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

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AGENDA REPORT
Consent | Action

February 1, 2021

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Linda Heckenkamp, Analyst II

SUBJECT: **Ratification of an Administrative Approval | "Estrada-Viejas View Place Outside-of-Agency Service Agreement" - San Diego County Sanitation District (OAS20-20)**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider ratification of an administrative approval by the Executive Officer involving an outside-of-agency wastewater service agreement involving the San Diego County Sanitation District (SD). The agreement authorizes San Diego County SD to provide wastewater service to an unincorporated single-family residential parcel in Alpine and was approved by the Executive Officer under policy given a documented public health threat given a vulnerable septic system. Approval has been termed on receipt of a landowner application requesting a change of organization to formally annex the affected territory to the San Diego County SD and will expire in one calendar year unless a time extension is requested and authorized.

BACKGROUND

Outside Service Contracts | Statute and Policy Provisions

Government Code Section 56133 prohibits cities or special districts from providing new or extended services by contracts outside of their jurisdictional boundaries without LAFCO review and approval less certain and limited exemptions. In addition, cities or districts may only provide services by contract outside of their boundaries and within their spheres of

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influence in anticipation of later changes of organization to annex the affected territory. If the affected territory lies outside the subject agencies' spheres of influence, outside-of-agency services may only be extended in response to documented threats to the health or safety of the public or the residents.

San Diego LAFCO's adopted policies outline procedures to consider requests for cities and districts to provide outside-of-agency services by contracts or agreements. These policies include providing the Executive Officer with administrative authority to approve agreements in response to documented health and safety emergencies and generally premised on remediation of failed and/or failing wells and septic systems based on substantiating documentation. The policies also require the Executive Officer to inform the Commission of all administrative approvals at the next available meeting.

Applicant Request and Administrative Approval

San Diego LAFCO received a request from interested landowners (Victor and Brenda Estrada) in October 2020 for approval to enter into an outside wastewater service contract with the San Diego County SD involving an approximate 1.0 acre unincorporated parcel in Alpine and within the District sphere of influence (404-200-24). The subject parcel lies at 3014 Viejas View Place and until recently was developed with a 2,600 square foot single-family residence before being destroyed along with an inground septic system by the West Fire in July 2018. The outside wastewater service request is intended to help expedite the rebuild of a single-family residence and address documented concerns involving a temporary septic system. Staff proceeded to coordinate with San Diego County SD – including confirmation a lateral connection is available to a nearby collection line – and the Executive Officer issued an administrative approval on January 8, 2020. Approval was termed on the landowners filing an application to annex the affected territory to the San Diego County SD and terminates in one calendar year unless a time extension is requested and authorized.

DISCUSSION

This item is for San Diego LAFCO to ratify an earlier administrative approval by the Executive Officer involving an outside wastewater service agreement allowing San Diego County SD to extend wastewater service to the subject parcel at 3014 Viejas View Place. The item also provides the Commission the opportunity to offer related direction in processing these types of requests proceeding forward consistent with membership preferences.

ANALYSIS

The Executive Officer's administrative approval allowing the San Diego County SD to contractually extend wastewater service beyond its jurisdictional boundary to the subject parcel at 3014 Viejas Place in Alpine conforms to statute and Commission policies. This includes an extension of service in anticipation of a near-term annexation (statute) as well as abating public health concerns associated with operating a temporary septic system given – and among other factors – the elevated risk of soil movement due to the recent fire event

(policy). This latter consideration, notably, draws on documentation provided by the County of San Diego's Department of Environmental Health and included in the application materials. Ratification serves to formalize the approval under statute and clarifies the Commission's interest in the Executive Officer administratively processing future requests similarly.

RECOMMENDATION

It is recommended San Diego LAFCO formally ratify the Executive Officer's administrative approval authorizing the San Diego County SD to extend public wastewater service to the subject parcel at 3014 Viejas View Place in Alpine. This recommendation is consistent with Alternative One outlined below.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO and can be accomplished through a single-approved motion.

Alternative One (recommended):
Ratify approval of the outside-of-agency wastewater service agreement between San Diego County SD and the applicants issued by the Executive Officer on January 8, 2020 and the associated terms as provided in Attachment Two.

Alternative Two:
Continue item to a future meeting.

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,

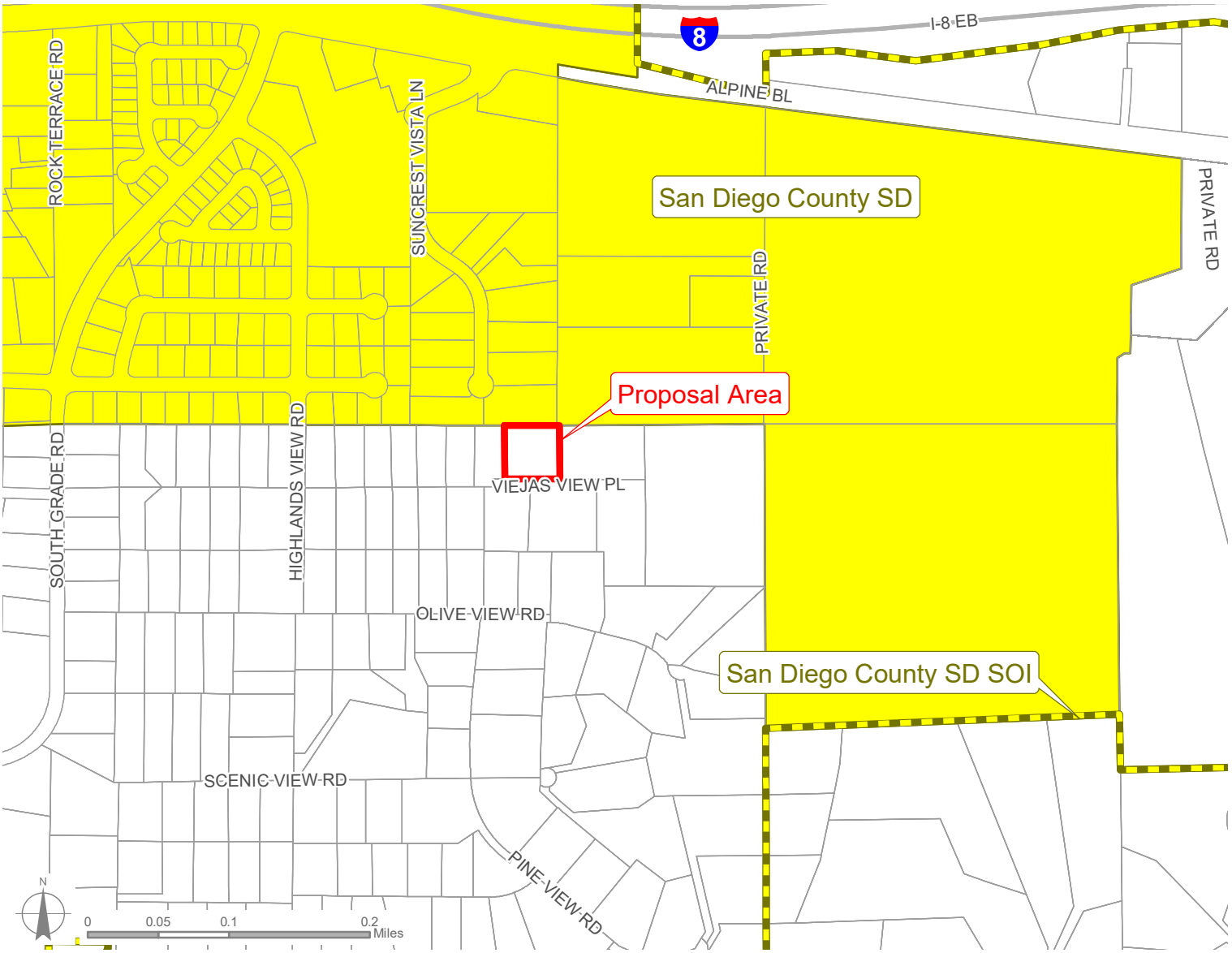
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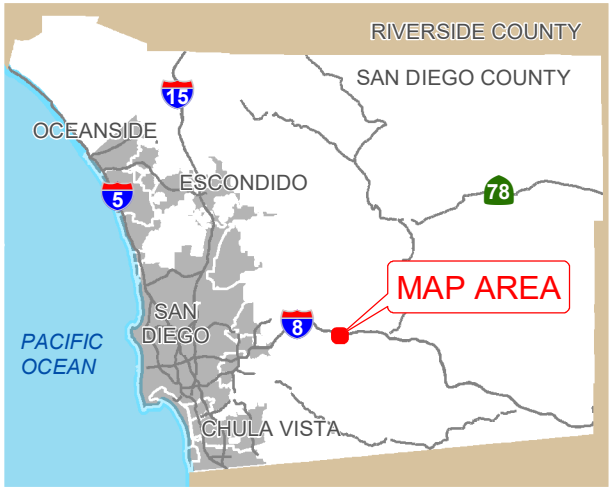
Attachments:

1) Map of the Affected Territory
2) Certificate of Administrative Approval
3) Proposal Materials - Temporary Water Service Agreement

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CO20-20
OAS20-20

"ESTRADA - VIEJAS VIEW PLACE CHANGE OF ORGANIZATION AND CONTRACTUAL WASTEWATER SERVICE AGREEMENT" | ANNEXATION TO SAN DIEGO COUNTY SANITATION DISTRICT

- Proposal Area
- San Diego County SD
- San Diego County SD SOI

SOI = Sphere of Influence

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CERTIFICATE OF ADMINISTRATIVE APPROVAL OF A CONTRACTUAL WASTEWATER SERVICE AGREEMENT

San Diego County Sanitation District / Victor and Brenda Estrada
(LAFCO File No. OAS20-20)

I hereby certify that I have examined the above-cited agreement and have found it to be substantially in compliance with Government Code Section 56133 and the Commission's policies and procedures. This Certificate of Administrative Approval of a Contractual Wastewater Service Agreement is therefore issued contingent on the execution of the San Diego County Sanitation District's Temporary Wastewater Connection Agreement with the property owner. The name of each city and/or district included in the contractual service agreement, all located within San Diego County, and the type of service(s) to be provided is/are as follows:

City or District	Service(s) to be Provided
San Diego County Sanitation District	Wastewater

A legal description and map of the boundaries of the above-cited contractual service agreement area as well as a copy of the agreement signed by all parties are available in the LAFCO office. The terms and conditions, if any, are contained in the agreement. The affected territory totals approximately 1.0 acres and includes one unincorporated parcel (APN 404-200-24) developed with one single-family residence with a situs address of 3014 Viejas View Pl, Alpine, CA 91901. The existing residence utilizes using an underground septic disposal system that was destroyed in a 2007 wildfire event., and the County Department of Environmental Health (DEH) has recommended the residence be connected to public wastewater service. The property is located within the sphere of influence of the San Diego County Sanitation District and is subject to a pending change of organization ("Estrada-Viejas View Place Change of Organization," Ref No. CO20-20) involving an annexation to the San Diego County Sanitation District.

Administrative approval to provide wastewater service through a contractual service agreement has been granted by the County of San Diego Department of Environmental Health documented in a letter dated August 14, 2020 that the property's existing on-site septic posed a health and safety emergency and recommended an expedited connection to the San Diego County Sanitation District's wastewater system.

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Accordingly, the request by the San Diego County Sanitation District for approval of a temporary contractual water service agreement in advance of the pending annexation is warranted to resolve the emergency threat to the health and safety of the residents. The contracted water service agreement authorization terms in one year – January 8, 2022 – unless a time extension is requested and approved by the Executive Officer.

Keene Simonds, Executive Officer

Date: January 8, 2021

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CONTRACTUAL SERVICE AGREEMENT

The San Diego County Sanitation District, an independent sewer agency formed and operating under the County Sanitation District Act, Health & Safety Code § 4700 et seq., hereinafter called the "District", and Victor A & Brenda A Estrada "parcel owner", hereinafter called the "Owner(s)", agree as of _____, 2020, as follows:

1. The Owner(s) represent that they hold title to that certain real property located in the County of San Diego, State of California, commonly referred to as 3014 Viejas View Place and also identified by Assessor's Parcel Number 404-200-24-00.

2. That said real property is located outside of the District, but with the approval of the San Diego Local Agency Formation Commission ("LAFCO") may be connected to the District's facilities pursuant to Government Code § 56133 to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory. There is an existing and impending threat to public health and safety because the septic system serving the property is unable to reliably receive wastewater for treatment. This threat will be eliminated if the property is connected to District sewer facilities

3. That subject to the approval of LAFCO of this Contractual Service Agreement and payment of all applicable District fees and charges the Owner(s) shall have the privilege of connecting a sewer line from the structure located on said real property to the District's sanitary sewer system

4. That the connection to the District's sanitary sewer shall occur under the direction of the Director, Department of Public Works of the County of San Diego ("Director"), acting on behalf of the District, in accordance with the ordinances and regulations of the District, and shall be made at such place on the District's sanitary sewer and in such manner as the Director shall specify. The cost of such connection shall be paid by the Owner(s).

5. Owner(s) shall pay all fees and costs incurred by the District to process this Contractual Services Agreement, including without limitation any LAFCO fees. In addition, Owner(s) shall obtain a Wastewater Discharge Permit from District and pay all fees and charges required by District to connect the real property to the District's facilities and for the District to provide ongoing wastewater service to the real property.

6. The Owner(s), Owners' executors, administrators, heirs, successors and assigns shall pay to the District through the Department of Public Works of the County of San Diego, and prior to the connection of the property defined in this Agreement, an annual sewer service fee at the prevailing rate, prorated at time of permit issuance. Said fee shall be paid pursuant

to this Agreement and applicable District ordinances, on an annual basis thereafter, and shall be collected through the property tax rolls.

7. The District shall have the power to increase the amount of the annual sewer service charge prescribed in Paragraph 6 in proportion to any increased cost or expenses of operating the District.

8. The Owner(s) of said real property consent to the commencement of proceedings by the District to annex said property to the District. The Owner(s) agree that, upon connection of the real property to the District's sewer system, said property shall become subject to any and all ordinances, regulations, fees, taxes and assessments applicable to the property within the District whether or not the property is ever annexed into the District. Notwithstanding the foregoing, Owner(s) agree to work with LAFCO to facilitate the annexation of the property to the District within one (1) year of the Execution Date.

9. The District agrees that upon connection of said property to the District's sanitary sewer, the District shall pursuant to the terms of this Agreement accept the domestic sewage from such building discharged into its sewer lines, which obligation of the District shall continue under the Agreement until such time as the above described real property, upon which such hookup is located, is annexed to the District, or until this Agreement is terminated as hereinafter specified, which ever first occurs. Owner(s) shall be responsible for all costs incurred by District, if any, to disconnect the property from District's facilities upon the termination of this Agreement.

10. This Agreement may be terminated by the Owner(s), Owners' executors, administrators, heirs, successors or assigns by giving to the District ninety (90) days written notice of intention to terminate by serving such notice to the Clerk of the Board of Directors of the District.

11. This Agreement may be terminated by the District by giving ninety (90) days written notice of intention to terminate to the Owner(s), Owners' executors, administrators, heirs, successors or assigns, or to the occupants of the aforesaid property.

12. This Agreement is entered pursuant to the authority granted to the District in the Health and Safety Code § 4742.1 and Government Code § 56133.

13. This Agreement is subject to the LAFCO review and approval.

14. This Agreement shall take effect after execution by the parties and when administratively approved by LAFCO.

Dated this _____day of_____, 2020.

Director, Department of Public Works
San Diego County Sanitation District

Executive Officer, LAFCO Date

Applicant's Signature

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