October 7th
- Monday, November 4th
- Monday, December 2nd

[1] Should the need for a special meeting develop staff will work with the Chair to schedule a time/place.

(b) Confirm all regular meetings shall be held at the County of San Diego Administrative Center at 1600 Pacific Highway in Room 302 starting at 8:00 A.M.

Alternative Two:
Continue to the next meeting and provide direction to staff as needed.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

On behalf of the Executive Officer:

Erica A. Sellen

Erica Sellen
Acting Commission Clerk

Attachments: none

Blank for Photocopying

RULES
SAN DIEGO
LOCAL AGENCY FORMATION COMMISSION

ARTICLE II
MEETINGS

2.1 Public Meetings
2.2 Regular Meetings
2.3 Adjourned Meetings
2.4 Special Meetings
2.5 Agendas of Regular Meetings
2.6 Quorum; Votes Needed to Carry a Motion; Effect of Failure to Approve a Matter
2.7 Matters Considered
2.8 Attendance at Meetings
2.9 Disqualification
2.10 Per Diems
2.11 Reimbursements
2.12 Electronic Tablet Use

2.1 PUBLIC MEETINGS -

All meetings and activities of the Commission shall be subject to the Ralph M. Brown Act.

2.2 REGULAR MEETINGS -

Regular meetings of the Commission shall be held on the first Monday of each month unless that Monday is a holiday, in which case that meeting will be held the following Monday. Meetings will commence at 8:00 a.m., in Room 302, County Administration Center, 1600 Pacific Highway, San Diego.

2.3 ADJOURNED MEETINGS -

Any meeting may be adjourned to a specific date, time, and place. The chairperson shall announce the date, time, and place of the adjourned regular meeting. A notice shall be posted at the Commission's regular place of posting specifying the date, time, and place of the adjourned regular meeting. Less than a quorum may adjourn a meeting. If all members are absent, the Commission Clerk may adjourn the meeting to a specified date, time, and place, and post the required notice.

2.4 SPECIAL MEETINGS -

A special meeting may be called at any time by the chairperson, or by a majority of the members of the Commission, by delivering personally or by any other means, notice to each member of the Commission and to each local newspaper of general circulation, radio, or television station requesting notice in writing. The notice must be received at least

24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the date, time, and place of the special meeting and business to be transacted.
No other business shall be considered at such meetings by the Commission. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes, files with the clerk of the Commission a written waiver of notice. Such waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The call and notice shall be posted at least 24 hours prior to the special meeting at the Commission's regular place of posting.

2.5 AGENDAS OF REGULAR MEETINGS -

At least 72 hours before a regular meeting, an agenda shall be posted at the Commission's regular place of posting that will contain a brief description of each item of business to be transacted or discussed at the meeting. The agenda shall also be posted on the Commission's website: sdlafco.org. However, failure to post on the Commission's website will not invalidate any action of the Commission. Any person may speak to any item on the agenda. In addition, the agenda will include an item entitled "Public Comment" during which members of public may speak to any matter within the Commission's jurisdiction, but not on the agenda. The Commission will not make a final determination on any issue raised during the Public Comment period that is not included on the agenda. The Commission will have the option of referring the matter to staff or scheduling action for a future agenda. Each speaker shall be limited to no more than three minutes on any item unless extended by permission of the Chairperson.

2.6 QUORUM; VOTES NEEDED TO CARRY A MOTION; EFFECT OF FAILURE TO APPROVE A MATTER -

1. Five members of the Commission constitute a quorum for the transaction of business.
2. An affirmative vote of the majority of the quorum present – and no less than four affirmative votes – is required to adopt any motion.
3. If a proposal for a change of organization or reorganization is wholly disapproved by the Commission, no further proceedings shall be taken on the proposal and no similar proposal involving the same or substantially the same territory, shall be initiated for one year after the date of adoption of the resolution terminating proceedings. The Commission may waive these requirements if it finds it to be in the public interest to do so.
4. If a proposal for a change of organization, reorganization or amendment of a sphere of influence is neither denied, continued nor approved at the meeting at which it is considered, it is deemed denied without prejudice to refiling a petition or resolution of application for the proposal at any time.
5. If a recommendation to adopt an original sphere of influence is neither approved nor continued at the meeting at which it is considered it is deemed automatically continued to the next meeting of the Commission.
6. If an application pursuant to Government Code Section 56895 to amend, modify or revise a resolution of the Commission is not approved or continued at the meeting at

which it is considered, it is deemed denied and no further action shall be taken thereon and no further application for the same or a substantially similar amendment, recodification or revision shall be accepted.

7. Any other recommendation before the Commission is deemed denied if it does not receive affirmative votes of the majority of the quorum present – with no less than four affirmative votes – or is not continued to another meeting.

2.7 MATTERS CONSIDERED -

No matter requiring a determination by the Commission pursuant to the Cortese/ Knox/Hertzberg Local Government Reorganization Act of 2000 shall be brought before the Commission unless it is first filed by the Executive Officer.

Adoption History: Article II, Sections 2.1 to 2.7
Adopted June 30, 1975
Amended February 2, 1987
Amended March 2, 1987
Re-affirmed and adopted December 4, 2000
Administratively Revised and Updated May 24, 2005
Comprehensively Updated and re-adopted March 3, 2008
Amended March 6, 2023 (Section 2:2)
Amended May 1, 2023 (Section 2:10)

2.8 ATTENDANCE AT MEETINGS -

1. Regular members of the Commission shall attend all meetings of the Commission. Alternate members are urged to attend all Commission meetings;
2. If a regular Commissioner cannot attend, s/he shall notify the Executive Officer one working day prior to the Commission meeting;
3. Each Commissioner is expected to remain for each entire meeting. Early departure is considered an absence for the purposes of these policies;
4. The Chairperson may excuse the absence of a Commissioner if s/he determines that the absence is due to sickness, personal emergency or attendance at another governmental function. All excused absences and the reasons for them shall be announced by the Chairperson at a regular meeting of the Commission; and
5. Inadequate attendance by a regular member of the Commission shall be considered non-performance of duties and shall result in the Chairperson notifying the appointing authority of the member's attendance record. Inadequate attendance shall consist of two unexcused absences, or three consecutive absences, for any reason, in any fiscal year.

2.9 DISQUALIFICATION -

By law, the Commission must hold hearings on certain actions, including certain changes of organization and reorganization proposals, adoption of spheres of influence, city protests under the Williamson Act, and other matters. Because of the Commission's concern for the fair and orderly conduct of its hearings, the Commission adopts the following rules, pursuant to Government Code Section 56300:

1. From time to time, any commission member may determine to disqualify him or herself from participating in consideration of a proposal. The member should make every effort to announce his or her disqualification for any reason at the beginning of the Commission's consideration of the item. In those instances where the commission member does not become aware of the reason for disqualification until after the item is before the Commission, the Commission member should disqualify him or herself as soon as s/he becomes aware of the reason for disqualification.

2. A Commission member who is absent from a hearing or a material portion of a hearing on a particular matter is disqualified from participation in the discussion and from voting on that matter unless the member:

   (a) Listens to the tape recording made of the hearing or the portion of the hearing from which the member was absent;
   (b) Examines the documentary material received by the Commission during the hearing or portion of the hearing from which the member was absent; and
   (c) States in public session for the record that s/he has done both of the above.

3. When a member of the Commission is disqualified or determines to disqualify him or herself, the designated alternate member shall serve and vote in his or her place (Government Code Sections 56325, 56325(a), 56331, 56331.3, 56332, 56332(d), 56335 and 56336).

Adoption History: Article II, Sections 2.8 to 2.9
Adopted June 5, 1978
Amended July 13, 1981
Amended January 10, 1983
Amended June 4, 1990
Re-affirmed and adopted December 4, 2000
Administratively Revised and Updated May 24, 2005
Comprehensively Updated and re-adopted March 3, 2008

2.10 PER DIEMS –

Pursuant to Government Code Section 56334, which permits LAFCOs to authorize payment of per diems to commissioners for attending meetings and in performing the duties of their office, the Commission has established a per diem rate of $275 effective July 1, 2023. Per diems shall be provided to Commissioners (regulars and alternates) for each day in attendance at regular and special meetings. Per diems shall also be provided for each day in attendance at standing or ad hoc committee meetings as well as official meetings, conferences, and trainings organized by the California Association of LAFCOs or the Southern Region of LAFCOs. No Commissioner shall receive more than five per diems per month. All requested per diems shall be listed on the LAFCO reimbursement form no later than 30 days after the event.

Adoption History: Article II, Section 2.10

Adopted March 4, 1991
Updated February 7, 2000
Re-affirmed and adopted December 4, 2000
Reaffirmed February 4, 2002
Administratively Revised and Updated May 24, 2005
Comprehensively Updated and re-adopted March 3, 2008
Amended May 7, 2018
Amended May 6, 2019
Updated August 5, 2019
Amended February 7, 2022
Amended May 1, 2023 (Section 2:10)

2.11 REIMBURSEMENTS –

Pursuant to Government Code Section 56380, the Commission shall make its own provisions for the usual and necessary operating expenses incurred by LAFCO. This includes – and as needed – providing reimbursements for Commissioners and staff.

1. The following general provisions apply to reimbursement of Commission expenses:

   (a) Commission members (regulars and alternates) may claim reimbursements for reasonable and necessary expenses incurred in performing the duties of their office.
   (b) The Executive Officer is responsible for reviewing and approving requests for Commission reimbursements.
2. The following general provisions apply to reimbursement of staff expenses:

   (a) Staff shall be reimbursed for all reasonable and necessary expenses in connection with conducting LAFCO business.
   (b) The Executive Officer is responsible for reviewing and approving requests for staff reimbursements other than for himself or herself.
   (c) The Chair or Vice Chair are responsible for reviewing and approving requests for Executive Officer reimbursements.
   (d) For purposes of this section, Commission Counsel shall be considered staff and subject to the reimbursement provisions.
3. The following procedures apply to reimbursements involving Commissioners and staff:
   (a) Expense reimbursement requests should be submitted as soon as possible, although flexibility is permitted for purposes of consolidating multiple expenses, but no later than 45 days after incurring the expense.
   (b) Expense claims for costs incurred in one fiscal year should be – whenever practical – submitted for reimbursement during the same fiscal year.
   (c) Expense claims shall be submitted using the standard LAFCO reimbursement form.
   (d) Applicable receipts shall be provided and attached to the reimbursement form. If receipts are not available, the requester shall succinctly summarize in writing the amount and purpose of the expense and attach to the reimbursement form.
   (e) The following provisions specific to transportation reimbursements apply:
      (i) Transportation requiring outside carrier services – including airlines, rails, shuttles, buses, vehicle rentals, and rideshares – shall be reimbursed equal to actual costs.
      (ii) Transportation requiring private vehicle usage shall be reimbursed using the current mileage rate of the Internal Revenue Service (IRS) plus actuals for tolls and parking. Staff reimbursement for private vehicle usage shall not apply to

normal workday travel to and from the LAFCO office. The Executive Officer shall only be eligible for private vehicle mileage reimbursement for travel outside San Diego County if he or she is receiving an automobile allowance.

(f) The following provisions specific to lodging reimbursements apply:

(i) Lodging reimbursements apply to overnight travel outside San Diego, Imperial, Orange, and Riverside Counties that requires attendance and/or travel before 7:00 a.m. for night-before accommodations and after 6:00 p.m. for night-of accommodations unless waived by the Executive Officer.

(ii) Pre-authorized lodging shall be reimbursed equal to actual costs so long as it does not exceed the maximum group rate published by the activity sponsor (i.e., conference organizer) and available at the time of booking. If a group rate is not available and/or applicable, reimbursement shall be booked at the governmental rate as far in advance as feasible.

(g)The following provisions specific to meals and incidental reimbursements apply:

(i) Meal expenses should be reasonable and moderate, taking into account community standards and the prevailing restaurant costs of the area.

(ii) Where the cost of a meal or meals is included as part of a registration charge or fee, there shall be no per diem meal reimbursement for the applicable meal period covered by such registration.

(iii) Commission and staff may request reimbursement for expenses paid in covering meals and incidentals of those in their company during an authorized function and/or duty that is a person in the service of LAFCO or a person donating service to LAFCO.

(iv) No reimbursements shall be made for alcoholic beverages of any kind.

(h) No prepayments shall be provided to Commission or staff for expected expenses incurred in performing work duties; all related costs shall be provided in the form of approved reimbursements unless otherwise provided under contract.

Adoption History: Article II, Section 2.11

Adopted March 4, 1991
Updated February 7, 2000
Re-affirmed and adopted December 4, 2000
Reaffirmed February 4, 2002
Administratively Revised and Updated May 24, 2005
Comprehensively Updated and re-adopted March 3, 2008
Amended May 7, 2018
Amended May 6, 2019
Administratively Revised and Updated August 5, 2019

2.12 ELECTRONIC TABLET USE -

Use of an electronic tablet (i.e.,iPads, etc.) will assist the Commission in the efficient performance of their duties and reduce material resources. Each Commissioner (regular and alternate) will be provided a tablet and supporting equipment for the principal purpose of reviewing agenda packets at all regular and special meetings. Commissioners shall not use the tablet in any way as to violate the public meeting requirements of the Brown Act. implementing rules follow.

1. Unless otherwise arranged, tablets will be provided to Commissioners on the dais and preloaded with the full agenda packet. The same tablet will be provided to each Commissioner and allow past packets and notes taken therein to be saved

and accessible for future reference. Commissioners shall leave the tablets on the dais for collection by staff at the conclusion of each meeting.

2. Commissioners have the elective to sign-out for a tablet. Under the elective, Commissioners shall be responsible for the security and care of the tablet and downloading all agenda packets and saving all related materials as needed. Upon return and following the preparation any appropriate backup files, the tablet will be wiped clean of any and all information.
3. All tablets will have WI-FI function. No data plans will be provided.
4. Commissioners may use the tablets for incidental personal uses so long as such uses do not conflict with policy or otherwise interfere with LAFCO business.
5. LAFCO will maintain appropriate warranty and service coverage on all tablets. Commissioners shall notify staff immediately should a tablet require service.
6. All other existing LAFCO policies apply to the Commissioners' use of the tablet and conduct on the internet and includes – but not limited to – Administrative Policy A-103 and provided as an appendix.
7. LAFCO reserves the right to inspect any and all files stored on the tablet to ensure compliance with this rule.
8. All Commissioners are encouraged to use tablets and specifically as a substitute for receiving paper agenda packets. Paper agenda packets, nonetheless, will be provided to any Commissioner at their request.

Adoption History: Article II, Section 2.12
Adopted May 6, 2019

Blank for Photocopying

5g

AGENDA REPORT
Consent | Information

December 4, 2023

TO: Commissioners

FROM: Erica Sellen, Acting Commission Clerk

SUBJECT: **Commissioner Terms**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive its annual report on individual Commissioner terms. One term is set to expire in April 2024 and involves one of the two voting special district seats currently held by Commissioner MacKenzie, which necessitates an election administered by LAFCO as detailed. The report is being presented for information.

BACKGROUND

State law prescribes the composition of San Diego LAFCO shall include 13 Commissioners divided between eight "regular" and five "alternate" members. Members are drawn from five membership categories as detailed below.

- Three "county" members are appointed by the County of San Diego Board of Supervisors and divided by two regulars and one alternate. All three county members must be on the Board and can be selected from any of the supervisorial districts.

- Three "city" members are appointed by the City Selection Committee (mayors) and divided by two regulars and one alternate. All three city members must be on city councils of 17 of the 18 incorporated communities. The City of San Diego is excluded from this category and provided separate appointments to the Commission.

Administration
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103-6624
T 619.321.3380
www.sdlafco.org
lafco@sdcounty.ca.gov

Chair Jim Desmond
County of San Diego
Joel Anderson
County of San Diego
Nora Vargas, Alt.
County of San Diego
Kristi Becker
City of Solana Beach
Dane White
City of Escondido
John McCann
City of Chula Vista
Vice Chair Stephen Whitburn
City of San Diego
Marni von Wilpert, Alt.
City of San Diego
Jo MacKenzie
Vista Irrigation
Barry Willis
Alpine Fire Protection
David A. Drake, Alt.
Rincon del Diablo
Andy Vanderlaan
General Public
Harry Mathis, Alt.
General Public

- Two "San Diego" members are appointed by the City of San Diego Council through special legislation in LAFCO statute and divided by a regular and alternate. Both members must be on the Council and can be selected from any of the council districts.

- Three "district" members are elected by the Independent Special District Committee (board presidents) and divided by two regulars and one alternate. All three district members must be board members on independent special districts.

- Two "public" members are appointed by the other four membership categories on the Commission and divided by a regular and alternate. The public members must be residents in San Diego County and cannot be officers or employees of local agencies.

All Commission seats are four-year terms that commence on the first Monday of May of the applicable year.[1] Terms go with the seat and not the member. Should a Commissioner leave LAFCO early for any reason, the successor appointee assumes the unexpired term.

DISCUSSION

This item is being presented to San Diego LAFCO to receive an annual report on current Commissioner terms consistent with practice. One term is set to expire at the end of April 2024 and involves the special district voting seat held by Commissioner MacKenzie. LAFCO staff is responsible under statute for overseeing the election process all special district seats on the Commission. Staff anticipates issuing a call for nominations in early January and holding a mailed election in April.

A complete listing of all current Commission terms is provided as Attachment One.

ANALYSIS

None.

RECOMMENDATION

This item is presented to San Diego LAFCO for information only.

ALTERNATIVES FOR ACTION

None.

[1] Reference to Government Code Section 56334.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

On behalf of staff,

Erica A. Sellen

Erica Sellen
Acting Commission Clerk

Attachment:

1) Commissioner Terms

Blank for Photocopying

San Diego County Local Agency Formation Commission
Political Subdivision of the State of California
Regional Municipal Service Planning

COMMISSION ROSTER

COUNTY MEMBERS

Regular	Term	Alternate	Term
Jim Desmond Supervisor District No. 5	May 2027	Nora Vargas Supervisor District No. 1	May 2025
Joel Anderson Supervisor District No. 2	May 2025		

CITY MEMBERS

Regular	Term	Alternate	Term
Kristi Becker Solana Beach	May 2027	John McCann Chula Vista	May 2025
Dane White Escondido	May 2027		

CITY OF SAN DIEGO MEMBERS

Regular	Term	Alternate	Term
Stephen Whitburn Council District No. 3	May 2025	Marni von Wilpert Council District No. 5	May 2025

SPECIAL DISTRICT MEMBERS

Regular	Term	Alternate	Term
Jo MacKenzie Vista Irrigation	May 2024	David Drake Rincon del Diablo MWD	May 2027
Barry Willis Alpine FPD	May 2027		

PUBLIC MEMBERS

Regular	Term	Alternate	Term
Andrew Vanderlaan Fallbrook Resident	May 2025	Harry Mathis San Diego Resident	May 2027

Blank for Photocopying

5h

AGENDA REPORT
Consent | Information

December 4, 2023

TO: Commissioners

FROM: Michaela Peters, Analyst I

SUBJECT: **Report on Active Proposals and Related Activities**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a status report on the 32 active proposals currently on file as well as anticipated filings based on ongoing discussions with proponents. The item is for information and concurrently satisfies LAFCO's reporting requirement involving petition-initiated proposals.

BACKGROUND

Processing Procedures and Timelines

LAFCO proceedings for jurisdictional changes are generally initiated by outside applicants through petitions (landowners or voters), and to a lesser degree by resolutions (local agencies). LAFCOs may also initiate jurisdictional changes to form, consolidate, or dissolve special districts if consistent with the recommendations of approved municipal service reviews. Most jurisdictional change filings take three to five months before they are scheduled for hearing. Applications for outside-of-agency service approvals – which are subject to separate procedures – generally take two months to process.

Administration:
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
E lafco@sdcounty.ca.gov
www.sdlafco.org

Chair Jim Desmond
County of San Diego
Joel Anderson
County of San Diego
Nora Vargas, Alt.
County of San Diego
Krista Becker
City of Solana Beach
Dane White
City of Escondido
John McCann, Alt.
City of Chula Vista
Vice Chair Stephen Whitburn
City of San Diego
Marni von Wilpert, Alt.
City of San Diego
Jo MacKenzie
Vista Irrigation
Barry Willis
Alpine Fire Protection
David A. Drake, Alt.
Rincon del Diablo
Andy Vanderlaan
General Public
Harry Mathis, Alt.
General Public

DISCUSSION

This item provides San Diego LAFCO with its regular update on active proposals on file. The item also – and for telegraphing purposes of future workload – identifies pending proposals staff anticipates being filed with LAFCO in the near term based on discussions with local agencies. It also serves to concurrently satisfy the Commission's reporting requirement to provide notice on agendas involving jurisdictional changes initiated by petitions.[1]

All active and pending proposals are outlined in Attachment One.

ANALYSIS

None.

RECOMMENDATION

This item is presented to San Diego LAFCO for information only.

ALTERNATIVES FOR ACTION

None.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

On behalf of staff,

Michaela Peters

Michaela Peters
Analyst I

Attachment:

1) Active and Pending Proposals as of November 22, 2023

1 Government Code Section 56857 directs LAFCOs to provide notice on agendas of any proposal involving special districts that have been initiated by landowners or registered voters. The agenda notification starts a 60-day period in which the affected special districts may request termination of the proceedings due to financial or service-related concerns.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
ACTIVE PROPOSAL APPLICATIONS | PENDING COMMISSION ACTION				
1	RO06-17	"Tobacco Road Reorganization" - City of Escondido: Annexation	Staff	Application submitted in March 2006 by landowner petition to annex six parcels to the City of Escondido. The affected territory comprises six parcels located along Tobacco Road. The application filing fulfilled an earlier Executive Officer approval in 2006 to authorize the City of Escondido to extend outside wastewater service to two of the six subject parcels due to failing septic systems. (The other four subject parcels are included in the proposal to provide connectivity to the existing City boundary.) The current number of residents within the affected territory is unknown. The application remains incomplete pending submittal of additional documentation and related information to complete the administrative review. The proposal is subject to formal abandonment pending the anticipated action by the Commission to approve authorizing policies.
2	RO08-09	"South Mollison Ave-Snyder Reorganization" - City of El Cajon: Annexation	Staff	Application submitted in May 2008 by landowner petition for a proposed annexation to the City of El Cajon. The affected territory includes approximately 1.25 acres and is subject to a proposed multi-family residential project. It is unknown whether there are any current residents within the affected territory. The application remains incomplete pending submittal of additional documentation and related information necessary to complete the administrative review. The proposal is subject to formal abandonment pending the anticipated action by the Commission to approve authorizing policies.
3	DA08-10	"Avocado Way-Potter Annexation" - Vallecitos WD: Annexation	Staff	Application submitted in March 2008 by landowner petition requesting annexation of to the Vallecitos Water District (WD) for purposes of receiving public wastewater services. The affected territory comprises two parcels developed with single-family residences located along Avocado Way. The number of current residents within the affected territory is unknown. The application remains incomplete pending submittal of additional documentation and related information necessary to complete the administrative review. The proposal is subject to formal abandonment pending the anticipated action by the Commission to approve authorizing policies.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
4	RO08-15 SA08-15	"Crestlake Estates Reorganization" - San Diego County SD: Annexation - Lakeside FPD: Annexation	Staff	Application submitted in May 2008 by landowner petition requesting a reorganization to accommodate wastewater, fire protection, and ambulance services for an approved Tentative Map allowing the development of 60 single-family residences. It is unknown if there are any current residents. The affected territory lies within all three subject agencies' spheres of influence: San Diego County Sanitation District (SD); Lakeside Fire Protection District (FPD); and County Service Area (CSA) No. 69. The application remains incomplete pending submittal of additional documentation and related information necessary to complete the administrative review. The proposal is subject to formal abandonment pending the anticipated action by the Commission to approve authorizing policies.
5	DA12-02	"Lorch Annexation" - Borrego WD: Annexation	Staff	Application submitted in March 2012 by landowner petition to annex approximately 9.4 acres to the Borrego Water District (WD) to provide water service to one parcel within the District's sphere. It is unknown how many residents are currently within the affected territory. Application deemed incomplete in an April 2012 status letter. A new status letter was sent in January 2018 stating the proposal will be considered abandoned unless notified otherwise. Borrego WD responded to the letter and has reinitiated discussions with the landowner regarding possible service terms. Discussions continue.
6	DA16-10	"CSA 17 Harmony Grove Annexation" - CSA 17: Annexation	Carolanne Ieromnimon	Application submitted in May 2016 by resolution from the County of San Diego to annex approximately 3,600 acres to County Service Area (CSA) No. 17 for ambulance service and done so as a cross-condition of the Commission dissolving CSA No. 107 in 2015. The affected territory is entirely unincorporated and comprises portions of the Elfin Forest and Harmony Grove communities with an estimated resident population of 29,995. The proposal remains incomplete due to a variety of reasons and marked by opposition from the CSA No. 17 Advisory Committee. Staff continues to engage the County, Advisory Committee, and other stakeholders with the objective of fulfilling the Commission's earlier directive.
7	RO16-11	"Rancho Hills Reorganization" - Rancho Santa Fe CSD: Annexation - Olivenhain MWD: Expansion of Latent Power Area - Olivenhain MWD: Latent Sphere Amendment	Michaela Peters	Application submitted in October 2016 to annex a portion of a 37-lot residential subdivision titled "Rancho Hills" to Rancho Santa Fe CSD for wastewater service. A concurrent latent power expansion for Olivenhain MWD is needed to accommodate sewer to the remaining project site. The proposal was deemed incomplete in November 2016 status letter. Applicant has requested the proposal processing be placed on hold. The application is administratively paused due to incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis. Communications remain ongoing.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
8	RO19-04	"Ortega – Old Highway 80 Change of Organization" - San Diego County SD: Annexation	Carolanne Ieromnimon	Application submitted in February 2019 by landowner petition to annex approximately 5.07 acres to the San Diego County Sanitation District (SD) for wastewater service. The affected territory comprises two parcels presently developed with single-family residences with an unknown number of residents. The purpose of the proposal is to connect sewer services for a proposed office/warehouse building development. The submitted proposal application is incomplete pending receipt of additional documentation and related information to complete the administrative review.
9	SA19-26 RO19-26 OAS19-26	"Valiano - Eden Valley Reorganization" - City of Escondido: Extraterritorial Sewer - City of Escondido: Sphere Amendment - San Marcos FPD: Annexation - Rancho Fe FPD: Detachment - Rancho Fe FPD: Sphere Amendment	Michaela Peters	Application submitted in November 2019 jointly by landowner petition and the City of Escondido and involves a reorganization and outside-of-agency service agreement as part of the "Valiano" planned development in Harmony Grove. The reorganization involves the concurrent annexation of approximately 10.8 unincorporated acres to San Marcos FPD and detachment from Rancho Santa Fe FPD and related sphere amendments. The outside-of-agency service agreement approval request involves the extension of wastewater from the City of Escondido for approximately 82.9 unincorporated acres with related sphere amendments to add to Escondido and remove from San Marcos. The application is administratively paused due to incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis. Communications remain ongoing.
10	CO21-09	"Otay Lakes Road Change of Organization" - City of Chula Vista: Annexation	Michaela Peters	Application submitted in October 2022 by landowner petition to annex approximately 1,870 acres of unincorporated territory to the City of Chula Vista. (The petitioners originally filed an application in October 2021 seeking approval to annex into the San Diego County Sanitation District. This previous application has since been withdrawn.) The affected territory comprises 6 parcels within the Baldwin and Moller communities and are presently undeveloped with no residents. The proposal is intended to facilitate a conditional development approval to construct 1,938 residential units with various ancillary uses as part of the "Otay Ranch Resort Village 13" project. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
11	CO22-04	"AJX Homes - Carmichael Change of Organization" - City of La Mesa: Annexation - City of La Mesa: Sphere Amendment	Carolanne Ieromnimon	Application submitted in February 2022 by landowner petition and involves annexation of approximately 0.3 acres to City of La Mesa for wastewater service. The affected territory is developed with a single-family residence and the landowner intends to update the existing site from a septic system to public wastewater system. The proposal is scheduled for consideration by the Commission at its February 5th, 2024 meeting.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
12	RO22-11	"Tummala-Rincon MWD Reorganization" - Rincon del Diablo MWD: Annexation - Metropolitan Water District: Annexation - San Diego CWA: Annexation	Michaela Peters	Application submitted in October 2022 by landowner petition and involves annexation of approximately 20 acres of unincorporated territory to make available public water services. The affected territory is currently vacant and undeveloped. The proposal purpose is to position the landowner to proceed in the future with a development plan with the County of San Diego. The submitted proposal application is incomplete pending receipt of additional documentation and related information to complete the administrative review.
13	RO23-01	"Tucker-Valley Road Reorganization" - National City: Annexation - South Bay ID: Detachment - Bonita FPD: Detachment - Bonita FPD: Sphere Amendment - CSA No. 135: Detachment	Carolanne Ieromnimon	Application submitted in November 2022 by landowner petition and involves annexation of approximately 35.3 acres of unincorporated territory to the San Diego County Sanitation District to make available public water and wastewater services. The affected territory is currently vacant and undeveloped. The proposal purpose is to position the landowner to proceed in the future with a development plan to grade the land for future industrial and outdoor storage uses. The submitted proposal application is incomplete pending receipt of additional documentation and related information to complete the administrative review.
14	OAS23-03	"Bryant-Felicita Road Outside-of-Agency Service Agreement" - City of Escondido: OAS	Priscilla Mumpower	Application submitted in February 2023 by landowner petition and involves an outside-of-agency service agreement for wastewater services to a single-family residence totaling 0.4 acres as a remedy to a failing septic system. The Executive Officer administratively approved the service request on February 22, 2023. The proposal is currently under administrative review and considered incomplete at this time.
15	RO23-06	"N. Iris Lane-Hallmark Development Reorganization" - City of Escondido: Annexation - CSA No. 135: Detachment - Rincon del Diablo FPD ID-E: Exclusion	Michaela Peters	Application submitted in April 2023 by landowner petition and involves annexation of approximately 7.7 acres to the City of Escondido for the primary purpose of establishing water and wastewater services. The affected territory is currently developed, with four single-family residences, each with an ADU with plans to redevelop the site to consist of 102 new condominiums units and associated infrastructure/streets. The proposal is scheduled for consideration by the Commission at its December 4th, 2023 meeting.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
16	RO23-08	"Colina Fuerte-Via Ascenso Reorganization" - Santa Fe ID: Annexation - Olivenhain MWD: Detachment	Michaela Peters	Application submitted in May 2023 by landowner petition and involves annexation of approximately 5.1 acres to the Santa Fe Irrigation District for the primary purpose of establishing potable water service. The affected territory as proposed includes one parcel presently undeveloped with plans to develop a single-family residence along with an accessory dwelling unit. The reorganization will also necessitate detachment from Olivenhain Municipal Water District. The proposal is scheduled for consideration by the Commission at its December 4th, 2023 meeting.
17	CO23-09	"City of Carlsbad Change of Organization" - Leucadia WD: Detachment	Carolanne Ieromnimon	Application submitted in July 2023 by resolution from the City of Carlsbad to detach 99.0 acres of incorporated territory from the Leucadia Wastewater District. The affected territory is presently inhabited and developed with multiple residences with no plans for future development. The proposal purpose is to better utilize existing wastewater infrastructure provided by the City of Carlsbad. The proposal is currently under administrative review and considered incomplete at this time.
18	CO23-10	"Glen Abbey Drive-Bonita Road Change of Organization" - San Diego County SD: Annexation	Michaela Peters	Application Submitted in July 2023 by landowner petition and involves annexation of approximately 109.50 acres to the San Diego County Sanitation District (SD) to make available public wastewater services. The affected territory consists of a cemetery and funeral home as well as several mausoleums. The proposal purpose is to position the landowner in the future to proceed with the consolidation of the existing mausoleums into one mausoleum. The proposal is scheduled for consideration by the Commission at its February 5th, 2024 meeting.
19	RO23-11	"Nencini Associates-Jonel Way Reorganization" - San Diego County SD: Annexation - City of Chula Vista: Detachment	Carolanne Ieromnimon	Application submitted in July 2023 by landowner petition and involves annexation of approximately 20.6 acres to the San Diego County Sanitation District (SD) with concurrent detachment from the City of Chula Vista for the primary purpose of establishing sewer service. The affected territory is partially developed with one single-family residence, with plans to develop 7 additional single-family residences through subdivision. The proposal is scheduled for consideration by the Commission at its February 5th, 2024 meeting.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
20	CO23-12	"Twin Oaks Valley Winery Change of Organization" - Vallecitos WD: Annexation	Michaela Peters	Application submitted in September 2023 by landowner petition and involves annexation of approximately 4.35 acres to the Vallecitos Water District with for the primary purpose of establishing sewer service. The affected territory is developed with one single-family residence, with plans to develop a full-service winery – including a tasting room, wine production space, restroom(s), etc. The proposal is currently under administrative review and considered incomplete at this time.
21	CO23-13	"Sky Ranch – Helix Water District Reorganization" - Helix WD: Detachment - Padre Dam MWD: Annexation	Carolanne Ieromnimon	Application submitted in September 2023 by resolution of the Helix Water District to detach approximately 27 acres of land with conforming sphere of influence amendments. The affected territory presently comprises 3 existing single-family residences with no additional plans of development. The proposal purpose is to remove the affected territory from the Helix WD boundary, given the territory is already sufficiently served by the Padre Dam MWD. The proposal is currently under administrative review and considered incomplete at this time.
ACTIVE PROPOSALS | POST COMMISSION ACTION				
22	SA16-20 LP16-20	"CSA 135 Islands Reorganization" - CSA 135 – LP Fire Area: Latent Powers Expansion - Bonita-Sunnyside FPD: Annexation - Lakeside FPD: Annexation - San Miguel FPD: Annexation - Ramona MWD: Annexation	Staff	Proposal submitted November 2016 by resolution of the San Diego County Fire Authority. Involved annexation of remaining unserved Islands 2, 3, and 4 via reorganization of local fire service territory among five local agencies: CSA 135; Bonita-Sunnyside FPD; Lakeside FPD; Ramona MWD; and San Miguel FPD. Reorganization involved annexation to the subject agencies and expansion of CSA No. 135's latent powers to provide fire protection and emergency medical services to three unincorporated and unserved island areas totaling approximately 21,048 acres. Conforming amendments to add the affected territory to the subject agencies' spheres of influence were also required. The reorganization proposal was approved February 4, 2018 and is now pending recordation once all terms are satisfied. A noticed protest hearing was held on March 13, 2019 at the LAFCO office. No protest was received by affected registered voters or landowners. Other terms remain pending.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
23	LP(E)19-27	"Fallbrook PUD Latent Powers Expansion" - Activation: Park and Recreation - Activation: Street Lighting - Activation: Roads	Priscilla Mumpower	Application submitted in November 2019 by resolution from the Fallbrook Public Utility District (PUD) seeking approval to activate specified latent powers throughout its jurisdictional boundary and its 28,193 unincorporated acres. The estimated resident population within the affected territory is 33,986. Requested power activations involve park and recreation, street lighting, and roads with the former intended to supplement existing park and recreation services provided in the region by the County of San Diego via County Service Area No. 81. The proposal was approved by the Commission on April 4, 2022, and now pending recordation once all terms are satisfied. A noticed protest hearing was held on May 31, 2022 and continued to June 14, 2022 11, 2022 at the Fallbrook Public Utilities District. Not enough protest was received by affected registered voters or landowners. Other terms remain pending.
24	CO22-16	"Cumming Ranch Change of Organization" - Ramona Municipal Water District: Annexation - County Service Area 135: Detachment	Carolanne Ieromnimon	Application submitted in October 2022 by resolution of the Ramona Water District seeking approval for latent power expansion of Ramona MWD's activated wastewater service area by approximately 389 acres. The affected territory is currently vacant and undeveloped. The proposal purpose is to establish wastewater services for the future development of 125 single family residences as part of the "Cummings Ranch Subdivision" project. The proposal was approved by the Commission on May 1st, 2023 and now pending completion of terms and conditions as set forth by the Commission.
25	CO22-17	"Yung-La Presa Avenue Change of Organization" - San Diego County SD: Annexation	Carolanne Ieromnimon	Application submitted in October 2022 by landowner petition and involves annexation of approximately 0.16 acres of unincorporated territory to the San Diego County Sanitation District to make available public wastewater services. The affected territory is currently developed with 3 residents. The proposal purpose is to position the landowner to proceed in the future with a development plan to add an additional single-family residence. The proposal was approved by the Commission on June 5th, 2023 and now pending completion of terms and conditions as set forth by the Commission.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
26	CO22-18	"For Giving LLC- Hymettus Avenue Change of Organization" - Leucadia WD: Annexation	Carolanne Ieromnimon	Application submitted in October 2022 by resolution of the Leucadia Wastewater District and involves annexation of approximately 1.20 acres of unincorporated territory to make available public wastewater services. The affected territory comprises one single family residence in Encinitas and presently vacant with no residents. The proposal purpose is to position the landowner to proceed in the future with a development plan to create two single-family residences. The proposal was approved by the Commission on June 5th, 2023 and now pending completion of terms and conditions as set forth by the Commission.
27	RO20-04	"Rainbow MWD – Eastern MWD Reorganization" - San Diego CWA: Detachment - Eastern MWD: Annexation - Eastern MWD: Sphere Action	Priscilla Mumpower	Application submitted April 2020 by resolution from the Rainbow Municipal Water District (MWD) to concurrently detach from the San Diego County Water Authority (CWA) and annex to the Eastern Municipal Water District (MWD). The affected territory spans approximately 50,857 acres covering the Rainbow and Bonsall communities with an estimated resident population of 22,130. The purpose of the proposal is to transfer the wholesale water supply provider for cost-savings. The submitted proposal application is incomplete pending receipt of additional documentation and related information to complete the administrative review. A 10-member advisory committee has also been established by the Commission to assist staff in evaluating the proposal and its technical merits The proposal was approved by the Commission on July 10th, 2023 and now pending completion of terms and conditions as set forth by the Commission.
28	RO20-05	"Fallbrook PUD – Eastern MWD Reorganization" - San Diego CWA: Detachment - Eastern MWD: Annexation - Eastern MWD: Sphere Action	Priscilla Mumpower	Application submitted April 2020 by resolution from Fallbrook Public Utility District (PUD) to concurrently detach from the San Diego County Water Authority (CWA) and annex to the Eastern Municipal Water District (MWD). The affected territory spans approximately 28,193 acres covering the Fallbrook and De Luz communities with an estimated resident population of 33,986. The purpose of the proposal is to transfer the wholesale water supply provider for cost-savings. The submitted proposal application is incomplete pending receipt of additional documentation and related information to complete the administrative review. A 10-member advisory committee has also been established by the Commission to assist staff in evaluating the proposal and its technical merits. The proposal was approved by the Commission on July 10th, 2023 and now pending completion of terms and conditions as set forth by the Commission.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
29	CO22-20	"Camino De La Fuente-Wick Change of Organization" - San Diego County SD: Annexation	Carolanne Ieromnimon	Application submitted in November 2022 by landowner petition and involves annexation of approximately 35.3 acres of unincorporated territory to the San Diego County Sanitation District to make available public water and wastewater services. The affected territory is currently vacant and undeveloped. The proposal purpose is to position the landowner to proceed in the future with a development plan to grade the land for future industrial and outdoor storage uses. The proposal was approved by the Commission on October 2nd, 2023 and now pending completion of terms and conditions as set forth by the Commission.
30	RO23-07 (b)	"Escondido North LLC-Stanley Avenue Reorganization -B" - City of Escondido: Annexation - CSA No. 135: Detachment - Rincon del Diablo FPD ID-E: Exclusion	Michaela Peters	Application submitted in May 2023 by landowner petition and involves annexation of approximately 7.4 acres to the City of Escondido for the primary purpose of establishing wastewater services. The affected territory comprises 3 separate parcels; one parcel contains 2 preexisting single-family residences with plans of developing an additional 46 residential units, another parcel is presently vacant with plans to develop 20 residential units, and the third parcel is currently developed with an existing single-family residence and included due to expressed interest by the landowners in annexation. The reorganization also includes concurrent detachments from County Service Area No. 135 as well as formal exclusion from Rincon Municipal Water District's ID-E wastewater function. The proposal was approved by the Commission on November 6th, 2023 and now pending completion of terms and conditions as set forth by the Commission.
31	RO23-02	"Yerba Valley Road Reorganization" - Lakeside WD: Annexation - San Diego CWA: Annexation - MET: Annexation - Conforming sphere of Influence Amendments	Michaela Peters	Application submitted in February 2023 by resolution from Lakeside Water District to concurrently annex approximately 80.4 acres of unincorporated territory to the Lakeside Water District, San Diego County Water Authority, and Metropolitan Water District of Southern California. The affected territory presently comprises 17 existing single-family residences with no additional planned development. The proposal purpose is to make available public water services given uncertain well water flows within the affected territory. The proposal was approved by the Commission on November 6th, 2023 and now pending completion of terms and conditions as set forth by the Commission.
32	RO23-05	"Cambier-W. El Norte Parkway Reorganization" - Vista Irrigation District: Detachment - Vallecitos Water District: Annexation	Carolanne Ieromnimon	Application submitted in March 2023 by landowner petition and involves annexation of approximately 2.53 acres to the Vallecitos Water District to make available public water and wastewater services. The affected territory is currently vacant and undeveloped. The affected territory is presently vacant and undeveloped. The proposal purpose is to position the landowner to proceed in the future with a development plan to create one single-family residence. The proposal is scheduled for consideration by the Commission at its November 6th, 2023 meeting.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
PENDING PROPOSAL APPLICATION SUBMITTALS (No project manager; inquiries should be directed to Keene Simonds)				
	Pending	"Harvest Hills Reorganization" - City of Escondido		This anticipated reorganization proposal is currently undergoing development and environmental review by the City of Escondido. Submittal to LAFCO anticipated for late 2020-2021 if approved by Escondido. The anticipated proposal involves annexation of approximately 1,098 acres to the City for the primary purpose of developing a 550-lot residential subdivision. All of the affected territory presently lies outside the adopted Escondido sphere. Due to the scope of the proposal area a comprehensive update of the City's sphere is warranted along with preparing the supporting municipal service review document. These and other service-related issues have been communicated to the City and are currently under joint review with other local stakeholders. Project was originally titled as "Safari Highlands."
	Pending	"Rancho Lomas Verde Reorganization" - City of Vista		This anticipated reorganization proposal is undergoing development and environmental review by the City of Vista. The proposal involves annexation of approximately 300 acres to the City of Vista and concurrent detachments from CSA 135 and the Vista FPD to facilitate a 153-lot residential development. Close to three-fourths of the project area lies outside the adopted Vista sphere. Due to the scope of the proposal area a comprehensive update of the City's sphere is warranted along with preparing the supporting municipal service review document. These and other service-related issues have been communicated to the City and are currently under joint review with other local stakeholders.
	Pending	"Sager Ranch Reorganization" - City of Escondido		This anticipated reorganization involves annexation of approximate 1,800 unincorporated acres to the City of Escondido and concurrent detachments from CSA 135 and the Valley Center FPD. The reorganization would facilitate the proposed development of approximately 200 acres to include 203 residential units and a 225-room resort. Portions of the project area lies outside the current City sphere. Due to the scope of the proposal area a comprehensive update of the City's sphere is warranted along with preparing the supporting municipal service review document. These and other service-related issues have been communicated to the City and are currently under joint review with other local stakeholders.
	Pending	"Harmony Grove Village South" (TM-626)		This anticipated reorganization involves the unincorporated Harmony Grove Village South project and specific to accommodating sewer services (among a variety of options) for the planned development of approximately 111 acres to include 453 residential units. On January 27, 2020 the San Diego Superior Court overturned the County's development approvals for the project. Appeals are pending with no update as of this report.

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
	Pending	"La Jolla Incorporation" -City of San Diego: Detachment		This anticipated special reorganization involves the detachment of 8,371 acres from the City of San Diego and the incorporation of the community of La Jolla. A draft fiscal impact analysis report is currently underway by the proponents - Association for the City of La Jolla (501c3) – to determine whether La Jolla could obtain cityhood and be economically sustainable on its own. Application is pending.

Blank for Photocopying

6a

AGENDA REPORT
Public Hearing

December 4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Michaela Peters, Analyst I

SUBJECT: **Proposed "Colina Fuerte – Via Ascenso Reorganization" | Annexation to the Santa Fe Irrigation District with Concurrent Detachment from Olivenhain Municipal Water District and Conforming Sphere of Influence Actions (RO23-08)**

SUMMARY

The San Diego Local Agency Formation Commission (LAFCO) will consider a reorganization proposal filed by landowner petition with the principal action to annex approximately 5.14 unincorporated acres in the Rancho Santa Fe community to the Santa Fe Irrigation District (ID). A secondary action to detach the affected territory from Olivenhain Municipal Water District (MWD) is also proposed. The affected territory comprises one legal parcel, which is currently undeveloped with an existing open-space easement. The proposal purpose is to facilitate the planned development of a single-family residence by allowing the landowner to redirect a potable water connection to Santa Fe ID to avoid encroaching on the open space easement as otherwise necessary in connecting to Olivenhain MWD. Staff recommends conditional approval of the proposal as submitted, conforming sphere of influence actions for both subject agencies, and a municipal service review waiver under L-106. It is also recommended the Commission waive protest proceedings and make exemption findings under the California Environmental Quality Act.

Administration:
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
E lafco@sdcounty.ca.gov
www.sdlafco.org

Chair Jim Desmond
County of San Diego
Joel Anderson
County of San Diego
Nora Vargas, Alt.
County of San Diego
Kristi Becker
City of Solana Beach
Dane White
City of Escondido
John McCann, Alt.
City of Chula Vista
Vice Chair Stephen Whitburn
City of San Diego
Marni von Wilpert, Alt.
City of San Diego
Jo MacKenzie
Vista Irrigation
Barry Willis
Alpine Fire Protection
David A. Drake, Alt.
Rincon del Diablo
Andy Vanderlaan
General Public
Harry Mathis, Alt.
General Public

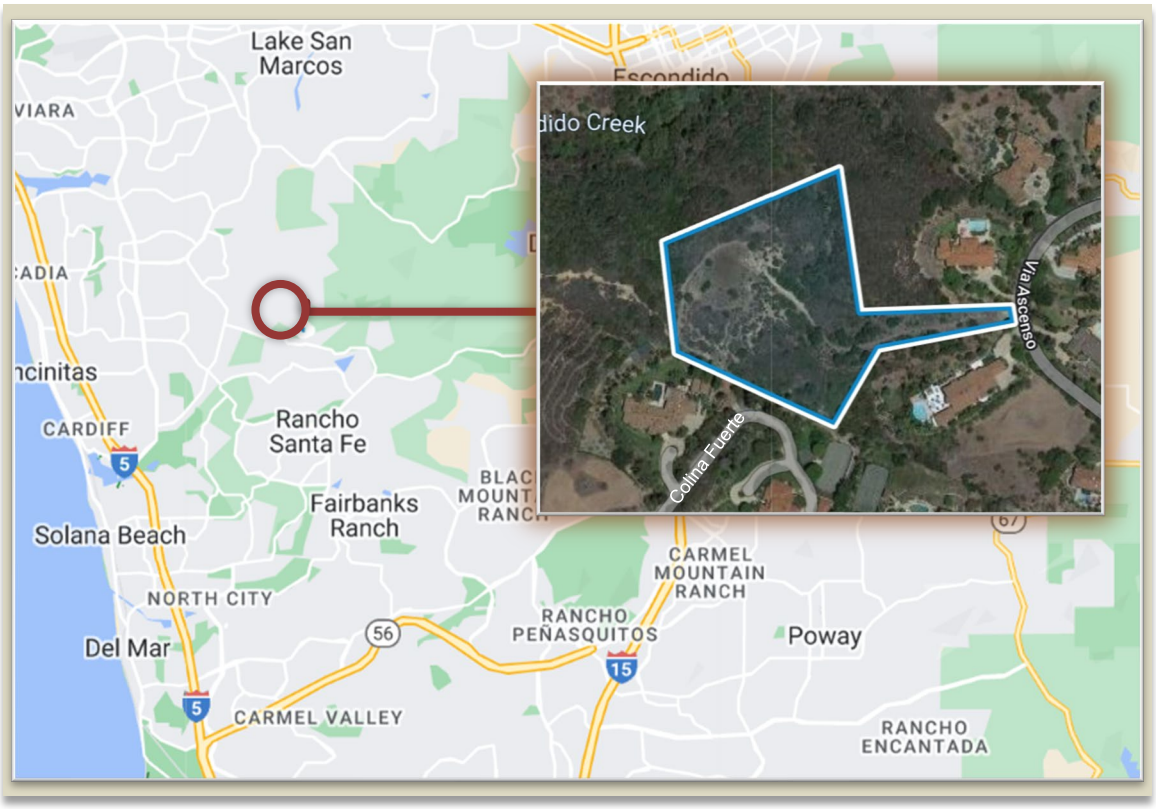
BACKGROUND

Applicant Request

San Diego LAFCO has received a proposal initiated by landowner petition (Brendan Eckelman) for the primary purpose of annexing approximately 5.14 acres of unincorporated territory in the Rancho Santa Fe community to the Santa Fe ID and its potable water system. The affected territory as submitted comprises one legal parcel currently undeveloped with an open-space easement covering close to 3/5 of the entire parcel (Attachment 3). A secondary action to detach the affected territory from Olivenhain MWD is also part of the proposed reorganization. The County Assessor's Office identifies the subject parcel as 265-441-01 with a situs of 18100 Via Ascenso in Rancho Santa Fe (92091). The current total assessed land value is $613,200.

Regional Setting

The affected territory is located in northern San Diego County within the unincorporated community of Rancho Santa Fe, which generally lies east of Interstate 5, north of the State Route 56, and southwest of State Route 78. Principal access to the affected territory is provided by Avenida Del Duque & Aliso Canyon Road via El Camino Del Norte. The affected territory lies within County Supervisorial District No. 3 (Terra Lawson-Remer), Assembly District No. 77 (Tasha Boerner), and Senate District No. 38 (Catherine Blakespear). An aerial map of the affected territory and its regional setting follows with a more detailed map – including the existing parcel and jurisdictional boundaries – provided at Attachment One.



Subject Agencies

The proposed reorganization filed with San Diego LAFCO involves two subject agencies: Santa Fe ID and Olivenhain MWD.[1] Summaries of the two subject agencies in terms of governance, resident population, municipal functions, and financial standing follows.

- **Santa Fe ID** is an independent special district governed by a five-member board of directors authorized to provide one municipal function: potable water (retail class). An appointed general manager – Albert C. Lau – oversees day-to-day activities with a current full-time budgeted staff of 47. Santa Fe ID was formed in 1923 with water sourced from the once privately owned Lake Hodges and Lake Hodges Dam. Today, Santa Fe ID's potable water supply is imported via the San Diego County Water Authority and largely sourced to the Colorado River and Sacramento Bay-Delta. The current jurisdictional boundary totals approximately 10,300 acres, or 16 square miles, and includes the unincorporated community of Rancho Santa Fe and the City of Solana Beach. A limited portion of the jurisdictional boundary extends into the Cities of Del Mar and Encinitas. LAFCO estimates the current population at 18,675. LAFCO established a sphere of influence for Santa Fe ID in 1984. The sphere was most recently reviewed and affirmed in 2013 with a "smaller-than-agency" designation and marked by the exclusion of 360 jurisdictional acres. Santa Fe ID's audited net position is $93.5 million as of June 30, 2022, with an undesignated balance of $25.5 million. This includes an ending cash balance of $37.6 million. Santa Fe ID's total net position has changed by 12.7% over the prior three audited years.

- **Olivenhain MWD** is an independent special district governed by a five-member board of directors authorized to provide four municipal functions: potable water (retail class); recycled water (retail class); wastewater (collection and treatment classes), and park and recreation services. An appointed general manager – Kimberly Thorner – oversees day-to-day activities with a current full-time budgeted staff of 87. Olivenhain MWD was formed in 1959 for the purpose of retailing potable water supplies purchased from the San Diego County Water Authority. Olivenhain MWD's other functions were subsequently added between 1985 and 2000 through latent power activations. The current jurisdictional boundary totals approximately 31,040 acres, or 48.5 square miles, and includes the Cities of Carlsbad, Encinitas, San Diego, San Marcos, and Solana Beach as well as the unincorporated communities of 4S Ranch, Elfin Forest, Rancho Cielo, and Rancho Santa Fe Valley. LAFCO estimates the current population at 86,614. LAFCO established a sphere of influence for Olivenhain MWD in 1984 and covers MWD's potable water, recycled water, and parks and recreation function. (Information regarding the secondary sphere covering the wastewater function is footnoted.[2]) The primary sphere was most recently reviewed and affirmed in 2013 with a larger-than-agency designation to include approximately 200 non-jurisdictional acres. Olivenhain MWD's audited net position is $328.8 million

1 State law defines "subject agency" to mean any district or city for which a change of organization or reorganization is proposed.
2 Olivenhain MWD's wastewater function was established in 1998 through a latent-power activation by LAFCO and instep with dissolving the 4S Ranch and Rancho Cielo Sanitation Districts. LAFCO also established a secondary service-specific sphere for OMWD for wastewater replicating the former boundaries of the 4S Ranch and Rancho Cielo Sanitation Districts.

as of June 30, 2022, with an undesignated balance of $93.3 million. This includes an ending cash balance of $40.7 million. Olivenhain MWD's total net position has changed by 2.3% over the prior three audited years.

Affected Local Agencies

The affected territory presently lies within the jurisdictional boundaries and/or spheres of influence of 12 local agencies directly subject to San Diego LAFCO's planning and regulatory responsibilities. These agencies qualify as "affected agencies" relative to the proposed reorganization for noticing purposes and listed below.[3]

- CSA No. 17 San Dieguito (ambulance)
- CSA No. 83 San Dieguito (local parks)
- CSA No. 135 (regional communications)
- Metropolitan Water District of Southern California
- North County Cemetery District
- North County Transit District
- Rancho Santa Fe Community Services District
- Ranch Santa Fe Fire Protection District
- Resource Conservation District of Greater San Diego County
- San Diego County Flood Control District
- San Diego County Street Lighting District
- San Diego County Water Authority

The affected territory also lies within the following school and college districts, and accordingly has received notice: Encinitas Union School District; Mira Costa Community College District; and San Dieguito Union High School District.

DISCUSSION

This item is for San Diego LAFCO to consider approving – with or without discretionary modifications to the physical footprint – the reorganization proposal and its principal action to annex the affected territory to the Santa Fe ID with concurrent detachment from Olivenhain MWD. The Commission may also consider applying conditions as allowed under statute so long as it does not directly regulate land use, property development, or subdivision requirements. Additional discussion with respect to proposal purpose, development opportunities, and Commission focus follows.

3 State law defines "affected agency" as any entity that contains, or would contain, or whose sphere contains or would contain, any territory for which a change of organization is proposed or ordered. Notice of the proposal and hearing were provided to the agencies.

Proposal Purpose

The underlying purpose of the proposed reorganization before San Diego LAFCO is to annex the affected territory to the Santa Fe ID to accommodate a preferred potable water connection for the landowner-applicant in conjunction with their current development plans for the subject parcel. Specifically, the reorganization and the transition of potable water service from Olivenhain MWD to Santa Fe ID would sync with the planned design of a single-family residence with a driveway connecting to Colina Fuerte with ready accessibility therein to ID's distribution line within the public right-of-way. (Olivenhain MWD's distribution line is located on the opposite side of the subject parcel in the public right-of-way of Via Ascenso.) This transition – materially – would avoid significant encroachment and disruption of an open space easement and sensitive biological habitat within the portion of the subject parcel facing Via Ascenso.[4] The timing of the proposal ties to the landowner-applicant's purchase of the subject parcel in February 2021 and proceeding with a pre-application process with the County of San Diego to develop a single-family residence and ancillary uses.

Current and Planned Development Opportunities

The affected territory is entirely unincorporated and under the land use authority of the County of San Diego and its adopted policies. Specific development policies for the affected territory are delegated in the County General Plan to the San Dieguito Community Plan (2011). The present land use designation applied to the affected territory is Semi-Rural Residential (SR-2), which provides up to one dwelling unit per every 2, 4, or 8 acres depending on slope. The affected territory is zoned Rural Residential (RR) with a minimum parcel size prescription of 2.0 acres. Based on the current configuration, the zoning assignment produces a maximum density for the affected territory of two legal parcels. The zoning assignment relatedly produces a maximum density of four dwelling units and divided between each legal parcel having a single-family residence and accessory dwelling unit.

The landowner-applicant has disclosed as part of the proposal filing, they have initiated pre-application discussions with the County of San Diego with tentative plans to develop a single-family residence, pool, and an accessory dwelling unit.

Commission Focus

Three central and sequential policy items underlie San Diego LAFCO's consideration for the proposed reorganization. These policy items ultimately take the form of determinations and orient the Commission to consider the interrelated merits of (a) accommodating sphere of influence actions for Santa Fe ID and Olivenhain MWD, (b) timing of the reorganization, and (c) whether discretionary boundary modifications or approval terms are appropriate. The Commission must also consider other relevant statutes in and outside LAFCO law as detailed.

[4] Installing a waterline from the east off Via Ascenso would result in adverse impacts to sensitive habitats, species, a population of Del Mar Manzanita (a federally-listed Endangered Species), and possible jurisdictional wetlands/waters. Annexation to SFID would completely mitigate these potential environmental effects.

ANALYSIS

San Diego LAFCO's analysis of the proposed reorganization is divided into two subsections. The first subsection pertains to evaluating the central policy issues referenced in the preceding section starting with the merits of the conforming sphere of influence actions and the timing of the reorganization relative to the factor mandated for review by the Legislature and local policies. The second subsection considers other germane issues required for the LAFCO proposal consideration and this includes complying with the California Environmental Quality Act (CEQA).

Central Policy Items

Item No. 1 |
Conforming Sphere of Influence Amendments

The proposed reorganization necessitates San Diego LAFCO to consider concurrent actions to the two subject agencies' spheres of influence to achieve consistency with the requested boundary changes required under statute. Consideration of the concurrent sphere actions are premised on the Commission's statutory responsibility to designate spheres to demark the affected agencies' appropriate current and future service areas relative to community needs and – among other features – to conform with proposed changes of organization or reorganization when warranted. Staff believes the amendments to add the affected territory to Santa Fe ID's sphere and remove from Olivenhain MWD's sphere are merited. These concurrent actions would serve to recast Commission policy that Santa Fe ID – and not Olivenhain MWD – is the appropriate public potable water provider now and going forward.

Analysis of these three related amendments follow.

- Sphere Factor No. 1:
  Consideration of a Municipal Service Review

  Statute requires LAFCO to prepare municipal service reviews to inform its related task to regularly review and update all local agencies' spheres of influence. The statute further directs LAFCO perform sphere updates every five years as needed. Commission policy L-106 affirms this statutory direction while also providing waiver allowances based on Executive Officer recommendations. The most recent series of municipal service reviews prepared by LAFCO germane to the affected territory and subject agencies were completed in the early 2010s. Requiring one or more new municipal service reviews – however and specific to informing the proposed reorganization – does not appear warranted. This conclusion ties to the relatively limited scope of the amendments and otherwise certainty in analyzing service impacts and related capacities as detailed further in this agenda report.

- Sphere Factor No. 2:
  Consideration of the Agency-Affected Territory Relationship

The Legislature prescribes consideration of five factors anytime LAFCOs act on spheres of influence. These factors parallel the macro topics in municipal service reviews with a generalized focus on the relationship with the affected territory – including service needs and adequacy of available services. The factors also orient the Commission to broadly consider the relationship between current and planned land uses in the affected territory plus – and as needed – effects on qualifying disadvantaged unincorporated communities. The factors and staff analysis follows.

- With respect to **present and planned land uses**, the affected territory as submitted comprises one vacant parcel with minimal physical improvements that collectively spans 5.14 acres within the Rancho Santa Fe community. The affected territory is unincorporated with the County of San Diego planning otherwise low-density single-family residential uses and marked by a minimum parcel size of 2.0 acres. The planned residential use – which parallels existing surrounded uses – is readily compatible with the proposal and conforming sphere amendments to facilitate the affected territory's development under consideration.

- With respect to **present and probable need for one or more public services**, there is a pending need for a potable water service within the affected territory to accommodate the development contemplated under the County's land use policies. This present and probable service need is readily compatible with the proposal and conforming sphere amendments under consideration.

- With respect to **overall adequacy of the agencies' public services**, no material deficiencies have been identified by LAFCO staff as part of the proposal review. Specifically, and as detailed in the proceeding section, Santa Fe ID has the supply and means to provide potable water to the affected territory without adverse impacts to current ratepayers. This adequacy provides sufficient compatibility with the proposal and conforming sphere amendments under consideration.

- With respect to **social or economic communities of interest if relevant to the agencies**, the Commission previously determined the affected territory's social and economic ties were best aligned with Olivenhain MWD, and accordingly placed the subject land within MWD's sphere beginning in 1984. Subsequently, the affected territory was reconfigured through a larger subdivision and resulted in the establishment of an open space easement along its eastern border. This easement now creates a habitat buffer between the remainder of the affected territory and Olivenhain MWD's existing infrastructure. Staff believes the easement serves as the substantive realignment of the affected territory's social and economic interest given any development as planned under the County of San Diego is largely dependent on connecting to Santa Fe ID's potable water system.

- With respect to **present and probable need for services involving any disadvantaged unincorporated communities,** none of the affected territory qualifies under LAFCO statute.

- Sphere Factor No. 3:
  Consideration of Policy L-102

  San Diego LAFCO's policies guiding sphere of influence actions are primarily codified under L-102. This policy was adopted in August 1990 and last substantively updated in June 2000. It directs the Commission to utilize spheres to guide deliberations on future changes of organizations and in doing so – and among other growth management objectives – help reflect and preserve community identities. The policy further directs LAFCO to use spheres to discourage duplication of municipal services and similarly encourages local agency consolidations, whether functional or political. The sphere of influence amendments necessary to accommodate the proposed reorganization conforms with L-102. Most directly, the amendments would facilitate known and otherwise modest jurisdictional changes while being responsive to local conditions. This latter comment ties to extending potable water service via existing infrastructure while avoiding the disturbance of an open-space easement.

CONCLUSION |
MERITS OF CONFORMING SPHERE OF INFLUENCE AMENDMENTS

The conforming sphere of influence amendments necessary to accommodate the proposed reorganization is sufficiently justified under both statute and local policy. Justification is marked by the preceding analysis and largely premised on the following assumptions. First, it is assumed the Commission determines a new municipal service review for Santa Fe ID as the receiving agency is not necessary given the otherwise limited scope of service impacts associated with the annexation and a waiver is appropriate. Second, it is assumed the Commission determines there is sufficient connectivity between Santa Fe ID's services and the communities of interest within and adjacent to the affected territory now and going forward.

Item No. 2 |
Reorganization Timing

San Diego LAFCO's consideration of the proposed reorganization's timing draws on analyzing baseline factors required in statute as well as applicable policies set by the Commission. Most of the baseline factors in statute focuses on disclosing and otherwise addressing compatibility issues with external goals and policies of other State, regional, and local agencies as well as assessing the ability of subject agencies providing services going forward.[5] Applicable local policies prompted for consideration are headlined by L-107 and its attention to disclosing and/or addressing any known or perceived jurisdictional disputes.

5 Reference to Government Code Section 56668.

Analysis of these two related timing factors follows.

- Timing Factor No. 1:
  Baseline Considerations: Regional Policies + Service Relationships

  State law prescribes the mandatory consideration of certain and multifaceted factors anytime LAFCOs consider jurisdictional changes. These factors range in substance from disclosures – such as the affected territory's current land uses, assessed values, register voter counts, and so on – to discretionary analyses. This latter category is highlighted by evaluating the proposed annexation's relationship to community needs as well as the service capacities and related financial resources of the subject agencies. A summary of key conclusions generated in reviewing these discretionary matters for the proposed reorganization with an emphasis on the receiving entity (Santa Fe ID) regarding (a) service needs, (b) service availability and capacities, and (c) related financial considerations follow.

  - With respect to **service needs**, the affected territory's planned residential uses merits potable water service. Annexation of the affected territory to Santa Fe ID to facilitate the extension of potable water service accommodates this need. It also serves as a preferred alternative to the landowner-applicant connecting to Olivenhain MWD and in doing so traversing and disturbing sensitive biological habitat that is otherwise captured in an existing open-space easement.

  - With respect to **service availability and capacities**, Santa Fe ID has available and sufficient capacities to accommodate projected water demands in the affected territory at its planned maximum uses. Additional details follow.

    An existing Santa Fe ID distribution main is located immediately northeast of the affected territory within the public rights-of-way Colina Fuerte. It is projected by LAFCO the maximum average day water flow generated within the affected territory based on the planned development is 1,500 gallons or 0.005 acre-feet. This projected amount, which assumes the development of a single-family residence and an accessory dwelling unit with ornamental landscaping can be readily accommodated by Santa Fe ID given it represents only 1.4% of its available treatment capacity remaining within its water system.[6] This projected amount similarly serves as the ultimate buildout demand given the existence of the conservation easement paired with slope restrictions.

  - With respect to **related financial considerations**, Santa Fe ID has adequate financial resources and related administrative controls to provide retail water services to the affected territory in support of its present and planned development without adversely impacting current ratepayers. This comment is reflected in the staff analysis of recent audited statements, which shows the Santa

6 The average daily water demand for Santa Fe ID for FY21-22 is 27.14 acre-feet or 9,908.8 acre-feet annually. Santa Fe ID's total available daily treated supply less current demands is 31.2 million gallons or 95.6 acre-feet.

Fe ID having established favorable liquidity and capital levels and highlighted by a current ratio of 8.78 to 1 and debt ratio of 32.81%. Further, Santa Fe ID has maintained positive year-end balances with an average total margin of 25.16% over the last 36 months.

- Timing Factor No. 2:
  Consideration of Policy L-107

  San Diego LAFCO adopted L-107 in May 2010 to require all applicants to disclose jurisdictional disputes or related items that are associated with their proposal filings. If applicable, and unless waived by the Executive Officer, the policy requires applicants and/or their representatives to consult with opponents to resolve any known issues – concerns, disputes, etc. – before the item is formally considered by the Commission.[7] If an agreement is reached through the consultation process, the policy states the Commission shall consider the provisions as part of the application. If an agreement is not reached despite exhausting good-faith efforts, the policy states the Commission shall proceed to consider the application as submitted.

  No jurisdictional disputes have been disclosed by the Santa Fe ID or Olivenhain MWD. LAFCO staff, similarly, has not identified any disputes or related concerns involving other local agencies in the administrative review.

CONCLUSION |
MERITS OF REORGANIZATION TIMING

The timing of the reorganization to annex the affected territory to Santa Fe ID to facilitate the establishment of potable water service is warranted. Justification is marked by the preceding analysis and highlighted by appropriately responding to the need for retail water service within the affected area consistent with planned and expected uses paired with sufficient capacities to serve. Additional analysis supporting the conclusion is provided in Appendix A.

Item No. 3 |
Modifications and Terms

No modifications to the submitted reorganization have been identified by San Diego LAFCO staff meriting Commission consideration at this time. This includes confirmation that the annexation of the affected territory would not generate any corridors and/or otherwise illogical jurisdictional features.

7 The Executive Officer retains discretion to determine the extent of consultation needed.

CONCLUSION | MODIFICATIONS AND TERMS

No modifications appear warranted. Standard approval terms are recommended and include receipt of all remaining payments associated with the processing of the proposal by the Commission through recordation.

Other Statutory Considerations

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement between the County of San Diego and the subject agencies for the proposed reorganization before San Diego LAFCO. The associated statutes also empower the County of San Diego to make all related property tax exchange determinations on behalf of the subject agencies given they are both special districts. LAFCO staff has confirmed the County Board of Supervisors has adopted a master enterprise district resolution applicable to the proposed reorganization. The exchange agreement specifies no transfer of property taxes would occur should the commission approve the concurrent annexations of the affected territory to Santa Fe ID.

Environmental Review

San Diego LAFCO is obligated under CEQA to assess whether environmental impacts would result from activities approved under the Commission's authority, either as a lead or responsible agency. The Commission is tasked with making two distinct findings under CEQA in consideration of the proposed reorganization. Staff's analysis follows.

- San Diego LAFCO serves as lead agency under CEQA for the conforming sphere of influence amendments to Santa Fe ID and Olivenhain MWD. It is recommended the Commission find these actions a project under CEQA but exempt from further review under State CEQA Guidelines Section 15061(b)(3). This exemption appropriately applies given it can be seen with certainty spheres are planning policies and any amendments do not make any changes to the environment or authorize any new uses.

- San Diego LAFCO serves as lead agency under CEQA for the reorganization given it has been initiated by a landowner petition. It is recommended the Commission find these actions a project under CEQA but exempt from further review under State CEQA Guidelines Section 15320. This exemption appropriately applies given the underlying action involves transferring the authority to provide municipal potable water service between two public agencies within the same area with no additional powers or expansions therein.

Protest Proceedings

Protest proceedings for the proposed reorganization may be waived by San Diego LAFCO should the Commission proceed with an approval under Government Code Section 56663(a). This waiver appropriately applies both subject agencies have waived their right to protest and the landowner has provided their consent to the proceedings as applicant.

RECOMMENDATION

Staff recommends conditional approval of the reorganization proposal as submitted along with conforming sphere of influence amendments as detailed. This recommendation and ancillary actions are consistent with Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO:

Alternative One (recommended):
Adopt the attached draft resolution conditionally approving the reorganization proposal as submitted (no modifications) and conforming sphere of influence amendments as detailed along with making required findings under CEQA. Protest would also be waived.

Alternative Two:
Continue consideration to the next regular meeting.

Alternative Three:
Disapprove the reorganization proposal with direction to staff to return at the next regular meeting with a conforming resolution for adoption.

PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of a noticed public hearing. The following procedures are suggested.

1. Commissioner disclosures, if any.
2. Receive verbal presentation from staff unless waived.
3. Open the public hearing and invite testimony beginning with the applicant.
4. Discuss item and consider the staff recommendation.

On behalf of the Executive Officer,

Michaela Peters

Michaela Peters
Analyst I

Appendices:

A) Analysis of Boundary Change Factors

Attachments:

1) Map of the Affected Territory
2) Draft LAFCO Resolution of Approval
3) Open Space Easement Map
4) Application Materials

APPENDIX A

Government Code Section 56668
Mandatory Proposal Review Factors

a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to populated areas; the likelihood of significant growth in the area, and adjacent areas, in the next 10 years.

The affected territory as submitted comprises one unincorporated parcel in the semi-rural residential community of Rancho Santa Fe and collectively spans 5.14 acres total. The subject parcel is currently undeveloped with plans of developing a single-family residence, pool, and an accessory unit. The County of San Diego Assessor's Office identifies the parcel as 265-441-01 with a total land value of $612,200.

b) The need for municipal services; the present cost and adequacy of municipal services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

The County of San Diego serves as the primary purveyor of general governmental services to the affected territory. These services include community planning, roads, street lighting, and law enforcement. Other pertinent service providers include Rancho Santa Fe FPD (fire protection, emergency medical, and ambulance transport) and Rancho Santa Fe CSD (wastewater). The proposal affects only potable water via the proposed transfer from Olivenhain MWD to Santa Fe ID and is the focus of the following analysis.

- **Potable Water Service**
  Santa Fe ID would directly assume potable water service responsibilities for the affected territory upon the reorganization from Olivenhain MWD. An existing Santa Fe ID distribution main is located immediately northeast of the affected territory within the public right-of-way Colina Fuerte. It is projected by LAFCO the maximum average day water flow generated within the affected territory based on the planned development is 1,500 gallons or 0.005 acre-feet. This projected amount, which assumes the development of a single-family residence and an accessory dwelling unit with ornamental landscaping can be readily accommodated by Santa Fe ID given it represents only 1.4% of its available treatment capacity remaining within its water system. This projected amount similarly serves as the ultimate buildout demand given the existence of the conservation easement paired with slope restrictions.

c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on local governmental structure.

Approving the reorganization and annexation therein to Santa Fe ID would establish clear economic and social ties between the District and the affected territory.

d) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies/priorities set forth in G.C. Section 56377.

Approving the proposed reorganization and annexation to Santa Fe ID would facilitate the orderly and otherwise modest expansion of the District's jurisdictional boundary and potable water system. This includes – notably – allowing the landowner-applicant to connect their planned single-family residence to a Santa Fe ID distribution line to the west without otherwise needing to disturb an open-space easement if connecting to Olivenhain MWD's distribution line to the east. The affected territory does not contain "open space" as defined under LAFCO law and no conflicts exists under Government Code Section 56377. Additional analysis concerning conformance with germane Commission policies follows.

- San Diego LAFCO Policy L-107 requires applicants to disclose and address potential jurisdictional issues associated with their proposals, and if applicable, requires a consultation process with affected agencies, interested parties, or organizations to help discuss and potentially remedy concerns unless waived by the Executive Officer. No jurisdictional disputes or related concerns were identified or disclosed by the applicant, subject agencies, or interested parties in the review of the proposal.

e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.

The affected territory does not presently contain "agricultural land" as defined under LAFCO law. Specifically, the affected territory does not contain lands currently used for any of the following purposes: producing an agricultural commodity for commercial purposes; left fallow under a crop rotational program; or enrolled in an agricultural subsidy program.

f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment, the creation of islands or corridors of unincorporated territory, and other similar matters.

LAFCO is in receipt of a draft map and geographic description of the affected territory that details metes and bounds that appears consistent with the standards of the State Board of Equalization and conforming with lines of assessment. LAFCO approval would be conditioned on approval of the map and geographic description by the County Assessor's Office and address any modifications enacted by the Commission.

g) A regional transportation plan adopted pursuant to Section 65080.

The recommended reorganization would not conflict with San Diego Forward, the regional transportation plan established by the San Diego Association of Governments (SANDAG).

h) Consistency with the city or county general and specific plans.

The affected territory is entirely unincorporated and under the land use authority of the County of San Diego and its adopted policies. Specific development policies for the affected territory are delegated in the County General Plan to the San Dieguito Community Plan (2011). The present land use designation applied to the affected territory is Semi-Rural Residential (SR-2), which provides up to one dwelling unit per every 2, 4, or 8 acres depending on slope. The affected territory is zoned Rural Residential (RR) with a minimum parcel size prescription of 2.0 acres. Based on the current configuration, the zoning assignment produces a maximum density for the affected territory of two legal parcels. The zoning assignment relatedly produces a maximum density of four dwelling units and divided between each legal parcel having a single-family residence and accessory dwelling unit.

The landowner-applicant has disclosed as part of the proposal filing, they have initiated pre-application discussions with the County of San Diego with tentative plans to develop a single-family residence, pool, and an accessory dwelling unit.

i) The sphere of influence of any local agency affected by the proposal.

See agenda report analysis.

j) The comments of any affected local agency or other public agency.

Notice of the submitted reorganization proposal was distributed to all affected and subject agencies as required under LAFCO law. Notices were also provided to all local college and school districts. No written comments on the proposal were received ahead of preparing this agenda report for distribution on November 27, 2023.

k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Information collected and reviewed as part of this proposal indicates the Santa Fe ID has overall sufficient and available financial resources and administrative controls therein relative to serving the affected territory without adversely impacting existing constituents. This statement is supported by the following factors.

- Santa Fe ID last outside audit covers 2021-2022 and shows the District finished with sufficient liquidity levels with an agency-wide current ratio of 8.78 (i.e., $8.78 in current assets for every $100.00 in current liabilities).

- Santa Fe ID finished 2021-2022 with good capital levels and marked by a debt ratio of 32.81% (i.e., only $32.81 out of every $100.00 in net assets are financed.)

- Santa Fe ID finished 2021-2022 with an overall total margin of 25.16%.

l) Timely availability of adequate water supplies for projected needs as specified in G.C. Section 65352.5.

The affected territory's planned residential uses are presently within and connected to Santa Fe ID's potable water system with wholesale supplies provided by the San Diego County Water Authority. Approval of the proposed reorganization would not affect these existing relationships and/or commitments. Further, Santa Fe ID did not request any approval terms in the course of receiving a notice of review on the reorganization.

m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs.

The proposed reorganization would not impact any local agencies in accommodating their regional housing needs. All potential units tied to the lands are already assigned to the County of San Diego by the region's council of governments through the standing exclusion of the land within any cities' spheres of influence.

n) Any information or comments from the landowners, voters, or residents.

The landowner has initiated the proposed reorganization. There are no residents or voters currently within the affected territory.

o) Any information relating to existing land use designations.

See above analysis for (h).

p) The extent to which the proposal will promote environmental justice.

The reorganization is expected to aid and/or otherwise promote environmental justice by enhancing the availability of potable water service within the affected territory. This latter category – notably – includes low-income communities, communities of color, tribal nations, and other disadvantaged groups. Consideration of existing environmental justice factors within the affected territory draw on staff analyzing data available from the California Environmental Protection Agency through its online assessment tool (CalEnviroScreen 4.0).

Two composite percentile rankings for the affected territory are generated within this analysis and involves (a) pollution burdens and (b) susceptible population to pollution burdens relative to all census tracts in California. These rankings follow.

- The affected territory's **composite pollution burden ranking** falls in the forty-third percentile with an internal range between 3 to 98 percentiles. Six pollution burden measurements exceed the 50 percentile and considered relatively high. These six measurements are relative to pesticides, groundwater threats, cleanup sites, hazardous waste, impaired water, and solid waste.

- The affected territory's **composite susceptible population** ranking falls in the sixth percentile with an internal range between 1 to 45 percentiles. None of these at-risk groups exceeds the 50 percentile.

A summary of all tracked pollution burdens and susceptible population follows.

Census Tract 6073017110
Pollution Burdens and Susceptible Population
Table 2.6a (Source: California Environmental Protection Agency and SD LAFCO)

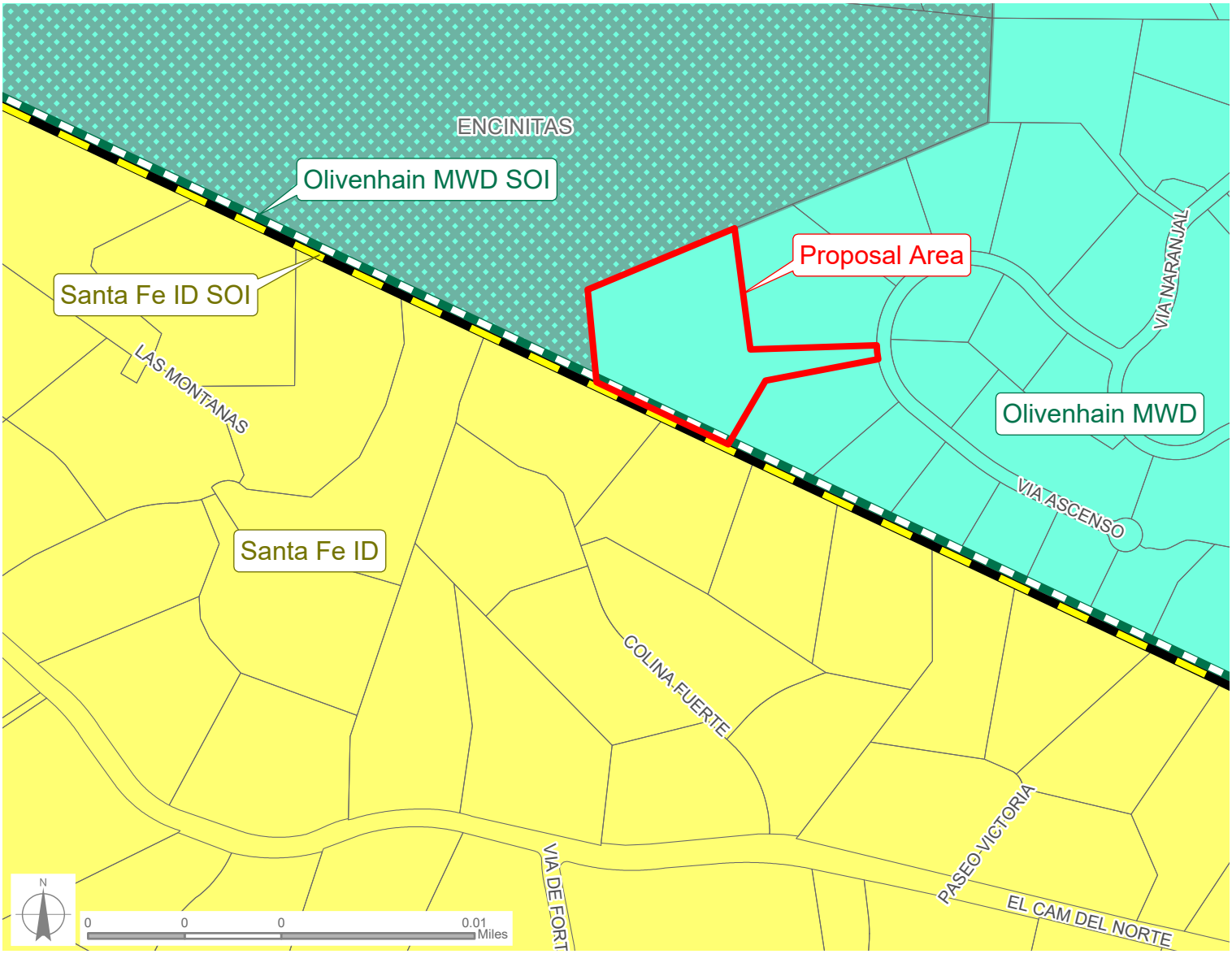
Factor	Census Tract 6073017110
No. of Census Tracts	1
Estimated Population within Tract(s)	11,906
Pollution Burden	**Weighted Percentile**
… Percentile	**43.4**
Indicator | Air Quality: Ozone	40.1
Indicator | Air Quality: PM 2.5:	15.3
Indicator | Air Quality: Diesel PM:	17.9
Indicator |Pesticides:	70.5
Indicator | Toxic Releases:	13.3
Indicator |Traffic:	22.1
Indicator | Drinking Water Contaminants:	50.8
Indicator | Lead in Housing:	3.5
Effects | Cleanup Sites:	50.3
Effects | Groundwater Threats:	27.8
Effects | Hazardous Waste:	82.0
Effects | Impaired Water:	98.07
Effects | Solid Waste:	52.9
Sensitive Population	**Weighted Percentile**
… Percentile	**6.5**
Population | Asthma:	1.3
Population | Low Birth Weight:	31.7
Population | Cardiovascular Disease:	5.2
Population | Education:	10.3
Population | Linguistic Isolation:	32.0
Population | Poverty:	21.3
Population | Unemployment:	45.8
Population | Housing Burden:	13.9

q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone or maps that identify land determined to be in a state responsibility area, if it is determined that such information is relevant to the affected territory.

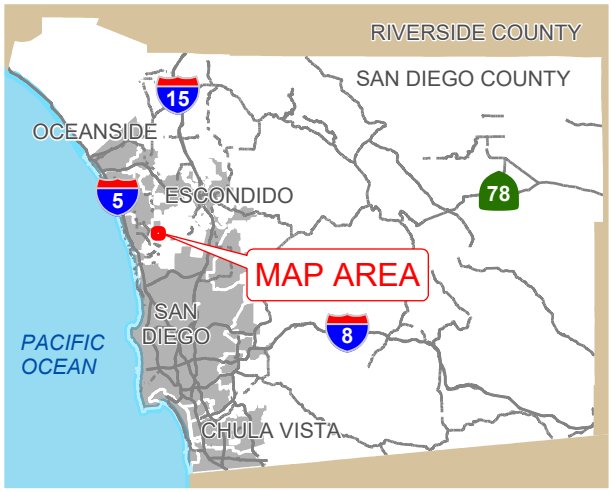
The County of San Diego General Plan contains a hazard mitigation plan for potential fire, flooding, and earthquakes. The affected territory lies in a Very-High Fire Hazard Severity Zone and a low earthquake hazard area.

r) Section 56668.3(a)(1) Whether the proposed annexation will be for the interest of the landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.

Approval of the reorganization would be in the best interest of the current and future landowners and/or residents of the affected territory by providing reliable water service going forward.







RO23-08

"COLINA FUERTE - VIA ASCENSO REORGANIZATION" | ANNEXATION TO THE SANTA FE ID WITH CONCURRENT DETACHMENT FROM OLIVENHAIN MWD AND CONFORMING SPHERE OF INFLUENCE ACTIONS

SOI = Sphere of Influence

- Proposal Area
- Santa Fe ID SOI
- Olivenhain MWD SOI
- Santa Fe ID
- Olivenhain MWD

San Diego County Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

This map is provided without warranty of any kind, either express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. Copyright LAFCO and SanGIS. All Rights Reserved.This product may contain information from the SANDAG Regional Information System which cannot be reproduced without the written permission of SANDAG. This map has been prepared for descriptive purposes only and is considered accurate according to SanGIS and LAFCO data.

G:\GIS\Vicinity_Maps\agendamaps2023\23-08 SantaFe ID Colina Fuerte.aprx

Created by Dieu Ngu -- 8/15/2023

Blank for Photocopying

RESOLUTION NO. _____

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING, AND ORDERING A REORGANIZATION

"COLINA FUERTE-VIA ASCENSO REORGANIZATION"
ANNEXATION TO THE SANTA FE IRRIGATION DISTRICT WITH CONCURRENT DETACHMENT FROM OLIVENHAIN MUNICIPAL WATER DISTRICT
LAFCO FILE NO: RO23-08

WHEREAS, on May 17, 2023, interested landowner – Brendan Eckelman – filed a petition to initiate proceedings and an application with the San Diego County Local Agency Formation Commission, hereinafter referred to as "Commission", pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the application before the Commission seeks approval of a reorganization of approximately 5.14 acres of unincorporated territory in the County of San Diego involving annexation to the Santa Fe Irrigation District with concurrent detachment from the Olivenhain Municipal Water District; and

WHEREAS, the affected territory as proposed includes one undeveloped legal parcel and identified by the County of San Diego's Assessor's Office as 265-441-01; and

WHEREAS, an applicable master property tax transfer agreement applies to the proposed reorganization dated December 14, 1982; and

WHEREAS, the Commission's Executive Officer has reviewed the proposed reorganization and prepared a report with recommendations; and

WHEREAS, the Executive Officer's report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a noticed public meeting on the proposal on December 4, 2023;

WHEREAS, the Commission considered all the factors required by law under Government Code Sections 56425 and 56668 as well as adopted local policies and procedures.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The public meeting was held on the date set therefore, and due notice of said meeting was given in the manner required by law.

2. At the public meeting, the Commission considered the Executive Officer's report.

3. With respect to considering the effects of the proposed reorganization under the California Environmental Quality Act (CEQA), the Commission's makes the following findings:

    a) San Diego LAFCO serves as lead agency under CEQA for the conforming sphere of influence amendments to Santa Fe ID and Olivenhain MWD. It is recommended the Commission find these actions a project under CEQA but exempt from further review under State CEQA Guidelines Section 15061(b)(3). This exemption appropriately applies given it can be seen with certainty spheres are planning policies and any amendments do not make any changes to the environment or authorize any new uses.

    b) San Diego LAFCO serves as lead agency under CEQA for the reorganization given it has been initiated by a landowner petition. It is recommended the Commission find these actions a project under CEQA but exempt from further review under State CEQA Guidelines Section 15320. This exemption appropriately applies given the underlying action involves the transfer of existing municipal service function authority within the same area with no additional powers or expansions therein.

4. The Commission CONDITIONALLY APPROVES the sphere of influence amendments for Santa Fe ID (addition) and Olivenhain MWD (removal) to accommodate and otherwise match the reorganization as shown in Exhibit A and does so by making the determinative statements covering the factors under Government Code Section 56425 provided in the Executive Officer's written report.

    a) Approval of the above-stated sphere of influence amendments are contingent upon the approval and related issuance of a Certificate of Completion.

    b) Approval of the above-stated sphere of influence amendments include an enabling waiver by the Commission as recommended by the Executive Officer of the provision in L-106 that would otherwise require the preparation of one or more municipal service reviews.

5. The Commission CONDITIONALLY APPROVES the reorganization without modifications and subject to conditions as provided. Approval involves all the following:

    a) Annexation of the affected territory to the Santa Fe Irrigation District as shown in "Exhibit A-1" and described in "Exhibit A-2".

    b) Detachment of the affected territory from Olivenhain Municipal Water District as shown in "Exhibit A-1" as described in Exhibit A-2".

6. The Commission CONDITIONS all approvals on the following terms being satisfied by December 4, 2024, unless an extension is requested in writing and approved by the Executive Officer:

    a) Completion of the 30-day reconsideration period provided under Government Code Section 56895.

b) Submittal to the Commission of final map and geographic description of the affected territory as approved by the Commission conforming to the requirements of the State Board of Equalization – Tax Services Divisions.

c) Submittal to the Commission of the following payments:

- A check made payable to LAFCO in the amount of $100.00 for the County of San Diego-Clerk Recorder to reimburse for filing a CEQA Notice of Determination and Notice of Exemption consistent with the finding in the resolution.

- A check made payable to the State Board of Equalization for processing fees in the amount of $350.00.

- A check made payable to LAFCO in an amount to be separately noticed to cover the public hearing publication costs with the Union Tribute.

d) Written confirmation from the subject agencies that all reorganization terms established by their respective boards and/or ordinances have been satisfied.

7. The Commission assigns the proposal the following short-term designation: "Colina Fuerte-Via Ascenso Reorganization".

8. The affected territory as designated by the Commission is uninhabited as defined in Government Code Section 56046.

9. The Commission waives conducting authority proceedings under Government Code Section 56662.

10. The Santa Fe Irrigation District and Olivenhain Municipal Water District are registered-voter districts.

11. The Santa Fe Irrigation District and Olivenhain Municipal Water District all utilize the County of San Diego assessment roll.

12. The affected territory will be liable for any existing bonds, contracts, and/or obligations of the Santa Fe Irrigation District as provided under Government Section 57328.

13. The effective date of the approval shall be the date of recordation but not before the completion of a 30-day reconsideration period and only after all terms have been completed as attested by the Executive Officer.

14. As allowed under Government Code Section 56107, the Commission authorized the Executive Officer to make non-substantive corrections to the resolution to address any technical defects, errors, irregulates, or omissions.

15. The Executive Officer is hereby authorized and directed to transmit copies of this resolution as provided in Sections 56880-56882 of the Government Code.

16. The Executive Officer is further authorized and directed to prepare, execute, and record a Certificate of Completion, make the required filings with the County Assessor, County Auditor, and the State Board of Equalization as required by Section 57200, et seq., of the Government Code.

**

PASSED AND ADOPTED by the Commission on December 4, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

**

ATTEST:

_____
Keene Simonds
Executive Officer

EXHIBIT A-1
MAP OF AFFECTED TERRITORY

-Placeholder-

Blank for Photocopying

EXHIBIT A-2
GEOGRAPHIC DESCRIPTION OF THE AFFECTED TERRITORY

-Placeholder-

Blank for Photocopying

MAP NO. 11899

COUNTY OF SAN DIEGO TRACT NO. 4553

SHEET 6 OF 16 SHEETS

- OPEN SPACE EASEMENT GRANTED HEREON
- PUBLIC SEWER EASEMENT OVER ALL OF LOT 45 DEDICATED HEREON
- PUBLIC SEWER EASEMENT DEDICATED HEREON
- WATERLINE EASEMENT TO OLIVENHAIN MUNICIPAL WATER DISTRICT OVER LOT 45 DEDICATED HEREON.

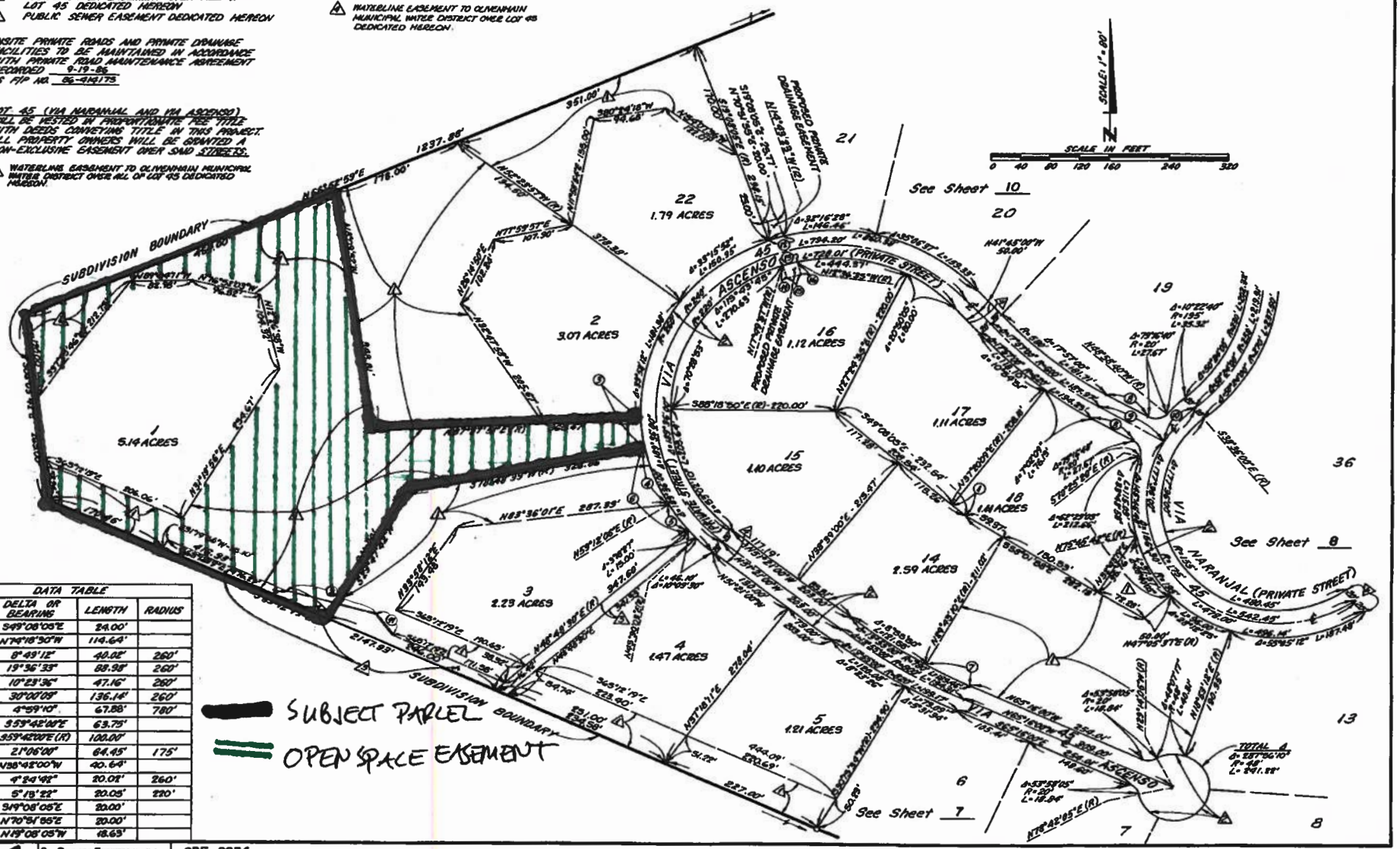
ONSITE PRIVATE ROADS AND PRIVATE DRAINAGE FACILITIES TO BE MAINTAINED IN ACCORDANCE WITH PRIVATE ROAD MAINTENANCE AGREEMENT RECORDED 9-19-86 AS F/P NO. 86-414175

LOT 45 (VIA NARANJAL AND VIA ASCENSO) WILL BE VESTED IN PROPORTIONATE FEE TITLE WITH DEEDS CONVEYING TITLE IN THIS PROJECT. ALL PROPERTY OWNERS WILL BE GRANTED A NON-EXCLUSIVE EASEMENT OVER SAID STREETS.

WATERLINE EASEMENT TO OLIVENHAIN MUNICIPAL WATER DISTRICT OVER ALL OF LOT 45 DEDICATED HEREON.

SCALE 1" = 80'

SCALE IN FEET 0 40 80 120 160 240 320



DATA TABLE

ITEM	DELTA OR BEARING	LENGTH	RADIUS
(1)	S49°08'05"E	24.00'	
(2)	N74°18'50"W	114.64'	
(3)	8°49'12"	40.02'	260'
(4)	19°26'33"	88.98'	260'
(5)	10°23'36"	47.16'	260'
(6)	30°00'09"	136.14'	260'
(7)	4°59'10"	67.88'	780'
(8)	S53°42'02"E	63.79'	
(9)	S59°42'02"E(R)	100.00'	
(10)	21°06'00"	64.45'	175'
(11)	N38°42'00"W	40.64'	
(12)	4°24'42"	20.01'	260'
(13)	5°13'22"	20.05'	220'
(14)	S19°08'05"E	20.00'	
(15)	N70°51'55"E	20.00'	
(16)	N19°08'05"W	18.63'	

SDE-2934

SAN DIEGUITO ENGINEERING, INC.
CIVIL ENGINEERING • PLANNING
LAND SURVEYORS

GRADING PLAN L- NONE

CALIF COORD. INDEX 318-1701(X)

COUNTY TM 4558-1

Blank for Photocopying

Part IVb: LANDOWNER PETITION

Petitions must meet minimum signature requirements (see Part V). Signatures must be secured within six months of the date on which the first signature was affixed. Petitions must be submitted to the LAFCO Executive Officer within 60 days after the last signature is affixed (Govt. Code § 56705).

Each of the undersigned states:

- I personally signed this petition.
- I am a landowner of the affected territory.
- I personally affixed hereto the date of my signing this petition and the Assessor's Parcel Number(s), or a description sufficient to identify the location of my land.

Name of Signer	Assessor's Parcel Number(s)	Date Signed	Official Use
Sign [signature] Print BRENDAN ECKELMAN	265-441-01	5/15/23	
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			

Blank for Photocopying

7a

AGENDA REPORT
Business | Discussion

December 4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Chris Cate, LAFCO Consultant

SUBJECT: **Preliminary Assessment | Commission Oversight Duties and Port of San Diego**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a preliminary assessment on LAFCO's oversight duties as they relate to the Port of San Diego – formally the San Diego Unified Port District – for discussion and feedback. The assessment ties to a recent request by Commissioner MacKenzie with concurrence from the Commission. Based on available information, the assessment concludes the Port is a special district subject to LAFCO oversight. It similarly concludes the Port qualifies as an "independent" special district, and accordingly eligible to seat members on the Commission and responsible for proportionally paying part of the special districts' share of the LAFCO budget. The assessment is qualified given the potential for additional information to be provided. This includes an anticipated response from the Port to substantiate their position they are not subject to LAFCO oversight. Staff will draw on the discussion and related public comments in finalizing the assessment for future Commission consideration.

BACKGROUND

LAFCOs' Oversight Responsibilities

The State Legislature delegates LAFCOs' responsibilities to regulate and plan the location of cities and most special districts and their municipal service areas in all 58 counties. This

Administration
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
www.sdlafco.org
lafco@sdcounty.ca.gov

Chair Jim Desmond, County of San Diego
Joel Anderson, County of San Diego
Nora Vargas, Alt., County of San Diego
Kristi Becker, City of Solana Beach
Dane White, City of Escondido
John McCann Alt., City of Chula Vista
Vice Chair Stephen Whitburn, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Jo MacKenzie, Vista Irrigation
Barry Willis, Alpine Fire Protection
David Drake, Alt., Rincon del Diablo
Andy Vanderlaan, General Public
Harry Mathis, Alt., General Public

includes establishing, expanding, and reorganizing cities and districts in meeting LAFCOs' underlying directive to facilitate orderly and accountable growth and development relative to community needs – current and future – as determined by individual LAFCOs. Specific regulatory actions under LAFCO statute include the following: city incorporations and disincorporations; district formations, consolidations, and dissolutions; city and district mergers; and city and district annexations and detachments.

Special Districts Defined in LAFCO Statute

The Legislature defines "special district" under LAFCO statute as follows: [1]

> "An agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries and in areas outside district boundaries when authorized by the commission pursuant to Section 56133."

Special Districts Excluded in LAFCO Statute

The Legislature excludes the following special districts from LAFCO oversight that otherwise would qualify under the preceding definition: [2]

- School Districts
- Community College Districts
- Assessment Districts
- Special Assessment Districts
- Improvement Districts
- Community Facilities Districts (Mello Roos)
- Permanent Road Districts
- Air Pollution Control Districts
- Air Quality Maintenance Districts

DISCUSSION

This item is for San Diego LAFCO to review a preliminary assessment addressing LAFCO's oversight duties in statute as it relates to the Port of San Diego. The assessment has been prepared in response to an October 2023 request from the dais by Commissioner MacKenzie with concurrence from the Commission. The request ties to a recent Civil Grand Jury report, which – among other items – identifies the lack of local oversight of the Port. A front-page article in the Union-Tribune proceeded to cover the Grand Jury report and presented its own queries into the Port and related accountability issues. Copies are attached.

Additional discussion regarding LAFCO practice as well as related inquiries follows.

[1] Reference to Government Code 56036(a).
[2] Reference to Government Code 56036(b).

Historical Practice to Date

San Diego LAFCO has not asserted any direct oversight of the Port to date. (The Port's establishment predates LAFCO.) The origins of the practice, however, are uncertain to current staff, most of whom joined LAFCO after 2017. There are no records showing the topic – and specifically why the Port is not included in the group of special districts overseen by LAFCO – being addressed by previous Executive Officers and/or Commissions.

Revisiting the Port's Status in 2019

In 2019, San Diego LAFCO received a reorganization filing seeking annexation of certain unincorporated territory to the City of National City.[3] The administrative review led staff to revisit the Port's status relative to the Commission and whether a concurrent annexation to the Port through LAFCO was needed. The latter prompt ties to the Port's enabling act setting the original boundary to match the Cities of Chula Vista, Coronado, Imperial Beach, and San Diego, and if subsequent annexations to these agencies requires concurrent action by LAFCO to formally add to the Port. However, the combination of uncertainty in the origins of past practice to not require and/or process concurrent annexations to the Port, paired with the applicant's timing interests, led staff to table the topic. The Commission proceeded to approve the reorganization without further inquiry into the Port in December 2019.

Returning to the Port's Status in 2021

The pandemic delayed LAFCO staff returning to the Port topic until late 2020. After performing initial analysis, staff reached out to the Port in e-mail in December 2020 to communicate – and historical practice aside – it may be subject to the Commission. A meeting was subsequently held in June 2021 between senior staff with both sides agreeing to explore the topic in greater detail. LAFCO staff proceeded to perform additional analysis in step with consulting with outside counsel and proceeded to summarize their tentative conclusions in an August 6, 2021, letter to the Port with advance notice to then-Chair Andy Vanderlaan. The letter tentatively concluded – and in the absence of other information – the Port was subject to LAFCO oversight and responsible for contributing towards the special districts' annual share of the LAFCO budget. The Port responded on September 16, 2021, they would review the matter in more detail. No further communications were received.

ANALYSIS

The preliminary assessment before San Diego LAFCO revisits and expands on staff's earlier analysis as described in the preceding sections regarding the LAFCO-Port relationship. This includes revisiting the earlier record in its entirety and seeking direct input from the Port. Based on the information available, the assessment determines the Commission's oversight applies to the Port. It similarly determines the Port is eligible to serve on the Commission and responsible for paying a portion of the special districts' share of the LAFCO budget.

[3] Reference to the "Sweetwater Reorganization," LAFCO File No. RO19-16.

These central determinations draw and/or supported by the following factors.

1. The Legislature does not include port districts among the list of special districts excluded from Commission oversight under the Cortese-Knox-Hertzberg Act.

2. The San Diego Unified Port District Act is part of California Harbor and Navigation Code. There are two other known port districts – Stockton and Ventura – formed under the Harbor and Navigation Code; both agencies are overseen by their LAFCOs.

3. The San Diego Unified Port District Act specifies the Port may annex additional territory and/or be dissolved by "operation of law." It appears LAFCO statute serves as operation of law given no other direction is provided in the enabling act.

4. In the absence of LAFCO involvement, there are no clear mechanisms for boundary changes for the Port to be filed with the State via the Board of Equalization – Tax Division. Boundary change filings are done by the conducting authority. LAFCO assumed the conducting authority role from the affected cities and districts in 2000. The Tax Division reports no boundary change filings for the Port have been received thereafter despite – materially – three of the five Port cities (Chula Vista, National City, and San Diego) having annexed unincorporated lands. This disconnect suggests LAFCO should be reorganizing annexations involving the five cities to include concurrent annexation to the Port and filing accordingly with the Tax Division.[4]

5. The Port's Board of Commissioners are appointed by the five cities' councils to fixed four-year terms. This appointment method qualifies the Port as an "independent special district" within the definition of the Cortese-Knox-Hertzberg Act. This means the Port may participate in serving and selecting Commission members representing special districts. It also means the Port is responsible for contributing towards the special districts' annual share of the LAFCO budget.

Notwithstanding the above analysis, a material qualifier exists and may change the determinations as this assessment transitions from preliminary to final form. The qualifier involves the Port – or others, like the State Lands Commission – submitting information to LAFCO to substantiate autonomy from Commission oversight. However, as of date, no information has been provided by the Port despite a standing request from LAFCO dating back to August 2021. Recent conversations with the Port during the preparation of this assessment suggests a response is coming ahead and/or during the December 4th meeting.

[4] The Port's enabling act states lands annexed to the five cities shall be automatically added to the Port boundary. (Annexation of other lands would be subject to "operation of law.") The referenced LAFCO role would parallel a similar feature that was, until recently, part of the County Service Area (CSA) Act to require automatic detachments when annexing lands to cities. LAFCOs would take action to approve the automatic detachment and file the boundary change involving the CSA with the Board of Equalization – Tax Division. (The CSA Act was amended in the late 2000s as part of a comprehensive rewrite and removed the automatic detachment provision and allows LAFCOs to retain newly annexed city lands with CSAs under certain conditions.)

RECOMMENDATION

It is recommended San Diego LAFCO discuss the item and provide general direction to staff with respect to finalizing the assessment.

ALTERNATIVES FOR ACTION

No action proposed, discussion and feedback only.

PROCEDURES

This item has been placed on the agenda for discussion as part of San Diego LAFCO's business calendar. The following procedures, accordingly, are advised.

1) Receive verbal report from staff unless waived.
2) Initial discussion from the Commission.
3) Invite comments from the Port – if any – and the general public.
4) Additional discussion and feedback from the Commission.

Respectfully,



Keene Simonds
Executive Officer

Attachments:

1) LAFCO Letter to the Port, dated August 6, 2021
2) Port Response Letter to LAFCO, dated September 16, 2021 (received on October 5, 2021)
3) San Diego Unified Port District Act
4) Civil Grand Jury Report: Governance of San Diego Bay, 2022-2023
5) Union-Tribune: Does the SD Port Have Too Much Power, September 5, 2023
6) Government Code 56036
   Subsection (a) – definition of special district in LAFCO statute
   Subsection (b) – exclusion of certain special districts from LAFCO oversight
7) Government Code 56044 – definition of independent special districts in LAFCO statute

Blank for Photocopying

San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

August 6, 2021

Delivered Electronically
Mr. Joe Stuyvesant, Executive Officer
San Diego Unified Port District
3165 Pacific Highway
San Diego, California 92101

SUBJECT: Tentative Conclusions Regarding San Diego LAFCO's Jurisdictional Oversight of the San Diego Unified Port District

Dear Mr. Stuyvesant:

This communication serves as a continuation of our videoconference meeting on June 9, 2021 regarding San Diego County Local Agency Formation Commission's (LAFCO) oversight of special districts and relationship therein with the San Diego Unified Port District. This earlier meeting was scheduled at my request to discuss a possible omission identified on our end in the administrative practice to exclude the San Diego Unified Port District from LAFCO oversight. Our continued review on the topic post June 9th – ranging from additional analysis of the San Diego Unified Port District's enabling legislation to communicating with the California State Lands Commission – leads to the following tentative conclusions:

1. San Diego Unified Port District is a special district regulated by San Diego LAFCO through the Cortese-Knox-Hertzberg Local Government Reorganization Act.

2. San Diego Unified Port District was established under special legislation and prescribed its initial formation procedures; however, it is otherwise subject to LAFCO jurisdiction. This distinction is highlighted in the special legislation by noting the San Diego Unified Port District may annex additional territory and/or be dissolved by "operation of law" and presumably – given no other provisions are provided – refers to LAFCO statute.

Administration
Keene Simonds, Executive Officer
County Operations Center
9335 Hazard Way, Suite 200
San Diego, California 92123
T 858.614.7755 F 858.614.7766
www.sdlafco.org

Vice Chair Jim Desmond, County of San Diego
Nora Vargas, County of San Diego
Joel Anderson, Alt., County of San Diego
Paul McNamara, City of Escondido
Mary Casillas Salas, City of Chula Vista
Kristi Becker, Alt., City of Solana Beach
Chris Cate, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Jo MacKenzie, Vista Irrigation
Barry Willis, Alpine Fire Protection
David Drake, Alt., Rincon del Diablo
Chair Andy Vanderlaan, General Public
Harry Mathis, Alt., General Public

3. San Diego Unified Port District is independent district under the Cortese-Knox-Hertzberg Local Government Reorganization Act and may participate in serving and selecting Commission members. The status as an independent district also means San Diego Unified Port District is responsible for proportionally funding LAFCO with other independent districts in San Diego County.

4. San Diego LAFCO and the State Lands Commission have legally separate oversight responsibilities with regard to the San Diego Unified Port District. LAFCO regulates the Port's jurisdictional boundary and municipal service functions and classes. State Lands Commission regulates the Port's access and use of publicly owned lands.

Should the above conclusions be finalized, San Diego LAFCO would proceed to establish a formal jurisdictional boundary for the San Diego Unified Port District along with establishing a sphere of influence. These actions would be done concurrently with preparing a municipal service review and relatedly inform LAFCO's task to designate service functions and classes for the San Diego Unified Port District as required for all special districts. The County Auditor's Office would also include the San Diego Unified Port District in its annual calculation of special district apportionments of the LAFCO operating budget.[1]

As referenced, the preceding conclusions are in tentative form and done so to continue our discussion on the appropriate relationship between San Diego LAFCO and the San Diego Unified Port District going forward. I readily recognize – nonetheless – I may not be in full possession of all the relevant facts and/or prior agreements on this topic and accordingly welcome the San Diego Unified Port District's review and input.

With appreciation,



Keene Simonds
Executive Officer

cc: DeeAnne Gillick, Outside Counsel, San Diego LAFCO
Job Nelson, Vice President of Strategy and Policy, San Diego Unified Port District

[1] As provided under statute, the independent special districts are responsible for covering 28% of San Diego LAFCO's annual budget. Individual apportionments are based on each special district's portion of total special district revenue collected in a recent fiscal year. In 2021-2022, San Diego Unified Port District's calculated apportionment would have been $88,356.43.

PORT of SAN DIEGO

September 16, 2021

RECEIVED
OCT 05 2021
SAN DIEGO LAFCO

Mr. Keene Simonds
Executive Director
County Operations Center
San Diego County Local Agency
Formation Commission
9335 Hazard Way, Suite 200
San Diego, CA 92123

Dear Mr. Simonds,

Thank you for your letter of August 6, 2021. I appreciate the opportunity to continue our discussions regarding San Diego LAFCO and the San Diego Unified Port District.

We are analyzing your tentative conclusions in consultation with State Lands Commission, as well as other potentially relevant facts and history, and I will respond upon conclusion of our analysis.

Thank you.

Sincerely,

J. Stuyvesant
President/CEO

Blank for Photocopying

San Diego Unified Port District
Document No. 70987
Filed MAR 03 2020
Office of the District Clerk

(48)

SAN DIEGO UNIFIED PORT DISTRICT ACT

California Harbors and Navigation Code, Appendix 1
(Cal. Harb. & Nav., Appx. 1)

An act to provide for the establishment of the San Diego Unified Port District; to provide for the calling of municipal elections therefor; describing the powers, duties, and functions thereof, authorizing the district to borrow money and issue bonds for district purposes; to provide means of raising revenues for the operation, maintenance and bond redemption of the district; and to provide for the transfer to such district of tidelands and lands lying under inland navigable waters.

Section headings in this document are for reference only
and are not official section headings of the legislation.

(Stats. 1962, 1st Ex. Sess., c. 67, as amended by Stats. 1963, c. 673,
Stats. 1965, c. 349, Stats. 1965, c. 577, Stats. 1965, c. 1953, Stats. 1965, c. 2043,
Stats. 1974, c. 208, Stats. 1975, c. 587, Stats. 1977, c. 1227,
Stats. 1982, c. 171, Stats. 1990, c. 168, Stats. 1991, c. 978,
Stats. 1996, c. 399, Stats. 1996, c. 480, Stats. 1997, c. 118,
Stats. 1998, c. 889, Stats. 2000, c. 302, Stats. 2001, c. 946,
Stats. 2005, c. 382, Stats. 2006, c. 538, Stats. 2014, c. 931, Stats 2018, c.192, Stats. 2019, c. 372.)

Table of Contents

Section	Page
§ 1. SHORT TITLE.	6
§ 2. STATE POLICY.	6
§ 3. DEFINITIONS.	6
§ 4. ESTABLISHMENT OF PORT DISTRICT; PURPOSES; USE OF POWERS.	6
§ 5. TERRITORY; JURISDICTION.	7
§ 5.5 TRANSFER OF INTEREST IN REAL PROPERTY; SAN DIEGO UNIFIED PORT DISTRICT.	7
§ 5.7 TRANSFER OF INTEREST IN REAL PROPERTY; SAN DIEGO UNIFIED PORT DISTRICT; TIDELANDS AND SUBMERGED LANDS WITHIN SAN DIEGO BAY.	9
§ 5.8 TRANSFER OF REAL PROPERTY IN THE CITY OF CHULA VISTA TO THE SAN DIEGO UNIFIED PORT DISTRICT.	10
§ 6. ELECTION ON FORMATION OF DISTRICT.	12
§ 7. PETITION OR RESOLUTION OF CONSENT; CONTENTS.	13
§ 8. QUALIFICATIONS OF SIGNERS.	13
§ 9. PUBLICATION OF PETITION; HEARING; LAW GOVERNING.	13
§ 10. ELECTION PROCEEDINGS; LAW GOVERNING; DEFINITION OF TERMS; CONSOLIDATION OF ELECTIONS.	13
§ 11. VOTE COUNT; CONDUCT.	14
§ 12. APPROVAL BY ELECTORS.	14
§ 13. CANVASS OF VOTES; ENTRIES ON MINUTES.	14
§ 14. CONVEYANCE OF TIDELANDS, SUBMERGED LANDS AND FACILITIES THEREON IN TRUST TO DISTRICT; EXCEPTIONS	14
§ 15. INCLUSION OF UNINCORPORATED TERRITORY.	14
§ 16. GOVERNMENT OF DISTRICT; APPOINTMENT OF PORT COMMISSIONERS; QUALIFICATIONS; EXERCISE OF POWERS AND DUTIES.	14
§ 17. TERM OF COMMISSIONERS; VACANCIES; OATH; CERTIFICATE; REMOVAL.	15
§ 18. COMMISSIONERS; ORGANIZATION; QUORUM; MEETINGS; RULES AND REGULATIONS, COMPENSATION.	15
§ 19. MASTER PLAN FOR HARBOR AND PORT IMPROVEMENT; MODIFICATION OF PLAN; CONFLICTING LOCAL ORDINANCES.	15

§ 20. FISCAL YEAR; ESTABLISHMENT; ANNUAL FINANCE REPORT BUDGET.....16
§ 21. ORDINANCES AND RESOLUTIONS.....16
§ 22. EMPLOYMENT OF OFFICERS AND EMPLOYEES.....17
§ 23. ACTIONS BY AND AGAINST DISTRICT.....18
§ 24. SEAL.....18
§ 25. ACQUISITION AND DISPOSAL OF PROPERTY.....18
§ 26. REPEALED 1996 – By Stats. 1996, c. 399.....18
§ 27. EMINENT DOMAIN.....18
§ 28. PUBLIC CORPORATION.....18
§ 29. BONDS AND OTHER INDEBTEDNESS; REFUNDING; RETIREMENT.....18
§ 30. POWERS AND SERVICES.....19
§ 30.5 EXERCISE OF POWERS OFF TIDELANDS.....20
§ 31. CONTRACTS WITH CITY FOR SERVICES.....21
§ 32. ELECTIONS; APPLICABILITY OF ELECTIONS CODE.....21
§ 33. ELECTIONS; INITIATIVE REFERENDUM AND RECALL.....21
§ 34. INVESTMENT OF EXCESS FUNDS.....21
§ 35. NECESSARY AND CONVENIENT ACTS.....21
§ 36. FIXING OF RATES AND CHARGES.....21
§ 37. PUBLIC PROJECTS; APPLICABLE LAW.....21
§ 37.2 DESIGN-BUILD CONTRACTS FOR PROJECTS EXCEEDING ONE MILLION DOLLARS.....22
§ 37.5 NEGOTIATIONS WITH FEDERAL GOVERNMENT; CONTRIBUTIONS FOR WORK DONE BY UNITED STATES.....22
§ 38. CREATION AND ACCUMULATION OF CAPITAL OUTLAY FUND.....22
§ 40. USE OF FUND; PURPOSES; AUTHORIZATION.....23
§ 41. BORROWING MONEY; NOTES AND CONDITIONAL SALES CONTRACTS; RESTRICTIONS AND CONDITIONS; TAXES.....23
§ 42. GENERAL OBLIGATION BONDS.....24
§ 43. BONDS; PROVISION FOR PAYMENT.....27
§ 44. BONDS; CERTIFICATE OF REQUIRED TAX REVENUES.....27

§ 45. LEVY AND COLLECTION OF TAXES; USE OF PROCEEDS. 27

§ 47. NOTICE OF ADOPTION OF PRELIMINARY BUDGET; HEARING ON FINAL BUDGET. 28

§ 48. APPEARANCE OF TAXPAYERS; CONTINUATION OF HEARING. 28

§ 49. REPORT OF FINAL BUDGET TO BOARD OF SUPERVISORS. 28

§ 49.5 LEVY OF TAX BY BOARD OF SUPERVISORS; PAYMENT OF FUNDS TO DISTRICT TREASURER; LIMITATIONS ON LEVY FOR CAPITAL OUTLAY. 28

§ 50. BONDS AS LEGAL INVESTMENTS. 29

§ 51. REVENUE BONDS. 29

§ 52. AUDIT OF ACCOUNTS. 31

§ 53. ANNEXATION OF TERRITORY. 31

§ 54. REPEALED 1965 – Added by Stats. 1963, c. 673, Repealed by Stats. 1965, c. 2043 31

§ 55. RULES AND REGULATIONS OF BOARD; REGULATION OF VESSELS; HARBOR POLICE AND FIRE PROTECTION. 31

§ 56. ENACTMENT AND ENFORCEMENT OF POLICE AND SANITARY REGULATIONS. 32

§ 57. ACQUISITION AND OPERATION OF FACILITIES FOR PROMOTION OF COMMERCE, NAVIGATION, FISHERIES AND RECREATION. 32

§ 57.5 TRANSPORTATION VENDOR CONDUCTING BUSINESS ON DISTRICT TIDELANDS; PARKING STRUCTURE FINANCING FEE; CONDITIONS. 32

§ 58. SUSPENSION OF RULES AND REGULATIONS IN EMERGENCIES; EMERGENCY REGULATIONS. 33

§ 59. VIOLATIONS; MISDEMEANORS; CONDUCT OF PROSECUTION; JURISDICTION. 33

§ 60. APPLICABILITY OF MUNICIPAL POLICE, FIRE AND SANITARY REGULATIONS. 34

§ 61. ASSESSMENTS, REASSESSMENTS, SPECIAL TAXES, AND BONDS; AUTHORIZED PROJECTS; APPLICATION OF OTHER STATUTORY PROVISIONS; ASSESSMENT DIAGRAMS; ASSESSMENT ROLL; COLLECTION; APPORTIONMENT. 34

§ 62. CONTRIBUTIONS TO WORKS BY OTHER AGENCIES TO IMPROVE NAVIGATION AND COMMERCE. 36

§ 63. REPEALED 1963 – Repealed by Stats. 1963, c. 673 36

§ 64. REPEALED 1963 – Repealed by Stats. 1963, c. 673 36

§ 65. REPEALED 1963 – Repealed by Stats. 1963, c. 673 36

§ 66. CONTRACT WITH NOTE AND BOND HOLDERS; ENFORCEMENT. 36

§ 67. ASSUMPTION OF MUNICIPAL DEBT FOR DISTRICT PURPOSES; VALIDATION. 37

§ 68. CONSENT OF STATE TO CONVEYANCES IN TRUST TO DISTRICT: SURRENDER OF POWER TO MANAGE HARBOR. 37

§ 69. REVERSION OF LANDS AND POWER TO MANAGE HARBOR ON DISSOLUTION OF DISTRICT. 37

§ 70. DISTRICT AS SUCCESSOR OF CERTAIN POWERS OF COUNTY AND CITIES; TRANSFER OF TITLE AND POSSESSION OF PROPERTY. 38

§ 71. CESSATION OF CERTAIN LOCAL OFFICES UPON ESTABLISHMENT OF DISTRICT; EXCEPTIONS; RETIREMENT AND DISABILITY BENEFITS. 38

§ 71.5 DISCHARGE OF TRANSFERRED EMPLOYEES; INDEPENDENT CONTRACTORS. 39

§ 72. DISTRICT OFFICERS. 39

§ 72.5 UNCLASSIFIED AND CLASSIFIED SERVICES. 39

§ 73. SALARIES; BONDS. 40

§ 74. EXECUTION OF BONDS, NOTES AND CONTRACTS. 41

§ 75. ADOPTION OF CIVIL SERVICE REGULATIONS; PROVISIONS. 41

§ 76. USE OF SERVICES OF CIVIL SERVICE COMMISSION OFFICE OF SAN DIEGO COUNTY. 42

§ 77. TIME FOR PAYING WAGES OR SALARIES. 42

§ 78. DELIVERY OF PROPERTY OF COUNTY AND CITIES TO DISTRICT OFFICERS. 42

§ 79. PROVISIONS OF ACT TO CONTROL OVER INCONSISTENT PROVISIONS OF FREEHOLDERS' CHARTER. 42

§ 80. DEPOSIT OF MONEYS RECEIVED FROM HARBOR FACILITIES OR UTILITIES IN DISTRICT REVENUE FUND; APPROPRIATIONS. 43

§ 81. USE OF FUND FOR EXPENSES OF CONDUCTING DISTRICT. 43

§ 82. USE OF FUND FOR ADVERTISING COMMERCIAL ADVANTAGES AND FACILITIES. 43

§ 83. USE OF FUND FOR ACQUISITION AND MAINTENANCE OF IMPROVEMENTS, WORKS AND FACILITIES, ETC. 43

§ 84. USE OF FUND FOR BOND AND INTEREST PAYMENTS AND FOR ESTABLISHMENT OF FUNDS TO SECURE SUCH PAYMENTS. 43

§ 85. USE OF FUND FOR PAYMENT OF PRINCIPAL AND INTEREST OF OUTSTANDING MUNICIPAL BONDS FOR HARBOR IMPROVEMENTS. 44

§ 86. TRANSFER OF AMOUNTS BETWEEN BUDGET ITEMS AND BETWEEN BOND FUNDS. 44

§ 87. PURPOSES FOR USE OF TIDE AND SUBMERGED LANDS HELD IN TRUST BY DISTRICT. 44

§ 88. PARTIAL INVALIDITY. 47

§ 1. SHORT TITLE.

This act shall be known and may be cited as the San Diego Unified Port District Act.

§ 2. STATE POLICY.

It is hereby declared to be the policy of the State of California to develop the harbors and ports of this State for multiple purpose use for the benefit of the people. A necessity exists within San Diego County for such development. Because of the several separate cities and unincorporated populated areas in the area hereinafter described, only a specially created district can operate effectively in developing the harbors and port facilities. Because of the unique problems presented by this area, and the facts and circumstances relative to the development of harbor and port facilities, the adoption of a special act and the creation of a special district is required.

§ 3. DEFINITIONS.

For the purposes of this act the following words shall have the following meanings:

(a) "District" or "port district" shall mean the San Diego Unified Port District.

(b) "Board" or "board of commissioners" shall mean the Board of Commissioners of the San Diego Unified Port District.

(c) "County" shall mean the County of San Diego.

§ 4. ESTABLISHMENT OF PORT DISTRICT; PURPOSES; USE OF POWERS.

(a) A port district for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail and water, for the development, operation, maintenance, control, regulation, and management of the harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the promotion of commerce, navigation, fisheries, and recreation thereon, may be established or organized and governed as provided in this act and it may exercise the powers expressly granted herein.

(b) Subject to Section 87 and any other provision of applicable law, the district may use the powers and authority granted pursuant to this section to protect, preserve, and enhance all of the following:

(1) The physical access to the bay.

(2) The natural resources of the bay, including plant and animal life.

(3) The quality of water in the bay.

(c) Notwithstanding any other provision of law, the powers and authority specified in this section are to be used only as necessary or incident to the development and operation of a port and shall not apply to public utilities operated under the jurisdiction of the Public Utilities Commission of the State of California.

(d) This section shall become operative on December 2, 2002. (Amended Stats. 1996, c. 399; Stats. 2001, c. 946)

§ 5. TERRITORY; JURISDICTION.

(a) The area within the district shall include all of the corporate area of each of the cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach which establish the district as provided in this act, and any unincorporated territory in the County of San Diego contiguous thereto, which is economically linked to the development and operation of San Diego Bay, included in the district by the board of supervisors of the county as provided in this act. The regulatory, taxing, and police power jurisdiction of the district, as otherwise provided for in this act, shall apply to the above-described area.

(b) In addition to the powers and authority described in subdivision (a), the district shall exercise its land management authority and powers over the following areas:

(1) The tidelands and submerged lands granted to the district pursuant to this act or any other act of the Legislature.

(2) Any other lands conveyed to the district by any city or the County of San Diego or acquired by the district in furtherance of the district's powers and purposes as provided in Section 87.

(c) This section shall become operative on December 2, 2002. (Amended by Stats. 1990 c. 168; Stats. 1996 c. 399; Stats. 2001, c. 946)

§ 5.5 TRANSFER OF INTEREST IN REAL PROPERTY; SAN DIEGO UNIFIED PORT DISTRICT.

(a) There is hereby granted and conveyed in trust to the San Diego Unified Port District in the County of San Diego all the right, title, and interest of the State of California, except as hereafter reserved and upon conditions specified in subdivision (c), acquired and held by the state pursuant to an agreement and deeds identified as Documents Number 1999 0845732, 1999 0845736, and 1999 0845737, recorded December 30, 1999, Official Records, San Diego County, and which are further described as follows:

(1) Parcel No. 1, which consists of that portion of the southwest quarter of the southwest quarter of quarter Section 163 and that portion of the northwest quarter of the northwest quarter of quarter Section 164 of Rancho De La Nacion in the City of Chula Vista, County of San Diego, State of California, according to map thereof no. 166 filed in the Office of the County Recorder of San Diego County May 11, 1869, and all of lots 7, 8, 9, 10, and 11 and those portions of lots 1, 2, 3, 4, 5, 6, 12, 13, 14, and 15 in block "B" of resubdivision of Bay Villa Tract, according to map thereof no. 1198, filed in the Office of the County Recorder of San Diego County August 6, 1909. Together with those portions of Walnut Street adjoining said block "B" on the west and the alley lying within said block "B" and that portion of "I" Street lying within said

quarter Sections 163 and 164 as vacated and closed to public use by resolution of the City Council of the City of Chula Vista recorded August 12, 1971, as file no. 179188 of official records described as a whole as follows:

Beginning at a point on the southerly line of said quarter Section 163, distance thereon 20.00 feet easterly from the southwest corner thereof; thence north 17°46'58" west on a line 20.00 feet easterly from and parallel with the westerly line of said quarter Section 163, a distance of 1282.11 feet to a point on the southerly line of "H" Street as shown on said map no. 1198; thence along said southerly line north 72°12'15" east 19.89 feet to a point on the westerly line of that land conveyed to the State of California (Caltrans) by deed recorded August 1, 1968, as file no. 130106 of official records; thence along the westerly boundary of said Caltrans land the following seven courses: (1) south 17°48'37" east 5.95 feet; (2) north 74°58'17" east 188.10 feet to the beginning of a tangent 45.00 foot radius curve concave southwesterly; (3) southeasterly along the arc of said curve through a central angle of 73°18'01" a distance of 57.57 feet; (4) tangent to said curve south 31°43'55" east 181.34 feet; (5) south 26°51'03" east 342.59 feet to the beginning of a tangent 1669.99 foot radius curve concave westerly; (6) southerly along the arc of said curve through a central angle of 14°20'28" a distance of 418.00 feet; and (7) south 12°30'35" east 303.54 feet to the centerline of "I" Street as closed and vacated; thence along said centerline south 72°15'16" west 332.90 feet to the point of beginning.

(2) Parcel No. 2, which consists of those portions of fractional quarter Section 170 and 171 of the Rancho De La Nacion in the City of Chula Vista, in the County of San Diego, State of California, according to map thereof by Morrill, filed as map no. 166 in the Office of the County Recorded of San Diego County, bounded and described as follows:

Commencing at the Northeast corner of said fractional quarter Section 171; thence south 17 °54'28" east along the easterly line of said fractional quarter section, 1270.95 feet to a point on a line nine feet parallel to and northerly of the westerly prolongation of the northerly line of "H" Street as said street is shown on the map of Bay Villa Tract, according to map thereof no. 1198, on file in the Office of the County Recorder of San Diego County; thence south 72°12'00" west along said parallel line, a distance of 170.00 feet to the true point of beginning of this description; thence parallel with and distant 170.00 feet westerly from the easterly line of said fractional quarter sections, the following three courses and distances: (1) south 17°54'28" east 49.14 feet; (2) south 17°47'12" east 1321.96 feet; and (3) south 17 °50'01" east 1283.10 feet to a point in the westerly prolongation of the northerly line of "J" Street, as shown on record of survey no. 917 on file in the Office of the County Recorder of San Diego County; thence along said westerly prolongation south 72°04'39" west 593.24 feet to a point on the ordinary high water mark of San Diego Bay, as said ordinary high water mark was fixed and established by that agreement recorded June 22, 1953, in book 4897, page 408, of official records, San Diego County and as shown on miscellaneous map no. 217 on file in the Office of the County Recorder of San Diego County; thence along said ordinary

high water mark the following eight courses and distances: (1) north 07°04'12" west 491.51 feet to station 117; (2) north 04°01'57" west 568.80 feet to station 116; (3) north 14°12'27" west 489.77 feet to station 115; (4) north 22°26'52" west 184.97 feet to station 114; (5) north 57°45'31" west 230.80 feet to station 113; (6) north 20°56'53" west 453.58 feet to station 112; (7) north 24°18'00" west 233.28 feet to station 111; and (8) north 30°20'10" west 87.43 feet to a point on a line nine feet parallel to and northerly of the westerly prolongation of the northerly line of "H" Street as described; thence a long said parallel line north 72°12'00" east 568.65 feet to the true point of beginning.

(b) The lease of the lands described in subdivision (a), designated No. PRC 8121, from the State Lands Commission to the district shall terminate on January 1, 2001.

(c) The district shall own, operate and manage the public trust lands described in subdivision (a) in accordance with the same terms, trusts, and conditions as the tide and submerged lands granted to it and held pursuant to Chapter 67 of the Statutes of 1962 of the First Extraordinary Session, as amended. (Added by Stats. 2000, c. 302)

§ 5.7 TRANSFER OF INTEREST IN REAL PROPERTY; SAN DIEGO UNIFIED PORT DISTRICT; TIDELANDS AND SUBMERGED LANDS WITHIN SAN DIEGO BAY.

(a) There is hereby granted in trust to the district all the right, title, and interest of the State of California, held by the state by virtue of its sovereignty, in and to all those remaining tidelands and submerged lands not previously granted, whether filled or unfilled, within the San Diego Bay lying northerly of the following described line:

Beginning at NGS monument Road 2 (PID DC1690), thence S 68°07'54" W 8,621.00 feet to NGS monument North Island NAS Shoran Tower (PID DC1727). The basis of bearings of this description is the California Coordinate System of 1983, Zone 6. All distances are grid distances.

(b) The district shall own, operate, and manage the public trust lands granted pursuant to subdivision (a) in accordance with the same terms, trusts, and conditions as the tide and submerged lands otherwise granted under this act.

(c) (1) (A) (i) By June 30, 2020, the district shall transfer to the State Lands Commission the initial sum of four hundred twelve thousand nine hundred three dollars ($412,903) from the revenues generated on the lands granted pursuant to subdivision (a). This initial amount is based on the estimated gross annual revenues generated, as of June 30, 2020, from the lands granted pursuant to subdivision (a).

(ii) By June 30, 2021, and at the end of each fiscal year thereafter, the initial sum required to be transferred pursuant to clause (i) shall be adjusted according to the change in the Consumer Price Index, and

that adjusted amount shall be transferred to the State Lands Commission.

(B) If the gross annual revenues generated by the lands granted pursuant to subdivision (a) exceed the amount required to be transferred to the commission pursuant to subparagraph (A), the district shall, in addition, transfer to the State Lands Commission 20 percent of the total amount of the excess annual gross revenues.

(C) Notwithstanding subparagraph (B), the State Lands Commission may, at its discretion and at a properly noticed public meeting, enter into different revenue sharing agreements, upon proposal by the district, if it finds that the agreement will provide a significant benefit to the public trust and is in the best interests of the state. If the State Lands Commissions approves a revenue sharing agreement different from subparagraph (B), the State Lands Commission shall provide notification, in writing or email, to the Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Water.

(2) Upon receipt of the moneys pursuant to paragraph (1), the State Lands Commission shall allocate 80 percent to the Treasurer for deposit in the General Fund and 20 percent to the Treasurer for deposit in the Land Bank Fund for expenditure pursuant to Division 7 (commencing with Section 8600) of the Public Resources Code for management of the commission's granted lands program.

(d) On or before January 1, 2024, the district shall submit to the State Lands Commission a trust lands use plan for trust lands granted pursuant to this section, describing any proposed development, preservation, or other use of the trust lands. The district shall then submit to the State Lands Commission for its approval any proposed changes to, or amendment to, the trust lands use plan. The State Lands Commission, in its sole discretion, may consider whether the submission of the Port Master Plan, pursuant to Section 19, meets the requirements of, and therefore may be considered, a trust lands use plan for trust lands granted pursuant to this section.

(e) The requirements of Section 6359 of the Public Resources Code do not apply to the trust lands granted pursuant to this section. (Added by Stats. 2019, c. 372 (S.B. 507), § 2, eff. Jan. 1, 2020.)

§ 5.8 TRANSFER OF REAL PROPERTY IN THE CITY OF CHULA VISTA TO THE SAN DIEGO UNIFIED PORT DISTRICT.

(a) (1) Notwithstanding any other law, there is hereby granted and conveyed in trust to the San Diego Unified Port District in the County of San Diego all the right, title, and interest of the state, acting by and through the State Lands Commission, in real property acquired and held by the state subject to the common law public trust doctrine and pursuant to a Grant Deed identified as Document No. 2016-0073422, recorded on February 19, 2016, in the Official

Records of San Diego County, and pursuant to the agreement that was approved as Calendar Item 48 of the December 10, 2010, State Lands Commission meeting, which is further described as follows:

Real property in the City of Chula Vista, County of San Diego, State of California, described as follows:

That portion of quarter sections 172 and 173 of Rancho De La Nacion, in the City of Chula Vista, County of San Diego, State of California, according to map thereof No. 166, filed in the Office of the County Recorder of said San Diego County, being more particularly described as follows:

Beginning at the intersection of the northerly line of F Street with a line lying 170.00 feet westerly of and parallel with the easterly line of said quarter Section 172 as shown on Record of Survey 9039 on file in the Office of the Recorder of said County; thence along the northerly line of F Street south 72°03'09" west (south 72°03'22" west per Record of Survey 9039) 1576.25 feet; thence leaving said northerly line along the boundary of that certain parcel of land granted to the Chula Vista Yacht Club by deed recorded March 20, 1914 in Book 648, Page 5 of deeds, north 17°56'51" west (north 19°30'00" west record) 125.00 feet; thence south 72°03'09" west 360.27 feet (south 70°30'00" west 357.32 feet record) to a point on the ordinary high water mark as shown on said record of Survey 9039; thence along said ordinary high water mark north 25°58'19" west (north 25°58'27" west record) 21.21 feet; thence north 34°45'18" west 351.42 feet (north 34°45'26" west 351.42 feet record); thence north 31°15'18" west 369.02 feet (north 31°15'26" west 369.00 feet record); thence north 39°43'12" west (north 39°39'35" west record) 65.98 feet; thence leaving said ordinary high water mark along the line shown as proposed buffer line on Record of Survey 10601 on file in the Office of the Recorder of said County north 54°19'29" east 242.85 feet (north 54°21'35" east 242.81 feet record); thence north 25°59'02" east 168.30 feet (north 25°56'57" east 168.40 feet record); thence north 10°11'18" east 105.09 feet (north 10°12'03" east 105.09 feet) to a point on the arc of a nontangent 200.00 foot radius curve concave southeasterly, a radial line to said point bears north 34°13'58" west (north 34°13'23" west record); thence northeasterly along said curve through a central angle of 28°27'27" an arc distance of 99.33 feet to a point of reverse curvature with a 100.00 foot radius curve concave northwesterly; thence northeasterly along said curve through a central angle of 82°22'52" an arc distance of 143.78 feet; thence along a nontangent line north 01°34'50" east 78.45 feet (north 01°35'25" east 78.45 feet record); thence north 14°41'41" east 153.05 feet (north 14°42'16" east 153.05 feet record); thence north 09°57'42" west 362.16 feet (north 09°57'07" west 362.16 feet record); thence north 09°51'27" west 201.35 feet (north 09°53'08" west 201.40 feet record); thence north 32°52'31" east 220.47 feet (north 32°51'10" east 220.47 feet record); thence north 16°04'50" east 244.79 feet (north 16°03'29" east 244.79 feet record) to a point on the arc of a nontangent 200.00 foot radius curve concave easterly, a radial line to said point bears south 75°49'10" west (south

75°47'49" west record); thence northerly along said curve through a central angle of 32°42'11" an arc distance of 114.15 feet; thence along a nontangent line north 06°46'56" west 202.96 feet (north 06°48'17" west 202.96 feet record); thence north 19°06'19" east 80.68 feet (north 19°04'58" east 80.68 feet record); thence north 31°10'16" west 90.80 feet (north 31°00'20" west 90.57 feet record); thence north 86°38'04" east 160.03 feet (north 86°36'43" east 160.00 feet record) to a point on the arc of a nontangent 600.00 foot radius curve concave northerly, a radial line to said point bears south 24°19'51" west (south 24°20'15" west record); thence easterly along said curve through a central angle of 33°40'00" an arc distance of 352.56 feet; thence along a nontangent line north 85°42'51" east 491.73 feet (north 85°43'14" east 491.67 feet record) to a point on a line which lies 170.00 feet westerly and parallel with the easterly line of said quarter Section 173; thence along said line south 17°42'40" east 1225.66 feet to a point on the southerly line of said quarter Section 173; thence continuing along a line which lies 170.00 feet westerly and parallel with the easterly line of said quarter Section 172 south 17°48'19" east 1287.27 feet to the point of beginning.

(2) Said parcel being described in paragraph (1) is described in a Conditional Certificate of Compliance recorded November 1, 1990, as Instrument no. 90-592926 of official records of the County of San Diego.

(3) Said land is also described in that certain Grant Deed Recorded December 10, 2010, as Instrument No. 2010-0684029 of official records of the County of San Diego.

APN: 567-011-05-00 and 565-010-30-00

(b) The lease of the real property described in Subdivision (a), designated as No. PRC 8912.9, from the state, acting by and through the State Lands Commission, to the district, shall terminate on the effective date of the Act that added this section.

(c) The district shall own, operate, and manage in trust for the benefit of the public statewide the public trust lands conveyed to the district by the state pursuant to subdivision (a) in accordance with the same terms, trusts, and conditions as the tidelands and submerged lands granted and held pursuant to this act.

(d) The requirements of Section 6359 of the Public Resources Code do not apply to the trust lands granted pursuant to this Section. (Added by Stats. 2018, c. 192 (A.B. 2646), § 1, eff. Aug. 24, 2018)

§ 6. ELECTION ON FORMATION OF DISTRICT.

The Board of Supervisors of San Diego County shall call an election in the area to be included within the district not later than the 1964 State Primary Election on the question of the formation of the district if either of the two conditions specified below is met:

(a) A petition calling for the formation of the district is filed with the board of supervisors from each of the five cities specified in Section 5. Each of the petitions from the five respective cities shall be signed by at least five percent (5%) of the voters registered for the last municipal election in each particular city.

(b) A resolution of consent calling for the formation of the district is filed with the board of supervisors from each of the city councils of the five cities specified in Section 5; provided, that the requirements of this section shall be deemed to have been met if a combination of petitions and resolutions of consent have been filed with the board of supervisors, so long as each of the five cities specified in Section 5, either through a petition or by a vote of the city council, has authorized the calling of an election for the formation of the district.

§ 7. PETITION OR RESOLUTION OF CONSENT; CONTENTS.

The petition or the resolution of consent shall contain:

(a) A declaration calling for the creation of the San Diego Unified Port District, for the purpose of improving and developing the harbor.

(b) A declaration that the tide and submerged lands owned by the particular city should be granted to the district.

§ 8. QUALIFICATIONS OF SIGNERS.

Each signer of a petition within a particular city shall be a registered voter and resident of that city.

§ 9. PUBLICATION OF PETITION; HEARING; LAW GOVERNING.

The publication of the petition and the hearing on the petition shall be governed by the provisions of Section 6014 of the Harbors and Navigation Code.

§ 10. ELECTION PROCEEDINGS; LAW GOVERNING; DEFINITION OF TERMS; CONSOLIDATION OF ELECTIONS.

The election shall be called, noticed, held, and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, oaths of office administered, and all other proceedings incidental to and connected with the election shall be regulated and done, as nearly as may be practicable, in accordance with the provisions of law regulating municipal elections in general law cities.

For the purposes of the election, the terms "board of trustees" and "city clerk," respectively, as used in the Elections Code provisions respecting the conduct of elections in general law cities, shall mean the county board of supervisors and the county clerk, respectively, for the purpose of the election held under this act.

An election called pursuant to the provisions of this act may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code.

§ 11. VOTE COUNT; CONDUCT.

The count of the vote in the election shall be conducted in two parts. One part shall consist of those votes cast in the City of San Diego, and the other part shall consist of all of those votes cast in the other four cities specified in Section 5 and outside territory.

§ 12. APPROVAL BY ELECTORS.

If the electors in the City of San Diego and the electors in the other four cities specified in Section 5 and outside territory approve of the formation of the district, at an election held pursuant to the provisions of this act, the district shall be established.

§ 13. CANVASS OF VOTES; ENTRIES ON MINUTES.

If from the canvass it appears and the board of supervisors finds that a majority of the votes cast in the City of San Diego and a majority of the votes cast in the other four cities and outside territory, the votes of such other four cities and outside territory being combined together, were cast in favor of the formation of the district, it shall enter that fact upon its minutes, together with a description of the boundaries of the district, its name, the official name or names by which the district is commonly known and enter its order declaring the district duly formed and existing in the county.

§ 14. CONVEYANCE OF TIDELANDS, SUBMERGED LANDS AND FACILITIES THEREON IN TRUST TO DISTRICT; EXCEPTIONS.

Upon the establishment of the district, every city specified in Section 5 shall convey to the district all its right, title and interest in and to the tidelands and submerged lands, together with any facilities thereon, which are owned by the city, including any such lands which have been granted in trust to the city by the State in the Bay of San Diego. The City of San Diego shall convey to the district all its right, title and interest in and to such pueblo lands as lie within the tidelands and submerged lands in the Bay of San Diego, together with any facilities thereon, which are owned by the City of San Diego. Thereafter the title to such lands shall reside in the district, and the district shall hold such lands in trust for the uses and purposes and upon the conditions which are declared in this act. Notwithstanding any other provision of this act, the City of San Diego shall not be required to convey to the district those lands described in Chapter 778 of the Statutes of 1929, and the City of Coronado shall not be required to convey to the district those lands described in Chapter 1839 of the Statutes of 1953.

§ 15. INCLUSION OF UNINCORPORATED TERRITORY.

The Board of Supervisors of the County of San Diego may, by ordinance, include within the district unincorporated territory which the board has determined would be benefited by the district.

§ 16. GOVERNMENT OF DISTRICT; APPOINTMENT OF PORT COMMISSIONERS; QUALIFICATIONS; EXERCISE OF POWERS AND DUTIES.

The district shall be governed by a board of commissioners who shall be known as "port commissioners." Each city council, respectively, of the cities which are

included in the district pursuant to the provisions of this act shall appoint the commissioner or commissioners to which it is entitled, pursuant to this section, to represent that particular city on the board. Three of the commissioners shall be residents of the City of San Diego, one shall be a resident of the City of National City, one shall be a resident of the City of Chula Vista, one shall be a resident of the City of Coronado, and one shall be a resident of the City of Imperial Beach. The commissioners shall be residents of the respective cities they represent at the time of their appointments, and during the term of their office. All of the powers and duties conferred upon the district shall be exercised through the board of commissioners.

§ 17. TERM OF COMMISSIONERS; VACANCIES; OATH; CERTIFICATE; REMOVAL.

The term of each commissioner shall be for four years, except as provided in this section.

Any vacancy shall be filled by appointment by the city council of the city from which the vacancy has occurred. Any appointment to fill a vacancy during the term of a commissioner shall be for the unexpired term.

Each commissioner, before entering upon the duties of his office, shall take and subscribe the oath as provided in Section 1360 of the Government Code of the State of California, and a certificate of the same shall be filed with the city clerk of the city from which the commissioner shall have been appointed, and a copy of which shall be filed with the district.

A commissioner may be removed from the board by a majority vote of the city council which appointed the commissioner. (Amended by Stats. 1965, c. 577; Stats. 1982, c. 171)

§ 18. COMMISSIONERS; ORGANIZATION; QUORUM; MEETINGS; RULES AND REGULATIONS, COMPENSATION.

Immediately after their appointment, the commissioners shall enter upon the performance of their duties. The board shall annually elect one of its members as chairperson and another as vice chairperson, and shall also elect annually a secretary, who may or may not be a member of the board. A majority shall constitute a quorum for the transaction of business. The board shall make rules and regulations for its own government and procedure, shall hold at least one regular meeting each month, and may hold any special meetings it deems necessary.

The commissioners shall be officers of the district and shall receive no salaries but shall be reimbursed for necessary traveling and other expenses incurred while engaged in the performance of their duties. (Amended by Stats. 1963 c. 673; Stats. 1996, c. 480)

§ 19. MASTER PLAN FOR HARBOR AND PORT IMPROVEMENT; MODIFICATION OF PLAN; CONFLICTING LOCAL ORDINANCES.

The board shall draft a master plan for harbor and port improvement and for the use of all of the tidelands and submerged lands which shall be conveyed to the district pursuant to the provisions of this act. A two-thirds vote of the board shall be

required to adopt the plan. The board may from time to time modify the master plan by a two-thirds vote of the board.

The provisions in the master plan shall not override or supersede any local existing zoning ordinance which was in effect on April 30, 1962; provided, that if any local zoning ordinance is repealed, or expires, or becomes nonoperative for any reason, thereafter the provisions of the master plan adopted by the board shall control as to all lands and waters under the jurisdiction of the district.

§ 20. FISCAL YEAR; ESTABLISHMENT; ANNUAL FINANCE REPORT BUDGET.

The board shall establish a fiscal year for its operations and shall at the end of each fiscal year, or as soon as possible after the end of each fiscal year, make a complete report of the affairs and financial condition of the district for the preceding fiscal year, which shall show the sources of all receipts and the purposes of all disbursements during the year. The report shall be verified by the chairperson of the board and the secretary thereof. The board shall draw up a budget for each fiscal year. (Amended by Stats. 1996, c. 480)

§ 21. ORDINANCES AND RESOLUTIONS.

The board may pass all necessary ordinances and resolutions for the regulation of the district.

The enacting clause of all ordinances passed by the board shall be in substantially the following form:

"The Board of Port Commissioners of San Diego Unified Port District do ordain as follows:"

All ordinances and resolutions shall be signed by the chairperson of the board and attested by the clerk.

All ordinances and resolutions shall be entered in the minutes. All ordinances passed by the board shall be published, within 15 days from the passage thereof, with the names of the members voting for and against them at least once in a daily newspaper of general circulation printed and published in the district.

Ordinances passed by the board shall not go into effect until the expiration of 30 days from the date of their passage by the board, except ordinances ordering or otherwise relating to the following which shall take effect upon their publication:

(a) An election.

(b) The adoption of the annual budget.

(c) The bringing or conducting of suits or actions.

(d) The condemnation of private property for public use.

(e) The immediate preservation of the public peace, health, or safety, which ordinance shall contain a specific statement showing its urgency and be passed by a two-thirds vote of the board.

A grant, franchise, lease, right, or privilege shall never be construed to be an urgency measure.

All grants, franchises, leases, permits, rights, or privileges for five years or less may be made by the executive director in accordance with any regulations the board prescribes by resolution, and all grants, franchises, leases, permits, or privileges for more than five years shall be made by ordinance, except leases or installment sales to or from a joint powers authority or nonprofit corporation in connection with the issuance of bonds or certificates of participation which may be authorized by resolution. Irrevocable permits shall not be granted or issued to any person. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 22. EMPLOYMENT OF OFFICERS AND EMPLOYEES.

(a) The board may employ engineers, attorneys, and any other officers and employees necessary in the work of the district.

(b) The executive director shall appoint a treasurer whose duty it shall be to receive and safely keep all moneys of the district.

(1) The treasurer shall do all of the following:

(a) Comply with all provisions of law governing the deposit and securing of public funds.

(b) Pay out moneys only as authorized by the board, except that no authorization shall be necessary for the payment of principal and interest on bonds of the district, or payment of lease rentals or installment purchase payments used to pay the principal and interest on bonds or certificates of participation issued by, or on behalf of, or at the request of the district.

(c) At regular intervals, at least once each month, submit to the secretary of the district a written report and accounting of all receipts and disbursements and fund balances, a copy of which report he or she shall file with the board.

(2) The treasurer may appoint a deputy or deputies for whose acts the treasurer and the treasurer's bondsmen shall be responsible. The deputy or deputies shall hold office subject to the pleasure of the treasurer and shall receive compensation as may be provided by the board.

(3) The treasurer shall execute a bond covering the faithful performance by him or her of the duties of the treasurer's office and his or her duties with respect to all moneys coming into his or her hands as treasurer in an amount fixed by resolution of the board. The surety bond required by

this paragraph shall be executed only by a surety company authorized to do business in the State of California and the premium therefor shall be paid by the district. The bond shall be approved by the board and filed with the secretary of the district.

(4) The treasurer, before entering upon the duties of his or her office, shall take and file with the secretary of the district the oath of office required by the California Constitution. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 23. ACTIONS BY AND AGAINST DISTRICT.

The district and the board may sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction.

The district also may bring an action to determine the validity of any of its taxes, revenues, rates, charges, bonds, warrants, contracts, obligations, or evidences of indebtedness pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 24. SEAL.

The board may adopt a seal for the district and alter it at pleasure. (Amended 1963 by Stats. 1963, c. 673)

§ 25. ACQUISITION AND DISPOSAL OF PROPERTY.

The district may take by grant, purchase, gift, devise, lease or otherwise acquire, hold and enjoy and lease and dispose of real and personal property of every kind, within the district, necessary to the full or convenient exercise of its powers. (Amended by Stats. 1963, c. 673)

§ 26. REPEALED 1996 – By Stats. 1996, c. 399

§ 27. EMINENT DOMAIN.

The district may exercise the right of eminent domain within the boundaries of the district to take any property necessary or convenient to the exercise of its powers consistent with Section 4 and pursuant to Section 30.5. (Amended by Stats. 1975, c. 587; Stats. 1996, c. 399)

§ 28. PUBLIC CORPORATION.

The district created in accordance with the provisions of this act is a public corporation created for the purposes set forth herein. (Amended by Stats. 1963, c. 673)

§ 29. BONDS AND OTHER INDEBTEDNESS; REFUNDING; RETIREMENT.

(a) (1) The district may issue bonds, borrow money, and incur indebtedness as authorized by law or as provided in this act.

(2) The district also may refund any indebtedness as provided in this act or in any other applicable law, may refund by the issuance of the same type of

obligations as those refunded and following the same procedure as at that time may be applicable to the issuance of those obligations, and may retire any indebtedness or lien that may exist against the district or its property.

(3) For the exclusive purpose of securing financing or refinancing of any project or purpose permitted by this act, through the issuance of bonds or certificates of participation by a joint powers authority, and notwithstanding any other provision of law applicable to borrowing or the issuance of bonds, the district may borrow money or purchase or lease property from the authority. In this connection, the district may sell or lease property to the authority to the extent allowed by subdivision (b) of Section 87, in each case, in accordance with the interest rate or rates, maturity date or dates, installment payment or rental provisions, security, pledge of revenues and other assets, covenants to increase rates and charges, default, remedy, and any other terms or provisions as may be specified in the loan, loan purchase, installment sale, lease, or other agreement or agreements between the district and the authority.

(4) The district may enter into any liquidity or credit agreement it may deem necessary or appropriate in connection with any financing or refinancing authorized by this section. This section provides a complete, additional, and alternative method of performing the acts authorized by this section, and the borrowing of money, incurring indebtedness, sale, purchase, or lease of property from or to a joint powers authority.

(b) The district may retire any indebtedness that is outstanding as of the effective date of the act amending this section enacted at the 1989-90 Regular Session of the Legislature, that has been incurred by the City of Imperial Beach for the construction or reconstruction of the Imperial Beach pier located upon tide and submerged lands granted to the district by the Legislature pursuant to that act. (Amended by Stats. 1963, c. 673, Stats. 1990, c. 168; Stats. 1996, c. 399)

§ 30. POWERS AND SERVICES.

(a) (1) The board may regulate and control the anchoring, mooring, towing, and docking of all vessels.

(2) The board may manage the business of the district and promote the maritime and commercial interests by proper advertisement of its advantages and by the solicitation of business within or outside the district, within other states or in foreign countries, through employees or agencies that are expedient.

(b) (1) The district may perform the functions of warehousemen, stevedores, lighterers, reconditioners, shippers, and reshippers of properties of all kinds.

(2) Within the boundaries of the district, consistent with the provisions of this act, the district may do all of the following:

(a) Acquire, purchase, take over, construct, maintain, operate, develop, and regulate grain elevators, bunkering facilities, belt or

other railroads, floating plants, lighterage, towage facilities, and any and all other facilities, aids, equipment, or property necessary for or incident to the development and operation of a harbor or for the accommodation and promotion of commerce, navigation, fisheries, or recreation in the district.

(b) Acquire, purchase, develop, construct, maintain, repair, operate, and regulate highways, streets, roadways, bridges, railroads, trolleys, buses, and similar transportation facilities, parking facilities, power, communication facilities, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient to the development and operation of air terminal and rail facilities, and the other purposes for which the district was established. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 30.5 EXERCISE OF POWERS OFF TIDELANDS.

(a) The district may undertake the activities authorized in Section 27 or listed in paragraph (2) of subdivision (b) of Section 30 outside of the lands listed in subdivision (b) of Section 5 if all of the following occur:

(1) The activities are adjacent to the lands listed in subdivision (b) of Section 5.

(2) The board finds that adequate areas for these activities do not presently exist within the lands listed in subdivision (b) of Section 5.

(3) The activities are necessary or incidental to carrying out the purposes described in Section 87.

(b) At least 60 days before making a capital expenditure in excess of one hundred thousand dollars ($100,000), but not more than one million dollars ($1,000,000), in or on the lands specified in subdivision (a), the district shall give written notice of that proposed expenditure to the State Lands Commission. The notice shall set forth the trust purposes, as set forth in this act, for which the proposed expenditure will be made.

(c) The district shall not make capital expenditures in excess of one million dollars ($1,000,000) in or on lands listed in subdivision (a) unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.

(d) At least 60 days before making a capital expenditure of not more than two hundred fifty thousand dollars ($250,000) in or on the lands that are not adjacent to lands specified in subdivision (b) of Section 5, the district shall give written notice of that proposed expenditure to the State Lands Commission. The notice shall set forth the trust purposes, as set forth in this act, for which the proposed expenditure will be made.

The district shall not make capital expenditures in excess of two hundred fifty thousand dollars ($250,000) in or on lands that are not adjacent to lands specified in subdivision (b) of Section 5 unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.

(e) Any property acquired by the district shall become an asset of the public trust and be subject to Section 87. (Added by Stats. 1996, c. 399)

§ 31. CONTRACTS WITH CITY FOR SERVICES.

As to any service which the district is authorized to perform pursuant to the provisions of this act, the district may contract for the performance of such service by the city within which the particular tidelands are located. (Amended by Stats. 1963, c. 673)

§ 32. ELECTIONS; APPLICABILITY OF ELECTIONS CODE.

All district elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, for the holding of elections in general law cities insofar as the same are not in conflict with this act. (Amended by Stats. 1963, c. 673)

§ 33. ELECTIONS; INITIATIVE REFERENDUM AND RECALL.

The provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended; governing the initiative and the referendum in districts shall apply insofar as such provisions of the Elections Code are not in conflict with this act. Officers of the district shall not be subject to recall. (Amended by Stats. 1963, c. 673)

§ 34. INVESTMENT OF EXCESS FUNDS.

The board may, by resolution, order that any of the moneys in the funds under its control which are not necessary for current operating expenses be invested in any obligations, bonds or securities in which a general law city could invest such funds; provided, however, that (1) any such investment shall be made in such a manner that the moneys in such funds will be available at the times and in the amounts necessary to accomplish the purpose for which said funds were established, and (2) no such investment shall be made in contravention of any provision or covenant in any proceedings for the authorization and issuance of bonds, notes, contracts or other evidences of indebtedness. (Amended by Stats. 1963, c. 673)

§ 35. NECESSARY AND CONVENIENT ACTS.

The board may do all other acts necessary and convenient for the exercise of its powers.

§ 36. FIXING OF RATES AND CHARGES.

The board shall by ordinance fix the rate of wharfage charges and other charges which are appropriate for the use of any of the facilities owned and constructed or services furnished or provided by the district.

§ 37. PUBLIC PROJECTS; APPLICABLE LAW.

(a) Article 48 (commencing with Section 20750) of Part 3 of Division 2 of the Public Contract Code applies to public projects of the district.

(b) The district shall adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the district. Purchases of supplies and equipment by the district shall be in accordance with those policies and procedures and with all provisions of law governing those purchases.

(c) As used in this section, "public project" means any of the following:

(1) A project for the erection, improvement, painting, or repair of public buildings and works.

(2) Work in or about streams, bays waterfronts, embankments, or other work for protection against overflow.

(3) Street or sewer work except maintenance or repair.

(4) Furnishing supplies or materials for any project specified in paragraphs (1) to (3), inclusive, including maintenance or repair of streets or sewers. (Amended by Stats. 1977, c. 1227, Stats. 1997, c. 118)

§ 37.2 DESIGN-BUILD CONTRACTS FOR PROJECTS EXCEEDING ONE MILLION DOLLARS.

(a) Notwithstanding subdivision (a) of Section 37 of this act or any other law, the district, with approval of the board of commissioners, may procure design-build contracts for the construction of a building or buildings and improvements directly related to the construction of a building or buildings that exceed one million dollars ($1,000,000) using the design-build procurement process described in Chapter 4 (commencing with Section 22160) of Part 3 of Division 2 of the Public Contract Code.

(b) For the purposes of this section, except where the context otherwise requires, all references in Chapter 4 (commencing with Section 22160) of Part 3 of Division 2 of the Public Contract Code to "local agency" shall mean the San Diego Unified Port District. (Added by Stats. 2014, c. 931)

§ 37.5 NEGOTIATIONS WITH FEDERAL GOVERNMENT; CONTRIBUTIONS FOR WORK DONE BY UNITED STATES.

The board may, without advertising for bids, negotiate with the government of the United States for the purpose of assisting the board in the performance of any of the work authorized by this act, and the board may contribute to the United States all or any portion of the estimated cost of any work authorized by this act which is to be done by or under contract with the United States.

§ 38. CREATION AND ACCUMULATION OF CAPITAL OUTLAY FUND.

By resolution, the board may provide for the creation and accumulation of a fund for capital outlays.

§ 39. TRANSFERS TO FUND.

At any time after the creation of the fund, the board may transfer to the Capital Outlay Fund any unencumbered surplus funds raised for any purpose whatever, remaining on hand at the end of any fiscal year or years.

§ 40. USE OF FUND; PURPOSES; AUTHORIZATION.

The Capital Outlay Fund shall remain inviolate for the making of any capital outlays and the money shall not be disbursed from the fund except for such a purpose unless the district board submits a proposition to the electors of the district to obtain their consent to use the money in the fund for some other specific purpose. The proposition may be submitted at any election. A two-thirds vote of all the voters voting at the election is necessary to authorize the expenditure of the money for such other purpose.

§ 41. BORROWING MONEY; NOTES AND CONDITIONAL SALES CONTRACTS; RESTRICTIONS AND CONDITIONS; TAXES.

Notwithstanding any other provision of this act, the board may borrow money by issuance of negotiable promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of two hundred thousand dollars ($200,000), for the purposes of the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district.

Negotiable promissory notes issued pursuant to this section shall mature five years from their respective dates of issuance and shall bear interest at a rate or rates not exceeding 6 percent per annum payable annually or semiannually.

No conditional sales contract shall be for a term in excess of five years from the date of execution thereof.

The negotiable promissory notes and the conditional sales contracts shall contain any terms and provisions the board specifies in the ordinance providing for the issuance thereof. The negotiable promissory notes shall be signed in the same manner as general obligation bonds of the district and the conditional sales contracts shall be signed in the same manner as other contracts of the district.

As a condition precedent to the issuance of any negotiable promissory notes for the purposes of the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this section or the execution of any conditional sales contract for those purposes, as provided in this section, in excess of twenty-five thousand dollars ($25,000), the board shall first unanimously approve by resolution and have on file a report approved by the executive director on the engineering and economic feasibility relating to the project contemplated for the expenditure of that borrowed money or conditional sales contract. The feasibility report shall be prepared and signed by an engineer or engineers licensed and registered under the laws of the State of California.

Taxes for the payment of all negotiable promissory notes or conditional sales contracts issued under this section shall be levied, collected, paid to the district, and used in the same manner as is hereinafter provided for general obligation bonds of the district. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 42. GENERAL OBLIGATION BONDS.

(a) Whenever the board deems it necessary for the district to incur a general obligation bonded indebtedness for the acquisition or improvement of real property, authorized by this act or necessary or convenient for the carrying out of the powers of the district, it shall, by ordinance, adopted by two-thirds of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of general obligation bonds of the district. The ordinance shall state all of the following:

(1) The purpose for which the proposed debt is to be incurred, which may include expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing the purpose.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years from the date thereof or the date of each series thereof.

(5) The maximum rate of interest to be paid, which shall not exceed 12 percent per annum.

(6) The proposition to be submitted to the voters.

(7) The date of the election.

(8) The manner of holding the election and the procedure for voting for or against the measure.

(b) Notice of the holding of the election shall be given by publishing, pursuant to Section 6066 of the Government Code, the ordinance calling the election in at least one newspaper published in the district. No other notice of the election need be given. Except as otherwise provided in the ordinance, the election shall be conducted as other district elections.

(c) If any proposition is defeated by the electors, the board shall not call another election on a substantially similar proposition to be held within six months after the prior election. If a petition requesting submission of a proposition, signed by 15 percent of the district electors, as shown by the votes cast for all candidates for Governor at the last election, is filed with the board, it may call an election before the expiration of six months.

(d) If two-thirds of the electors voting on the proposition vote for it, then the board may, by resolution, at a time or times as it deems proper, issue bonds of the district for the whole or any part of the amount of the indebtedness so authorized and may, from time to time, in that resolution or resolutions, provide for the issuance of those amounts as the necessity thereof may appear, until the full amount of the bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates and different dates of payment fixed for the bonds of each series. A bond need not mature on an anniversary of its date. The maximum term the bonds of any series shall run before maturity shall not exceed 40 years from the date of each series respectively. In the resolution or resolutions the board shall prescribe the form of the bonds and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and fix the time when the whole or any part of the principal shall become due and payable.

(e) The bonds shall bear interest at a rate or rates not exceeding 12 percent per annum, payable semiannually, except that the first interest payable on the bonds or any series thereof may be for any period not exceeding one year as determined by the board. In the resolution or resolutions providing for the issuance of the bonds, the board also may provide for call and redemption of the bonds prior to maturity at those times and prices and upon other terms as it may specify, provided that no bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon. The denomination or denominations of the bonds shall be stated in the resolution providing for their issuance, but shall not be less than one thousand dollars ($1,000). The principal of and interest on the bonds shall be payable in lawful money of the United States at the office of the treasurer of the district or at any other place or places as may be designated, or at either place or places at the option of the holders of the bonds. The bonds shall be dated, numbered consecutively and signed by the chair and treasurer, countersigned by the clerk, and the official seal of the district attached. The interest coupons of the bonds shall be signed by the treasurer. All signatures, countersignatures, and seal may be printed, lithographed, or mechanically reproduced, except that one of the signatures or countersignatures on the bonds shall be manually affixed. If any officer whose signature or countersignature appears on bonds or coupons ceases to be that officer before the delivery of the bonds, his or her signature is as effective as if he or she had remained in office.

(f) The bonds may be sold, either above or below par, at a price the board determines by resolution. Before selling the bonds, or any part thereof, the board shall give notice inviting sealed bids in a manner that it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

(g) Delivery of any bonds may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

(h) All accrued interest received on the sale of bonds shall be placed in the fund to be used for the payment of principal of and interest on the bonds and the remainder of the proceeds of the bonds shall be placed in the treasury to the credit of the proper improvement fund and applied exclusively to the purpose for which the debt was incurred. However, when that purpose has been accomplished, any moneys remaining in the improvement fund (1) shall be transferred to the fund to be used for the payment of principal of and interest on the bonds, or (2) shall be placed in a fund to be used for the purchase of outstanding bonds of the district. The bonds may be purchased only after publishing, pursuant to Section 6066 of the Government Code, in the district a notice inviting sealed proposals for the sale of bonds to the district. The notice shall state the time and place when proposals will be opened and the amount of money available for the purchase of the bonds and the maximum price to be paid for the bonds so purchased. The notice may be published elsewhere in the United States in the discretion of the board. The board may reject any or all proposals and if it rejects all proposals, the board, within a period of 30 days thereafter, may purchase for cash any outstanding bonds of the district but in that event the purchase price shall not be more than the lowest purchase price at which bonds were tendered to the district in the public bidding. Any bonds so purchased shall be canceled immediately.

(i) After the expiration of three years after a general obligation bond election, the board may determine, by ordinance adopted by two-thirds of all the members of the board, that any or all of the bonds authorized at the election remaining unsold shall not be issued or sold. When the ordinance takes effect, the authorization to issue the bonds shall become void.

(j) Whenever the board deems that the expenditure of money for the purpose for which the bonds were authorized by the voters is impractical or unwise, it may, by ordinance adopted by two-thirds of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof, the proposition of incurring indebtedness by the issuance of the bonds for some other purpose. The procedure, so far as applicable, shall be the same as when a bond proposition is originally submitted.

(k) The board, by resolution and without the necessity of an election, may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the district upon the terms, at the times, and in the manner which it determines. Refunding bonds may be issued in a principal amount sufficient to pay all or any part of the principal of any outstanding bonds, the interest thereon, and the premiums, if any, due upon call redemption thereof prior to maturity and all expenses of that refunding. The provisions for this section for authorization, issuance, and sale of bonds shall apply to the authorization, issuance, and sale of those refunding bonds, except that when

refunding bonds are to be exchanged for outstanding bonds, the method of exchange shall be as determined by the board.

(l) The district shall not incur a general obligation bonded indebtedness which in the aggregate exceeds 15 percent of the assessed value of all real and personal property in the district. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 43. BONDS; PROVISION FOR PAYMENT.

All bonds issued pursuant to Section 42 of this act are general obligations of the district and at the time of making the general tax levy after the incurring of any such bonded indebtedness, and annually thereafter until the bonds are paid or until there is a sum in the treasury of the district set apart for that purpose sufficient to meet all payments of principal and interest on the bonds as they become due, the board must cause a tax to be levied and collected annually, as hereinafter provided in Sections 44 and 45 of this act, sufficient to pay the interest on the bonds and such part of the principal as will become due before the proceeds of a tax levied at the next general tax levy will be available. (Amended by Stats. 1963, c. 673)

§ 44. BONDS; CERTIFICATE OF REQUIRED TAX REVENUES.

The board shall, on or before the first day of August, certify to the board of supervisors and to the auditor of the county in which the district is located, in writing the minimum amount of money required to be raised by taxation during the fiscal year for the payment of the principal of and interest on any general obligation bonded debt of the district that will become due before the proceeds of a tax levied at the next general tax levy will be available. To the extent that, pursuant to this act or otherwise, moneys are on hand and have been set aside in the proper special fund for the purpose of paying such principal and interest, the amount of money required to be raised by taxation during the fiscal year may be reduced and if all of the moneys required to be raised by such annual tax levy are actually on hand and have been set aside in said fund for said purpose from some such other source, the tax levy hereinbefore required for such year need not be made. (Amended by Stats. 1974, c. 208)

§ 45. LEVY AND COLLECTION OF TAXES; USE OF PROCEEDS.

The taxes required to be levied by Sections 43 and 44 of this act shall be levied upon all property within the district taxable for county purposes and shall be in addition to any and all other taxes levied by the board of supervisors and it shall be the duty of the officer, officers or body having authority to levy taxes within the county to levy the taxes so required. It shall be the duty of all county or other officers charged with the duty of collecting taxes to collect such taxes in the time, form and manner as county taxes are collected and when collected to pay the same to the district. All such taxes shall be of the same force and effect as taxes levied for county purposes and their collection may be enforced by the same means as provided for the collection of county taxes. Such taxes shall be used only for the payment of the bonds and interest thereon. (Amended by Stats. 1963, c. 673)

§ 46. PRELIMINARY BUDGET.

On or before the 15th day of June of each year, the district board shall estimate and determine the amount of money required by the district and shall adopt a preliminary budget which shall be divided into the following main classes:

(1) Ordinary annual expenses.

(2) Capital Outlay and Capital Outlay Fund.

(3) Prior indebtedness. (Amended by Stats. 1963, c. 673)

§ 47. NOTICE OF ADOPTION OF PRELIMINARY BUDGET; HEARING ON FINAL BUDGET.

On or before the 15th day of June of each year, the board shall publish a notice pursuant to Section 6061 of the Government Code in the district stating:

(1) That the preliminary budget has been adopted and is available at a time and at a place within the district specified in the notice for inspection by interested taxpayers.

(2) That on a specified date not less than one month after the publication of the notice and at a specified time and place, the district board will meet for the purposes of fixing the final budget, and that any taxpayer may appear and be heard regarding the increase, decrease or omission of any item in the budget, or for the inclusion of additional items. (Amended by Stats. 1963, c. 673)

§ 48. APPEARANCE OF TAXPAYERS; CONTINUATION OF HEARING.

At the time and place designated in the published notice for the meeting, any taxpayer may appear and be heard regarding the increase, decrease or omission of any item in the budget or for the inclusion of additional items. The hearing on the budget may be continued from time to time.

§ 49. REPORT OF FINAL BUDGET TO BOARD OF SUPERVISORS.

The district board shall report the final budget to the board of supervisors after the budget hearing but not later than the first day of August each year after making any changes in the preliminary budget it deems advisable during or after the hearing, including deductions, increases or additions.

§ 49.5 LEVY OF TAX BY BOARD OF SUPERVISORS; PAYMENT OF FUNDS TO DISTRICT TREASURER; LIMITATIONS ON LEVY FOR CAPITAL OUTLAY.

The board of supervisors shall at the time of levying the county taxes levy the taxes required by other sections of this act and also a tax upon all the taxable property within the district sufficient to meet the amounts set forth in the final budget submitted by the district board. The money when collected by the tax collector of the county shall be paid to the treasurer of said district; provided further, that any levy for capital outlay or for Capital Outlay Fund shall not exceed three cents

($0.03) per hundred dollars ($100) assessed valuation of all real and personal property in the district. (Amended by Stats. 1963, c. 673)

§ 50. BONDS AS LEGAL INVESTMENTS.

Bonds issued by the district pursuant to this act are legal investments for all trust funds, and for the funds of all insurers, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts or municipalities in this State, such money or funds may be invested in bonds of the district organized pursuant to this act.

§ 51. REVENUE BONDS.

(a) Whenever the board deems it necessary for the district to incur a revenue bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district, the board shall issue those revenue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code and the limitations set forth in subdivision (b) of Section 54402 of the Government Code shall not apply to the issuance and sale of bonds pursuant to this section. Instead, by ordinance adopted by two-thirds of all the members of the board and subject to referendum, the board may provide for the issuance of those bonds and, unless the ordinance is subject to referendum, no election shall be required to authorize the issuance of the bonds. To initiate a referendum, a petition protesting against the adoption of the ordinance shall be signed by voters of the district equal in number to at least 5 percent of the entire vote cast within that district for all candidates for Governor at the last gubernatorial election.

The ordinance shall specify all of the following:

(1) The purposes for which the bonds are to be issued, which may include any one or more purposes authorized by this section or this act.

(2) The maximum principal amount of the bonds.

(3) The maximum term for the bonds.

(4) The maximum rate of interest, fixed or variable, to be payable upon the bonds.

(5) The maximum discount or premium on the sale of bonds.

(b) For the purposes of issuing and selling revenue bonds pursuant to this section, the following definitions are applicable to the Revenue Bond Law of 1941

(Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code):

(1) "Enterprise" means any purpose, operation, facility, system, improvement, or undertaking of the district from which revenues are derived or otherwise allocable, which revenues are or may, by resolution or ordinance, be required to be separately accounted for from other revenues of the district.

(2) "Fiscal agent" means any fiscal agent, trustee, paying agent, depository, or other fiduciary provided for in the ordinance authorizing the issuance of the bonds. The fiscal agent may be located within or without the state.

(3) "Ordinance" means, unless the context otherwise requires, the instrument providing the terms and conditions for the issuance of the revenue bonds, and may be an indenture, resolution, ordinance, lease, installment sale, agreement, or other instrument in writing.

(c) Each ordinance shall provide for the issuance of revenue bonds in the amounts as may be necessary, until the full amount of the bonds authorized has been issued. The full amount of bonds may be divided into two or more series with different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date. Any provision of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) that is inconsistent with this section or this act shall not be applicable.

(d) The district may issue refunding revenue bonds to redeem or retire any revenue bonds issued by the district upon the terms, at the times, and in the manner which the board, by ordinance, determines. Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(1) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(2) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(e) This section provides a complete, additional, and alternative method of performing the acts authorized by this section, and the issuance of revenue bonds, including refunding revenue bonds, need not comply with any other

law applicable to borrowing or the issuance of bonds. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 52. AUDIT OF ACCOUNTS.

The accounts of the district shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants and a copy of the audit report shall be filed with the clerk for inspection by any person or persons interested. (Amended by Stats. 1963, c. 673)

§ 53. ANNEXATION OF TERRITORY.

Any territory annexed in accordance with law to a city specified in this act shall, upon the completion of such annexation proceedings, be deemed incorporated into and annexed to the district. In addition to the annexation of territory to the district as a result of it being annexed to such a city, there may be annexed to the district any of the following territory which is in the same county as the district:

(a) Any territory contiguous to the district.

(b) Any territory, any point of which touches the district.

(c) Any territory separated from the district by a "separating barrier," which term includes a street, road, highway, railway line, railway crossing, railway right-of-way, watercourse, lagoon, or other natural barrier.

Any territory specified in this section may consist of one or more separate parcels of land, but it is not necessary that all parcels shall constitute in the aggregate one tract of land. (Amended by Stats. 1963, c. 673)

§ 54. REPEALED 1965 – Added by Stats. 1963, c. 673, Repealed by Stats. 1965, c. 2043

§ 55. RULES AND REGULATIONS OF BOARD; REGULATION OF VESSELS; HARBOR POLICE AND FIRE PROTECTION.

The board shall:

(a) Make and enforce all necessary rules and regulations governing the use and control of all navigable waters and all tidelands and submerged lands, filled or unfilled, and other lands within the territorial limits of the district.

(b) Regulate and control the anchoring, mooring, towing and docking of all vessels.

(c) Establish and maintain a system of harbor police and may establish harbor fire protection within the territorial limits of the district for the enforcement of the ordinances, rules and regulations of the district, and employ the necessary officers, who shall as to such matters have all the power of peace officers and firemen within the district; or in the alternative, the district may contract with the municipalities whose territorial limits are adjacent to or contiguous to those of the district to provide such services.

§ 56. ENACTMENT AND ENFORCEMENT OF POLICE AND SANITARY REGULATIONS.

The board shall make and enforce such local police and sanitary regulations relative to the construction, maintenance, operation and use of all public services and public utilities in the district, operated in connection with or for the promotion or accommodation of commerce, navigation, fisheries, and recreation therein as are now vested in the district.

§ 57. ACQUISITION AND OPERATION OF FACILITIES FOR PROMOTION OF COMMERCE, NAVIGATION, FISHERIES AND RECREATION.

The board may acquire, construct, erect, maintain or operate within the district, all improvements, utilities, appliances or facilities which are necessary or convenient for the promotion and accommodation of commerce, navigation, fisheries and recreation, or their use in connection therewith upon the lands and waters under the control and management of the board, and it may acquire, maintain and operate facilities of all kinds within the district. (Amended by Stats. 1963, c. 673)

§ 57.5 TRANSPORTATION VENDOR CONDUCTING BUSINESS ON DISTRICT TIDELANDS; PARKING STRUCTURE FINANCING FEE; CONDITIONS.

(a) If the district requires any transportation vendor conducting business on district tidelands; including San Diego International Airport, Lindbergh Field, or the airport, in writing, to collect a fee from its customers on behalf of the district for financing a parking structure that is located on district-owned property and adjacent to an intended principally to serve a convention center, all of the following shall apply:

(1) The fees shall be calculated on a per transaction basis.

(2) All fees collected for this purpose constitute debts owed to the district by the collecting party. The debts are due and payable to the district quarterly or at any other interval the district may establish to facilitate collection and ensure payment.

(3) The fee is a transaction fee, not a tax.

(4) Revenues collected from the fee may not exceed the reasonable costs of financing the construction of the parking structure and may not be used for any other purpose.

(5) For purposes of this section, a rental car company shall be deemed to be conducting business on district tidelands if it has a business location on district tidelands or it picks up customers at a location on district tidelands.

(b) If the vendor required to collect a fee pursuant to subdivision (a) is a rental car company, then, notwithstanding any other provision of law, including, but not limited to, Section 1936 of the Civil Code, the rental car company shall do all of the following:

(1) Collect the fee only as permitted by this section.

(2) Clearly disclose the existence of the fee in any radio, television, or print advertisement that states a rental rate applicable to the location, at which the fee is to be imposed, and the amount of the fee at the location where it is imposed, or a range of fees if the fee is imposed at more than one location.

(3) Clearly disclose the existence of the fee in a telephonic, in-person, or computer-transmitted quotation that states a rental rate applicable to a location at which the fee is to be imposed and the amount of the fee at the location where it is imposed.

(4) Separately identify the fee on its rental agreement.

(c) If a rental car company conducting business on district tidelands operates a facility not located on district tidelands, then, the rental car company shall be subject to all provisions of subdivisions (a) and (b), but shall collect the fee only from those customers of that facility who do either of the following:

(1) Are picked up from a location on district tidelands, including the airport, and are transported to the rental car company's business facility via a courtesy ground transportation vehicle for the purpose of entering into a car rental agreement or securing a rental vehicle.

(2) Enter into a car rental agreement with the rental car company within 24 hours of arrival at the airport and rental car arrangements or reservations were made using a telephone located at an airport information board by such customers.

(d) In the event that the Federal Aviation Administration makes a determination that the provisions of this section are in conflict with federal law requiring a nexus to airport operations, the provisions of this section shall be inoperative. (Added by Stats. 1998, c. 889)

§ 58. SUSPENSION OF RULES AND REGULATIONS IN EMERGENCIES; EMERGENCY REGULATIONS.

In case of emergency the board may suspend, modify or amend any rule or regulation of the board, or it may place in effect any emergency rule or regulations, for periods not exceeding thirty (30) days, and every such ordinance shall so provide.

§ 59. VIOLATIONS; MISDEMEANORS; CONDUCT OF PROSECUTION; JURISDICTION.

Any person who violates the provisions of any ordinance, or any local police or sanitary regulation, of the board shall be guilty of a misdemeanor. The prosecution shall be conducted by the City Attorney of San Diego if the infraction occurred within the corporate limits of the City of San Diego on lands or waters subject to the jurisdiction of the district. The prosecution shall be conducted by the District

Attorney of San Diego County if the infraction occurred without the corporate limits of the City of San Diego but otherwise on lands or waters subject to the jurisdiction of the district. The complaint shall be filed in the judicial district within which the infraction occurred.

§ 60. APPLICABILITY OF MUNICIPAL POLICE, FIRE AND SANITARY REGULATIONS.

In the absence of the adoption of any police, fire and sanitary regulations by the district, the police, fire and sanitary regulations of any municipal corporation whose boundaries are adjacent to or contiguous to the territorial limits of the district shall be applicable.

§ 61. ASSESSMENTS, REASSESSMENTS, SPECIAL TAXES, AND BONDS; AUTHORIZED PROJECTS; APPLICATION OF OTHER STATUTORY PROVISIONS; ASSESSMENT DIAGRAMS; ASSESSMENT ROLL; COLLECTION; APPORTIONMENT.

(a) The district in any year, may levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Refunding Act of 1984 for 1915 Improvement Act Bonds (Division 11.5 (commencing with Section 9500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54701) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Part 1 of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104 and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the district may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, if the advances are repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for the disposal of dredged material.

(e) For the purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For the purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels. (Added by Stats. 1991, c. 978; Amended by Stats. 1996, c. 399)

§ 62. CONTRIBUTIONS TO WORKS BY OTHER AGENCIES TO IMPROVE NAVIGATION AND COMMERCE.

The district may contribute money to the federal or the state government or to the county in which it is located or to any city within the district, for the purpose of defraying the whole or a portion of the cost and expenses of work and improvement to be performed, either within or without the territorial limits of the district, by the federal, state, county or city government, in improving rivers, streams, or in doing other work, when such work will improve navigation and commerce, in or to the navigable waters in the district. (Amended by Stats. 1963, c. 673)

§ 63. REPEALED 1963 – Repealed by Stats. 1963, c. 673

§ 64. REPEALED 1963 – Repealed by Stats. 1963, c. 673

§ 65. REPEALED 1963 – Repealed by Stats. 1963, c. 673

§ 66. CONTRACT WITH NOTE AND BOND HOLDERS; ENFORCEMENT.

Notwithstanding any other provisions of this act or any other law, the provisions of all ordinances, resolutions, and other proceedings in the issuance by the district of any general obligation bonds, general obligation bonds with a pledge of revenues, revenue bonds, negotiable promissory notes, or any and all evidences of indebtedness or liability shall constitute a contract between the district and the holders of those bonds, notes, or evidences of indebtedness or liability and the provisions thereof, and the provisions of this act shall be enforceable against the district, any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction. Nothing contained in this act or in any other law shall be held to relieve the district or the territory included within it from any bonded or other debt or liability contracted by the district. Upon dissolution of the district or upon withdrawal of territory therefrom, the property formerly included within the district or withdrawn therefrom shall continue to be liable for the payment of all bonded and other indebtedness or liabilities outstanding at the time of the dissolution or withdrawal the same as if the district had not been so dissolved or the territory withdrawn therefrom, and it shall be the duty of the successors or assigns to provide for the payment of that bonded and other indebtedness and liabilities. To the extent provided in the proceedings for the authorization, issuance, and sale of any revenue bonds or general obligation bonds secured by a pledge of revenues, revenues of any kind or nature derived from any revenue-producing improvements, works, facilities, or property owned, operated, or controlled by the district may be pledged, charged, assigned, and have a lien thereon for the payment of those bonds as long as the bonds are outstanding, regardless of any change in ownership, operation, or control of those revenue-producing improvements, works, facilities, or property, and it shall be the duty of the successors or assigns to continue to maintain and operate those revenue-producing improvements, works, facilities, or property as long as the bonds are outstanding. (Amended by Stats 1963, c. 673; Stats. 1996, c. 399)

§ 67. ASSUMPTION OF MUNICIPAL DEBT FOR DISTRICT PURPOSES; VALIDATION.

The district shall take over and assume indebtedness incurred for development of tide and submerged lands of the county or any city specified in this act which shall have heretofore issued bonds or created any indebtedness for harbor development or improvement in the Bay of San Diego in the manner and with the effect set forth in the following entitled contracts:

(1) Assumption Agreement, between San Diego Unified Port District and the City of San Diego, dated February 14, 1963, Port Clerk Document No. 72.

(2) Assumption Agreement, between San Diego Unified Port District and the City of Chula Vista, dated February 26, 1963, Port Clerk Document No. 101.

and the district, the board and any other public agencies, boards, councils, and officers mentioned in such contracts shall take all acts and proceedings necessary to carry into effect the provisions of said contracts. Said contracts are hereby confirmed, validated and declared legally effective, including, without limitation, all acts and proceedings of the parties thereto done or taken with respect to said contracts prior to the date thereof. The provisions of this section shall operate to supply such legislative authorization as may be necessary to confirm, validate and make legally effective any such contracts and the proceedings taken in connection therewith prior to the date thereof which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken. (Amended by Stats. 1963, c. 673)

§ 68. CONSENT OF STATE TO CONVEYANCES IN TRUST TO DISTRICT: SURRENDER OF POWER TO MANAGE HARBOR.

The State hereby consents to the county or any city which has elected to join the district established under the provisions of this act to grant its right, title and interest in and to the tidelands, submerged lands, whether filled or unfilled, swamp, overflowed, and salt marshlands in the Bay of San Diego, which are owned by the county or any city, including any such lands which have been granted in trust to the county or city by the State, to the district in trust for the uses and purposes and upon the conditions specified in this act. The county or such city may also transfer, relinquish and surrender to the district its power to manage, conduct and operate the harbor in or adjacent to which such portion of such lands are situated. The district shall, upon its establishment in accordance with the provisions of this act, become the successor of the county or such city whose tide and submerged lands shall have been included therein with respect to the management, conduct and operation of the harbor and with respect to the use, possession and title to such portions of such lands, and they shall continue to be held and used by the district pursuant to this act.

§ 69. REVERSION OF LANDS AND POWER TO MANAGE HARBOR ON DISSOLUTION OF DISTRICT.

If the district is dissolved by operation of law, or otherwise, any such lands so granted thereto pursuant to this act, together with any and all improvements thereon,

and the management, conduct and operation of such harbor reverts to and is revested in the county or city so granting the same to the district. The lands reverting to the cities or the county pursuant to this section shall be held by the respective cities or the county in trust subject to the conditions, terms, and purposes of this act.

§ 70. DISTRICT AS SUCCESSOR OF CERTAIN POWERS OF COUNTY AND CITIES; TRANSFER OF TITLE AND POSSESSION OF PROPERTY.

Whenever the district is established under the provisions of this act it is the successor of the county and each of the cities included therein as to all powers theretofore vested in the county or each such city or exercisable by its officers, which are by the provisions of this act granted to the district or are exercisable by its officers. Such powers are relinquished by the county and the cities and surrendered to the district. The title to, and possession and control of, any works, structures, appliances, improvements and equipment of the kinds designated in this act, owned or held by or in trust for the county and each of the cities, or by any officer or board thereof, in trust or otherwise, for any purpose for which the district is authorized to acquire and use property pursuant to this act, are upon the establishment of the district, transferred to and vested in the district and are thereafter owned, operated and controlled by the district pursuant to this act.

§ 71. CESSATION OF CERTAIN LOCAL OFFICES UPON ESTABLISHMENT OF DISTRICT; EXCEPTIONS; RETIREMENT AND DISABILITY BENEFITS.

(a) Upon the establishment of the district, all persons then occupying the several offices of or under the government, of the county and each of the cities included therein, except as otherwise provided, whose several powers and duties are within the powers of the district or within the powers or duties of the several officers thereof, shall immediately quit and surrender the occupancy or possession of those offices which shall thereupon cease and determine, except as to any persons who have powers and perform duties for the county and the cities other than those mentioned, whose offices shall not cease and determine as to those other powers and duties, but shall continue with respect thereto the same as if the district had not been established.

(b) Notwithstanding subdivision (a), all employees of the county and any city performing duties in connection with the Port of San Diego or the respective harbor departments shall be blanketed in as employees of the district.

(c) The district may do all of the following with respect to retirement and disability benefits for its employees:

(1) Contract with the State Employees' Retirement System and provide retirement and disability benefits for employees under the State Employees' Retirement System pursuant to its rules and regulations.

(2) Contract with any city included within the district that has a retirement system for retirement and disability benefits for district employees.

(3) Contract with any other employee retirement and disability system.

(4) Establish an independent employee retirement and disability system pursuant to Article 1.5 (commencing with Section 53215) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(5) By contract, continue those employees of the district so blanketed in, as members of the retirement system of which they were members while they were employees of the respective cities. (Amended by Stats. 1963 c. 673; Stats. 2005, c. 382)

§ 71.5 DISCHARGE OF TRANSFERRED EMPLOYEES; INDEPENDENT CONTRACTORS.

No employee of the district who was previously employed by another governmental agency and was transferred to the district when it was formed and took over functions previously performed by such other agency shall be discharged, except for cause, or transferred to any position of a lesser class.

Nothing in this section shall prevent the district from employing an independent contractor to provide services of a professional, scientific or technical nature where the district has determined that it is impractical to have such service furnished by a person employed or to be employed in the classified service and the employment of such independent contractor will not require the removal, suspension, layoff or transfer of any employee in the classified service or the elimination of any classification thereof.

This section shall not apply to any employee of the district who is or has been employed by another governmental agency in substantially the same class of position and rate of pay as the position held, and pay received, while employed by the district. (Added by Stats. 1965, c. 1953)

§ 72. DISTRICT OFFICERS.

The officers of the district shall be as follows:

(a) An auditor.
(b) An executive director.
(c) An attorney.
(d) A clerk.
(e) A treasurer.
(f) A chief engineer.

The auditor, executive director, and attorney shall be appointed by the board. The auditor and attorney shall appoint deputies or assistants as authorized by the board. All other officers and employees shall be appointed by the executive director. All officers appointed by the executive director shall be confirmed by the board. (Amended by Stats. 1965, c. 349; Stats. 1996, c. 399)

§ 72.5 UNCLASSIFIED AND CLASSIFIED SERVICES.

(a) Employment in the district shall be divided into the unclassified and classified service.

(b) The unclassified service shall include all of the following:

(1) All officers of the district.

(2) All department and division heads.

(3) The principal assistant or deputy of all officers and department and division heads.

(4) All assistant and deputy attorneys

(5) Management employees having significant responsibilities for formulating or administering district policies and programs. Each of these positions shall be exempted from the classified service, by ordinance, upon recommendation of the executive director.

(6) Employees who are required to develop or present management positions with respect to employer-employee relations, who, in the regular course of their duties, have access to confidential information concerning employer-employee relations, or who contribute significantly to the development of management positions.

(7) Persons employed for temporary expert professional services for a specified period.

(c) The board shall establish a classified civil service that shall include all positions not specifically included in the unclassified service; provided, however, any incumbents in the positions included in the unclassified service presently in the classified service shall remain in the classified service until the respective positions are vacated by the incumbents.

(d) Officers and employees appointed by the board may be removed from office by the affirmative vote of the majority of the members of the board.

(e) All persons in the classified service shall be appointed by and may be removed by the executive director subject to the civil service regulations of the district. (Added by Stats. 1965, c. 349; Amended by Stats. 1982, c. 171; Stats. 1996, c. 480)

§ 73. SALARIES; BONDS.

The salaries of the officers and employees shall be fixed by the board by ordinance. All officers and employees shall give such bond as is prescribed by the board; the premium on all bonds on officers and employees shall be paid by the district. (Amended by Stats. 1965, c. 349)

§ 74. EXECUTION OF BONDS, NOTES AND CONTRACTS.

Bonds, notes and other evidences of indebtedness issued or incurred by the district shall be signed as provided in the section of this act applicable thereto or as provided in any other law applicable thereto; provided, however, that if the particular section or law does not prescribe the method of such execution, the method provided for general obligation bonds of the district shall apply so far as applicable. All other contracts of the district shall be executed in such manner as the board may fix by resolution. (Added by Stats. 1963, c. 673)

§ 75. ADOPTION OF CIVIL SERVICE REGULATIONS; PROVISIONS.

The board may adopt civil service regulations in accordance with the following provisions:

(a) The civil service regulations shall provide for all of the following:

(1) The qualifications and examination of all applicants for employment and the employment of persons on probation.

(2) The registration of persons, other than unskilled laborers, in the classified civil service, in accordance with their general average standing upon examination.

(3) Promotions on the basis of ascertained merit and seniority in service and examination, and competitive examinations for promotions.

(4) Leaves of absence.

(5) The transfer from one position to a similar position of the same class.

(6) The reinstatement to the list of eligibles on recommendation of the executive director, of persons who have become separated from service or have been reduced in rank, other than persons who have been removed for cause.

(7) The reassignment of persons injured in the service of the district who were at the time of injury actually engaged in the discharge of the duties of their positions.

(8) The keeping of service records for all employees in the civil service, and for their use as one of the bases for the promotion, removal, suspension, layoff, or transfer of any employee.

(9) The procedure for the removal, discharge, or suspension of employees, the investigation by the board of the grounds thereof, and the reinstatement or restoration to duty of persons found to have been removed, discharged, or suspended for insufficient grounds, or for reasons that are not sustained by investigation.

(10) Generally for any other purpose that may be necessary or appropriate to carry out the objects and purposes of the civil service system and the regulations herein specifically authorized.

(b) The following persons may be exempted by the board, by ordinance, from the civil service:

(1) Persons employed to render professional, scientific, technical, or expert service of a temporary or exceptional character.

(2) Persons employed on the construction of district works, improvements, buildings, or structures.

(3) Persons receiving a salary not exceeding fifty dollars ($50) per month.

Any exemption made pursuant to this subdivision may be terminated at any time by resolution of the board. (Amended by Stats. 1965, c. 349; Stats. 1996, c. 480)

§ 76. USE OF SERVICES OF CIVIL SERVICE COMMISSION OFFICE OF SAN DIEGO COUNTY.

Nothing herein contained shall prevent the board from contracting with the County of San Diego to utilize the services of its civil service commission office or department to effectuate the purposes hereof.

§ 77. TIME FOR PAYING WAGES OR SALARIES.

The salaries or wages of all officers and employees of the district shall be paid at such regular periods as the board by ordinance may determine. (Amended by Stats. 1963, c. 673)

§ 78. DELIVERY OF PROPERTY OF COUNTY AND CITIES TO DISTRICT OFFICERS.

Such persons shall severally forthwith deliver and turn over to the proper officers of the district, all property of the county and each city in their hands or under their control including any and all works, structures, appliances, improvements and equipment of the character, kinds or classes enumerated or designated in this act and pertaining to harbor improvements or affairs.

§ 79. PROVISIONS OF ACT TO CONTROL OVER INCONSISTENT PROVISIONS OF FREEHOLDERS' CHARTER.

The provisions of this act shall apply to any municipal corporation which is governed under a freeholders' charter even if such provisions are inconsistent with the charter or its amendments, it being hereby declared that such provisions are a matter of statewide concern and are to prevail over any inconsistent provisions in any such charter. If the district is dissolved by operation of law or otherwise, any such works, structures, appliances, improvements and equipment are vested in such municipal corporation, together with any other works, structures, appliances, improvements and equipment acquired or constructed by the district in that portion of the district within the limits of each such municipal corporation respectively.

§ 80. DEPOSIT OF MONEYS RECEIVED FROM HARBOR FACILITIES OR UTILITIES IN DISTRICT REVENUE FUND; APPROPRIATIONS.

All money received or collected from or arising out of the use or operation of any harbor or port improvement, work, appliance, facility or utility, or vessel, owned, controlled or operated by the district; all tolls, charges and rentals collected by the board, and all compensation, or fees required to be paid for franchises or licenses, or otherwise by law or ordinance or order, to the district for the operation of any public service utility upon lands or waters under the control and management of the board, shall be deposited in the treasury of the district to the credit of the San Diego Unified Port District Revenue Fund. The money in or belonging to the fund shall not be appropriated or used for any purpose except those enumerated in this act and any enumeration shall not be deemed to create any priority of one use or purpose over another. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 81. USE OF FUND FOR EXPENSES OF CONDUCTING DISTRICT.

The fund may be used for the necessary expenses of conducting the district, including the operation and maintenance of all harbor or port improvements, works, utilities, appliances, facilities and vessels owned, controlled or operated by the district for the promotion and accommodation of commerce, navigation, fisheries, and recreation, or used in connection therewith, and for the purposes set forth in any grants in trust.

§ 82. USE OF FUND FOR ADVERTISING COMMERCIAL ADVANTAGES AND FACILITIES.

The money in the fund also may be used for advertising the commercial and other advantages and facilities of any harbor in the district, for encouraging and promoting commerce, navigation, and transportation in and through that harbor, and for encouraging and promoting the region's commercial airport. (Amended by Stats. 1996, c. 480)

§ 83. USE OF FUND FOR ACQUISITION AND MAINTENANCE OF IMPROVEMENTS, WORKS AND FACILITIES, ETC.

The money in the fund may also be used for the acquisition, construction, completion and maintenance of harbor and port improvements, works, utilities, appliances, facilities, and vessels, for the promotion and accommodation of commerce, navigation and fisheries, and recreation, or uses in connection therewith; and for extraordinary improvements and betterments to lands and property under the control, supervision and management of the district, including the purchase or condemnation of necessary lands and other property and property rights.

§ 84. USE OF FUND FOR BOND AND INTEREST PAYMENTS AND FOR ESTABLISHMENT OF FUNDS TO SECURE SUCH PAYMENTS.

The money in the fund may also be used for the payment of the principal, or interest, or both, of district bonds authorized, issued and sold pursuant to this act and for the establishment and maintenance of bond service funds, sinking funds, reserve funds or other funds or accounts established to secure the payment of principal of, interest on, or redemption of or for the security of such bonds. (Amended by Stats. 1963, c. 673)

§ 85. USE OF FUND FOR PAYMENT OF PRINCIPAL AND INTEREST OF OUTSTANDING MUNICIPAL BONDS FOR HARBOR IMPROVEMENTS.

The money in the fund may also be used for the payment of the principal or interest, or both, of the bonds of the county or any city in the district, for harbor improvements, authorized or outstanding prior to the establishment of the district, or thereafter issued and sold by such county or city for harbor improvements pursuant to this act.

§ 86. TRANSFER OF AMOUNTS BETWEEN BUDGET ITEMS AND BETWEEN BOND FUNDS.

The executive director may make application in writing to the board for a transfer of amounts from one appropriated item to another in the budget allowance. On the approval of the board by a two-thirds vote, the auditor shall make the transfer, but a transfer shall not be made except as herein provided. Any transfer of bond or note proceeds or of bond or note service, reserve, or sinking funds shall be made only as provided in the proceedings authorizing the issuance of those bonds. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399)

§ 87. PURPOSES FOR USE OF TIDE AND SUBMERGED LANDS HELD IN TRUST BY DISTRICT.

(a) The tide and submerged lands conveyed to the district by any city included in the district shall be held by the district and its successors in trust and may be used for purposes in which there is a general statewide purpose, as follows:

(1) For the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.

(3) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including, but not limited to, approach, takeoff, and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or

betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses.

(6) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses, including, but not limited to, snack bars, cafes, restaurants, motels, launching ramps, and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways, and landscaped areas.

(7) For the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration.

(b) The district or its successors shall not, at any time, grant, convey, give, or alienate those lands, or any part thereof, to any individual, firm, or corporation for any purposes whatever. However, the district, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease those lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which those lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from those leases, franchises, and privileges. Those lease or leases, franchises, and privileges may be for any and all purposes that do not interfere with commerce and navigation.

(c) Those lands shall be improved without expense to the state. However, nothing in this section shall preclude expenditures for the development of those lands for any public purpose not inconsistent with commerce, navigation, and fishery, by the state or any board, agency, or commission thereof, when authorized or approved by the district, or preclude expenditures by the district of any funds received for that purpose from the state or any board, agency, or commission thereof.

(d) In the management, conduct, operation, and control of those lands or any improvements, betterments, or structures thereon, the district or its successors

shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments, or structures constructed upon those lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on those lands with the right of convenient access to that water over those lands for that purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, in those lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove deposits from those lands.

(h) Those lands shall be held subject to the express reservation and condition that the state may at any time in the future use those lands or any portion for highway purposes without compensation to the district, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements, betterments, or structures have been placed upon the property taken by the state for those purposes, compensation shall be made to the district, its successors, or assigns, or any person, firm, or public or private corporation entitled thereto for the value of his or her or its interest in the improvements, betterments, or structures taken or the damages to that interest.

(i) The State Lands Commission, at the cost of the district, shall survey and monument those lands and record a description and plat thereof in the office of the County Recorder of San Diego County.

(j) As to any tide and submerged lands conveyed to the district by a city that are subject to a condition contained in a grant of those lands to the city by the state that those lands shall be substantially improved within a designated period or else they shall revert to the state, that condition shall remain in effect as to those lands and shall be applicable to the district.

As to any tide and submerged lands conveyed to the district by a city that are not subject to this condition contained in a grant by the state and that have not heretofore been substantially improved, those lands, within 10 years from July 12, 1962, shall be substantially improved by the district without expense to the state. If the State Lands Commission determines that the district has failed to improve the lands as herein required, all right, title, and interest of the district in and to those lands shall cease and the lands shall revert and rest in the state. (Amended by Stats. 1963, c. 673; Stats. 1996, c. 399; Stats. 2006, c. 538)

§ 88. PARTIAL INVALIDITY.

If any section, subdivision, sentence, clause, or phrase of this act, or the application thereof to any person or circumstances, is for any reason held invalid, the validity of the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby. The Legislature hereby declares that it would have passed this act, and each section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that one or more sections, subdivisions, sentences, clauses or phrases, or the application thereof to any person or circumstance, be held invalid. (Added by Stats. 1963, c. 673)

GOVERNANCE OF SAN DIEGO BAY AND ITS TIDAL LANDS AND REGIONS

SUMMARY

The 2022/2023 Grand Jury (Grand Jury) undertook an investigation of the San Diego Unified Port District (Port District), the County of San Diego and the five Port Cities of Chula Vista, Imperial Beach, Coronado, San Diego and National City to assess how these organizations interact around the governance of San Diego Bay tidal lands and resources. This assessment was undertaken in response to a perception that the Port of San Diego and its unelected seven-member Board of Commissioners is not accountable to either the elected officials or the electorate of its five member cities or the County of San Diego, especially in the planning, development and implementation of projects in those cities. The Port District is an independent governmental agency created by the State of California and approved by voters in Chula Vista, Coronado,[1] Imperial Beach, National City and San Diego in 1962 to manage the tidelands and submerged lands of San Diego Bay.

This report will briefly review previous Grand Jury reports on the Port District and look at its creation, governance, relation to State agencies, and funding. The Grand Jury will also investigate conflicts and issues surrounding the Port District's operations in regard to the equitable representation of residents of the five Port Cities and their governing bodies, as well as the residents of the County of San Diego and its residents. Finally, the Grand Jury will also discuss the Port District's planning process and how its proposed projects have affected the five Port Cities, the County of San Diego and residents of these regions.

The report's recommendations include increasing the Port District's public participation and transparency by:

- Scheduling regular updates and presentations at publicly noticed open meetings of the city councils of its member cities;
- Simplification of the Port Master Plans around the Port District Planning Districts falling within each of the Port City's jurisdictional boundaries and three of the County's supervisorial districts;
- Submitting the Port Master Plan, and all future updates and amendments, to the relevant city council and County Supervisor for discussion and ratification;
- Lobbying the California State Legislature to introduce legislation enabling the County of San Diego to assume oversight of the activities of the San Diego Unified Port District and decisions of the Board of Port Commissioners, and share in the Port District's duty as guardian of the public trust in the tidal and submerged lands of San Diego Bay;
- Depending on the outcome of the legislation recommended above, exploring an alternate form of governance for the Port District, with participation from the County Board of Supervisors and elected officials of the five member cities;
- Encourage a limit of two four-year terms that a Port Commissioner can serve;
- Include staff from each of the five cities on each of the Port District's advisory committees; and
- Post meeting minutes and agendas of each of the Port District's advisory committees on-line.

[1] While the 1962 vote to approve creation of the Port involved tallying the combined votes of the five port cities, voters in the City of Coronado voted against Proposition D by a margin of 3 to 1.

INTRODUCTION

"We can do whatever we want, right?"[2] The words were spoken – and repeated several times-- by a commissioner of the San Diego Unified Port District during a public meeting of the Board of Port Commissioners. A Commissioner went on to describe what was believed to be "the absolute sovereignty of this board to make any decision that we want from this dais at any time." [3] The comment was made during a discussion of the changes proposed for the Port District's policy on Capital Improvement Projects, and while made in the specific context of achieving greater flexibility for capital project funding, inadvertently characterized the broad authority and perceived nature of this organization – led by a seven-member unelected board of commissioners, largely autonomous, self-governing, self-funded and independent of oversight by local elected officials.

The 2022-23 San Diego County Grand Jury (Grand Jury) is not alone in its concern over the lack of oversight, transparency and accountability of an organization with such far reaching power and jurisdiction. Over the last several decades, two separate San Diego County Grand Juries have reached similar conclusions, the earliest being the 1986-87 Grand Jury and more recently the 1997-98 Grand Jury.

The 1986-87 Grand Jury Report concluded, "An enterprise of the scope and importance of the Port District must include a strong concern for community relations, public input and accountability … yet, in the public's mind, it conducts itself as does a private company, responsible only to its stockholders. The fact is that it is a public corporation, guarding a public trust and spending public money."[4] Similarly, the synopsis of the 1997-98 Grand Jury report concluded that the seven commissioners of the Port District "are viewed as operating with almost unlimited discretion regarding how they spend money with minimal accountability. Commissioners are not required to gain approval for their actions from the voting public or even from the city councils which appoint them."[5]

In practice, the Port District requires a fiduciary oath of its commissioners to act in the best interests of the Port District, and in its role as guardian of the public trust, to the benefit of the residents of California. As appointees of one of five Port District cities, each commissioner must also represent the perspectives of the city appointing them as commissioner.

In representing the ***interests*** of the Port District but only the ***perspectives*** of the port cities appointing them, a dichotomy is created. The dichotomy allows port commissioners to manage the valuable resources of San Diego Bay in a unified, comprehensive manner but limits elected governments of the Port Cities and their constituents in making their views known or in determining the actions that are in their best interests. As a result, this dichotomy leads not only to voter disenfranchisement, but to a disconnection between elected municipal governments and their constituents, who must subordinate and subject their interests to the interpretations of the unelected Board of Port Commissioners.

---

[2] San Diego Unified Port District Port Commissioners Meeting, September 13, 2022, video recording @ 1:14:25. Board of Port Commissioners on 2022-09-13 1:00 PM (granicus.com)

[3] San Diego Unified Port District Port Commissioners Meeting, September 13, 2022, video recording @ 1:15:50. Board of Port Commissioners on 2022-09-13 1:00 PM (granicus.com)

[4] 1986-87 San Diego County Grand Jury, The County of San Diego and The San Diego Unified Port District Report No. 15, June 30, 1987, page 5-6.

[5] 1997-98 San Diego County Grand Jury, The San Diego Unified Port District: It's Time for Taxpayers and Citizens to Have a Direct Say, Final Report, June 30, 1998, page 103.

Severe as these assessments are, they are rooted in the San Diego Unified Port District Act (Port Act)[6], enacted by the California Legislature in 1962, through which the State of California delegates the power and responsibility for management of the tidelands and submerged lands of San Diego Bay. The Port Act delegates these powers to the Port District from the California State Lands Commission (SLC) as guardian of these tidelands and submerged lands through the public trust doctrine. This doctrine "provides that tide and submerged lands and the beds of lakes, streams and other navigable waterways are to be held in trust by the State for the benefit of the people of California."[7] The Port District acts in this capacity as an independent governmental special district without direct oversight of its seven commissioners by other local city or county agencies. The unsalaried commissioners are appointed to four-year terms by city councils of each of the five cities that border San Diego Bay, (San Diego, Chula Vista, Coronado, Imperial Beach, and National City). While the commissioners must reside in the city that appointed them, they can serve an unlimited number of four-year terms, except in the City of Coronado which limits its port commissioners to two terms. Port commissioners may be recalled by majority vote of the city council which appointed them. Other than these limitations, no oversight by local governmental bodies is authorized by the Port Act, and decisions by the Board of Port Commissioners are not subject to approval, veto or appeal by city councils or voters of the five Port Cities or the county.[8,9]

Democratic theory equates responsible government with popular participation in and control over policy formulation, political equality for the individual, deciding divisions of opinion by majority rule with complete freedom of discussion, and periodically holding free and meaningful elections.[10] Yet by virtue of the legislation that created the San Diego Unified Port District, values such as these that citizens have come to expect in our governmental legislative, regulatory and judicial institutions have not been embraced.

METHODOLOGY

The Grand Jury conducted interviews and requested information from municipal and county governmental organizations affected by the Port Act.

The Grand Jury researched and reviewed these documents:

- California Harbors and Navigation Code, Appendix I, also known as the San Diego Unified Port District Act (Port Act)
- The 1986-1987 Grand Jury report: "The County of San Diego and the San Diego Unified Port District, Report No. 15" and responses
- The 1997-1998 Grand Jury report: "The San Diego Unified Port District: It's Time for Taxpayers and Citizens to Have a Direct Say" and responses from the cities of San Diego, Chula Vista, Coronado, Imperial Beach, and National City
- Meeting Minutes and Agendas from the cities of San Diego, Chula Vista, Coronado, Imperial Beach, and National City as well as the San Diego Unified Port District
- Historical records and articles relating to formation of the Port District (per footnotes)
- Grand Jury Reports on Ports in other California Counties

[6] California Harbors and Navigation Code, Appendix 1, San Diego Port District Act, Document no. 70987, filed March 3, 2020, Office of the District Clerk.
[7] https://www.slc.ca.gov/public-engagement/
[8] California Harbors and Navigation Code, Appendix 1, San Diego Port District Act
[9] The City of Coronado limits the number of terms served by Port Commissioners to two terms
[10] Bachrach, Peter. The Theory of Democratic Elitism (Chicago, 1962), p. 94.

- San Diego Unified Port District Website: www.portofsandiego.org
- Detailed electronic maps showing specific boundaries and areas within the San Diego Unified Port District

DISCUSSION

Creation of the San Diego Unified Port District

When California became a state in 1850, it acquired title to navigable waterways as trustee for the protection of public lands, streams, lakes, marshlands, and tidelands. This is referred to as common law public trust doctrine. Per the State of California State Lands Commission (SLC), "The public's right to use California's waterways for navigation, fishing, boating, natural habitat protection and other water-oriented activities is protected by the Common Law doctrine of the Public Trust." Historically, the Public Trust has referred to the basic right of the public to use its waterways to engage in "commerce, navigation, and fisheries." The SLC further states that the "Public Trust provides that tide and submerged lands and the beds of lakes, streams and other navigable waterways are to be held in trust by the State for the benefit of the people of California."[11]

San Diego Unified Port District: Unique Among California Ports

The San Diego Unified Port District is unique among California's 12 ports in its establishment by state law. According to the Port Act, this was necessary because of the geography and other special characteristics of the locale:

> It is hereby declared to be the policy of the State of California to develop the harbors and ports of this State for multiple purpose use for the benefit of the people. A necessity exists within San Diego County for such development. Because of the several separate cities and unincorporated populated areas in the area hereinafter described, only a specially created district can operate effectively in developing the harbors and port facilities. Because of the unique problems presented by this area, and the facts and circumstance relative to the development of harbor and port facilities, the adoption of a special act and the creation of a special district is required. [12]

With passage of the enabling Proposition D in November 1962, the SLC granted regulation and control of the tidelands and submerged lands of San Diego Bay to the newly created Port District. Following passage of San Diego County's Proposition D, the cities of San Diego, Chula Vista, Coronado, Imperial Beach, and National City were to transfer the management of state tidal and submerged lands in San Diego Bay to the jurisdiction of a newly formed San Diego Unified Port District.

Proposition D Controversy

Passage of Proposition D was not obtained without controversy. Prior to the election, the city councils of Coronado, Imperial Beach and Chula Vista opposed formation of the Port District. Supporters of the proposition focused on the economic benefits made possible by the combined efforts of Port Cities on such projects as construction of South Bay channel and the resulting job growth from expansion of industrial development and maritime activities. Opponents of the proposition focused primarily on the potential control wielded by an unelected board of port commissioners who would have the power to

[11] https://www.slc.ca.gov/public-engagement/

[12] California Harbors and Navigation Code, Appendix 1, San Diego Port District Act, §2, pg 7. https://pantheonstorage.blob.core.windows.net/administration/San-Diego-Unified-Port-District-Act.pdf, March 3, 2020.

issue bonds, levy taxes and develop local tideland resources without input from individual Port Cities. Another concern was the unequal number of commissioners allocated to each of the Port Cities; the City of San Diego would get three commissioners while each of the remaining four Port Cities would get one commissioner each, potentially allowing San Diego to exert dominance over Port Commission resources and priorities.[13]

A study commissioned by the Coronado Chamber of Commerce three months prior to the 1962 election suggested that instead of the simple majority required by the Port Act to constitute a quorum for Commissioners to conduct business, the act be amended to require a quorum of at least two commissioners from the four Port Cities of Coronado, Imperial Beach, Chula Vista and National City. An additional change in the make-up of the port commission was also suggested to include only two San Diego Commissioners, one commissioner from San Diego County, and one each from the four other Port Cities, allowing appointment of a commissioner representing interests of unincorporated bay front areas of the county.[14]

While Proposition D was approved by a majority of voters in the cities of San Diego, Chula Vista, Imperial Beach and National City, the proposition was defeated in Coronado by a 3 to 1 margin. An unsuccessful lawsuit filed by Coronado, Imperial Beach and Chula Vista attempted to make acceptance of membership in the Port District optional, resulting in a temporary delay, but formation of the Port District was completed on December 18, 1963, following certification of the votes cast for Proposition D in the November 6, 1962 election.[15]

Port District Funding of Operations

Port District operations are financed primarily through leases and fees generated through its real estate operations, parking, harbor police and other services or fees provided to public or commercial customers of the Port District. As a landlord, the Port District generates most of its revenue from tenants and subtenants who pay rent or fees to conduct business on tidelands. The list includes hotels, restaurants, retail shops, marinas, landings, yacht clubs, shipyards, cargo operators, aerospace firms and cruise ships. While allowed by the Port Act to do so, the Port District does not collect taxes. Various provisions of the Port Act also allow the Port District to issue general obligation, revenue bonds or levy property or other forms of taxation.

In the Fiscal Year ending June 30, 2022, over $90 million, or 55% of the Port District's operating revenue were generated by leases and other Real Estate revenue, while parking, maritime and other fees provided another $77 million in operating revenue, or approximately 45% of operating revenues.

Like commercial business entities that are dependent on revenue streams to remain viable, economic activities that support the Port District's operations have also represented a significant source of economic risk. Recently, impacts of the COVID-19 pandemic on Port District operations severely limited most revenue generating Port District activities, resulting in a $19.3 million loss in the fiscal year ending June 2021 and prompting one Port Commissioner to consider the need to "analyze and

[13] San Diego County Registrar of Voters, Arguments for and Against Proposition D, San Diego County General Election, November 7, 1962.
[14] The Wyatt Report: Here's Text of Advisory on United Port, San Diego Evening Tribune, August 22, 1962, A14-**A15**.
[15] Ibid.

understand options for potential taxation."[16] However, the Port District qualified for $29 million in stimulus fund assistance in the following year, leading to the generation of a $68.3 million income in the fiscal year ending June 2022.[17]

While these tidelands-associated revenue streams allow the Port District to operate free of budget constraints typical of other state or local government agencies, the need to generate such revenue can lead to a significant source of bias in the deliberations of Port Commissioners and obscure motives and objectives of staff at all levels of the organization. In a recent informal briefing by the Port District, a sizeable, expected return on investment from a proposed project was praised as a justification for the large public investment of tax dollars needed to fund the project, with less emphasis placed on the project's other characteristics.

Balanced Interests?

The Grand Jury investigation revealed many concerns by the Port District's stakeholders. Smaller Port Cities reported a lack of follow through or investment in their cities proportional to the revenue generated for the Port District by tidelands activities occurring in their municipal boundaries. Others cite a lack of prioritization for projects not associated with lucrative leasing contracts or other significant revenue sources. The Grand Jury acknowledges such views, and sees the dilemma faced by the Port District in balancing the many diverse and potentially competing municipal, state and public interests it must manage as both nuanced and complex in ways less understood by the public in general, and in some cases by the city and county governments it serves.

How does a port commissioner balance or prioritize the needs or interests of separate communities, neighborhoods or municipalities against one another or against the interests of the Port District itself? As the adage goes, actions speak louder than words; perhaps recent activities by the Port District and votes by the Board of Port Commissioners can help to answer such questions.

Chula Vista Hotel and Convention Center

The key piece of the Chula Vista Bayfront Master Plan is the Gaylord Pacific Resort and Convention Center, a $1.1 billion project that broke ground in 2022 for a 1,600-room hotel alongside a 275,000 square foot convention center on a 36.5-acre site. In 2012, after almost a decade of planning, the City of Chula Vista and the Port District received approval from the California Coastal Commission for this project allowing for the conversion of 535 acres of vacant and industrial property into a Resort Hotel and Convention Center, RV Park, and parking structure. An existing motel, also part of the project sits on land adjacent to Port District boundaries.

The project is important because both the City of Chula Vista and the Port District collaborated on the Master Plan and were involved in seeking its approval, and both parties consider the development project a great success. The Grand Jury investigation revealed an alignment of interests of both parties centered on the regional economic benefits from development of these underused and undervalued tideland assets. Both parties were fully engaged, fully committed and enjoyed the support of the community during all phases of the project, from the initial master plan approval to selection of the

[16] Jennifer Van Grove, San Diego's Bayfront is Controlled by a Little-understood Agency With Power That Will Be Tested in The New Year, February 5, 2021, page 13; San Diego's bayfront is controlled by a little-understood agency with power that will be tested in new year - The San Diego Union-Tribune (sandiegouniontribune.com)

[17] San Diego Unified Port District, Annual Comprehensive Financial Report, Fiscal Years Ended June 30 2022 and 2021. Page 48, CAFR-2022 (window https://pantheonstorage.blob.core.windows.net/administration/2022-ACFR-final.pdfs.net)

operator and developer, as well as the formation of multiple financing agreements. Both parties are to share in the public infrastructure costs expected to approach $370 million, but also retain shares of excess revenues.

Dole Fruit Company Contract

First signed in 2002, this agreement leased portions of San Diego's 10th Avenue terminal to Dole Fruit Company for imports of fruit into the U.S. west coast market. Primary operations centered on long-haul trucking operations delivering fruit to many sites in the Southern California region, as well as short-haul trucking operations to sites in San Diego County. The short-haul local operations involved many more trips by smaller-sized trucks and were perceived to create a more significant source of air pollution than long-haul operations which involved larger loads and fewer trips on semi-trailer trucks.

Following negotiation for a 25-year lease extension through 2036, terms were not released until three days prior to the proposal's approval by the Board of Port Commissioners on August 14, 2012. The agreement not only extended Dole's lease, but also moved its short-haul trucking operation out of San Diego's Barrio Logan neighborhood. This move was perceived to reduce pollution in an area already affected by significant pollution from the nearby freeway and industrial maritime and manufacturing activities. However, the short-haul trucking operation was only relocated to a location in the neighboring city of National City, thereby increasing pollution that potentially affected the health and well-being of nearby residents of that city.

The actions taken by the Port District in approving the Dole Fruit Company lease, reduced potential health hazards for residents of San Diego's Barrio Logan neighborhood at the expense of the health of National City residents.

Mitsubishi Cement Factory

The Port District recently considered an application by Mitsubishi Cement Corporation (Mitsubishi) for a Coastal Development Permit (CDP) that would allow Mitsubishi to construct and operate a cement import, storage, loading and distribution facility within the Tenth Avenue Marine Terminal.[18]

Beginning in 2015, Mitsubishi had been negotiating with the Port District to ship cement-making materials to the Port-operated Tenth Avenue Marine Terminal warehouse for storage and shipment to Southern California construction sites. Nearby residents perceived the project would have introduced a new significant source of pollution to surrounding neighborhoods already experiencing pollution from maritime and industrial activities and freeways in the area.

While the Port District has approved a Maritime Clean Air Strategy (MCAS) to replace diesel fuel burning trucks with electric vehicles by 2030, the technology supporting zero emission electric power for vehicles the size of cement trucks was not yet available, and the Port District announced in a press release that negotiations with Mitsubishi "were not moving forward," but expressed a willingness to re-consider the proposal, "should the day come when they want to re-open negotiations."[19]

[18] San Diego Unified Port District, Ordinance 2936, February 25, 2019, https://pantheonstorage.blob.core.windows.net/administration/Ordinance-No-2936.pdf

[19] San Diego Unified Port District, Port of San Diego Issues Statement on Mitsubishi Cement Proposal, General Press Release, February 1, 2023, https://www.portofsandiego.org/press-releases/general-press-releases/port-san-diego-issues-statement-mitsubishi-cement-proposal

The process for evaluation of such projects by the Port District is well established and logical in its progression from the proposal, preliminary approval, planning, development, environmental and coastal commission review phases. Yet consideration of the project by a local elected governmental entity might have given greater priority to the health concerns of community members and resulted in a more equitable balance between economic and health concerns earlier in the project's evaluation process.

Coronado Cottages at the Cays

Recent decisions by the Port District surrounding the proposed Cottages at the Cays Project on Coronado's North Grand Caribe Isle exemplify the disconnection and disenfranchisement of the voting public and elected governmental bodies resulting from the Port District's independence from local governmental oversight. The Port District had considered a development application from a lessee of property on Coronado's North Grand Caribe Island to build 41 two-bedroom short stay units limited to six guests per unit. In a letter addressed to the Board of Port Commissioners dated December 23, 2022, the Mayor of Coronado expressed strong opposition to the project, stating, "this project does not reflect the will of the community or the Coronado City Council." Specific objections to the project cited in the letter included:[20]

- A unanimous vote by the Coronado City Council in opposition to the proposed project.
- Opposition from community groups such as the Coronado Cays Homeowner's Association and community members who provided petitions in opposition.
- Reversal of the Port District policy refined in the 2021 Port Master Plan Update (PMPU) to "expressly disallow the development of more hotel rooms and to convert the land use designation to Recreational Open Space, which preserves the area for environmental preservation and complete public access."
- The project would create "preferential access to those that can afford what will most likely be costly room rates similar to other hotel rates in the area."
- The project contravenes the PMPU commitment for the "protection and management of natural resources that best reflect environmental stewardship for present and future generations", on property expected to be highly vulnerable to sea level rise in the decades to come.
- The project would "create a hotel use which is not compatible with the surrounding residential area…," posing significant traffic impacts and safety concerns on the community of approximately 1,200 homes which can only be accessed through a single entrance.

Due to policies governing the rights of lessees, The Port District was obligated to present this development proposal for a vote to the Board of Port Commissioners. In addition, the Port District viewed the land use designation of Recreational Open Space for the parcel reflected in the 2021 Port Master Plan Update as being unbinding and preliminary, pending approval by the California Coastal Commission. Had it been approved, this land use would have represented a land use inconsistent with the Coronado Cays development proposal which required a Commercial Open Space designation currently in place for the property. On February 14, 2023, the Board of Port Commissioners approved the Cottages at the Cays Project by a vote of 4-3 in favor of initiating a California Environmental Quality Act (CEQA) review, followed by consideration of a Port Master Plan Amendment to add the project to the Port Master Plan, prior to application by the developer for a coastal development permit.

[20] Mayor Richard Bailey, Letter of Opposition to Cottages at the Cays Development Project Proposal, December 23, 2022.

Who Watches the Watchers? California Coastal Commission and State Lands Commission
In response to the Grand Jury's concern that the Port District is largely autonomous, self-governing, self-funded and independent of oversight by local elected officials, the Port District views the oversight of its decisions and activities provided by the California State Lands Commission (SLC) and the California Coastal Commission as more than adequate.

The SLC oversight is to ensure Port District activities are consistent with the public trust doctrine. In this role the Port District consults with the SLC on an as needed basis, to seek clarification, advice and guidance in matters affecting the Port District's role as guardian of the public trust for San Diego Bay. If determined to be inconsistent with this doctrine, the SLC could direct the Port District to stop, discuss and resolve the issues causing such concern.

In addition to the State Lands Commission and California Coastal Commission approvals, the CEQA requires that "state and local agencies consider environmental protection in regulating public and private activities and should not approve projects for which there exist feasible and environmentally superior mitigation measures or alternatives." In the absence of any documented exemptions provided for in the act, CEQA requires the publication of detailed Environmental Impact Reports for projects approved by the Port District for public review and comment.[21]

Requirements of the California Coastal Commission and CEQA also affect Port District activities relating to the approval of the Port Master Plan, Master Plan Updates or Amendments. In addition, Port District approved projects often require a coastal development permit from the California Coastal Commission.

While members of port city councils or San Diego County Supervisors have no direct oversight of Port District activities or ability to appeal decisions of the Board of Port Commissioners, the Port District indicated the existence of multiple venues to make their views known, and commissioners as a whole place a very high value on the desires of member cities. In addition, the public has access to most of the public meetings of the SLC, California Coastal Commission and also to regular meetings of the Board of Port Commissioners, as well as access to the public websites of these organizations. Also, decisions of the three-member California Coastal Commission can be appealed with the agreement of two of three commissioners to first hear the appeal and then vote to reverse their decision.

Public Participation and the Port District of San Diego
The Grand Jury noted meetings of the Board of Commissioners are posted on the Port District's website and that public participation is allowed. Meeting agendas are posted, and minutes are made available. In addition, the Board of Port Commissioner meetings are recorded, and recordings are available for public viewing. The Port District's policy regarding public participation is spelled out in Board of Port Commissioners Policy 060 which was adopted June 10, 2008.[22]

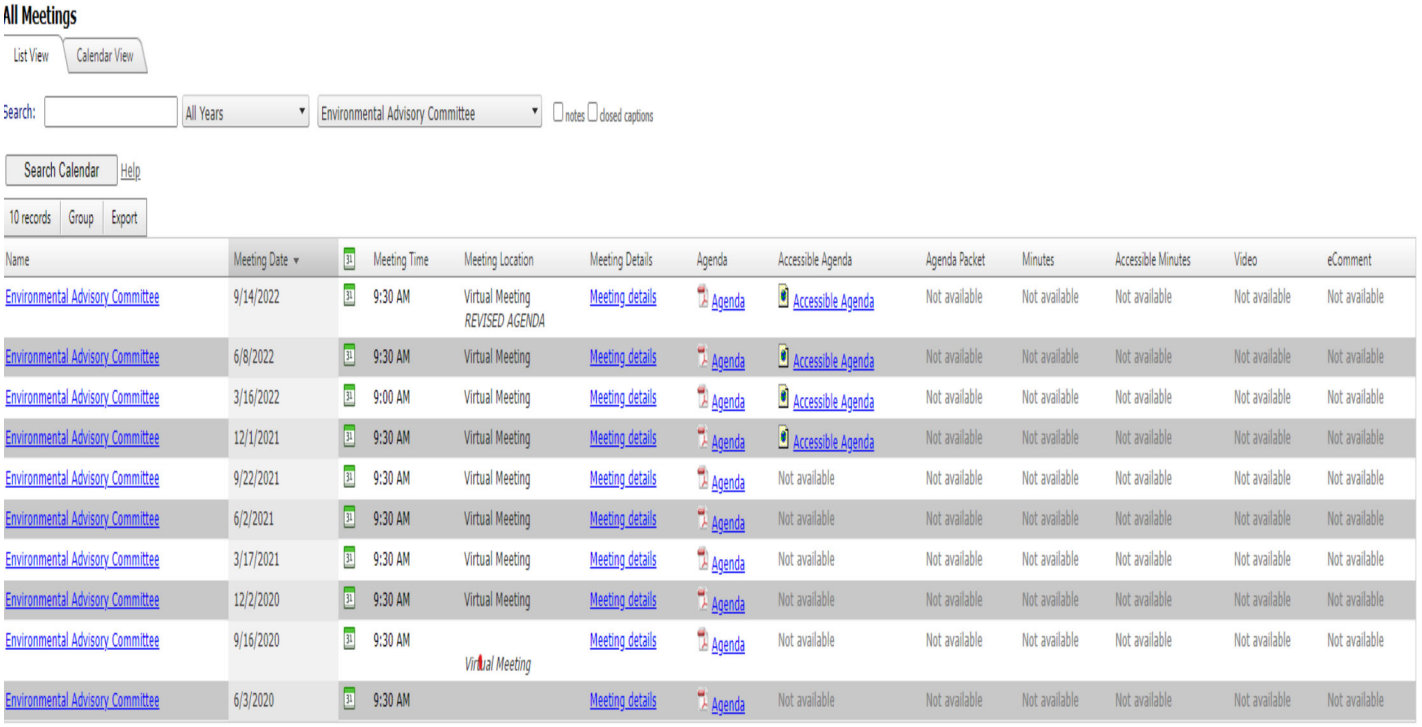
The Board of Port Commissioners also formed several subcommittees, forums, or working groups to solicit public input in the Board's decision-making process. "In setting policies for our dynamic waterfront, the Port District of San Diego seeks to make decisions that are in the public interest. To that end, the Board of Port Commissioners has formed various committees, forums and working

[21] California Environmental Quality Act, Chapter 1: Policy (archive.org)
[22] BPC-Policy-No-060-Public-Participation-in-Board-of-Port-Commissioners-Board-Meetings.pdf. https://pantheonstorage.blob.core.windows.net/administration/

groups to discuss current issues. These meetings are an important tool for gathering information, exploring ideas, and obtaining feedback for use in decision making by the Board."[23]

These groups include the Accessibility Advisory Committee; Arts, Culture, and Design Committee; Audit Oversight Committee; Bayfront Cultural and Design Committee Chula Vista; Chula Vista Bayfront Facilities Financing Authority; Environmental Advisory Committee; Maritime Forum; San Diego Harbor Safety Committee; Wildlife Advisory Group; and World Trade Center San Diego.

Researching information available on the Port District's website, the Grand Jury notes that agendas and meeting minutes for some but not all the advisory committees are available. The screenshot below documenting the information concerning the Port's Environmental Advisory Committee for all years available.[24]



All Meetings

List View | Calendar View

Search: | All Years | Environmental Advisory Committee | notes | closed captions

Search Calendar | Help

10 records | Group | Export

Name	Meeting Date	Meeting Time	Meeting Location	Meeting Details	Agenda	Accessible Agenda	Agenda Packet	Minutes	Accessible Minutes	Video	eComment
Environmental Advisory Committee	9/14/2022	9:30 AM	Virtual Meeting *REVISED AGENDA*	Meeting details	Agenda	Accessible Agenda	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	6/8/2022	9:30 AM	Virtual Meeting	Meeting details	Agenda	Accessible Agenda	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	3/16/2022	9:00 AM	Virtual Meeting	Meeting details	Agenda	Accessible Agenda	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	12/1/2021	9:30 AM	Virtual Meeting	Meeting details	Agenda	Accessible Agenda	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	9/22/2021	9:30 AM	Virtual Meeting	Meeting details	Agenda	Not available	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	6/2/2021	9:30 AM	Virtual Meeting	Meeting details	Agenda	Not available	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	3/17/2021	9:30 AM	Virtual Meeting	Meeting details	Agenda	Not available	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	12/2/2020	9:30 AM	Virtual Meeting	Meeting details	Agenda	Not available	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	9/16/2020	9:30 AM	*Virtual Meeting*	Meeting details	Agenda	Not available	Not available	Not available	Not available	Not available	Not available
Environmental Advisory Committee	6/3/2020	9:30 AM		Meeting details	Agenda	Not available	Not available	Not available	Not available	Not available	Not available

The Grand Jury notes that only four of the eight meetings had "accessible" agendas, while none of the meetings had minutes posted online. According to the last posted agenda for the Environmental Advisory Committee, the agenda included a discussion with respect to the National City Balanced Plan portion of the proposed updated Master Plan. However, in reviewing the posted membership of the Environmental Advisory Committee there are no staff members listed from National City (nor any of the other Port Cities). This points to a lack of transparency with regards to the coordination of the Port District with the member cities.

[23] https://www.portofsandiego.org/people/other-public-meetings

[24] https://portofsandiego.legistar.com/Calendar.aspx

Master Plan Documents and Updates

Under Section 19 of the Port Act, the Port District was to "draft a master plan for harbor and port improvement and for the use of all of the tidelands and submerged lands which shall be conveyed to the district pursuant to the provisions of this act." This Port Master Plan was approved by the Board of Port Commissioners in 1980 and later certified by the California Coastal Commission on January 21, 1981.[25] Subsequently the Port District approved 41 amendments to the 1980 Master Plan.

In 2019, SB 507 §5.7 was incorporated into the Port Act requiring Port District to "submit to the State Lands Commission a trust lands use plan for trust lands …describing any proposed development, preservation, or other use of the trust lands." Section 5.7 goes on to state that the "State Lands Commission, in its sole discretion, may consider whether the submission of the Port Master Plan…meets the requirements of …a trust lands use plan."[26]

Particular confusion exists among Port Cities leaders and residents regarding the provisions Port Master Plan that is periodically updated by the Port District. Much of the confusion is associated with the size and complexity of the Master Plan document itself—the most recent but-still-unapproved-update (2021) is well over 400 pages in length when including appendices, while the public comments alone comprise another 800 pages. As an indicator of the complexity of information contained in the Plan comments alone, the format for the comments received for the 2021 Master Plan Updade was an electronic PDF flat file format comprising comments from 10 agencies, 19 organizations, 10 businesses or Port Tenants and individuals from all 10 planning districts. Questioned about how the Port District responded to comments, how the comments were used or acted upon, the Port District asserted that copies of the document were provided for public review and comment and multiple public workshops were held and questionnaires provided to collect public comments.

The plan is categorized into 10 geographical Port planning districts. Despite the fact that these planning districts could be organized around each of the Port Cities within which the smaller planning districts exist, this approach has not been used in the past. However, such an approach could foster greater understanding of these plans by residents and leaders alike while greatly simplifying the review and approval process for each Port city's Master Plan.

While the Port Act identifies requirements for development of Port Master Plans and Trust Use Plans, the Grand Jury concluded that the Port Act does not preclude the Port Cities or the County of San Diego from requiring ratification by Port Cities or the county of such plans prior to submission to the appropriate state agency for approval. Further, such ratification by each Port City Council or the County Board of Supervisors would allow elected officials to ensure that these plans are in the best interest of their constituents and aligned with plans and objectives of these government bodies.

To that end, the Grand Jury will recommend that Port Cities and County Supervisors of supervisorial districts fronting San Diego Bay be required to ratify all port master plans, master plan updates, master plan amendments or trust use plans for Port District activities occurring within their boundaries; further, that such ratification be required prior to Port District proceeding with submission of such plans for approval by the California Coastal Commission, State Lands Commission or approval of

[25] California Harbors and Navigation Code, Appendix 1, San Diego Port District Act §19, San Diego Unified Port District, Document 70987, March 3, 2020, page 15.

[26] California Harbors and Navigation Code, Appendix 1, San Diego Port District Act §19, San Diego Unified Port District, Document 70987, March 3, 2020, page 10.

coastal development permits. Finally, once ratified by a Port City or County agency, each Port City's master plan update would become the current Port Master Plan for project planning purposes.

Options: Where to go from here? Port Commissioner Status Reports to City Councils

The recommendations of the 1997-1998 Grand Jury report were directed to the city councils of the five cities affected by the Port District and to the County Board of Supervisors. Recommendation 98-50 to the five city councils were to "create and implement formal policies requiring their port commissioner representatives to report regularly to their respective city councils in a formal manner." The City of San Diego responded to these recommendations saying that policies were already in place governing qualifications for port commissioners as well as formal reporting to the city council. The cities of Coronado and Imperial Beach reported that briefings from their Port Commissioners concerning Port District activities were scheduled as part of each regularly scheduled city council meeting. The City of Chula Vista reported the city council meets with their port commissioner "quarterly, or as often as needed," while National City reported receiving periodic reports from their Port Commissioner on an informal basis.

The current Grand Jury investigated the current practices of the Port Cities in pursuing regular updates in regularly scheduled public forums such as City Council meetings. Communication with Port Commissioners was reported to occur regularly on an informal basis, but confirmation of such informal meetings proved impractical, and such informal meetings do not allow for transparent communications or public comment. As a result, the Grand Jury reviewed readily available public meeting agendas and minutes of the Port City councils during 2022. We discovered the following:

- San Diego: The Grand Jury could not find any minutes or agenda items recognizing that any of its Port Commissioners made presentations regarding Port District activities in public City Council meetings. However, an annual report to the committee on economic development and intergovernmental relations is required by San Diego City Council policy. The most recent report occurred on March 8, 2023.
- Chula Vista: on August 23, 2022, Port Commissioner Moore gave an update of the Chula Vista Bayfront development project at a special City Council meeting. [27]
- Coronado: According to reviewed minutes and agenda items, a single update from the city's commissioner occurred on April 19, 2022.
- Imperial Beach: According to reviewed minutes and agenda items, only one update took place on January 19, 2022.[28]
- National City: An agenda item for reports from their commissioner is created for each City Council meeting. The Grand Jury was unable to learn if that was the result of a published council policy.

In view of the information provided through testimony and surveys of public records regarding Port Commissioner reports and briefings to their city councils on the activities of the Port District, the Grand Jury concluded that such reporting in publicly accessible venues such as city council meetings does not take place on a frequent or regular basis. Combined with a preference for informal channels of communication with their appointed representatives, these tendencies call into question whether Port Commissioners and Port City Councils maintain open and transparent relationships.

[27] Additional appearance by Port Commissioner Moore occurred on January 11, 2022, for reappointment as Port Commissioner, and on June 7, 2022 to receive a proclamation of Port Commissioner Ann Moore Day.

[28] City of Imperial Beach, City Council, Regular Meeting Minutes, January 19, 2022, 6:00 p.m., Virtual Meeting

Re-engagement of Port Cities and County of San Diego

The Grand Jury has concluded that because of the Port District's independence and autonomy from local governmental review or approval of its decisions, voters and elected representatives in the Port Cities and County of San Diego have become disenfranchised. Elected representatives cannot prevent or appeal Port District decisions that adversely affect their constituents, and as a result, voters cannot depend on their elected representatives to act in their best interests. As a result of such shortcomings, accountability of representatives to their constituents is limited when the normal expected prerogatives of elected office holders have been supplanted instead by an unelected entity such as the Port District.

Balancing the rights and interests of diverse coastal cities, communities and neighborhoods throughout the San Diego County region is a significant challenge, even for an elected governing body not motivated by economic incentives. Attempting this task through a largely independent and autonomous organization such as the Port District that is dependent on revenue from development projects and leasing activity may be too much to ask of the organization, especially without the guidance of deliberative elected city councils, county supervisors or other elected government bodies. The Grand Jury concludes that only with the re-engagement of the elected government bodies affected by Port District activities and lands within their jurisdictional boundaries can the interests of residents be equitably balanced with competing Port District goals and objectives.

FACTS AND FINDINGS

Duties, Responsibilities and Powers

Fact: The public trust doctrine provides that tidal and submerged lands, beds of lakes, streams and other navigable waterways are to be held in trust by the State for the benefit of the people of California.

Fact: The Port District Act delegates the power and responsibility for management of the tidelands and submerged lands of San Diego Bay from the State of California to the San Diego Unified Port District.

Fact*:* Many elected officials of Port Cities believe Port Commissioners are to act in the best interest of the cities appointing them.

Fact: The Port Act limits the ability of elected officials to represent the interests of the voters who elect them.

Fact: It is the duty of each Port Commissioner to act as a guardian of the public trust for tidal and submerged lands of San Diego Bay in the interests of all California residents.

Fact: Port Commissioners take a fiduciary oath to act in the best interests of the Port District.

Finding 01: Port Commissioners are only required to represent the perspectives, not the interests of the Port City appointing them to the Board of Port Commissioners.

Finding 02: The Port District acts as an independent special district without direct oversight from local city or county governments.

Fact: The oversight provided by the State Lands Commission and California Coastal Commission of Port District activities is viewed by the Port District as more than sufficient.

Fact: Port Commissioners must live in the Port City appointing them.

Fact: Port Commissioners may be recalled by a majority vote of the city council appointing them.

Fact: Port Commissioners can serve an unlimited number of four-year terms, except in the City of Coronado in which Commissioners can serve a maximum of two terms.

Finding 03: Because the interests of residents of Port Cities and the County of San Diego are subject to the interpretations of the unelected Board of Port Commissioners, their interests may not be heard, prioritized or represented accurately.

Finding 04: Briefings by Port Commissioners to Port City Councils in noticed public meetings regarding issues affecting their jurisdictions, will increase the level of public participation and knowledge regarding Port District activities, Port Master Plans, Master Plan Updates, Port Master Plan amendments or additions.

Finding 05: Currently, the Board of Port Commissioners does not have term limits. Considering term limits would foster democratic principles by providing more opportunities for diverse and talented individuals to serve, prevent the accumulation of influence, and uphold the public trust by keeping the Board representative responsive to its community.

Initial Opposition to Port District Formation

Fact: The City Councils of the cities of Coronado, Imperial Beach and Chula Vista initially opposed formation of the Port District in 1962.

Fact: Formation of the Port District in 1962 occurred despite concerns that an unelected board of Port Commissioners would have the power to issue bonds, levy taxes and develop local tideland resources without input or approval of individual Port Cities.

Fact: Opposition to the formation of the Port District in 1962 involved the unequal number of commissioners allocated to each of the Port Cities; the City of San Diego would get three commissioners while each of the remaining four Port Cities would get one commissioner each, potentially allowing San Diego to exert dominance over the resources, priorities and decisions of the Port District.

***Finding 06*:** With three of seven port commissioners appointed to the Board of Port Commissioners by the City of San Diego, the potential exists for the City of San Diego to exert dominance over the priorities, resources and decisions of the Port District.

Port District Potential Source of Bias

Fact: Port District operations are financed primarily through leases and fees generated through its real estate operations, parking, harbor police and other fees provided by customers of the Port District.

Finding 07: The Port District is incentivized to maximize revenue to fund its operations, a goal that may create conflicts of interest in the priorities, allocation of resources and other decisions made by the Port Commission.

Chula Vista Convention Center and Hotel
Fact: The $1.1 billion Chula Vista Hotel and Convention Center broke ground in 2022.

Finding 08: Success in the development of the Chula Vista Hotel and Convention Center has been obtained because of a close collaboration and alignment of interests between the Port District and the City of Chula Vista.

Dole Fruit Company Proposal
Fact: A 2012 approval of the Board of Port Commissioners for a lease of warehouse space on the Port District's Tenth Avenue Terminal to Dole Fruit Company also moved a staging area for short-haul trucking to the National City area.

Finding 09: The Port Commissioners decision to move short-haul truck staging for local deliveries of Dole Fruit products relocated a source of pollution from the Barrio Logan community to communities in National City.

Mitsubishi Cement Corporation Proposal
Fact: Mitsubishi Cement Corporation's proposal for storage and shipment by truck of cement products to construction sites in the region generated controversy and negative publicity among residents of nearby neighborhoods affected by potential health risks.

Fact: Consideration of the Mitsubishi Cement Corporation project was terminated by mutual agreement of the Port District and Mitsubishi Cement Corporation.

Fact: In its public statement, the Port District expressed a willingness to re-open negotiations related to this proposal with Mitsubishi Cement Corporation in the future.

Fact: The Mitsubishi Cement Corporation project was terminated due to technical concerns around the availability of zero emission trucks capable of the loads required for cement deliveries.

Finding 10: The controversy surrounding the Mitsubishi Cement Corporation Project's potential health effects on the Barrio Logan neighborhood and other nearby residents damaged the Port District's community relations with these communities and contributed to the decision to discontinue the project.

Finding 11: Oversight of the Mitsubishi Cement Corporation project by the City of San Diego or San Diego County governments might have given greater priority to the health concerns of community members and resulted in a more equitable balance between economic and health concerns earlier in the project's evaluation process.

Coronado Cottages at the Cays Proposal
Fact: The Cottages at the Cays development proposal met with significant opposition not only from the Coronado mayor and city council, but also from residents and members of the Coronado Cays Homeowner's Association representing the community of 1,200 homes.

Fact: Maintaining free access by California residents to San Diego Bay for recreational use is often cited as an obligation of the public trust by the Port District.

Fact: Three of seven Port Commissioners voted to oppose the Cottages at the Cays development proposal, including the City of Coronado's Port Commissioner, the National City Port Commissioner as well as one of three San Diego Port Commissioners.

Fact: The Cottages at the Cays development proposal was consistent with the property's designation in the Port Master Plan as commercial recreation space as approved by the California Coastal Commission.

Fact: The Cottages at the Cays development proposal was not consistent with the property's designation as recreational open space in the more recent California Coastal Commission-unapproved Port Master Plan Update.

Fact: Without the approval of the California Coastal Commission, the Port District viewed the Coronado Cays Port Master Plan Update land use designation of recreational open space as non-binding and preliminary.

Fact: The Coronado Mayor, City Council members and residents of Coronado affected by the Cottages at the Cays development proposal relied on the property use designation for recreational open space adopted most recently in the Port Master Plan Update document, believing this document should control use of property proposed for the Cottages at the Cays development.

Finding 12: The Port's decision to approve the Cottages at the Cays development proposal could negatively impact access to San Diego Bay and approving the plan favors those willing or able to pay costly hotel rates typical of the Coronado area.

Public Participation

Fact: Port Commissioner reports and briefings to their city councils on the activities of the Port District, in publicly accessible venues such as city council meetings do not take place on a frequent or regular basis.

Finding 13: Given a preference for informal channels of communication by Port City councils and mayors with their appointed Port District representatives, neither Port Commissioners nor Port City Councils maintain completely open and transparent relationships allowing for public involvement or awareness of Port District activities.

Master Plan Documents and Updates

Fact: Ratification of Port Master Plans, Master Plan Updates or Master Plan Amendments by Port Cities or County of San Diego for planning districts with their jurisdiction is not prohibited by the Port Act.

Finding 14: In its current form, the Port Master Plan and Master Plan Update documents published by the Port District are overly complex, difficult to understand and too broad in scope to foster meaningful comprehension by Port City residents, elected municipal or county officials.

Finding 15: Ratification of Port Master Plans, Master Plan Updates or Master Plan Amendments would allow residents of Port City Planning districts and San Diego County to acknowledge and confirm their understanding of Port District development plans and projects within their municipal and county boundaries and provide reliable documents for communities to plan for the future.

RECOMMENDATIONS

The 2022/2023 San Diego County Grand Jury recommends that the City Councils of the cities of San Diego, Chula Vista, Coronado, Imperial Beach, and National City:

23-90: **Enact ordinances or policies placing a two-term limit on the number of terms that a Port Commissioner can serve (as already enacted for the City of Coronado).**

23-91: **Institute ordinances or formal policies requiring the appointed Commissioners from each city be required to give at a minimum, quarterly updates to the City Councils at officially scheduled city council meetings open to the public.**

23-92: **Institute ordinances or formal policies that require ratification of the Port Master Plans, proposed Port Master Plan Updates or amendments to the Port Master Plan for Port District planning districts within each city's boundaries.**

23-93: **In consultation with the San Diego County Board of Supervisors, explore and implement an alternate form of governance for the Port District allowing for participation in, and oversight of Port District activities and decision by the San Diego County Board of Supervisors and the elected city councils of the five Port Cities.**

The 2022/2023 San Diego County Grand Jury recommends that the County of San Diego Board of Supervisors:

23-94: **Institute ordinances or formal policies that require ratification of the Port Master Plans, proposed Port Master Plan Updates or amendments to the Port Master Plan by each of three county supervisors for Port District planning districts within each of three county supervisorial district boundaries.**

23-95: **Direct the County Office of Intergovernmental Relations to lobby California State legislators to introduce legislation enabling the County of San Diego to assume oversight of the activities of the San Diego Unified Port District or decisions of the Board of Port Commissioners and share in the Port District's duty as guardian of the public trust in the tidal and submerged lands of San Diego Bay.**

23-96: **Depending on the outcome of Recommendation (23-XX, above), consider exploring and implementing an alternate form of governance for the Port**

District allowing for participation in, and oversight by the San Diego County Board of Supervisors and the elected city councils of the five port cities.

The 2022/2023 San Diego County Grand Jury recommends that San Diego Unified Port District Board of Commissioners:

23-97: **Institute formal policies or procedures allowing for appeal of any action taken by the Board of Port Commissioners, including decisions, ordinances, or project approvals.**

23-98: **Institute formal policies to enable Port Cities and County of San Diego to ratify the Port Master Plans, proposed Port Master Plan Updates or amendments to the Port Master Plan for Port District planning districts within each city's and county boundaries.**

23-99: **Directly inform each of the five City Councils at officially scheduled City Council meetings open to the public how the proposed updated Port Master Plan affects areas within their jurisdictional boundaries.**

23-100: **To increase the coordination of Port District activities with the Port Cities and their staffs, institute a policy of including staff from each of the five Port Cities and County of San Diego on each of the Port District's advisory committees.**

23-101: **Post meeting minutes and agendas of each of the Port District's advisory committees.**

23-102: **In consultation with the City Councils of San Diego, Chula Vista, Coronado, Imperial Beach and National City, consider placing a two-term limit on the number of terms that a Port Commissioner can serve (as already enacted for the City of Coronado).**

23-103: **Institute ordinances or formal policies requiring the appointed Commissioners from each city be required to give at a minimum, quarterly updates to the City Councils at officially scheduled city council meetings open to the public.**

23-104: **In consultation with the San Diego County Board of Supervisors, explore an alternate form of governance for the Port District allowing for participation in, and oversight of Port District activities and decision by the San Diego County Board of Supervisors and the elected city councils of the five Port Cities.**

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court

on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
    (1) The respondent agrees with the finding
    (2) The respondent disagrees wholly or partially with the finding; in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
    (1) The recommendation has been implemented, with a summary regarding the implemented action.
    (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
    (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
    (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	Recommendations	Date
City of San Diego, City Council	**23-90 through 23-93**	**8/28/2023**
City of Chula Vista, City Council	**23-90 through 23-93**	**8/28/2023**
City of Imperial Beach, City Council	**23-90 through 23-93**	**8/28/2023**
City of Coronado, City Council	**23-90 through 23-93**	**8/28/2023**

City of National City, City Council	**23-90 through 23-93**	**8/28/2023**
County of San Diego, Board of Supervisors	**23-94 through 23-96**	**8/28/2023**
San Diego Unified Port District, Board of Port Commissioners	**23-97 through 23-104**	**8/28/2023**

Does the S.D. Port have too much power?

Waterfront agency dismisses grand jury's call for county oversight

BY JENNIFER VAN GROVE

Last year, a group of 19 residents, in their post as government watchdogs on the San Diego County Grand Jury, focused their microscope on one of the most powerful — and most misunderstood — agencies in town.

That agency, the Port of San Diego, has relatively unchecked authority over San Diego's bayfront and would benefit from additional supervision, according to the grand jury's report, released in June.

The report, which includes 15 findings and 15 recommendations, doesn't obligate the port to change the way it governs, but it does nudge others to elevate the matter to state lawmakers. And it serves as a philosophical indictment on the structure of the local government entity, which essentially gets to play by its own rules, operating outside the jurisdictional authority of the county and neighboring cities.

"There were two themes (in the report), transparency and accountability," said Ed Lopatin, who was the grand jury foreperson during the group's audit of the port. "We have some proposals, some recommendations that there might be some changes to how the port is governed in the future."

Ultimately, the grand jury, which Lopatin described as acting as the eyes and ears of the public, recommended that the county assume, by way of new state legislation, oversight of the activities of the special district or decisions by the port's board, sharing the duty as guardian of San Diego Bay.

The recommendation was rejected outright by the port as contrary to its purpose. Elevating local concerns over statewide concerns would be illegal, the agency said in its 27-page response submitted to San Diego County Superior Court last week.

"(The grand jury) expressed desire for more control from San Diego County and the member cities of San Diego Unified Port by granting San Diego County oversight of the Port through state Legislation, or an alternative form of governance," the port response

states. “However, this desire is at odds with the Public Trust Doctrine, the intent of the Legislature and the legal purpose of the port.”

That’s because, the port points out, it acts as a trustee of state-granted land, administering the district on behalf of all Californians — not just local citizens — according to the Public Trust Doctrine, which is rooted in Roman law. The doctrine holds that states must manage public resources such as tidelands for the common benefit of the people.

Formed by the state Legislature in 1962 and ratified by a countywide vote, the San Diego Unified Port District spans 34 miles of coastline from Shelter Island to the border.

The special district was created to unify the management of tidelands in five cities: San Diego, National City, Chula Vista, Imperial Beach and Coronado. A board of seven commissioners — one per member city except for San Diego, which has three seats — has the authority to set policy for 2,400 acres of land and 3,500 acres of water. Soon, they’ll also have permitting power over an additional 8,000 acres of submerged lands in San Diego Bay.

The agency’s territory spans popular waterfront parks and marinas, bayfront resorts, the USS Midway Museum, Seaport Village, Portside Pier, the Rady Shell, the Coronado Ferry Landing, the Silver Strand, Imperial Beach’s oceanfront and other high-trafficked coastal destinations.

Construction is also under way on the Gaylord Pacific Resort and Convention Center, a $1.2 billion project on a 36.5-acre site on the Chula Vista Bayfront that even the grand jury cited as an example of good governance because of the cooperation between the city of Chula Vista and the port.

Practically speaking, the port acts as landowner and regulator. And it is tasked with generating enough revenue — primarily by collecting rent and fees from hotels, restaurants, retail shops, marinas, landings, yacht clubs, shipyards, cargo operators, aerospace firms and cruise ships — to support operations. The port does not collect taxes.

It is this tension that creates room for potential conflicts of interest as commissioners attempt to balance what’s best for the public and what keeps the lights on.

“While these tidelands-associated revenue streams allow the Port District to operate free of budget constraints typical of other state or local government agencies, the need to generate such revenue can lead to a significant source of bias in the deliberations of Port Commissioners and obscure motives and objectives of staff at all levels of the organization,” the grand jury report states.

The port, which by design lacks direct oversight from local city or county governments, does fall under the watchful eye of California’s State Lands Commission, which is the ultimate authority on whether proposed land uses are consistent with the Public Trust Doctrine. In addition, the California Coastal Commission is required to certify the port’s master plan, as well as any amendments, and can overrule the port on discretionary coastal permit decisions.

Because of its structure, the port can look and feel foreign to all but the agency's closest observers. Even insiders acknowledge a disconnect between the agency and the broader public.

"I think (the grand jury report is) a really important lesson, and that is that we need to do a better job explaining about the port, about the Port Act, about what it is we're set up to do," said Randa Coniglio, who is the port's acting CEO.

Coniglio, who has a long history with the agency, recently came back from retirement to serve as the top executive after previous CEO Joe Stuyvesant was placed on paid administrative leave.

"It was ingrained in me, from the time I started here, that we administer the tidelands for the benefit of the people of the state of California," she said. "And I don't think we do a good enough job educating the general public about that, nor have we done a good enough job educating the grand jury about that."

Even though the port is complex in nature, the idea of county control is preposterous, said Sharon Cloward, who runs San Diego Working Waterfront and represents the business interests of port tenants. In her position, Cloward is a regular speaker at monthly board meetings, where she is often openly critical of policies that would harm tenants.

"The grand jury really didn't understand the port at all, which is surprising," she said. "The county to oversee the port district? Oh my God, no. ... They would never get anything done. It would be just adding another layer. It wouldn't benefit (anyone). The county still is going to have to work under the Public Trust Doctrine."

Member cities — San Diego, National City, Chula Vista, Imperial Beach and Coronado — were all required to submit responses to the grand jury's findings and recommendations.

While many have objected to individual port decisions over the years, the cities expressed no appetite for a new form of governance, nor were they eager to themselves take on additional oversight duties in the form of ratifying port master plans.

"Conferring authority to another agency, the County Board of Supervisors, does not present an enhancement in port cities' authority and control," states the city of Coronado's response, signed by Mayor Richard Bailey.

The sentiment comes even in light of the port commissioners' controversial decision earlier this year to start the environmental review of a plan to develop a bayfront RV resort in Coronado Cays. The project, which has not yet been approved, is opposed by the city of Coronado.

County control of the port was also rejected by the city of Chula Vista, which warned in its response to the grand jury that additional oversight would dilute its own authority.

Even the county seems to want to remain hands-off, although the agency's formal response to the court notes that it will need to further analyze the grand jury's recommendations.

Cities were also not enthusiastic about implementing some of the grand jury's other recommendations, such as mandated term limits for commissioners. Port commissioners are appointed for four-year terms with member cities currently responsible for setting term limits. Coronado is the only city to restrict its port commissioner to a two-term limit.

"Small cities often benefit from continuity, and the pool of qualified and/or interested candidates may at times be limited," the city of Imperial Beach said in its response.

Taken together, the responses suggest that little will come of the grand jury's report, beyond some cities increasing how often their representatives report back to their respective city councils.

San Diego, for instance, will consider asking its three commissioners for more frequent council updates, the city said in a response drafted by the Independent Budget Analyst and still subject to City Council approval. Chula Vista said it will consider adopting a policy requiring semiannual updates from its port commissioner.

"The only requirement that (the port, the cities and the county) have is to respond," Lopatin, the former grand jury foreperson, said.

Maybe that's enough for now.

"I think all agencies can use improvement. I don't think any agency runs really well … but I think the port is doing the best it can," Cloward, who runs the tenant association, said.

jennifer.vangrove

@sduniontribune.com

"District" or "special district"

56036. (a) "District" or "special district" are synonymous and mean an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries and in areas outside district boundaries when authorized by the commission pursuant to Section 56133.

(b) "District" or "special district" includes a county service area, but excludes all of the following:

(1) The state.

(2) A county.

(3) A city.

(4) A school district or a community college district.

(5) An assessment district or special assessment district.

(6) An improvement district.

(7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5).

(8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

(9) An air pollution control district or an air quality maintenance district.

(10) A zone of any special district.

Blank for Photocopying

"Independent district" or "independent special district"

56044. "Independent district" or "independent special district" includes any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. "Independent special district" does not include any district excluded from the definition of district contained in Sections 56036 and 56036.6.

Blank for Photocopying

7b

AGENDA REPORT
Business | Discussion

December 4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Susanne St. Clair, Contract RGS Consultant

SUBJECT: **Draft Comprehensive Update to Personnel Policies**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will review a draft update to the personnel policies as part of the adopted workplan. The draft update has been prepared by LAFCO's contract human resources consultant – Regional Government Services Authority (RGS) – with input from senior staff. The draft follows a Commission approved scope of work and transitions personnel policies away from relying on the County of San Diego and towards a stand-alone document scaled to LAFCO's unique setting as a public agency with less than 10 employees. The draft is being presented for discussion and feedback, including potential topic expansions, and ahead of its finalization for future action.

BACKGROUND

Human Resources Support & Current Personnel Policies

Starting in October 2022, San Diego LAFCO contracted with RGS to provide human resources support services. These support services are billed hourly and primarily focus on employee relationships ranging from benefit and leave administration to performance management.

Administration:
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
E lafco@sdcounty.ca.gov
www.sdlafco.org

Chair Jim Desmond, County of San Diego
Joel Anderson, County of San Diego
Nora Vargas, Alt., County of San Diego
Kristi Becker, City of Solana Beach
Dane White, City of Escondido
John McCann, Alt., City of Chula Vista
Vice Chair Stephen Whitburn, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Jo MacKenzie, Vista Irrigation
Barry Willis, Alpine Fire Protection
David A. Drake, Alt., Rincon del Diablo
Andy Vanderlaan, General Public
Harry Mathis, Alt., General Public

This relatedly includes reconciling the Commission's own policies on certain personnel topics with more expansive cross-references to the County of San Diego's policies as part of Rule 6.

Adopted Workplan & Two-Part Comprehensive Update to Personnel Policies

San Diego LAFCO's current workplan was adopted at a noticed public hearing in May 2023 and includes 30 priority-listed projects for the fiscal year. This includes a two-part project tied to a comprehensive update to LAFCO's personnel policies (Rule 6) and divided between setting a scope of work and proceeding with the drafting of the document itself. The underlying intent to the two-part project is to scale LAFCO's personnel procedures as a stand-alone document and reflect the employer-employee needs of a relatively small public agency. The Commission proceeded to approve a scope of work in August 2023.

DISCUSSION

This item is for San Diego LAFCO to review a draft comprehensive update to the personnel policies (Rule 6) for discussion and feedback. The draft update follows the completion of the first part of this two-part workplan project involving a scope of work approved by the Commission in August 2023. The draft update divides the personnel policies into four sections – introduction, working conditions, employment administration, and leave administration – and collectively serves the role of an employee handbook. This includes setting clear expectations with respect to a range of employer-employee scenarios, like leave uses and complaint procedures. A summary of key provisions within each of its four sections follows.

- Introduction Section
  Serves as a welcoming to new employees with a summary of the organization's history and core statutory responsibilities. It also communicates the five shared employee values developed by consensus at a recent team-building workshop- with respect to being accountable to each other. Specifically, each employee will be responsible for ensuring they emphasize respect, teamwork, duty, innovation, and integrity in performing their job functions as well as interacting with others.

- Working Conditions
  Addresses employer allowances and protections with respect to addressing employee work accommodations and related requests to help ensure a healthy, fair, and productive work environment. Examples include addressing anti-harassment protocols, teleworking privileges, outside work activities, and work-related reimbursements. Similarly sets employee standards and related LAFCO expectations and includes addressing interoffice relationships, outside activities – including social media usage, and alcohol and drug testing.

- Employment Administration
  Addresses employee classifications and related benefit rights as well as general operational settings. This latter category includes workhours, attendance, and breaks. Also addresses employee dress code and appearance standards. Additional topics include dependent care accommodations, training, performance reviews, and grounds for disciplinary procedures up and to termination. Document makes explicit all employees serve at-will and Executive Officer makes final decision on discipline.

- Leave Administration
  Addresses accrual rights and uses involving employee vacation and sick leaves. This includes setting caps on accrual consistent with County standards.

The draft update is provided as Attachment Three.

ANALYSIS

The draft update before San Diego LAFCO follows the Commission's approved scope of work and scaled to the organization's unique setting as a public agency with less than 10 fulltime employees. This includes addressing evolving workforce themes with respect to setting modern rules and expectations of employment at LAFCO ranging from adaptive accommodations to health and safety protections. Equally, the draft update addresses modern rules and expectations of employees with respect to workplace interactions and relationships, attire and appearance, and off-duty activities – including outside employment and social media uses. The draft update also – materially – establishes more direct and simplified complaint and disciplinary processes. Discussion and feedback is desired to help ensure the draft update's content is consistent with Commission expectations and interests before a final version is presented for future approval.

RECOMMENDATION

This item is presented to San Diego LAFCO for discussion only.

ALTERNATIVES FOR ACTION

None.

PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for discussion as part of the business calendar. The following procedures are recommended in the consideration of this item:

1) Receive verbal presentation from staff unless waived.
2) Invite comments from interested audience members if any.
3) Provide feedback to staff as requested.

Respectfully,



Keene Simonds
Executive Officer

Attachments:

1) Rule 6: Existing Personnel Policies
2) Approved Scope of Work to Update Personnel Policies
3) Draft Update to Personnel Policies

RULES
SAN DIEGO
LOCAL AGENCY FORMATION COMMISSION

ARTICLE VI
PERSONNEL RULES

6.1	Application
6.2	Definitions
6.3	Rest Periods
6.4	Holidays
6.5	Classification
6.6	Compensation
6.7	Performance Reports
6.8	Eligibility for Step Adjustments
6.9	Overtime
6.10	Leave
6.11	Vacation
6.12	Dismissal or Suspension
6.13	Temporary Appointment to a Higher Class
6.14	Employees Previously Employed by a County
6.15	Benefits
6.16	Compensation Plan
6.17	Recruitment
6.18	Suspension of Personnel Rules
6.19	Effective Dates
6.20	Executive Officer Compensation Plan
6.21	Telecommuting

6.1 APPLICATION -

Unless otherwise provided in the employment contract between the Commission and the Executive Officer, the foregoing personnel rules and the attached compensation / benefits summary shall apply to all employees who have been:

1. Appointed and serve at the pleasure of the Commission; or
2. Appointed by the Executive Officer.

6.2 DEFINITIONS -

1. "Biweekly Pay Period" means the 14-day period commencing on August 16, 1974 and ending at midnight of the second Thursday thereafter and each subsequent 14-day period.

2. "Commission" means the San Diego Local Agency Formation Commission.

3. "County" means the County of San Diego.

4. "Discipline" means an action or actions taken by the Executive Officer or Commission to reprimand, dismiss, demote or suspend an employee of LAFCO.

5. "Executive Officer" means the Executive Officer appointed by the Commission pursuant to Government Code Section 56038.

6. "Immediate Family" means husband, wife, child, stepchild, brother, stepbrother, sister, stepsister, parent, stepparent, any person serving or who has served as parent or any other person living in the same household as the employee.

7. "Overtime" means authorized or ordered work required of an employee which is in excess of the work week as set by the Executive Officer for that employee.

8. "Part-time Employee" means an employee whose biweekly work week is less than 80 hours.

9. "Professional Employee" means the Executive Officer, Assistant Executive Officer, Chief of Policy Research, Chief of Governmental Services, and Local Governmental, Geographic Information Systems (GIS) Analyst, Local Governmental Analysts I, II, and III for the purpose of these personnel rules only.

10. "Rate of Compensation" means the specific amount of compensation established for a specific period of work.

11. "Reprimand" means a written or verbal expression of disapproval related to the activities of an employee of LAFCO.

12. "Rules" mean the Rules of the Commission.

13. "Support Employee" means Administrative Assistant, Administrative Aide, Commission Clerk, Executive Assistant, Records Clerk, for the purpose of these personnel rules only.

14. "Temporary Employee" means an employee hired by the Commission for a period not to exceed six calendar months.

15. "Work week" means the number of hours authorized in a biweekly pay period by the Executive Officer for each employee.

6.3 REST PERIODS -

Each employee may take a 15-minute rest period at midmorning and at mid-afternoon.

6.4 HOLIDAYS -

Full-time, permanent employees shall be entitled to the same holidays on full pay as authorized for the employees of the County of comparable classes unless otherwise specified by the Commission. Part-time, permanent employees' pay for holidays shall be equivalent to one-tenth (1/10) the number of regularly scheduled hours in the employee's biweekly pay period in which the holiday occurred.

6.5 CLASSIFICATION -

The Commission, through the adoption of these Rules, shall provide for the classification of its employees per the position specifications included in Article VI of the Rules (Exhibit A).

6.6 COMPENSATION -

The compensation for each position shall be according to a schedule fixed by the Commission. To the extent each position is comparable to a similar position in the County of San Diego, compensation shall approximate that for the comparable county position. Wage and benefit adjustments given by the County to its employees will be applicable to the comparable Commission positions. The rate of compensation set forth in the pay schedule shall represent the total compensation in every form except for overtime compensation, health insurance benefits, compensation plans, retirement benefits and reimbursement for actual and necessary expenses for traveling subsistence and general expenses authorized and incurred incident to employment. With commission budgetary approval, the Executive Officer is authorized to implement the employee performance incentive program. The program is based on recognizing exemplary performance through providing bonuses and/or cash awards. The Executive Officer may provide a one-time annual exemplary performance bonus to qualified Commission staff, not to exceed 5% of the annual salary for employees deemed eligible by the Executive Officer. The annual cycle is based on the fiscal year. Commission employees may receive exemplary performance pay and/or recognition pay in one lump sum cash award or in incremental cash awards.

In addition to performance bonuses up to 5% of an employee's annual salary, the Executive Officer may also provide recognition pay to Commission staff not to exceed $1,000 per award. The criteria for the award will be based on cost-savings, service improvement, or other tangible benefits to LAFCO operations directly attributable to an individual member of the LAFCO staff. Multiple awards may be granted to Commission staff as long as the aggregate monetary total of the awards do not exceed $1,000 for each member of the staff during the fiscal year. The Executive Officer is also authorized to establish an office-wide performance recognition program and is authorized to allocate up to $1,250 annually to support this program.

Non-executive Commission employees with a minimum of 15 years of continuous LAFCO/County of San Diego employment are eligible for a 1-2% annual salary band increase, contingent on exemplary performance subject to a determination by the Executive Officer.

Further information about the wages and benefits are included in the Benefits / Compensation Summary attached to the Rules.

6.7 PERFORMANCE REPORTS -

For the purpose of determining the step adjustment to which each employee of the Commission may be entitled, the Executive Officer shall provide for a system of reporting the performance and progress of employees. Performance reports for each employee shall be prepared prior to the six-month anniversary appointment and at least once a year thereafter. Consistent with LAFCO budget policy and Commission direction, the Executive Officer may approve step adjustments after above standard performance reports of employees. The Executive Officer shall, upon completion of the performance report, review same with the affected employee. Employees who do not concur with the Executive Officer's performance report may, within 15 days following the review of the performance rating, file a written request for reconsideration with the Executive Officer, unless that person reports to the Executive Officer. Employees who report to the Executive Officer may, within 15 days following the review of the performance rating, file a written request for reconsideration to the Personnel Committee.

6.8 ELIGIBILITY FOR STEP ADJUSTMENTS -

Consistent with LAFCO budget policy and Commission direction, the Executive Officer may approve step adjustments after above standard employee performance evaluations. On the first day of the pay period immediately following the twelve month anniversary of the appointment of an employee to a position and after completion of each additional year of service in the same position, an employee may be eligible to receive step adjustments. Step adjustments are awarded upon the approval of the Executive Officer.

6.9 OVERTIME -

Any authorized time worked in excess of the employee's weekly work schedule as established by the Executive Officer (see Section 6.2) shall be considered overtime.

Cash payment in lieu of compensatory time-off shall be considered when, in the judgment of the Executive Officer, granting compensatory time-off would detrimentally affect the operations of the office. Overtime shall be recorded in units of hours and tenths of hours on a biweekly basis. All hourly (non-exempt) employees are allowed compensatory time-off on an hour and a half-for-hour basis. Employees' hourly (non-exempt) positions may receive cash payments for overtime worked in any work week only at the discretion of the Executive Officer.

Compensatory time-off to which employees are entitled shall be allowed and taken no later than the last day of the fiscal year following the end of the fiscal year in which the overtime was worked. In authorizing compensatory time-off, the Executive Officer shall give consideration to the desires of the employee as to the date of such time-off and to the needs of the office.

6.10 LEAVE -

Any employee returning from an approved leave shall return to the same position, at the same pay-step, and with the same rights, privileges and obligations as other employees of the same position.

1. Leave With Pay

(a) Sick leave - Sick leave is paid time off that may be used when an employee is absent from duty for the reasons outlined below. Employees shall accrue sick leave at a rate of .05 x hours worked or of paid leave of absence (4 hours per 80-hour pay period) during each biweekly pay period. Unused sick leave may be accumulated from year to year. An employee may be authorized to use a maximum of eighty (80) hours of paid accrued sick leave in a twelve-month period for the purpose of caring for a member of the immediate family who is ill or injured. In addition, if the employee requests paid sick leave in excess of eighty (80) hours in order to care, or arrange care, for a member of the immediate family who is critically or terminally ill, additional accrued sick leave may be available to the employee when granted by the Executive Officer upon receipt of satisfactory verification from a physician.

Sick leave is paid time off that may be used because of the employee's:

(1) illness, injury, or exposure to contagious disease which incapacitates the employee for work;

(2) receipt of medical or dental care or consultation, including prenatal and postnatal care, which is not available except during working hours;

(3) requirements to care for an ill or injured immediate family member;

(4) necessity to be present because of a critical or terminal illness of an immediate family member; or

(5) need to discharge the required obligations that arise from the death of an immediate family member.

Upon termination of employment, employees hired prior to March 3, 1980 shall be compensated in cash for sick leave credits accrued. This provision authorizing cash compensation for unused sick leave shall apply so long as an employee has unbroken service even though the employee may change classification as a Commission employee. Employees in all LAFCO classes may upon retirement, deferred retirement, disability retirement, or death, convert all or a portion of accrued sick leave balance into retirement service credits subject to the rules and regulations of the of the San Diego County Employees Retirement Association, provided: (a) the employee has completed five (5) or more years of continuous

service during that employee's present employment; and (b) the employee's sick leave balance totals one hundred (100) hours or more. In addition, upon retirement or termination of service with the Commission, employees within benefit designation 01 (Executive Officer) may also elect to receive cash payment for all or a portion of unused sick leave credits equal to 50% of its value. One hundred (100%) of all sick leave credits that are paid to the employee in cash at 50% will be removed from the employee's sick leave balance.

(b) Bereavement Leave - Employees shall be allowed up to five working days of leave with pay upon approval of the Executive Officer due to death in the immediate family.

(c) Military Leave - Military leave may be allowed an employee in the same manner and under the same conditions as granted by the Civil Service Rules of the County of San Diego.

(d) Disability Leave - Disability leave may be allowed an employee in the same manner and under the same conditions as provided by the County of San Diego in the Civil Service Rules.

(e) Absence due to Required Attendance in Court - Absence due to required attendance in court may be allowed an employee upon approval by the Executive Officer and in the same manner and under the same conditions as provided by the County of San Diego in the Civil Service Rules.

(f) Administration of Leave With Pay - The Executive Officer shall maintain records of leave with pay and shall require of the employee a statement of reasons for absence by the employee; sick leave taken for more than three consecutive work days shall be verified by the attending physician or dentist. If, after investigation, the Executive Officer is convinced that the employee is not entitled to paid sick leave, the Executive Officer shall notify the employee accordingly.

(g) Computation of Leaves With Pay - Authorized leaves with pay shall be recorded in units of one hour; pay shall be allowed at the rate the employee would be paid for working during the same period.

2. Leave Without Pay

An employee may be allowed up to one year of leave without pay upon approval by the Executive Officer when such leave is in the best interests of the Local Agency Formation Commission. Any such request shall be in writing, shall state the reason for requesting leave and shall specify the dates requested. Reasons for requesting leave without pay shall include, but are not limited to, military service, extended illness or maternity.

(a) Leaves of Absence on Account of Illness or Injury - Leaves of absence without pay on account of illness or injury, which are not job incurred, may be granted for a maximum period of 26 full biweekly pay periods. This includes disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom. Such leaves will be granted only after all accrued sick leave credits have been used and shall be substantiated by a physician's statement.

(b) Leaves of Absence for Personal Reasons - Leaves of absence without pay for personal reasons may be granted for a maximum of 13 full biweekly pay periods. Such leaves shall only be granted after all accrued vacation, and holiday credits have been used.

(c) Family/Medical Leave (FML) - Family/Medical Leave shall be allowed in accordance with the provisions of the Moore-Brown-Roberti California Family Rights Act of 1993 (Government Code Sections 12945.1-12945.2, and relevant provisions within Section 4.3.12 of the County Compensation Ordinance notwithstanding minimum employee limits contained in the CFRA. Employees may use accrued sick and vacation leave balances during this time.

(d) The Executive Officer shall maintain records of such leave without pay. Any determination by the Executive Officer of a request for leave without pay shall be in writing. Only permanent or probationary employees occupying permanent positions are eligible for leaves of absence without pay under the provisions of this section.

6.11 VACATION -

1. All permanent professional employees hired prior to January 1, 2013 shall be entitled to vacation with pay in accordance with the schedule established for those positions. During the first five years of continuous service, professional employees shall be allowed 15 working days per calendar year of vacation time to be accumulated at a rate of 4.6 hours per biweekly pay period. After the completion of five years of continuous service, professional employees shall be allowed 20 working days of vacation time per calendar year to be accumulated at a rate of 6.1 hours per biweekly pay period. After completion of ten years of continuous service, professional employees shall be allowed 25 working days of vacation time per calendar year to be accumulated at a rate of 7.6 hours per biweekly pay period.

2. All permanent support employees hired prior to January 1, 2013 shall be entitled to vacation with pay in accordance with the schedule established for those positions. During the first three years of continuous service, support employees shall be allowed 10 working days of vacation time per calendar year to be accumulated at a rate of 3.1 hours per biweekly pay period. After completion of three years of continuous service, support employees shall be allowed 15 working days of vacation time per calendar year to be accumulated at a rate of 4.6 hours per biweekly pay period. After completion of nine years of continuous service, support employees shall be allowed 20

working days of vacation time per calendar year to be accumulated at a rate of 6.1 hours per biweekly pay period.

3. All permanent professional and support employees hired on or after January 1, 2013 shall be entitled to vacation with pay in accordance with the schedule established for those positions. During the first five years of continuous service, employees shall be allowed 10 working days of vacation time per calendar year to be accumulated at a rate of 3.1 hours per biweekly pay period. After completion of five years of continuous service, employees shall be allowed 15 working days of vacation time per calendar year to be accumulated at a rate of 4.6 hours per biweekly pay period. After completion of 10 years of continuous service, employees shall be allowed 20 working days of vacation time per calendar year to be accumulated at a rate of 6.1 hours per biweekly pay period. A summary of the vacation accrual rates applicable to LAFCO employees hired on or after January 1, 2013 follows:

0 to 5 years =	10 days/year*
5+ to 10 years =	15 days/year
10+ years =	20 days/year

**Vacation time credit shall accrue and may be taken during the first twelve calendar months of employment; however, 10 days of vacation time credit will take twelve calendar months to accrue.*

4. Vacation time for part-time professional or support employees shall be computed on the basis of the number of hours in the normal work week as established for that part-time employee by the Executive Officer.

5. No employee will be allowed to accumulate vacation time credits exceeding twice the amount allowed during any one calendar year. Employees who have reached 80% of their maximum balance of vacation leave (annual leave) will receive notification from the Commission payroll administrator about the excess leave balances. Employees whose vacation accruals reach the maximum accumulation limit shall cease to accrue vacation hours. An employee can only accrue additional vacation hours if the employee's vacation accumulation is below the maximum limit. Vacation time credit shall be accrued and may be taken during the first twelve calendar months of employment. The time at which each employee shall be granted vacation leave shall be at the discretion of the Executive Officer.

6. Upon termination of employment, an employee shall be compensated in cash for the unused vacation time, provided such employee has been in continuous service for more than six months. The cash compensation for unused vacation time shall be computed on the basis of the employee's rate of pay at the time of termination, but will not count toward the retirement benefit formula.

6.12 DISMISSAL OR SUSPENSION -

(a) Probationary Period. All employees appointed by the Executive Officer shall serve a one-year probationary period. During the probationary period, the Executive Officer

may dismiss the employee with or without cause. No appeal may be taken to the Personnel Committee from discipline imposed during the probationary period. In addition, any temporary employee may be dismissed by the Executive Officer, and the employee shall have no right of appeal.

(b) Discipline Subsequent to Probationary Period. The Executive Officer may dismiss, demote or suspend a permanent employee for cause after the employee has completed his or her probationary period. Rule VII of the San Diego County Civil Service Rules shall apply to any disciplinary action regarding a non-probationary permanent employee except that the Personnel Committee ("Committee") shall take the place of the Civil Service Commission. The Committee may appoint one of its members to hear the appeal and report back to the Committee with findings and a proposed decision. Any decision adopted by the Committee shall be final unless overturned by a court on appeal.

(c) No employee reprimanded by the Executive Officer shall have the right of appeal to the Personnel Committee.

6.13 TEMPORARY APPOINTMENT TO A HIGHER CLASS –

On the recommendation of the Executive Officer, the Commission may grant an employee a ten percent increase in compensation while such employee is assigned to perform the duties of a position which at the time is compensated at least ten percent higher than such employee's class; the assignment must be for a period exceeding 10 continuous working days but shall not exceed 130 working days.

6.14 EMPLOYEES PREVIOUSLY EMPLOYED BY A COUNTY -

The Commission shall accrue all sick leave, vacation, and retirement benefits of persons hired from counties pursuant to Section 56385 of the Government Code. For the purpose of calculating such benefits, the Commission may add previous county service to the tenure of service of employees, providing service has been continuous.

6.15 BENEFITS –

The Commission may contract for retirement, health and medical benefits for its employees pursuant to Section 56385 of the Government Code. LAFCO employees participate in the County of San Diego's Health and Medical Plans, Retirement System, Deferred Compensation Plan(s), Terminal Pay Plan, and other programs available to county employees.

6.16 COMPENSATION PLAN –

All employees are entitled to receive compensation plan benefits granted to personnel working in similar positions in the County of San Diego.

6.17 RECRUITMENT –

The Commission is an equal opportunity employer and in the recruitment and selection of

new employees directs the Executive Officer to apply similar principles as used by the Department of Human Resources of the County of San Diego.

6.18 SUSPENSION OF PERSONNEL RULES –

Upon good cause being shown and upon a finding of the public interest being served, the Commission reserves the right to waive, suspend, change or modify any of the foregoing rules.

6.19 EFFECTIVE DATES –

The Personnel Rules of the Commission shall become effective on August 5, 1974 and shall be amended thereafter by a majority vote of the Commission. Technical changes or updates to the Rules may be approved by the Executive Office subject to provision 1.12 of the Rules.

6.20 EXECUTIVE OFFICER COMPENSATION PLAN –

This Executive Officer Compensation Plan establishes the compensation for the Executive Officer, an Executive Management position. The plan provides for initial placement and subsequent adjustment of salary within the salary schedule fixed by the Commission. Any adjustment in rate of compensation pursuant to this plan shall be administered by the Commission.

1. Structure

   (a) The minimum, midpoint, and maximum rate of the designated range are set forth in the salary schedule. The salary band range for the Executive Officer classification will be aligned with and automatically adjusted from time to time with the same salary range as comparable classifications in the County (i.e., planning director, public works director, registrar of voters, etc.).

   (b) The midpoint rate of the designated range represents the job value of a fully competent employee and is the benchmark used to compare the class to other classes, internally and externally. The midpoint rate may be changed periodically by the Commission to reflect changes in internal and/or external factors. Any such change to the midpoint shall not automatically effect a change in the then current rate of the Executive Officer.

   (c) The relationship between the minimum and maximum rates of the designated range shall approximate a differential of 50%.

   (d) The range does not have steps. The Executive Officer may be paid an amount equal to or between the minimum and maximum rate of the designated range, according to the provisions of this plan.

   (e) The structure of the range shall be reviewed periodically, and may be changed by the Commission. The structure will be automatically adjusted based on salary band changes authorized by the County to its employees in comparable positions.

2. Appointment

The Executive Officer is appointed by the Commission and serves at the pleasure of the Commission. A person initially appointed as Executive Officer shall receive a salary determined by the Commission.

3. Adjustment Within Range up to Midpoint

For an employee whose salary is below midpoint of the designated range, adjustments up to the midpoint shall be governed by this subsection (3). No provision in this subsection (3) shall be construed to provide a guarantee of adjustment at any time during the employee's term of employment.

(a) Effective the first day of any pay period after each anniversary date of the employee's appointment as Executive Officer, the employee may receive a salary adjustment of 5% of current salary, not to exceed midpoint. Any adjustment shall be approved by the Commission and based upon the determination by the Executive Officer Compensation Committee that the employee's overall performance is rated at the level of "meritorious" or higher.

(b) No provision contained in this subsection (3) shall be construed to limit or deny the Commission's discretion to postpone an adjustment or reduce the compensation of an employee as a result of the employee's performance, as recommended by the Executive Officer Compensation Committee. However, any subsequent salary adjustment prior to the employee's next annual anniversary date must be based upon a mid-cycle Performance Evaluation. If such adjustment is an increase, the new salary rate shall not exceed that which the employee would have been eligible to receive on or after the immediately preceding anniversary date, pursuant to this subsection (3).

(c) Notwithstanding subdivisions (a) and (b) of subsection (3) above, the Commission may approve an adjustment of the Executive Officer's salary rate upon recommendation of the Executive Officer Compensation Committee.

4. Adjustment Within Range Above Midpoint

The Commission may adjust the Executive Officer's salary rate above midpoint if the employee's overall performance is rated at the level of "outstanding" by the Executive Officer Compensation Committee. This rating alone does not entitle the employee to a pay adjustment.

5. Exemplary Performance Compensation Adjustment

(a) Eligibility and Maximum. An Executive Officer may receive an exemplary performance compensation adjustment (e.g., cash award and/or bonus) in

increments of one percent (1%) not to exceed a total of (10%) of the employee's approximate annual salary at the time of approval of the adjustment.

(b) Approval. Adjustments shall be based upon the recommendation of the Executive Officer Compensation Committee following a performance evaluation, subject to the availability of funds within the budget.

(c) Term of Adjustment. An Executive Officer shall be limited to one exemplary compensation adjustment in a calendar year and shall be paid either in a lump sum or in incremental payments during the year.

(d) Compensation Unfixed. Payment of compensation adjustments shall not affect the Executive Officer's rate of compensation. Commencing the first day of the first full pay period of each calendar year, compensation of the Executive Officer shall be unfixed and indefinite for the year until such time as the Commission determines whether to authorize an exemplary performance compensation adjustment. That determination is to be based upon an evaluation of the employee's performance by the Executive Officer Compensation Committee.

6. Executive Officer Compensation Committee

Wherever this plan refers to the Executive Officer Compensation Committee, the following shall apply:

(a) The Executive Officer Compensation Committee shall consist of three members of the Personnel Committee as provided under Rule No. 1.11 with the option of the Chair to add a fourth member at his or her discretion.

(b) The Executive Officer Compensation Committee shall periodically review and rate the performance of the Executive Officer and make recommendations to the full Commission for any adjustments to the Executive Officer's compensation.

7. Relocation Allowance

Upon determination by the Commission that relocation allowance is appropriate to facilitate recruitment for and appointment of an Executive Officer, a relocation allowance in an amount not to exceed $12,000.00 may be authorized for the actual and reasonable relocation expenses incurred incidental to relocation of the appointee and his/her immediate family to San Diego County. Expenses may include, but are not limited to, personal transportation, moving expenses for household goods and temporary housing arrangements. Claims for expenses submitted pursuant to this provision shall be subject to review and determination by the Chairperson prior to reimbursement. Reimbursement for relocation expenses shall be subject to review of the full Commission.

8. Severance Pay

If an Executive Officer is terminated by the Commission, s/he may be eligible to receive up to six (6) months of their then annual salary upon approval of the Commission; provided, however, that no severance pay may be paid if termination is for reasons of malfeasance or misfeasance in office or conviction of a crime involving moral turpitude.

6.21 TELECOMMUTING –

Telecommuting is an arrangement that allows eligible LAFCO employees to work in a designated area outside the office. Telecommuting is a cooperative arrangement between employees and LAFCO. Telecommuting benefits employees, LAFCO, and the community, and as such is encouraged by the Commission to the extent applicable with these provisions.

Benefits include:

- Ability to function during an emergency when the regular worksite is inaccessible.
- Increased productivity.
- Efficient use of LAFCO resources, including office space.
- Recruitment and retention of highly qualified employees.
- Greater flexibility for employees.
- Improved employee morale and job satisfaction.
- Reduced employee absenteeism.
- Reduced employee commute time and costs.
- Decreased energy consumption, pollution, traffic, and related congestion.

1. Policy Guidelines

a) Telecommuting is a privilege, not a right. All LAFCO employees who telecommute must have an approved telecommuting agreement under this policy. In his/her discretion, the Executive Officer may have additional telecommuting requirements, guidelines, or procedures, provided they are consistent with the intent of this program.

b) Telecommuting does not change the duties, obligations, responsibilities, or terms and conditions of LAFCO employment. Telecommuting employees must comply with all LAFCO rules, policies, practices, and instructions.

c) A telecommuting employee must perform work during scheduled telecommuting hours. Employees may not engage in activities while telecommuting that would not be permitted at the regular worksite, such as child, elder, or other dependent care. Telecommuting employees may take care of personal business during unpaid lunch periods, as they would at the regular worksite.

d) Employees must read the telecommuting policy and any guidelines issued by the Executive Officer, obtain the Executive Officer's approval and execute the telecommuting agreement before telecommuting.

e) The Executive Officer may deny, modify, or terminate a telecommuting agreement for any business reason that is not arbitrary or capricious. Similarly, a telecommuting employee may end or request to change a telecommuting agreement at any time.

f) Telecommuting is intended to be cost neutral. LAFCO is not required to provide telecommuting employees with materials or supplies needed to establish an alternate worksite (desk, chair, computer, software, cell phone, etc.), and assumes no responsibility for set-up or operating costs at an alternate worksite.

g) The Executive Officer has the sole discretion to provide equipment, software, or supplies, or allow employees to use their personal equipment while telecommuting. The Executive Officer has the sole discretion to reimburse employees for the costs of using personal equipment while telecommuting. Any provision to reimburse costs should be addressed expressly in the telecommuting agreement.

h) All LAFCO rules regarding the use of computers, network, and the internet apply while an employee is telecommuting, regardless of whether the employee is using LAFCO-provided or personal equipment.

i) Telecommuting is distinguished between "regular" and "situational." Regular telecommuting involves an employee continually working specific days/times from an offsite location. Situational telecommuting involves an employee working specific days/times from an offsite location with defined start and ending periods and typically in response to temporary issues (daycare, schooling, transportation, etc.).

2. Eligibility

a) Eligibility for telecommuting is based on both the position and the employee. Not every job, or every employee, is well suited for telecommuting.

b) All professional positions as defined in Rule No. 6 are eligible for regular or situational telecommuting privileges.

c) All support positions as defined in Rule No. 6 are eligible for situational telecommuting privileges.

d) The determination of whether eligible employees are authorized for regular or situational telecommuting is the sole discretion of the Executive Officer.

e) Only employees with most recent satisfactory or above job performance evaluations are eligible to telecommute.

f) Notwithstanding eligibility under normal conditions, all employees shall automatically telecommute for the duration of any declared emergency by the County Health Officer unless otherwise required by the Executive Officer.

3. Agreement Options

a) Telecommuting agreements can be authorized by the Executive Officer on a regular or situational basis as defined in this policy.

b) Telecommuting agreements – whether regular or situational – shall follow the form approved by Commission Counsel and signed by both employee and Executive Officer.

c) All signed telecommuting agreements shall be filed with employees' personal records.

4. Work Hours

a) Under normal conditions, the percent of telecommuting hours for any authorized employee should not exceed 50% of their total workhours during the fiscal year.

b) All the rules applicable at the regular worksite are applicable while telecommuting.

This includes all of the following standards:

- Telecommuting employees must perform their designated duties and tasks during scheduled work hours.
- Employees must account for and report time spent telecommuting the same way they would at the regular worksite, or according to the terms of the agreement.
- Time accounting should be included in the telecommuting agreement.
- Employees may work overtime only when directed to do so and approved in advance by the Executive Officer or Assistant Executive Officer.
- Employees must obtain approval to use vacation, sick, or other leave in the same manner as departmental employees who do not telecommute
- Telecommuting employees who become ill must report the hours actually worked and use sick leave for hours not worked.

5. Offsite Work Area

a) A telecommuting employee must designate a work area suitable for performing official business. The employee must perform work in the designated area when telecommuting. Telecommuting employees must work in an environment that allows them to perform their duties safely and efficiently.

b) Employees are responsible for ensuring their work areas comply with the health and

safety requirements covered in the telecommute agreement. LAFCO may request photographs of the employee's designated work area to determine compliance with health and safety rules.

c) Employees are covered by workers' compensation laws when performing work duties at their designated alternate locations during regular work hours. Employees who suffer a work-related injury or illness while telecommuting must notify the Executive Officer or Assistant Executive Officer and complete any required forms immediately.

d) LAFCO is not liable for damages to an employee's personal or real property while the employee is working at an alternate worksite.

6. Equipment and Supplies

a) A telecommuting employee must identify the equipment, software, supplies, and support required to successfully work at an offsite location and must specify those items in the telecommute agreement. If LAFCO does not provide the needed equipment, software, supplies, or support, and the employee does not have them, the employee will not be eligible to telecommute.

b) Equipment, software, or supplies provided by the LAFCO are for LAFCO business only. A telecommuting employee does not obtain any rights to LAFCO equipment, software, or supplies provided in connection with telecommuting. The employee must immediately return all LAFCO equipment, software, and supplies at the conclusion of the telecommuting arrangement or at the Executive Officer's request.

c) A telecommuting employee must protect LAFCO equipment, software, and supplies from possible theft, loss, and damage. The telecommuting employee may be liable for replacement or repair of the equipment, software, or supplies in compliance with applicable laws on negligence or intentional conduct in the event of theft, loss, or damage.

d) Any equipment, software, files, and databases provided by the LAFCO shall remain the property of the LAFCO. A telecommuting employee must adhere to all software copyright laws and may not make unauthorized copies of any LAFCO-owned software.

e) Employees may not add hardware or software to LAFCO equipment without prior written approval.

f) Employees who use their personal equipment for telecommuting are responsible for the installation, repair, and maintenance of the equipment. Telecommuting employees must understand and agree that the LAFCO is entitled to, and may access, any personal equipment used while telecommuting, such as a personal computer, telephone, fax machine, monthly bills, and internet records. Employees must contact the Executive Officer or Assistant Executive Officer if equipment, connectivity, or other supply problems prevent them from working while telecommuting.

7. Security of Confidential Information

   a) All files, records, papers, or other materials created while telecommuting are LAFCO property. Telecommuting employees shall identify any confidential, private, or personal information and records to be accessed and ensure appropriate safeguards are used to protect them.

   b) LAFCO may require employees to work in private locations when handling confidential or sensitive material. Employees may not disclose confidential or private files, records, materials, or information, and may not allow access to LAFCO networks or databases to anyone who is not authorized to have access.

8. Sunshine Laws

   a) The California Public Records Act a regarding public information and public records apply to telecommuting employees. Public records include any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the LAFCO regardless of physical form or characteristic. Public information means the contents of a public record.

   b) Upon receipt of an appropriate request, and subject to authorized exemptions, a telecommuting employee must permit inspection and examination of any public record or public information in the employee's custody, or any segregable portion of a public record, within required time limits. This requirement exists regardless of where the public record is located.

9. Procedures

   a) Employees must complete the following steps before telecommuting:

      - Talk with the Executive Officer to determine eligibility.
      - Complete the telecommute agreement as required by the Executive Officer.
      - Receive approval of the telecommute agreement by the Executive Officer.

10. Denial, Modification, or Termination

    a) Denial, modification, or termination of a telecommuting agreement is not subject to the grievance procedures in any Memorandum of Understanding, or to any other review or appeal procedures, except as noted in this section.

    b) An employee who believes their telecommute agreement has been denied, or whose previously approved agreement has been modified or terminated, for arbitrary or capricious reasons may appeal the decision to LAFCO's Personnel Committee or its designee. The decision of LAFCO'S Personnel Committee or its designee is final.

Blank for Photocopying

Project Scope of Services

1. Provide a draft set of comprehensive personnel policy documents to the Agency. To accomplish this deliverable, RGS Advisor(s) will:

    a. Collect and review all existing personnel-related policy documents (i.e., existing Personnel Rules, MOU's, compensation resolutions, benefits resolutions, employee handbooks, administrative and payroll policies, and personnel-related sections of local government codes, etc.).
    b. Provide a recommended set of comprehensive personnel policies, which may incorporate unique local ordinances, resolutions and appropriate practices as described in existing documentation.
    c. Identify what supplemental documents and forms should be created and/or retained and referenced for correct administration. Provide information regarding existing policies or practices which should be eliminated entirely.
    d. Engage in problem-solving and project-planning meeting(s) with Agency project staff, and will develop action plans and timelines as needed for accomplishment of project activities.
2. Be reasonably available to perform the services during the normal work week. Provide project summary reporting as often as necessary for the purpose of consulting about the scope of work performed with the appropriate Agency project manager.

3. RGS will maintain open communication lines with Agency staff through written documentation, video conference calls, phone, and e-mail.

4. The Agency will only be invoiced for the actual hours worked. The work will be done remotely.

5. Projects and activities may be modified on request of the Agency.

A. GENERAL PROVISIONS

1. Introduction
2. Severability

B. WORKING CONDITIONS

1. Ethical/Legal Conduct
2. Equal Employment / Harassment, Discrimination and Retaliation
3. Outside Employment
4. Conflict of Interest
5. Confidential Information
6. Electronic and Computer Use
7. Use of Personal Vehicle
8. Teleworking
9. Employment of Relatives
10. Drug and Alcohol Free Workplace
11. Health and Safety
12. Workplace Violence
13. Travel and Expense Reimbursement
14. Lactation Policy
15. Whistleblower
16. Complaint Procedure

C. EMPLOYMENT ADMINISTRATION

1. Employee Standards
2. Discipline Procedures
3. At-Will Employment
4. Probationary Period
5. Background Checks
6. Work Week and/or Hours of Work
7. Overtime
8. Timekeeping Requirements
9. Compensation/Direct Deposits
10. Pay Days
11. Benefits
12. Tuition Reimbursement
13. San Diego County Employees Retirement Association
14. Attendance
15. Dress Code
16. Electronic File Management
17. Recruitment and Selection
18. Employee Records
19. Training
20. Reasonable Accommodation
21. Workers Compensation
22. Separation of Employment

D. LEAVE ADMINISTRATION

1. Holidays
2. Sick Leave
3. Vacation
4. FMLA and CFRA
5. Pregnancy Disability Leave (PDL)
6. Unpaid Leave of Absence
7. Victims of Violent Crimes
8. Military Leave
9. Bereavement Leave
10. Jury Duty / Court Appearances
11. Time Off to Vote

Blank for Photocopying

TABLE OF CONTENTS

CHAPTER ONE
GENERAL PROVISIONS

1.1 Introduction
1.2 Shared Values
1.3 Expectations
  1.3.1 Policy Intentions
  1.3.2 Employee Responsibilities
1.4 Severability

CHAPTER TWO
WORKING CONDITIONS

2.1 Equal Employment and Related Protections
  2.1.1 Reasonable Accommodation
  2.1.2 Certification of Victim Status
  2.1.3 Fitness for Duty Examinations
2.2 Outside Employment
  2.2.1 Off Duty Conduct
2.3 Confidential Information
2.4 Electronic and Computer Use
  2.4.1 No Expectation of Privacy
  2.4.2 Active Monitoring
  2.4.3 Internet Restrictions
  2.4.4 Incidental Personal Use
  2.4.5 Personal Social Media Code of Conduct
2.5 Teleworking
  2.5.1 Requesting Privileges
  2.5.2 Participation Guidelines
  2.5.3 Employer Expectations
2.6 Use of PLAFCO Vehicles
2.7 Use of Personal Vehicles
2.8 Interoffice Relationships
  2.8.1 Employment of Relatives
  2.8.2 Workplace Relationships
  2.8.3 Married or Domestic Partners After Employment2.
2.9 Alcohol and Controlled Substances
  2.9.1 Medications
  2.9.2 Reasonable Suspicious Drug and Alcohol Testing
2.10 Health and Safety
2.11 Workplace Violence
2.12 Travel and Expense Reimbursement
  2.12.1 Meals

2.12.2 Public and Commercial Travel
2.13 Tuition Reimbursement
2.13.1 Advanced Payment
2.14 Whistleblower Protection

CHAPTER THREE
EMPLOYMENT ADMINISTRATION

3.1 Categories of Employees
3.1.1 At Will Employee
3.1.2 New Hire Employee
3.1.3 Promotional Employee
3.1.4 Regular Full Time Employee
3.1.5 Regular Part Time Employee
3.1.6 Temporary, Intern, or Seasonal Employee
3.2 Classification Plan
3.2.1 Reclassification
3.3 Recruitments
3.3.1 Disqualification from Further Consideration
3.3.2 Reference Checks
3.3.3 Background Checks
3.4 Compensation
3.4.1 Salary Ranges
3.4.2 Hiring Up to Mid Points
3.4.3 Post New Hire Compensation
3.5 Performance Review
3.6 Hours of Work
3.7 Employee Breaks
3.7.1 Meal Break
3.7.2 Rest Break
3.8 Dependent Care Accommodations
3.8.1 Family Friendly Efforts
3.8.2 Lactation Break
3.9 Overtime
3.10 Timekeeping
3.11 Pay Days
3.11.1 Direct Deposits
3.12 Attendance
3.12.1 Excessive Tardiness
3.12.2 Abuse of Leave
3.13 Dress Code
3.13.1 Office Attire
3.13.2 Telework Attire
3.14 Appearances
3.14.1 Tattoos
3.14.2 Body Piercings

3.15 Employee Records
3.15.1 Personnel Files
3.15.2 Personal Employee Information
3.15.3 Release of Employee Information
3.15.4 Medical Files
3.16 Training
3.16.1 Mandatory Attendance
3.16.2 Optional Attendance
3.16.3 Exclusions
3.17 Benefits
3.18 Workers Compensation
3.18.1 Leave and Benefits
3.18.2 Dishonesty
3.19 Separation of Employment
3.19.1 Voluntary Separation
3.19.2 Involuntary Separation / Discharge
3.19.3 Job Abandonment
3.19.4 Layoff
3.19.5 Return of Commission Property
3.19.6 Job References / Verification of Employment
3.20 Disciplinary Process
3.20.1 Grounds for Discipline
3.20.2 Notice of Discipline
3.20.3 Ability to Respond to Discipline
3.20.4 Final Decision to Discipline
3.21 Termination of Employment
3.22 Complaint Procedure
3.22.1 Step I of Complaint Procedure
3.22.2 Step II of Complaint Procedure
3.22.3 No Retaliation
3.22.4 Process

CHAPTER FOUR
LEAVE ADMINISTRATION

4.1 Holidays
4.2 Sick Leave
4.2.1 Accrual Rates
4.2.2 Accrual Uses
4.2.3 Notice of Use
4.2.4 Restrictions
4.2.5 Final Disposition
4.3 Vacation
4.3.1 Accrual Rates
4.3.2 Caps on Accrual
4.3.3 Accrual Uses

4.3.4 Request to Use
4.3.5 Final Disposition
4.4 Family Medical Leave
4.5 Pregnancy Disability Leave (PDL)
4.6 Unpaid Leave of Absence
4.7 Victims of Violent Crimes
4.8 Military Leave
4.8.1 Military Family Medical Leave Entitlements
4.9 Bereavement Leave
4.10 Jury Duty / Court Appearances
4.11 Time Off to Vote

SAN DIEGO COUNTY
LOCAL AGENCY FORMATION COMMISSION

CHAPTER ONE
GENERAL PROVISIONS

1.1 INTRODUCTION

Welcome to San Diego County Local Agency Formation Commission (LAFCO or the "Commission"). We hope you will enjoy partnering with us and will find your work interesting, challenging and fulfilling.

LAFCOs were established in 1963 and are political subdivisions of the State of California responsible for providing regional growth management services in all 58 counties. LAFCOs are comprised of locally elected and appointed officials with regulatory and planning powers delegated by the Legislature to collectively ensure smart and sustainable growth in California relative to the unique needs and conditions characterizing each county. Pertinently, LAFCOs coordinate and oversee the establishment, expansion, and organization of cities, towns, and special districts as well as their municipal service areas. This means actively balancing competing public policy interests and headlined by accommodating new growth and development while protecting agricultural and open space resources from their premature conversion. Further, when accommodating new growth, LAFCOs are tasked with prioritizing housing for persons and families of all incomes given the essentiality to the social, fiscal, and economic well-being of the state.

A common thread underlying San Diego LAFCO activities over its first 60 years has been the proven principle that local government is dynamic and evolves to the changing needs of the county and its nearly 3.3 million residents. More changes to local government are assuredly needed to help ensure San Diego County continues to grow for its own economic and social well-being. Equally assured is the next 60 years will not necessarily resemble the last 60 years and each employee is vital in helping to ensure the Commission remains adaptive and responsive in its service to the public.

1.2. SHARED VALUES

On June 21, 2023, San Diego LAFCO staff participated in a facilitated team workshop to assess shared values in step with continuing to improve organizational performance. At the conclusion of the workshop, staff identified the following five shared values to serve as baseline expectations in holding each employee accountable to one another at work.

1. **Respect**
   Treat all persons with courtesy and respect at all times. Be mindful and have regard for others in all interactions.

2. **Teamwork**
   Promote and foster collaborative work environment to achieve San Diego LAFCO's mission and shared sense of purpose.

3. **Duty**
   Dutifully serve and support the Commission in its mission to promote the public good, public engagement, transparency, and accuracy.

4. **Innovative**
   Be empowered to work independently and adaptively in generating innovative solutions. Be produce and resourceful in producing quality work.

5. **Integrity**
   Demonstrate personal integrity. Commit to being honest and adhere to a high standard of ethical values.

1.3 EXPECTATIONS

1.3.1 Policy Intentions

The personnel policies and procedures outlined in this handbook are not intended to be a legal contract or agreement with employees. Instead, this handbook serves to describe the way the organization works and what mutual expectations you and the Commission should have from each other. There will be circumstances that will require changes to the policies, practices, and benefits. Amendments to these policies and procedures may be made and updates may be distributed to you from time to time. Where an applicable employee agreement specifically conflicts with a policy, the employee agreement provision will prevail.

1.3.2 Employee Responsibilities

Each employee at San Diego LAFCO is responsible for reading and complying with these policies and procedures. Violations of these policies and procedures will be addressed with employees in performance discussions and may result in disciplinary action up to and including termination of employment.

In the event there is a discrepancy between the language in these policies and procedures relative to state or federal law, federal or state law will prevail.

1.4 SEVERABILITY

If any part of these policies and procedures is determined to be unconstitutional or illegal, that part will be severed and the remaining provisions will be applicable.

CHAPTER TWO
WORKING CONDITIONS

2.1 EQUAL EMPLOYMENT AND RELATED PROTECTIONS

San Diego LAFCO affords equal employment opportunity for all qualified employees and applicants to all terms of employment with the Commission including, but not limited to, compensation, hiring, training, promotion discipline, and termination of employment.

The Commission protects all employees, interns, applicants, and any others doing business with LAFCO from harassment, discrimination, and retaliation. This includes prohibiting any forms of discrimination, harassment, and retaliation from occurring within the Commission working experience; to define those terms; and to establish procedures for investigating and resolving internal complaints.

Any employee, job applicant, intern, volunteer, officer, official, or contractor who believes they have experienced any form of harassment or discrimination are encouraged to report this immediately to the Assistant Executive Officer or the Executive Officer using the complaint procedure provided in Appendix A, Prevention of Harassment and Discrimination. Alternatively, complaints may be made by contacting the United States Equal Employment Opportunity Commission or the State of California Civil Rights Department (CRD) www.calcivilrights.ca.gov

2.1.1 Reasonable Accommodation

San Diego LAFCO is committed to providing reasonable accommodations to affirmatively address employees and applicants' disabilities or other types of hardships whether temporary or permanent that otherwise effect their work activities. Where it is not an undue hardship or a direct threat to the health and safety of others, the Commission provides employment-related reasonable accommodations to:

- Employees and applicants who request reasonable accommodations to enable them to perform essential job functions based on temporary or permanent health conditions and as verified by an authorized medical provider;

- Employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider;

- Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and

- Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

The Commission may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the Commission will: (1) explain the insufficiency; (2) allow the individual to supplement the documentation; and (3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

If the employee's – other than the Executive Officer – condition causes them to be unable to perform the essential functions of their position even with a reasonable accommodation, the Commission may separate the employee from employment. Similarly, should the Executive Officer's condition cause the same limitations, as described above, the Commission may separate the employee from employment.

If a pregnant employee, or an employee with a pregnancy-related condition – including an adoption, requests a reasonable accommodation, the Executive Officer or designee will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation is sufficient if it contains:

- A description of the requested accommodation;

- A statement describing the medical advisability of the accommodation due to pregnancy; and

- The date that the need for the accommodation will become necessary and the estimated duration of the accommodation.

2.1.2 Certification of Victim Status

Any San Diego LAFCO employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for their safety while at work must provide both of the following:

- A written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and

- A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

2.1.3 Fitness for Duty Examinations

With respect to current employees at San Diego LAFCO, and to help ensure appropriate protections for all parties, the Executive Officer may require an employee to submit to a fitness for duty examination. The purpose of the examination is to determine whether the employee has a disability and can perform the essential functions of their job when there is significant evidence of the following:

- Employee's ability to perform one or more essential functions of their job has declined; or

- Circumstances cause a reasonable person to question whether an employee is still capable of performing one or more of their essential job duties or is still capable of performing those duties in a manner that does not harm themselves or others.

Should an employee not comply with a request from the Executive Officer to report to the designated medical provider for a fitness duty examination they will be subject to discipline including possible termination of employment.

With respect to applicants, after the Commission extends a conditional offer of employment to an applicant, San Diego LAFCO may require the applicant to submit to a fitness for duty examination that is job-related, necessary for efficient operations of the agency, and required of all applicants for the job classification.

The Commission will notify an applicant or employee who is required to pass a medical and/or psychological examination of their right to obtain a second opinion at their expense and that they may submit such second opinions for consideration.

2.2 OUTSIDE EMPLOYMENT AND RELATED ACTIVITIES

Employees at San Diego LAFCO may not engage in any outside employment or perform off-duty work, paid or volunteer, if it conflicts with or impairs the employee's ability to perform their job duties and responsibilities through the end of their workday. Similarly, any outside employment or off-duty work that impacts any aspect of the Commission's operations in terms of otherwise reasonable requests for employees to attend meetings, trainings, and conferences that are outside their normal workday schedules shall be avoided and is the responsibility of the employee to mitigate.

To avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain prior written approval from the Executive Officer or designee.

2.2.1 Off Duty Conduct

While San Diego LAFCO does not seek to interfere with an employee's off-duty conduct, certain types of conduct exhibited outside of work may interfere with the Commission's legitimate business interests. Employees are expected to conduct their personal affairs

in a manner that does not adversely affect the Commission's integrity, reputation, or credibility. Off-duty conduct that adversely affects legitimate Commission business interests or an employee's ability to perform their work is not permitted.

2.3 CONFIDENTIAL INFORMATION

San Diego LAFCO is a public agency and most but not all of the information on fille is readily available to the public through proper request procedures. However, the Commission also possess information regarded as confidential. A prominent example involves personnel records, which should remain confidential except when disclosure is required by law. The following examples are intended to serve as a guide to the types of such information and material:

- Commissioners and coworkers' home addresses, private telephone numbers, and personal email addresses.
- Privileged communications with Commission Counsel's Office.
- Working documents – including emails, notes, and draft reports – generated in the ongoing administrative review of applicants' proposals and requests.
- Any information that, if disclosed, could adversely affect the Commission's business.

Upon separation of employment, or at any time upon the Commission's request, employees must deliver all copies of confidential information or other property belonging to San Diego LAFCO.

2.4 ELECTRONIC COMMUNICATION

Electronic information and communications require safeguards and impose unique responsibilities on all users at San Diego LAFCO. This policy and related procedures provide guidelines for the acceptable use of all Electronic Communications Resources and the responsibility for use of data stored electronically. The provisions of this policy apply to all employees of the Commission, including, but not limited to, full-time, part-time, and temporary employees, as well as volunteers, interns, agents, and vendors.

This policy governs all Electronic Communications including, but not limited to, the following commonly used devices at LAFCO:

internet	e-mail	voice-mail
smart phones	computers/laptops	tablets
video + audio equipment	wireless networks	email networks
data networks	agency social media sites	software programs

The Commission, as the provider of access to its electronic communications and data e-sources, reserves the right to specify how those resources will be used and administered to comply with this policy. Employees may be subject to corrective action including termination for using the Electronic Communications Resource Devices in a manner other than for their intended purposes, or in a manner that violates applicable laws.

2.4.1 No Expectation of Privacy

San Diego LAFCO's information and communication network is provided by the Commission to individual employees based on authorization by the Executive Officer. It remains at all times Commission property. All employee transactions on the internet from Commission devices (e.g., computers, telephones, smart phones, and tablets as well as e-mail and data networks) - including e-mail, contact lists, and task lists - are considered public information. Records of these transactions can be requested by anyone at any time, subject to certain Public Records Act exceptions and attorney-client privilege material. In that regard, the internet may be monitored for legitimate reasons at any time.

Employees using the internet from Commission devices have no reasonable expectation of privacy. Messages that are transmitted via the internet can be intercepted by anyone and the information contained in the message can be used for any purpose by anyone retrieving the message. Access to the web browser is being logged and these files can be subject to review at any time.

2.4.2 Active Monitoring

All communications transmitted via Commission Electronic Communications Resources Devices at San Diego LAFCO, whether related to personal or confidential matters, are subject to monitoring, at the Commission's discretion. The Commission monitors communications transmitted via the assigned Commission e-mail in the ordinary course of business for purposes that include ensuring their reliability and security. The existence of passwords and "message delete" functions do not restrict or eliminate the ability or right of the Commission to access electronic communications.

Employees should not communicate any personal, private, privileged, or confidential information including but not limited to personal attorney client communications, financial, medical information, or other privileged information, using the Commission's Electronic Communications Resources Devices. Employees who do communicate their private, privileged, or confidential information using the Commission's Electronic Communications Resources Devices will be considered to have waived any privilege or privacy rights in those communications, even where those communications are made via personal password-protected accounts using the Commission's Electronic Communications Resource Devices. Users can have no reasonable expectation of privacy in use of Commission systems, devices, or materials. Additionally, the Commission may be required to produce information transmitted or stored on its Electronic Communications Resource Devices pursuant to a court order, subpoena, or statute.

2.4.3 Internet Restrictions

The information sources accessible through the internet are worldwide and constantly growing in kind and number. It is not possible to fully itemize the types of information accessible by systems and their users. Nonetheless, San Diego LAFCO reserves the right to restrict access to any online data source at its sole discretion. These restrictions do not constitute an implication of approval of other non-restricted sources.

Without exhausting all the possibilities, the following are examples of inappropriate use of the Commission's Electronic Communications Resource Devices:

- Exposing others unwillingly, either through carelessness or intention, to material which is offensive, obscene or in poor taste. This includes information which could create an intimidating, offensive, or hostile work environment.

- Using Electronic Communications Resource Devices in any way that may, for a reasonable person, create or further a hostile attitude or give offense based on race, color, religion, national origin, citizenship, ancestry, marital status, gender, disability, age, veteran's status, sexual orientation, or any protected status.

- Communicating confidential LAFCO information to unauthorized individuals within or outside the Commission.

- Sending messages or information that conflicts with applicable law or LAFCO policies, rules, or procedures.

- Attempting to access unauthorized data or break into any LAFCO or non-LAFCO system.

- Engaging in theft or the unauthorized copying of electronic files or data.

- Intentionally misrepresenting one's identity for improper or illegal acts.

- Engaging in unlawful activities.

- Transmitting and/or accessing obscene material and/or pornography.

- Online gambling.

- Engaging in commercial activity or activity for financial gain, not under the support of the Commission.

- Receiving and/or downloading executable files and programs using electronic mail or the Internet without express permission of the Executive Officer is prohibited. This includes, but is not limited to, software programs and software

upgrades. All downloaded files must be scanned for viruses before installing on Commission owned equipment. Software applications/programs that must be upgraded on a routine basis are exempt from this restriction.

- Using another user's name and/or account, without express written permission of the Executive Officer, to access the Internet is strictly prohibited.

- Violating copyright and license agreements regarding software or publication they access or download from the internet. The Commission will not condone violations of copyright laws and licenses and the employee will be personally liable for any fines or sanctions caused by the license or copyright infringement. Any software or publication that is downloaded onto Commission computer resources, becomes the sole property of the Commission.

- Using Commission equipment or resources to speak on the Commission's behalf without authorization.

2.4.4 Incidental Personal Use

San Diego LAFCO employees may use Commission devices (e.g., computers, telephones, smart phones, and tablets as well as e-mail and data networks) for incidental personal communications if kept to a minimum and limited to break times or non-working hours and does not violate the terms of this policy.

2.4.5 Personal Social Media Code of Conduct

San Diego LAFCO understands that employees may engage with personal social media and social networking websites on their own time. While the Commission respects its employees' right to engage in these off-duty activities, employees are nonetheless held to a high professional standard as public servants and expected to conduct themselves appropriately in all such public communications, whether on or off the clock. Individuals violating this policy may be subject to discipline up to and including termination.

To ensure that Commission employees understand the Commission's expectations regarding external social media use, the following guidelines have been developed. Employees are expected to follow these guidelines using their best personal and professional judgment. Employees are expected to always conduct themselves professionally, and in a manner that does not adversely impact Commission interests.

- Employees are personally responsible for the content they publish on blogs, wikis, or any other online form of user-generated media and should be mindful that what is published will be public indefinitely.

- Employees should avoid discussing Commission or Commission-related matters using personal social media. If such matters must be discussed, the employee

should write in the first person and make it clear that they are representing themselves, and not the Commission.

- Employees may not publish or disclose Commission or another's confidential or other proprietary information. Employees should not publish or report on conversations or any communication on information that is meant to be private or internal to the Commission.

- Employees may not use insensitive language or otherwise engage in any conduct that would be discourteous, offensive, or unprofessional in the workplace, or that would otherwise violate any Commission policy, including but not limited to the policy prohibiting harassment and discrimination.

- Employees are not to use Commission logos in any of forums for non-work-related purposes.

- Employees should be aware of their association with the Commission in online social networks and ensure that their profile and related content are consistent with how they wish to present themselves to colleagues and the public.

- Employees are encouraged to be the first to correct unprofessional behavior, not to provoke fights, and avoid altering previous posts without indicating that they have done so.

- Employees should refrain from using social media during paid work hours, even if they are not actively posting to social media.

This policy is in no way intended to prevent employees from engaging in protected concerted activity or engaging in otherwise lawful conduct on their own time. This policy is separate from the Commission's Administrative Policy (A-107) regarding the Social Media Use Program.

2.5 TELECOMMUTING

San Diego LAFCO has implemented a telecommuting policy under Commission Rules 6.21 (Telecommuting) and allows certain employees to telecommute from an alternative worksite on a situational or regular basis for some of their regularly scheduled work hours. Telecommuting is a privileged and cooperative arrangement between employees and the Commission and subject to certain eligibility conditions and requirements.

The Executive Officer or designee possesses the discretionary authority to determine the job classifications, positions, and employees who are eligible to telework under this policy. The Executive Officer or designee, may decide using criteria including, but not limited to, the following:

- Regular status full time employees who have worked at the Commission for at least one 6 months, including the probationary period, with the discretion of the Executive Officer to reduce or expand the period;

- Prior annual job performance evaluation and/or job performance that meets or exceeds standards across all listed performance measures and demonstrates employee ability to work independently;

- The employee is self-motivated and demonstrates high dependability;

- Job duties and requirements allow the employee to be away from the Commission's worksite for a period during the work week;

- The availability or ability to create a functional, reliable, healthy, safe, and secure alternate worksite for the employee at a reasonable cost;

- The risk factors associated with performing the employee's job duties from a location other than the LAFCO office;

- Telecommuting does not impede other employees or work groups from performing their job duties, impact the Commission's business needs, or diminish the operations of the Commission;

- Telecommuting does not reduce service to internal or external customers; and

- The supervisor can manage the employee remotely – this includes the ability to have ready access to the employee throughout the workday.

2.5.1 Requesting Privileges

San Diego LAFCO employees may request telecommuting privileges by completing a LAFCO Telecommuting Application under Commission Rule 6.21. The employee is responsible for filing the completed request form with their supervisor or manager. The employee's supervisor or manager will proceed to provide the request to the Executive Officer with a recommendation. The Executive Officer will consider the recommendation provided by the employee's supervisor or manager in acting on the request with respect to approving, approving with modifications, or denying.

The Executive Officer will consider Teleworking requests on a case-by-case basis consistent with the criteria above and other factors relevant to the employee's request to telecommute. The decision of the Executive Officer regarding an employee's telecommuting request is final and binding. The employee possesses no right to appeal the decision.

2.5.2 Participation Guidelines

The duties, obligations, responsibilities, and conditions of employment at San Diego LAFCO are not changed by telecommuting. Employee's wage, retirement, benefits, and insurance coverage remain unchanged.

The telecommuting employee remains obligated to comply with all Commission rules, policies, practices, and instructions. Violations may result in disqualification from telecommuting and/or disciplinary action, up to and including termination of employment. The Commission's Workers Compensation liability for job-related accidents will continue to apply during the employee's telecommuting work hours.

Work hours, overtime compensation, and vacation schedule will conform to Commission policies and practices, Fair Labor Standards Act (FLSA), and to any other terms agreed upon by the employee's supervisor, except that, those terms may not violate the laws/provisions stated above. Flexible hours of work can be arranged with the supervisor.

Employees will work at a designated location during hours agreed upon. Arrangements for flexible work schedules are subject to the Executive Officer's or supervisor's approval.

2.5.3 Employer Expectations

San Diego LAFCO expects employees to match productivity whether they are working at the office or telecommuting. Expectations must be pre-established within the agreement and between telecommuters and supervisor or manager regarding work assignment(s), productivity level, and productivity measurements to be used when employee is telecommuting. Timeliness, quality, and quantity of work must be maintained.

Attendance and punctuality that observes scheduled hours on a regular basis is essential and must be maintained during telecommuting, unless otherwise approved in advance. The employee is expected to be prepared to participate in videoconferencing at any time during their scheduled telecommuting work hours and is expected to abide by the appearance and dress code policy, have their video feed on at all times, and be in a professional approved off-site work setting without distractions.

The employee agrees not to engage in employment activities other than Commission assignments during telecommuting hours.

- Telecommuting Equipment

  Equipment provided by the Commission is not an entitlement for telecommuters. The Commission may provide equipment but is not obligated to do so. Office supplies needed by the telecommuter will be provided by the Commission. All requests must be pre-approved by the responsible supervisor or manager. The Commission retains ownership of all equipment and/or licenses provided.

Use of Commission equipment and supplies is limited to authorized persons for purposes relating to Commission business. The employee is responsible for ensuring that equipment is used properly. The Commission will provide for maintenance and repairs to Commission equipment.

When using personal equipment for telecommuting, the employee is responsible for maintenance and repair of the equipment.

The Commission is not responsible for the payment of utilities (heat, electricity, etc.) or home maintenance costs. Telephone charges related to Commission business will be paid by the Commission.

In the event of delay in repair or replacement of equipment or any other circumstance under which it would be ineffective for the employee to telecommute, the employee will return to the Commission workplace.

- Telecommuting Location

The employee must designate a workspace at home or another location that is maintained in a safe condition, free from hazards. The telecommuter will be responsible for completing a workspace safety review. Any accident must be brought to the immediate attention of the supervisor.

As part of telecommuting responsibilities, the telecommuter must ensure that safety and ergonomic standards are met in their workspace. Although the workspace does not have to be a separate room, it must have adequate lighting, ventilation, and furniture that is ergonomically comfortable and safe to use.

Telecommuters must have a method for appropriately receiving and responding to communications (phone calls, messages, mail, etc.) from other staff, supervisors, and when applicable, clients and/or the public. Communication method(s) will be included in the written agreement between the supervisor and the employee.

During the employees' work schedule, the supervisor and/or manager may make an unannounced visit to the employees off-site designated work area.

The teleworker is solely liable for injuries to third persons and/or members of employee's family on employee's premises. The Commission is not liable for damage to the employee's real property.

Telecommuters must take all reasonable precautions necessary to secure Commission information and equipment in their workspace and prevent unauthorized access to any Commission system or information. Data and information used by teleworkers must be treated with the same caution and respect

that confidential material is given in the office. In some cases, teleworkers will need to take a few added precautions.

The Commission's Telecommuting Policy under Commission Rules 6.21 serve as a supplement to the above policy.

2.6 USE OF LAFCO VEHICLES

San Diego LAFCO employees with a valid California driver's license and insurance certificate on file with the County of San Diego and the Executive Officer are eligible to use LAFCO-owned vehicles for official agency business. Use is subject to approval by the employee's supervisor and/or manager and may include overnight privileges. LAFCO-owned vehicles shall not be used to transport authorized passengers, including family members except as may occur on an incidental basis or with a business justification. Employees with authorization to use the LAFCO-owned vehicles will be responsible for keeping the vehicle clean and presentable at all times. Accidents and/or damages must be immediately reported to the employee's supervisor and/or manager.

2.7 USE OF PERSONAL VEHICLES

San Diego LAFCO employees who travel using their personal vehicles on work-related business must have a valid California driver's license and insurance certificate on file with the County of San Diego and the Executive Officer. An employee who is asked and who agrees or is required as a condition of employment as defined in their job description to use their personal vehicle while performing Commission business is eligible for mileage reimbursement at the current rate established by the Internal Revenue Service.

Only hands-free mobile devices may be used when driving in adherence with current law. Employees who drive on work-related business whether using their own or a San Diego LAFCO vehicle should use available safety belts in the vehicles being operated.

2.8 INTEROFFICE RELATIONSHIPS

2.8.1 Employment of Relatives

On occasion, a qualified applicant for job opening at San Diego LAFCO may be a relative, or spouse or registered domestic partner of a present employee. Although given no preferential treatment, they will be considered when applying for job openings. However, consideration will not be limited solely to a relative, but will include all other applicants. The Executive Officer reserves the right to refuse employment of an existing employee's relative where such employment would or could reasonably compromise the safely, security, supervision, or morale of Commission operations. Additionally, relatives will not directly report to and/or supervise another family member.

The following definitions apply to this policy.

- A “relative” is defined as a child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.

- A “spouse” means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law.

- “Supervisory relationship” means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities under the Commission’s organizational chart.

2.8.2 Workplace Relationships

San Diego LAFCO defers to employees’ best judgement with respect to entering workplace relationships. Should a workplace relationship develop, both employees should immediately disclose the relationship to their supervisor and/or manager. The subject employees will be required to re-review the Commission’s anti-harassment policies and avoid any public displays of affection with each other. Notwithstanding the preceding provisions, the Commission prohibits workplace relationships between superiors and subordinates given the inherent power imbalance.

2.8.3 Married or Domestic Partners After Employment

If two San Diego LAFCO employees later become spouses or domestic partners, and no accommodations for both partners can be found, the Executive Officer has sole discretion to separate one of the employees from employment.

2.9 ALCOHOL AND CONTROLLED SUBSTANCES

Employees are the most valuable resource at San Diego LAFCO. For this reason, the Commission has a critical interest in assuring the health, safety, and wellbeing of its employees and the maintenance of a safe and efficient work environment. This includes adopting standards and guidelines to promote a professional workplace environment and eliminate drug and alcohol related inefficiencies and associate risks while adhering to state and federal laws applicable to public entities. The following polices and related standards apply to all Commission employees whether they are on LAFCO property, or they are performing Commission related business elsewhere.

- Employees may not consume alcohol while on regular duty, irrespective of place. in any manner that impairs their professional judgement.

- Employees cannot consume or manufacture, use, sell, purchase, possess, or distribution of any controlled substances, narcotic (including marijuana) or prescription drug that has not been lawfully prescribed while on regular duty, irrespective of place.

- An employee who is on notified call to return to work outside their regular duty is expected to adhere to all consumption standards and/or prohibitions outlined in this section.

- "Regular" duty means an employee's approved work schedule, which may include authorization to telework from home on certain days.

Employees must inform the Executive Officer of any criminal conviction for an alcohol or drug violation that occurred while on regular duty or on-call within five days after the conviction, and irrespective of filing any legal appeals.

Violation of this policy will result in corrective action, up to and including termination of employment, even for a first offense.

2.9.1 Medications

San Diego LAFCO employees must notify the Executive Officer or Assistant Executive Officer before beginning work when taking medications which could reasonably interfere with the safe and effective performance of duties. This includes the employee's ability to use and/or operate Commission equipment and devices as well as any vehicles – whether LAFCO-owned or personal.

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking a prescribed or over-the-counter medication is responsible for consulting the prescribing physician or pharmacist to determine whether the medication may interfere with safe performance of their job. An employee is not required to disclose the nature of their medical condition, or to identify the medication they are taking, but must clearly indicate effects, such as impaired alertness, balance impairment, warning about operation of machinery, etc. The Executive Officer or Assistant Executive Officer reserves discretion to determine whether to direct the employee to take sick leave.

Violation of this policy will result in corrective action, up to and including termination of employment, even for a first offense.

2.9.2 Reasonable Suspicion Drug and Alcohol Testing

If the Executive Officer or Assistant Executive Officer has reason to suspect that an employee with San Diego LAFCO may be under the influence and/or impaired due to drugs or alcohol while at work, or when reporting for work, that employee may be ordered to immediately submit to testing. The test will be conducted by a professional medical staff and laboratory. Likewise, when the Executive Officer or Assistant Executive Officer reasonably suspects that an employee's impairment from drugs or alcohol may have been a factor in an injury or accident during work or while operating Commission equipment or a vehicle, that employee may be also ordered to take a test.

Such examination and/or tests, when requested, will be on Commission time, are considered a condition of employment, and will be at the sole expense of the Commission. Transportation will be provided to and from the medical facility. If the employee tests positive, the employee may be subject to immediate discharge. Should an employee refuse to submit to the requested examination or test, the employee will be subject to corrective action, up to and including termination of employment.

2.10 HEALTH AND SAFETY

San Diego LAFCO is committed to providing employees with a work environment that is conducive to safe, effective, and productive job performance. The health and safety of our employees is a priority. All employees must follow safe working practices and instruct others to work safely. The following best practices should be followed at all times.

- Employees uncertain of the safe way to perform a job, should ask for help. An employee should also inform the supervisor or manager of any perceived hazards.

- All accidents must be immediately reported to the employee's supervisor and/or manager. Any injury, no matter how minor that occurs during regular duty, irrespective of place, must be reported promptly to ensure that the appropriate documentation of the incident is completed. Employees may be entitled to Workers' Compensation benefits for on-the-job injuries, and prompt, accurate reporting of accidents will assist in obtaining the benefits.

In compliance with California law, and to promote the concept of a safe workplace, the Commission maintains an Injury and Illness Prevention Program (IIPP).

2.11 WORKPLACE VIOLENCE

San Diego LAFCO is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. The workplace includes any location where Commission business is conducted, including vehicles and parking lots. Employees are prohibited from participating in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while working for the Commission. The Commission has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting. Violations of this policy may lead to criminal prosecution, or corrective action, up to and including termination of employment.

"Workplace violence" is defined as any conduct that causes an individual to reasonably fear for their personal safety or the safety of their co-workers, family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following actions:

- Threats or acts of physical harm directed toward an individual or their family, friends, associates, or property;

- The destruction of, or threat of destruction of Commission property or another employee's property;

- Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay;

- Striking, punching, slapping, or assaulting another person;

- Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise;

- Harassing or threatening phone calls, tests, videos and/or emails;

- Surveillance;

- Stalking; and

- Possessing a weapon(s) during work hours unless the Commission issues the weapon(s) for performance of the job. "Weapon" is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

Equally, employees should not be subjected to violence or threats. It is the responsibility of all employees to notify the Executive Officer or Assistant Executive Officer immediately of any threats or acts of violence in the workplace. Notification may be made to any of these persons as appropriate and should be reported as soon as practicable. Retaliation against any person who reports such an incident will not be tolerated.

The Commission whether through the Executive Officer or Commission Counsel will see that reported violations of this policy are investigated as necessary.

2.12 TRAVEL AND EXPENSE REIMBURSEMENTS

San Diego LAFCO business travel will be carried out in an efficient, cost-effective manner resulting in the best value. The Commission will pay or reimburse all pre-approved business travel-related expenses based on reasonableness, meal guidelines and on the actual amount of expense incurred by the employee. Reimbursement for personal expenses and alcoholic beverages will not be authorized for payment and may not be charged to a Commission credit card. Additional guidelines follow.

- Commissioners and employees may be paid for travel time with prior authorization the Executive Officer or Assistant Executive Officer.

- Receipts must be submitted for all expenses, with the completed expense report, including bridge toll receipts and parking costs. If receipts are not available, a written explanation must be provided as to why this is the case and the reason the expense was incurred.

- Complete expense reports submitted to the Executive Officer or Assistant Executive Officer at least two days prior to the end of the pay period to be processed on the upcoming pay period.

2.12.1 Meals

While traveling, San Diego LAFCO employees and Commissioners are responsible for payment of all employee meals unless the Executive Officer and/or the Assistant Executive Officer are present and participating in the meal. Appropriate expenses may be submitted for reimbursement using the employee expense reimbursement form. Employees are expected to use good judgment when incurring expenses while traveling and purchasing meals and remain mindful of appearances.

Meals not incurred as part of out-of-area or overnight travel are limited to activities outside of normal duties, such as business-related meetings held before or after regular working hours (including working lunches) or extended time due to special projects or emergencies. Meal reimbursements are not allowed as part of routine daily work assignments, unless part of the registration cost or the meal is served on site as part of the program to keep all participants together.

2.12.2 Public and Commercial Travel

San Diego LAFCO employees at times may be required to travel as a part of their assigned duties. Common examples include attending out-of-area trainings, conferences, and hearings. Employees should coordinate through the Executive Officer or designee for their air travel, car rental and lodging arrangements and submit expenses on an expense report. Whenever practicable, employees should prioritize public transit options.

Discounted government or sponsoring group rates for transportation and lodging should be used whenever offered and available. When conference or training sponsors have arranged for lodging, employees will stay at these facilities and the cost should not exceed the maximum published group rate. If rooms are not available at these facilities, accommodations should be at a comparable facility at a comparable cost.

2.13 TUITION REIMBURSEMENT

San Diego LAFCO encourages the advancement of its employee in subjects related to Commission functions, including job-related courses that lead to a degree or certification from an accredited institution. The Commission, following completion of a course, will reimburse the employee for the cost of tuition subject to the following conditions:

- The employee has the prior approval of the Executive Officer, and the course is directly related to the position and beneficial to the Commission.

- The applicant is a full-time employee in good standing, that is, not on probation or under disciplinary action, and has met all the course requirements. (The Executive Officer may waive this requirement for probationary employees on a case-by-case basis).

- Approved courses are successfully completed with a letter grade of "C" or better, or a pass/fail grade of "Pass".

- Reimbursement equals 10% of the tuition cost or $1,500, whichever is greater. Reimbursements are made at the end of each semester, quarter, or class ending.

Courses requiring attendance during work hours will not be charged to vacation time provided the Executive Officer has approved the absence from duty. A forty-hour workweek must be maintained.

This policy does not apply to an employee's voluntary attendance, outside of normal working hours, at formal or informal educational sessions, even if such sessions may generally lead to improved job performance. While the Commission generally encourages all employees to improve their job skills and promotional qualifications, these activities will not be subject to this policy regarding reimbursement or compensation unless prior written approval is obtained from the Executive Officer.

2.13.1 Advanced Payment

San Diego LAFCO employees may request advanced payment. Employees who receive advanced payment must submit transcript and receipts for covered expenses within 30 days of completion of the class. The Commission will automatically deduct the full amount advanced from the employee's payroll check if the employee fails to submit the required documents or terminates their employment. Employees may request advanced payment for approved courses which might not otherwise be financially feasible.

If an employee retires, resigns, or is terminated prior to the completion of the class and has received an advance, the advanced amount will be deducted from the employee's last paycheck. Hardships will be considered on a case-by-case basis.

2.14 WHISTLEBLOWER PROTECTION

San Diego LAFCO prohibits all the following:

- Taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to the Commission, if the employee has reasonable cause to believe that the information discloses a violation of state or

federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;

- Preventing an employee from disclosing information to a government agency, including to the Commission if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;

- Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation; and

- Retaliating against an employee because the employee's family member has or is perceived to have engaged in any of the protected activities listed above.

This policy governs and protects Commission officials, officers, employees, or applicants for employment.

An applicant or employee who feels they have been retaliated against in violation of this policy should immediately report the conduct according to the complaint procedure in the Commission's policy against discrimination, harassment, or retaliation so that the complaint can be resolved fairly and quickly. Supervisors and managers have the same responsibilities as defined in the policy against discrimination, harassment, or retaliation.

CHAPTER THREE
EMPLOYMENT ADMINISTRATION

3.1 CATEGORIES OF EMPLOYEES

3.1.1 At-Will Employee

All employment at San Diego LAFCO is “at will” meaning both the employee and the Commission have the right to terminate the employment relationship at any time, without cause or advance notice. This also means that any Commission employee may be disciplined, have job responsibilities altered, or incur a decrease in pay without cause or advance notice. No experience with the Commission, including, but not limited to, oral statements, length of employment, performance reviews, promotions, salary increases, or disciplinary measures may be regarded as implicitly changing this at-will relationship.

3.1.2 New Hire Employee

The first six (6) months of continuous employment with San Diego LAFCO is considered a new hire introductory period during which the employee will learn their job responsibilities, get acquainted with co-workers, and learn more about the Commission. Completion of the introductory period does not entitle the employee to remain employed by the Commission for any definite period, but rather allows both the employee and the Commission to evaluate whether the employee is right for the position. During the introductory period, an employee’s employment may be terminated at any time with or without cause or advance notice. The Executive Officer may extend the probation period for an employee for an additional six months at their discretion.

3.1.3 Promotional Employee

After being promoted to a higher job classification, an employee at San Diego LAFCO will be evaluated after completion of six months in the new position as to their suitability for the position.

3.1.4 Regular Full Time Employee

A regular full-time employee at San Diego LAFCO holds a position budgeted to work at least 40 hours per week. Regular full time_employees receive all benefits provided in these policies.

3.1.5 Regular Part Time Employee

A regular employee at San Diego LAFCO who holds a position budgeted to work less than 30 hours per week. Part-time employees may have different rights to leave and other benefits under the law or these policies, depending on the number of hours they work.

3.1.6 Temporary, Intern, or Seasonal Employee

Employees at San Diego LAFCO hired on an “as needed” or casual work basis for a limited duration or for a specific project or projects and may be regularly scheduled to work up to 40 hours per week. Generally, these assignments do not last longer than three months, but may be extended to a maximum of six continuous months (or longer for casual or seasonal employees). Temporary or seasonal employees are not eligible for employment benefits other than those authorized by applicable law.

3.2 CLASSIFICATION PLAN

San Diego LAFCO’s classification plan, as per the position specifications included in Article VI of the LAFCO Rules, consists of classes of positions described and defined by class specifications (duties, responsibilities, qualifications) and class title. Fulltime and parttime regular positions may be established only upon recommendation of the Executive Officer and approved by the Commissioners. Fulltime and parttime temporary positions may be established only with the approval of the Executive Officer or designee.

3.2.1 Reclassification

The Executive Officer may initiate a job audit to determine whether the duties of a position at San Diego LAFCO have changed to such an extent that they require reclassification of the position from the existing classification to a more appropriate classification. This applies regardless of any incumbent who holds the position(s). When the job audit is completed, the Executive Officer will make a recommendation regarding reclassification to the Commission Board.

3.3 RECRUITMENTS

The Commission or Executive Officer may utilize any legitimate recruitment procedure for attracting qualified applicants to fill budgeted positions at San Diego LAFCO. The Executive Officer or designee may fill a vacant budgeted position with an existing Commission employee, who is both qualified for the position and willing to accept the employment change, leave the position vacant, or fill the vacancy with a person who is not currently a Commission employee. The Executive Officer or designee may make appointments without going through a recruitment procedure, when in the best interest of the Commission.

3.3.1 Disqualification from Further Consideration

The Commission or Executive Officer may reject any application submitted as part of a recruitment at San Diego LAFCO which: is not properly completed or incomplete; received after an application deadline; or indicates that the applicant does not meet the minimum qualifications for the position. Whenever an application is rejected, the applicant will be notified.

False, or misleading information of material fact on application materials may result in rejection or dismissal of the applicant. Application materials and examinations are confidential records and will not be returned to applicants. No applicant information will be asked that is prohibited under any state or federal law.

3.3.2 Reference Checks

All job applicants with San Diego LAFCO will provide information on previous employment and other references as required. Final offers of employment will not be made until the Commission or Executive Officer has had an opportunity to verify the information to their satisfaction.

It is the policy of the Commission not to discuss the information obtained by way of the reference check with prospective employees and all related correspondence is kept in a separate confidential file.

3.3.3 Background Checks

A candidate being considered for hire at San Diego LAFCO will be subject to a background check that may include review of their credit record (if applicable to the position for which they are applying), personal history, education, professional credentials, military record, and criminal records. However, any background check will be conducted only after a conditional job offer has been made, in accordance with applicable law. No background check will be undertaken without first obtaining the candidate's written authorization. If the candidate refuses to give authorization, the candidate will be considered to have withdrawn their application for employment.

3.4 COMPENSATION

3.4.1 Salary Ranges

Budgeted compensation at San Diego LAFCO is determined by the Commission consistent with current policies and procedures. The Commission sets salary ranges for all established positions sufficient to attract and retain quality employees. The Executive Officer administers and maintains the salary range and benefits (Compensation Plan) for all budgeted positions, and this includes setting employee's pay within the position range.

3.4.2 Hiring Up to Mid Points

All new San Diego LAFCO employees are advised at the time of hire as to their starting base rate of pay and benefits. Unless otherwise merited, the staring base rate will not exceed the mid-point of the established salary range. The base rate of pay of an employee does not change during their introductory period.

3.4.3 Post New Hire Compensation

The Commission or Executive Officer will consider changes to an employee's base rate of pay after the completion of their introductory period with adjustments only occurring at the beginning of a pay period. Changes to pay will be consistent with an employee's performance as determined by supervisor and/or manager.

3.5 PERFORMANCE REVIEWS

Performance reports for each employee at San Diego LAFCO will be prepared prior to the six-month anniversary of hiring, and at least once a year thereafter. The performance review will follow a standard format established by the Executive Officer and serve as the basis to determine any compensation adjustments to which each employee of the Commission may be entitled. The performance review will also provide an opportunity for the Executive Officer with input from any supervisor to set formal objectives for the employee proceeding forward.

After the completion of the performance review, the Executive Officer will share their assessment with the employee and provide a written summation. Employees who do not concur with the Executive Officer's performance review may, within 15 days following the review of the performance rating, file a written response outlining specific objections. The employee's written response will be attached to the Executive Officer's performance review placed in the employee's personnel file at LAFCO.

3.6 HOURS OF WORK

San Diego LAFCO's basic workweek consists of seven consecutive calendar days, beginning at 12:01 a.m. on Sunday and ends at 12:00 p.m. on Saturday. The standard workday begins at 8:00 a.m. and concludes at 5:00 p.m., Monday through Friday at the LAFCO office. All regular employees follow a set work schedule consistent with the standard workday. All part-time, seasonal, or temporary employee follow a set work schedule within the hourly parameters of the standard workday as set by the Executive Officer or Assistant Executive Officer.

Any work outside of the 8:00 a.m. to 5:00 p.m. workday must receive prior approval.

The Executive Officer may authorize an alternative work schedule for employees as a privilege to accommodate employee preferences and/or needs so long as most of their time falls withing the standard workday hours of 8:00 a.m. to 5:00 p.m. Employees' set work schedule may only be changed by the Executive Officer. The Executive Officer has the discretion to suspend or terminate the privilege and return an employee's schedule to the workday hours.

The Executive Officer has the authority to establish and maintain appropriate timekeeping procedures and related verification for all employees;

3.7 EMPLOYEE BREAKS

3.7.1 Meal Break

A 30-minute non-compensated meal break will be provided by San Diego LAFCO to all full-time overtime-eligible employees who work at least an eight-hour workday. The meal break will be taken within the first five hours of the employee's workhours. It is the responsibility of the employee to take their meal break.

3.7.2 Rest Break

A 15-minute compensated rest period will be provided by San Diego LAFCO to all eligible employees for each four-hour period of service. The rest period is to be taken at a time chosen by the employee. Rest periods may not be combined to shorten the workday or to extend the meal period.

3.8 DEPENDENT CARE ACCOMODATIONS

3.8.1 Family Friendly Efforts

San Diego LAFCO appreciates the additional challenges experienced by employees with dependent care responsibilities away from work. Accordingly, the Commission encourages the Executive Officer to consider and implement additional accommodations for employees with dependent care obligations to assist their work-family balance so long as essential job duties are being met.

3.8.2 Lactation Accommodation

San Diego LAFCO employee who wishes to express breast milk for her infant child during her scheduled work hours will receive a reasonable amount of additional unpaid time beyond the 15-minute compensated rest period. Those who wish to take a lactation break must notify the Executive Officer or Assistant Executive Officer prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or urgent circumstances.

The Commission will make reasonable efforts to accommodate employees by providing an appropriate location, which is not in a bathroom, to express milk in private. The Commission will attempt to find a location near the employee's work area. The appropriate location will also meet the following requirements:

- Be shielded from view and free from intrusion while being used to express milk;
- Be safe, clean, and free of hazardous material;
- Contain a surface on which to place a breast pump and personal items;
- Contain a place to sit; and
- Have access to electricity needed to operate an electric-powered breast pump.

The Commission will provide access to a sink with running water and a refrigerator, or other cooling device, suitable for storing milk near the employee's work area.

Employees occupying these private areas will either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

Any employee storing expressed milk in any authorized refrigerated area within the Commission must clearly label it as such. No expressed milk can be stored at the Commission beyond the employee's workday/ shift.

The Commission encourages any employee who does not believe they are being provided with an appropriate lactation accommodation as required by state law to inform the designated RGS Liaison Officer. An employee who does not believe that the Commission is providing them with an appropriate lactation accommodation as required by state law has the right to file a complaint with the California Division of Labor Standard Enforcement/Labor Commissioner. Their nearest offices are in the government section of the telephone book.

3.9 OVERTIME

Overtime is all hours an overtime-eligible employee at San Diego LAFCO works over 40 hours in the designated 7-day workweek. Only actual hours worked will be counted towards the 40-hour threshold for purposes of calculating overtime pay under the Fair Labor Standards Act (FLSA); paid leave will not be counted.

Overtime-eligible employees at San Diego LAFCO are not permitted to work overtime except as directed and authorized by their supervisor or manager, or in case of emergency, as determined by the Commission. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that require working overtime, the employee must notify a supervisor and/or manager as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor or manager denies the request to work overtime, the employee must obey the directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination of employment, for violating the overtime approval procedures.

3.10 TIMEKEEPING

All San Diego LAFCO employees must accurately report all work time to the nearest five (5) minutes. All time spent for the benefit of the Commission must be reported as hours worked on time records so that the employee is paid for all work. Overtime-eligible employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties. Employees have no authorization to work without compensation. No supervisor has authority to request overtime-eligible employees to volunteer work time at LAFCO.

3.11 PAY DAYS

San Diego LAFCO employees are paid biweekly on Fridays through the County of San Diego Auditor-Controller's Office. Employees with an account at the San Diego County Credit Union, may receive their pay up to one day in advance on Thursdays.

3.11.1 Direct Deposit

San Diego LAFCO employees may choose direct deposit with their own bank or with the San Diego County Credit Union. Should they choose the SDCCU they will receive their pay sooner. Employees who choose this method of payment must complete a form authorizing the Commission to take this action. Forms are available from the Assistant Executive Officer.

3.12 ATTENDANCE

San Diego LAFCO employees are required to seek advance permission from their supervisor and/or manager for any foreseeable absence or deviation from regular working, break, and mealtimes. An employee who is unexpectedly unable to report for work as scheduled must notify their immediate supervisor no later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the Executive Officer or Assistant Executive Officer.

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, without prior authorization. An employee who fails to timely notify the supervisor of any absences as required by this policy, or who is not present and ready to work during all scheduled work times will be considered to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

3.12.1 Excessive Tardiness

Excessive tardiness occurs when an employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by federal or state law, exceeds three days in any three-month period.

Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination of employment.

3.12.2 Abuse of Leave

Abuse of leave is a claim of a right to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination of employment. Should the Commission suspect that there is an abuse of leave by an employee, the employee may be required to submit a physician's certificate to support the absence.

3.13 DRESS CODE

San Diego LAFCO employees are required to dress appropriately during their regular work hours. The following dress code regulations shall apply to all employees – fulltime, part time, seasonal, etc. – and distinguished between office telecommuting attendance. These standards are considered baseline expectations; employees are free to wear more formal attires should they prefer. If an employee has questions about how these standards apply to them, the matter should be immediately raised with their supervisor and/or manager.

3.13.1 Office Attire

While at the San Diego LAFCO office, all employee's dress attire must be professional and reflect a business casual appearance Monday through Thursday. Clothing and footwear must be neat, clean, in good repair, and appropriate. Acceptable attire includes:

- Blazers, peacoats, vests, and cardigans.
- Slacks or dress pants, khakis, and chinos.
- Jeans are allowed if free of any tears, fading or fraying.
- Professional maxi or knee-length dresses, skirts and jumpsuits.
- Button-down shirts, sweaters, blouses, or polo shirts.
- Tank tops allowed if paired with a blazer, jacket, or cardigan.
- Closed-toed shoes such as loafers, oxfords, boots, pumps, or flats.
- Open-toed shoes are allowed; however, flipflops are not permitted.
- Simple, professional accessories such as scarves and belts.

Employees should use their professional judgement in appropriately formalizing their attire when attending Commission meetings.

Employees working at the LAFCO office on Fridays are welcomed to dress more casually so long as they clothes remain neat, clean, and in good repair. The following exceptions apply and are not allowed at any time: gym or workout attire; shirts or t-shirts with imagines or designs; and flipflops.

3.13.2 Telework Attire

While teleworking, San Diego LAFCO employees must remain available by video during their regular workday. Accordingly, employees should generally follow the same attire standards applied at the LAFCO office whenever on video camera.

3.14 APPEARANCES

San Diego LAFCO employees are expected to project a professional appearance while at work and must abide by the standards below.

3.14.1 Tattoos

Permanent or temporary tattoos are not allowed anywhere on the head or face of a San Diego LAFCO employee. Any visible tattoos cannot be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang related. Any non-conforming tattoos must be covered while at work, irrespective of place.

3.14.2 Body Piercings

No objects, articles, jewelry, or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth. Any non-conforming piercing should be removed, covered with a bandage, or replaced with a clear, plastic spacer

3.15 EMPLOYEE RECORDS

3.15.1 Personnel Files

San Diego LAFCO's personnel files are confidentially maintained according to state and federal guidelines. The Commission maintains a personnel file on each employee. Files are kept for at least three years after separation of employment. A personnel file will contain only material that the Commission considers necessary and relevant or that is required by law. Personnel files are the property of the Commission and access to the information they contain is restricted to protect employee privacy interests.

Upon reasonable notice and during normal business hours on normal business days, current and former employees, or a representative of the employee, may review their official personnel file in the presence of the Executive Officer or designee. Employees are permitted to see any records regarding qualification for employment, promotion, wage increases, earnings and deductions, or discipline. Employees may, upon written request, receive copies of documents from their personnel files; only documents that they have signed may be copied. Employees may respond to anything in writing that is in the personnel file, including any negative information, and may request that the response be included in their file. The file is the property of the Commission; employees may not

remove or add items to their file without Commission approval; and the file must always remain in the custody of the Commission.

Employees may designate a representative to conduct the inspection of the personnel record or receive a copy. However, a designated representative must be authorized in writing to inspect or receive a copy of the personnel record. The Commission may take reasonable steps to verify the identity of the designated representative

3.15.2 Personal Employee Information

San Diego LAFCO employees are responsible for updating their personal information using the County of San Diego's online self-service application – InSite – which is accessible on the Commission's computer network. This includes updating any changes in name, address, telephone number, driver's license, number of dependents, marital status, beneficiary, education certificates or any other pertinent information All updates entered on InSite are automatically forwarded to the Executive Officer and added to the personnel file.

3.15.3 Release of Employee Information

San Diego LAFCO is authorized to release information to verify the position, salary, and employment dates only for Commission employees. No other reference information will be released. Any other information, including address and phone numbers, may be released only with a written authorization from the employee. All reference inquiries regarding Commission employees should be referred to the supervisor. Employees will be notified of any requests for personal information unless the Commission is prevented from doing so by court order, federal, or state law. Legal requests for information should also be referred to the supervisor.

3.15.4 Medical Files

All medical information about an employee or applicant at San Diego LAFCO is kept in separate medical files and is treated as confidential. Access to employee or applicant medical information is strictly limited to those with a legitimate need to have such information for Commission business reasons, or if access is required by law, subpoena, or court order. In the case of an employee with a disability, supervisors may be informed about necessary restrictions on the work or duties and necessary accommodations.

3.16 TRAINING

San Diego LAFCO employees may be assigned to attend training programs, seminars, conferences, lectures, meetings for the benefit of the Commission or the individual employees. Such training assignment is subject to approval by the Executive Officer or designee, and the Commission will pay for associated fees and necessary and approved travel expenses.

Employee attendance at assigned training activities will be considered hours worked and will be compensated in accordance with normal payroll practices. Procedures to request and obtain reimbursement for approved training-related costs can be found in Section B. (Working Conditions, Travel and Expense Reimbursement).

3.16.1 Mandatory Attendance

Employee attendance at assigned training programs, seminars, conferences, lectures, and related meetings occurring during their regular work hours is not optional.

3.16.2 Optional Attendance

Employee attendance at assigned training programs, seminars, conferences, lectures, and related meetings occurring beyond their regular work hours – such overnight conferences – is discretionary. Nonetheless, and with appreciation to manage dependent care obligations, the Commission expects the employee to make good-faith efforts to accommodate their availability in coordination with their supervisor and/or manager.

3.16.3 Exclusions

This policy does not apply to an employee's self-sponsored attendance at formal or informal educational sessions, even if these sessions generally may lead to improved job knowledge or performance. While the Commission generally encourages all employees to improve their knowledge and job skills, these activities do not qualify for reimbursement or compensation under this policy unless prior written approval is obtained.

3.17 BENEFITS

San Diego LAFCO offers a variety of benefits to employees through contracts with the County of San Diego and San Diego County Employee Retirement Association (SDCERA). At hire, open enrollment, or when applicable, benefits for which an employee is eligible will be offered. Below is a snapshot of benefits provided to eligible employees:

- Healthcare
  Medical, Dental, Vision, Employee Assistance Program, Life, and Short Term & Long-Term Disability

- Retirement & Savings
  Defined Benefit Pension, Health Care Flexible Spending Account, and Dependent Care Flexible Spending Account, Health Savings Account

- Unique Perks
  Flex Credits, Tuition Reimbursement, Perk Spot Discounts

Employees have access to up-to-date information on benefit Offerings – among other items – are made available via the following link:

https://www.sandiegocounty.gov/content/sdc/hr/EmployeeBenefits.html

3.18 WORKERS COMPENSATION

All employees at San Diego LAFCO are covered under the California Workers' Compensation laws. The workers' compensation system provides for coverage of medical treatment and expenses, occupational disability leave, rehabilitation services, as well as partial payment for lost wages due to work related injuries or illness. Procedures established by the County of San Diego for Workers Compensation must be followed alongside the steps below.

To ensure that employees receive any Workers' Compensation benefits to which they may be entitled, the following steps are required:

- Immediately report any work-related injury to their supervisor or manager;
- Seek medical treatment and follow-up care as necessary;
- Complete the Employee's Claim Form (DWC Form 1), along with other required forms, provided by the Commission and return it to the supervisor; and
- If medically advised, provide the Commission with a medical certification regarding the need for Workers' Compensation disability leave, as well as the eventual ability to return to work from the leave.

Upon submission of a medical certification that an employee can return to work after a workers' compensation leave, the employee, under most circumstances, will be reinstated to the same position held at the time the leave began, or to an equivalent position, if available. An employee returning from a workers' compensation leave has no greater right to reinstatement than if they had been continuously employed rather than on leave.

3.18.1 Leave and Benefits

Should a San Diego LAFCO employee receive Workers' Compensation benefits while on leave, reconciliation may be needed to remit any excess monies paid beyond their regular pay. In these circumstances, and when employee authorizes, the difference between the benefit amount established by Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated leave balances - such as sick leave, vacation, and/or other personal leave if available. The employee will continue in pay status and receive pay until their accumulated sick leave, vacation days, or other personal leave have been depleted to the nearest hour.

During the time the employee is in fully paid status while absent from work by reason of injury or illness covered by Workers' Compensation, sick leave and vacation benefits will continue to accrue as though they were on a leave of absence.

Any employee subject to this policy who depletes their accumulated sick leave, vacation days or other personal leave while absent from work by reason of an injury or illness covered by Workers' Compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

3.18.2 Dishonesty

Employees who are found to abuse, or fraudulently use these temporary disability provisions may be subject to corrective action up to and including termination.

3.19 SEPARATION OF EMPLOYMENT

Separation of employment at San Diego LAFCO can be either voluntary or involuntary and may be initiated either the employee or the Commission.

3.19.1 Voluntary Separation

A San Diego LAFCO employee who wishes to resign their employment should submit written notice of resignation to the Executive Officer generally, two weeks prior to the planned separation date. The written notice should state the reasons for the resignation. A resignation becomes final when the Executive Officer accepts the resignation in writing.

3.19.2 Involuntary Separation / Discharge

An involuntary separation/discharge is one that is initiated by San Diego LAFCO for any reason other than a reduction in work force.

3.19.3 Job Abandonment

A San Diego LAFCO employee is believed to have resigned from their position if they are absent for three consecutive scheduled workdays without prior authorization and notification to their supervisor, and without extraordinary circumstances that can be verified. The last day worked will be the date of separation.

3.19.4 Layoff

A layoff is normally an involuntary termination that is initiated by San Diego LAFCO because of reorganization, position elimination, declining operations/lack of work, or lack of funds and not otherwise caused by the affected employee. Layoffs will be determined by positions(s) at the sole discretion of the Commission with or without a recommendation from the Executive Officer. Generally, positions identified for layoff will be those determined to be the least vital to the continuation of Commission operations even if service levels or types are reduced or modified, or other jobs become subject to reorganization and a change in job duties.

If more than one employee occupies a position identified for layoff, comparative consideration as to which employee will be laid off will be based on merit with consideration given to skills and qualifications possessed, performance records and work history. Any employee laid off will be placed on a rehire list for not less than one year from the date of separation and will be given preference over external applicants in the event the same position, or substantially similar position having reasonable similar requirements, becomes available during that period.

3.19.5 Return of Commission Property

All San Diego LAFCO property in the employee's possession must be returned prior to separation. This includes, but not limited to, keys, key fobs, parking passes, transit cards, identification cards, equipment, laptops and related accessories, credit cards, gas cards, cell phones, and any other Commission holdings.

3.19.6 Job References/Verification of Employment

All reference inquiries and verifications of employment at San Diego LAFCO must be referred to and approved by the Executive Officer. Unless the Executive Officer receives a written waiver signed by the employee, the Commission will release only the employee's dates of employment, last position held, final salary rate, and rehire eligibility. Supervisors and/or managers should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the Executive Officer on a case-by-case basis.

3.20 DISCIPLINARY PROCESS

San Diego LAFCO employees are expected and required to perform to the best of their abilities at all times. Any employee who fails to perform at least at a satisfactory level, who violates a Commission policy or who otherwise engages in inappropriate conduct may be subjected to discipline, up to and including termination of employment.

While employment may be terminated at will by the employee or the Commission at any time, the Commission may choose to exercise its discretion to use forms of discipline that are less severe than termination in certain cases. Examples of less severe forms of discipline include, but are not limited to written reprimand, suspension, reduction in salary, and demotion. Although one or more forms of discipline may be administered with respect to a particular employee, no formal order or progressive system is necessary or required.

The existence and availability of this process does not change in any way whatsoever the at-will nature of employment, does not grant any property interest nor right in employment, or grant due process rights.

3.20.1 Grounds for Discipline

Regular employees at San Diego LAFCO may be disciplined for, including but not limited to, any of the following causes of discipline.

- Violation of any Commission policy, rule, regulation, ordinance, or resolution;
- Absence without authorized leave;
- Excessive absenteeism and/or tardiness as determined by the Commission;
- Use of disability leave in a manner not authorized or provided for pursuant to the disability leave policy or other policies of the Commission;
- Making any false statement, omission, or misrepresentation of fact;
- Providing wrong or misleading information or other fraud in securing appointment, promotion, or maintaining employment;
- Unsatisfactory job performance;
- Inefficiency;
- Malfeasance or misconduct, which includes, but is not limited to, the following acts or omissions:
    - Conviction of a felony. "Conviction" is interpreted to be a determination of guilt of the accused by a court, including a plea of guilty or *nolo contendre*, regardless of sentence, grant of probation, or otherwise.
    - The damaging of Commission property, equipment, or vehicles, or the waste of Commission resources through negligence or misconduct.
- Insubordination; or insulting or demeaning the authority of a supervisor or manager;
    .
    - Hostility towards co-workers and/or Commissioners.
    - Dishonesty and/or distorting facts.
    - Theft.
    - Disclosure of confidential Commission information to any unauthorized person or entity.

- Misuse or unauthorized use of any Commission property, including, but not limited to physical property, tools, equipment, Commission communication systems, Commission vehicles or Intellectual Property.

- Mishandling of public funds.

- Falsifying any Commission record.

- Discourteous treatment of the public or other employees.

- Failure to cooperate with employee's supervisor or fellow employees.

- Violation of the Commission's Drug-Free Workplace Policy.

- Unapproved outside employment or activity that violates the Commission's policy, or other enterprise that constitutes a conflict of interest with service to the Commission.

- Any conduct that impairs, disrupts, or causes discredit to the Commission, the employee's Commission employment, to the public service, or other employee's employment.

- Failure to comply with OSHA Safety Standards and Commission safety policies or Illness and Injury Prevention Plan.

- Altering, falsifying, and tampering with time records, or recording time on another employee's time record.

- Working overtime without prior authorization or refusing to work assigned overtime.

- Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.

3.20.2 Notice of Discipline

All disciplinary actions at San Diego LAFCO involving loss of compensation other than termination (i.e., suspension without pay, reduction in salary, or demotion) are presented to the employee in writing. The written notice of discipline will include:

- The nature and level of the discipline proposed;

- A statement of the facts upon which the discipline is based;

- The policy, rule, or other authority allegedly violated;

- The effective date of the disciplinary action;
- The identity and signature of the Commission representative initiating the discipline;
- Copies of all materials that relied upon in support of the discipline;
- Instructions on how to respond to the discipline; and
- The name of the Commission representative who will hear the employee's response.

3.20.3 Ability to Respond to Discipline

Any San Diego LAFCO employee has the right to respond to a written reprimand, suspension without pay, reduction in salary, or demotion orally or in writing within five (5) calendar days of receipt. An employee's failure to respond within the five (5) calendar days of receipt is a waiver by the employee of their right to respond and an acceptance of the proposed discipline.

3.20.4 Final Decision to Discipline

Upon receipt of and consideration of the employee's response, if any, the Executive Officer will issue a final decision to the employee.

3.21 TERMINATION OF EMPLOYMENT

Although always executed for valid business reasons, San Diego LAFCO does not provide written notice of, nor an ability to respond to, any at will termination of employment.

3.22 COMPLAINT PROCEDURE.

All employment with San Diego LAFCO is "at will" meaning both the employee and the Commission have the right to terminate the employment relationship at any time, without cause or advance notice.

To resolve work-related issues, if a Commission employee believes that they have been unfairly subjected to an adverse employment action, or adversely affected by a perceived violation, misapplication, or misinterpretation of employment law, or a Commission rule or policy, they may initiate a complaint. Employees who have concerns regarding perceived harassment of discrimination may wish to use instead the special procedure outlined in the Commission's policy prohibiting harassment and discrimination.

3.22.1 Step I of Complaint Procedure

The employee first must meet with the Assistant Executive Officer to discuss the issue within seven calendar days after the employee becomes aware of the concern. The Assistant Executive Officer will attempt to resolve the matter within five calendar days of that meeting.

3.22.2 Step II of Complaint Procedure

If the complaint has not been resolved to the employee's satisfaction at Step I, the employee may take their concern to Step II. To do so, the employee must, within seven calendar days of being advised of the Assistant Executive Officer's proposed resolution mentioned in Step I above, present the issue in writing to the Executive Officer. The Executive Officer will attempt to resolve the complaint by meeting with the supervisor and employee, either jointly or separately, and will communicate a written decision regarding the matter to the employee within 14 calendar days of receiving the written complaint. The Executive Officer's decision is final.

3.22.3 No Retaliation

No retaliatory action will be taken against any San Diego LAFCO employee because they elected to use, or otherwise participate in, this complaint process. Commission employees who violate this non-retaliation provision will be subject to discipline, up to and including termination of employment.

3.22.4 Process

If an employee at San Diego LAFCO is unsure of which step to file a complalnt they may file with the Executive Officer', and the complaint will be sent to the appropriate level.

Failure of Commission representatives to comply with the time limits allows the employee to appeal to the next level of review, and failure of the employee to comply with the time limits constitutes abandonment of the complaint. However, the parties may extend time limits by mutual written agreement in advance.

The existence and availability of this process does not change in any way whatsoever the at-will nature of employment, does not grant any property interest nor right in employment, nor grant due process rights.

CHAPTER FOUR
LEAVE ADMINISTRATION

4.1 HOLIDAYS

San Diego LAFCO's regular and probationary employees except as otherwise provided, are eligible for the following holidays off with regular pay:

- New Year's Day (January 1st)
- Martin Luther King Day (Third Monday of January)
- Presidents' Day (the third Monday in February)
- Cesar Chavez Day (March 31st)
- Memorial Day (the last Monday in May
- Juneteenth Day, June 19th
- Independence Day (July 4th)
- Labor Day (the first Monday in September)
- Veterans Day (November 11th)
- Thanksgiving Day (the 4th Thursday in November)
- Friday after Thanksgiving Day
- Christmas Day (December 25th)

Employees entitled to paid holidays will be paid for the number of hours the employee was scheduled to work had it not been a holiday. An overtime-eligible employee who is required to work on a holiday will receive holiday pay and pay for the actual time worked on the holiday.

Part-time employees pay for holiday is prorated based upon the number of regularly scheduled hours in the employee's biweekly pay period in which the holiday occurred.

4.2 SICK LEAVE

Sick leave is paid leave from work that an employee may use for the following:

- Diagnosis, care, or treatment of an existing health condition of, or preventative care for the employee themselves or any of the following family members of the employee: a child of any age or dependency status; a parent; a parent-in-law; a spouse; a registered domestic partner; a grandparent; a grandchild; or a sibling;

- The need to discharge the required obligations that arise from the death of an immediate family member, or

- For an employee who is a victim of domestic violence, sexual assault, stalking, or other crime in order for the employee to engage in any of the following activities: (1) obtain or attempt to obtain a temporary restraining order or other court

assistance to help ensure the health safety or welfare of the employee or their child; or (2) obtain medical attention or psychological counseling, services from a shelter, program or crisis center, or (3) participate in safety planning or other actions to increase safety.

4.2.1 Accrual Rates

San Diego LAFCO provides paid sick leave benefits for all eligible regular full-time and regular parttime, non-probationary parttime employees. Sick leave accrues at the rate of 4 hours for every 80 regular hours worked. For parttime employees, sick leave accrues on a prorated basis according to the percentage of hours worked.

A seasonal, temporary, or extra help employee who works 30 or more days within a year from the beginning of employment with the District accrues one hour of paid sick leave for every 30 hours worked. Accrued and unused sick leave carries over to the following year of employment but a seasonal, temporary, or extra help employee stops earning sick leave once they have accrued 80 hours or 10 workdays/shifts, whichever is greater.

4.2.2 Accrual Uses

An employee may use accrued sick leave, in a minimum increment of two hours, beginning on the 90th day after the first day of employment with San Diego LAFCO, subject to the limits and request provisions in this policy.

For regular full-time employees one-half of their accrued and available annual sick leave is protected and may be used for any purposes stated in this policy. For seasonal, temporary, or extra help employees, up to 40 hours, or five (5) days, whichever is greater, of accrued and available sick leave each year is protected and may be used for any purpose stated in this policy. The year is measured beginning on July 1, 2015, or the employee's anniversary of hire date, whichever is later.

4.2.3 Notice of Use

If the need for sick leave is foreseeable, an employee must give the Executive Officer or Assistant Executive Officer reasonable advance written or oral notice.

If the need for sick leave is not foreseeable, the employee must provide written or oral notice of the need for the leave as soon as possible.

If the employee is required to be absent on sick leave for more than one day, the employee should keep the Executive Officer or Assistant Executive Officer informed each day as to when the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by this policy without good reason, may result in the employee being treated as absent without leave.

4.2.4 Restrictions

Sick leave benefits at San Diego LAFCO are intended solely to provide income protection for employees in the event or illness or injury and may not be used for any other absence except as required by law.

4.2.4 Final Disposition

Upon separation of employment, employees hired prior to March 3, 1980, will be compensated in cash for sick leave credits accrued. This provision authorizing cash compensation for unused sick leave applies so long as an employee has unbroken service even though the employee may change classification as a Commission employee.

Employees in all LAFCO classes may upon retirement, deferred retirement, disability retirement, or death, convert all or a portion of accrued sick leave balance into retirement service credits subject to the rules and regulations of the of the San Diego County Employees Retirement Association, provided: (a) the employee has completed five (5) or more years of continuous service during that employee's present employment; and (b) the employee's sick leave balance totals one hundred (100) hours or more.

In addition, upon retirement or termination of service with the Commission, employees within benefit designation 01 (Executive Officer) may also elect to receive cash payment for all or a portion of unused sick leave credits equal to 50% of its value. One hundred (100%) of all sick leave credits that are paid to the employee in cash at 50% will be removed from the employee's sick leave balance

The Commission may, as allowable by current law and with advance written notification, require an employee to submit a doctor's certificate or other evidence acceptable to the Commission, after five days of protected leave such as kin care or sick leave.

For purposes of sick leave use, family is defined as follows:

- A "child" is defined as a biological, foster, or adopted child; stepchild; or a legal ward, regardless of the age or dependency of the child. A "child" also may be someone for whom you have accepted the duties and responsibilities of raising, even if they are not your legal child.

- A "parent" is defined as a biological, foster, or adoptive parent; stepparent; or legal guardian of an employee or the employee's spouse or registered domestic partner. A parent may also be someone who accepted the duties and responsibilities of raising you when you were a minor child, even if they are not your legal parent.

- A "spouse" is defined as a legal spouse according to the laws of California, which do not recognize "common law" spouses (a union that has not been certified by a civil or religious ceremony). All conditions and restrictions placed on an employee's

use of sick leave apply also to sick leave used for care of a child, parent, spouse, or domestic partner.

- A “domestic partner” is defined as a legal domestic partner according to the laws of California and who has filed a Declaration of Domestic Partnership with the Secretary of State.

When an employee is unable to report for duty due to the employee’s own illness or that of a family member as defined above, the employee should notify the Executive Officer or Assistant Executive Officer as soon as possible. The employee should report the intended use of sick leave. If the Executive Officer or Assistant Executive Officer is not immediately available, the employee may leave a voice mail message, text, or email, unless otherwise directed

4.3 VACATION

Vacation leave is paid leave from work that a San Diego LAFCO employee may use for any purpose.

4.3.1 Accrual Rates

All fulltime regular professional employees at San Diego LAFCO hired prior to January 1, 2013, are eligible for vacation with pay according to the schedule established for those positions. During the first five years of continuous service, professional employees accrue 15 working days per calendar year of vacation time accumulated at a rate of 4.6 hours per biweekly pay period. After the completion of five years of continuous service, professional employees accrue 20 working days of vacation time per calendar year accumulated at a rate of 6.1 hours per biweekly pay period. After completion of ten years of continuous service, professional employees accrue 25 working days of vacation time per calendar year accumulated at a rate of 7.6 hours per biweekly pay period.

All fulltime regular support employees hired prior to January 1, 2013, are eligible for vacation with pay according to the schedule established for those positions. During the first three years of continuous service, support employees accrue 10 working days of vacation time per calendar year to be accumulated at a rate of 3.1 hours per biweekly pay period. After completion of three years of continuous service, support employees accrue 15 working days of vacation time per calendar year to be accumulated at a rate of 4.6 hours per biweekly pay period. After completion of nine years of continuous service, support employees accrue 20 working days of vacation time per calendar year to be accumulated at a rate of 6.1 hours per biweekly pay period.

All fulltime regular professional and support employees hired on or after January 1, 2013, are eligible for vacation with pay according to the schedule established for those positions. During the first five years of continuous service, employees accrue 10 working days of vacation time per calendar year to be accumulated at a rate of 3.1 hours per biweekly pay period. After completion of five years of continuous service, employees

accrue 15 working days of vacation time per calendar year to be accumulated at a rate of 4.6 hours per biweekly pay period. After completion of 10 years of continuous service, employees accrue 20 working days of vacation time per calendar year to be accumulated at a rate of 6.1 hours per biweekly pay period. A summary of the vacation accrual rates applicable to LAFCO employees hired on or after January 1, 2013, follows:

0 to 5 years = 10 days/80 hours/year

5+ to 10 years = 15 days/120 hours/year

10+ years = 20 days/160 hours/year

* *Vacation time credit accrues and may be taken during the first twelve calendar months of employment; however, 10 days of vacation time credit will take twelve calendar months to accrue*

Vacation time for part-time professional or support employees is computed based on the number of hours in the normal work week as established for that part- time employee by the Executive Officer.

4.3.2 Caps on Accrual

No employee at San Diego LAFCO may accumulate vacation time credits exceeding twice the amount allowed during any one calendar year. Employees who have reached 80% of their maximum balance of vacation leave (annual leave) will receive notification from the Commission payroll administrator about the excess leave balances. Employees whose vacation accruals reach the maximum accumulation limit cease to accrue vacation hours. An employee can only accrue additional vacation hours if the employee's vacation accumulation is below the maximum limit.

4.3.3 Accrual Uses

Vacation time credit accrues and may be taken during the first twelve calendar months of employment at San Diego LAFCO. The time at which each employee's vacation leave is approved is at the discretion of the Executive Officer.

4.3.4 Request to Use

All employees must first request and receive permission from their supervisor and/or manager before using vacation time to help ensure San Diego LAFCO is sufficiently staffed to meet day-to-day operations. The following noticing protocols apply:

- Any vacation time that involves three or more consecutive workdays should be requested and approved at least three weeks in advance.

- Any vacation time that involves two or less consecutive workdays should be requested and approved at least one week in advance.

- Any vacation time that involves less than one-half day of the employee's normal workday can be requested and approved the day before.

4.3.5 Final Disposition

Upon separation of employment at San Diego LAFCO, an employee will be compensated in cash for the unused vacation time, provided the employee has been in continuous service for more than six months. The cash compensation for unused vacation time is computed based on the employee's rate of pay at the time of termination but will not count toward the retirement benefit formula.

4.4 FAMILY MEDICAL LEAVE

In accordance with the California Family Rights Act (CFRA), San Diego LAFCO employees are provided up to 12 work weeks of unpaid family/medical leave within a 12-month period, or 26 workweeks to care for a covered military service member proportional to the employee's average hours work. The California Family Rights Act (CFRA) Leave policy may be found at Appendix B, California Family Rights Leave (CFRA) / Pregnancy Disability Leave.

4.5 PREGNANCY DISABILITY LEAVE (PDL)

San Diego LAFCO employees who are disabled because of pregnancy, childbirth or related medical conditions are provided an unpaid leave of absence for the period of disability up to a maximum of 17 1/3 weeks per pregnancy. Employees are entitled to pregnancy disability leave on a pro-rated basis proportional to an employee's average hours work. Time off needed for prenatal care, severe morning sickness, doctor ordered bed rest, childbirth and recovery from childbirth will all be counted as pregnancy disability leave. The Pregnancy Disability Leave (PDL) policy can be found at Appendix B, California Family Rights Leave (CFRA) / Pregnancy Disability Leave.

4.6 UNPAID LEAVE OF ABSENCE

Regular employees at San Diego LAFCO may be eligible for a leave of absence approved by the Executive Officer for urgent and substantial reasons, for up to a maximum of one (1) year, providing satisfactory arrangements can be made to perform the employee's duties without undue interference with the normal routine of work. Leaves for up to sixty (60) days for a regular employee may be approved by the Executive Officer.

Any accrued vacation time (and sick leave if law permits) must be taken before unpaid time is granted.

4.7 VICTIMS OF VIOLENT CRIMES

San Diego LAFCO employees who are victims of domestic violence, sexual assault or stalking are eligible for paid leave using accrued leaves, according to the California Family Rights Act and will be provided reasonable accommodation. Employees may use available accrued leave, or unpaid leave.

Employees may request leave if they are involved in a judicial action, such as obtaining restraining orders, appearing in court to obtain relief to ensure their health, safety, or welfare, or that of their child or to seek medical/psychological treatment including safety planning.

4.8 MILITARY LEAVE

Any San Diego LAFCO employee who is ordered to serve as a member of the state militia or the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or any division thereof will be granted a military leave according to applicable state or federal laws upon providing the Executive Officer with a copy of the military orders. Upon the termination of service or upon honorable discharge, the employee may be entitled to return to the employee's position, provided the position still exists, according to applicable state or federal laws.

4.8.1 Military Family Medical Leave Entitlements

Qualified Exigency Leave. Eligible employees with a spouse, son, daughter, or parent in regular Armed Forces or National Guard or Reserves in support of a contingency operation, or an employee's domestic partner who is on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation, may use their 12-week CFRA leave entitlement to address certain qualifying exigencies.

Qualifying exigencies may include addressing needs arising from short-notice deployment, attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, addressing needs related to the care of the military member's parent who is incapable of self-care, attending certain counseling sessions, to spend up to 15 calendar days with a military member who is on R and R leave, and attending post-deployment reintegration briefings.

Leave is permitted to care for a spouse, son, daughter, parent, or "next of kin" who is a covered service member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period. Contact the General Manager for further information.

4.9 BEREAVEMENT LEAVE

San Diego LAFCO provides paid bereavement leave for employees for up to five days. Employees may take bereavement leave in the event of death of any of the following family members: employee's current spouse, domestic partner, child, parent, legal guardian, brother, sister, grandparent, or grandchild; or mother-, father-, sister-, brother-, son-, or daughter-in-law. Exceptions to this list of qualifying family members may be made on a case-by-case basis by the Executive Officer. This benefit is provided for the purpose of attending memorial or burial services and or handling related matters**.** Refer to the definition of "child", "parent", "spouse" or "domestic partner" under the Sick Leave policy.

Effective January 1. 2024, Bereavement Leave is available for employee who experience a Reproductive Loss.

4.10 JURY DUTY / COURT APPEARANCES

San Diego LAFCO provides paid jury duty pay to regular and probationary employees. Employees are to provide appropriate verification to the Executive Officer. If an employee is provided jury duty pay, the employee should remit, within 15 calendar days of receipt, all fees received for serving as a juror except those fees specifically allowed for mileage and expenses,

An employee who is subpoenaed to appear in court as a witness in a judicial proceeding related to the Commission will receive regular pay for such time. An employee subpoenaed to appear in court in a matter unrelated to their official Commission capacity, or who is appearing in court in a matter initiated by the employee, is permitted time off without pay, or if the employee chooses, to use accrued vacation for such purpose, if eligible for such leave.

4.11 TIME OFF TO VOTE

Any employee at San Diego LAFCO who does not have sufficient time outside of working hours to vote, may request up to two (2) hours of paid leave either at the beginning or end of scheduled working hours to enable them to vote. The employee must request time off to vote from the Executive Officer at least two (2) days prior to Election Day.

Blank for Photocopying

7c

AGENDA REPORT
Business | Discussion

December 4, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Carolanne Ieromnimon, Analyst II

SUBJECT: **LAFCO Fee Waivers & Reductions**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will review its existing policies involving applicant fee waivers and reductions. The review is being presented in response to a recent request at the dais by Commissioner Willis and provides preliminary assessment on potential options to provide additional fee waivers and/or reductions to LAFCO's funding agencies. The item is being presented for discussion with an opportunity for the Commission to provide general direction to LAFCO staff in proceeding with any formal revisions to the fee schedule for future consideration.

BACKGROUND

Current Fee Schedule

San Diego LAFCO's fee schedule was last amended in February 2019 as part of a planned comprehensive update. The update transitioned the basis to charge most applicants from variable and refundable fees based on acreage to fixed and non-refundable fees based on application type and the expected level of noticing and environmental review. Most application filings at LAFCO generate a fee between $6,405 and $23,250.

Administration
Keene Simonds, Executive Officer
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T 619.321.3380
www.sdlafco.org
lafco@sdcounty.ca.gov

Chair Jim Desmond, County of San Diego
Joel Anderson, County of San Diego
Nora Vargas, Alt., County of San Diego
Kristi Becker, City of Solana Beach
Dane White, City of Escondido
John McCann Alt., City of Chula Vista
Vice Chair Stephen Whitburn, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Jo MacKenzie, Vista Irrigation
Barry Willis, Alpine Fire Protection
David Drake, Alt., Rincon del Diablo
Andy Vanderlaan, General Public
Harry Mathis, Alt., General Public

Fee Waiver and Reduction Allowances

San Diego LAFCO's fee schedule contemplates two distinct types of fee waivers and reductions – discretionary and pre-approved. All discretionary allowances must be approved by the Commission in response to a written request by the applicant. Preapproved authorizations are automatically applied so long as the Executive Officer confirms eligibility. All current allowances follow.

Discretionary Allowances:
The Commission may reduce or waive applicant fees based on financial hardships, as determined by the membership. The Commission may also reduce or waive applicant fees in response to earlier LAFCO recommendation.

Preapproved Allowances:
The Executive Officer is authorized to immediately apply a fee waiver and/or reduction at the time of the application filing under the following criteria:

- Applications (jurisdictional changes and out-of-agency service requests) initiated in response to an existing or pending septic or well failure shall receive a 75% fee reduction relative to the charges normally incurred under the fee schedule.

- Jurisdictional changes involving a qualifying city annexation of an entire "island" under Government Code 56375.3 shall receive a 50% fee reduction relative to the charges normally incurred under the fee schedule.

- Jurisdictional changes involving a qualifying city annexation of a disadvantaged unincorporated community under Government Code 56375(a)(8) shall receive a 50% fee reduction relative to the charges normally incurred under the fee schedule.

DISCUSSION

San Diego LAFCO will review its existing policies involving applicant fee waivers and/or reductions and provide general direction to staff with regards to proceeding forward with any revisions for future consideration. The review follows an earlier request from the dais by Commissioner Willis in October 2023 to explore options to provide potential fee relief for applicants that are also LAFCO funding agencies. Specifically, Commissioner Willis conveyed interest from some smaller special districts in filing otherwise logical boundary changes but are deterred from doing so given the LAFCO fees.

With respect to a preliminary assessment, and for the purpose of initiating discussion and feedback, the following three broad-stroke options have been identified by staff and specific to providing targeted applicant fee relief (waivers and/or reductions) to funding agencies.

- One-Time Fee Waiver - Unrestricted
  Under this option the Commission would allow any funding agency to make use of a one-time fee waiver to cover an application filing at LAFCO, irrespective of the total.

- One-Time Fee Waiver - Restricted
  Under this option the Commission would allow any funding agency to make use of a one-time fee waiver to cover an application filing at LAFCO with the restriction that it not exceed the value of their total budget contributions over the last 10 years.

  * As an example of the potential benefit to a smaller special district, Julian Community Services District's approximate budget contribution to LAFCO over the past 10 years has been $2,000.

  * As an example of the potential benefit to a medium sized special district, Lakeside Fire Protection District's approximate budget contribution to LAFCO over the past 10 years has been $98,000.

- Annual Fee Reduction
  Under this option, the Commission would allow any funding agency to make use of an annual fee reduction to cover an application filing at LAFCO up to – and not to exceed – their budget contribution to LAFCO for the fiscal year.

ANALYSIS

The preliminary assessment before San Diego LAFCO regarding potential revisions to the fee schedule to provide targeted applicant relief to funding agencies is limited. It is scaled only to provide baseline context to current fee waivers and reductions and paired with three otherwise broad options to expand allowances for funding agencies. Staff believes these options – nonetheless – have sufficient merit in informing an initial discussion by the Commission on the requested topic and provide direction as it collectively prefers.

RECOMMENDATION

It is recommended San Diego LAFCO discuss the item and provide general direction to staff with respect to performing more substantive analysis for future consideration.

ALTERNATIVES FOR ACTION

No action proposed, discussion and feedback only.

PROCEDURES

This item has been placed on the agenda for discussion as part of San Diego LAFCO's business calendar. The following procedures, accordingly, are advised.

1) Receive verbal report from staff unless waived.
2) Initial discussion from the Commission.
3) Invite comments from the general public.
4) Additional discussion and feedback from the Commission.

On behalf of the Executive Officer,



Carolanne Ieromnimon
Analyst II

Attachments:

1) Current Fee Schedule
2) Email Regarding Fee Waiver/Reduction Policies Among Other Regional LAFCOs

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

Regional Service Planning | Political Subdivision of the State of California

FEE SCHEDULE

Standard Jurisdctional Changes

Standard jurisdictional changes include (a) annexations, (b) detachments, (c) latent power establishments, and (d) service power divestitures

	LAFCO is Responsible Agency			LAFCO is Lead Agency Plus Consultant Costs		
	Exemption	Initial Study	Impact Report	Exemption	Initial Study	Impact Report
Single Jurisdictional Change						
- With Full Consent | No Protest Hearing	$ 6,405.00	$ 7,045.50	$ 7,686.00	$ 6,405.00	$ 8,326.50	$ 10,248.00
- Without Full Consent | Protest Hearing	$ 8,326.50	$ 8,967.00	$ 9,607.50	$ 8,326.50	$ 10,248.00	$ 12,169.50
Each Additional Jurisdictional Change						
- With Full Consent | No Protest Hearing	$ 4,163.25	$ 4,579.58	$ 4,995.90	$ 4,163.25	$ 5,412.23	$ 6,661.20
- Without Full Consent | Protest Hearing	$ 5,412.23	$ 5,828.55	$ 6,244.88	$ 5,412.23	$ 6,661.20	$ 7,910.18

Fees for all standard jurisdictional changes are fixed and represent reasonable cost estimates for the underlying action(s) based on a number of predetermined staff hours to complete. These fees are non-refundable and – while not typical or expected – may be augmented by one or more deposits when additional time is needed beyond the predetermined staff hour allocation as determined by the LAFCO Executive Officer.

Other Jurisdictional Changes

Special District Formation	Billed for time and material starting with a $ 9,150 deposit to cover the first 75 hours
Special District Consolidation or Dissolution	Billed for time and material starting with a $12,200 deposit to cover the first 100 hours
Incorporation	Billed for time and material starting with a $24,400 deposit to cover first 200 hours

Fees for other boundary changes are at-cost. These fees require an initial and refundable deposit to cover staff time based on the hourly composite rate. Additional deposits may be required as determined by the Executive Officer.

Other Requests and Charges

Outside Service Extensions	
- Exemption	$ 1,921.50
- Initial Study	$ 2,113.65
- Impact Report	$ 2,305.80
Sphere of Influence Amendments	Billed at their corresponding rate for standard boundary changes; applies to expansions, reductions, establishments, and eliminations
Municipal Service Reviews	Billed for time and material starting with a $12,200 deposit to cover the first 100 hours
Reconsideration of a Commission Determination	$ 2,600.00
Time Extension to Complete Proceedings	$ 610.00
General Staff Research	$ 122.00 per hour; first four hours of any general research project waived
Scheduling a Special Meeting	$ 3,210.00
Postage, Mail Supplies, Photocopies, Etc.	at cost

Common Third Party Charges

County of San Diego Clerk-Recorder	$ 50.00
California Department of Fish and Game	
- Filing for a Negative Declaration	$ 2,280.25
- Filing for a Mitigated Negative Declaration	$ 2,280.25
- Filing for an Environmental Impact Report	$ 3,168.00
State Board of Equalization	
- 0.0 to 1.0 acre	$ 300.00
- 1.0 to 5.0 acres	$ 350.00
- 6.0 to 10.0 acres	$ 500.00
- 11.0 to 20.0 acres	$ 800.00
- 21.0 to 50.0 acres	$ 1,200.00
- 51.0 to 100.0 acres	$ 1,500.00
- 100.0 acres or more	$ 2,000.00

Implementing Policies

1 Proposals and requests subject to this fee schedule will be deemed incomplete until the appropriate fee has been received by LAFCO.

2 All additional staff time required to process proposals or requests subject to this fee schedule beyond the coverage of the initial fixed fee or collected at-cost deposit will be billed at a composite hourly rate of $122.00.

3 Applicants with proposals or requests subject to this fee schedule requiring consultants to prepare environmental or other technical documents will be responsible for all direct costs therein and will be required to provide a dedicated deposit as determined by the Executive Officer.

4 The Executive Officer may stop work on any proposal or request subject to this fee schedule until receipt of a requested fee or deposit.

5 The Commission may reduce or waive fees if a financial hardship is demonstrated and/or if the proposal or request is in response to a LAFCO condition or recommendation. Requests must be made in writing. Pre authorized reductions follow.

a) Jurisdictional changes that include a qualifying city annexation of an entire "island" under Government Code 56375.3 shall receive a 50% fee reduction relative to the charges normally incurred under the fee schedule. Additional reductions or waivers require Commission approval.

b) Jurisdictional changes that include a qualifying city annexation of a disadvantaged unincorporated community under Government Code 56375(a)(8) shall receive a 50% fee reduction relative to the charges normally incurred under the fee schedule. Additional reductions or waivers would require Commission approval.

c) Jurisdictional changes initiated in response to an existing or pending septic or well failure shall receive a 75% fee reduction relative to the charges normally incurred under the fee schedule. Qualifying proposals mush have 100% written consent of all affected landowners and confirmation from the County Environmental Health Department verifying an existing or pending failure exists. Additional reductions or waivers would require Commission approval.

Blank for Photocopying

From: Ieromnimon, Carolanne
To: Simonds,Keene
Subject: Fee Waiver Policies | SoCal LAFCOs
Date: Tuesday, November 28, 2023 10:48:00 AM
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png

Keene,

I followed up on your request regarding the Southern Region LAFCOs' policies and procedures involving fee waivers.

Each are outlined below for your reference.

- **LA LAFCO**:
  - EO has the authority to waive or reduce fees in an amount of $2,500 or less and only for request from a private party (not from public agency); waiver request exceeding $2,500 require Commission approval.
  - Per Government Code Section 56383(d), to grant fee waiver, the Commission or EO must make a finding that the payment would be detrimental to public interest (i.e., cause financial hardship upon applicant, application is consistent with recommendations outlines in MSR adopted by LAFCO and/or the application advances principles of CKH relative to logical boundaries).
  - Applicants must submit request in writing and explain how payment would be detrimental; applicants are notified within 2 weeks (in writing by EO) and EO must notify Commission at the next regular meeting.

    Microsoft Word - Fee Waiver Policy 06-08-11.docx (lalafco.org)

- **OC LAFCO (2020 copy found (currently doing updates to their policies/procedures):**
  - Any request for fee waiver requires action by the Commission.
  - Applications for "island" annexations are automatically granted.
  - Fee refunds requires action by the Commission; are automatically rewarded to Special District that has successfully completed the annexation of 2 or more service islands that constitute all the remaining islands within their SOI.
  - Fee waivers/refunds have to be written request and specify the reason.

    FINAL_Orange County LAFCO COMPLETE SEC 1-5_Revised_June2019.xps (oclafco.org) (page 230)

- **RSIDE LAFCO:**
  - Unable to locate a policy specific to fee waivers on their website or in their policies and procedures. They have received fee waiver request and submitted to Commission.

Policy B-1 LAFCO Policies and Procedures adopted 10-28-2021.pdf

- **SB LAFCO:**
  - Filing fees for proposals involving corrections to boundary alignment problems are automatically waived but do not include costs for legal counsel, noticing, and environmental reviews.
  - Filing fees for reorganization proposals for SOI amendments (concurrent) + detachment/annexation of same area are automatically waived.
  - Island areas will be assessed one-half of the filing fee for each area of consideration; readjustments of agency boundaries as a result of realignment of a roadway will be reduced to single action fee per entity involved.
  - EO determined compliance for automatic waivers/reductions and is to notify the applicant.
  - Any applicant can request a waiver or reduction of the LAFCO filing fee and must be submitted in writing and accompany the submission of the application to the EO; request must justify the request and fee(s) it is requesting to be waived or the dollar amount of fees being reduced.
  - EO presents the request for Commission review via consent calendar at next regular meeting.
  - Commission can waive/reduce fee if it determines that payment will be detrimental to the public interest per Government Code Section 56383(d).
  - Waiver/reduction limited to those costs incurred by the Commission in processing the proposal.

LAFCO_Policy_and_Procedure_Manual.pdf (sbcounty.gov)

- **Imperial LAFCO:**
  - Unable to locate a policy specific to fee waivers on their website or in their policies and procedures.

iclafco-policy-manual.pdf

Carol Ieromnimon
Local Government Analyst II
San Diego County
Local Agency Formation Commission (LAFCO)
Subdivision of the State of California | Regional Service Planning
2550 Fifth Avenue, Suite 725
San Diego, California 92103
T | 619.321.3382 Direct
858.298.7280 Cell