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

SPECIAL MEETING AGENDA

SAN DIEGO COUNTY
LOCAL AGENCY FORMATION COMMISSION

MONDAY, NOVEMBER 4, 2019, 9:00 A.M.
COUNTY ADMINISTRATION CENTER | ROOM 358
1600 PACIFIC HIGHWAY
SAN DIEGO, CALIFORNIA

- Please Note the Room Change -

1. **9:00 A.M. – CALL TO ORDER BY CHAIR | ROLL CALL**

2. **PLEDGE OF ALLEGIANCE**

3. **AGENDA REVIEW**
   The Chair will consider requests to remove or rearrange items on the agenda.

4. **PUBLIC COMMENT**
   Opportunity for members of the public to speak to the Commission on any subject matter within the Commission's jurisdiction but not an item listed on the agenda. Each speaker's presentation may not exceed three minutes. (Please note for items listed on the agenda, speakers should fill out a speaker slip and address the Commission when the item is discussed, and their name is called.)

5. **CONSENT ITEMS**
   All items calendared as consent are considered ministerial or non-substantive and subject to a single motion approval. The Chair will also consider requests to pull an item for discussion.

   a) **Approval of Meeting Minutes for October 7, 2019 (action)**
   The Commission will consider approving action minutes for the October 7, 2019 regular meeting. Recommendation to approve.

   b) **Budget Update for 2019-2020 | 1st Quarter Actuals with Year-End Projections (action)**
   The Commission will review a report comparing budgeted and actual transactions for 2019-2020 through the first quarter. The report projects the Commission will finish with an operating surplus of $0.120 million or 7%. Savings in salaries and benefits along with additional application fees underlie the projected surplus. Recommendation to accept and file.

   c) **Commission Ratification | Recorded Payments for September 2019 (action)**
   The Commission will review payments received and made for the month of September 2019. These payments cover all recorded transactions for the period and include $132,316 in total distributions made by the Executive Officer. Recommendation to ratify.

CONSENT ITEMS CONTINUED…

d) **Proposed "Rains–Acacia Avenue Change of Organization" |**
Annexation to the San Diego County Sanitation District; CO19-07 (action)
The Commission will consider a change of organization proposal filed by an interested landowner to annex approximately 0.5 acres of unincorporated territory to the San Diego County Sanitation District. The affected territory as submitted includes a developed single-family residential parcel and adjacent public right-of-way in Bonita. The proposal purpose is to provide permanent public wastewater service to an existing single-family residence and in doing so replace an emergency out-of-agency service agreement approved by LAFCO in May 2019 due to a failing septic system. Recommendation to approve without modifications and with standard terms as well as to waive protest proceedings. The County Assessor identifies the subject parcel as 594-062-07.

e) **Commission Counsel Services |**
Proposed New Agreement with Colantuono, Highsmith & Whatley (action)
The Commission will consider a proposed new agreement for legal services with Colantuono, Highsmith & Whatley. The new agreement resets the term through June 30, 2022 along with related updates involving billing rates and designating firm employees to file annual conflict of interest statements. Recommendation to approve.

f) **Progress Report on 2019-2020 Workplan (action)**
The Commission will receive a progress report on accomplishing specific projects included in the adopted workplan for 2019-2020. The report notes over one-half of the 27 workplan projects have been initiated with four already completed. Recommendation to accept and file.

g) **Current Proposals and Related Activities (information)**
The Commission will receive a report summarizing active proposals on file with the Commission as well as pending submittals. Information only.

6. **PUBLIC HEARING ITEMS**
Public hearing items require expanded public notification per provisions in State law.

a) **Proposed "San Marcos Highlands Reorganization" (CONTINUED) |**
Concurrent Annexations to the City of San Marcos, San Marcos Fire Protection District, and Vallecitos Water District and Detachments from the Vista Fire Protection District and Vista Irrigation District with Associated Sphere of Influence Amendments; RO17-07 et al. (action)
The Commission will consider a reorganization proposal continued from October 7, 2019. The proposal has been initiated by an interested landowner with the principal action to annex 124.9 unincorporated acres to the City of San Marcos. Additional boundary changes involving portions of the affected territory are also proposed and involve concurrent annexations to the San Marcos Fire Protection District and Vallecitos Water District and detachments from Vista FPD and Vista Irrigation District, The purpose of the proposal is to facilitate the development of the affected territory as part of a 189-lot residential development tentatively approved by the City of San Marcos and titled "San Marcos Highlands." Recommendation to approve without modifications and with standard terms as well as to waive protest proceedings. A list of all subject parcels is provided in the accompanying agenda report.

(continued)

PUBLIC HEARING ITEMS CONTINUED…

b) **Proposed "Hollow Glen Change of Organization" | Annexation to Julian Community Services District; DA19-14 (action)**
The Commission will consider a change of organization proposal filed by the Julian Community Services District to annex approximately 0.65 acres of unincorporated territory. The affected territory as submitted is developed with a newly constructed public facility consisting of sand barn used by Caltrans to store road safety and repair materials. The proposal purpose is to extend public water service to the affected territory to enable the operation of fire sprinklers. Recommendation to approve with one modification to expand the annexation to include an additional 0.5 acres of adjacent public right-of-way way. A conforming sphere of influence amendment and standard approval terms are also recommended as well as a waiver of protest proceedings. The County Assessor identifies the subject parcel as 291-122-20.

7. BUSINESS ITEMS
Business items involve regulatory, planning, or administrative items that do not require a hearing.

a) **Report on Attendance at the 2019 CALAFCO Annual Conference (discussion)**
The Commission will consider a report from attendees on overnight travel to the 2019 CALAFCO Annual Conference held in Sacramento on October 30th–November 1st. Verbal report only.

8. EXECUTIVE OFFICER REPORT

9. COMMISSIONER ANNOUNCEMENTS | REQUESTS FOR FUTURE ITEMS

10. CLOSED SESSION
Closed session items are calendared by Commission Counsel.

a) **Conference with Legal Counsel – Existing Litigation:**
Pursuant to Government Code Section 54956.9(d)(1)): Julian-Cuyamaca Fire Protection District, et al. v. San Diego LAFCO et al., San Diego Superior Court Case No. 37-2019-00018076-CU-M C-TL

b) **Conference with Legal Counsel – Existing Litigation:**
Pursuant to Government Code Section 54956.9(d)(1)): Julian Fire Company Association, et al. v. Julian-Cuyamaca Fire Protection District, et al., San Diego Superior Court Case No. 37-2018-00020015-CU-WM-CTL

c) **Conference with Legal Counsel--Initiation of Litigation:**
Pursuant to Government Code Section 54956.9(d)(4)): (One potential case.)

d) **Conference with Legal Counsel--Anticipated Litigation:**
Pursuant to Government Code Section 54956.9(d)(2)): Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9. (One case.)

(continued)

ADJOURNMENT TO NEXT MEETING
December 2, 2019

Attest to Posting



Tamaron Luckett
Executive Assistant

All associated agenda reports are available for viewing at www.sdlafco.org.

Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting. Please contact the LAFCO office at least three (3) business days prior to the meeting for any requested arraignments or accommodations.

5a

AGENDA REPORT
Consent | Action

November 4, 2019

TO: Commissioners

FROM: Ruth Arellano, Executive Assistant

SUBJECT: **Approval of Meeting Minutes for October 7, 2019**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider draft minutes prepared for the regular meeting held on Monday, October 7, 2019. The minutes are in action-form and being presented for formal approval with any desired corrections or clarifications as requested by the Commission.

BACKGROUND

The Ralph M. Brown Act was enacted by the State Legislature in 1953 and established standards for the public to attend and participate in meetings of local government bodies. The "Brown Act" requires – and among other items – public agencies to maintain written minutes for qualifying meetings.

DISCUSSION

This item is for San Diego LAFCO to consider approving action minutes for the October 7, 2019 regular meeting. The attendance record for the meeting follows.

- All members were present except Chris Cate (alternate) and Greg Cox (alternate).

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

Jim Desmond, County of San Diego
Dianne Jacob, Vice Chair, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Escondido
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

ANALYSIS

The attached action minutes for the October 7, 2019 regular meeting accurately reflect San Diego LAFCO's actions as recorded by staff. Audio and video recordings of the meeting have also been posted on the Commission's website.

RECOMMENDATION

It is recommended San Diego LAFCO approve the draft minutes prepared for the October 7, 2019 regular meeting 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 through a single motion:

Alternative One (recommended):
Approve the draft minutes prepared for the October 7, 2019 regular meeting with any desired 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,

Ruth Arellano
Executive Assistant

Attachment:

1) Draft Meeting Minutes for October 7, 2019

DRAFT MINUTES
SAN DIEGO LAFCO
October 7, 2019 REGULAR MEETING

1. CALL TO ORDER | ROLL CALL

The meeting was called to order at 9:00 a.m. by Chair MacKenzie in the County of San Diego Administration Center, 1600 Pacific Highway, Room 302, San Diego.

The Commission Clerk performed the roll call with the following attendance recorded.

Regulars Present:	Jim Desmond, County of San Diego Dianne Jacob, County of San Diego (VICE CHAIR) Mark Kersey, City of San Diego Jo MacKenzie, Vista Irrigation District (CHAIR) Mary Casillas Salas, City of Chula Vista Andy Vanderlaan, Public Bill Wells, City of El Cajon Barry Willis, Alpine Fire Protection District
Alternates Present:	Erin Lump, Rincon del Diablo Municipal Water District Paul McNamara, City of Escondido Harry Mathis, Public
Members Absent:	Chris Cate, City of San Diego (alternate) Greg Cox, County of San Diego (alternate)

The Commission Clerk confirmed a quorum was present with eight voting members. Also present at the dais: Executive Officer Keene Simonds; Commission Counsel Carmen Brock; Chief Policy Analyst Robert Barry; Analyst Alex Vidal; and Executive Assistant Ruth Arellano serving as Commission Clerk.

Commissioner Salas arrived at 9:03 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Jacob led the Commission in the Pledge of Allegiance.

3. INTRODUCTION OF NEW COMMISSIONER

Chair MacKenzie introduced new Alternate Commissioner Paul McNamara.

4. AGENDA REVIEW

Chair MacKenzie asked the Executive Officer if there were requests to remove or rearrange items on the agenda. Executive Officer commented no changes to the agenda were recommended while separately noting a continuance has been requested by the applicant for Item No. 7a identified as the "San Marcos Highlands Reorganization" and would be taken up by the Commission in order of the agenda. Chair MacKenzie stated the Commission would proceed with the agenda as prepared.

5. PUBLIC COMMENT

No comments.

6. CONSENT ITEMS

Item 6a
Approval of Meeting Minutes | August 5, 2019
Item presented for action to approve draft summary minutes prepared for the Commission's August 5, 2019 regular meeting. Recommendation to approve.

Item 6b
Commission Ratification of Recorded Payments for July and August 2019
Item presented for action to ratify recorded payments made and received for the months of July and August 2019. Recommendation to approve.

Item 6c
Proposed "Orchard Hills Reorganization" | Concurrent Annexation to the Vallecitos Water District and Detachment from the Vista Irrigation District
Item presented for action to consider a reorganization proposal filed by an interested landowner to annex 12.5 unincorporated acres to the Vallecitos Water District and concurrent detachment from Vista Irrigation District. The proposal's purpose is to extend Vallecitos Water District's wastewater and water services to facilitate the development of a 20-lot subdivision. Recommendation to approve the proposal without modifications along with standard terms. Recommendation to also waive protest.

Item 6d
Ratification of an Administrative Approval | "Hamilton Lane – Felicita Road Outside Wastewater Services Agreement" - City of Escondido
Item presented for ratification of an administrative approval by the Executive Officer of an outside–of-agency agreement to allow the City of Escondido to provide wastewater service to two unincorporated and developed residential parcels given evidence of failing septic systems. Recommendation to approve ratification.

CONSENT ITEMS CONTINUED…

Item 6e
Protest Results for the Pauma Valley Fire Joint-Reorganization | Divestiture of Fire Protection and Emergency Medical Service Powers for Mootamai, Pauma, and Yuima Municipal Water Districts and Concurrent Expansion of Activated Fire Protection and Emergency Medical Services Latent Power Area for County Service Area No. 135
Item presented for information and confirms no written objections from affected landowners or registered voters were received on LAFCO's earlier approval of the reorganization as part of a noticed protest hearing held on September 11, 2019. Reorganization will now be ordered once all approval terms have been satisfied.

Item 6f
Progress Report on 2019-2020 Workplan
Item presented for action to review the current progress of projects established as part of the 2019-2020 workplan. Recommendation to receive and file.

Item 6g
Current Proposals and Related Activities
Item presented for information summarizing current proposals on file with LAFCO.

Chair MacKenzie identified the items listed on the consent calendar and asked if any members would like to pull an item, and if not to make a motion.

**

Commissioner Desmond motioned to approve the consent calendar as recommended in the agenda reports with a second from Commissioner Vanderlaan. Roll call requested:

AYES: Desmond, Jacob, Kersey, MacKenzie, Salas, Vanderlaan, Wells, and Willis
NOES: None
ABSENT: Cate and Cox
ABSTAINING: None

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

(continued)

7. PUBLIC HEARING ITEMS

Item 7a
Proposed "San Marcos Highlands Reorganization" | Concurrent Annexations to the City of San Marcos, San Marcos Fire Protection District, and Vallecitos Water District and Detachments from the Vista Fire Protection District and Vista Irrigation District with Associated Sphere of Influence Amendments
Item presented for action to consider a reorganization proposal filed by an interested landowner with the principal request to annex 124.9 unincorporated acres to the City of San Marcos. Additional boundary changes involving portions of the affected territory are also proposed and involve concurrent annexations to the San Marcos Fire Protection District and Vallecitos Water District and detachments from Vista FPD and Vista Irrigation District. The purpose of the proposal is to facilitate the development of the affected territory as part of a 189-lot residential development tentatively approved by the City of San Marcos and titled "San Marcos Highlands." Recommendation to approve the proposal and the requested boundary changes as submitted with conforming sphere of influence amendments. Standard approval terms are also recommended along with waiving protest proceedings.

Executive Officer Keene Simonds briefly presented the item and addresses the applicant's request received ahead of the hearing to continue item to November 4, 2019.

Applicant representative Jim Simmons addressed the Commission on the request to continue the item.

Commission discussion.

Chair MacKenzie invited comments from the public on the requested continuance. No public comments received.

**

Commissioner Jacob motioned to approve the continuance of this item to the November 4, 2019 with a second from Commissioner Vanderlaan. Roll call requested:

AYES: Desmond, Jacob, Kersey, MacKenzie, Salas, Vanderlaan, Wells, and Willis
NOES: None
ABSENT: Cate and Cox
ABSTAINING: None

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

PUBLIC HEARING ITEMS CONTINUED…

Item 7b
Municipal Service Review on the Escondido Region: Part One
Item presented for action to formally receive a final report prepared as part of LAFCO's scheduled municipal service review on the Escondido region. The final report represents the first of a two-part municipal service review and is specific to addressing public services provided by the Deer Springs Fire Protection District and Rincon del Diablo Municipal Water District. The final report returns with limited revisions from its earlier draft presentation in August and subsequent public review. Recommendation to formally accept the final report and adopt a resolution making determinations addressing all of the factors required under statute as part of the municipal service review directive.

Analyst Alex Vidal presented the item and summarized key conclusions and recommendations in the final report.

Executive Officer Keene Simonds addressed requested staff revisions to the final report and accompanying resolution in response to an October 3rd comment letter received from the City of Escondido.

Commission discussion.

Chair Mackenzie opened the public hearing on the item and invited comments from the public. Comments were received from the following persons:

- Chris McKinney with the City of Escondido

Chair MacKenzie closed the public hearing.

Additional Commission discussion.

**

Commissioner Wells motioned to approve the staff recommendation as provided in the agenda report along with requested revisions identified by the Executive Officer with a second from Commissioner Desmond. Roll call requested:

AYES: Desmond, Jacob, Kersey, MacKenzie, Salas, Vanderlaan, Wells, and Willis
NOES: None
ABSENT: Cate and Cox
ABSTAINING: None

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

8. BUSINESS ITEMS

Item 8a
Proposed Memorandum of Understanding with Riverside LAFCO | Establishing Approval Responsibilities for Multi-County Reorganization Involving Eastern Municipal Water District, Fallbrook Public Utility District, Rainbow Municipal Water District, and San Diego County Water Authority
Item presented for action to consider a proposed memorandum of understanding with Riverside LAFCO to establish approval responsibilities for a pending reorganization affecting Riverside and San Diego Counties. The pending reorganization involves a concurrent detachment of Fallbrook Public Utility District and Rainbow Municipal Water District from the San Diego County Water Authority and annexation to Eastern Municipal Water District. The proposed memorandum of understanding provides all approvals associated with the pending reorganization would be assigned to San Diego LAFCO. Recommendation to approve.

Executive Officer Keene Simonds presented the item.

Commission discussion.

Chair MacKenzie invited members of the audience to provide comments. Comments were received from the following persons:

- Tom Kennedy with Rainbow Municipal Water District
- Jack Bebee with Fallbrook Public Utilities District
- Nick Kanetis with Eastern Municipal Water District
- Claire Collins with San Diego County Water Authority
- Jeanne Blumenfeld with Otay Water District
- Rodney Smith

Additional Commission discussion.

**

Commissioner Jacob motioned to approve the staff recommendation as provided in the staff report and second from Commissioner Salas. Roll call requested:

AYES: Desmond, Jacob, Kersey, MacKenzie, Salas, Vanderlaan, Wells, and Willis
NOES: None
ABSENT: Cate and Cox
ABSTAINING: None

The Executive Officer commented a technical correction requested by Ms. Collins would be incorporated into the memorandum of understanding.

BUSINESS ITEMS CONTINUED…

Item 8b
CALAFCO Proposed New Dues Structure
Item presented for information and feedback with respect to a new dues structure and associated bylaw changes proposed by CALAFCO ahead of a membership vote on October 31st. The proposed new dues structure is intended to eliminate an ongoing structural deficit and would collectively increase contributions by nearly one-half from $0.205 to $0.300 million. Approval would increase San Diego LAFCO's annual dues by 19% from $8,926 to $10,662.

Executive Officer Keene Simonds presented the item with additional introductory comments provided by Chair MacKenzie and Commissioner Vanderlaan.

Commission discussion with consensus to support the proposed increase in dues. Also consensus to disapprove any alternative proposal that would increase San Diego LAFCO's dues beyond the Board proposal unless offset by other concessions.

Item 8c
Proposed Amendment to Employment Agreement for Executive Officer Keene Simonds
Item presented for action to consider the recommendation by the Executive Officer Compensation Committee (MacKenzie, Jacob, and Mathis) to approve a second amendment to the employment agreement with Executive Officer Keene Simonds. The proposed amendment increases the annual salary to mid-point at $182,616.

Commission Counsel Carmen Brock briefly presented item.

Commissioner Jacob motioned to approve the Executive Officer Compensation Committee's recommendation with a second from Commissioner Kersey. Roll call requested:

AYES:	Desmond, Jacob, Kersey, MacKenzie, Salas, Vanderlaan, Wells, and Willis
NOES:	None
ABSENT:	Cate and Cox
ABSTAINING:	None

9. EXECUTIVE OFFICER REPORT

Executive Officer Keene Simonds commented the Commission may need to secure a new meeting location given the remodeling of Room 302 has decreased audience seating. The Executive Officer added staff would work prioritize finding alternative accommodations with the County before exploring other options.

10. COMMISSION ANNOUNCEMENTS | REQUESTS FOR FUTURE ITEMS

None

11. CLOSED SESSION

Chair MacKenzie announced the Commission would proceed into closed session at 10:35 a.m. for the following items as provided on the agenda.

Item 11a
Conference with Legal Counsel – Existing Litigation:
Pursuant to Government Code Section 54956.9(d)(1)): Julian-Cuyamaca Fire Protection District, et al. v. San Diego LAFCO et al., San Diego Superior Court Case No. 37-2019-00018076-CU-M C-TL

Item 11b
Conference with Legal Counsel – Existing Litigation:
Pursuant to Government Code Section 54956.9(d)(1)): Julian Fire Company Association, et al. v. Julian-Cuyamaca Fire Protection District, et al., San Diego Superior Court Case No. 37-2018-00020015-CU-WM-CTL

Item 11c
Conference with Legal Counsel--Initiation of Litigation:
Pursuant to Government Code Section 54956.9(d)(4)): (One potential case.)

Item 11d
Conference with Legal Counsel--Anticipated Litigation:
Pursuant to Government Code Section 54956.9(d)(2)): Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9. (Two cases.)

Commissioner Salas left at 10:45 a.m.

**

Chair MacKenzie reconvened the regular meeting back into open session at 10:50 a.m. with Commission Counsel Carmen Brock announcing there were no reportable actions.

11. ADJOURNMENT TO NEXT REGULAR MEETING

With no further business the Chair adjourned the meeting at 10:51 a.m.

I hereby attest the minutes above accurately reflect the deliberations of the Commission at its October 7, 2019 meeting.

ATTEST,

Ruth Arellano
Executive Assistant

**

A video and audio recording of the October 7, 2019 meeting is also available online at www.sdlafco.org or by contacting LAFCO staff at 858-614-7755.

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5b

AGENDA REPORT
Consent | Action

November 4, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Erica Blom, Administrative Assistant

SUBJECT: **Budget Update for 2019-2020 |**
1st Quarter Actuals with Year-End Projections

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will review a report comparing budgeted and actual transactions for 2019-2020 through the first quarter. The report projects the Commission will finish with an operating surplus of $0.120 million or 7%. Savings in salaries and benefits along with additional application fees underlie the projected surplus. Should the projected surplus hold it will allow the Commission to fully replenish the budgeted use of reserves as offsetting revenues in the fiscal year and leave an overall net increase to the fund balance of $0.047 million. The report is being presented to the Commission to accept and file as well as provide direction to staff as needed.

BACKGROUND

San Diego LAFCO's adopted budget for 2019-2020 totals $1.916 million. This amount represents the total approved operating expenditures for the fiscal year divided between three active expense units: salaries and benefits; service and supplies; and other. A matching revenue total was also budgeted to provide a projected year-end net of $0 and with the purposeful aid of a planned $0.072 million transfer from unassigned reserves. Budgeted revenues are divided between four active units: intergovernmental contributions; service

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

Jim Desmond, County of San Diego
Dianne Jacob, Vice Chair, County of San Diego
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Harry Mathis, Alternate, General Public

charges; earnings; and miscellaneous.[1] The Commission's total fund balance as of July 1, 2019 was $1.447 million.[2] No amendments have been approved to date.

DISCUSSION

This item is for San Diego LAFCO to receive an update comparison of (a) budget to (b) actual expenses and revenues through the first quarter (September 30th). The report provides the Commission the opportunity to track expenditure trends and consider year-end operating projections from the Executive Officer. The report is being presented to the Commission to formally accept and file along with providing related direction to staff as needed.

Summary | Operating Expenses

San Diego LAFCO's budgeted operating expense total for 2019-2020 is $1.916 million. Actual expenses booked through the first quarter totaled $0.401 million. This booked amount represents 21% of the budgeted total with 25% of the fiscal year complete. A breakdown of budget to actual expenses by unit through September 30th follows.

Expense Units	Adopted	Actuals Through 9/30	Percent Expended	Unexpended Balance
1) Salaries and Benefits	1,219,183	281,066	23.1	938,117
2) Services and Supplies	692,117	119,506	17.3	572,611
3) Other	5,000	0	0	5,000
Total	**$1,916,300**	**$400,572**	**20.9%**	**$1,515,728**

Actuals through the first quarter of the fiscal year and related analysis suggest San Diego LAFCO is on pace to finish with $1.827 million in total expenses. Should this projection hold the Commission will achieve an unexpended budgeted savings in expenses of $0.090 million or 5%. An expanded discussion on budgeted and actuals through the first three months along with year-end projections within the three expense units follow.

Expense Unit | Salaries and Benefits

San Diego LAFCO budgeted $1.219 million in salaries and benefits for 2019-2020 with the proceeds largely tied to funding 8.0 fulltime equivalent employees as well as existing retiree obligations.[3] Through the first quarter actual expenses within the affected line item accounts totaled $0.281 million or 23% of the budgeted amount with 25% of the fiscal year complete. Going forward it is expected overall actuals will total $1.132 million through the end of the fiscal year. If this projection holds the Commission will achieve an overall unit savings of $87,579 or 8% less any amendments.

[1] State law mandates operating costs for LAFCOs shall be annually funded among their represented agency membership categories. San Diego LAFCO's operating costs, accordingly, are divided among four distinct membership categories with the largest apportionment assigned to the County of San Diego at 28.6%. The independent special districts and cities less the City of San Diego are also apportioned funding percentages of 28.6% with individual amounts divided thereafter based on total revenue shares in a given fiscal year. The City of San Diego – and based on special legislation providing the City a dedicated seat on LAFCO – is responsible for the remaining 14.3% of annual operating costs.

[2] The fund balance total of $1.447 million includes $0.772 million in unassigned monies. The remainder – $0.675 million – is currently committed and/or assigned by the Commission for specific purposes.

[3] Commission per diem payments are also booked in the salaries account.

Expense Unit | Services and Supplies

San Diego LAFCO budgeted $0.692 million in services and supplies for 2019-2020 to provide funding for direct support services. The majority of the budgeted funds are dedicated to professional services to cover such items as planning and legal services as well as making reimbursements to the County for office rent, information technology, and general overhead. Through the first quarter actual expenses within the affected line item accounts totaled $0.120 million or 17% of the budgeted amount with 25% of the fiscal year complete. Close to one-fifth of these booked expenses – or $21,607 – involve professional services and represent the single largest actual cost in the unit with almost one-half tied to fire and legislative consultant services. Going forward and through the end of the fiscal year it is expected overall actuals will accelerate and generally match the budgeted total at $0.692 million with a possibility of a modest overrun with additional details footnoted.[4]

Expense Unit | Other

San Diego LAFCO budgeted $5,000 in two separate units to collectively address equipment depreciation and potential fixed asset purchases in 2019-2020. The Commission has not billed any charges through the first quarter. Going forward it is expected actuals will total $2,500 and result in a year-end balance of $2,500 or 50% less any amendments.

Summary | Operating Revenues

San Diego LAFCO's budgeted operating revenue total for 2019-2020 is $1.916 million. Actual revenues through the first quarter totaled $1.523 million. This amount represents 80% of the budgeted total with 25% of the fiscal year complete. A breakdown of budget to actual revenues within each of the four affected units through September 30th follows.

Revenue Units	Adopted	Actuals Through 9/30	Percent Collected	Outstanding Balance
1) Intergovernmental	1,703,700	1,450,659	86	253,041
2) Service Charges	125,000	58,908	47	66,092
3) Earnings	15,000	13,058	87	1,942
4) Miscellaneous	72,600	0	0	72,600
Total	**$1,916,300**	**$1,522,625**	**79.5%**	**$393,675**

Actuals through the first quarter and related analysis suggest San Diego LAFCO's year-end revenue totals will tally $1.946 million. Should this projection hold the Commission will achieve a budgeted surplus of $0.030 million or 2% and attributed to additional application fee revenues. An expanded discussion on budgeted and actual revenues in the four units through the first three months along with year-end projections follows.

[4] The increase in application activities coupled with other factors underlies the expected need for additional planning consultant services in 2019-2020 to assist in the preparation of scheduled municipal service reviews. Staff anticipates savings in overhead costs will be available in the unit to cover the additional consultant services, but amendments may be needed to draw from surplus labor monies.

Revenue Unit | Intergovernmental Fees

San Diego LAFCO budgeted $1.704 million in intergovernmental fees in 2019-2020. This total budgeted amount was subsequently divided between San Diego LAFCO's four agency membership categories based on statutory formula. The County of San Diego, independent districts, and cities less San Diego all received apportionments equaling $0.487 million. The remaining amount – $0.244 million – was apportioned to the City of San Diego. Actuals through the first quarter total $1.451 million in collected apportionments or 85% of the budgeted total with 25% of the fiscal year complete. All apportionments are expected to be received through the end of the fiscal year.

Revenue Unit | Service Charges

San Diego LAFCO budgeted $0.125 million in application fees in 2019-2020. Through the first quarter the Commission collected $0.059 million in application fees and represents 47% of the budgeted amount with 25% of the fiscal year complete. It is expected actuals will total $0.150 million by the end of the fiscal year and reflect both additional application activity as well as implementing a recent fee schedule update. Should this projection hold the Commission will achieve a budgeted surplus of $0.025 million or 20%.

Revenue Unit | Interest

San Diego LAFCO budgeted $0.015 million in interest earnings in 2019-2020. Through the first quarter the Commission collected $0.013 million in interest earnings and represents 87% of the budgeted total. Staff anticipates the unit ultimately tallying $20,000 and result in a year-end surplus of $0.005 million or 33%.

Revenue Unit | Miscellaneous

San Diego LAFCO budgeted $0.073 million in operating transfers from unassigned reserves in 2019-2020. This transfer was purposefully budgeted in conjunction to use reserves to reduce increases in agency contributions. No transfers were made through the first quarter. A full transfer is expected for budgeting purposes at this time but will be reduced and/or eliminated should an overall surplus occur.

ANALYSIS

Activity through the first quarter of the fiscal year shows San Diego LAFCO is generally proceeding advantageously and without the need for any correcting amendments. Savings in salaries and benefits paired with additional application fees – and this includes implementing the new fee schedule – underlie the projected year-end operating surplus of $0.120 million or 7%. Should the projected surplus hold it will allow the Commission to fully replenish the budgeted use of reserves as offsetting revenues in the fiscal year and leave an overall net increase to the fund balance of $0.047 million.

RECOMMENDATION

It is recommended San Diego LAFCO accept and file the report and provide related direction to staff as needed. This recommendation is consistent with Alternative One outlined below.

ALTERNATIVES FOR ACTION

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

Alternative One (recommended):
Accept and file the report with any additional direction to staff as needed.

Alternative Two:
Continue to a future meeting and provide direction to staff with respect to any additional analysis or information requested.

PROCEDURES

This item has been placed on the agenda as part of the consent calendar. Accordingly, 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,



Keene Simonds
Executive Officer

Attachment:

1) 2019-2020 Operating Budget with Actuals Through September 30th and Year-End Projections

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San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

OPERATING EXPENSES

		FY 2017-2018		FY 2018-2019		FY 2019-2020				
		Adopted	Actuals	Adopted	Actuals	Adopted	Actuals Through 9-30-19	Actuals % of Budget	Projected Year End	Projected % of Budget
Salaries and Benefits Unit										
Account No.	Description									
51110-51310	Salaries and Wages	1,100,599	617,838	689,719	638,748	752,780	167,861	22.3%	734,985	97.6%
51410	Retirement - SDCERA	-	166,680	239,780	230,865	258,148	61,707	23.9%	194,190	75.2%
51415	Retirement - OPEB	-	7,256	10,560	10,091	10,539	2,480	23.5%	11,178	106.1%
51421	Retirement - OPEB Bonds	-	27,841	41,598	37,308	40,321	9,429	23.4%	43,693	108.4%
51450	Payroll Taxes (Social and Medicare)	-	35,613	48,958	46,163	53,393	12,771	23.9%	45,453	85.1%
51510-51550	Group Insurance (Health and Dental)	-	74,615	96,958	95,405	100,234	26,782	26.7%	98,748	98.5%
51560	Unemployment Insurance	-	235	4,032	163	3,769	36	1.0%	3,357	89.1%
		1,100,599	930,078	1,131,604	1,058,743	**1,219,183**	**281,066**	**23.1%**	**1,131,604**	**92.8%**
Services and Supplies Unit										
Account No.	Description									
52074	Telecommunications	500	2,266	2,500	3,860	3,600	921	25.6%	3,683	102.3%
52178	Vehicle - Maintenance	2,000	489	2,000	610	1,500	359	23.9%	1,436	95.8%
52182	Vehicle - Fuel	1,500	401	1,500	367	1,000	107	10.7%	641	64.1%
52270	Memberships	15,000	11,328	13,000	14,601	28,139	15,657	55.6%	28,139	100.0%
52304	Miscellaneous	50	6,001	50	20	50	-	0.0%	-	0.0%
52330	Office: General	1,000	15,253	8,500	6,399	7,420	969	13.1%	5,816	78.4%
52332	Office: Postage	500	-	500	84	500	110	22.0%	250	50.0%
52334	Office: Printing	7,500	-	10,000	4,795	10,000	-	0.0%	5,000	50.0%
52336	Office: Books and Guidelines	2,000	3,609	2,000	3,226	2,000	474	23.7%	1,896	94.8%
52338	Office: Drafting/Engineering	50	-	50	-	50	-	0.0%	-	0.0%
52344	Office: Supplies and Furnishings	18,000	13,140	17,500	9,302	17,800	1,960	11.0%	11,761	66.1%
52354	Office: County Mail Services	9,000	10,037	9,000	18,896	10,000	2,402	24.0%	9,609	96.1%
52370	Professional Services: Consultants	382,500	326,850	259,110	398,125	204,505	21,607	10.6%	252,857	123.6%
52490	Publications and Legal Notices	7,500	7,085	5,000	10,382	4,650	609	13.1%	3,043	65.4%
52504	Leases: Equipment	4,000	5,498	6,500	8,137	6,600	567	8.6%	6,600	100.0%
52530	Leases: Office Space	80,000	79,789	79,880	79,555	82,657	20,469	24.8%	82,657	100.0%
52550	Special Expenses: County Overhead	155,000	47,826	155,000	113,842	100,896	16,203	16.1%	81,016	80.3%
52562	Special Expenses: New Hire Backgrounds	-	572	-	689	-	-	0.0%	800	n/a
52566	Special Expenses: Minor Equipment	1,000	1,164	1,000	2,788	1,000	356	35.6%	1,422.2	142.2%
52602	Computer Training	2,000	-	2,000	-	2,000	-	0.0%	-	0.0%
52610	Travel and Training | In County	500	11,301	5,000	6,634	4,500	1,048	23.3%	4,193	93.2%
52612	Employee Auto	10,000	8,724	10,000	9,069	9,700	2,032	20.9%	8,128	83.8%
52622	Travel and Training | Out of County	1,000	14,390	10,000	25,432	23,550	5,277	22.4%	21,107	89.6%
52704-52722	Reimbursements: Network	31,500	27,137	30,000	26,450	30,000	6,643	22.1%	29,894	99.6%
52723	Reimbursements: Data Center	45,000	48,214	45,000	30,728	45,000	7,350	16.3%	33,074	73.5%
52725	Reimbursements: Financial Systems	20,000	18,888	20,000	27,556	20,000	6,459	32.3%	29,063	145.3%
52726-52732	Reimbursements: Desktop Computing	27,700	47,462	25,000	25,311	25,000	6,726	26.9%	30,267	121.1%
52734	Reimbursements: Help Desk	2,500	3,154	3,000	4,743	3,000	706	23.5%	3,176	105.9%
52750-52754	Reimbursements: Catalog Equipment	51,000	23,973	45,000	32,097	45,000	-	0.0%	35,000	77.8%
52758	Reimbursements: Vehicle Lease	3,000	1,986	2,000	1,986	2,000	496	24.8%	1,985.80	99.3%
		881,300	736,535	770,090	865,684	**692,117**	**119,506**	**17.3%**	**692,515**	**100.1%**

OPERATING EXPENSES CONTINUED...

Other Units

Account No.	Description								
53585	Equipment Depreciation	2,500	2,019	2,500	2,500	2,500	-	0.0%	2,500	100.0%
54955-54961	Fixed Assets	2,500	-	2,500	-	2,500	-	0.0%	-	0.0%
		5,000	2,019	5,000	2,500	**5,000**	**-**	0.0%	2,500	50.0%
	EXPENSE TOTALS	1,986,899	1,668,632	1,906,694	1,926,927	**1,916,300**	**400,572**	**20.9%**	**1,826,618**	**95.3%**

OPERATING REVENUES

		FY 2017-2018		FY 2018-2019		FY 2019-2020				
		Adopted	Actual	Adopted	Actuals	Adopted	Actuals Through 9-30-19	Actuals % of Budget	Projected Year End	Projected % of Budget
Intergovernmental Unit										
Account No.	Description									
45918.1	Apportionments | County	467,171	467,171	475,684	475,684	486,771	486,771	100.0%	486,771	100.0%
45918.2	Apportionments | Cities (less SD)	467,171	467,171	475,684	475,684	486,771	478,639	98.3%	486,771	100.0%
45918.3	Apportionments | City of San Diego	233,586	233,586	237,842	237,842	243,386	-	0.0%	243,386	100.0%
45918.4	Apportionments | Special Districts	467,171	467,171	475,684	475,684	486,771	485,249	99.7%	486,771	100.0%
		1,635,099	1,635,099	1,664,894	1,664,894	1,703,700	1,450,659	85.1%	1,703,700	100.0%
Service Charges Unit										
Account No.	Description									
46234	Service Charges	125,000	168,009	125,000	82,147	125,000	58,908	47.1%	150,000	120.0%
		125,000	168,009	125,000	82,147	125,000	58,908	47.1%	150,000	120.0%
Earnings Unit										
Account No.	Description									
44105	Interest and Dividends	6,800	15,535	6,800	19,052	15,000	13,058	87.1%	20,000	133.3%
		6,800	15,535	6,800	19,052	15,000	13,058	87.1%	20,000	133.3%
Miscellaneous Unit										
Account No.	Description									
47540	Transfer from Fund Balance	220,000	-	110,000	217,186	72,600	-	0.0%	72,600	100.0%
		220,000	-	110,000	217,186	72,600	-	0.0%	72,600	100.0%
	REVENUE TOTALS	**1,986,899**	**1,818,643**	**1,906,694**	**1,983,279**	**1,916,300**	**1,522,625**	**79.5%**	**1,946,300**	**101.6%**
	OPERATING NET	**-**	**150,011**	**-**	**56,352**				**119,682**	

FUND BALANCE | JUNE 30th			**FUND BALANCE | JULY 1st**	
COMMITTED	175,000	175,000	COMMITTED	
ASSIGNED	75,000	75,000	... Stabilization	250,000
UNASSIGNED	1,357,486	1,196,652	... Opportunity	300,000
	1,607,486	1,446,652	ASSIGNED	125,000
			UNASSIGNED	771,652
				1,446,652

5c

AGENDA REPORT
Consent | Action

November 4, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Erica Blom, Administrative Assistant

SUBJECT: **Commission Ratification | Recorded Payments for September 2019**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will review a report identifying all payments received and made for the month of September 2019. These payments cover all recorded transactions for the month and include $132,316 in total distributions made by the Executive Officer with close to nine-tenths tied to reimbursements to the County of San Diego for payroll, rent, overhead, and information technology services. The payments are being presented for formal ratification.

BACKGROUND

Accounting Policies and Procedures

San Diego LAFCO's policies provide broad direction to the Executive Officer to establish and maintain appropriate accounting controls for all financial transactions on behalf of the Commission. These policies specify the Executive Officer shall ensure accounting controls conform to standard procedures commonly enlisted by local governmental. Purchasing allowances are specified and include bid procedures for transactions at or above $10,000 and separate Commission approval for transactions at or above $125,000.

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

Jim Desmond, County of San Diego
Dianne Jacob, Vice Chair, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Imperial Beach
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Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

DISCUSSION

This item is for San Diego LAFCO to consider ratification of all payments made and received by the Executive Officer for September 2019. A detailing of these transactions is provided in Attachment One. The item also provides the Commission the opportunity to provide feedback to the Executive Officer on related matters and inform potential changes in accounting procedures going forward.

ANALYSIS

San Diego LAFCO's recorded payments made by the Executive Officer for September 2019 totaled $132,316 with 89% – or $117,990 – tied to expenditures with the County of San Diego. This includes covering payroll obligations, office rent, and information technology services. Professional services represent most of the remaining expenditures during the period and tallied $8,240 and include covering consultants and legal. Recorded revenues during the period totaled $118,405 with 75% – or $89,724 – tied to collecting agency contributions. All transactions recorded during the period are consistent with the budget.

RECOMMENDATION

It is recommended San Diego LAFCO ratify the payments received and made by the Executive Officer for September 2019 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 through a single motion:

Alternative One (recommended):
Ratify the recorded payments received and made by the Executive Officer in September 2019 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]

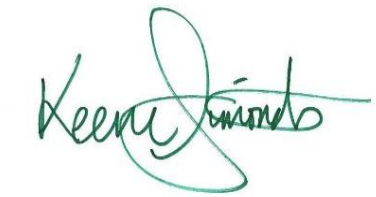
(continued)

[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.

Respectfully,



Keene Simonds
Executive Officer

Attachment:

1) Recorded Payments in September 2019

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SAN DIEGO LAFCO
Expenses by Vendor Detail
September 2019

Payable | Receivable Party	Date	Account	Amount	Purpose	Type	Funding Account
E | Amazon						
	9/1/2019	52330 · Office Expense	14.00	Amazon Prime Monthly Payment	credit card	3558-60 · SDCCU Visa Credit Card
	9/10/2019	52566 · Minor Equipment	355.56	Staff Ergonomic Equipment (RB)	credit card	3558-60 · SDCCU Visa Credit Card
			369.56			
E | Ambius						
	9/10/2019	52370.J · Professional Services	97.94	Monthly Office Plant Service	check	3558 · SDCCU Checking
E | AT&T Mobility						
	9/9/2019	52074 · Telecommunications	306.12	Monthly Cell Phone Bill | EO and Analysts	check	3558 · SDCCU Checking
	9/30/2019	52074 · Telecommunications	306.12	Monthly Cell Phone Bill | EO and Analysts	check	3558 · SDCCU Checking
			612.24			
E | Billing Hostway						
	9/30/2019	52370.E · Professional Services	21.96	Monthly Website Support	check	3558 · SDCCU Checking
E | Colantuono, Highsmith & Whatley						
	9/25/2019	52370.B · Professional Services	3,430.00	Special Counsel Services	electronic	1000 · County Account (44595)
E | Corodata						
	9/10/2019	52330 · Office Expense	1.32	Document Storage	check	3558 · SDCCU Checking
E | County of San Diego						
	9/1/2019	52530 · Office Lease	6,823.06	Office Rent	electronic	1000 · County Account (44595)
	9/1/2019	52354 · Mail/Postage ISF	962.06	Mail/Postage Services	electronic	1000 · County Account (44595)
	9/1/2019	52178 · Vehicle Maintenance	27.98	Vehicle Maintenance Services	electronic	1000 · County Account (44595)
	9/1/2019	52182 · Vehicle Fuel	52.16	Vehicle Fuel	electronic	1000 · County Account (44595)
	9/1/2019	52758 · Vehicle Lease	165.49	Vehicle Lease	electronic	1000 · County Account (44595)
	9/1/2019	52721 et al. · Communications (IT) Services	9,530.85	County IT Services (ITRACK)	electronic	1000 · County Account (44595)
	9/6/2019	51110 et al. · Employee Payroll	45,626.67	Payroll | Pay Period 2020-05	electronic	1000 · County Account (44595)
	9/20/2019	51110 et al. · Employee Payroll	44,722.75	Payroll | Pay Period 2020-06	electronic	1000 · County Account (44595)
	9/24/2019	52504 · Equipment Rental	2.57	County Surcharge | Xerox	electronic	1000 · County Account (44595)
	9/26/2019	52344 · Stores Unallocated	272.63	Office Supplies | Office Depot Order	electronic	1000 · County Account (44595)
	9/26/2019	52344 · Stores Unallocated	3.60	County Surcharge | Office Depot Order	electronic	1000 · County Account (44595)
	9/30/2019	52270 · Memberships	4,400.00	FY19-20 ESRI	electronic	1000 · County Account (44595)
	9/30/2019	52550 · Special Department	5,400.00	FY19-20 SANGIS	electronic	1000 · County Account (44595)
			117,989.82			
E | Culligan of San Diego						
	9/10/2019	52330 · Office Expense	97.00	Monthly Water Service	check	3558 · SDCCU Checking
E | Earl John Traylor						
	9/6/2019	52370.F · Professional Services	3,990.00	Consultant Services | Fire	electronic	1000 · County Account (44595)
	9/30/2019	52610 · Non-Travel/In-County	118.32	Mileage Reimbursement	check	3558 · SDCCU Checking
			4,108.32			
E | Harry Ehrlich						
	9/10/2019	52370.F · Professional Services	700.00	Consultant Services | Legislation	electronic	1000 · County Account (44595)
E | Linda Zambito						
	9/10/2019	52610 · Non-Travel/In-County	32.99	Valley Center Meeting Reimbursement	check	3558 · SDCCU Checking
E | Muraoka Enterprises Inc.						
	9/13/2019	46234 · Applications	1,473.14	Overpayment Reimbursement (RO19-16)	check	3558 · SDCCU Checking
E | Peterson Donut						
	9/6/2019	52330 · Office Expense	2.00	ATM Fee for Peterson Donut	debit card	3558 · SDCCU Checking
	9/6/2019	52330 · Office Expense	16.82	Refreshments for Staff Meeting | First Q Review	debit card	3558 · SDCCU Checking
			18.82			
E | Price Self Storage						
	9/19/2019	52504 · Equipment Rental	70.00	Storage Unit Monthly Payment	debit card	3558 · SDCCU Checking
E | Renato Rodriguez						
	9/30/2019	52330 · Office Expense	60.00	Coffee for Cities Advisory Committee Meeting at CAC	check	3558 · SDCCU Checking
E | Robert Barry						
	9/10/2019	52610 · Non-Travel/In-County	49.35	Reimbursement	check	3558 · SDCCU Checking
E | San Diego Union Tribune						
	9/30/2019	52490 · Publications	2,913.80	PHN for September Meeting (RO18-13)	check	3558 · SDCCU Checking

SAN DIEGO LAFCO
Expenses by Vendor Detail
September 2019

Payable | Receivable Party	Date	Account	Amount	Purpose	Type	Funding Account
E | Sprouts						
	9/27/2019	52330 · Office Expense	11.17	Refreshments for Cities Advisory Committee Meeting at CAC	credit card	3558-60 · SDCCU Visa Credit Card
E | Xerox						
	9/6/2019	52504 · Equipment Rental	258.41	Xerox Rental	electronic	1000 · County Account (44595)
EXPENSE TOTAL			132,315.84			
R | County of San Diego						
	9/4/2019	46234 · Applications	10,568.25	LAFCO Processing Fees (DA19-14)	check	1000 · County Account (44595)
	9/30/2019	49200 · Interest & Dividends	3,640.02	Interest Payment to Account 46725	electronic	1001 · General Fund (46725)
	9/30/2019	49200 · Interest & Dividends	802.16	Interest Payment to Account 46726	electronic	1002 · Special Projects Fund (46726)
	9/30/2019	49200 · Interest & Dividends	671.40	Interest Payment to Account 46727	electronic	1003 · Jurisdictional Fund (46727)
	9/30/2019	45918 · LAFCO Apportionment	89,724.01	LAFCO Apportionment for FY19-20	electronic	1000 · County Account (44595)
			105,405.84			
R | Nikolas & Vanessa London						
	9/4/2019	52490 · Publications	509.32	Recording & PHN Fees (CO19-01)	check	3558 · SDCCU Checking
R | Robert Gualtieri						
	9/11/2019	46234 · Applications	12,489.75	LAFCO Processing Fees Part II (RO19-13)	check	1000 · County Account (44595)
REVENUE TOTAL			118,404.91			

5d

AGENDA REPORT
Consent | Action

November 4, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Robert Barry, Chief Policy Analyst

SUBJECT: **Proposed "Rains–Acacia Avenue Change of Organization" | Annexation to the San Diego County Sanitation District (CO19-07)**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a change of organization proposal filed by an interested landowner to annex approximately 0.5 acres of unincorporated territory to the San Diego County Sanitation District (SD). The affected territory as submitted includes a developed single-family residential parcel and adjacent public right-of-way in Bonita. The proposal purpose is to provide permanent public wastewater service to an existing single-family residence and in doing so replace an emergency out-of-agency service agreement approved by LAFCO in May 2019 due to a failing septic system. Staff recommends approval of the proposal without modifications or a conforming sphere of influence amendment for reasons detailed. Standard approval terms are also recommended along with waiving protest proceedings.

BACKGROUND

Applicant Request

San Diego LAFCO has received an application from a landowner – Rains Revocable Trust – requesting approval to annex approximately 0.5 acres of unincorporated territory in Bonita to the San Diego County SD. The affected territory as submitted includes one entire parcel

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

Jim Desmond, County of San Diego
Dianne Jacob, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Escondido
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Chair Jo MacKenzie, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

already developed with a single-family residence with a situs of 4392 Acacia Avenue. The existing single-family residence was built in 1958 and is approximately 1,600 square feet in size with four bedrooms and two bathrooms. The County of San Diego Assessor identifies the subject parcel as 594-062-07. The affected territory also includes the adjacent public right-of-way on Acacia Avenue. All of the affected territory lies outside the San Diego County SD sphere of influence but within the City of Chula Vista sphere of influence.

Affected Territory

The following map shows the approximate location of the affected territory in context to the Bonita-Chula Vista region. Attachment One shows the affected territory relative to the proposed boundary change involving the lone subject agency (San Diego County SD) and the principal affected agency (City of Chula Vista).



San Diego LAFCO / SANGIS Mapping

Subject Agency

The proposed change of organization filed with San Diego LAFCO involves one subject agency: San Diego County SD.[1] A summary of the subject agency in terms of resident population, municipal service functions, and financial standing follows.

- San Diego County SD is a dependent special district governed by the County of San Diego and spans 29,571 acres or 46 square miles. The lone activate municipal service function is wastewater. The jurisdictional boundary is divided between seven distinct service areas with a combined LAFCO estimated resident service population of 149,798. The affected territory lies in the Spring Valley service area. This is the largest service area with an estimated resident service population of 92,717 and an accompanying average annual growth rate of 0.63% since 2010. San Diego County SD utilizes approximately 266 miles of collection lines in the Spring Valley service area to

[1] State law defines "subject agency" to mean any district or city for which a change of organization or reorganization is proposed.

convey flows into the City of San Diego's adjacent collection system and thereafter to the Point Loma Treatment Facility; the latter operated by the Metro Wastewater Joint Powers Authority with the District as one of the signatories. LAFCO established a sphere of influence for San Diego County SD at the time of its formation in 2011 with a smaller-than-agency designation to exclude 9,141 jurisdictional acres and equals 30.9% of the District boundary. This includes excluding jurisdictional lands in the Spring Valley service area that concurrently lie in the sphere of influence for the City of Chula Vista. San Diego County SD's audited net position is $118.7 million as of June 30, 2018 and has decreased by (1.3%) over the prior three fiscal years.

Affected Local Agencies

The affected territory lies within the jurisdictional boundaries and/or spheres of influence of nine local agencies directly subject to San Diego LAFCO. These agencies qualify as "affected agencies" relative to the proposed change of organization and listed below.[2]

- Bonita-Sunnyside Fire Protection District
- City of Chula Vista (sphere only)
- County Service Area No. 135 - Regional Communications
- Greater San Diego Resource Conservation District (sphere only)
- Metropolitan Water District of Southern California
- South Bay Irrigation District
- San Diego County Flood Control District
- San Diego County Street Lighting District
- San Diego County Water Authority

DISCUSSION

This item is for San Diego LAFCO to consider approving – with or without discretionary modifications – the change of organization proposal to annex the affected territory to the San Diego County SD. 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 and Commission focus follows.

Proposal Purpose

The primary purpose of the proposed change of organization before San Diego LAFCO is to permanently establish public wastewater service to the affected territory through annexation to the San Diego County SD. Annexation would replace an emergency out-of-agency extension between San Diego County SD and the landowner that was approved by the Executive Officer on May 17, 2019 given evidence of a failing septic system. Approval of the earlier out-of-agency extension – notably – was conditioned on the landowner filing for

[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.

annexation and subsequently ratified by the Commission on June 3, 2019.[3]

Development Potential

The County of San Diego General Plan identifies the affected territory as part of the Sweetwater Community Planning Area. The County designates the affected territory as Village Residential (VR-2) with a zoning standard of Rural Residential (RR). This latter standard prescribes a minimum lot size of 0.5 acres. No further development other than an accessory unit would be feasible due to the size of the subject parcel.

Commission Focus

Three central and sequential policy items underlie the San Diego LAFCO's consideration of the change of organization. These policy items ultimately take the form of determinations and orient the Commission to consider the stand-alone merits of a (a) sphere of influence amendment, (b) timing of the change of organization itself, and (c) whether discretionary boundary modifications or approval terms are appropriate. The Commission must consider other relevant statutes in and outside of LAFCO law as detailed.

ANALYSIS

The analysis of the change of organization is organized into two subsections. The first subsection pertains to evaluating the central issues referenced in the preceding section and specifically analyzing the merits of a sphere amendment and the change of organization as well as whether modifications and/or terms are appropriate. The second subsection considers other germane issues required under LAFCO law or other applicable State statutes and highlighted by the California Environmental Quality Act (CEQA).

Central Policy Items

Item No. 1 | Sphere of Influence Amendment

State law specifies all jurisdictional changes approved by San Diego LAFCO shall be consistent with the spheres of influence of the subject agencies.[4] This statutory threshold – in most instances – would necessitate the Commission consider an amendment to add the affected territory to San Diego County SD's sphere of influence to accommodate the proposed annexation. The statutory threshold is further prefaced on the Legislature defining spheres of influence to demark the appropriate current and future boundary and service area of the subject agency as determined by the Commission. However, and

[3] San Diego LAFCO received a request from the landowner on April 15, 2019 for approval to enter into an outside-of-agency wastewater service agreement to connect the single-family residence within the affected territory to San Diego County SD to remedy a failed septic system. LAFCO staff proceeded to coordinate with San Diego County SD and the County Department of Environmental Health (DEH) to assess the baseline conditions with the affected territory's septic system. DEH proceeded to determine the septic system's vertical seepage pit had collapsed, and the site contains high groundwater levels and poor soil conditioned for percolation. Based on this information, and as allowed under policy, the Executive Officer approved an emergency out-of-agency agreement on May 17th.

[4] Reference to Government Code Section 56375.5.

pertinently, the Commission has established a standing and unique practice specific to San Diego County SD to purposefully exclude jurisdictional lands in Bonita from its sphere of influence that are already in the City of Chula Vista's sphere of influence. The underlying premise to this practice is to assign deference to the City of Chula Vista as the ultimate future service provider for Bonita when infrastructure and other timing issues materialize.

Conclusion | Sphere of Influence Amendment

A sphere of influence amendment is not warranted to accommodate the change of organization based on past practices of San Diego LAFCO to avoid overlap with the City of Chula Vista's sphere of influence and the Commission's preference therein to prioritize the City as the ultimate service provider in the subject area.

Item No. 2 |
Change of Organization Timing

The timing of the annexation of the affected territory to San Diego County SD appears appropriate and highlighted by the analysis of the factors required for consideration under LAFCO law anytime jurisdictional changes are proposed. Most of the prescribed factors focus on the impacts of the proposed annexation on the service and financial capacities of the *receiving* agency, San Diego County SD (emphasis added). No single factor is determinative. A summary of key conclusions generated in the review of these items follows with additional analysis provided in Appendix A.

- Service Needs
  Annexation of the affected territory to San Diego County SD would represent a logical and orderly expansion of the District's jurisdictional boundary and wastewater services therein and would not create new service islands or corridors. Additional details on serve needs follow.

  - It has been the standing practice of the Commission to phase jurisdictional changes in the Bonita area to allow for annexations to the San Diego County SD to accommodate existing wastewater needs ahead of subsequent annexations to the City of Chula Vista to accommodate and consolidate multiple service needs. Annexation of the affected territory would be consistent with this practice.

  - Annexation of the affected territory to San Diego County SD for purpose of establishing permanent public wastewater service is consistent with the adopted residential land use policies of the County of San Diego. Annexation is also – pertinently – consistent with the land use policies contemplated for the affected territory by the City of Chula Vista; the anticipated future land use authority for the affected territory as determined by the Commission and marked by the subject lands standing inclusion in the City's sphere.

- The landowner of the affected territory has initiated the proposal in response to a failing septic system. These factors help to quantify the annexation of the affected territory to San Diego County SD is appropriate by synching the timing of the boundary change with a known and immediate service need.

- Service Capacities and Levels
  San Diego County SD has available and sufficient capacities to accommodate projected wastewater demands within the affected territory at its potential maximum uses without expansion of any public infrastructure. Additional details on relevant service capacities and levels follow.

  - The affected territory has already established connection to San Diego County SD through an emergency out-of-agency extension. The connection is facilitated through a lateral to the wastewater main located immediately adjacent to the affected territory within the public right-of-way on Acacia Avenue. No public infrastructure expansion is needed to continue to serve the affected territory.

  - San Diego County SD projects the average day wastewater demand generated within the affected territory based on its current development is 240 gallons. This projected amount can be readily accommodated by San Diego County SD and represents 0.006% of its available contract capacity remaining at the assigned treatment facility based on current system demands. Ultimate buildout would potentially include an accessory unit and increase the average day wastewater flow to 480 gallons per day or 0.012% of the remaining available capacity.

- Service Funding and Costs
  San Diego County SD has the financial resources coupled with administrative controls to provide wastewater to the affected territory in support of its current and planned development without adversely impacting ratepayers. This comment is reflected in the staff analysis of San Diego County SD's recent audited statements which shows – among other items – the District remained profitable in each of the last three audited fiscal years with an average total margin of 5.5%.[5]

Conclusion | Merits of Change of Organization Timing

The timing of the change of organization and annexation of the affected territory to San Diego County SD is warranted. Justification is marked by the preceding analysis and appropriately responds to the need for permanent wastewater service in a developing urban area and reflects available capacities and infrastructure. Additional analysis supporting the conclusion is provided in Appendix A.

[5] Audited statements cover FY2016, 2017, and 2018.

Item No. 3 | Modifications and Terms

No boundary modifications to the change of organization proposal have been identified by staff meriting consideration by San Diego LAFCO at this time. This includes noting the proposal includes the adjacent public right-of-way on Acacia Avenue to the centerline. Staff relatedly recognizes the affected territory lies in the City of Chula Vista's sphere of influence and reflects the Commission's policy expectation the lands ultimately annex to the City. The lack of direct connectivity with Chula Vista coupled with no documented requests or comments otherwise substantively suggests annexation to the City would be premature based on these local conditions.[6] Standard approval terms are separately recommended.

Conclusion | Modifications and Terms

No modifications appear warranted. Standard terms are recommended.

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 unless an applicable master agreement applies. The associated statutes also empower the County of San Diego to make all related property tax exchange determinations on behalf of special districts. Staff has confirmed the County Board of Supervisors has adopted a master tax exchange agreement applicable to the proposed change of organization. The application of this master tax exchange agreement will result in no transfer of property taxes to San Diego County SD.

Environmental Review

CEQA requires San Diego LAFCO to serve as lead agency and assess whether impacts would result from the proposed change of organization initiated by a landowner. Staff has determined the proposal qualifies as project under CEQA but exempt from further review under State CEQA Guidelines Section 15319(a). This exemption applies given the affected territory contains an existing private structure developed to the density allowed by current zoning and there is no corresponding need for an expansion of public infrastructure.

[6] As part of a broad and regional discussion it would be appropriate for LAFCO, County, and Chula Vista to discuss opportunities to time the annexation of lands within the existing Chula Vista sphere to the City following land use entitlement as part of future municipal service reviews.

Protest Proceedings

Protest proceeding for the change of organization 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, the subject agency has not filed an objection, and the landowner has consented to the underlying actions as the initiating petitioner.[7]

RECOMMENDATION

Staff recommends approval of the change of organization proposal without modifications along with standard terms based on the analysis provided in the preceding analysis. This recommendation is consistent with Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO and can be accomplished with a single-motion:

Alternative One (recommended):
Adopt the attached draft resolution approving the change of organization proposal without modifications and with standard terms.

Alternative Two:
Continue consideration to the next regular meeting.

Alternative Three:
Disapprove the change of organization 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,



Robert Barry, AICP
Chief Policy Analyst

[7] LAFCO law defines uninhabited as territory in which 11 or less registered voters reside.

Appendices:

A) Analysis of Boundary Change Factors

Attachments:

1) Map of the Affected Territory
2) Draft Resolution of Approval
3) Landowner Petition

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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, during the next 10 years.

The affected territory is approximately 0.45 acres in size and includes an unincorporated parcel developed within a single-family residence at 4392 Acacia Avenue in Bonita. The adjacent public right-of-way to the centerline on Acacia Avenue is also included. The application materials identify the subject parcel is currently occupied with two residents. The County of San Diego General Plan identifies the affected territory as part of the Sweetwater Community Planning Area and designated and zoned for residential uses. No significant growth is anticipated in the surrounding area within the next 10-year period. Total assessed value (land and structures) in the affected territory is $107,767 as of July 2019.

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 acts as the primary purveyor of general governmental services to the affected territory. This includes community planning, roads, and public safety with the latter including law enforcement via the County Sheriff. Other pertinent service providers include Bonita-Sunnyside Fire Protection District (fire protection and emergency medical) and County Service Area 135 (regional communications). The affected territory is also within the South Bay Irrigation District (Sweetwater Authority) for domestic water service. This proposal affects wastewater service only and is the focus of the succeeding analysis.

- **Extending Public Wastewater to Affected Territory**
  The affected territory is currently connected to San Diego County SD's wastewater system through an out-of-agency extension that was approved by LAFCO in May 2019 in response to documentation of a failing septic system. San Diego County SD projects the average day wastewater demand generated within the affected territory is 240 gallons per day. This projected amount can be readily accommodated by San Diego County SD and represents 0.006% of its available contract capacity remaining at the Point Loma Facility based on current system demands. Ultimate buildout would potentially include an accessory unit and increase the average day wastewater flow to 480 gallons per day or 0.012% of the remaining available capacity.

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 change of organization would formalize and make more permanent existing economic and social ties between the San Diego County SD and the affected territory. These ties are drawn from the current connection of the affected territory to San Diego County SD's wastewater system through an emergency out-of-agency extension approved by LAFCO in May 2019 and necessary to abate a documented public health threat.

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.

The affected territory is presently developed with one single-family residence that is currently dependent on an out-of-agency wastewater extension to San Diego County SD due to the past failure of a septic system. Annexation of the affected territory would make the existing service arrangement permanent and is consistent with the policies and practices of the Commission to synch urban uses with urban services. None of the affected territory includes lands qualifying as "open-space" as defined under LAFCO law and the proposal therefore does not conflict with G.C. Section 56377.

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 qualify as "prime agricultural land" under LAFCO law. Specifically, the lands are not 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 change of organization proposal and annexation to San Diego County SD 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 consistent with the standard of the State Board of Equalization for the proposed change of organization and annexation to San Diego County SD. Approval would be conditioned on a final map and description conforming to the referenced standards. Approval for change of organization of the affected territory would not create any new islands or service corridors of unincorporated territory.

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

The proposed change of organization would make permanent public wastewater service to one existing single-family residence in a developing urban community. The proposal, accordingly, does not conflict with San Diego Forward, the regional transportation plan prepared by San Diego Association of Governments (SANDAG).

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

The County of San Diego General Plan identifies the affected territory as part of the Sweetwater Community Planning Area. The present County General Plan land use designation for the affected territory is Village Residential (VR-2) which allows up to 2.0 dwelling units per acre. The County zoning is Rural Residential (RR) which allows for single-family residential development with a 0.50 acre minimum lot size. These County land use policies prohibit further density within the affected territory. It is separately noted the affected territory also lies within the sphere of influence of the City of Chula Vista and signals the Commission's intention the lands should ultimately transition into the City when the timing is appropriate. The City of Chula Vista similarly designates and prezones the affected territory for residential uses with a maximum of 3.0 dwelling units per acre.

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

The affected territory lies outside the sphere of influence for the San Diego County SD. However, and pertinently, the Commission has established standing and unique practices specific to San Diego County SD to purposefully exclude jurisdictional lands in Bonita from its sphere of influence that are already in the City of Chula Vista's sphere of influence. The underlying premise to this practice is to assign deference to the City of Chula Vista as the ultimate future service provider for Bonita when infrastructure and other timing issues materialize. The change of organization, accordingly, can proceed without a conforming sphere of influence amendment based on these established Commission practices.

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

Staff provided notice of the change of organization proposal to all subject and affected agencies as required under LAFCO law. No written comments were received ahead of preparing this agenda report.

(over)

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.

San Diego County SD has the financial resources coupled with administrative controls to provide wastewater service to the affected territory in support of its planned development without adversely impacting current ratepayers. This comment is reflected in the staff analysis of San Diego County SD's recent audited statements and shows the District remained profitable in each of the last three audited fiscal years with an average total margin of 5.5%.[8] San Diego County WD's audited net position is $118.7 million as of June 30, 2018 with the unrestricted portion tallying $40.7 million. This latter amount represents the equivalent of 16 plus months of normal operating expenses. Should the Commission approve the change of organization the landowner will pay all required fees and service charges commensurate with San Diego County SD's adopted fee ordinance in establishing permanent wastewater service.[9]

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

The affected territory is presently located within and receives domestic water service from the South Bay ID (Sweetwater Authority). No change to this service arrangement is associated with the subject proposal. The San Diego County Water Authority serves as the wholesale water provider for the affected territory. The Water Authority's most recently adopted urban water management plan attests it has sufficient water supplies to meet its member agencies needs through the planning horizon of 2035 under normal and single-dry year conditions. Conservation measures, however, would likely be needed during severe and multiple dry-year conditions. To this end, South Bay ID has established a contingency plan to reduce water demands in the event of supply shortages consistent with recommendations from the Water Authority.

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 change of organization would permanently extend wastewater service to one existing single-family residence already connected to San Diego County SD's wastewater system through an out-of-agency extension. The proposal will not affect any local agencies in achieving their respective fair shares of the regional housing needs. All regional housing needs tied to the lands are assigned to the County of San Diego by the region's council of governments, SANDAG.

[8] Audited statements cover FY2016, 2017, and 2018.
[9] A master tax agreement also applies and will result in no annual transfer to San Diego County SD.

n) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

The affected territory is developed with one single-family residence containing two registered voters. The affected territory is considered uninhabited as defined by LAFCO law (containing 11 registered voters or less). The landowner supports the proposed change of organization and has provided their written consent to the proceedings.

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.

As used in this review factor, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed change of organization does not include locating new public facilities. Approval of the proposed change of organization is not anticipated to influence and/or hinder the promotion of environmental justice in the affected territory.

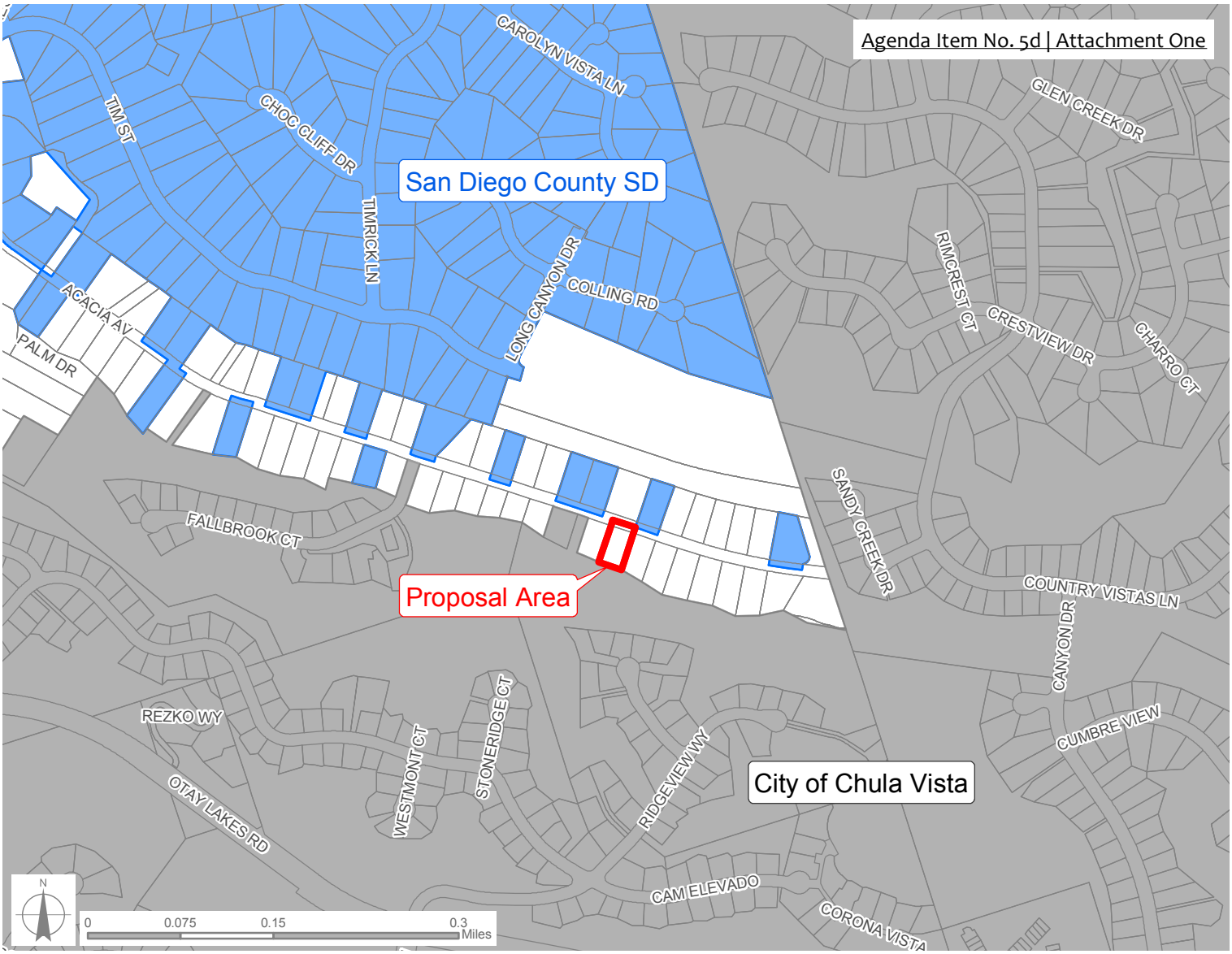
q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone or maps that identify land determined to be in a state responsibility area, if it is determined that such information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

The affected territory is not located within a designated state responsibility area or in a local fire hazard zone.

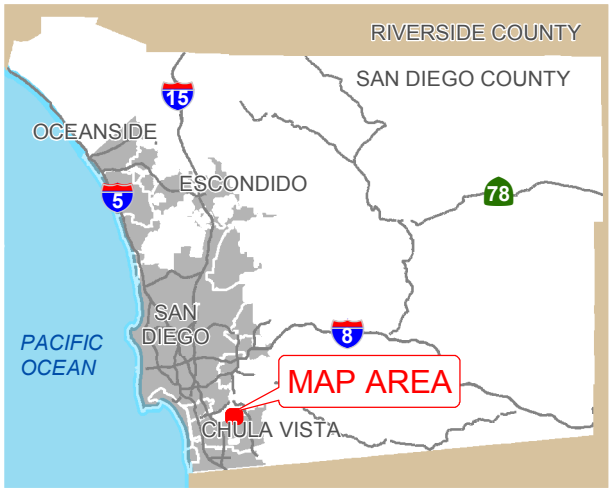
Section 56668.3(a)(1) Whether the proposed annexation will be for the interest of the landowners or present or future inhabitants within the district and within the territory proposed to be annex to the district.

Approval of the change of organization proposal would be in the best interest of the current and future landowners and/or residents of the affected territory by providing permanent access to reliable public wastewater service going forward.

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DA19-07 PROPOSED "RAINS - ACACIA AVENUE CHANGE OF ORGANIZATION" | ANNEXATION TO SAN DIEGO COUNTY SD

- Proposal Area
- San Diego County SD
- City of Chula Vista

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RESOLUTION NO. _____

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING AND ORDERING A CHANGE OF ORGANIZATION

"RAINS-ACACIA AVENUE CHANGE OF ORGANIZATION"
ANNEXATION TO THE SAN DIEGO COUNTY SANITATION DISTRICT
LAFCO FILE NO: DA19-07

WHEREAS, on April 15, 2019, the landowner, Rains Revocable Trust, 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 (Government Code § 56000, et seq.); and

WHEREAS, the application seeks approval for a change of organization involving annexation of approximately 0.45 acres of unincorporated territory to the San Diego County Sanitation District; and

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

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

WHEREAS, the Executive Officer's report and recommendations on the proposed change of organization has 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 November 4, 2019; and

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

NOW, THEREFORE, BE IT RESOLVED, the Commission hereby finds, determines, and orders the following:

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

2. At the meeting, the Commission called for, heard, and considered all public comments by interested parties and read and considered the Executive Officer's report.

3. The Commission serves as responsible agency under the California Environmental Quality Act (CEQA) in considering the change of organization and makes the following finding:

a) The Commission determines the change of organization qualifies as project under CEQA but exempt from further review under State CEQA Guidelines Section 15319(a). This exemption applies given the affected territory contains an existing private structure developed to the density allowed by current zoning and there is no corresponding need for an expansion of public infrastructure.

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

   a) Annexation of 0.45 acres comprising the affected territory to the San Diego County Sanitation District as shown in "Exhibit A" and described in "Exhibit B."

5. The Commission CONDITIONS the approvals on the following terms being satisfied by November 4, 2020 unless an extension is requested and approved by the Executive Officer:

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

   b) Submittal to the Commission of final maps and geographic descriptions of the affected territory and the associated boundary change as approved by the Commission conforming to the requirements of the State Board of Equalization – Tax Services Division.

   c) Submittal to the Commission of the following payments:

      - A check made payable to LAFCO in the amount of $50.00 to reimburse for filing notices with the County-Clerk Recorder's Office consistent with the findings in this resolution.

      - A check made payable to the State Board of Equalization for processing fees in the amount of $300.00.

6. The proposal is assigned the following distinctive short-term designation:

   "Rains – Acacia Avenue Change of Organization" (San Diego County Sanitation District)

7. The affected territory as designated by the Commission is uninhabited as defined in Government Code Section 56046. All subject landowners have provided written consent to the proposal and no subject has submitted written opposition to a waiver of protest proceedings.

8. The Commission waives conducting authority proceeding requirements under Government Code § 56662 and consistent with policy.

9. San Diego County Sanitation District is a registered-voter district.

10. San Diego County Sanitation District utilizes the regular assessment roll of the County of San Diego.

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

12. The effective date of the proposal shall be the date of recordation of the Certificate of Completion following completion of all terms.

13. As allowed under Government Code § 56107, the Commission authorizes the Executive Officer to make non-substantive corrections to this resolution to address any technical defect, error, irregularity, or omission.

14. All general terms governing annexations and detachments authorized under Government Code Section 57300-57354 apply to this change of organization.

**

PASSED AND ADOPTED by the Commission on 4th of November 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**

Approve to Form:

_____
Holly Whatley,
Commission Counsel

Attest:

_____
Jo MacKenzie
Commission Chair

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EXHIBIT A

Placeholder for Recordation
Map of Affected Territory
and Annexation to San Diego County Sanitation District

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EXHIBIT B

Placeholder for Recordation
Description of Affected Territory
and Annexation to San Diego County Sanitation District

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PETITION FOR PROCEEDINGS PURSUANT TO THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000

Part I: NOTICE OF INTENT TO CIRCULATE PETITION

Proponents are required to file a **NOTICE OF INTENT TO CIRCULATE PETITION** with the Executive Officer of the San Diego Local Agency Formation Commission before a petition to initiate a change of organization or reorganization can be circulated (Govt. Code § 56700.4).

1. Notice is hereby given to circulate a petition proposing to: Annex to S.D. County Sanitation (Public Sewer)

2 The reason(s) for the proposal are: Failing Septic with DEH. Letter

J. Noonan

Proponent's Name (print) Signature of proponent or representative

Proponent's Address City, State, Zip

Pursuant to Section 56700.4 of the California Government Code, this **NOTICE OF INTENT TO CIRCULATE PETITION** was filed with me on _____

Date

Executive Officer (Print and Sign)

PART II: DISCLOSURE REQUIREMENTS

The Political Reform Act prohibits a person appointed to the Local Agency Formation Commission from soliciting or accepting campaign contributions of more than $250 within the preceding 12 months from parties, participants, or their agents while a proceeding is pending before LAFCO and for three months following the decision. LAFCO commissioners who receive such contributions are required to disqualify themselves from participating in the proceedings. Both commissioners and contributors who are parties to the proceeding are required to disclose the contributions received or made. Names of current LAFCO commissioners and LAFCO disclosure forms are available at HTTP://WWW.SDLAFCO.ORG or by calling 858/614-7755.

Pursuant to Government Code Section 56700.1, any person or combination of persons who, for political purposes, directly or indirectly contributes $1,000 or more, or expend $1,000 or more in support of, or in opposition to a proposal for a change of organization or reorganization that will be submitted to the Commission, shall disclose and report to the Commission to the same extent and subject to the same requirements of the Political Reform Act (Title 9 [commencing with Section 81000]) as provided for local initiative measures.

Pursuant to Government Code Section 57009, any person or combination of persons who directly or indirectly contributes $1,000 or more, or expends $1,000 or in support of, or in opposition to, the conducting authority proceedings for a change of organization or reorganization, must comply with the disclosure requirements of the Political Reform Act of 1974, (Government Code section 81000 et seq.). Applicable reports must be submitted to the Secretary of State and the appropriate city or county clerk. Copies of the reports must also be filed with the Executive Officer of San Diego LAFCO.

Part IVa: REGISTERED VOTER 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 registered voter within the County of San Diego.
- I personally affixed hereto the date of my signing this petition and my place of residence, or if no street or number exists, then a designation of my place of residence that will enable the location to be readily ascertained.

Name of Signer	Residence Address	Date Signed	Official Use
Sign X V. Norman Rains Print V. Norman Rains		5/30/2019	
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			

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
X Sign V. NormRains Print V. NORMN RAINS		3/30/2019	
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			

Part V: MINIMUM SIGNATURE REQUIREMENT FOR A SUFFICIENT PETITION UNDER THE PROVISIONS OF THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000

Reorganization—Signatures must comply with the applicable signature requirements for each of the changes proposed (Govt. Code § 56864.1).

District Formation—Signatures as required by the principal act under which the new district is proposed to be formed (Govt. Code § 56860).

Dissolution of a District—For registered voter district: signatures by (a) not less than 10% of the registered voters within the district; or (b) not less than 10% of the number of landowners within the district who also own not less than 10% of the assessed value of land within the district.
—For landowner-voter districts: signatures by not less than 10% of the number of landowners within the district who also own not less than 10% of the assessed value of land within the district.
—If dissolution is for inactivity, the petition must be signed by three or more registered voters or landowners within the subject district and include statement and recitations as required by Govt. Code 56871 (Govt. Code § 56870).

Consolidation of Districts—For registered voter districts: signatures by not less than 5% of the registered voters within each of the districts.
—For landowner-voter districts: signatures by landowners-voters constituting not less than 5% of the number of landowner-voters owning land within each of the several districts who also own not less than 5% of the assessed value of land within each of the districts (Govt. Code § 56865).

Merger of District with City or Establishment of a Subsidiary District—For a registered voter district: signatures by (a) 5% of the registered voters of the district; or (b) 5% of the registered voters residing within the territory of the city outside the boundaries of the district.
—For a landowner-voter district: signatures by (a) 5% of the number of landowner-voters within the district; or (b) 5% of the registered voters residing within the territory of the city outside the boundaries of the district (Govt. Code § 56866).

District Annexation or Detachment—For a registered voter district: signatures by (a) not less than 25% of the number of registered voters within the territory proposed to be annexed or detached; or (b) not less than 25% of the number of landowners within the territory proposed to be annexed or detached who also own not less than 25% of the assessed value of land within the territory.
—For a landowner-voter district: signatures by not less than 25% of the number of landowners owning land within the territory proposed to be annexed or detached who also own not less than 25% of the assessed value of land within the territory (Govt. Code § 56864).

Incorporation of a City—Signatures by: (a) not less than 25% of the registered voters residing in the area to be incorporated; or (b) not less than 25% of the number of owners of land within the territory proposed to be incorporated who also own not less than 25% of the assessed value of land within the territory proposed to be incorporated (Govt. Code § 56764).

Disincorporation of a City—Signatures by not less than 25% of the registered voters residing in the city proposed to be disincorporated (Govt. Code § 56766).

Consolidation of Cities—Signatures by not less than 5% of the registered voters of each affected city (Govt. Code § 56766).

Annexation to a City—Signatures by: (a) not less than 5% of the number of registered voters residing within the territory proposed to be annexed; or (b) not less than 5% of the number of owners of land within the territory proposed to be annexed who also own 5% of the assessed value of land within the territory (Govt. Code § 56767).

Detachment from a City—Signatures by: (a) not less than 25% of the number of registered voters residing within the territory proposed to be detached; or (b) not less than 25% of the number of owners of land within the territory proposed to be detached who also own 25% of the assessed value of land within the territory (Govt. Code § 56768).

5e

AGENDA REPORT
Consent | Action

November 4, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer

SUBJECT: **Commission Counsel Services |**
Proposed New Agreement with Colantuono, Highsmith & Whatley

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a proposed new agreement for legal services with Colantuono, Highsmith & Whatley. The new agreement resets and extends the term through June 30, 2022 and makes related updates involving billing rates and designating firm employees to file annual conflict of interest statements. The Executive Officer recommends approval of the new agreement.

BACKGROUND

Appointment of Commission Counsel

San Diego LAFCO appointed Michael Colantuono with Colantuono, Highsmith & Whatley as Commission Counsel in March 2015. The appointment satisfies Government Code Section 56384 and direction to independently appoint Commission Counsel to advise LAFCO on all matters. The Executive Officer proceeded to enter into a professional services agreement with Colantuono, Highsmith & Whatley memorializing the appointment and it specifies all legal services shall be performed by the firm at fixed hourly rates and at the request and direction of the Executive Officer. The original term expired on June 30, 2019 and as allowed the Executive Officer extended the agreement for an additional year as a

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

Jim Desmond, County of San Diego
Dianne Jacob, Vice Chair, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Escondido
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

placeholder and ahead of bringing a new agreement to the Commission for its review and approval. A copy of the current agreement is provided as Attachment One.

DISCUSSION

This item is for San Diego LAFCO to consider a proposed new agreement for legal services with Colantuono, Highsmith & Whatley. The proposed new agreement has been developed between the Executive Officer and Partner Holly Whatley and would become effective November 1st. A copy of the proposed new agreement is provided as Attachment Two with pertinent details provided in the succeeding section.

ANALYSIS

The proposed new agreement for legal services with Colantuono, Highsmith & Whatley renews the current arrangement with three distinct and merited changes. The first and primary change is to reset the agreement term for three additional fiscal years through June 30, 2022 and in doing so replace the current year-to-year arrangement. The extension of the term provides for the continuation of an advantageous arrangement in which the Commission regularly draws on the extensive expertise and resources of the firm in fulfilling LAFCO's regulatory and planning duties. The second change incorporates annual 3.1% increases in all hourly billing categories (i.e., partner, associate, paralegal, etc.) and equals the projected inflation rate for the San Diego region during the period. This change would mark the first increase in hourly rates since 2014 and provides cost-certainty to the Commission by avoiding an interim request by the firm to adjust billing levels. The third change involves expanding the list of firm employees required to file annual statements of conflict of interest from Michael Colantuono to also include Partner Holly Whatley. This expansion reflects Ms. Whatley assuming a more prominent and regular role in representing the Commission since the last agreement was signed. The proposed new agreement – separately – satisfies a procurement requirement for the Executive Officer to receive Commission approval for any professional services arrangement in which costs exceed $125,000 with additional details footnoted.[1]

RECOMMENDATION

It is recommended San Diego LAFCO approve the proposed new agreement for legal services with Colantuono, Highsmith & Whatley consistent with Alternative Action One as outlined in the proceeding section.

(over)

[1] San Diego LAFCO's legal costs have steadily increased in recent years and are now approaching the referenced procurement threshold as shown by 2018-2019 billed expenses with Colantuono, Highsmith & Whatley totaling approximately $120,000. Accordingly, it is appropriate for the Commission to directly approve a new agreement.

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):
Approve the proposed new agreement with Colantuono, Highsmith & Whatley provided as Attachment Two with any desired revisions and authorize the Executive Officer to sign on behalf of LAFCO.

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.

Respectfully,



Keene Simonds
Executive Officer

Attachments:

1) Existing Agreement for Legal Services with Colantuono, Highsmith & Whatley
2) Proposed New Agreement for Legal Services with Colantuono, Highsmith & Whatley

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AGREEMENT BETWEEN SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION AND Colantuono, Highsmith & Whatley, PC FOR LEGAL COUNSEL SERVICES

THIS AGREEMENT is effective on the first day of July 2017 between Colantuono Highsmith & Whatley, PC (hereinafter called "Legal Counsel"), and the San Diego Local Agency Formation Commission (hereinafter called "LAFCO").

W I T N E S S E T H:

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56380 et seq.) authorizes LAFCO to employ or contract for professional or consulting services to carry out the functions of the Commission; and

WHEREAS, LAFCO desires the services of a law firm to provide legal representation / legal advice.

NOW, THEREFORE, IT IS MUTUALLY AGREED by and between parties as follows:

I. EMPLOYMENT OF LEGAL COUNSEL

LAFCO agrees to engage Legal Counsel and Legal Counsel hereby agrees to perform the services hereinafter set forth.

II. INTENT OF PARTIES

It is understood between parties that Legal Counsel will perform services as determined necessary by the Executive Officer.

III. SCOPE OF LEGAL COUNSEL SERVICES

Legal Counsel shall undertake the following services on a retainer basis at the request and direction of the Executive Officer.

1. Legal Counsel will be on call to answer questions from the Executive Officer or to perform legal representation / legal advice services as requested by the Executive Officer on an "as-needed" basis.

2. Legal Counsel will provide regular updates to the Executive Officer regarding legal representation / legal advice services when requested by the Executive Officer.

IV. ADMINISTRATOR OF AGREEMENT

The Executive Officer is LAFCO's representative (contract officer) for purposes of administering this Agreement. Michael G. Colantuono (Colantuono, Highsmith and Whatley, PC), is Legal Counsel's representative for purposes of administering this Agreement, and is Legal Counsel's LAFCO representative and contact person.

V. LEGAL COUNSEL'S EMPLOYEES AND EQUIPMENT

Legal Counsel agrees that it has secured or will secure at its own expense all persons, employees and equipment required to perform the services required under this Agreement and that all such services will be performed by Legal Counsel, or under Legal Counsel's supervision, by persons authorized by law to perform such services.

VI. TERM

This agreement shall become effective upon execution by both parties and shall continue until terminated or the date of expiration. The agreement shall remain in effect through June 30, 2019, and shall be subject to renewal on July 1, 2019. This agreement may be extended by the Executive Officer for annual periods, unless otherwise specified by the Commission.

VII. COMPENSATION AND MANNER OF PAYMENT

Legal Counsel will be compensated only for legal representation / legal advice services described in Section III above performed at the express direction of the Executive Officer of LAFCO. Compensation shall include only labor and expenses, to be paid as follows:

1. Labor

   Compensation for labor of personnel shall be billed at the firm's standard hourly rates capped at $325.00/hour. The firm's standard rates are attached hereto as Exhibit A and shall not be amended during the term of this agreement without the written approval of LAFCO.

   Compensation during travel to and from the San Diego LAFCO shall be billed at one-half the time actually incurred, limited to a maximum of 4 hours one-way.

2. Expenses

   Legal Counsel will also be compensated for its actual expenses incurred for

materials, mileage at current County of San Diego rates, long-distance telephone calls, and other expenses authorized by the Executive Officer. Outgoing faxes will be reimbursed at $1 per page and in-house photocopies will be reimbursed at ten cents per page. Legal Counsel shall charge no administrative or other markup on expenses for which reimbursement is sought from LAFCO.

3. Manner of and Maximum Payment

Payment shall be made in arrears pursuant to written invoices submitted to the Executive Officer on a monthly basis. Payment shall be made within 30 days of receipt of invoices. Such payment shall constitute full and complete payment for the period covered by the invoice. The total amount paid to Legal Counsel for work within any fiscal year shall be subject to the approval of the Executive Officer and may not exceed the amount budgeted for this purpose by LAFCO for that fiscal year.

VIII. AUDIT AND INSPECTION OF RECORDS

At a time that is agreed upon by LAFCO and Legal Counsel and as often as LAFCO may deem necessary, Legal Counsel shall make available to LAFCO or its designated agents for examination all of Legal Counsel's data and records with respect to all matters covered by this Agreement, and Legal Counsel will permit LAFCO, or its designated agents, to audit, examine, and make excerpts or transcripts from such data and records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Agreement. Unless otherwise specified by LAFCO in writing, said data and records should be made available for examination within San Diego County for a period of two (2) years following completion of this Agreement.

IX. INTEREST OF LEGAL COUNSEL

a. Legal Counsel covenants that he/she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Legal Counsel further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained under this Agreement.

b. Except as provided in paragraph c. below, Legal Counsel agrees to not act as Legal Counsel or perform services of any kind for any LAFCO applicant without the prior written consent of LAFCO. When consent has been given, Legal Counsel shall endeavor to avoid involvement on behalf of said new client which would in any manner undermine the effective performance of services by Legal Counsel or convey, utilize, or permit to be utilized, confidential information gained through its association with LAFCO for the

benefit of any other client.

c. Legal Counsel has informed LAFCO that it provides advisory and litigation services to The San Diego Tourism Marketing District, the San Diego County Water Authority, the San Diego Unified Port district and the Cities of Chula Vista, National City and San Diego. Legal Counsel also represents seven cities in the County in a lawsuit against San Diego County disputing the distribution of tax increment revenues that formerly flowed to Redevelopment Agencies. These are Chula Vista, El Cajon, Escondido, Poway, San Diego San Marcos and Vista. Legal Counsel is generally in the business of providing general and special counsel services to local governments in San Diego County and elsewhere in California. Provided that Legal Counsel does not provide services in San Diego County which create a conflict under the Rules of Professional Conduct or which pertain to an actual or potential application to LAFCO, Legal Counsel may continue its practice of providing legal services to local governments in San Diego County without further consent of LAFCO. Legal Counsel shall not provide services in San Diego County which create a conflict under the Rules of Professional Conduct or which pertain to an actual or potential application to LAFCO, without the informed, written consent of LAFCO.

d. Legal Counsel agrees to alert every client for whom consent is required to this conflict of interest provision and to include language in its agreement with said client, which would enable Legal Counsel to comply fully with its terms.

e. Legal Counsel shall recuse himself/herself from discussions or actions that may result in a financial benefit to him/her or to any governmental agency that he represents. Notwithstanding this recusal provision, the following positions, by name or job title, are hereby classified "designated employees," as defined by LAFCO's Conflict of Interest Code adopted July 31, 1995. Such "designated employees" will be required to complete and submit any Conflict of Interest Statements that may become due during the effective period of this Agreement.

Michael G. Colantuono

X. TERMINATION OF AGREEMENT FOR CAUSE

If, through any cause, Legal Counsel shall fail to fulfill in a timely and proper manner his/her obligations under this Agreement, or if Legal Counsel shall violate any of the covenants, agreements, or stipulations of this Agreement, LAFCO shall thereupon have the right to terminate this Agreement by giving written notice to Legal Counsel of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In the event, all finished or unfinished documents, data, studies, surveys, drawings, maps, reports, and other materials prepared by Legal Counsel shall, at the option

of LAFCO, become its property, and Legal Counsel shall be entitled to received just and equitable compensation for any satisfactory work completed on such documents and other materials, not to exceed the amounts payable under Section VII above.

Notwithstanding the above, Legal Counsel shall not be relieved of liability to LAFCO for damages sustained by LAFCO by virtue of any breach of the Agreement by Legal Counsel, and LAFCO may withhold any payments to Legal Counsel for the purpose of offset until such time as the exact amount of damages due LAFCO from Legal Counsel is determined. Legal Counsel hereby expressly waives any and all claims for damages for compensation arising under this Agreement except as set forth in this section in event of such termination.

XI. TERMINATION FOR CONVENIENCE OF LAFCO

LAFCO reserves the right to terminate this Agreement at any time by written notice to Legal Counsel sixty (60) days prior to date of termination thereof. LAFCO shall thereafter pay Legal Counsel for work performed to the date of termination. Such notice shall terminate this Agreement and release LAFCO from any further fee, cost or claim hereunder by Legal Counsel other than for work performed to date of termination. In the event of termination, all finished and unfinished documents and other material shall, at the option of LAFCO, become its property.

XII. INSURANCE AND HOLD HARMLESS AGREEMENT

Legal Counsel agrees to maintain such insurance as will fully protect Legal Counsel, LAFCO, and County from any and all claims under any workers' compensation act or employer's liability laws, and from any and all other claims of whatsoever kind or nature for the damage to property or for personal injury, including death, made by anyone whomsoever which may arise from operations carried on under this Agreement, either by Legal Counsel, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them. Legal Counsel shall exonerate, indemnify, defend, and hold harmless LAFCO and County from and against, and shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security and income tax laws, with respect to Legal Counsel and Legal Counsel's employees engaged in performance of this Agreement. LAFCO and County, and their agents, officers, and employees shall not be, nor be held liable for any claims, liabilities, penalties, fines, or forfeitures, or for any damage to the goods, properties, or effects of Legal Counsel or of any other persons whatsoever, nor for personal injury to or death of them, or any of them, caused by or resulting from any negligent act or omission of Legal Counsel or Legal Counsel's agents, employees, or representatives. Legal Counsel further agrees to indemnify, defend, and hold harmless LAFCO and County, and their agents, officers, and employees, against and from any and all of the foregoing

liabilities, and any and all costs or expenses incurred by LAFCO and County on account of any claim therefor. In the event that a court of competent jurisdiction should determine that LAFCO has not the authority to provide by agreement for the provision of the hereinabove-set-forth professional service, Legal Counsel nevertheless agrees to assume the foregoing obligations and liabilities, by which it is intended by both parties that Legal Counsel shall indemnify and save LAFCO and County free and harmless from all claims arising by reason of any negligent act or omission of Legal Counsel.

XIII. INTEREST OF LAFCO OFFICERS AND OTHERS

No officer, member, or employee of LAFCO and no member of its governing body shall participate in any decision relating to this Agreement which affects his/her personal interest, or the interest of any corporation, partnership, or association in which he/she is directly interested; nor shall any such person have any interest, direct or indirect, in this Agreement or the proceeds thereof.

XIV. ASSIGNABILITY

Legal Counsel shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation) without prior written consent of LAFCO thereto. Provided, however, that claims for money due or to become due to Legal Counsel from LAFCO under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to LAFCO. Any assignment requiring approval may not be further sub-assigned without LAFCO approval.

XV. FINDINGS CONFIDENTIAL

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Legal Counsel under this Agreement which LAFCO requests to be kept as confidential shall not be made available to any individual or organization by Legal Counsel without prior written approval of LAFCO unless pursuant to a valid and enforceable order of any court with jurisdiction of the matter.

XVI. OWNERSHIP, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Legal Counsel under this Agreement which LAFCO requests to be kept as confidential shall not be made available to any individual or organization by Legal Counsel without prior written approval of LAFCO unless pursuant to a valid and enforceable order of any court with jurisdiction of the matter.

XVII. NOTICE

Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, postage prepaid, return receipt requested, to the following addresses:

LAFCO:
Michael D. Ott, Executive Officer
San Diego LAFCO
9335 Hazard Way, Suite 200
San Diego CA 92123
(858) 614-7755
FAX (858) 614-7766
E-mail: mike.ott@sdcounty.ca.gov

Legal Counsel:
Michael G. Colantuono
Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091
Voice (530) 432-7357
Fax (530) 432-7356
E-mail: mcolantuono@chwlaw.us
Web: www.chwlaw.us

Payments shall be directed to Legal Counsel as follows:

Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091

Either party may alter its address for notice under this Agreement by written notice to the other party at any time.

XVIII. INDEPENDENT CONTRACTOR

Legal Counsel and any agent, subcontractor, or employee of Legal Counsel shall act in an independent capacity and not as an officer or employee of LAFCO. LAFCO assumes no liability for Legal Counsel's action in performance, nor assumes responsibility for taxes, funds, payments or other commitments, implied or expressed, by or for Legal Counsel. Legal Counsel shall not have authority to act as an agent on behalf of LAFCO unless specifically authorized to do so in writing by LAFCO's Executive Officer. Legal Counsel acknowledges that it is aware that, because it is an independent contractor, LAFCO is making no deductions from its fee and is not contributing to any fund on its behalf. Legal Counsel disclaims the right to fee or benefits except as expressly provided for in this Agreement.

Legal Counsel shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of LAFCO, other than normal contract monitoring; provided, however, Legal Counsel shall possess no authority with respect to any LAFCO decision beyond rendition of such information, advice or recommendations unless authorized by the Executive Officer.

XIX. EQUAL OPPORTUNITY

Legal Counsel will not discriminate against any employee, or against any applicant for such employment because of age, race, color, creed, religion, sex, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships.

XX. SUBCONTRACTS

None of the services covered by this Agreement shall be subcontracted or assigned without the prior written consent of LAFCO, provided however, that this provision shall not apply to secretarial, clerical, routine mechanical, and similar incidental services needed by Legal Counsel to assist in the performance of this Agreement. Legal Counsel shall not hire LAFCO's employees to perform any portion of the work or services provided for herein including secretarial, clerical, and similar incidental services except upon the written approval of LAFCO. Performance of services under this Agreement by associates or employees of Legal Counsel shall not relieve Legal Counsel from any responsibility under this Agreement.

XXI. CHANGES

LAFCO may, from time-to-time require changes in the scope of the services of Legal Counsel to be performed hereunder. Such changes, including any increase or decrease in the amount of Legal Counsel's compensation, which is mutually agreed upon by and between LAFCO, the Legal Counsel, and the Applicant shall be effective when incorporated in written amendments to this Agreement.

XXII. NOTICE OF TAXABLE POSSESSORY INTEREST

The terms of this document may result in the creation of the possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest.

XXIII. APPLICABLE LAW

This Agreement shall be construed and interpreted according to the laws of the State of California.

IN WITNESS WHEREOF, LAFCO and Legal Counsel have executed this Agreement as of the date first above written.

SAN DIEGO LAFCO

BY _____
MICHAEL D. OTT
Executive Officer

DATE 5/1/17

COLANTUONO, HIGHSMITH & WHATLEY, PC

BY _____
MICHAEL G. COLANTUONO
~~President~~

DATE 5/1/17

Exhibit A

Non-Retainer Hourly Billing Rates
As of July 1, 2017 and July 1, 2019

Shareholders and Senior Contract Attorneys	$325
8th Year and more Senior Associates	$320
7th Year Associates	$300
6th Year Associates	$295
5th Year Associates	$270
4th Year Associates	$260
3rd Year Associates	$245
2nd Year Associates	$225
1st Year Associates	$195
Paralegals	$145
Legal Assistants	$125

AGREEMENT BETWEEN SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION AND Colantuono, Highsmith & Whatley, PC FOR LEGAL COUNSEL SERVICES

THIS AGREEMENT is effective on the first day of July 2019 between Colantuono Highsmith & Whatley, PC (hereinafter called "Legal Counsel"), and the San Diego Local Agency Formation Commission (hereinafter called "LAFCO").

WITNESSETH:

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56380 et seq.) authorizes LAFCO to employ or contract for professional or consulting services to carry out the functions of the Commission; and

WHEREAS, LAFCO desires the services of a law firm to provide legal representation / legal advice.

NOW, THEREFORE, IT IS MUTUALLY AGREED by and between parties as follows:

I. EMPLOYMENT OF LEGAL COUNSEL

LAFCO agrees to engage Legal Counsel and Legal Counsel hereby agrees to perform the services hereinafter set forth.

II. INTENT OF PARTIES

It is understood between parties that Legal Counsel will perform services as determined necessary by the Executive Officer.

III. SCOPE OF LEGAL COUNSEL SERVICES

Legal Counsel shall undertake the following services on a retainer basis at the request and direction of the Executive Officer.

1. Legal Counsel will be on call to answer questions from the Executive Officer or to perform legal representation / legal advice services as requested by the Executive Officer on an "as-needed" basis.

2. Legal Counsel will provide regular updates to the Executive Officer regarding legal representation / legal advice services when requested by the Executive Officer.

IV. ADMINISTRATOR OF AGREEMENT

The Executive Officer is LAFCO's representative (contract officer) for purposes of administering this Agreement. Holly O. Whatley (Colantuono, Highsmith and Whatley, PC), is Legal Counsel's representative for purposes of administering this Agreement, and is Legal Counsel's LAFCO representative and contact person.

V. LEGAL COUNSEL'S EMPLOYEES AND EQUIPMENT

Legal Counsel agrees that it has secured or will secure at its own expense all persons, employees and equipment required to perform the services required under this Agreement and that all such services will be performed by Legal Counsel, or under Legal Counsel's supervision, by persons authorized by law to perform such services.

VI. TERM

This agreement shall become effective upon execution by both parties and shall continue until terminated or the date of expiration. The agreement shall remain in effect through June 30, 2022, and shall be subject to renewal on July 1, 2022. This agreement may be extended by the Executive Officer for annual periods, unless otherwise specified by the Commission.

VII. COMPENSATION AND MANNER OF PAYMENT

Legal Counsel will be compensated only for legal representation / legal advice services described in Section III above performed at the express direction of the Executive Officer of LAFCO. Compensation shall include only labor and expenses, to be paid as follows:

1. Labor

   Compensation for labor of personnel shall be billed in accordance with the rates attached hereto as Exhibit A and shall not be amended during the term of this agreement without the written approval of LAFCO.

   Compensation during travel to and from the San Diego LAFCO shall be billed at one-half the time actually incurred, limited to a maximum of 4 hours one-way.

2. Expenses

   Legal Counsel will also be compensated for its actual expenses incurred for materials, mileage at current County of San Diego rates, long-distance

telephone calls, and other expenses authorized by the Executive Officer. Outgoing faxes will be reimbursed at $1 per page and in-house photocopies will be reimbursed at fifteen cents per page. Legal Counsel shall charge no administrative or other markup on expenses for which reimbursement is sought from LAFCO.

3. Manner of and Maximum Payment

Payment shall be made in arrears pursuant to written invoices submitted to the Executive Officer on a monthly basis. Payment shall be made within 30 days of receipt of invoices. Such payment shall constitute full and complete payment for the period covered by the invoice. The total amount paid to Legal Counsel for work within any fiscal year shall be subject to the approval of the Executive Officer and may not exceed the amount budgeted for this purpose by LAFCO for that fiscal year.

VIII. AUDIT AND INSPECTION OF RECORDS

At a time that is agreed upon by LAFCO and Legal Counsel and as often as LAFCO may deem necessary, Legal Counsel shall make available to LAFCO or its designated agents for examination all of Legal Counsel's data and records with respect to all matters covered by this Agreement, and Legal Counsel will permit LAFCO, or its designated agents, to audit, examine, and make excerpts or transcripts from such data and records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Agreement. Unless otherwise specified by LAFCO in writing, said data and records should be made available for examination within San Diego County for a period of two (2) years following completion of this Agreement.

IX. INTEREST OF LEGAL COUNSEL

a. Legal Counsel covenants that he/she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Legal Counsel further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained under this Agreement.

b. Except as provided in paragraph c. below, Legal Counsel agrees to not act as Legal Counsel or perform services of any kind for any LAFCO applicant without the prior written consent of LAFCO. When consent has been given, Legal Counsel shall endeavor to avoid involvement on behalf of said new client which would in any manner undermine the effective performance of services by Legal Counsel or convey, utilize, or permit to be utilized, confidential information gained through its association with LAFCO for the benefit of any other client.

c. Legal Counsel has informed LAFCO that it provides advisory and litigation services to The San Diego Tourism Marketing District, the San Diego Unified Port district and the Cities of Chula Vista, National City and San Diego. Legal Counsel also represents seven cities in the County in a lawsuit against San Diego County disputing the distribution of tax increment revenues that formerly flowed to Redevelopment Agencies. These are Chula Vista, El Cajon, Escondido, Poway, San Diego San Marcos and Vista. Legal Counsel also represents eleven cites and three special districts in a lawsuit filed by the San Diego County Office of Education and eight school districts against the County of San Diego and several cities and special districts in a dispute about how the County of San Diego allocates tax increment revenues that formerly flowed to Redevelopment Agencies. These are the cities of Chula Vista, El Cajon, Imperial Beach, Lemon Grove, National City, Oceanside, San Diego, San Marcos, Santee, Solana Beach, and Vista, and the special districts Padre Dam Muni. Water Dist., San Marcos Fire Protection District, and San Fe Irrigation District. Legal Counsel is generally in the business of providing general and special counsel services to local governments in San Diego County and elsewhere in California. Provided that Legal Counsel does not provide services in San Diego County which create a conflict under the Rules of Professional Conduct or which pertain to an actual or potential application to LAFCO, Legal Counsel may continue its practice of providing legal services to local governments in San Diego County without further consent of LAFCO. Legal Counsel shall not provide services in San Diego County which create a conflict under the Rules of Professional Conduct or which pertain to an actual or potential application to LAFCO, without the informed, written consent of LAFCO.

d. Legal Counsel agrees to alert every client for whom consent is required to this conflict of interest provision and to include language in its agreement with said client, which would enable Legal Counsel to comply fully with its terms.

e. Legal Counsel shall recuse himself/herself from discussions or actions that may result in a financial benefit to him/her or to any governmental agency that he represents. Notwithstanding this recusal provision, the following positions, by name or job title, are hereby classified "designated employees," as defined by LAFCO's Conflict of Interest Code adopted July 31, 1995. Such "designated employees" will be required to complete and submit any Conflict of Interest Statements that may become due during the effective period of this Agreement.

Michael G. Colantuono and Holly O. Whatley

X. TERMINATION OF AGREEMENT FOR CAUSE

If, through any cause, Legal Counsel shall fail to fulfill in a timely and proper manner his/her obligations under this Agreement, or if Legal Counsel shall violate any of the covenants, agreements, or stipulations of this Agreement, LAFCO shall thereupon have the right to terminate this Agreement by giving written notice to Legal Counsel of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In the event, all finished or unfinished documents, data, studies, surveys, drawings, maps, reports, and other materials prepared by Legal Counsel shall, at the option of LAFCO, become its property, and Legal Counsel shall be entitled to received just and equitable compensation for any satisfactory work completed on such documents and other materials, not to exceed the amounts payable under Section VII above.

Notwithstanding the above, Legal Counsel shall not be relieved of liability to LAFCO for damages sustained by LAFCO by virtue of any breach of the Agreement by Legal Counsel, and LAFCO may withhold any payments to Legal Counsel for the purpose of offset until such time as the exact amount of damages due LAFCO from Legal Counsel is determined. Legal Counsel hereby expressly waives any and all claims for damages for compensation arising under this Agreement except as set forth in this section in event of such termination.

XI. TERMINATION FOR CONVENIENCE OF LAFCO

LAFCO reserves the right to terminate this Agreement at any time by written notice to Legal Counsel sixty (60) days prior to date of termination thereof. LAFCO shall thereafter pay Legal Counsel for work performed to the date of termination. Such notice shall terminate this Agreement and release LAFCO from any further fee, cost or claim hereunder by Legal Counsel other than for work performed to date of termination. In the event of termination, all finished and unfinished documents and other material shall, at the option of LAFCO, become its property.

XII. INSURANCE AND HOLD HARMLESS AGREEMENT

Legal Counsel agrees to maintain such insurance as will fully protect Legal Counsel, LAFCO, and County from any and all claims under any workers' compensation act or employer's liability laws, and from any and all other claims of whatsoever kind or nature for the damage to property or for personal injury, including death, made by anyone whomsoever which may arise from operations carried on under this Agreement, either by Legal Counsel, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them. Legal Counsel shall exonerate, indemnify, defend, and hold harmless LAFCO and County from and against, and shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under

unemployment insurance, social security and income tax laws, with respect to Legal Counsel and Legal Counsel's employees engaged in performance of this Agreement. LAFCO and County, and their agents, officers, and employees shall not be, nor be held liable for any claims, liabilities, penalties, fines, or forfeitures, or for any damage to the goods, properties, or effects of Legal Counsel or of any other persons whatsoever, nor for personal injury to or death of them, or any of them, caused by or resulting from any negligent act or omission of Legal Counsel or Legal Counsel's agents, employees, or representatives. Legal Counsel further agrees to indemnify, defend, and hold harmless LAFCO and County, and their agents, officers, and employees, against and from any and all of the foregoing liabilities, and any and all costs or expenses incurred by LAFCO and County on account of any claim therefor. In the event that a court of competent jurisdiction should determine that LAFCO has not the authority to provide by agreement for the provision of the hereinabove-set-forth professional service, Legal Counsel nevertheless agrees to assume the foregoing obligations and liabilities, by which it is intended by both parties that Legal Counsel shall indemnify and save LAFCO and County free and harmless from all claims arising by reason of any negligent act or omission of Legal Counsel.

XIII. INTEREST OF LAFCO OFFICERS AND OTHERS

No officer, member, or employee of LAFCO and no member of its governing body shall participate in any decision relating to this Agreement which affects his/her personal interest, or the interest of any corporation, partnership, or association in which he/she is directly interested; nor shall any such person have any interest, direct or indirect, in this Agreement or the proceeds thereof.

XIV. ASSIGNABILITY

Legal Counsel shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation) without prior written consent of LAFCO thereto. Provided, however, that claims for money due or to become due to Legal Counsel from LAFCO under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to LAFCO. Any assignment requiring approval may not be further sub-assigned without LAFCO approval.

XV. FINDINGS CONFIDENTIAL

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Legal Counsel under this Agreement which LAFCO requests to be kept as confidential shall not be made available to any individual or organization by Legal Counsel without prior written approval of LAFCO unless pursuant to a valid and enforceable order of any court with jurisdiction of the matter.

XVI. OWNERSHIP, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Legal Counsel under this Agreement which LAFCO requests to be kept as confidential shall not be made available to any individual or organization by Legal Counsel without prior written approval of LAFCO unless pursuant to a valid and enforceable order of any court with jurisdiction of the matter.

XVII. NOTICE

Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, postage prepaid, return receipt requested, to the following addresses:

LAFCO:
Keene Simonds, Executive Officer
San Diego LAFCO
9335 Hazard Way, Suite 200
San Diego CA 92123
(858) 614-7755
FAX (858) 614-7766
E-mail: keene.simonds@sdcounty.ca.gov

Legal Counsel:
Holly O. Whatley
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd., Ste. 850
Pasadena, CA 91101
Voice (213-542-5704
Fax (213)-542-5710
E-mail: hwhatley@chwlaw.us
Web: www.chwlaw.us

Payments shall be directed to Legal Counsel as follows:

Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091

Either party may alter its address for notice under this Agreement by written notice to the other party at any time.

XVIII. INDEPENDENT CONTRACTOR

Legal Counsel and any agent, subcontractor, or employee of Legal Counsel shall

act in an independent capacity and not as an officer or employee of LAFCO. LAFCO assumes no liability for Legal Counsel's action in performance, nor assumes responsibility for taxes, funds, payments or other commitments, implied or expressed, by or for Legal Counsel. Legal Counsel shall not have authority to act as an agent on behalf of LAFCO unless specifically authorized to do so in writing by LAFCO's Executive Officer. Legal Counsel acknowledges that it is aware that, because it is an independent contractor, LAFCO is making no deductions from its fee and is not contributing to any fund on its behalf. Legal Counsel disclaims the right to fee or benefits except as expressly provided for in this Agreement.

Legal Counsel shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of LAFCO, other than normal contract monitoring; provided, however, Legal Counsel shall possess no authority with respect to any LAFCO decision beyond rendition of such information, advice or recommendations unless authorized by the Executive Officer.

XIX. EQUAL OPPORTUNITY

Legal Counsel will not discriminate against any employee, or against any applicant for such employment because of age, race, color, creed, religion, sex, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships.

XX. SUBCONTRACTS

None of the services covered by this Agreement shall be subcontracted or assigned without the prior written consent of LAFCO, provided however, that this provision shall not apply to secretarial, clerical, routine mechanical, and similar incidental services needed by Legal Counsel to assist in the performance of this Agreement. Legal Counsel shall not hire LAFCO's employees to perform any portion of the work or services provided for herein including secretarial, clerical, and similar incidental services except upon the written approval of LAFCO. Performance of services under this Agreement by associates or employees of Legal Counsel shall not relieve Legal Counsel from any responsibility under this Agreement.

XXI. CHANGES

LAFCO may, from time-to-time require changes in the scope of the services of Legal Counsel to be performed hereunder. Such changes, including any increase or decrease in the amount of Legal Counsel's compensation, which is mutually

agreed upon by and between LAFCO, the Legal Counsel, and the Applicant shall be effective when incorporated in written amendments to this Agreement.

XXII. NOTICE OF TAXABLE POSSESSORY INTEREST

The terms of this document may result in the creation of the possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest.

XXIII. APPLICABLE LAW

This Agreement shall be construed and interpreted according to the laws of the State of California.

IN WITNESS WHEREOF, LAFCO and Legal Counsel have executed this Agreement as of the date first above written.

SAN DIEGO LAFCO	**COLANTUONO, HIGHSMITH & WHATLEY, PC**
BY_____	BY _____
KEENE SIMONDS Executive Officer	HOLLY O. WHATLEY Vice-President
DATE_____	DATE_____

Exhibit A

Hourly Billing Rates
As of Nov. 1, 2019 through June 30, 2020

Shareholders and Senior Contract Attorneys	$335
8th Year and more Senior Associates	$330
7th Year Associates	$305
6th Year Associates	$300
5th Year Associates	$275
4th Year Associates	$270
3rd Year Associates	$250
2nd Year Associates	$230
1st Year Associates	$200
Paralegals	$150
Legal Assistants	$130

Hourly Billing Rates
As of July 1, 2020 through June 30, 2021

Shareholders and Senior Contract Attorneys	$345
8th Year and more Senior Associates	$340
7th Year Associates	$310
6th Year Associates	$305
5th Year Associates	$280
4th Year Associates	$275
3rd Year Associates	$255
2nd Year Associates	$235
1st Year Associates	$205
Paralegals	$155
Legal Assistants	$135

Hourly Billing Rates
As of July 1, 2021 through June 30, 2022

Shareholders and Senior Contract Attorneys	$355
8th Year and more Senior Associates	$350
7th Year Associates	$320
6th Year Associates	$310
5th Year Associates	$285
4th Year Associates	$280
3rd Year Associates	$260
2nd Year Associates	$240
1st Year Associates	$210
Paralegals	$160
Legal Assistants	$140

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AGENDA REPORT
Consent | Action

November 4, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer

SUBJECT: **Progress Report on 2019-2020 Workplan**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a progress report on accomplishing specific projects included in the adopted workplan for 2019-2020. The report notes over one-half of the 27 workplan projects have been initiated with four already completed and highlighted by a comprehensive municipal service review on the San Diego County Sanitation District and re-establishing the Cities Advisory Committee. The report is being presented to the Commission to receive and file as well as to discuss potential revisions for future consideration.

BACKGROUND

2019-2020 Workplan

San Diego LAFCO's ("Commission") current fiscal year workplan was adopted at a noticed public hearing held on April 3, 2019. The workplan includes 27 projects and divided into two distinct categories – statutory and administrative – with one of three priority rankings: high; moderate; or low. The intent of the workplan is to serve as a management tool to allocate resources over the 12-month period and track performance. Towards this end, the Commission reserves discretion to amend the workplan to address changes in priorities or resources as well as to continue projects into subsequent fiscal years.

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

Jim Desmond, County of San Diego
Dianne Jacob, Vice Chair, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Escondido
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

DISCUSSION

This item provides San Diego LAFCO with its regular status update on the 27 targeted projects established for the fiscal year. This includes staff assigning one of four status categories to projects ranging from pending to complete and detailed in Attachment One. The item is being presented for the Commission to formally receive and file while also providing the membership the opportunity to provide direction to staff going forward on listed projects as well as request amendments for future consideration.

ANALYSIS

San Diego LAFCO is generally proceeding as planned and has initiated work on 16 of the 27 projects included in the adopted workplan and represents nearly three-fifths – or 59% – of the total through the first one-third of the fiscal year. Four projects are now complete and this includes preparing a municipal service review on the San Diego County Sanitation District and re-establishing and holding the first meeting of the Cities Advisory Committee since the early 2000s. The first of two phases of the municipal service review on the Escondido region has also been completed with the second phase expected to be presented in draft form at the beginning of the calendar year. Other projects underway with the expectation of presenting to the Commission in the next few meetings include municipal service reviews on the Valley Center region and County Service Area No. 135 with the latter anticipated address potential reorganization options for the County Fire Authority.

RECOMMENDATION

It is recommended San Diego LAFCO receive and file the item with the invitation to discuss and or request revisions for future consideration. This recommendation would be accommodated by taking the actions outlined in the proceeding section as Alternative One.

ALTERNATIVES FOR ACTION

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

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

Alternative Two:
Continue consideration of the item to a future meeting and provide direction to staff for more information 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) 2019-2020 Workplan with Status Notations

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San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

2019-2020 Workplan

Introduction:

Local Agency Formation Commissions' (LAFCOs) operate under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2001 ("CKH") and are delegated regulatory and planning responsibilities by the Legislature to oversee the formation and subsequent development of local government agencies and their municipal service areas. Common regulatory functions include approving jurisdictional changes and outside service requests. Common planning functions include preparing studies to independently evaluate the availability, performance, and need for urban services and establishing and updating spheres of influence – which are the Legislature's version of urban growth boundaries and gatekeepers to future jurisdictional changes – for all cities and special districts. All regulatory and planning activities undertaken by LAFCOs may be conditioned and must be consistent with policies and procedures.

Objective:

This document represents San Diego LAFCO's ("Commission") formal 2019-2020 Workplan. The Workplan draws on the recommendations of the Executive Officer as vetted and approved by the Commission. The Workplan is divided into two distinct categories – statutory and administrative – with one of three priority rankings: high; moderate; or low. The underlying intent of the Workplan is to serve as a management tool to allocate Commission resources in a transparent manner over the 12-month period. Further, while it is a stand-alone document, the Workplan should be reviewed in relationship to the adopted operating budget given the planned goals and activities are facilitated and or limited accordingly. Additionally, and as needed, the Commission reserves discretion to amend the Workplan during the fiscal year to address changes in resources and or priorities and to carry-forward projects into subsequent years.

Executive Summary:

The 2019-2020 Workplan continues to guide the Commission to prioritize resources in addressing statutory duties and responsibilities. This includes continuing work on existing projects established – but not yet completed – from earlier fiscal years and marked by completing municipal service reviews for the Vista and San Marcos regions. New priority municipal service reviews involving the Fallbrook region, resource conservation services, and County Service Area No. 135 are also included as well as performing a policy review on outside service extensions. Other high priority projects include working with the County of San Diego to update an existing memorandum of understanding between the two agencies and preparing a policy review on outside service extensions with a focus on establishing local definitions and exemptions.

Priority	Level	Type	Project	Description and Key Issues	Status
Continual	...	Statutory	High Priority Proposals	San Marcos (Highlands), Escondido (Safari Highlands), t al.	Ongoing
Continual	...	Administrative	Targeted LAFCO Presentations	Public outreach; emphasis on informing stakeholders ahead of MSR work	Ongoing
1	High	Statutory	MSR | Fallbrook Region	Fallbrook PUD, Rainbow MWD, San Luis Rey MWD, & North County FPD; address latent power query by Fallbrook PUD	Pending
2	High	Statutory	MSR | Resource Conservation	Mission RCD, Upper San Luis Rey RCD, & Greater San Diego; address 56133 issues and consolidation opportunities	Underway
3	High	Statutory	MSR | CSA No. 135	Agency-specific review; explore governance options given County Charter amendment codifying fire protection services	Underway
4	High	Administrative	MOU with County	Update and expand current MOU from 1974; reflect current agency relationships and needs	Underway
5	High	Statutory	MSR | San Marcos Region	San Marcos, San Marcos FPD, and Vallecitos WD	Underway
6	High	Statutory	MSR | Vista Region	Vista, Vista ID, Vista FPD, and Buena Sanitation	Underway
7	High	Administrative	Policy Review | Outside Services	Update polices involving outside service extensions under 56133; establish local definitions and exemptions	Pending
8	High	Administrative	Cities Advisory Committee	Re-establish dormant Cities Advisory Committee in conjunction with informing Study Schedule and other germane topics	**Completed**
9	High	Statutory	MSR | Escondido Region	Rincon del Diablo MWD and Deer Springs FPD (Part I) and Escondido (Part II)	Near Completion
10	High	Statutory	MSR | SD County Sanitation District	Multiple community wastewater systems located throughout San Diego County	**Completed**
11	High	Administrative	Job Class and Salary Review	Specific to non-executive positions; focus on alignment and retention via Personnel Committee	Underway
12	High	Administrative	Policy Review | Ag Policy	Update existing policies and procedures involving agricultural preservation; incorporate stakeholder outreach	Underway
13	Moderate	Administrative	RFP for Auditing Services	Establish new multi-year contract arrangement for outside accountant to audit accounting activities	**Completed**
14	Moderate	Administrative	2018-2019 Audit	Issue financial statements for 2018-2019; best practice and preceded by RFP (Item No. 13)	Underway
15	Moderate	Statutory	MSR | Pauma Valley	Pauma MWD, Pauma CSD, Yuima MWD, Mootamai MWD, and Rincon Ranch CSD	Pending
16	Moderate	Statutory	MSR | Valley Center Region	Valley Center MWD, Valley Center CSD, and Valley Center FPD	Underway
17	Moderate	Statutory	MSR | Poway Region	Review is agency-specific to Poway	Pending
18	Moderate	Statutory	MSR | Ramona Region	Review is agency-specific to Ramona MWD	Pending
19	Moderate	Administrative	Update Application Procedures	Streamline existing packet to be more user-friendly; address new statutory requirements	Pending
20	Moderate	Administrative	Districts Advisory Committee	Conduct no less than two quarterly meetings and solicit feedback on germane topics	Near Completion
21	Moderate	Administrative	Video Recording	Establish video recording of Commission meetings and online posting to expand community outreach	**Completed**
22	Moderate	Administrative	CALAFCO	Participate in CALAFCO through the Board, Leg Committee, and Annual Workshop and Conference	Underway
23	Low	Administrative	Informational Report on SGMA	State Groundwater Management Act (SGMA) implementation in San Diego County relative to LAFCO duties/interests	Pending
24	Low	Administrative	SOI/MSR Annual Report	Prepare annual report to serve as living record of all sphere actions in San Diego County	Pending
25	Low	Administrative	LAFCO Brochure	Branding tool for distribution to State and other local agencies	Pending
26	Low	Administrative	Local Agency Directory	User-friendly publication identifying local governmental agencies under LAFCO oversight in San Diego County	Pending
27	Low	Administrative	Social Media Policies and Protocols	Establish policies and procedures to expand outreach to capture alternate media forums; link with new website	Pending

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AGENDA REPORT
Consent | Information

November 4, 2019

TO: Commissioners

FROM: Robert Barry, Chief Policy Analyst
Linda Zambito, Analyst I

SUBJECT: **Current Proposals and Related Activities**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a report summarizing active proposals on file with the Commission as well as pending submittals. The item is for information only and concurrently satisfies the Commission's reporting requirement to affected agencies for special district annexation proposals submitted by petition. The notification starts a 60-day period in which subject districts may request termination of the requested proceedings due to financial or service-related concerns.

BACKGROUND

LAFCO proceedings for consideration of proposed changes of organization or reorganizations – which include incorporations, formations, annexations, detachments, mergers, consolidations, and service function activations or divestures – may be initiated by landowner/voter petition or resolution by local agencies. LAFCOs may also initiate proposals specific to forming, consolidating, or dissolving special districts if consistent with the recommendations of approved municipal service reviews. Following submittal, proposal applications are reviewed for completeness and status letters are sent to applicants within 30 days. If additional documentation is required, the proposal is deemed incomplete and the status letter will itemize any needed information. Once submitted proposals are deemed complete, they are scheduled for Commission hearing. Proposals involving outside-of-

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
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Jim Desmond, County of San Diego
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Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
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Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

agency service extension requests follow separate proceedings and may be administratively approved by the Executive Officer if addressing documented public health or safety threats.

DISCUSSION

This item is being presented for information only and identifies all active proposals currently on file with San Diego LAFCO. The report also – and for telegraphing purposes of future workload – identifies pending proposals staff anticipates being filed with LAFCO in the near term. A summary of active and pending proposals follow and further detailed in Attachment One. The information item also serves to concurrently satisfy the Commission's reporting requirement to provide notice on agendas to affected special districts when annexation proposals are initiated by petition of landowners or registered voters.[1]

Active Proposals

There are 24 active proposals currently on file with San Diego LAFCO as of date. The active proposals range in scope from pre-hearing to post-hearing with the latter category representing items already approved by the Commission but awaiting the completion of conducting authority proceedings (i.e., protest) or terms. Three new proposals have been filed since the last Commission meeting in October and is highlighted below.

- Valley Vista Road – Gutierrez Change of Organization
  The proposal has been filed by interested landowner (Jose Gutierrez) requesting annexation of 0.6 acres of unincorporated territory to San Diego County Sanitation District. The affected territory is parcel specific and comprises an existing single-family residence at 3626 Valley Vista Road in the unincorporated community of Bonita.

- Catalina Avenue – Reorganization
  The proposal has been filed by interested landowner (Robert Gualtieri) requesting annexation of 1.29 acres of unincorporated territory to Vista Irrigation District and detachment from Vallecitos Water District. The affected territory is vacant and anticipated to develop a single-family residence located in the unincorporated area near the City of Vista in late 2019.

- Las Flores Drive Change of Organization
  The proposal has been filed by interested landowner (John De Maria) requesting annexation of 0.6 acres to the Vallecitos Water District for wastewater services. The affected territory is parcel specific and comprises an existing single-family residence at 671 Las Flores Drive in City of San Marcos.

[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.

Pending Proposals

There are six potential new and substantive proposals staff expects to be submitted to San Diego LAFCO in the near-term based on ongoing discussions with proponents.[2] Three of these pending proposals involve city annexations in North County to accommodate relatively large residential subdivision projects and include Safari Highlands (Escondido), Sager Ranch (Escondido), and Rancho Lomas Verdes (Vista). Other pending proposals involve relatively large unincorporated residential development projects west of the City of Escondido – Valiano (Eden Hills) and Harmony Grove Village South – and would require annexations to one or more special districts. One or more reorganization proposals by Fallbrook Public Utility District and Rainbow Municipal Water District to detach from County Water Authority and annex to Eastern Municipal Water District are also expected.

ANALYSIS

San Diego LAFCO remains active in processing more than two dozen jurisdictional change proposals and outside-of-agency service agreement requests. Most of these proposals have been on file for less than one calendar year and are actively progressing through the review process. A small number of the remaining proposals, however, have been on file with the Commission for more than five years with little to no communication from the applicants. To this end, and consistent with earlier Chair direction, staff anticipates presenting draft policy language to authorize the Executive Officer to terminate otherwise abandon proposals. Staff anticipates presenting this latter item by the end of the calendar year.

Proposal details are provided as Attachment One.

RECOMMENDATION

This item is presented to San Diego LAFCO for information only. It is recommended the Commission review the report with the invitation to discuss and ask questions of staff.

ALTERNATIVES FOR ACTION

This item is being presented for information only; no action.

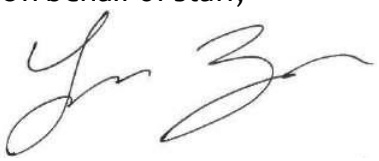
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[2] Staff uses discretion in listing pending proposals and limits notice to only activities to be initiated by a local governmental agency. Pending proposals to be initiated by landowners and/or registered voters are not disclosed until an actual filing is made.

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,



Linda Zambito
Analyst I

Attachment:

1) Active and Pending Proposals as of November 4, 2019

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
ACTIVE PROPOSALS | PENDING COMMISSION ACTION				
1	DA08-10	"Avocado Way-Potter Annexation" - Vallecitos WD (Annexation)	Robert Barry	Proposal application submitted in March 2008 for a proposed annexation to Vallecitos WD to obtain sewer service for two existing residences along Avocado Way but deemed incomplete in April 2008 status letter. A new status letter was sent to the applicant in January 2018 stating the proposal will be considered abandoned unless notified otherwise. The current property owner has responded and conveyed their interest to proceed with the annexation. Ongoing discussions with Vallecitos WD as of 2018.
2	RO08-09	"South Mollison Ave-Snyder Reorganization" - City of El Cajon (Annexation)	Robert Barry	Proposal application submitted in May 2008 for a proposed annexation to the City of El Cajon. The annexation area includes approximately 1.25 acres and is subject to a proposed multi-family residential project and was deemed incomplete in June 2008 status letter. A new status letter was sent in January 2018 to the applicant, new property owner, and City stating the proposal will be considered abandoned unless notified otherwise. No response to date.
3	RO08-15 SA08-15	"Crestlake Estates Reorganization" - San Diego County SD (Annexation) - Lakeside FPD (Annexation) - CSA 69 (Annexation)	Robert Barry	Proposal application submitted in May 2008 requesting a reorganization to provide sewer services to an approved Tentative Map allowing the development of 60 single-family residences and was deemed incomplete in June 2008 status letter. A new status letter was sent to the applicant in February 2018 stating the proposal will be considered abandoned unless notified otherwise. No response to date.
4	DA12-02	"Lorch Annexation" - Borrego WD (Annexation)	Robert Barry	Proposal application submitted in March 2012 to annex approximately 9.4 acres to the Borrego Water District to provide water service to one parcel. The site is within the adopted sphere. but 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.
5	RO06-17	"Tobacco Road Reorganization" - City of Escondido (Annexation)	Robert Barry	Proposal application submitted in March 2006 to annex six parcels to the City of El Cajon for wastewater Service. In 2006, LAFCO approved two out of service agreements to allow the City of Escondido to provide sewer service to two residences with failing septic systems located along Tobacco Road. The agreements between the City and landowners required the annexation of the two parcels. The proposal was deemed incomplete in April 2006 status letter. A new status letter was sent in January 2018 stating the proposal will be considered abandoned unless notified otherwise. Two of the affected landowners have responded to the letter and are now working with the City in proceeding forward in determining if the other landowners are interested/willing to proceed with the annexation at this time.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
6	DA16-10	"CSA 17 Harmony Grove Annexation" - CSA 17 (Annexation)	Linda Zambito	Proposal submitted in May 2016 to approximately 3,600 acres to CSA 17 for ambulance service. It was required as cross-condition of the Rancho Santa Fe Fire Protection District Reorganization: Dissolution of CSA No. 107 (Elfin Forest/Harmony Grove). The proposal was deemed incomplete in June 2016 status letter. The CSA 17 Advisory Committee has opposed the annexation. A negotiated property tax exchange agreement is also necessary. LAFCO staff met with the applicant in August 2019 to provide assistance.
7	RO16-11	"Rancho Hills Annexation" - Rancho Santa Fe CSD (Annexation)	Robert Barry	Proposal 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. Staff has remained in contact with the applicant and is awaiting their confirmation to proceed.
8	SA17-07 RO17-07	"San Marcos Highlands Reorganization" - City of San Marcos (Annexation) - San Marcos FPD (Annexation) - Vista FPD (Detachment) - Vallecitos WD (Sphere Amendment, Annexation) - Vista ID (Detachment) - Tri-City Healthcare District (Detachment) - Palomar Health Healthcare District (Annexation)	Robert Barry	Proposal submitted in June 2017 by resolution to annex approximately 125 acres 189-SFR development to the City of San Marcos. The proposal involves concurrent reorganizations between the San Marcos FPD and the Vista FPD for fire protection services, and between the Vallecitos WD and Vista ID for the provision of sewer and water services. The City of San Marcos has approved development plans and environmental review for the referenced development titled "San Marcos Highlands." The City's approvals included a condition requiring the City and the County to execute a habitat protection agreement with State and Federal agencies for the proposal area. A settlement was reached that has removed the environmental opposition and facilitated a draft Annexation Agreement to create a dedicated Natural Open Space Preserve. The City of San Marcos approved the draft Annexation Agreement on September 10, 2019. The County Board of Supervisors is scheduled to approve the draft Annexation Agreement on September 25, 2019. The submitted proposal is scheduled for Commission hearing on November 4th, 2019.
9	Ro19-04	"Ortega – Olde Highway 80 Change of Organization" - San Diego County Sanitation District (Annexation)	Linda Zambito	Proposal submitted in February 2019 by landowner petition, involves the annexation of two residential lots totaling approximately 5.07 acres for wastewater service. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
10	RO19-08 OAS19-08	"Wilmott–Champagne Boulevard Reorganization" - Valley Center Municipal Water District (Annexation) - Vallecitos Water District (Detachment)	Robert Barry	Proposal was submitted in June 2019 by landowner petition, involves reorganization of one unincorporated parcel totaling approximately 1.4 acres developed with one single-family residence. The reorganization includes annexation of the affected territory to Valley Center MWD for water service with a concurrent detachment from Vallecitos WD. The residence uses an on-site well for domestic water needs that has been documented by DEH as failing. The subject parcel is presently within the Vallecitos WD but is within the sphere of influence for Valley Center MWD and has an existing MWD water line within the adjacent Champagne Boulevard frontage right-of-way. The Executive Officer administratively approved an outside-of-agency water service agreement with the Valley Center MWD in advance of the reorganization on June 18th. Ratification of the administratively-approved service agreement was approved by the Commission on August 5th, 2019.
11	DA19-07 OAS19-07	"Acaia Ave–Rains Revocable Trust" - San Diego County Sanitation District (Sphere Amendment, OAS)	Robert Barry	Proposal submitted in April 2019 by landowner petition, involves the annexation of one developed unincorporated parcel totaling 0.45 acres for wastewater service. The existing residence uses an on-site septic system that has been documented by DEH as failing. The Executive Officer administratively approved an outside-of-agency water service agreement with the San Diego County SD in advance of the annexation. The submitted proposal is scheduled for Commission hearing on November 4th, 2019
12	DA19-14 SA19-14	"Hollow Glen Road Change of Organization" - Julian Community Services District (Annexation)	Linda Zambito	Proposal submitted by resolution of the Julian CSD. Involves annexation of one unincorporated parcel totaling approximately 0.65 acre to Julian CSD for water service. The affected territory contains a CALTRANS facility used for road sand storage. Water service is needed for fire suppression sprinklers. The affected territory is not within the Julian CSD sphere and a concurrent amendment to include the proposal area is required. The submitted proposal is scheduled for Commission hearing on November 4th, 2019.
13	RO19-15 OAS19-15	"Hamilton-Felicita Reorganization" - City of Escondido (Annexation) - CSA No. 135 (Detachment) - Rincon del Diablo MWD (ID"E") (Exclusion)	Linda Zambito	Proposal submitted in August 2019 by landowner petition involving a reorganization of two unincorporated parcels totaling approximately 0.63 acres to the City of Escondido. Both parcels are developed with a single-family residence experiencing a failed/failing septic system with DEH documentation. Temporary wastewater OAS administratively approved by XO and ratified by Commission. Reorganization involves annexation to Escondido with concurrent detachment from CSA No. 135 (Regional Communications) and exclusion from RDDMWD ID"E." The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
14	RO19-16 SA19-16	"Sweetwater Road Reorganization" - City of National City (Annexation) - CSA No. 135 (Reg. Comm.) (Detachment) - Lower Sweetwater FPD (Detachment)	Robert Barry	Proposal submitted in August 2019 by landowner petition. Reorganization involves annexation to City of National City of two undeveloped unincorporated parcels totaling 0.24 acres with concurrent detachments from CSA No. 135 (Regional Communications) and the Lower Sweetwater FPD. (An additional change involving the South Bay Irrigation District may also be necessitated.) The affected territory is located within the National City sphere of influence. The City has approved prezoning of Major Mixed Use District (MXD-2) to facilitate a commercial development on the affected territory. The affected territory is recommended to be modified to include an approximately 50.24 acre adjacent I-805/SR-54 right-of-way to conform with the City's incorporated boundary. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
15	RO19-13 SA19-13	"Catalina Avenue Reorganization" - Vista Irrigation District (Annexation) - Vallecitos Water District (Detachment)	Robert Barry	Proposal submitted in July 2019 by landowner petition. Change of organization involves annexation of 1.29 acres of unincorporated territory to the Vista Irrigation District and detachment from Vallecitos Water District. The affected territory is vacant with anticipated development of a single-family residence in the unincorporated area of Vista. The County identifies the subject parcel as 591-183-07. The purpose of the proposal is to connect water service up to the maximum density as allowed under County zoning. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
16	DA19-12	"Las Flores Drive Change of Organization" - Vallecitos Water District (Annexation)	Robert Barry	Proposal submitted in July 2019 by landowner petition. Change of organization involves annexation of 0.6 acres to the Vallecitos Water District. The affected territory is parcel specific and comprises an existing single-family residence at 671 Las Flores Drive in the City of San Marcos. The County identifies the subject parcel as 219-062-27. The purpose of the proposal is wastewater to the existing single-family residence. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
17	DA19-17	"Valley Vista Road – Gutierrez Change of Organization" - San Diego County Sanitation District	Keene Simonds	Proposal submitted in August 2019 by landowner petition. Change of organization involves annexation of 0.6 acres of unincorporated territory to the San Diego County Sanitation District. The affected territory is parcel specific and comprises an existing single-family residence at 3626 Valley Vista Road in the unincorporated community of Bonita. The County identifies the subject parcel as 591-183-07. The purpose of the proposal is to accommodate an intensity improvement to add an accessory dwelling unit as allowed under County zoning. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
ACTIVE | POST COMMISSION ACTION				
18	RO19-06	"Orchard Hills Reorganization" - Vallecitos Water District (Annexation) - Vista Irrigation District (Detachment)	Robert Barry	Proposal submitted in March 2019 by landowner petition. Involves annexation to Vallecitos WD and detachment from Vista ID of two unincorporated parcels totaling approximately 12.5 acres for wastewater and water services. The affected territory is located within the Vallecitos WD sphere of influence and is subject to a County of San Diego tentative map (TM5570) for a 20-lot residential subdivision. The submitted proposal is scheduled for Commission hearing on October 7th, 2019.
19	RO18-09	"Julian – Cuyamaca FPD Reorganization" - Julian – Cuyamaca FPD (Dissolution) - CSA 135 (Latent Power Expansion)	John Traylor	Proposal submitted April 2018 requesting dissolution of the approximate 52,100 acre Julian-Cuyamaca FPD with concurrent expansion of the activated latent power area of CSA No. 135 for fire protection and emergency medical services within the affected territory. The proposal was approved by the Commission on September 10, 2018 with a subsequent protest hearing held on October 16, 2018. Written protest submitted from registered voters was deemed sufficient to require an election and is separately addressed as part of Agenda Item No. 15. The election resulted in 54% of the registered voters approving dissolution of the FPD and the associated transfer of authority for fire protection and emergency medical services to CSA 135. LAFCO certified the election results and recorded the reorganization on April 8, 2019. Opponents have filed actions to overturn the approval and are currently subject to Court proceedings.
20	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)	Robert Barry	Proposal submitted November 2016 and involved the annexation of remaining unserved Islands 2, 3, and 4 within Heartland area and reorganization of local fire service territory among five agencies: CSA 135; Bonita-Sunnyside FPD; Lakeside FPD; Ramona MWD; and San Miguel FPD. Reorganization proposal submitted by resolution of the San Diego County Fire Authority. Involves 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. A concurrent amendment to add the affected territory to the subject agencies' spheres of influence is also required to accommodate the proposed action. The proposal was approved by the Commission on 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.
21	CO18-17 DA18-17	"Nordahl Road-Diaz Change of Organization" - Vallecitos Water District (Annexation)	Robert Barry	Proposal submitted in October 2018 by landowner petition, involves the annexation of an approximately 3.8 acre lot. The proposal was approved by the Commission on March 4, 2018 and is now pending recordation once all terms are satisfied.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
22	SA18-07 OAS18-07	"Carmichael Drive – Wyman Service Agreement" - City of La Mesa (Sphere Amendment, OAS)	Robert Barry	Proposal involves an outside-of-agency wastewater service extension agreement between the property owner and the City of La Mesa for wastewater sewer service to one developed single-family residence located outside of the La Mesa sphere of influence. The purpose of the request is to allow the landowner to proceed with an intensity improvement to develop an accessory workshop unit, which exceeds the permitted capacity of the existing onsite septic system. The proposal was approved by the Commission on April 8, 2018 and is now pending recordation once all terms are satisfied.
23	SA16-13 RO16-13	"Windmill Construction Reorganization" - City of La Mesa (Annexation) - San Miguel FPD (Detachment) - CSA 135 (Detachment)	Robert Barry	Proposal submitted in October 2016 to annex approximately 0.13 acre to be developed as a single residential lot to the City of La Mesa for wastewater service. Originated as an outside agency service extension request with the City of La Mesa. The proposal has transitioned into a reorganization as a City condition of service. Property owner proposes development of one single-family residence. La Mesa has approved a General Plan Amendment and prezoning for the affected territory. The submitted proposal was approved by the Commission on August 5th, 2019 and is now pending recordation once all terms are satisfied.
24	RO19-02	"Salem – Snyder Road Change of Organization" - Otay Water District (Annexation)	Robert Barry	Proposal submitted in February 2019 by landowner petition, involves annexation of an approximately 1.49 acre residential lot for wastewater service. The submitted proposal was approved by the Commission on August 5th, 2019 and is now pending recordation once all terms are satisfied.
PENDING PROPOSAL SUBMITTALS (No project manager; inquiries should be direct to Robert Barry)				
25	Pending	"Safari Highlands Reorganization" - City of Escondido		This anticipated reorganization proposal is currently undergoing development and environmental review by the City of Escondido with an expected submittal to LAFCO later in 2018. 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 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 issues have been communicated to the City and are currently under joint-review with other stakeholders.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
26	Pending	"Rancho Lomas Verde Reorganization" - City of Vista		This anticipated reorganization 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 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 issues have been communicated to the City and are currently under joint-review with other stakeholders.
27	Pending	"Sager Ranch Reorganization" - City of Escondido		This anticipated reorganization involves annexation of approximate 1,800 acres to the City of Escondido and concurrent detachments from CSA 135 and the Valley Center FPD. The reorganization would facilitate the 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 issues have been communicated to the City and are currently under joint-review with other stakeholders.
28	Pending	Valiano Specific Plan (TM-5575)		This anticipated reorganization involves the Eden Hills project and specific to accommodating sewer services (among a variety of options) for the planned development of approximately 239 acres to include 326 residential units.
29	Pending	Harmony Grove Village South (TM-626)		This anticipated reorganization involves the 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.
30	Pending	Fallbrook Public Utility District and Rainbow Municipal Water District Reorganization		This anticipated reorganization involves detachment of two retail member agencies from the overlying wholesale imported water provider – the San Diego County Water Authority – and concurrent annexation to Eastern Municipal Water District (Riverside County).

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AGENDA REPORT
Public Hearing

November 4, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Robert Barry, Chief Policy Analyst

SUBJECT: **Proposed "San Marcos Highlands Reorganization" (CONTINUED) | Concurrent Annexations to the City of San Marcos, San Marcos Fire Protection District, and Vallecitos Water District and Detachments from the Vista Fire Protection District and Vista Irrigation District with Associated Sphere of Influence Amendments (RO17-07 et al.)**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a reorganization proposal continued from October 7, 2019. The proposal has been initiated by an interested landowner with the principal action to annex 124.9 unincorporated acres to the City of San Marcos. Additional boundary changes involving portions of the affected territory are also proposed and involve concurrent annexations to the San Marcos Fire Protection District (FPD) and Vallecitos Water District (WD) and detachments from Vista FPD and Vista Irrigation District (ID). The purpose of the proposal is to facilitate the development of the affected territory as part of a 189-lot residential development tentatively approved by the City of San Marcos and titled "San Marcos Highlands." Staff recommends approval of the proposal and the requested boundary changes as submitted with conforming sphere of influence amendments to Vallecitos WD, Vista FPD, and Vista ID. Standard approval terms are also recommended along with waiving protest proceedings.

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

Jim Desmond, County of San Diego
Dianne Jacob, Vice Chair, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Escondido
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

BACKGROUND

Applicant Request

San Diego LAFCO has received an application from a landowner – Farouk Kubba – requesting approval to reorganize 124.9 acres of unincorporated and undeveloped land at the current terminus of North Las Posas Road and adjacent to the City of San Marcos' Santa Fe Hills neighborhood. The principal request involves annexation of all of the affected territory to the City of San Marcos. Concurrent boundary changes to annex portions to Vallecitos WD and San Marcos FPD as well as to detach portions from Vista FPD and Vista ID are also proposed. The affected territory overall is divided into 11 parcels all under the ownership of the applicant. The County of San Diego Assessor's Office identifies the subject parcels comprising the affected territory as 184-102-44, 184-102-32, 184-102-18, 182-110-02, 184-240-13, 184-240-32, 184-240-33, 184-241-06, 184-241-05, 184-101-14, and 184-101-15 (portion). None of the subject parcels have been assigned situs addresses.

Affected Territory

The following map shows the approximate location of the affected territory in context to the greater San Marcos region. Attachments One, Two, and Three show the affected territory relative to the proposed boundary changes involving the subject agencies.



Source: San Diego LAFCO/SANGIS

Subject Agencies

The proposed reorganization filed with San Diego LAFCO involves five subject agencies: City of San Marcos; San Marcos FPD; Vallecitos WD; Vista FPD; and Vista ID.[1] Summaries of all five subject agencies in terms of resident population, service activities, and finances follow.

- The City of San Marcos spans approximately 15,616 acres or 24 square miles and generally bounded by the unincorporated communities of Twin Oaks to the north and Elfin Forest to the south as well as the Cities of Vista to the west and Escondido to the east. San Marcos was incorporated in 1963 and is governed by a five-member city council consisting of a directly elected mayor and four councilmembers elected by district. The estimated resident population is 95,768 with an average annual growth rate of 1.8% since 2010. LAFCO established a sphere of influence for San Marcos in 1979, which was last updated in 2008 with a larger-than-agency designation to include 5,771 non-jurisdictional acres and equal to 36% of the jurisdictional boundary. San Marcos' audited net position is $1.001 billion as of June 30, 2018 and has increased by 0.6% over the prior three fiscal years.

- San Marcos FPD is a subsidiary district of the City of San Marcos since 1987 and was originally formed in 1936. San Marcos FPD spans approximately 21,120 acres or 33 square miles with 75% overlapping with the City. Most of the remaining the jurisdictional boundary extends into the unincorporated communities of Harmony Grove and Twin Oaks. San Marcos' City Council serves as the San Marcos FPD Board of Directors and oversees the District's two integrated municipal service activities: (a) fire protection and (b) emergency medical. The estimated resident population is 106,584 with an average annual growth rate of 1.9% since 2010. LAFCO established a transitional (zero) sphere of influence for San Marcos FPD in 1984, which was last updated in 2007. San Marcos FPD's financials are incorporated as a subsidiary district into San Marcos' net position.

- Vallecitos WD is an independent special district formed in 1955 and spans approximately 28,800 acres or 45 square miles with 51% overlapping the City of San Marcos. Most of the remaining jurisdictional boundary extends into the unincorporated communities of Twin Oaks and Deer Springs. A five-member Board of Directors oversees Vallecitos WD's three municipal service activities: (a) potable water; (b) recycled water; and (c) wastewater. The estimated resident population is 102,129 with an average annual growth rate of 1.9% since 2010. LAFCO established a sphere of influence for Vallecitos WD in 1985, which was last updated in 2007 with a larger-than-agency designation to include 2,150 non-jurisdictional acres and equals 7.5% of the jurisdictional boundary. Vallecitos WD's audited net position is $262.2 million as of June 30, 2018 and has increased by 5.1% over the prior three years.

[1] State law defines "subject agency" to mean any district or city for which a change of organization or reorganization is proposed.

- Vista FPD is an independent special district formed in 1944 and spans approximately 10,788 acres or 17 square miles. Most of the jurisdictional boundary covers the unincorporated communities of Bonsall and Twin Oaks. A five-member Board of Directors oversees Vista FPD's two integrated municipal service activities – (a) fire protection and (b) emergency medical – with all administrative and field operations contracted out to the City of Vista and its Fire Department. The estimated resident population is 19,014 with an average annual growth rate of 0.4% since 2010. LAFCO established a sphere of influence for Vista FPD in 1984, which was last updated in 2014 with a larger-than-agency designation to include 441 non-jurisdictional acres and equals 4.1% of the jurisdictional boundary. Vista FPD's audited net position is $10.9 million as of June 30, 2017 and has increased by 7.1% over the prior three years.

- Vista ID is an independent special district formed in 1923 and spans approximately 63,569 acres or 99 square miles with 18.7% overlapping the City of Vista. Vista ID's service area includes the Lake Henshaw territory that lies outside of the County Water Authority boundary. Most of the remaining jurisdictional boundary extends into the City of San Marcos and the unincorporated community of Twin Oaks. A five-member Board of Directors oversees Vista ID's one municipal service activity: (a) potable water. The estimated resident population is 134,829 with an average annual growth rate of 1.1% since 2010. LAFCO established a sphere of influence for Vista ID in 1988, which was last updated in 2007 with a smaller-than-agency designation to exclude 43,459 jurisdictional acres and equals 68.4% of the jurisdictional boundary. Vista ID's audited net position is $112.7 million as of June 30, 2018 and has increased by 6.2% over the prior three fiscal years.

Affected Local Agencies

The affected territory lies within the jurisdictional boundaries directly subject to San Diego LAFCO and as such qualify as "affected agencies" relative to the proposed reorganization.[2]

- CSA No. 135 – Regional Communications
- Metropolitan Water District of Southern California
- North County Cemetery District
- Palomar Health Healthcare District
- Resource Conservation District of Greater San Diego
- San Diego County Flood Control District
- San Diego County Street Lighting District
- San Diego County Water Authority
- San Marcos FPD
- Tri-City Healthcare District
- Vista FPD
- Vista ID

[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.

DISCUSSION

This item is for San Diego LAFCO to consider approving – with or without discretionary modifications – the reorganization proposal and the principal action to annex all of the affected territory to the City of San Marcos. Associated boundary changes (annexations and detachments) involving San Marcos FPD, Vallecitos WD, Vista FPD, and Vista ID are also part of the requested reorganization. The Commission may also consider applying conditions of approval so long as it does not directly regulate land use, property development, or subdivision requirements. Additional discussion with respect to proposal purpose, associated development potential, and Commission focus follows.

Proposal Purpose

The primary purpose of the proposed reorganization before San Diego LAFCO is to facilitate the development of the affected territory as part of a 189-lot single-family residential subdivision. This planned development extends into six additional parcels that are already in the City of San Marcos and collectively produce a 293.3 acre "project site." [3] The reorganization – pertinently – is necessary to bring in all of subject parcels included in the project site under San Marcos' land use authority. Concurrent boundary changes addressing water, wastewater, and fire services are also proposed and involve the annexation/detachment of 45.2 acres between Vallecitos WD and Vista ID as well as the annexation/detachment of 11.2 acres between San Marcos and Vista FPDs.

Development Potential

The affected territory is planned for residential uses under both the County of San Diego and City of San Marcos' General Plans, albeit to different density allowances. San Marcos' allows for nearly 16-times the density compared to the County with the agencies' minimum parcel sizes within the affected territory comparatively set between 5,000-5,500 to 87,120 feet, respectively. The applicant's development plans for the affected territory along with adjacent incorporated lands began in the early 1980s and included the City approving a specific plan to accommodate up to 275 single-family residences in 1988. After earlier development plans failed to materialize the applicant secured a series of new approvals from San Marcos in November 2016, which serve as the prompt for the reorganization proposal. San Marcos' current approvals include a tentative subdivision map allowing for 189 clustered single-family residences along with dedicated parks and an open-space preserve. Approvals also extend Las Posas Road to the approximate mid-point of the affected territory for purposes of connecting to an internal road network that would serve the subdivision; the extension does not – as previously contemplated – connect further north to Buena Creek Road.[4] Given the open-space dedications no further density would be allowed within the affected territory at buildout. Additional intensity would also be

[3] The project site is divided between a 265.8 "specific plan area" and 27.5 acres in adjacent conservation dedications.

[4] Other City of San Marcos' approvals associated with the San Marcos Highlands included a general plan amendment, specific plan amendment, conditional use permit, ridgeline development permit, and certification of a final Environmental Impact Report. Additionally, San Marcos conditioned its approvals on entering into an Annexation Agreement with the County of San Diego, California Department of Fish and Wildlife, and the U.S. Army Corps of Engineers for a 210.8 acre Natural Open Space Preserve and an additional 6.5 acre conservation easement for conservation of protected species per the Draft North County Multiple Species Conservation Plan.

restricted to uses that are accessary to the main use; no second dwelling units are permitted in the specific plan area.

Commission Focus

Three central and sequential policy items underlie San Diego LAFCO's consideration of the reorganization. These policy items take the form of determinations and orient the Commission to consider the stand-alone merits of (a) conforming sphere of influence amendments, (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 of LAFCO law as detailed.

ANALYSIS

The analysis of the reorganization proposal is organized into two subsections below. The first subsection considers the three central and sequential policy issues introduced in the preceding section. This pertains to evaluating the merits of the conforming sphere of influence amendments for three of the five subject agencies, the timing of the reorganization itself and more specifically the annexation to the City of San Marcos and concurrent reorganizations of the subject special district service providers, and whether approval modifications and/or terms are appropriate. The second subsection considers other germane issues under LAFCO law or applicable State statutes and marked by making findings under the California Environmental Quality Act (CEQA).

Central Policy Items

Item No. 1 | Sphere of Influence Amendments

The proposed reorganization necessitates San Diego LAFCO approve conforming sphere of influence amendments for three of the five subject agencies to achieve consistency with the requested boundary changes under statute.[5] The scope of the conforming amendments involves expansion of the sphere for Vallecitos WD to include the respective affected territory while reducing the spheres of Vista FPD and Vista ID to exclude the respective affected territory. (The boundary changes do not require sphere amendments involving City of San Marcos and San Marcos FPD.) Consideration of the amendments are premised on the Commission's statutory task to designate spheres to demark the affected agencies' appropriate current and future service areas relative to community benefits and needs as determined by the membership. Accordingly, staff believes it would be appropriate for the Commission to proceed and approve the sphere amendments for the cumulative effect of recognizing explicitly Vallecitos WD and implicitly San Marcos FPD – and not Vista ID and Vista FPD – are the best service providers for the affected territory going forward *should* the lands annex to San Marcos (emphasis). These amendments would parallel and support the Commission's earlier determination the affected territory should ultimately develop within San Marcos and sync therein with the communities of interests between the City, San Marcos

[5] Reference to Government Code Section 56375.5.

FPD, and Vallecitos WD.

Conclusion | Merits of the Sphere Amendments

Approval of the conforming amendments to add the affected territory to Vallecitos WD's sphere and exclude from Vista FPD and Vista ID's spheres are warranted. Justification is marked by the preceding analysis and cumulatively and advantageously consolidates service planning for the affected territory through the City of San Marcos and its existing social and economic ties with San Marcos FPD and Vallecitos WD. Additional analysis supporting the conclusion – including addressing the factors required under statute – is provided in Appendix A.

Item No. 2 |
Reorganization Timing

The timing of the reorganization – and specifically the lead action to annex the affected territory to the City of San Marcos along with concurrent reorganizations affecting special districts' fire protection/emergency medical, wastewater, and water services – appears appropriate and highlighted by the analysis of the factors required for consideration under statute anytime jurisdictional changes are proposed. The majority of the prescribed factors focus on the impacts on the service and financial capacities of the *receiving* agencies: San Marcos; San Marcos FPD; and Vallecitos WD (emphasis added). No single factor is determinative. A summary of key conclusions generated in review of these items follows with additional analysis provided in Appendix B.

- Service Needs
  The affected territory's planned land uses would be appropriately aided by the reorganization and annexations to the City of San Marcos, San Marcos FPD, and Vallecitos WD given their respective abilities to provide a range of urban-supporting services to the subject lands. Additional details follow.

  - The Commission has previously designated the City of San Marcos as the ultimate land use authority and primary service provider therein for the affected territory through the standing inclusion in the City sphere. Annexation to San Marcos memorializes this standing Commission expectation and accommodates the expressed interest of the affected landowner as evident by their initiation of the reorganization proceedings.

  - The landowner's intention to develop 189 single-family residences with the majority concentrated within the affected territory helps to quantify the timing of the reorganization and annexation to the City of San Marcos is appropriate by synching the boundary changes with a known development action.

- Service Capacities and Levels
  The City of San Marcos, San Marcos FPD, and Vallecitos WD would directly assume municipal service responsibilities for the affected territory upon reorganization and highlighted by providing community planning, fire protection and emergency medical, wastewater, and water. A review of existing capacities indicates all three of these subject agencies have sufficient controls and resources to readily accommodate demands in the affected territory at its planned and maximum uses. Additional details on service capacities and levels follow.

  - With respect to the City of San Marcos, the affected territory is located immediately north of its jurisdictional boundary and adjacent to the San Fe Hills subdivision; the latter approved in 1988 and now at buildout with approximately 1,758 residential units. Central urban-supporting municipal services to be provided by San Marcos following annexation involve community planning, parks and recreation, police (via contract with the San Diego County Sheriff), and public works (streets and traffic). Staff believes these municipal services are appropriately sized and/or planned – including developer mitigation requirements – to accommodate the demands in the affected territory at buildout consistent with established standards.

  - With respect to San Marcos FPD, approximately nine-tenths of the affected territory already lies within its jurisdictional boundary. The reorganization would add the remaining acreage – or 11.2 acres – to San Marcos FPD's jurisdictional boundary and consolidate the District as the entity appropriately responsible for providing fire protection and emergency medical to the subject lands. San Marcos FPD's closest fire station to the affected territory is Station No. 1 located at 180 W. Mission Road, San Marcos. This is one of four San Marcos Fire Department/San Marcos FPD stations and houses one paramedic engine company, one paramedic truck company, one paramedic rescue, and one paramedic ambulance and staffed 24 hours. The station is approximately 3.4 miles from the affected territory. Analysis performed by San Marcos in reviewing the underlying development project identified travel time from Station No. 1 to the furthest structure in the affected territory would be 5.75 minutes and would meet the 7 minute standard (dispatch to scene) followed by San Marcos FPD in the County General Plan's Public Facilities Element.

  - With respect to Vallecitos WD, approximately two-thirds of the affected territory already lies within its jurisdictional boundary. The reorganization would add the remaining acreage – or 44.1 acres – to the jurisdictional boundary and consolidate Vallecitos WD as the appropriate entity authorized to provide both water and wastewater to the subject lands. Vallecitos WD has an existing 10-inch water main directly adjacent to the affected territory within Ardilla Way. An additional connection to the 12-inch water main in Las Posas Road will be required to provide a looped system. The proposed single-family residences and three park sites will be served through individual lateral connections. Vallecitos WD

provided a will-serve letter to the applicant attesting the District has sufficient water system capacities to accommodate demands subject to applicable mitigation, which includes paying fees to improve storage levels. Vallecitos WD separately has an existing wastewater trunk line adjacent to the affected territory within Las Posas Road. Collected wastewater will gravity flow to the trunk line south within Las Posas Road to an existing 36-inch interceptor within San Marcos Boulevard and ultimately conveyed to the Meadowlark Reclamation Plant for treatment. Vallecitos WD has provided a will-serve letter to the applicant attesting the District has sufficient wastewater system capacities to accommodate demands subject to applicable mitigation.

- Service Funding and Costs
  The City of San Marcos, San Marcos FPD, and Vallecitos WD have adequate financial resources to provide an appropriate level of municipal services to the affected territory in support of the planned development of the San Marcos Highlands subdivision. This comment is drawn from the staff analyses of these receiving agencies' recent audited statements and reflected in all experiencing increases in their net position over the last three audited fiscal years.

Conclusion | Merits of Reorganization Timing

The timing of the reorganization and related transfer of land use authority and other specified services to the City of San Marcos, San Marcos FPD, and Vallecitos WD is warranted. Justification is marked by synching a known development project with the Commission's designated long-term land use authority's jurisdiction in San Marcos in step with attesting all accommodating urban-supporting services – including fire, emergency medical, water, and wastewater – can be extended without adverse impacts to existing constituents. Additional analysis supporting the conclusion – including the factors required under statute – is provided in Appendix B.

Item No. 3 |
Modifications and Terms

San Diego LAFCO staff has identified one potential boundary modification in the course of reviewing the reorganization proposal relative to statute and local policies that merit consideration by the Commission but ultimately not recommended for reasons provided. This potential modification would involve an additional reorganization encompassing approximately one-half – or 59.5 acres – of the affected territory and affects Tri-City and Palomar Healthcare Districts (HD) with the detachment of the former and annexation to the latter for purposes of unifying all of San Marcos within Palomar HD. The potential financial impacts associated with this modification, however, merit additional review and accordingly staff recommends deferring additional consideration to the next scheduled topical municipal service review in 2020-2021. Applying standard terms are appropriate.

Conclusion | Modifications and Terms

No modifications are recommended at this time with deference to performing additional analysis on the merits of a possible change involving Tri-City and Palomar HDs in a future municipal service review. Standard approval terms are appropriate.

Other Statutory Considerations

Exchange of Property Tax Revenues

California Revenue and Taxation Code (RTC) Section 99(b)(6) requires the adoption of a property tax exchange agreement by the subject local agencies before LAFCOs can consider proposed jurisdictional changes. Subsection (d) also allows a master property tax exchange agreement to govern the exchange of property tax revenues between the county and an annexing city. To this end, San Diego LAFCO has confirmed an existing Master Property Tax Transfer Agreement between the County of San Diego, City of San Marcos, and San Marcos FPD applies to the reorganization and all associated boundary changes. The substantive result means 23-36% of the combined revenue allocated to the County and the detaching special districts as part of the 1% property tax will be transferred to San Marcos and San Marcos FPD. (No transfer will be made to Vallecitos WD.) The current year transfer totals $409.13 to San Marcos and $25.67 to San Marcos FPD.[6]

Environmental Review

CEQA requires San Diego LAFCO to assess whether impacts would result from activities approved under the Commission's statutory authority. Accordingly, San Diego LAFCO is tasked with making two distinct determinations as lead and responsible agency under CEQA with respect to considering the proposed reorganization. This involves the (a) accommodating sphere of influence amendments and (b) the reorganization itself. Staff's analysis and recommendations follow.

- San Diego LAFCO serves as lead agency under CEQA for the accommodating sphere of influence amendments to add the respective portions of the affected territory to Vallecitos WD while removing respective portions from Vista FPD and Vista ID. Staff has determined this activity is a project under CEQA but exempt from further review under the "general rule" provision provided under State CEQA Guidelines Section 15061(b)(3). This exemption appropriately applies given it can be seen with certainty spheres are planning policies and the establishment, update, and amendment therein do not make changes to the environment or authorize any new land uses or municipal services.

[6] The County Assessor and Auditor have identified the total assessed valuation for the affected territory as $1,038,009 with corresponding annual property tax revenue of $10,380.09. Current property tax revenue allocated to the County General Fund is $1,702.68 and $82.17 to the detaching Vista FPD. Application of the MPTA would result in total property tax revenue allocated to the County General Fund of $1,359.67 with $409.13 transferred to San Marcos and $25.67 to the San Marcos FPD.

- The City of San Marcos serves as lead agency under CEQA for the reorganization and boundary changes therein to annex all of the affected territory to the City along with proportional annexations to San Marcos FPD and Vallecitos WD and detachments from Vista FPD and Vista ID. San Marcos has determined this activity and associated development entitlement is a project under CEQA and prepared and adopted a Final Environmental Impact Report (FEIR) as part of a noticed hearing held on November 15, 2016. The FEIR attests the project will not have a significant and adverse impact on the environment after all feasible mitigation measures are implemented. Staff has independently reviewed the FEIR and recommends San Diego LAFCO adopt San Marcos' findings as a responsible agency.

Protest Proceedings

Protest proceeding for the reorganization may be waived by San Diego LAFCO should the Commission proceed with an approval under statute.[7] The waiver appropriately applies under this statute given the affected territory is uninhabited as defined under LAFCO law, the subject agencies have not filed an objection, and the lone landowner has consented to the underlying actions as the petitioner.[8]

RECOMMENDATION

Staff recommends approval of the reorganization proposal without modifications along with conforming sphere of influence amendments and standard terms based on the analysis provided in the preceding section. This recommendation is consistent with Alternative One in the proceeding section and would generate the following sphere of influence and jurisdictional boundary changes in San Diego County:

- Annexation of all 124.9 acres of the affected territory to the City of San Marcos.

- Annexation of 45.2 acres of the affected territory to Vallecitos WD and concurrent detachment of the same territory from Vista ID along with conforming sphere of influence amendments for both agencies.

- Annexation of 11.2 acres of the affected territory to San Marcos FPD and concurrent detachment of the same territory from Vista FPD along with a conforming sphere of influence amendment to Vista FPD.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO and can be accomplished with a single-motion:

[7] Reference to Government Code Section 5662.
[8] LAFCO law defines uninhabited as territory in which 11 or less registered voters reside.

Alternative One (recommended):
Adopt the attached draft resolution approving the reorganization proposal without modifications and with confirming sphere of influence amendments and standard terms.

Alternative Two:
Continue consideration to the next regular meeting and provide direction to staff with respect to providing additional information as specified.

Alternative Three:
Disapprove the 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 the agenda as part of a noticed public hearing. The following procedures, accordingly, are suggested in the consideration of this item:

1) Receive verbal presentation from staff unless waived;
2) Invite comments from the applicant and any of the subject agencies;
3) Open the hearing and invite audience comments; and
4) Close the hearing, discuss item, and consider action on recommendation.

On behalf of the Executive Officer,



Robert Barry, AICP
Chief Policy Analyst

Appendices:

A) Analysis of Sphere Change Factors
B) Analysis of Boundary Change Factors

Attachments:

1) Map Showing the Proposed Annexation to City of San Marcos
2) Map Showing the Proposed Changes to Vallecitos WD and Vista ID
3) Map Showing the Proposed Changes to San Marcos FPD and Vista FPD
4) Draft Resolution of Approval
5) Landowner Petition
6) FEIR on San Marcos Highlands (Online Only)
   https://www.sdlafco.org/meetings/current-agendas-staff-reports
7) Correspondence
8) Staff Memorandum: Additional Discussion on Local Policies and CEQA
   - Prepared following the October 7, 2019 continuance

APPENDIX A

Government Code Section 56425
Sphere of Influence Determinations

(1) The present and planned land uses, including agricultural and open-space lands.

The affected territory is entirely unincorporated and presently planned for low density residential uses by the County of San Diego as part of the North County Metro Community Planning Area and Twin Oaks Valley Subregion. The affected territory includes 11 parcels totaling approximately 124.9 acres. The subject parcels are unimproved with unassigned situs addresses. The City of San Marcos has adopted General Plan and pre-zoning assignments as part of a specific plan approval that covers 265.8 acres and includes all of the affected territory. An associated tentative subdivision map approval provides for the development of 189 single-family residential lots within the specific plan area with the majority concentrated in an approximate 50.0-acre portion of the affected territory. The remaining portion of the affected territory has been dedicated for passive uses as part of a 210.8-acre open space reserve. These planned uses are consistent with the proposal's purpose to sync urban services in support of the residential development and accompanying municipal greenbelt. The affected territory has not been cultivated for agricultural products and is not subject to the Williamson Act. The lands are not considered prime agriculture under LAFCO law.

(2) The present and probable need for public facilities and services in the area.

Planned residential uses within the affected territory as described above merits organized and elevated municipal services. This need is substantiated by the landowner's intent to proceed and develop the affected territory as part of a 189-lot single-family residential subdivision consistent with the City of San Marcos' General Plan and Zoning Ordinance.

(3) The present capacity of public facilities and adequacy of public services the agency provides or is authorized to provide.

The City of San Marcos, San Marcos FPD, and Vallecitos WD would directly assume municipal service responsibilities for all of the affected territory upon reorganization. San Marcos and its subsidiary district, San Marcos FPD, presently provide a range of municipal services within their jurisdictional boundaries and highlighted by community planning, fire protection and emergency medical, parks and recreation, police (via contract with the San Diego County Sheriff), solid waste, and public works (streets and traffic). The Vallecitos WD presently provides water, wastewater, and recycled water services within its jurisdictional boundary. The level and adequacy of these agencies' municipal services were last reviewed by LAFCO in 2007 and 2008 and determined to be adequate for present and planned needs. Information collected and analyzed in reviewing the reorganization affirms these agencies have sufficient capacities to extend services to the affected territory without adversely impacting existing constituents.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

The affected territory has existing communities of interest with the City of San Marcos through common economic and social ties tied to its standing inclusion with its sphere of influence and expectation therein that future development reside in the City. These existing communities of interest also extend to the San Marcos FPD as a San Marcos subsidiary. Expanding the Vallecitos WD sphere to include the affected territory is consistent and supports these referenced communities of interests given the District's role as primary provider of both public water and wastewater services within San Marcos.

(5) The present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

The affected territory as described above is not located within a census tract qualifying as a disadvantaged unincorporated community under LAFCO policy.

APPENDIX B

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, during the next 10 years.

The affected territory is entirely unincorporated and part of the County of San Diego's North County Metro Community Planning Area and Twin Oaks Valley Subregion. The affected territory includes 11 parcels totaling approximately 124.9 acres. The subject parcels are uninhabited and unimproved with unassigned situs addresses. The topography of the affected territory is characterized by hilly terrain traversed by a northeast-southwest trending drainage corridor. The affected territory contains steep slopes (>25%). Elevations range from approximately 600 to 1,300 feet above mean sea level. The County Assessor and Auditor Offices report the current total assessed valuation for the affected territory is $1,038,009 with corresponding annual property tax revenue of $10,380. The City of San Marcos has adopted General Plan and pre-zoning assignments as part of a specific plan approval that covers 265.8 acres and includes all of the affected territory for the principal purpose of developing a 189 single-family residential lot subdivision. At buildout it is projected the resident population will be approximately 600. Additional growth within the surrounding unincorporated lands to the north is possible although not probable within the next 10-year period.

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.

Planned residential uses within the affected territory as described above merits organized municipal services. This need is substantiated by the landowner's intent to proceed now and develop 189 single-family residences with the majority concentrated within the affected territory as part of a tentative subdivision map approval by the City of San Marcos. San Marcos, San Marcos FPD, and Vallecitos WD would directly assume the majority of municipal service responsibilities for the affected territory following the reorganization as summarized below.

- The City of San Marcos would assume a broad range of municipal service responsibilities for the affected territory following reorganization. This includes community planning, parks and recreation, police, solid waste, and public works (drainage, streets, traffic, etc.). Drawing from earlier municipal service reviews and analysis performed in the review of the reorganization staff believes these municipal

services are appropriately sized and/or planned – including developer mitigation requirements – to accommodate the demands in the affected territory at buildout consistent with City standards.

- San Marcos FPD would assume fire protection and emergency medical service responsibilities for the entire affected territory following reorganization. (More than nine-tenths of the affected territory already lies within the District.) San Marcos FPD's closest fire station is Station No. 1 located at 180 W. Mission Road. This is one of four San Marcos Fire Department/San Marcos FPD stations and houses one paramedic engine company, one paramedic truck company, one paramedic rescue, and one paramedic ambulance and staffed 24 hours. The station is approximately 3.4 miles from the affected territory.[9] Analysis performed by San Marcos in reviewing the underlying development project identified travel time for San Marcos FPD from Station No. 1 to the furthest structure within the affected territory would be approximately 5.75 minutes and would meet the 7 minute standard (dispatch to scene) in the County General Plan's Public Facilities Element.

- Vallecitos WD would assume wastewater and water service responsibilities for the entire affected territory following reorganization. (Close to two-thirds of the affected territory already lies within the District.) Vallecitos WD has an existing 10-inch water main directly adjacent to the affected territory within Ardilla Way. The proposed single-family residences and three park sites will be served through individual lateral connections. Vallecitos WD provided a will-serve letter to the applicant attesting it has sufficient water system capacities to accommodate demands subject to applicable mitigation, which includes paying fees to improve storage levels. Vallecitos WD separately has an existing wastewater trunk line adjacent to the affected territory within Las Posas Road. Collected wastewater will gravity flow to the trunk line south within Las Posas Road to an existing 36-inch interceptor within San Marcos Boulevard and ultimately conveyed to the Meadowlark Reclamation Plant for treatment. Vallecitos WD has provided a will-serve letter to the applicant attesting the District has sufficient wastewater system capacities to accommodate demands subject to applicable mitigation.

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.

Approval of the proposed reorganization and concurrent sphere of influence amendments would recognize existing and expanding economic and social ties between the affected territory and City of San Marcos, San Marcos FPD, and Vallecitos WD as detailed in Appendix A. The Commission has previously designated San Marcos as the future and long-term land use authority and primary service provider therein for the affected territory through the standing inclusion in the City's sphere of influence. Annexation now to San Marcos memorializes this standing expectation and accommodates the expressed interest of the

[9] Overall, San Marcos FPD maintains 22 fire suppression personnel on duty each day. The current Insurance Services Office rating for San Marcos FPD is 2.

affected landowner as evident by their initiation of the reorganization proceedings.

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.

Approval of the reorganization proposal provides for orderly boundary changes that appropriately consolidates core municipal service provision for the affected territory with the City of San Marcos, San Marcos FPD, and Vallecitos WD in step with facilitating a 189-lot residential development in an urbanizing area. The affected territory does not presently contain open-space per LAFCO law. As part of the underlying project, a sizeable portion of the affected territory will be dedicated to an open-space reserve and included into an expanded North County Multiple Species Conservation Plan administered by the County of San Diego. The proposal, accordingly, does not conflict with the policies and priorities prescribed under Government Code Section 56377.

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 qualify as "prime agricultural land" under LAFCO law. Specifically, the lands are not 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 proposed reorganization proposal would have no effect on maintaining the physical and economic integrity of agricultural lands in San Diego County.

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 maps and geographic descriptions of the affected territory that details metes and bounds covering all of the proposed boundary changes consistent with the standard of the State Board of Equalization. Approval would be conditioned on final maps and descriptions confirming to the referenced standards. The affected territory conforms with existing lines of assessment and the reorganization would not create islands or corridors of unincorporated territory.

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

The proposal and associated action to facilitate the development of the affected territory as part of a 189 residential lot subdivision does not conflict with San Diego Forward, the regional transportation plan prepared and adopted by San Diego Association of Governments or SANDAG.

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

The affected territory is planned for residential uses under both the County of San Diego and City of San Marcos' General Plans, albeit to different density allowances. San Marcos allows for nearly 16-times the density compared to the County with the agencies' minimum parcel sizes within the affected territory comparatively set at 5,000-5,500 to 87,120 square-feet, respectively. The City of San Marcos has adopted prezoning assignments for the affected territory consistent with the San Marcos General Plan.

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

The proposed reorganization necessitates conforming sphere of influence amendments for three of the five subject agencies: Vista FPD (exclusion); Vista ID (exclusion); and Vallecitos WD (inclusion). The conforming sphere amendments are necessary for consistency with the proposed reorganization's respective jurisdictional changes.

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

Staff provided notice of the proposed reorganization to all subject and affected agencies as required under statute. One letter from the County of San Diego Department of Planning and Development Services was received in response to the notice. The letter from the County addresses a recent agreement between the County, California Department of Fish and Wildlife, and the U.S. Army Corps of Engineers to include portions of the affected territory into the North County Multiple Species Conservation Plan. The letter serves as a follow up to earlier communications and serves to remove the County's prior objection to LAFCO proceeding with a public hearing for the proposal. No additional written comments were received ahead of preparing this agenda report.

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 San Marcos – which incorporates its subsidiary San Marcos FPD – and Vallecitos WD have established sufficient financial resources to extend municipal services to the affected territory without adversely impacting current constituents. This statement is supported by the following factors with additional details.

- San Marcos' audited net position is $1.001 billion as of June 30, 2018 and has increased overall by 0.6% over the last three fiscal years. San Marcos has also finished two of these three fiscal years with positive total margins with an overall average during the 36-month period of (1.2%).

- Vallecitos WD's audited net position is $262.2 million as of June 30, 2018 and has increased overall by 5.1% over the last three fiscal years. Vallecitos WD has also finished all three of these fiscal years with positive total margins with an overall average during the 36-month period of 8.3%.

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

The proposed reorganization would transfer water service responsibility for the affected territory from Vista ID to Vallecitos WD. This transfer – pertinently – retains the San Diego County Water Authority as the wholesale provider for the affected territory. The Water Authority's most recently adopted urban water management plan attests it has sufficient water supplies to meet its member agencies needs through the planning horizon of 2035 under normal and single-dry year conditions. Conservation measures, however, would likely be needed during severe and multiple dry-year conditions. To this end, Vallecitos WD has established a contingency plan to reduce water demands in the event of supply shortages consistent with recommendations from the Water Authority.

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 affect any local agencies in accommodating their regional housing needs assigned by the region's council of governments, SANDAG, as all potential units tied to the affected territory would be sold at prevalent market rates.

n) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

The affected territory as described is undeveloped and uninhabited as defined under LAFCO statute (containing 11 registered voters or less). The landowner supports the proposed reorganization and has provided their written consent to the proceedings.

o) Any information relating to existing land use designations.

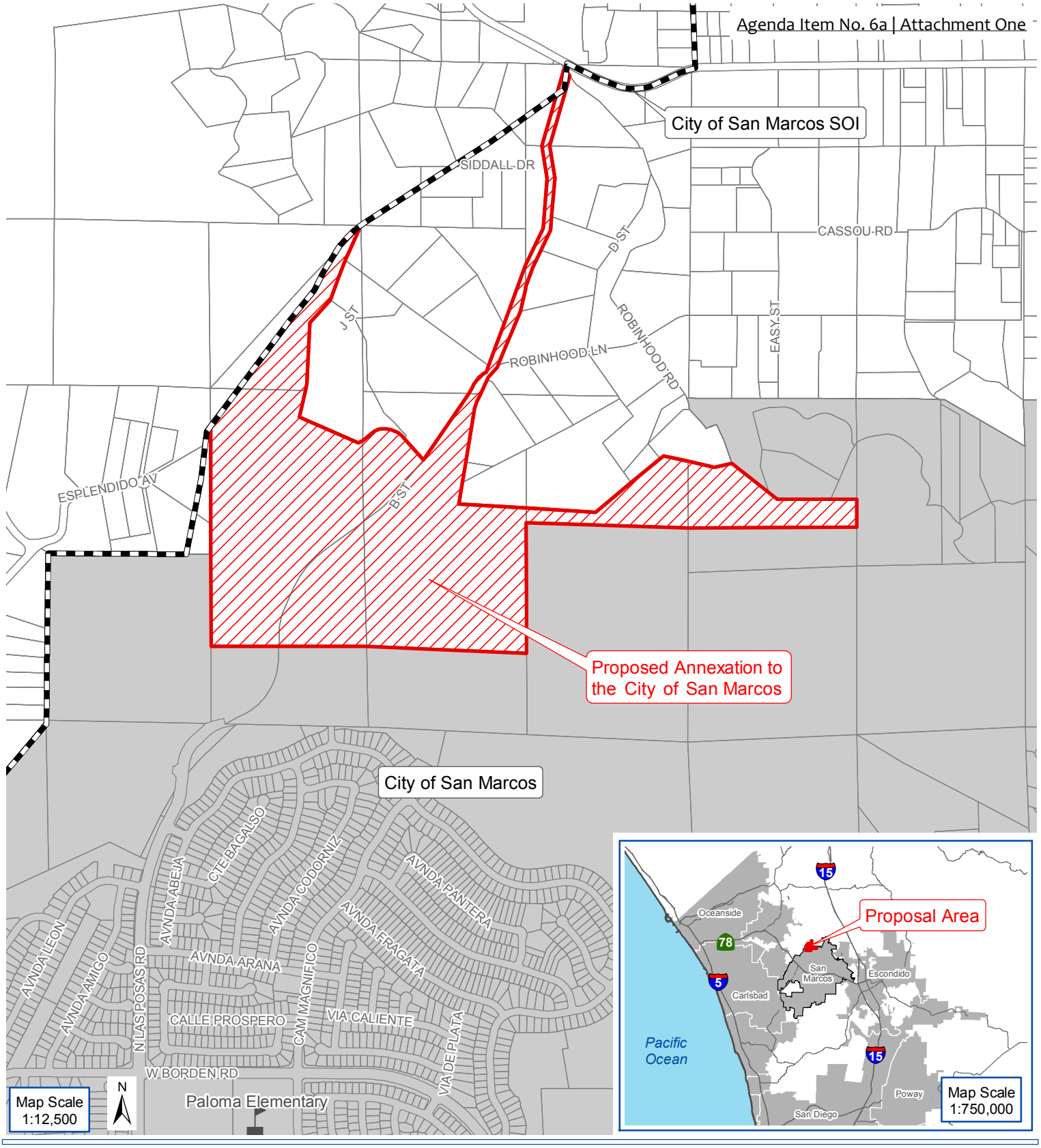
See above analysis for (h).

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

As used in this review factor, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed reorganization does not include locating new public facilities. Therefore, approval of the proposed reorganization is not anticipated to directly influence the promotion of environmental justice within the affected territory.

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 affected territory is presently identified as part of a State Responsibility Area (SRA) and mapped within a high fire hazard zone by the County of San Diego. The County has separately adopted a Multi-Jurisdiction Hazard Mitigation Plan for potential fire, flooding and earthquakes, which covers the City of San Marcos as a participating agency. Additional information on fire protection coverage is provided in the analysis for (b).



City of San Marcos and Sphere of Influence

SA17-07
RO17-07

PROPOSED "SAN MARCOS HIGHLANDS REORGANIZATION"

Proposal Area
City of San Marcos
San Marcos SOI

SOI = Sphere of Influence

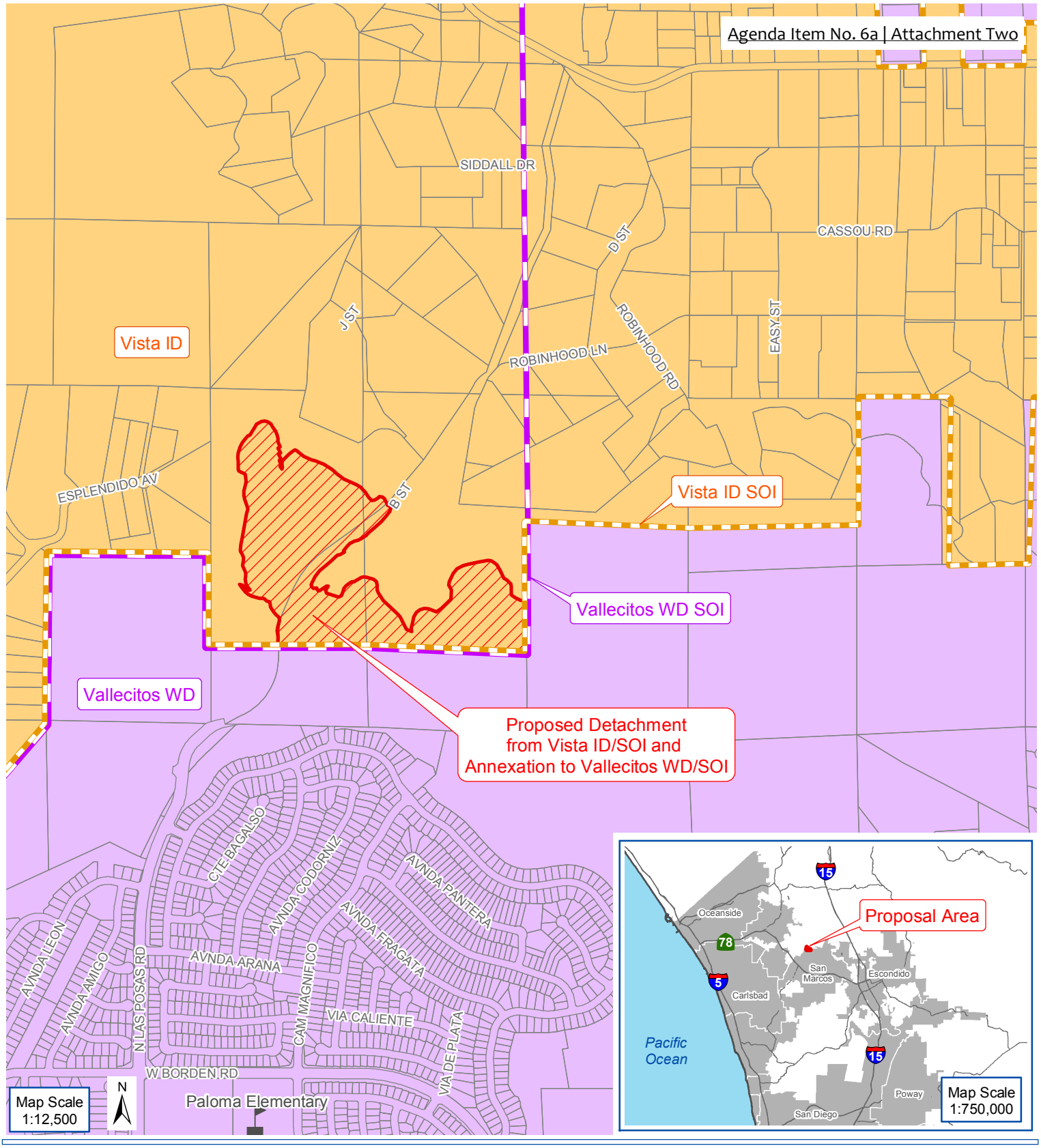
San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

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Vista ID/SOI and Vallecitos WD/SOI

SA17-07
RO17-07

PROPOSED "SAN MARCOS HIGHLANDS REORGANIZATION"

- Proposal Area
- Vista ID
- Vista ID SOI
- Vallecitos WD
- Vallecitos WD SOI

SOI = Sphere of Influence

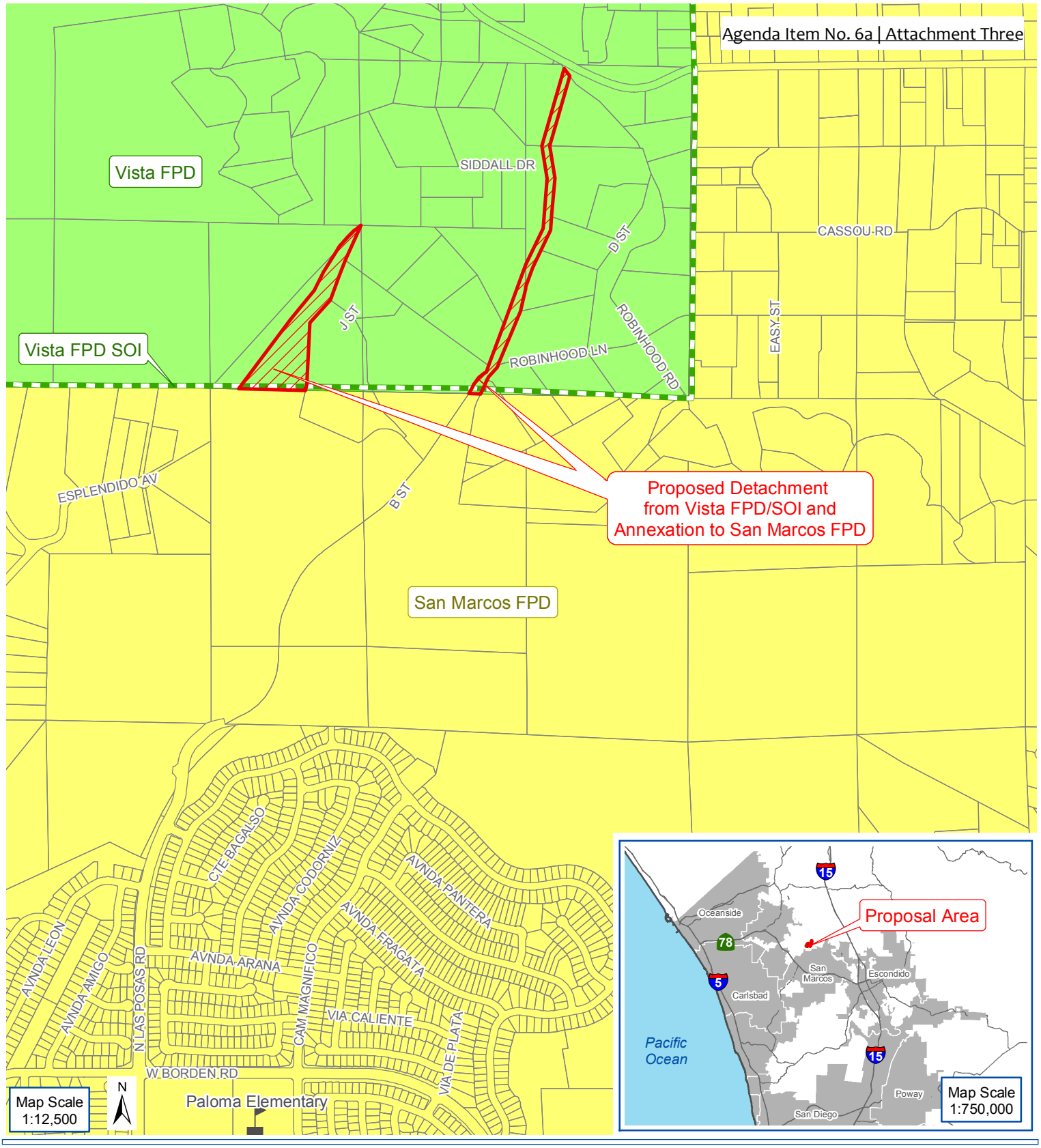
San Diego County
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Vista FPD/SOI and San Marcos FPD

SA17-07
RO17-07

PROPOSED "SAN MARCOS HIGHLANDS REORGANIZATION"

- Proposal Area
- Vista FPD
- Vista FPD SOI
- San Marcos FPD

SOI = Sphere of Influence

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

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Created by Dieu Ngu -- 9/10/2019

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RESOLUTION NO. _____

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING AND ORDERING A REORGANIZATION AND ASSOCIATED SPHERE OF INFLUENCE AMENDMENTS

"SAN MARCOS HIGHLANDS REORGANIZATION"
ANNEXATION TO THE CITY OF SAN MARCOS, SAN MARCOS FIRE PROTECTION DISTRICT, AND VALLECITOS WATER DISTRICT WITH CONCURRENT DETACHMENTS FROM VISTA FIRE PROTECTION DISTRICT AND VISTA IRRIGATION DISTRICT
LAFCO FILE NO: RO17-07 ET AL.

WHEREAS, on June 7, 2017, the landowner, Farouk Kubba, 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 (Government Code § 56000, et seq.); and

WHEREAS, the application seeks approval for reorganization of approximately 124.91 acres of unincorporated territory and includes the principal action to annex all of the affected territory to the City of San Marcos; and

WHEREAS, the reorganization application also seeks concurrent actions to annex 11.2 and 45.2 acres of the affected territory to San Marcos Fire Protection District and Vallecitos Water District, respectively, with corresponding detachments from the Vista Fire Protection District and Vista Irrigation District; and

WHEREAS, an applicable master property tax transfer agreement applies to the proposed reorganization dated March 8, 1988; 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 proposed reorganization and need for conforming sphere of influence amendments has 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 hearing along with reviewing the necessary concurrent sphere of influence amendments for consistency under Government Code Section 56375.5 on November 4, 2019

NOW, THEREFORE, BE IT RESOLVED, the Commission hereby finds, determines, and orders the following:

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

2. At the hearing, the Commission called for, heard, and considered all public comments by interested parties and read and considered the Executive Officer's report.

3. The Commission serves as lead and responsible agency under the California Environmental Quality Act (CEQA) in considering two distinct "projects" associated with the reorganization proposal and as detailed in the Executive Officer's report: (a) accommodating sphere of influence amendments and (b) the reorganization itself. The Commission's findings follow.

    a) The Commission serves as lead agency under CEQA for the accommodating sphere of influence amendments to include the respective affected territory within the sphere of the Vallecitos Water District and concurrently exclude the respective affected territory from the spheres of the Vista Fire Protection District and the Vista Irrigation District. The Commission has determined the activity is a project under CEQA but is exempt from the further review under the "general rule" provision provided 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 or services.

    b) The City of San Marcos serves as lead agency under CEQA for the reorganization and boundary changes to annex all of the affected territory to the City along with proportional annexations to San Marcos FPD and Vallecitos WD and concurrent detachments from Vista FPD and Vista ID. San Marcos has determined this activity and underlying development entitlements is a project under CEQA and prepared and adopted a Final Environmental Impact Report (FEIR) as part of a noticed hearing held on November 15, 2016. The FEIR attests the project will not have a significant and adverse impact on the environment after all feasible mitigation measures are implemented. The Commission has independently reviewed the FEIR and concurs and incorporates herein San Marcos' findings as a responsible agency.

4. The Commission APPROVES the following sphere of influence amendments subject to successful recordation of the associated reorganization and in doing so makes the statements required under § 56425 and provided in "Exhibit A."

    a) The sphere of influence for the Vallecitos Water District is amended to include the affected territory as shown in "Exhibit E-1" including portions of Assessor Parcel Numbers 184-240-32, 184-240-33, 184-241-05, and 184-241-06.

    b) The sphere of influence for Vista Fire Protection District is amended to exclude the affected territory as shown in "Exhibit D-1" including Assessor Parcel Numbers 184-101-14, 184-102-18, 184-102-32, 184-102-44, and 184-240-32 (portion).

    c) The sphere of influence for Vista Irrigation District is amended to exclude the affected territory as shown in "Exhibit F-1" including portions of Assessor Parcel Numbers 184-240-32, 184-240-33, 184-241-05, and 184-241-06.

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

    a) Annexation of all 124.9 acres of the affected territory to the City of San Marcos as shown in "Exhibit B-1" and described in "Exhibit B-2."

    b) Annexation of 11.2 acres of the affected territory to the San Marcos Fire Protection District as shown in "Exhibit C-1" and described in "Exhibit C-2."

c) Detachment of 11.2 acres of the affected territory from the Vista Fire Protection District as shown in "Exhibit D-1" and described in "Exhibit D-2."

d) Annexation of 45.2 acres of the affected territory to the Vallecitos Water District as shown in "Exhibit E-1" and described in "Exhibit E-2."

e) Detachment of 45.2 acres of the affected territory from the Vista Irrigation District as described in "Exhibit F-1" and described in "Exhibit F-2."

6. The Commission CONDITIONS the approvals on the following terms being satisfied by October 7, 2020 unless an extension is requested and approved by the Executive Officer:

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

   b) Submittal to the Commission of final maps and geographic descriptions of the affected territory and the associated boundary changes as approved by the Commission conforming to the requirements of the State Board of Equalization – Tax Services Division.

   c) Submittal to the Commission of the following payments:

      - A check made payable to LAFCO in the amount of $100.00 to reimburse for filing notices with the County-Clerk Recorder's Office consistent with the findings in this resolution.

      - A check made payable to LAFCO in the amount of $346.90 to reimburse for the public hearing notice publication.

      - A check made payable to the State Board of Equalization for processing fees in the amount of $4,000.00.

7. The proposal is assigned the following distinctive short-term designation:

   "San Marcos Highlands Reorganization"

8. The affected territory shall not be re-designated or re-zoned by the City of San Marcos for a period of no less than two years following the recordation of a Certificate of Completion unless exempting procedures are satisfied under Government Code § 56375(e).

9. The affected territory as designated by the Commission is uninhabited as defined in Government Code Section 56046. All subject landowners have provided written consent to the proposal and no subject has submitted written opposition to a waiver of protest proceedings.

10. The Commission waives conducting authority proceeding requirements under Government Code § 56662 and consistent with policy.

11. San Marcos Fire Protection District, Vallecitos Water District, Vista Fire Protection District and Vista Irrigation District are registered-voter districts.

12. City of San Marcos, San Marcos Fire Protection District, Vallecitos Water District, Vista Fire Protection District, and Vista Irrigation District all utilize the regular assessment roll of the County of San Diego.

13. The affected territory will be liable for any existing bonds, contracts, and/or obligations of the City of San Marcos, San Marcos Fire Protection District, and Vallecitos Water District as provided under Government Code § 57328, and will be subject to any previously authorized taxes, benefit assessments, fees, or charges of the City of San Marcos, San Marcos Fire Protection District, and Vallecitos Water District as provided under Government Code Section 57330.

14. The effective date of the proposal shall be the date of recordation of the Certificate of Completion following completion of all terms.

15. As allowed under Government Code § 56107, the Commission authorizes the Executive Officer to make non-substantive corrections to this resolution to address any technical defect, error, irregularity, or omission.

16. All general terms governing annexations and detachments authorized under Government Code Section 57300-57354 apply to this reorganization.

**

PASSED AND ADOPTED by the Commission on 4th of November 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**

Approve to Form:

_____
Holly Whatley,
Commission Counsel

Attest:

_____
Jo MacKenzie
Commission Chair

EXHIBIT A

Government Code Section 56425
Sphere of Influence Determinations

(1) The present and planned land uses, including agricultural and open-space lands.

The affected territory is entirely unincorporated and presently planned for low density residential uses by the County of San Diego as part of the North County Metro Community Planning Area and Twin Oaks Valley Subregion. The affected territory includes 11 parcels totaling approximately 124.9 acres. The subject parcels are unimproved with unassigned situs addresses. The City of San Marcos has adopted General Plan and pre-zoning assignments as part of a specific plan approval that covers 265.8 acres and includes all of the affected territory. An associated tentative subdivision map approval provides for the development of 189 single-family residential lots within the specific plan area with the majority concentrated in an approximate 50.0-acre portion of the affected territory. The remaining portion of the affected territory has been dedicated for passive uses as part of a 210.8 acre open space reserve. These planned uses are consistent with the proposal's purpose to synch urban services in support of the residential development and accompanying municipal greenbelt. The affected territory has not been cultivated for agricultural products and is not subject to the Williamson Act. The lands are not considered prime agriculture under LAFCO law.

(2) The present and probable need for public facilities and services in the area.

Planned residential uses within the affected territory as described above merits organized and elevated municipal services. This need is substantiated by the landowner's intent to proceed and develop the affected territory as part of a 189-lot single-family residential subdivision consistent with the City of San Marcos' General Plan and Zoning Ordinance.

(3) The present capacity of public facilities and adequacy of public services the agency provides or is authorized to provide.

The City of San Marcos, San Marcos FPD, and Vallecitos WD would directly assume municipal service responsibilities for all of the affected territory upon reorganization. San Marcos and its subsidiary district, San Marcos FPD, presently provide a range of municipal services within their jurisdictional boundaries and highlighted by community planning, fire protection and emergency medical, parks and recreation, police (via contract with the San Diego County Sheriff), solid waste, and public works (streets and traffic). The Vallecitos WD presently provides water, wastewater, and recycled water services within its jurisdictional boundary. The level and adequacy of these agencies' municipal services were last reviewed by LAFCO in 2007 and 2008 and determined to be adequate for present and planned needs. Information collected and analyzed in reviewing the reorganization affirms these agencies have sufficient capacities to extend services to the affected territory without adversely impacting existing constituents.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

The affected territory has existing communities of interest with the City of San Marcos through common economic and social ties tied to its standing inclusion with its sphere of influence and expectation therein that future development occurs in the City. These existing communities of interest also extend to the San Marcos FPD as a San Marcos subsidiary. Expanding the Vallecitos WD sphere to include the affected territory is consistent and supports these referenced communities of interests given the District's role as primary provider of both public water and wastewater services within San Marcos.

(5) The present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

The affected territory as described above is not located within a census tract qualifying as a disadvantaged unincorporated community under LAFCO policy.

EXHIBIT B-1

Placeholder for Recordation
Map of Affected Territory
and Annexation to City of San Marcos

EXHIBIT B-2

Placeholder for Recordation
Description of Affected Territory
and Annexation to City of San Marcos

EXHIBIT C-1

Placeholder for Recordation
Map of Affected Territory
and Annexation to San Marcos Fire Protection District

EXHIBIT C-2

Placeholder for Recordation
Description of Affected Territory
and Annexation to the San Marcos Fire Protection District

EXHIBIT D-1

Placeholder for Recordation
Map of Affected Territory
and Detachment from Vista Fire Protection District

EXHIBIT D-2

Placeholder for Recordation
Description of Affected Territory
and Detachment from Vista Fire Protection District

EXHIBIT E-1

Placeholder for Recordation
Map of Affected Territory
and Annexation to Vallecitos Water District

EXHIBIT E-2

Placeholder for Recordation
Description of Affected Territory
and Annexation to the Vallecitos Water District

EXHIBIT F-1

Placeholder for Recordation
Map of Affected Territory
and Detachment from Vista Irrigation District

EXHIBIT F-2

Placeholder for Recordation
Description of Affected Territory
and Detachment from Vista Irrigation District

PETITION FOR PROCEEDINGS PURSUANT TO THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000

Part I: NOTICE OF INTENT TO CIRCULATE PETITION

Proponents are required to file a NOTICE OF INTENT TO CIRCULATE PETITION with the Executive Officer of the San Diego Local Agency Formation Commission before a petition to initiate a change of organization or reorganization can be circulated (Govt. Code § 56700.4).

1. Notice is hereby given to circulate a petition proposing to: Annex subject property to the City of San Marcos, annexation to Vallecitos Water District, annexation to San Marcos Fire Protection District

2. The reason(s) for the proposal are: Condition of approved Tentative Map.

Farouk Kubba
Proponent's Name (print)

Signature of proponent or representative

27691 Deputy Circle
Proponent's Address

Laguna Hills, CA 92653
City, State, Zip

Pursuant to Section 56700.4 of the California Government Code, this NOTICE OF INTENT TO CIRCULATE PETITION was filed with me on

Date

Executive Officer (Print and Sign)

PART II: DISCLOSURE REQUIREMENTS

The Political Reform Act prohibits a person appointed to the Local Agency Formation Commission from soliciting or accepting campaign contributions of more than $250 within the preceding 12 months from parties, participants, or their agents while a proceeding is pending before LAFCO and for three months following the decision. LAFCO commissioners who receive such contributions are required to disqualify themselves from participating in the proceedings. Both commissioners and contributors who are parties to the proceeding are required to disclose the contributions received or made. Names of current LAFCO commissioners and LAFCO disclosure forms are available at HTTP://WWW.SDLAFCO.ORG or by calling 858/614-7755.

Pursuant to Government Code Section 56700.1, any person or combination of persons who, for political purposes, directly or indirectly contributes $1,000 or more, or expend $1,000 or more in support of, or in opposition to a proposal for a change of organization or reorganization that will be submitted to the Commission, shall disclose and report to the Commission to the same extent and subject to the same requirements of the Political Reform Act (Title 9 [commencing with Section 81000]) as provided for local initiative measures.

Pursuant to Government Code Section 57009, any person or combination of persons who directly or indirectly contributes $1,000 or more, or expends $1,000 or in support of, or in opposition to, the conducting authority proceedings for a change of organization or reorganization, must comply with the disclosure requirements of the Political Reform Act of 1974, (Government Code section 81000 et seq.). Applicable reports must be submitted to the Secretary of State and the appropriate city or county clerk. Copies of the reports must also be filed with the Executive Officer of San Diego LAFCO.

Part III: PETITION FOR CHANGE OF ORGANIZATION OR REORGANIZATION

This proposal is made pursuant to Part 3, Division 3, Title 5 of the California Government Code, Section 56000 et seq. of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

(a) The specific change(s) of organization proposed is/are: Annex subject property to the City of San Marcos, annexation to the Vallecitos Water District, annexation to the San Marcos Fire Protection District

(b) The boundary of the territory included in the proposal is as described in the attached legal description and map and is by this reference incorporated herein.

(c) The proposed action(s) will be subject to the following terms and conditions: _____

(d) The reason(s) for the proposal is/are: Condition of approved Tentative Map.

(e) Signers of this petition have signed as (select one): ☑ landowner; ☐ registered voter.

(f) The name(s) and mailing address(s) of the chief petitioner(s) (not to exceed three) is/are:

1. Farouk Kubba — 27691 Deputy Circle Laguna Hills CA 92653
   Name of chief proponent (print) — mailing address
2. _____
   Name of chief proponent (print) — mailing address
3. _____
   Name of chief proponent (print) — mailing address

(g) It is requested that proceedings for this proposal be taken in accordance with Section 56000 et seq. of the Government Code.

(h) This proposed change of organization (select one) ☑ is ☐ is not consistent with the sphere-of-influence of any affected city or district.

(i) The territory included in the proposal is (select one) ☐ inhabited (12 or more registered voters) ☑ uninhabited (11 or less registered voters).

(j) If the formation of a new district(s) is included in the proposal:

1. The principal act under which said district(s) is/are proposed to be formed is/are: _____
2. The proposed name(s) of the new district(s) is/are: _____
3. The boundary(ies) of the proposed new district(s) is/are described in the attached legal description and map and are by this reference incorporated herein.

(k) If an incorporation is included in the proposal:

1. The name of the proposed city is: _____
2. Provisions are requested for appointment of: ☐ city manager ☐ city clerk ☐ city treasurer

(l) If the proposal includes a consolidation of special districts, the proposed name of the consolidated district is: _____

Part IVa: REGISTERED VOTER 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 registered voter within the County of San Diego.
- I personally affixed hereto the date of my signing this petition and my place of residence, or if no street or number exists, then a designation of my place of residence that will enable the location to be readily ascertained.

Name of Signer	Residence Address	Date Signed	Official Use
Sign F Kubba Print Farouk Kubba	27691 Deputy Circle Laguna Hills CA 92653	3/12/2019	
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			

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 Farouk Kubba	See Attached	3/12/2019	
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			
Sign _____ Print _____			

ENDANGERED HABITATS LEAGUE
DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

February 1, 2019

Via U.S. Mail and Electronic Mail

Robert Barry, AICP
Chief Analyst, Policy Research
San Diego LAFCO
9335 Hazard Way, Suite 200
San Diego, CA 92123

RECEIVED
FEB 04 2019
SAN DIEGO LAFCO

Dahvia Lynch, AICP CEP, LEED AP
Development Services Director
City of San Marcos
Development Services Department
1 Civic Center Drive
San Marcos, CA 92069

Re: San Marcos Highlands Specific Plan (P13-0009)

Dear Mr. Barry and Ms. Lynch:

On January 13, 2017, EHL filed an action alleging violations of the California Environmental Quality Act concerning the approval of P13-0009 by the City of San Marcos and City Council of San Marcos and naming Farouk Kubba and Vista San Marcos Limited as the Real Parties in Interest (collectively "RPI").

Since then, EHL and RPI engaged in extensive settlement negotiations over a period of several months. Those negotiations recently culminated in a fully executed Settlement Agreement and General Release. Performance under our fully executed agreement is ongoing and contemplates, among other things, annexation of those certain portions of unincorporated land in the County of San Diego into the City of San Marcos pursuant to P13-0009. Please be advised, EHL no longer opposes the project or such annexation assuming the conditions of the Settlement Agreement are met.

Yours truly,

Dan Silver
Executive Director

cc (email only): Jim Simmons
Farouk Kubba
Andrew Nagurney
Kevin Johnson

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County of San Diego

MARK WARDLAW
DIRECTOR

PLANNING & DEVELOPMENT SERVICES
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123
(858) 505-6445 General • (858) 694-2705 Codes • (858) 565-5920 Building Services
www.SDCPDS.org

KATHLEEN A. FLANNERY
ASSISTANT DIRECTOR

April 3, 2019

San Diego County LAFCO
Robert Barry, Chief Analyst

VIA EMAIL: robert.barry@sdcounty.ca.gov

RE: Notice of Proposal Preliminary Staff Report, San Marcos Highlands Reorganization; Ro17-07; SA17-07

Mr. Barry

County of San Diego (County) Planning & Development Services (PDS) is in receipt of your Preliminary Staff Report, dated February 26, 2019 for the San Marcos Highlands project (Project) which proposes to annex a portion of the project area into the City of San Marcos and out of the unincorporated area of San Diego County in addition to other service district adjustments.

The County has been working with the California Department of Fish and Wildlife and the Fish and Wildlife Service (Wildlife Agencies) to develop the North County Multiple Species Conservation Program Plan (Plan). A key facet to the Plan is identifying the geographical distribution of high-quality habitat and developing a strategy to connect large blocks of habitat to allow for the movement of species within the planning area. This area is referred to as the pre-approved mitigation area, referred to as PAMA. The Project is partially located within the draft North County Plan PAMA. Consistent with the Planning Agreement the County has with the Wildlife Agencies, the County must request and enter into an Annexation Agreement (Agreement) to ensure the annexation will not jeopardize the buildout of the preserve or the coverage of species, or compromise viable habitat linkages within the proposed preserve.

During the City of San Marcos' environmental analysis of the Project, the County requested and the City conditioned the Project applicant to enter into an Annexation Agreement with the City, County and Wildlife Agencies. The Agreement will ensure the Project does not jeopardize the ability to develop and implement the MSCP North County Plan.

The PDS would like to remind LAFCO of the Agreement requirement, prior to taking action. On November 15, 2016, the San Marcos City Council, in its Condition of Approval for the

Project, included the following: "Prior to any hearing before the San Diego Local Agency Formation Commission, an agreement between the County, the City of San Marcos, U.S. Fish & Wildlife Service (Service), California Department of Fish & Wildlife (Department), and U.S. Army Corps of Engineers (Corps) shall be finalized to ensure that the proposed project will not jeopardize the buildout of the preserve or the coverage of species within the planning area, or compromise viable habitat linkages within the proposed preserve."

The County is in receipt of a draft proposed Agreement and associated supporting documents and are currently reviewing these materials. Once all parties to the Agreement are satisfied, PDS will schedule a public hearing during which the Agreement will be considered for approval by the County Board of Supervisors. We do not have an estimated hearing date at this time.

If you have any further questions regarding the Agreement or other associated annexation considerations, please contact Peter Eichar, AICP at (858) 495-5524 or peter.eichar@sdcounty.ca.gov.

Regards,

ERIC LARDY, AICP
Chief of Advance Planning
Planning & Development Services

Simonds,Keene

From: royalviewranch@aol.com
Sent: Monday, September 23, 2019 5:20 PM
To: Simonds,Keene; Barry, Robert
Cc: slfarrell@cox.net
Subject: San Marcos Highlands Annexation
Attachments: signed Comment Ltr to BOS S M Highlands Annex.pdf

Dear Keene Simonds and Robert Barry,

Attached please find a letter that the Twin Oaks Valley Community Sponsor Group sent to the San Diego County Board of Supervisors regarding the San Marcos Highlands projects annexation into the city of San Marcos.

I believe you will be hearing this project on October 7, 2019.

The Twin Oaks Valley Community Sponsor Group is opposed to this annexation.

Karen Binns
Twin Oaks Valley Community Sponsor Group Vice Chair

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Twin Oaks Valley Community Sponsor Group

P.O. Box 455 San Marcos, Ca. 92079

September 22, 2019

San Diego County Board of Supervisors
1600 Pacific Highway, Room 335
San Diego, CA 92101

RE: # 2 San Marcos Highlands Annexation agreement.

Dear Chairwoman Dianne Jacob and members of the Board of Supervisors:

At this month's meeting the Twin Oaks Valley Community Sponsor Group voted to recommend denial of the San Marcos Highlands annexation agreement and the annexation of this portion of the unincorporated County lands to the City of San Marcos.

The San Marcos Highlands has been opposed by the Twin Oaks Valley Community Sponsor Group since the group first learned of the project in 1999[1]. Over the last 20 years both the Sponsor Group and the County DPLU/PDS have repeatedly expressed concerns about the San Marcos Highlands and the City of San Marcos' plans to annex the land. We believe the annexation agreement does not address the fact the project is inconsistent with the County General Plan and approving it would be contrary to past actions taken by this Board.

During the General Plan process, staff saw fit to place the Highlands and adjacent areas in the SR10 density designation due to a variety of reasons such as habitat, presence of steep slopes, and high wildfire danger.

During the General Plan Amendment process that addressed the Property Specific Requests, both the Planning Commission and this Board took actions to keep the area, PSR NC-22, in the SR10 density. The proposed project places about 138 homes in an area the County General Plan has designated for about 17 homes (not including deductions for steep slopes). The homes being proposed by the project will not address affordable housing shortage due to their cost. In addition, given our new understanding of the increased frequency and threat of wildfires due to global warming, placing development in the middle of sage brush habitat is not wise. This type of development should be placed within walkable distance to public transportation to reduce greenhouse gas. It should include a mix of housing types so that it provides homes for the average working people. San Marcos and the County do not need more $600, 000.00+ housing products and the San Marcos Highlands project simply does not belong wedged into a rural area.

[1] Letter to City of San Marcos by H. Palmer Twin Oaks Community Sponsor Group, August 26,1999

We respectfully ask that you deny this agreement and not support annexation of the property to the City of San Marcos. We ask that the County work with the project applicant and develop the portion of his land that is currently in the unincorporated county per the County General Plan and using the Conservation Subdivision.

Thank you very much for taking time to consider our comments to these important matters.

Sincerely,
Karen Binns

Karen Binns

Vice Chair, Twin Oaks Valley Community Sponsor Group

From: clarkemh@aol.com <clarkemh@aol.com>
Sent: Tuesday, October 01, 2019 3:21 PM
To: Simonds,Keene <Keene.Simonds@sdcounty.ca.gov>; Barry, Robert <Robert.Barry@sdcounty.ca.gov>
Subject: Letter to LAFCO Commissioners and Alternates: San Marcos Highlands reorganization, Agenda of Oct. 7, 2019

Dear Keene Simonds and Robert Barry,

Following is a letter to the LAFCO Commissioners and Alternates regarding the San Marcos Highlands reorganization, which is on the Agenda of Oct. 7, 2019. I would appreciate your distributing this letter to the Commissioners and Alternates as soon as possible.

Thank you for your assistance --

Sincerely,

Mary H. Clarke

Letter to: LAFCO Commissioners and Alternates
From: Mary H. Clarke
Subject: San Marcos Highlands Reorganization: Annexation Agreement has not been executed by all Parties.
Date: October 1, 2019

Dear Chair Jo MacKenzie; Vice Chair Dianne Jacob; Commissioners Mary Casillas Salas, Jim Desmond, Mark Kersey, Andrew Vanderlaan, Bill Wells, Baron Willis; Alternates Chris Cate, Greg Cox, Erin Lump, Harry Mathis, and Paul McNamara:

This is to call to your attention that bringing the San Marcos Highlands reorganization before the LAFCO Commission is premature as the Annexation Agreement for San Marcos Highlands has not been executed by all Parties. According to the Annexation Agreement, p. 2,

"WHEREAS, approval by LAFCO of the annexation of the San Marcos Highlands into the City, as a condition of approval of the annexation, requires that an annexation agreement such as this Agreement be executed by the Parties:"

The County of San Diego has not approved the Annexation Agreement. This is to request that the Commission continue this item until such time as the Annexation Agreement is fully executed.

Thank you for your attention to this request,

Sincerely,

Mary H. Clarke
Co-Chair, North County Multiple Species Plan Task Force, Sierra Club, San Diego Chapter

Vista San Marcos Ltd.

7021 Leeward Street, Carlsbad, Ca 92011

Tel. (949) 922-3070 / Fax. (949) 643-9913

October 1, 2019

Via email

Re: Continuance of the San Marcos Highlands Annexation hearing

Dear Chairwoman MacKenzie,

Please accept this request to your Board of Commissioners to continue the public hearing for the annexation of the San Marcos Highlands Project that will be before you on October 7, 2019 to November 4, 2019. The reason for the request is to allow time to resolve an outstanding issue with the County of San Diego.

Sincerely,



Farouk Kubba

Vista San Marcos Ltd.

Barry, Robert

From: royalviewranch@aol.com
Sent: Saturday, September 28, 2019 6:13 PM
To: Barry, Robert; Simonds,Keene
Subject: Corrected e mail / San Marcos Highlands Annexation
Attachments: signed Comment Ltr to BOS S M Highlands Annex.pdf; TOVCS attachments San Marcos Highlands annexation (1).pdf; San Marcos Highlands - photo location reference (1).jpg

Dear Keene and Robert, I am re-sending this e mail as there should have been 3 attachments and there was only 1. You will need this info for the annexation agenda item for San Marcos Highlands. Sorry for the inconvenience.

Karen Binns,
Twin Oaks Valley Community Sponsor Group Vice Chair

-----Original Message-----
From: royalviewranch <royalviewranch@aol.com>
To: keene.simonds <keene.simonds@sdcounty.ca.gov>; robert.barry <robert.barry@sdcounty.ca.gov>
Cc: slfarrell <slfarrell@cox.net>
Sent: Mon, Sep 23, 2019 5:19 pm
Subject: San Marcos Highlands Annexation

Dear Keene Simonds and Robert Barry,

Attached please find a letter that the Twin Oaks Valley Community Sponsor Group sent to the San Diego County Board of Supervisors regarding the San Marcos Highlands projects annexation into the city of San Marcos.

I believe you will be hearing this project on October 7, 2019.

The Twin Oaks Valley Community Sponsor Group is opposed to this annexation.

Karen Binns
Twin Oaks Valley Community Sponsor Group Vice Chair

Barry, Robert

From: royalviewranch@aol.com
Sent: Monday, September 23, 2019 5:20 PM
To: Simonds,Keene; Barry, Robert
Cc: slfarrell@cox.net
Subject: San Marcos Highlands Annexation
Attachments: signed Comment Ltr to BOS S M Highlands Annex.pdf

Dear Keene Simonds and Robert Barry,

Attached please find a letter that the Twin Oaks Valley Community Sponsor Group sent to the San Diego County Board of Supervisors regarding the San Marcos Highlands projects annexation into the city of San Marcos.

I believe you will be hearing this project on October 7, 2019.

The Twin Oaks Valley Community Sponsor Group is opposed to this annexation.

Karen Binns
Twin Oaks Valley Community Sponsor Group Vice Chair

Twin Oaks Valley Community Sponsor Group

P.O. Box 455 San Marcos, Ca. 92079

September 22, 2019

San Diego County Board of Supervisors
1600 Pacific Highway, Room 335
San Diego, CA 92101

RE: # 2 San Marcos Highlands Annexation agreement.

Dear Chairwoman Dianne Jacob and members of the Board of Supervisors:

At this month's meeting the Twin Oaks Valley Community Sponsor Group voted to recommend denial of the San Marcos Highlands annexation agreement and the annexation of this portion of the unincorporated County lands to the City of San Marcos.

The San Marcos Highlands has been opposed by the Twin Oaks Valley Community Sponsor Group since the group first learned of the project in 1999[1]. Over the last 20 years both the Sponsor Group and the County DPLU/PDS have repeatedly expressed concerns about the San Marcos Highlands and the City of San Marcos' plans to annex the land. We believe the annexation agreement does not address the fact the project is inconsistent with the County General Plan and approving it would be contrary to past actions taken by this Board.

During the General Plan process, staff saw fit to place the Highlands and adjacent areas in the SR10 density designation due to a variety of reasons such as habitat, presence of steep slopes, and high wildfire danger.

During the General Plan Amendment process that addressed the Property Specific Requests, both the Planning Commission and this Board took actions to keep the area, PSR NC-22, in the SR10 density. The proposed project places about 138 homes in an area the County General Plan has designated for about 17 homes (not including deductions for steep slopes). The homes being proposed by the project will not address affordable housing shortage due to their cost. In addition, given our new understanding of the increased frequency and threat of wildfires due to global warming, placing development in the middle of sage brush habitat is not wise. This type of development should be placed within walkable distance to public transportation to reduce greenhouse gas. It should include a mix of housing types so that it provides homes for the average working people. San Marcos and the County do not need more $600, 000.00+ housing products and the San Marcos Highlands project simply does not belong wedged into a rural area.

[1] Letter to City of San Marcos by H. Palmer Twin Oaks Community Sponsor Group, August 26,1999

We respectfully ask that you deny this agreement and not support annexation of the property to the City of San Marcos. We ask that the County work with the project applicant and develop the portion of his land that is currently in the unincorporated county per the County General Plan and using the Conservation Subdivision.

Thank you very much for taking time to consider our comments to these important matters.

Sincerely,
Karen Binns

Karen Binns

Vice Chair, Twin Oaks Valley Community Sponsor Group

NC22

General Plan (Adopted Aug 2011)	SR10
Property Specific Request: SR2[2] Requested by: Jim Simmons, Farouk Kubba	
Property Specific Request: SR1 Requested by: City of San Marcos	
Community Recommendation	Unknown
Opposition Expected[3]	Yes
Spot Designation/Zone	No
Impact to FCI Timeline	None
Change to GPU Principles Needed	Yes
Level of Change (March 2011)	Major

Note:
1– See Vista San Marcos letter dated October 18, 2010 (attached)
2– See City of San Marcos letter dated February 17, 2011
3– See DPLU letter dated April 2, 2002 (attached)

Property Description

Property Owner:
Vista San Marcos LTD.

Size:
130.9 acres; 6 parcels

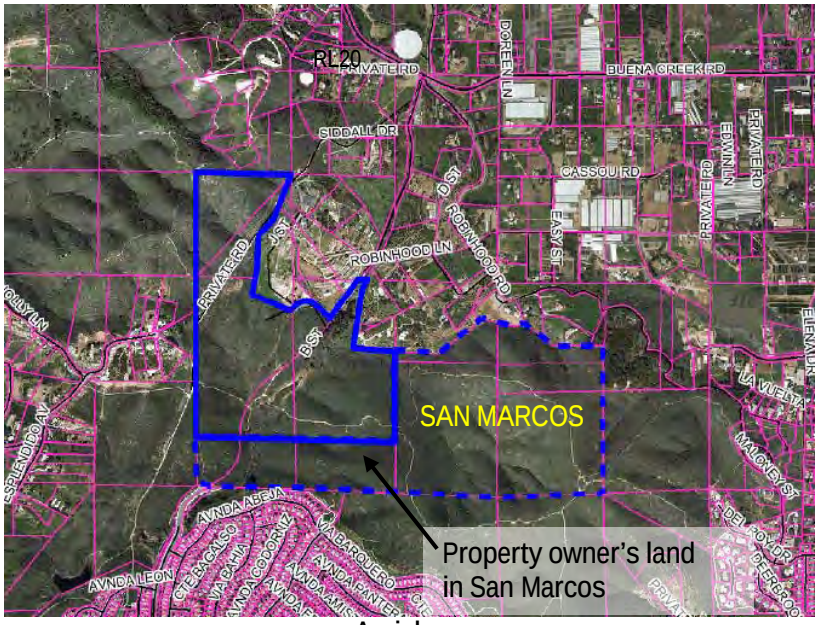
Location/Description:
Twin Oaks Subregional Group Area;
South of Buena Creek Road off of Blue Bird Canyon Road;
Within City of San Marcos Sphere of Influence

Prevalence of Constraints (See following page):
● – high; ◒ – partially; ○ - none

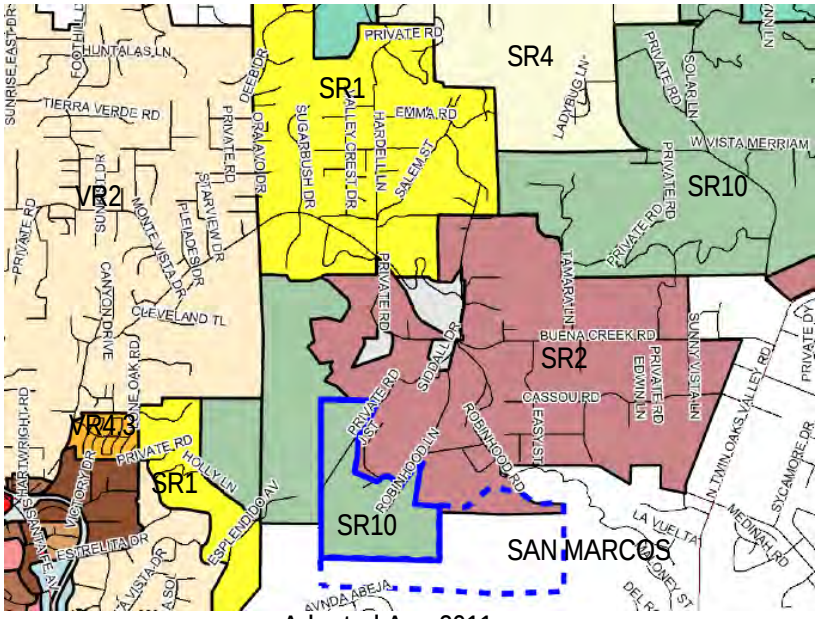
- ● Steep Slope (greater than 25%)
- ○ Floodplain
- ◒ Wetlands
- ● Habitat Value
- ○ Agricultural Lands
- ● Fire Hazard Severity Zones

Land Use

General Plan	
Scenario	Designation
Former GP	1 du / 2,4 ac
GP (Adopted Aug 2011)	SR10
Referral	SR10
Hybrid	
Draft Land Use	
Environmentally Superior	RL20
Zoning	
Former— A70, 2-acre minimum lot size	
Adopted Aug 2011 — Same as existing	



Aerial



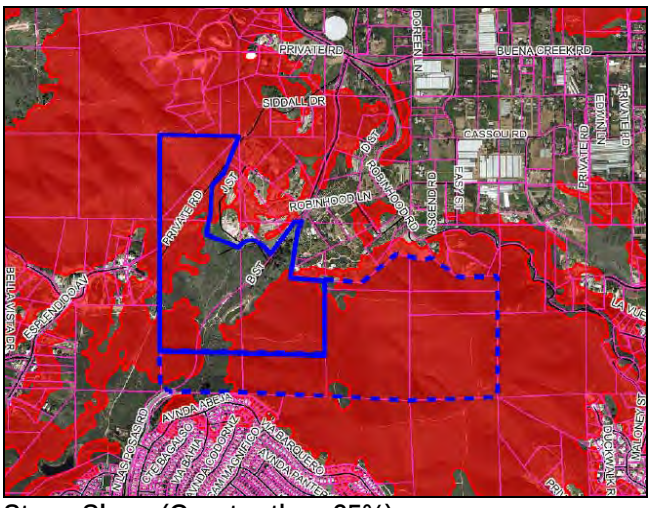
Adopted Aug 2011

Discussion

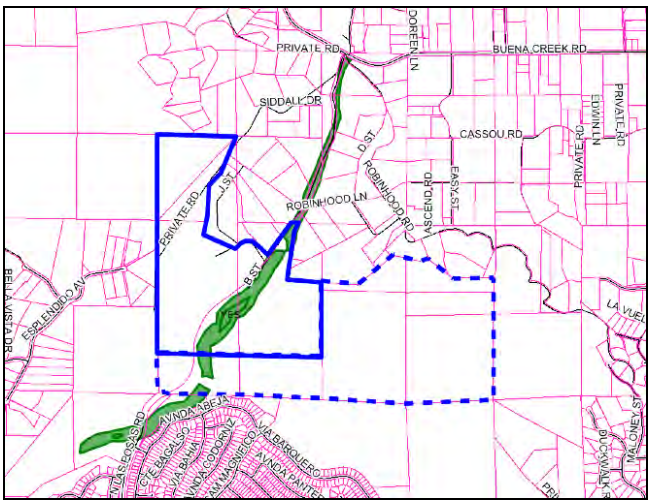
This analysis is based only on the portion of the subject property assigned a SR10 designation on the map adopted on August 3, 2011. Other portions are either within the City of San Marcos or are designated as SR2.

The site contains steep slopes, high and very high habitat value, and is located within the Very High Fire Hazard Severity Zone. However, the site is also located within the San Marcos Sphere of Influence (SOI). The property owner is requesting to retain the former General Plan density and for the City of San Marcos to annex the property; however, the County previously notified San Marcos of its objections to the annexation (*See additional information on next page and attachments*).

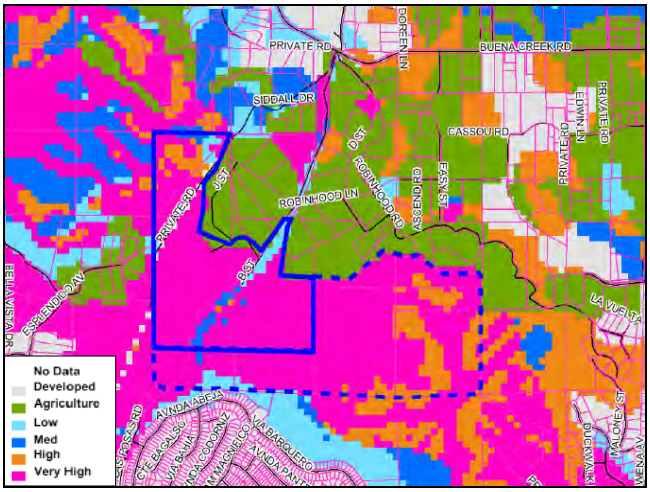
NC22 (cont.)



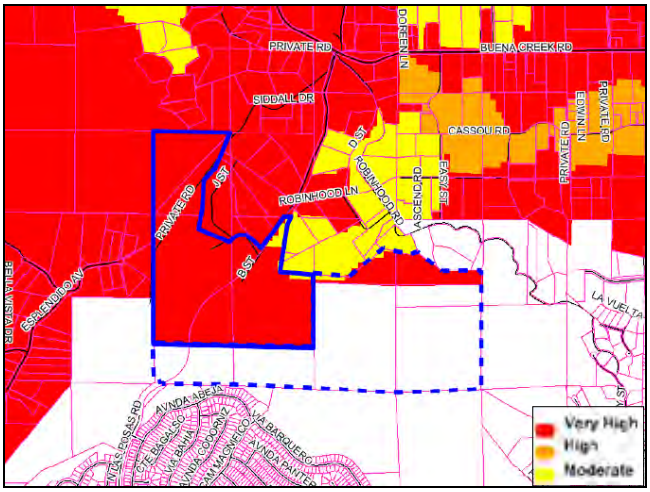
Steep Slope (Greater than 25%)



Wetlands



Habitat Evaluation Model



Fire Hazard Severity Zones

Additional Information

The City of San Marcos approved a Specific Plan for this property in July 1992 and the number of units for that Plan was subsequently reduced to 191 units after negotiations with wildlife agencies. The property owner intends to process a Tentative Map with the City of San Marcos later this year and is requesting to remove the portion of the project within the SOI from the General Plan Update (see attached letter from Vista San Marcos Ltd., dated October 18, 2010). Since, this property is still within the unincorporated county, the area must be included in the General Plan Update; however, if the Board of Supervisors were to support the property owner's request, this could be achieved by assigning a density consistent with the existing General Plan (SR2).

However, in 2002, the County notified the City of San Marcos of the General Plan Update's proposed reduction in density to SR10 for this area, and that since the proposed project "far exceeds this density", the proposed annexation would create a negative impact to the County's North County MSCP Subarea Plan (see attached DPLU letter dated April 2, 2002). In February 2011, the City of San Marcos revised their recommended designation from SR1 to SR2.

Property Specific Request	August 3 Adopted Designation	Level of Change Category
SR2 (Simmons) SR1 (City of San Marcos)	Semi-Rural 10	Major

Rationale for Major Category Classification

- As early as 2002, the County has been on record that the property owner's request is in conflict with the General Plan Guiding Principles.
- While this property is near incorporated areas and existing development, it includes very steep and biologically sensitive terrain.
- Additionally, while suburban development is nearby no existing villages or community centers are in the vicinity.
- The General Plan Community Development Model does not support increased development away from existing villages.
- The General Plan principles and policies do not support increased development in areas with limited access, sensitive resources, and significant constraints.

Guiding Principles/General Plan Changes Necessary to Support the Request

- The General Plan Guiding Principles and policies would require revisions to deemphasize compact communities.
- Revisions would also be necessary to Guiding Principles and policies that relate to reducing densities in areas with sensitive natural resources and certain constraints.
- The other nearby areas designated as SR10 could be reconsidered.
- Depending on the revisions to the principles, policies, and concepts, other lands with Semi-Rural Lands designations may require reconsideration.

Impact to Forest Conservation Initiative Remapping Timeline

None

Relevant General Plan Principles, Goals, and Policies

A sampling is included below:

Principle 2. Promote health and sustainability by locating new growth near existing and planned infrastructure, services, and jobs in a compact pattern of development.

Goal LU-1 Primacy of the Land Use Element. A land use plan and development doctrine that sustain the intent and integrity of the Community Development Model and the boundaries between Regional Categories.

Policy LU-1.1 Assigning Land Use Designations. Assign land use designations on the Land Use Map in accordance with the Community Development Model and boundaries established by the Regional Categories Map.

Policy LU-1.3 Development Patterns. Designate land use designations in patterns to create or enhance communities and preserve surrounding rural lands.

Policy LU-1.9 Achievement of Planned Densities. Recognizing that the General Plan was created with the concept that subdivisions will be able to achieve densities shown on the Land Use Map, planned densities are intended to be achieved through the subdivision process except in cases where regulations or site specific characteristics render such densities infeasible.

Goal LU-2 Maintenance of the County's Rural Character. Conservation and enhancement of the unincorporated County's varied communities, rural setting, and character.

Policy LU-2.4 Relationship of Land Uses to Community Character. Ensure that the land uses and densities within any Regional Category or Land Use Designation depicted on the Land Use Map reflect the unique issues, character, and development objectives for a Community Plan area, in addition to the General Plan Guiding Principles.

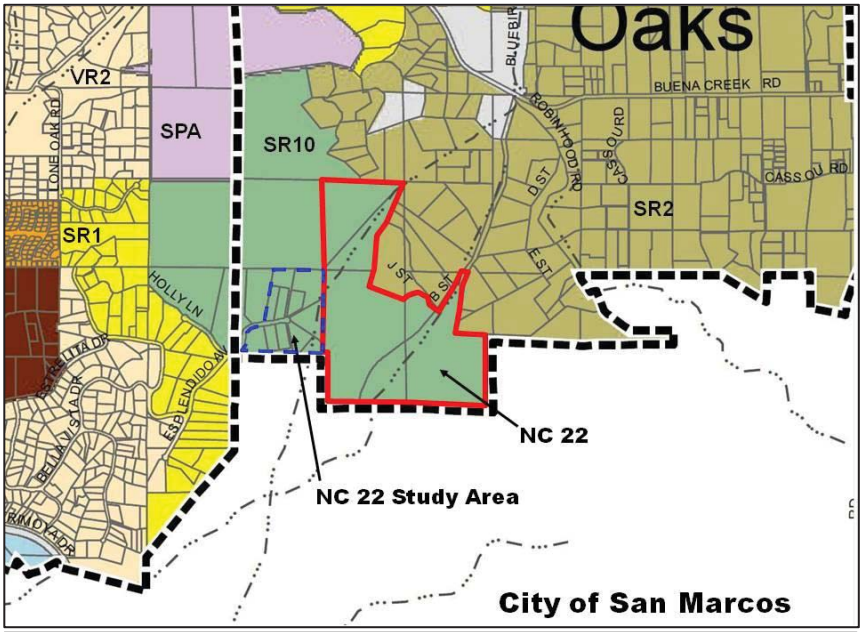
NC22 and Study Area

Existing GP Designation(s)	SR10
Requestor(s) Position: Support workplan designations Area (acres): 158 [130.9 PSR; 27.1 study area] # of parcels: 18	

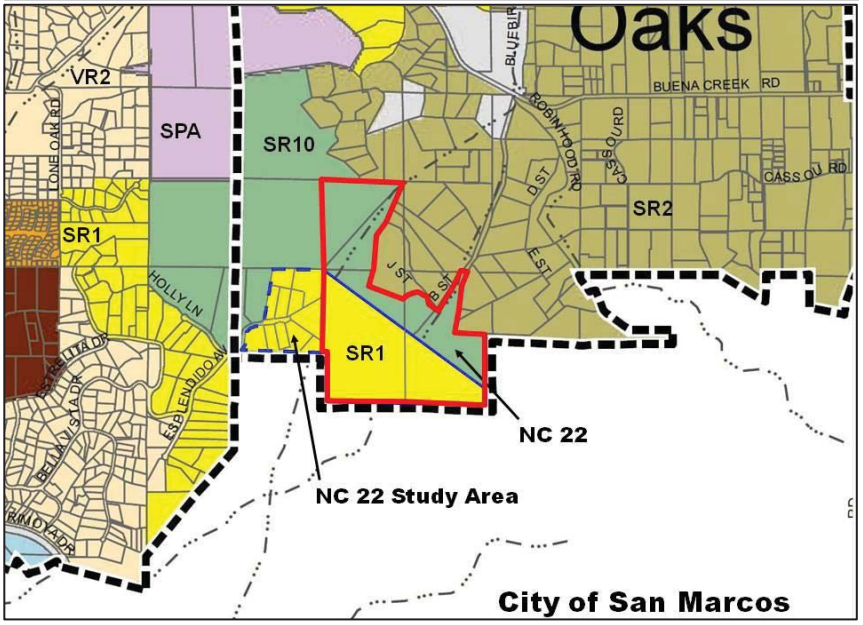
Workplan Designations Evaluated	SR10/SR1
CPG Position	Oppose
Opposition Expected	Yes
# of Additional Dwelling Units	44
Complexity	**High**

Discussion: This property is adjacent to the City of San Marcos and the City had previously approved a project for this property. The project obtained several other approvals (including a Section 404 permit from the Corps and Section 6 Biological Opinion from the U.S. Fish and Wildlife Service) but never annexed to the City. Most, if not all, project approvals have now expired but the property owner would like the ability to pursue a similar project. The workplan designation would apply SR1 to the southwestern portion of the property which is adjacent to existing development to the south. A corridor of SR10 would be retained along the northeastern portion of the property to reflect the likely open space configuration that would be associated with the development and to recognize the value of this portion of the property as a wildlife linkage. (continued on next page)

Existing General Plan Designation:



Workplan Designations Evaluated:



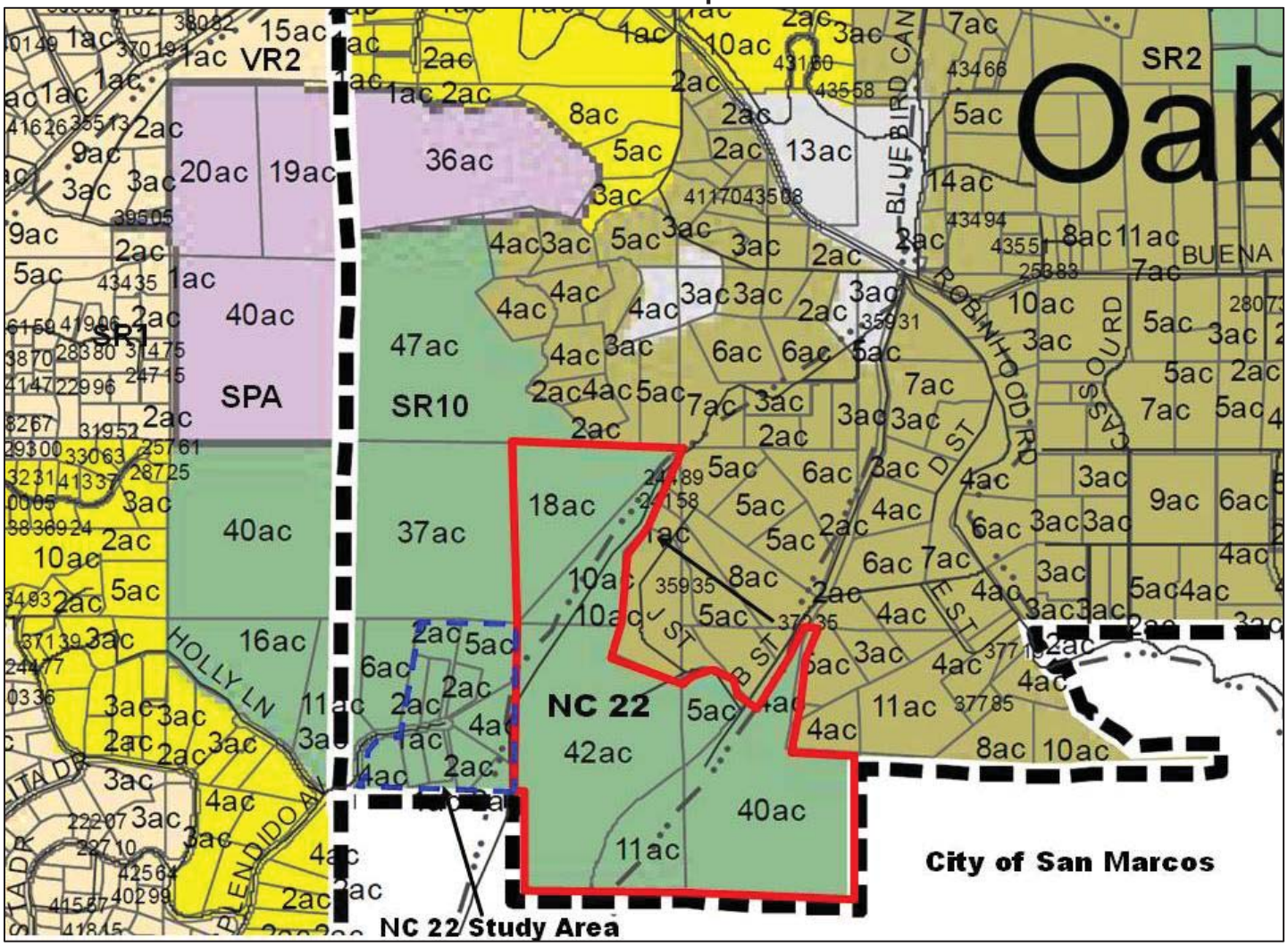
Discussion (continued): The ultimate design of the project would be determined when discretionary approvals from the County, State, and federal agencies are applied for. A small study area is included with this request to reflect a subdivided area adjoining the site and provide some similar potential for additional development.

*Note: CPG took no position because there was no quorum after some members recused themselves. The community has historically been opposed to development in this area. Residents believe that development in this area will significantly impact their quality of life.

Rationale for High Complexity Classification:

- Wetlands and High to Very High habitat areas exist on the property and would require mitigation and environmental review as part of any study involving introducing higher density and development to the area, to maintain compliance with Policies LU-10.2, LU-6.1 and LU-6.2.
- Numerous studies and permits have already been completed for the property but have lapsed. New environmental studies would be required with any new land development project.
- The property is at the center of an intersection between two important wildlife corridors for the area. Agua Hedionda Creek flows from the northeast to the southwest, through the property. The headwaters of the creek lie in the vicinity of the property, and thus higher density development in this area could have detrimental effects on water quality and downstream erosion in the watershed. In addition, the property lies in the center of a large northwest to southeast undeveloped wildlife corridor, stretching nearly 3 miles through the southern portion of the Twin Oaks Valley unincorporated community and into the City of San Marcos. This is one of the larger remaining corridors in the North County Metro area, and it has long been considered an essential component of the upcoming North County MSCP.
- Review of the workplan designations is essential to address consistency with Policy LU-2.4, ensuring that the land uses and densities reflect the unique issues and character of a community is essential. In accordance with LU-6.1, low density land use designations should be assigned to areas with sensitive natural resources (such as, extensive Coastal Sage Scrub on steep slopes, and a wetland corridor).
- Since the study area borders the incorporated City of San Marcos, it will be necessary to address consistency with Policy LU-2.6, requiring that development in the vicinity of neighboring jurisdictions retain the character of the unincorporated community. Similarly, Policy LU-10.3 requires the use of Semi-Rural and Rural designations to serve as buffers between communities.

Lot Size Map



For Additional Information (January 9, 2012 Staff Report): NC22

Twin Oaks Community Sponsor Group

P.O. Box 455
San Marcos, California 92069

August 26, 1999

City of San Marcos
1 Civic Center Drive
San Marcos, California 92069

Subject: Recognized Organizations

Gentlemen,

We request that the Twin Oaks Community Sponsor Group be added to your list of organizations which may make organized presentations at public hearings conducted by the City of San Marcos.

Members of the Sponsor Group are appointed by the Board of Supervisors to act as an information link between the unincorporated community and the County on matters dealing with planning and land use. Their duties and responsibilities are outlined in San Diego County Board of Supervisors Policy 1.

The Twin Oaks Community Sponsor Group believes that the San Marcos Highlands project will have significant impacts on their planning area, especially the Agua Hedionda Creek. The majority of the project is within their unincorporated planning area. We would like to make an organized presentation to the Planning Commission at their September 7, 1999 meeting and outline our concerns.

The officers of the Twin Oaks Community Sponsor Group are Rich Beadle; vice chairman, Gil Jemmot; secretary and Hank Palmer; chairman. Presentations will generally be made by one of the officers but any member may act as the group's representative. Correspondence should be directed to the letterhead address.

Sincerely,

H.L.Palmer, Chairman
Twin Oaks Community Sponsor Group

Cc: Gil Jemmot
Rich Beadle

MARK WARDLAW
Director

DARREN GRETLER
Assistant Director

County of San Diego
PLANNING & DEVELOPMENT SERVICES

5510 OVERLAND AVENUE, SUITE 110, SAN DIEGO, CALIFORNIA 92123
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017
www.sdcounty.ca.gov/pds

December 12, 2013

Norm Pederson
Associate Planner
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

Sent via email to
npedersen@san-marcos.net

COMMENTS ON THE MITIGATED NEGATIVE DECLARATION FOR THE PROPOSED SPECIFIC PLAN AMENDMENT AND TENTATIVE SUBDIVISION MAP FOR SAN MARCOS HIGHLANDS

Dear Mr. Pederson:

The County of San Diego (County) has reviewed the Mitigated Negative Declaration (MND) for the San Marcos Highlands Project, dated October 2013, and appreciates this opportunity to comment. The County has comments that identify potentially significant issues that may have an effect on unincorporated County lands. Please note that none of these comments should be construed as County support for this project or the associated annexation.

GENERAL COMMENTS

1. The existing County General Plan designation for the portion of the project within the County of San Diego is Semi-Rural 10 (SR-10). Development of the project at the proposed intensity would be inconsistent with the County's General Plan and overall planning principles. This property was included as a Property Specific Request (PSR) as part of the General Plan Update process, whereby the Board of Supervisors directed staff to evaluate the feasibility of changing a southern portion of the project site from SR-10 to SR-1. This would allow 44 additional dwelling units in the County. It should be noted, however, that the PSR process will require a full environmental analysis and there is no guarantee that the General Plan designation would be changed through this process. Staff has identified various constraints on this property as part of the PSR process, which

are also reflected in the comments provided on the current project being processed through the City of San Marcos.

2. Chapter 4 of the MND includes a list of new mitigation measures that would be required and states that other mitigation measures identified in the 1990 Final Environmental Impact Report (EIR) for the Specific Plan and the 2002 Supplemental Environmental Impact Report (SEIR) for the Specific Plan would still be applicable to the project. This approach leaves confusion regarding the mitigation applicable to the project because the earlier mitigation measures are buried in the prior project documents. In addition, some of the prior mitigation is likely duplicative or no longer relevant considering new analysis, specifically with regard to biology, noise, and traffic mitigation. The environmental document should be updated to include a complete, up to date and accurate list of mitigation measures applicable to the current project.

3. As discussed further in these comments, the changes in circumstances and potential new project impacts warrant the preparation of a SEIR versus the MND that was prepared for this large and impactive project. Circumstances have changed since the original 1990 EIR and 2002 SEIR that have not been adequately documented and analyzed. For example, adequate biological surveys were not completed to justify a less than significant impact.

4. Critical information was missing from the environmental documents provided during public review. The MND referenced a Fire Protection Plan but this was not made available to the public. In addition, there was no complete map showing all of the proposed biological mitigation areas and the wildlife agency opinions and permits were referenced but not made available for review. Although the County was provided with this information upon request, this information was not available to the public and, therefore, the public was deprived of a meaningful opportunity to comment on the project.

BIOLOGICAL RESOURCES

5. The project is partially within the County's draft Multiple Species Conservation Program North County Plan (draft North County Plan) Pre-Approved Mitigation Area (PAMA). The PAMA is the area within which the preserve will be assembled. As stated in the Biological Opinion (BO; USFWS 2005) the project site provides important habitat for the coastal California gnatcatcher in the North County Plan area and also in the Biological Core and Linkage Area (BCLA) of the Multiple Habitat Conservation Program (MHCP). Both regional plans rank the habitat as having very high habitat value. The Biological Opinion also states that the project site includes the last, relatively undisturbed native vegetation in northwestern San Marcos, as well as the headwaters of the Agua Hedionda Creek, and provides connectivity with undeveloped areas in the County that are important for the survival and recovery of the gnatcatcher. Based on an aerial

photograph from 2012, the undeveloped area, of which this proposed project is part, is about 1,400 acres and provides high quality habitat for many sensitive species. Development within this area would preclude its inclusion within the proposed PAMA, reduce the size of the PAMA, and would affect the viability of the PAMA in this area.

6. The USFWS Biological Opinion also discusses that the proposed project site contributes to the connectivity of coastal California gnatcatcher habitat to the east in the San Marcos Mountains and along the I-15 corridor. This connection is needed to maintain a north-south connection between the San Dieguito River near Lake Hodges to the south (within the County's MSCP preserve system), through gnatcatcher habitat within the City of Carlsbad to the northwest, through the "stepping stone" corridor of gnatcatcher habitat patches extending through Oceanside, to core populations of gnatcatchers on Camp Pendleton. Retaining the connectivity of the gnatcatcher habitat within northern San Marcos with County lands located adjacent to the cities of San Marcos, Vista, and Oceanside, is an important feature of the proposed project site. To retain that connectivity, the project's proposed 400-foot wide corridor should be made wider to provide wildlife movement and habitat not only for wide-ranging species such as mule deer, bobcats and coyotes, but also for dispersal and genetic exchange by small species such as the coastal California gnatcatcher.

7. The latest biological resources surveys of the property (2004) need to be updated for an accurate assessment of the biological resources, particularly for the coastal California gnatcatcher. Generally, the County requests updated surveys if the most recent surveys are more than one year old. The recent limited October 2013 reassessment (Everett and Associates 2013) does not provide the detail needed to accurately assess the currently proposed impacts to biological resources. Even though the proposed project footprint has been reduced in size, impacts could still be significant. Only updated surveys and analyses can provide the impacts to the biological resources on the site and evaluate whether the impacts have been mitigated to less than significant. Surveys should be conducted and a new report prepared according to the USFWS protocol for coastal California gnatcatcher and the County's Guidelines for Determining Significance and Report Format and Content Requirements (http://www.sdcounty.ca.gov/pds/docs/Biological_Guidelines.pdf).

8. The HMMP stated that the "project is not likely to jeopardize the continued existence of the CAGN". However, that statement does not mean that impacts to the federally listed species are not significant on a regional (SD County) and local (Twin Oaks Valley area) scale or according to CEQA. The impacts need to be reassessed and need to consider regional and local species impacts.

9. Cumulative impacts to the biological resources need to be reassessed in light of past, current and foreseeable future projects that would cause impacts in the vicinity of the project. This has likely changed quite a bit since the previous EIR.

10. To widen the wildlife linkage in the northernmost portion of the project site where the wildlife corridor is most constrained, an offsite easement is proposed. This offsite area has existing disturbance including an access road and structures. All structures, including fences, should be removed in this area. In addition, the restoration of habitat should use only native species that occur in Diegan coastal sage scrub dominated by California sagebrush (*Artemisia californica*), which is the type of coastal sage scrub preferred by the federally listed coastal California gnatcatcher.

11. The County disagrees with the conclusion of the Biological Resource Conformance Letter (Appendix D to the IS/MND) dated October 16, 2013. The proposed project is not consistent with the County's MSCP draft North County Plan. As stated in our comment letter of August 19, 2013 regarding the proposed Tentative Subdivision Map (TSM 408-Revised), the proposed project would compromise the efficacy of the North County's Plan's PAMA in this block of habitat. The PAMA includes high quality habitats that will create the ultimate linked preserve system in the North County Plan area. The proposed PAMA extends to the northwest in the County's jurisdiction and to the southeast it links to the Northern Focused Planning Area of the City's Draft Natural Community Conservation Plan. This linkage would be reduced to approximately 400 feet wide and severely constrain wildlife movement from what is now available.

12. No fuel management should occur within the proposed preserve corridor. In the current design, it appears that fuel management would extend into the corridor area, further compromising the integrity of the corridor.

13. **IS/MND Section 2.4 <u>Natural Open Space</u>**: The Natural Open Space areas are primarily for the conservation of wildlife habitat and habitat connectivity for wildlife movement, not for human uses. Trails should not be allowed in the narrowest portions of the habitat linkage, and brush management zones must be kept outside the narrowest portions of the linkage. The 400-foot wide linkage should all be left as a native plant community, or revegetated as such to provide cover for movement and habitation by wildlife.

14. **IS/MND Section 2.4 <u>Landscaped Slopes</u>**: The proposed project should use low-fuel native species to vegetate the slopes adjacent to the natural open space in order to provide additional habitat and movement locations for wildlife. In the document, "Native Plant Landscaping to Reduce Wildfire Risk – Recommendations for Landscaping near San Diego's Canyons and Wildlands", the California Native Plant Society provides a list of native plants that reduce

GARY L. PRYOR
DIRECTOR
(858) 694-2962

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

SAN MARCOS OFFICE
338 VIA VERA CRUZ - SUITE 201
SAN MARCOS, CA 92069-2620
(760) 471-0730

EL CAJON OFFICE
200 EAST MAIN ST. - SIXTH FLOO
EL CAJON, CA 92020-3912
(619) 441-4030

December 31, 2002

Michael D. Ott, Executive Officer
Local Agency Formation Commission
1600 Pacific Highway, Room 452
San Diego CA 92101

RE: SAN MARCOS HIGHLANDS REORGANIZATION; REF. NOS. R002-29, SA 02-29

Dear Mr. Ott:

On January 16, 2002 (3), the County of San Diego Board of Supervisors took an action for staff to investigate proposed pending cities' annexations and any impacts on the General Plan process to ensure that (1) proposed cities' annexations do not interfere with the outcome of the General Plan 2020 process; and (2) the County can preserve the integrity of the unincorporated territory through the completion of the General Plan process. The proposed San Marcos Highlands project requires the annexation of County lands into the City of San Marcos and therefore, is being reviewed by the County for conformance with the County's existing and proposed General Plan 2020 densities.

The current General Plan for the County of San Diego shows the density in the proposed development area of San Marcos Highlands as one dwelling unit per two or four acres depending on slope. The General Plan 2020 process proposes a density of one dwelling unit per ten acres for this area, due to the rugged terrain and biological

sensitivity. The proposed project far exceeds this density with a planned range of 2.9 – 5.5 dwelling units per acre. The proposed density of the development project is driving the need for urban services. The County believes that this land would best be developed at rural development standards. Therefore, this project is in conflict with the existing County General Plan and would interfere with the outcome of the General Plan 2020 process, threatening the integrity of the unincorporated territory.

In addition, the land under consideration is a relatively large block of habitat containing sensitive biological resources including riparian and coastal sage scrub habitats that support a range of wildlife species. The development of a plan to protect these sensitive resources is currently underway, the Multiple Species Conservation Program (MSCP) North County Subarea Plan. The current planning process addresses many issues related to lands contained in the lands proposed for annexation, including protection of the sensitive natural resources, potential configurations of connections to other natural areas, and reconciliation with development and community plans. Because the San Marcos Sphere of Influence was adopted in the 1970s and amended in the 1980s, it predates the existence of regional open space plans, such as the MSCP. At that time, there was not the awareness of the importance of comprehensive habitat planning as a necessary and legitimate government service. Therefore, the County believes the important issue of habitat planning must be an important consideration in determining the appropriateness of the proposed annexation. As stated in Government Code Section 56001, orderly development must be balanced with other objectives such as open space preservation. To approve the annexation now would seriously impede the County's efforts for regional habitat planning and preservation.

The North County MSCP planning process included the preparation of a Habitat Evaluation Model map. This quantitative habitat evaluation model has been developed for rating and prioritizing biological resource areas within the North County MSCP study area. The model was designed to facilitate the development of a preserve system by using the results to help identify the areas with significant biological resources and to serve as a benchmark to evaluate preserve design. The Habitat Evaluation Model map ranks habitats as Very High, High, Moderate or Low based on the contribution of each component of the model. The site proposed for annexation has been mapped entirely as having Very High habitat value.

The proposed annexation should adequately address the serious negative impacts in terms of habitat loss and blockage of the critical wildlife corridor between the San Marcos Mountains, the mountain to the north and the headwaters of the Agua Hedionda Creek in the North County MSCP Subarea Planning area. Because the land proposed for annexation is located within the MSCP and has been determined to have Very High habitat value, the County believes that the U.S. Fish and Wildlife Service and the California Department of Fish and Game must be involved and their input considered in the discussions of the impact of this annexation on regional habitat planning efforts.

The County maintains that the proposed annexation is inappropriate at this time in light of the regional planning efforts that are underway and that the annexation should not be allowed until an approved MSCP plan for this area has been adopted. Cumulative impacts could occur without a comprehensive plan to address habitat connectivity and the remaining open space in the immediate area and the region. Because the City of San Marcos has used its 5% take of Coastal sage scrub habitat allotted under the Endangered Species Act 4(d) Rule, annexations should not proceed until a comprehensive plan has been adopted.

The County believes that annexation of these lands to the City of San Marcos would create a significant negative impact to the County's North County MSCP Subarea Plan associated with habitat loss and blockage of a critical wildlife corridor as well as a significant impact relative to the County's General Plan 2020 Revision that is currently ongoing.

For the reasons stated above, the County of San Diego cannot support the proposed annexation of these lands to the City of San Marcos.

If you should have any questions or comments, please contact me at (858) 694-2962.

Sincerely,

GARY L. PRYOR, Director
Department of Planning and Land Use

GLP:NW:tf

cc: Local Agency Formation Commission (LAFCo) Members
Susan Wynn, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, CA 92009
William E. Tippetts, California Dept. of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92122
Twin Oaks Valley Sponsor Group, P.O. Box 455, San Marcos, CA 92079-0455
Mary H. Clarke, Friends of Hacienda Creek, 1529 El Paseo Drive, San Marcos, CA 92069
Michael Beck, San Diego Director, Endangered Habitats League, P.O. Box 1509, Julian, CA 92036
Bruce Posthumus, Regional Water Quality Control Board, 9174 Sky Park Court, Suite 100, San Diego, CA 92123
Robert Asher, DPLU
Maeve Hanley, DPLU
Nancy Whalen, DPLU
Tom Oberbauer, DPLU
LeAnn Carmichael, DPLU
Joan Vokac, DPLU

AUTHOR\1202\APLTRNW1-12-02

County of San Diego

MARK WARDLAW
DIRECTOR
PHONE (858) 694-2962
FAX (858) 694-2555

PLANNING & DEVELOPMENT SERVICES
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123
www.sdcounty.ca.gov/pds

DARREN GRETLER
ASSISTANT DIRECTOR
PHONE (858) 694-2962
FAX (858) 694-2555

September 15, 2014

Norm Pedersen
Associate Planner
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

Via email to npedersen@san-marcos.net

COMMENTS ON THE NOTICE OF PREPARATION FOR THE ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED SPECIFIC PLAN AMENDMENT AND TENTATIVE SUBDIVISION MAP FOR SAN MARCOS HIGHLANDS

Dear Mr. Pedersen,

The County of San Diego (County) has received and reviewed the Notice of Preparation of a Draft Programmatic Environmental Impact Report (PEIR) for the proposed Tentative Subdivision Map for 189 single family lots and open space on 262-acres located within the San Marcos Highlands Specific Plan Area and unincorporated County lands dated, August 15, 2014, and appreciates this opportunity to comment.

The issues raised in the County's prior comment letters dated August 19, 2013, and December 12, 2013 still apply to this project and we ask that these comment letters be considered in the preparation of the EIR. Please note that none of these comments should be construed as County support for this project or the associated annexation.

County Planning & Development Services (PDS) and Department of Public Works (DPW) have completed their review of the NOP and CEQA Initial Study and have the following comments, a summary of items that need to be addressed in the EIR:

- Need to update Biological Resource Survey, and Traffic Impact Analysis;
- Impacts to the County's draft Multiple Species Conservation Program North County Plan Pre-approved Mitigation Area (PAMA);
- Fire Protection and Fuel Management;
- Annexation issues, including the scope of adjacent street and facilities annexation; and
- Adequate mitigation for direct and cumulative transportation impacts.

The County of San Diego appreciates the opportunity to continue to participate in the environmental review process for this project. We look forward to receiving future environmental documents related to this project or providing additional assistance at your request. If you have any questions regarding these comments, please contact Sheri McPherson, Land Use/Environmental Planner at (858) 694-3064 or email sheri.mcpherson@sdcounty.ca.gov.

Sincerely,

DARREN GRETLER, Assistant Director
Planning & Development Services

Attachment: 1 - Comment letter on the request for a Specific Plan Amendment and Tentative Subdivision Map for 198 Single-family Lots, 3 Mini-parks, and Open Spaces on 262 acres within the San Marcos Highlands Specific Plan Area (SPA) and Annexation of 69.4 acres from the County, August 19, 2013.

2 - Comment letter on the Mitigated Negative Declaration for the Proposed Specific Plan Amendment and Tentative Subdivision Map, December 12, 2013.

e-mail cc:
Chris Livoni, Policy Advisor, District 5
Megan Jones, Group Program Manager, LUEG
Conor McGee, CAO Staff Officer, LUEG
Michael Ott, Executive Officer, LAFCO
Richard Chin, Associate Transportation Specialist, Department of Public Works
Nick Ortiz, Land Development Project Manager, Planning & Development Services
Jeff Kashak, Program Coordinator, Department of Public Works
Twin Oaks Valley Community Sponsor Group
Hidden Meadows Community Sponsor Group
Sheri McPherson, Land Use/Environmental Planner, Planning & Development Services

MARK WARDLAW
Director

DARREN GRETLER
Assistant Director

County of San Diego
PLANNING & DEVELOPMENT SERVICES

5510 OVERLAND AVENUE, SUITE 110, SAN DIEGO, CALIFORNIA 92123
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017
www.sdcounty.ca.gov/pds

August 19, 2013

Norm Pedersen
Planning Division
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

Via email to npedersen@san-marcos.net

COMMENTS ON THE REQUEST FOR A SPECIFIC PLAN AMENDMENT AND TENTATIVE SUBDIVISION MAP FOR 198 SINGLE-FAMILY LOTS, 3 MINI-PARKS, AND OPEN SPACE ON 262 ACRES WITHIN THE SAN MARCOS HIGHLANDS SPECIFIC PLAN AREA (SPA) AND ANNEXATION OF 69.4 ACRES FROM THE COUNTY

Dear Mr. Pedersen:

The County of San Diego has received and reviewed the proposed Tentative Subdivision Map (TSM 408-Revised) for 198 single family lots, 3 mini-parks, and open space located within the San Marcos Highlands Specific Plan Area and unincorporated County lands dated May 30, 2013 and appreciates this opportunity to comment. The County, as a responsible agency under CEQA Section 15381, has comments that identify potentially significant environmental issues that may have an effect on the unincorporated lands of San Diego County. In addition, the comments may identify reasonable alternatives and mitigation measures that should be explored in the environmental document.

County Planning & Development Services (PDS) and Department of Public Works (DPW) have completed their review and have the following comments regarding the content of the above documents.

GENERAL COMMENTS

1. The County of San Diego, Land Use and Environment Group has developed Guidelines for Determining Significance that are used to determine the significance of environmental impacts and mitigation options for addressing potentially significant impacts in the unincorporated portions of the County of San Diego. Potentially significant impacts within the unincorporated County and/or affecting County facilities should be evaluated using the County's Guidelines for Determining Significance, available online at: http://www.sdcounty.ca.gov/dplu/procguid.html#guide.

2. A majority of the proposed development area is located in a portion of the unincorporated County with a Semi-Rural 10 (SR10) Land Use Designation. The SR10 designation was adopted by the Board of Supervisors on August 3, 2011 based on the existing site constraints related to steep slopes, wetlands, habitat value, and fire hazards. Development of the project site at the proposed intensity would be inconsistent with the County's General Plan and overall planning principles.

3. The proposed project would result in annexation of 69.4 acres of unincorporated territory into the City of San Marcos and a proposed boundary realignment that would result in all of the development being located within the City of San Marcos and most of the open space being located in the County of San Diego. The annexation and proposed development would impact regional conservation planning, as discussed further below.

BIOLOGICAL RESOURCES

4. The environmental document should evaluate the project's impacts on the County's proposed North County Plan. The proposed project is located within a large block of habitat with sensitive biological resources including riparian and coastal sage scrub habitats that support diverse wildlife and plant species, including the federally listed threatened coastal California gnatcatcher. The portion of the property that is in the County's jurisdiction is designated in the Draft North County Plan as Pre-approved Mitigation Area (PAMA), which includes high quality habitats that will create the ultimate preserve system in the North County Plan area. Though development is allowed in the PAMA, developers are encouraged to build outside the PAMA and preserve lands inside the PAMA. The proposed PAMA extends to the northwest in the County's jurisdiction and to the southeast it links to the Northern Focused Planning Area of the City's Draft Natural Community Conservation Plan. The proposed project would compromise the efficacy of the PAMA in this block of habitat.

5. The property provides habitat important to the coastal California gnatcatcher, a species that will be covered by the County's Plan. Other sensitive wildlife species known to exist on the project site based on 1999 surveys include the Black-shouldered Kite, Red Diamond Rattlesnake, Bell's Sage Sparrow, and several raptor species, including Turkey Vulture, Cooper's Hawk, Red-shouldered Hawk, and Red-tailed Hawk. Medium to large mammals, such as bobcat, coyote, and mule deer, as well as small mammals also use the property. Wart-stemmed Ceanothus (*Ceanothus verrucosus*) is a sensitive plant species known to occur on the property. An updated survey should be conducted to determine what species currently occur on the property. The environmental document should assess the impacts of habitat loss and fragmentation, and the blockage of the wildlife corridor, for these species.

6. The project plans state, "The Following APN's: 184-101-15, 184-102-18, 32, & 44, are contiguous ownership to the project, but are not a part of the tentative map. The parcels are to be permanent open space and represent part of the open space mitigation under the following permits: Army Corps of Engineers SPL-2001-00479 (404 Permit), and California Department of Fish and Game #R5-2002-0445 (1603 Permits)." The environmental document needs to include an analysis of all impacts and mitigation associated with these agency permits, in addition to the impacts and mitigation associated with the development footprint. The environmental document should discuss resource management of all biological resource mitigation areas and identify who the resource manager would be.

7. The environmental document should evaluate how the proposed project would affect the regional habitat conservation planning efforts of the County. County staff are concerned that the proposed project is inconsistent with conservation principles that form the basis of regional conservation plans. The conservation principles are:

   - Conserve target species throughout the Plan Area: Species that are well-distributed across their native ranges are less susceptible to extinction than are species confined to small portions of their ranges.
   - Create larger preserves: Large blocks of habitat containing large populations of the target species are superior to small blocks of habitat containing small populations.
   - Keep preserve areas close: Blocks of habitat that are close to one another are better than blocks of habitat far apart.
   - Keep habitat contiguous: Habitat that occurs in less fragmented, contiguous blocks is preferable to habitat that is fragmented or isolated by

urban lands. Contiguous habitat also minimizes deleterious edge effects of urban lands.

- Link blocks of habitat: Interconnected blocks of habitat serve conservation purposes better than isolated blocks of habitat. Corridors or linkages function better when the habitat within them resembles habitat that is preferred by target species.
- Create diverse preserves: Blocks of habitat should contain a diverse representation of physical and environmental conditions.
- Protect preserves from encroachment: Blocks of habitat that do not have road access or are otherwise inaccessible to human disturbance serve to better conserve target species than accessible habitat blocks.
- Maintain natural processes: Preserves that are designed to maintain natural processes will sustain native biodiversity better than preserves in which such processes are disrupted.

The proposed project would impact multiple species, fragment a large block of habitat and lead to adverse edge effects on the isolated piece of property and the proposed on-site mitigation.

POLICE SERVICES

8. The plans provided include a note that police protection would be provided by the County of San Diego Sheriff's Department. Please ensure that the County of San Diego Sheriff, San Marcos Station is consulted regarding police protection.

FIRE PROTECTION

9. The proposed project is located in a very high fire hazard severity zone per the CALFIRE Fire Resource Assessment Program (FRAP) mapping. Development at the proposed density may not be appropriate given the site constraints related to fire protection and lack of existing access from the north. Specifically, the project design has the following fire safety issues:
   a. There are dead end road lengths that exceed the 800 foot maximum dead end road length per the Consolidated Fire Code;
   b. The lot sizes and locations cannot meet the San Marcos Fire Protection District's 150 foot fuel modification zone requirement per Section 4707.2 of the County Consolidated Fire Code; and
   c. The project design includes pockets of dense housing, interspersed with and surrounded by biological open space which is a fuel source and is difficult to manage for fire safety and is inconsistent with policies of the County General Plan.

10. The plans provided show only one public access point into the project site from the south going north on Las Posas Road. There is a proposed secondary access proposed along the southerly property boundary called secondary emergency access Lot Q, however there are no details as to whether this would be public, unobstructed access and what kind of improvements it would have. Improvements details should be provided on the plans to assess the adequacy of this secondary access point.

TRAFFIC AND TRANSPORTATION

11. Based on the Tentative Map (TSM 408-Revised), the proposed project would generate 1,980 trips (198 single family units x 10 trips/ unit). A Traffic Impact Study (TIS) should be conducted per the County's Guidelines for Determining Significance and Report Format and Content Requirements to ensure the proposed project's traffic impacts are reflective of the current traffic conditions in the area.

12. The TIS should note the existing, near-term and future plans for Las Posas Road. The proposed San Marcos Highlands project would increase the allowable development within the current unincorporated area significantly. The current County General Plan would allow 1 dwelling unit per 10 acres, or a total of 12 units on the portion of the project currently within the County. The proposal to add 198 single family units on this project site would significantly increase trips on county roadways compared to what would be allowed under existing County plans. The project TIS should provide a comparative General Plan (City Specific Plan vs. County General Plan) assessment of the project's buildout impacts to future Las Posas Road.

13. The proposed project and plans for Las Posas Road will have a significant impact on the County's Mobility Element network in the area. The County's Mobility Element currently classifies Las Posas Road as a 2.2C Light Collector road that would provide an additional north-south link between the Twin Oaks community and the City of San Marcos. The proposed increase in density may warrant a roadway design with a higher classification (i.e. increased capacity). At a minimum, the design and construction of Las Posas Road within the County's jurisdiction should meet the County's Public Road Standards for a 2.2C Light Collector road.

14. The TIS/EIR must provide an assessment of the project's cumulative impacts. Payment to the County's Transportation Impact Fee (TIF) program should be

provided to mitigate local and regional cumulative traffic impacts to facilities located within the unincorporated area of San Diego County.

15. San Marcos staff should coordinate with County staff on the cumulative project list for the analysis of cumulative traffic conditions.

16. County staff may provide additional comments upon submittal of the project's Environmental Impact Report and Traffic Impact Study.

The County of San Diego appreciates the opportunity to continue to participate in the environmental review process for this project. We look forward to receiving future environmental documents related to this project or providing additional assistance at your request. If you have any questions regarding these comments, please contact Jennifer Domeier, Land Use Environmental Planner at (858) 495-5204 or email jennifer.domeier@sdcounty.ca.gov.

Sincerely,

Mark Wardlaw, Director
Planning & Development Services

e-mail cc:
Eddie Sprecco, Policy Advisor, Board of Supervisors, District 5
Megan Jones, Group Program Manager, LUEG
Michael Ott, Executive Officer, LAFCO
Jody Mays, County of San Diego Sheriff
Richard Chin, Associate Transportation Specialist, Department of Public Works
Nick Ortiz, Land Development Project Manager, Planning & Development Services
Julia Quinn, Environmental Planning Manager, Department of Public Works
LeAnn Carmichael, Group Program Manager, Department of Public Works
James Pine, Deputy Fire Marshall, San Diego County Fire Authority
Twin Oaks Valley Community Sponsor Group
Hidden Meadows Community Sponsor Group
Jennifer Domeier, Land Use Environmental Planner, Planning & Development Services

MARK WARDLAW
Director

DARREN GRETLER
Assistant Director

County of San Diego
PLANNING & DEVELOPMENT SERVICES

5510 OVERLAND AVENUE, SUITE 110, SAN DIEGO, CALIFORNIA 92123
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017
www.sdcounty.ca.gov/pds

December 12, 2013

Norm Pederson
Associate Planner
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

Sent via email to
npedersen@san-marcos.net

COMMENTS ON THE MITIGATED NEGATIVE DECLARATION FOR THE PROPOSED SPECIFIC PLAN AMENDMENT AND TENTATIVE SUBDIVISION MAP FOR SAN MARCOS HIGHLANDS

Dear Mr. Pederson:

The County of San Diego (County) has reviewed the Mitigated Negative Declaration (MND) for the San Marcos Highlands Project, dated October 2013, and appreciates this opportunity to comment. The County has comments that identify potentially significant issues that may have an effect on unincorporated County lands. Please note that none of these comments should be construed as County support for this project or the associated annexation.

GENERAL COMMENTS

1. The existing County General Plan designation for the portion of the project within the County of San Diego is Semi-Rural 10 (SR-10). Development of the project at the proposed intensity would be inconsistent with the County's General Plan and overall planning principles. This property was included as a Property Specific Request (PSR) as part of the General Plan Update process, whereby the Board of Supervisors directed staff to evaluate the feasibility of changing a southern portion of the project site from SR-10 to SR-1. This would allow 44 additional dwelling units in the County. It should be noted, however, that the PSR process will require a full environmental analysis and there is no guarantee that the General Plan designation would be changed through this process. Staff has identified various constraints on this property as part of the PSR process, which

are also reflected in the comments provided on the current project being processed through the City of San Marcos.

2. Chapter 4 of the MND includes a list of new mitigation measures that would be required and states that other mitigation measures identified in the 1990 Final Environmental Impact Report (EIR) for the Specific Plan and the 2002 Supplemental Environmental Impact Report (SEIR) for the Specific Plan would still be applicable to the project. This approach leaves confusion regarding the mitigation applicable to the project because the earlier mitigation measures are buried in the prior project documents. In addition, some of the prior mitigation is likely duplicative or no longer relevant considering new analysis, specifically with regard to biology, noise, and traffic mitigation. The environmental document should be updated to include a complete, up to date and accurate list of mitigation measures applicable to the current project.

3. As discussed further in these comments, the changes in circumstances and potential new project impacts warrant the preparation of a SEIR versus the MND that was prepared for this large and impactive project. Circumstances have changed since the original 1990 EIR and 2002 SEIR that have not been adequately documented and analyzed. For example, adequate biological surveys were not completed to justify a less than significant impact.

4. Critical information was missing from the environmental documents provided during public review. The MND referenced a Fire Protection Plan but this was not made available to the public. In addition, there was no complete map showing all of the proposed biological mitigation areas and the wildlife agency opinions and permits were referenced but not made available for review. Although the County was provided with this information upon request, this information was not available to the public and, therefore, the public was deprived of a meaningful opportunity to comment on the project.

BIOLOGICAL RESOURCES

5. The project is partially within the County's draft Multiple Species Conservation Program North County Plan (draft North County Plan) Pre-Approved Mitigation Area (PAMA). The PAMA is the area within which the preserve will be assembled. As stated in the Biological Opinion (BO; USFWS 2005) the project site provides important habitat for the coastal California gnatcatcher in the North County Plan area and also in the Biological Core and Linkage Area (BCLA) of the Multiple Habitat Conservation Program (MHCP). Both regional plans rank the habitat as having very high habitat value. The Biological Opinion also states that the project site includes the last, relatively undisturbed native vegetation in northwestern San Marcos, as well as the headwaters of the Agua Hedionda Creek, and provides connectivity with undeveloped areas in the County that are important for the survival and recovery of the gnatcatcher. Based on an aerial

photograph from 2012, the undeveloped area, of which this proposed project is part, is about 1,400 acres and provides high quality habitat for many sensitive species. Development within this area would preclude its inclusion within the proposed PAMA, reduce the size of the PAMA, and would affect the viability of the PAMA in this area.

6. The USFWS Biological Opinion also discusses that the proposed project site contributes to the connectivity of coastal California gnatcatcher habitat to the east in the San Marcos Mountains and along the I-15 corridor. This connection is needed to maintain a north-south connection between the San Dieguito River near Lake Hodges to the south (within the County's MSCP preserve system), through gnatcatcher habitat within the City of Carlsbad to the northwest, through the "stepping stone" corridor of gnatcatcher habitat patches extending through Oceanside, to core populations of gnatcatchers on Camp Pendleton. Retaining the connectivity of the gnatcatcher habitat within northern San Marcos with County lands located adjacent to the cities of San Marcos, Vista, and Oceanside, is an important feature of the proposed project site. To retain that connectivity, the project's proposed 400-foot wide corridor should be made wider to provide wildlife movement and habitat not only for wide-ranging species such as mule deer, bobcats and coyotes, but also for dispersal and genetic exchange by small species such as the coastal California gnatcatcher.

7. The latest biological resources surveys of the property (2004) need to be updated for an accurate assessment of the biological resources, particularly for the coastal California gnatcatcher. Generally, the County requests updated surveys if the most recent surveys are more than one year old. The recent limited October 2013 reassessment (Everett and Associates 2013) does not provide the detail needed to accurately assess the currently proposed impacts to biological resources. Even though the proposed project footprint has been reduced in size, impacts could still be significant. Only updated surveys and analyses can provide the impacts to the biological resources on the site and evaluate whether the impacts have been mitigated to less than significant. Surveys should be conducted and a new report prepared according to the USFWS protocol for coastal California gnatcatcher and the County's Guidelines for Determining Significance and Report Format and Content Requirements (http://www.sdcounty.ca.gov/pds/docs/Biological_Guidelines.pdf).

8. The HMMP stated that the "project is not likely to jeopardize the continued existence of the CAGN". However, that statement does not mean that impacts to the federally listed species are not significant on a regional (SD County) and local (Twin Oaks Valley area) scale or according to CEQA. The impacts need to be reassessed and need to consider regional and local species impacts.

9. Cumulative impacts to the biological resources need to be reassessed in light of past, current and foreseeable future projects that would cause impacts in the vicinity of the project. This has likely changed quite a bit since the previous EIR.

10. To widen the wildlife linkage in the northernmost portion of the project site where the wildlife corridor is most constrained, an offsite easement is proposed. This offsite area has existing disturbance including an access road and structures. All structures, including fences, should be removed in this area. In addition, the restoration of habitat should use only native species that occur in Diegan coastal sage scrub dominated by California sagebrush (*Artemisia californica*), which is the type of coastal sage scrub preferred by the federally listed coastal California gnatcatcher.

11. The County disagrees with the conclusion of the Biological Resource Conformance Letter (Appendix D to the IS/MND) dated October 16, 2013. The proposed project is not consistent with the County's MSCP draft North County Plan. As stated in our comment letter of August 19, 2013 regarding the proposed Tentative Subdivision Map (TSM 408-Revised), the proposed project would compromise the efficacy of the North County's Plan's PAMA in this block of habitat. The PAMA includes high quality habitats that will create the ultimate linked preserve system in the North County Plan area. The proposed PAMA extends to the northwest in the County's jurisdiction and to the southeast it links to the Northern Focused Planning Area of the City's Draft Natural Community Conservation Plan. This linkage would be reduced to approximately 400 feet wide and severely constrain wildlife movement from what is now available.

12. No fuel management should occur within the proposed preserve corridor. In the current design, it appears that fuel management would extend into the corridor area, further compromising the integrity of the corridor.

13. **IS/MND Section 2.4 Natural Open Space**: The Natural Open Space areas are primarily for the conservation of wildlife habitat and habitat connectivity for wildlife movement, not for human uses. Trails should not be allowed in the narrowest portions of the habitat linkage, and brush management zones must be kept outside the narrowest portions of the linkage. The 400-foot wide linkage should all be left as a native plant community, or revegetated as such to provide cover for movement and habitation by wildlife.

14. **IS/MND Section 2.4 Landscaped Slopes**: The proposed project should use low-fuel native species to vegetate the slopes adjacent to the natural open space in order to provide additional habitat and movement locations for wildlife. In the document, "Native Plant Landscaping to Reduce Wildfire Risk – Recommendations for Landscaping near San Diego's Canyons and Wildlands", the California Native Plant Society provides a list of native plants that reduce

wildfire risk while providing habitat for wildlife in San Diego County. The document is available at http://www.cnpssd.org/fire/ReduceFireRisk.pdf .

PUBLIC SERVICES

15. The MND states that the project includes a comprehensive fuels management plan; however, this plan was not made available to the public during the public review process. The MND does not include any details about how fire protection would be implemented and who would be responsible for maintenance of the fuel management areas.

16. As stated in our previous comment letter, the proposed project is located in a very high fire hazard severity zone per the CALFIRE Fire Resource Assessment Program (FRAP) mapping. Development at the proposed density may not be appropriate given the site constraints related to fire protection. Specifically, the project design includes pockets of dense housing, interspersed with and surrounded by biological open space, which is a fuel source difficult to manage for fire safety.

17. Page 2-9 of the MND states, "The project incorporates Fuel Management zones of 100 to 150 feet." Buffers less than 150 feet would not meet the San Marcos Fire Protection District's 150 foot fuel modification zone requirement per Section 4707.2 of the County Consolidated Fire Code. No discussion was provided as to how these reductions would be mitigated.

TRAFFIC AND TRANSPORTATION

18. The Traffic Impact Analysis (Pg. 60) incorrectly concludes that a project contribution to the County's Transportation Impact Fee (TIF) program is not required because there are no cumulative or direct traffic impacts identified on the future segment of Las Posas Road from the project site to Buena Creek Road. On the contrary, TIF payment is a requirement for all projects located on unincorporated County lands that will generate trips. Payment of the TIF does not depend on whether the individual project has a cumulative or direct impact to a particular roadway facility. Although the project does not currently propose a connection to Buena Creek Road, the Las Posas connection exists as a planned Mobility Element network road on both the County and the City's Circulation Elements. At such time in the future when the planned road network is built out, the project will contribute trips onto County roads, some of which are currently or are projected to operate at inadequate levels of service. Although the project includes a proposed annexation to the City of San Marcos, a portion of the project development is located on unincorporated County land that was included in the analysis and development of the TIF program. Therefore, the project should contribute to the County's TIF to adequately mitigate for projected future road deficiencies identified within the County.

The County requests that a mitigation measure be added to the MND to require payment of the TIF amount described below or another amount agreed to by the County of San Diego and the City of San Marcos. If San Marcos collects the required SANDAG Regional Transportation Congestion Improvement Program (RTCIP) Impact Fee amount of $2,209, then the County TIF rate would be $1,805 per single family unit (North County Metro, Non-Village Rate). Based on an approximate 153 units located within the County unincorporated area, the corresponding TIF would be $276,165 (153 x $1,805). Link to TIF: http://www.sdcounty.ca.gov/dpw/land/tif.html

The County appreciates the opportunity to participate in the environmental review process for this project. If you have any questions regarding these comments, please contact Jennifer Domeier, Land Use Environmental Planner, at (858) 495-5204, or via email at jennifer.domeier@sdcounty.ca.gov.

Sincerely,

Todd Snyder

TODD SNYDER, Chief
Advance Planning Division

e-mail cc:
Eddie Sprecco, Policy Advisor, Board of Supervisors, District 5
Megan Jones, Group Program Manager, LUEG
Michael Ott, Executive Officer, LAFCO
Richard Chin, Associate Transportation Specialist, Department of Public Works
Nick Ortiz, Land Development Project Manager, Planning & Development Services
Julia Quinn, Environmental Planning Manager, Department of Public Works
Bobbie Stephenson, Land Use Environmental Planner, Planning & Development Services
Jennifer Domeier, Land Use Environmental Planner, Planning & Development Services
Twin Oaks Sponsor Group

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

DEC 31 2002

Mr. Michael D. Ott
Executive Officer
San Diego Local Agency Formation Commission
1600 Pacific Highway, Room 452
San Diego, CA 92101

Re: "San Marcos Highlands Reorganization" (Ref. No. SA02-29, RO02-29)

Dear Mr. Ott:

This letter responds to the request for comments on the above referenced proposal submitted to the Local Agency Formation Commission (LAFCO) for review and recommendation. We have prepared these comments with a desire to assist the Commission's staff in analyzing the proposal to reorganize territory involving annexations to the City of San Marcos, the Vallecitos Water District and the San Marcos Fire Protection District.

The reorganization territory is located adjacent to the City's northwest boundary and within the City of San Marcos' sphere of influence. The City has approved a Specific Plan Amendment and Tentative Subdivision Map that conditionally provides for the development of the 203-acre San Marcos Highlands project. The proposed San Marcos Highlands project would result in the development of 230 single-family units, and associated infrastructure such as sewer, storm drains and road. The project would also include 138 acres of open space, a 3-acre park site and trail system.

EPA is concerned with the degradation and loss of natural resources in the City of San Marcos. Due to economic growth and development, most of the vernal pools wetlands have been filled. San Marcos Creek and its watershed has been adversely impacted and severely degraded. Development is now encroaching into the hills surrounding the City of San Marcos resulting in impacts to coastal sage scrub and contributing tributaries to San Marcos Creek and Aqua Hedionda Creek.

EPA is concerned over the proposed San Marcos Highlands project. The project as currently proposed will result in significant adverse environmental impact. The proposed project would fragment the last large contiguous block of coastal sage scrub left in northern San Marcos. This area is part of the Biological Core and Linkage area listed in the U.S. Fish and Wildlife Service proposed Multiple Habitat Conservation Plan. The project and associated infrastructure would also result in filling of wetlands and impacts to the headwaters of Aqua Hedionda Creek.

In addition to the direct loss of wetlands and other waters, the proposed development would

result in indirect impacts to aquatic resources. Development will alter hydrology, release contaminated runoff, introduce exotic vegetation and result in incompatible uses by people, domestic pets and feral animals. Eventual degradation and additional loss of the aquatic resources are expected to result.

Discharges into waters of the United States associated with the proposed project will require permit authorization by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act. Should the applicant pursue permit authorization from the Corps, EPA will evaluate the project closely due to the biological sensitivity of the site and significant impacts to aquatic resources.

We believe that there are opportunities for residential development that does not result in significant loss of sensitive biological resources in and around the City of San Marcos. Thank you for the opportunity to comment on the San Marcos Reorganization. If you have any questions, please contact Elizabeth Goldmann of my staff at (415) 972-3398.

Sincerely,

Tim Vendlinski 12.31.02
Supervisor, Wetlands Regulatory Office

GARY L. PRYOR
DIRECTOR
(858) 694-2962

County of San Diego

SAN MARCOS OFFICE
338 VIA VERA CRUZ - SUITE 201
SAN MARCOS, CA 92069-2620
(760) 471-0730

EL CAJON OFFICE
200 EAST MAIN ST. - SIXTH FLOOR
EL CAJON, CA 92020-3912
(619) 441-4030

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

January 4th, 2002

Jerry Backoff
Director of Planning
City of San Marcos
Development Services Department
1 Civic Center Drive
San Marcos, CA 92069-2949

Re: SAN MARCOS HIGHLANDS SEIR 90-13, SPECIFIC PLAN MODIFICATION (MOD)/SP 89/16 (98MOD) AND TENTATIVE SUBDIVISION MAP TSM408/ND 99-503

Dear Mr. Backoff,

Route Locations and environmental staff have reviewed the Supplemental Environmental impact Report (SEIR) for the San Marcos Highlands project. This project includes a specific plan modification and a Tentative Subdivision Map for 230 single-family homes. There are several issues that need to be addressed before this project proceeds. Our comments are as follows:

- Figures, 3.1, 3.2 and 3.3 show that an extension up to San Marcos Road will be annexed as part of this project. The purpose and need of this extension should be clearly identified and discussed in the SEIR. It appears to be for a road extension to Buena Creek Road.

- The current General Plan Circulation Element for the County of San Diego indicates that the extension of Los Posas Road to Buena Creek Road is planned, yet the alignment is undetermined. It is unlikely that the alignment proposed in this project would be acceptable under the current General Plan. This extension of Los Posas Road may be removed from the GP2020 Circulation Element.

- On pages 4.4-4 and 4.4-5 under emergency access it is stated that further extension of Las Posas Road to the north would be County circulation

improvements. The extension of Las Posas Road to the north would not be a County improvement if the extension to San Marcos Road is annexed as part of the project. Annexation to this area would allow the project to construct emergency access to the north to Buena Creek Road. Near term construction of this road for emergency access for the proposed project should be evaluated as an alternative in the SEIR.

- It is also stated that emergency access from the north may be taken to Buena Creek Road via private road easements. The SEIR should specify which easements would allow this and what emergency access is provided at this time.

- Open space easements are located along each side of the Las Posas Road as it traverses the proposed project and as it extends northward to Buena Creek Road. These open space easements serve as potential wildlife corridors. Bisecting the open space with be inconsistent with objective 2 (page 3-6 of the San Marcos Highlands Specific Plan Amendment which is to "preserve and wherever possible enhance the existing riparian woodland, freshwater marsh pond and wildlife corridors." An alternative that does not bisect the open space/wildlife corridor should be identified and evaluated. This would include the elimination of Las Posas Road through street with possible use only as a secondary emergency access corridor. In the 2005 traffic analysis it was stated that this road extension would not be needed (roads would operate as LOS C or better) and elimination would not result in traffic impacts.

- The current General Plan for the County of San Diego shows that dwelling unit density in this area should be one dwelling unit (du) per ten (10) acres. The proposed project far exceeds this goal with a planned range of 2.9 - 5.5 du/ac.

- Section 3.7 Required Approvals of the SEIR is considered inadequate at this time as there will be a need for a Habitat Loss Permit from the US Fish & Wildlife Service and approval for the use of the County of San Diego 5% coastal sage scrub loss allotment. The latter is required as the City of San Marcos has exhausted its 5% coastal sage scrub loss allotment. It is stated in Section 4.3.4 that the proposed project would result in the loss of 76 acres of coastal sage scrub.

- The vegetation onsite consists of primarily undisturbed Diegan coastal sage scrub. The current project design would severely impact wildlife movement through the corridor of pristine habitat the trends to the northwest by bisecting the corridor. It is staff opinion that this project should be redesigned so that wildlife movement would be unimpeded from the southeast to the northwest. It is also recommended that an alternative to this project be included that would located the impacts to the southwest

area of the site, within the current City of San Marcos boundaries, to minimize detrimental environmental effects by not losing as great a quantity of coastal sage scrub habitat and also retaining the current wildlife corridor.

- The proposed project requires the annexation of County lands into the City of San Marcos. The land under consideration is a relatively large block of habitat containing sensitive biological resources including riparian and coastal sage scrub habitats that support a range of wildlife species. The development of a plan to protect these sensitive resources is currently underway; the Multiple Species Conservation Program (MSCP) North County Subarea Plan. The current planning process addresses many issues related to lands contained in the lands proposed for annexation, including protection of the sensitive natural resources, potential configurations of connections to other natural areas, and reconciliation with development and community plans. The SEIR should adequately address the impact that this annexation and associated habitat loss and blockage of a viable wildlife corridor would have to the North County MSCP Subarea Plan.

If you should have questions or comments, please contact Bob Goralka (Route locations staff) at (858) 694-3728 or Maeve Hanley (staff biologist) at (858) 495-5254.

MAEVE HANLEY
Environmental Management Specialist

cc: Nancy Gilbert, US Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad Ca, 92008
William E. Tippetts, CA Department of Fish & Game, 4949 Viewridge Avenue, San Diego, CA 92122
Twin Oaks Valley Sponsor Group, P.O. Box 455, San Marcos, CA 92079-0455
Mary H. Clarke, Friends of Hacienda Creek, 1529 El Paseo Drive, San Marcos CA 92069
Michael Beck, San Diego Director, Endangered Habitats League, P.O. Box 1509, Julian, CA 92036

TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP

P.O. Box 455 San Marcos, Ca. 92079

July 10, 2002

Dear Supervisor Jacob,

Last night the San Marcos City Council took action to approve a development project, 2/3 of which would require annexation of land within the jurisdiction of the County of San Diego. By its action, San Marcos dismissed, out of hand and with absolutely no consideration, the General Plan 2020 process that the Board of Supervisors initiated in 1999 and to which the community of Twin Oaks has committed hundreds of hours as well as the current County General Plan and County Zoning.

Thankfully, County DPLU Chief Ivan Holler attended the council hearing in support the County planning process in voicing County opposition to the annexation. This community is ever grateful to you and to Mr. Holler for your support and for this demonstration of integrity. I am sure you can appreciate how very important it is for communities to believe that their government representatives are ready and willing to defend them, and that the 2020 process has meaning. Frankly, it is clear that the City of San Marcos did not expect you to rise in defense of this community or even, your own process.

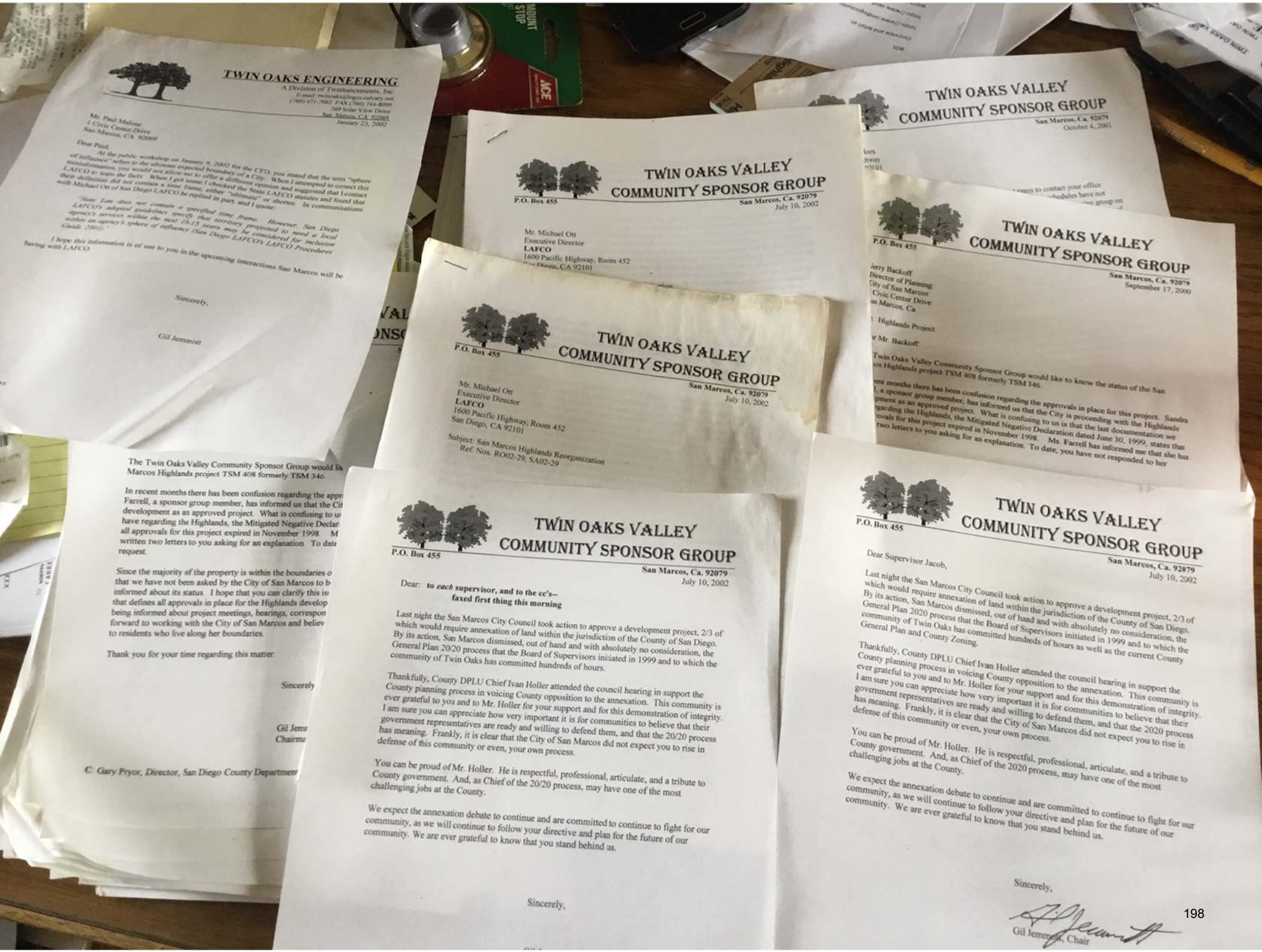
You can be proud of Mr. Holler. He is respectful, professional, articulate, and a tribute to County government. And, as Chief of the 2020 process, may have one of the most challenging jobs at the County.

We expect the annexation debate to continue and are committed to continue to fight for our community, as we will continue to follow your directive and plan for the future of our community. We are ever grateful to know that you stand behind us.

Sincerely,

Gil Jemmott, Chair

Cc: Members of the County Board of Supervisors
Bob Copper



TWIN OAKS ENGINEERING
A Division of Twinhancements, Inc.
E-mail: twinoaks@logos.calvary.net
(760) 471-7063 FAX (760) 744-8099
269 Solar View Drive
San Marcos, CA 92069
January 23, 2002

Mr. Paul Malone
1 Civic Center Drive
San Marcos, CA 92069

Dear Paul,

At the public workshop on January 9, 2002 for the CFD, you stated that the term "sphere of influence" refers to the ultimate expected boundary of a City. When I attempted to correct this misinformation, you would not allow me to offer a different opinion and suggested that I contact LAFCO to learn the facts. When I got home I checked the State LAFCO statutes and found that their definition did not contain a time frame, either "ultimate" or shorter. In communications with Michael Ott of San Diego LAFCO he replied in part, and I quote:

"State Law does not contain a specified time frame. However, San Diego LAFCO's adopted guidelines specify that territory projected to need a local agency's services within the next 10-15 years may be considered for inclusion within an agency's sphere of influence (San Diego LAFCO's LAFCO Procedures Guide, 2001)."

I hope this information is of use to you in the upcoming interactions San Marcos will be having with LAFCO.

Sincerely,

Gil Jemanott

TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP
P.O. Box 455 San Marcos, Ca. 92079
July 10, 2002

Mr. Michael Ott
Executive Director
LAFCO
1600 Pacific Highway, Room 452
San Diego, CA 92101

Subject: San Marcos Highlands Reorganization
Ref: Nos. RO02-29, SA02-29

TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP
P.O. Box 455 San Marcos, Ca. 92079
July 10, 2002

Dear: **to *each* supervisor, and to the cc's--**
faxed first thing this morning

Last night the San Marcos City Council took action to approve a development project, 2/3 of which would require annexation of land within the jurisdiction of the County of San Diego. By its action, San Marcos dismissed, out of hand and with absolutely no consideration, the General Plan 20/20 process that the Board of Supervisors initiated in 1999 and to which the community of Twin Oaks has committed hundreds of hours.

Thankfully, County DPLU Chief Ivan Holler attended the council hearing in support the County planning process in voicing County opposition to the annexation. This community is ever grateful to you and to Mr. Holler for your support and for this demonstration of integrity. I am sure you can appreciate how very important it is for communities to believe that their government representatives are ready and willing to defend them, and that the 20/20 process has meaning. Frankly, it is clear that the City of San Marcos did not expect you to rise in defense of this community or even, your own process.

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We expect the annexation debate to continue and are committed to continue to fight for our community, as we will continue to follow your directive and plan for the future of our community. We are ever grateful to know that you stand behind us.

Sincerely,

TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP
P.O. Box 455 San Marcos, Ca. 92079
July 10, 2002

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You can be proud of Mr. Holler. He is respectful, professional, articulate, and a tribute to County government. And, as Chief of the 2020 process, may have one of the most challenging jobs at the County.

We expect the annexation debate to continue and are committed to continue to fight for our community, as we will continue to follow your directive and plan for the future of our community. We are ever grateful to know that you stand behind us.

Sincerely,

Gil Jemmott, Chair

TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP
P.O. Box 455 San Marcos, Ca. 92079
September 17, 2000

Jerry Backoff
Director of Planning
City of San Marcos
1 Civic Center Drive
San Marcos, Ca

Highlands Project

Mr. Backoff

Twin Oaks Valley Community Sponsor Group would like to know the status of the San Marcos Highlands project TSM 408 formerly TSM 346.

In recent months there has been confusion regarding the approvals in place for this project. Sandra Farrell, a sponsor group member, has informed us that the City is proceeding with the Highlands development as an approved project. What is confusing to us is that the last documentation we have regarding the Highlands, the Mitigated Negative Declaration dated June 30, 1999, states that all approvals for this project expired in November 1998. Ms. Farrell has informed me that she has written two letters to you asking for an explanation. To date, you have not responded to her request.

Since the majority of the property is within the boundaries of

that we have not been asked by the City of San Marcos to b

informed about its status. I hope that you can clarify this is

that defines all approvals in place for the Highlands develop

being informed about project meetings, hearings, correspon

forward to working with the City of San Marcos and believ

to residents who live along her boundaries.

Thank you for your time regarding this matter.

Sincerely

Gil Jemm

Chairma

C: Gary Pryor, Director, San Diego County Department

Twin Oaks Valley
Community Sponsor Group

P.O. Box 455 **San Marcos, Ca. 92079**

December 28, 2001

Mr. Jerry Backoff
Director of Planning
City of San Marcos
1 Civic Center Drive
San Marcos, CA

Re: San Marcos Highlands Project, Comments on the Draft Supplemental Environmental Impact Report.

Introduction

We appreciate the opportunity to respond to the Draft Supplemental Environmental Impact Report (DSEIR) for the San Marcos Highlands. We hope that our comments will guide the City of San Marcos and the project applicant to create a project that will be a benefit to the applicant, the City of San Marcos, and the community of Twin Oaks. As previously stated[1], this project's impacts would be felt primarily by property owners and residents within our planning area who have no representation in San Marcos City matters. We believe that protection of natural resources and community character are directly linked to quality of life. We hope the City of San Marcos supports this position.

The Twin Oaks Valley Community Sponsor Group has written extensive comments regarding the San Marcos Highlands, or Highlands in response to both the Mitigated Negative Declaration (MND) and the Notice of Preparation (NOP). Those comments and supporting documentation are included as attachments to this document.

Attachment A.	Comments on MND San Marcos Highlands, Twin Oaks Valley Community Sponsor Group, February 21, 2001
Attachment B.	Twin Oaks Community Plan
Attachment C	Response to NOP, San Marcos Highlands, Twin Oaks Valley Community Sponsor Group,

[1] P 1, Attachment A.Comments on MND San Marcos Highlands, Twin Oaks Valley Community Sponsor Group, February 21, 2001

Attachment D	Response to NOP for San Marcos Highlands, LAFCO
Attachment E	Army Corps of Engineers letter to KB Homes
Attachment F	Schuler letter to Army Corps, ref Permit Application 19991657-RRS
Attachment G	Comments on MND, San Marcos Highlands, San Diego County Department of Planning and Land Use
Attachment H	Section 1.500 of San Diego County Map Processing Manual
Attachment I	State of California Government Codes Section 66457(b)
Attachment J	County Policy I-55 and I-59
Attachment K	North County Times Newspaper Articles
Images A,A1-A4	Highlands Impact Plan Views
Image B	Existing Site Conditions

GENERAL COMMENTS

Overall it appears that the author of the Draft Supplemental Environmental Impact Report, or DSEIR, failed to read our previous comments. The DSEIR, as with previous documents, compares the Highlands either to an expired project or to adjacent development in the City of San Marcos. There is no acknowledgement that the majority (58%) of the project is outside of city boundaries, nor an attempt to comply with A-70 zoning presently on the portion of the project outside city boundaries. There is no acknowledgement of the rural character of development adjacent to three sides of the Highlands, some in existence since the early 1960s, nor any attempt to make the Highlands blend in with these areas. Attached (image a) takes the aerial view shown in DSEIR and overlays the proposed development.

We see major contextual flaws with the DSEIR. First of all it continues to evaluate the proposed project by comparing it to one that has expired in spite of the fact that the project boundaries, area, layout, and number of dwelling units have changed markedly. Secondly, the DSEIR fails to acknowledge the fact that 58 percent of the project has not been annexed to the City and therefore must still comply with the current A-70 zoning. Thirdly, the DSEIR fails to acknowledge any impacts associated with the project to the existing rural community that boarders it on three sides. Finally, the DSEIR does not acknowledge that substantial changes in conditions, including environmental and land law, have occurred since 1990, the date of the original and expired EIR.

The statement repeatedly made throughout the DSEIR that the Highlands will have no impacts or have less than significant because the proposed project has less dwelling units than the previously approved project is false.

First of all, the previous project and plan have expired. Secondly, the intensity of development proposed in the DSEIR is substantially higher than the adjacent community or the previously adapted and now expired plan. Thirdly, it is clearly different than its neighbors to the east, west and north. Moreover, even with the removal of part of planning area 1 currently outside the sphere of influence, 58 % of the property and 90% of the development on the site, falls outside the city. For the City and applicant to propose a project so out-of-character in this area is preposterous.

We believe that the original twelve-year old project that expired in 1998, if brought forward today, would not be approved. There has been a significant shift in public sentiment since the original project was approved. Rampant growth has quickly replaced open space and rural communities with high-density housing. As a result, the public now desires to preserve many of the remaining open spaces and unique rural neighborhoods as a relief to the homogenous look often found in master planned communities. The loss of open space and rural neighborhoods to high-density tract type homes is now referred to as "sprawl".

To continue to compare any new project to the previously approved project is inappropriate. Over 50% of this project is located outside the City of San Marcos and under the land use jurisdiction of San Diego County Department of Planning and Land Use (DPLU). To date there is no approved project for this site listed with DPLU on county land.

This proposed development violates policies and regulations as set forth in the Twin Oaks Community Plan, County General Plan, Board of Supervisors Policy I-55, environmental policies, and LAFCO policies.

Therefore, for this DSEIR to properly fill its obligations under CEQA it needs to acknowledge this projects place in the county as well as the city and look at the cumulative impacts the Highlands would have on adjacent rural communities.

The DSEIR has failed to address a number of the issues raised by the Twin Oaks Valley Community Sponsor Group in our previous comments to both the RMND and NOP. We asked that questions and comments raised in previous comments by the Sponsor Group, not addressed by the DSEIR, be addressed in a either the FEIR or a new EIR.

PROJECT DESCRIPTION

3.1 Project Background/History

The San Marcos Highlands, originally approved by the City of San Marcos in 1990, went through several time extensions until it expired in 1998. The original project described in all previous documents consists of 230 du on 225 acres with a significant portion, 58% of the area and approximately 90% of the development proposed, lying outside the City of San Marcos in the Twin Oaks Valley Planning Area. This land is currently zoned A-70/Estate residential with 1 dwelling unit per 2&4 acres. The area is characterized by steep slopes and contains the headwaters to Agua Hedionda Creek. The creek has been identified as an important wildlife corridor that provides wildlife with foraging and nesting opportunities. The area is surrounded by estate residential and is characterized by individualistic style of architecture, large lot design, agricultural and equestrian land uses. To the south there is one SPA high-density development, Santa Fe Hills.

The proposed Highlands will require the extension of Las Posas road across Agua Hedionda Creek and up through the wildlife corridor. The DSEIR identifies significant cuts and fills as having a potential adverse effect. This along with the location of a 4-lane road and 230 homes in the middle of a wildlife corridor can only degrade wildlife, water quality and visual resources as well as jeopardize agricultural and equestrian activities prominent in the area. This project will seriously degrade the quality of life for the residents in Twin Oaks.

The Highlands project has undergone several changes, including the recent removal of 21 acres originally set aside for open space, outside the city's sphere of influence. Although the city repeatedly claims in the DSEIR that because the total number of dwelling units is less then the adopted project and therefore the project will have less impact, Table 3-2 of the DSEIR shows the land use intensity has actually increased from 2.6 (net/gross) du/acre identified in SP89-16 to 3.8 (net/gross) du/acre identified in SP89-1698 MOD.

Although the project has been in planning since the late 1980s, it appears that the City of San Marcos did not at any time consult with or seek the approval of either San Diego County Department of Planning and Land Use or the Twin Oaks Community Sponsor Group during the preparation of the original EIR (EIR 90-13). The City approved the project in 1990 without any involvement of the above-mentioned groups. Not until several residents approached us at our planning meeting in 1998 did we learn of the project.

Moreover, San Marcos acting as the lead agency has not properly followed CEQA. According to Local Agency Formation Commission (LAFCO), the city approved the project without incorporating comments made by Local Agency Formation Commission (LAFCO) on the Draft EIR or providing them with an opportunity to comment on either the Mitigated Negative Declaration (MND) or Recirculated Mitigated Negative Declaration (RMND) [2]
In our past comments we have requested a new or subsequent EIR, not a supplemental EIR, be done for this project. Upon review of the DSEIR, although some of the areas of concern have been sufficiently addressed, we still strongly believe that many impacts have not been properly addressed. We shall show several significant impacts that have been either not fully identified, not reasonably mitigated, or both. In addition, several errors occur in this document that are significant and therefore make the document unsuitable for fulfilling CEQA requirements.

The DSEIR contains several significant errors that make it unacceptable as a legal binding document because it requires the public to evaluate and comment on the project with incorrect information.

Upon inspection of the documents we noticed a disturbing number of errors. The map shown figure 3-4, page 3-5 in the DSEIR shows eleven more lots than maps in either the
Mitigated Negative Declaration or the Notice of Preparation [3]. It is unclear how eleven more lots could be added while the total lot count remains the same. In addition, the project appears to have changed since the NOP. The removal of the area outside the city's sphere of

[2] p 1,Attachment D LAFCO, Response to NOP for San Marcos Highlands

[3] p4, NOP, Figure 3 Master Plan Land Use

influence raises new questions regarding open space. Is this area still considered part of the open space requirement for this project or will it be developed at a later date? If it is not part of the project, why is it shown in the document? How does the removal of this piece of the project impact agreements with the Wildlife agencies? Since the DSEIR is a legal document, we would like a clear explanation of these issues. If the map or stated lot count provided in the DSEIR is in error, we recommend that this document be revised and reissued with corrections. It is not fair to the public to ask them to comment on documents that are in error or are unclear.

Also, page 4.1-1 of the DSEIR fails to properly identify the current Paloma Specific Plan. This plan, amended in 1998, increased the density of the project by 100 more homes and removed the fire station from the College Area Community Plan area. As a result, the nearest fire station will be much farther way. This is a change in condition since the approval of the prior now expired project. Therefore, the loss of a fire station, along its associated impacts, needs to be identified.

Because San Marcos has experienced such rapid growth in the past fifteen years and may have increased densities of other projects beyond what was identified at the time the original Highlands project was approved we would like the DSEIR to answer the following:

> What other projects within present city boundaries have increased density from their original approved plans?
>
> Does the total density change equal or exceed the present San Marcos General Plan?
>
> If so how does this impact items listed in the Highlands DSEIR?

In addition, Esplendido Ave is misspelled throughout the DSEIR.

Finally, in appendix 11.a, comments submitted by the Twin Oaks Valley Community Sponsor Group are mixed in with comments by other groups, making reading of documents confusing and difficult.

This document is sloppy and insufficient. We trust that the city, in order to comply with CEQA, will ask the applicant to correct these errors and will re-circulate the document for public comment.

Annexation

The DSEIR fails to acknowledge the sprit and purpose of AB2838, which is to provide orderly coherent annexation and prevent sprawl.

The location of the Highlands property within the City's sphere of influence does not guarantee annexation. In fact, the circumstances surrounding this project bring into question effectiveness of the use of spheres of influence in encouraging orderly and coherent annexation and land use planning of areas located outside the San Marcos city boundaries. The area around the project has substantially changed since establishment of the current sphere boundary. This area has evolved to have a unique identity characterized by rural land uses. The Highlands is surrounded on three sides by rural areas and is in the jurisdiction of the County of San Diego and the Twin Oaks Community Sponsor Group. The proposed project is dramatically different from the Twin Oaks Community. The implementation of the Highlands would extend urban development beyond these geographical barriers making future annexation possible and furthering the spread of sprawl. The implementation of the Highlands could therefore lead to the demise of the entire rural community. Given the historical pattern of development in San Marcos combined with its land use policy, this is reasonable assumption.

AB2838 requires that cities update their spheres of influence five years. San Marcos last update occurred over nine years ago. As required by AB2838, the sphere of influence should be updated for this area and revised to reflect changes in conditions that have occurred since the sphere was originally developed.

The DSEIR failed to address comments we made to the MND regarding the long thin tendril in area 3B which extends northward and does not belong as part of the project. We stated that this area should not be annexed into San Marcos. We still believe that the City's stewardship of the southern portion of Agua Hedionda Creek does not justify their taking responsibility for additional wetlands. Their failure to maintain and protect the creek and the pond indicates a lack of concern. We also still believe that annexing this portion into the city would be growth inducing by making many more properties contiguous to the

city. The recent attempts by the city to make annexation a condition of providing fire protection support our concerns. Since this tendril is not needed to service the proposed development, and the city states in the DSEIR that it does not intend to continue Las Posas any farther than what is shown of the project map, why is this tendril still part of the project?

Project Conflicts with County Annexation Policies as outlined in Board of Supervisor's Policy –I-55

A copy of Policy I-55 was submitted as part of the comments to NOP.[4] It states in part:

" *Annexation of developed or developing areas which are adjacent to cities is generally encouraged when the following factors are appropriate and/or applicable for the particular area and situation:*

(c) There is no natural geographic separation between an existing city and the unincorporated territory.

(d) The community identity of the annexing area is compatible with the city."

Figure 3-3 in the DSEIR clearly shows a marked separation between existing development in the city and the rural county lands. Steep slopes of the San Marcos Mountains to the north and eastern portion of the project site create a natural barrier between this project and adjacent lands. The knoll requiring a 100-foot cut to accommodate the project, on the southern portion of the project site, is a key geographic indicator for the end of San Marcos City limits.

As seen in Figure 3-3 and images supplied with this document, there is a perceivable difference between rural community identity of homes in the county, along Esplendido Ave and Robin Hood Ranch, and the urbanized character of Santa Fe Hills to the south. Figure 3-3 clearly shows how the implementation of the Highlands, as proposed, will dramatically change the community character in this area and divide an existing rural community.

1.3 Project Alternatives

[4] page 4, County response to NOP, San Marcos Highlands, April 30,2001

The DSEIR fails to investigate reasonable alternatives as defined in CEQA

As previously stated, the DSEIR fails to acknowledge the existing Count of San Diego zoning on land outside the city within the Twin Oaks Community Sponsor Group Planning area of the North County Sub regional Plan. Although the 1990 FEIR did show a large lot alternative, it was dismissed without enough detail to determine that it was not practical. We therefore request that the DSIR address a large lot alternative incorporating policies specified in the Twin Oaks Community Plan and County General Plan.

The Highlands project is dramatically from the rural Robin Hood Ranch community or the homes on Esplendido Ave. The Highlands proposes a minimum lot size of 5,830 square feet. The homes in the county have a minimum lot size of two or acres depending on slope. *Section 15126.6 of the CEQA Guidelines require that an EIR describe a range of reasonable alternative to the proposed project that could feasibly attain most of basic objectives of the project and are capable of avoiding or substantially lessening one or more of the significant effects*. The "rule of reason" should therefore be applied and alternatives should be investigated that blend, gradate or provide a sufficient buffer between these two very different densities.

3.6 Compatibility with adopted Plans

The DSEIR fails to address incompatibility of the existing zoning on the portion of the project outside city limits and the adopted plans associated with this land. Furthermore the Highlands is in gross violation with existing Community and County General Plans

As previously stated, the DSEIR repeatedly compares the proposed project to one that expired over three years ago. The proposed project consists of 119 acres outside the City of San Marcos currently zoned A-70/Estate Residential, 1 dwelling unit per 2or 4 acres as defined in the County General Plan.[5]

The DSEIR fails to identify that portions of the Highlands are outside the city is within the North County Metropolitan Sub-regional Plan and not part of any County designated Current Urban Development Area (CUDA) or Future Urban Development Area (FUDA). The existing A-70 zoning, with all its entitlements and restrictions, is clearly defined and

[5] County of San Diego, General Plan map, Twin Oaks Sponsor Group Area

supported in the County General Plan, the North County Metropolitan Sub-regional Plan, the County zoning ordinance, and the Twin Oaks Valley Community Plan. The proposed Highlands is incompatible with the County General Plan, the North County Metropolitan Sub-regional Plan, the County zoning, the Twin Oaks Valley Community Plan, and County Grading Ordinances (excessive cut slopes and other violations).

<u>The proposed Highlands allows clustering and high-density urban type development violates the Twin Oaks Community Plan.</u>[6]

The following are taken from the Twin Oaks Community Plan:
Page4, *Policies and Recommendations, B. Maintain the existing rural character of Twin Oaks Valley in future developments by avoiding high density trade-offs (i.e. clustering and lot averaging) and encouraging rural oriented designs and compatible lot plans. No lot shall be less than two (2) acres in size.*

Page 5, *C. All new project and tentative maps shall reflect appropriate and innovative site design aspects including:*

(1) Roads which reflect rural character following topography and minimizing grading.
(2) Residential design which varies significantly within individual project and reflects compatibility with rural character of the Twin Oaks Community.
(3) Lot patterns and dedicated open space, which reflect sensitivity to environmental resources and which are compatible with the prevailing rural agricultural character.
(4) Designs and site Landscaping which appropriately integrate the man-made construction with natural setting and topography.
D. Site designs shall:
(1) Be in harmony with existing topography and viewscape.
(2) Incorporate grading which does not create an eyesore nor unduly disrupt the natural terrain, nor cause problems associated with runoff, drainage, erosion or siltation.
E. No clustering or lot averaging shall be allowed in the Twin Oaks Valley Community Plan

Page 6.

K. All access-including roads, walkways and retaining walls—shall blend with the natural landforms. No curbs, gutters, or

[6] page Attachment B. Twin Oaks Community Plan

sidewalks shall be used outside the specific commercial land use areas. Grading shall be minimized.

Page 7.

RESIDENTIAL GOAL,

A. Maintain and enhance the existing rural/agricultural atmosphere of the community planning area while accommodating residential community growth which is in harmony with the natural environment.

Therefore both the original adopted plan and the proposed plan, Specific Plan Amendment SP89-1698 MOD, are in violation of all the above referenced plans.

Finally, it appears the originally approved project did not follow the section 66457 of California Codes, Government Code of the Map Act that states

(b If the subdivision lies partially within two or more territories, the map shall be filed with each, and each shall act thereon as provided in this chapter.

To date we can find no record that the Highlands followed this procedure. Therefore both the original and current maps are invalid as are all references and comparisons to a previously approved project. The DSEIR needs to supply proof that the applicant and the city have complied with the Map Act by providing evidence of map submissions to and approvals by the County of San Diego.

4.1 Land Use Community Character.

The DSEIR states: *No significant impacts to Land Use and Community Character are identified beyond those impacts analyzed in EIR 90-13. No new mitigation measures are required.*

In support of this, the DSEIR erroneously states on page 4.1-1 that *"the project site is governed by the San Marcos Highlands Specific Plan 89-16."* Only the portion of the project that presently exists within the City of San Marcos is governed by city SPA. Areas outside city limits are not designated as SPA but A70 and under the jurisdiction of County DPLU.

On page 4.1-2 the DSEIR tries to justify the density of the Highlands by comparing it to other projects within the City of San Marcos. An equal number of acres of very low density and rural and agricultural uses can be found in closer proximity to the Highlands, thus proving that the Highlands as proposed is incompatible with adjacent land uses. A visual inspection of Fig 3-3 illustrates this point. It is obvious that although there is a project south of the Highlands that is high-density; however, lands within visual view, to the north, east, and west are of significantly lower density than that proposed by the Highlands. It is not reasonable to compare this project with others not adjacent to the project site within the city, and equally unreasonable to not compare this project with projects or lands adjacent to the project's boarders. The DSEIR fails to acknowledge or identify impacts to residents and lands adjacent to the proposed project site.

The project site is undeveloped land surrounded on three sides by estate residential homes, agricultural uses, and other undeveloped land zoned for estate residential uses. Insertion of this high-density urban project would divide and disrupt the existing rural character. This is a potentially significant impact and not identified in the DSEIR

The project completely ignores the existing County zoning which exists on 58% of the project. The current zoning on the unincorporated portion of the project is Rural Residential 1Du/2,4 Acres. Given the steep slopes existing on much of the project and the reductions in density required by CEQA, it is estimated that the county portion of the project could contain approximately 45 houses. Due to environmental concerns and difficulty in development most of the property in the City portion of the project can not be built on. Approximately 90% of the currently proposed houses are sited within the county portion. This project does not meet the requirements of the County General Plan, the North County Metropolitan Sub-regional Plan, the County zoning, the Twin Oaks Valley Community Plan, County Grading Ordinances (excessive cut slopes and other violations), etc. Property rights are important, and the owner of the property has the right to develop it. What has been forgotten is the community character and rights of the property owners surrounding the proposed development. These residents and property owners have built their plans, their homes, and their lives based on the expectation that the property in their neighborhood would be developed consistent with the existing requirements. To allow these requirements to be changed so radically because the project is annexed into a city would violate the faith these property owners have placed in their government. This is a potentially significant impact.

The City approved College Area Community Plan is in conflict with the Twin Oaks Community Plan[7]. The Twin Oaks Community Plan does not allow development to jeopardize sensitive environmental resources, clustering or obtrusive grading. In addition, the Highlands project, if implemented, will create a finger of urbanized development in the northern portion of the Hedionda Creek Valley, a sensitive habitat area. This urbanization will have substantial negative impact on rural adjacent land uses endangering the rural character of the Twin Oaks Community.

The planned extension of Las Posas road to Buena Creek road would further degrade the rural character of the Twin Oaks Community by inducing growth, adding traffic, noise and pollution to rural Twin Oaks. Although the extension of Las Posas road to Buena Creek road is not a part of this project, the DSEIR fails to acknowledge the City's intent to use this project as a stepping-stone to help complete Las Posas through to Buena Creek. This intent was made very clear in a letter sent by Alan Schuler to Army Corps of Engineers[8]. The DSEIR therefore needs to address the cumulative impacts of this project not only within the City boundaries but also to adjacent communities.

In County's comment on the San Marcos Highlands Mitigated Negative Declaration several significant factors were identified which have not been addressed in the DSEIR. They include the lack of reconciliation between; the proposed project, the County's Multiple Species Conservation Plan (MSCP), current County land uses, development patterns and community plans.[9]

The DSEIR fails to address impacts of the Highlands to the San Marcos Mountains, a listed as a Resource Conservation Area in the San Diego County North County metropolitan Subregional Plan which is thus afforded all protections of this designation.[10] The DSEIR fails to acknowledge this and does not address impacts of the Highlands to this designation.

As previously stated this project impacts would be felt primarily by county property owners and residents within our planning area who have no representation in San Marcos City matters.

[7] Attachment B, Twin Oaks Community Plan
[8] Attachment F, Schuler letter to Army Corps
[9] Attachment G, County response to MND
[10] p11, A-1, Part XXV, North Country Metropolitan Subreginal Plan, San Diego Country General Plan, amended Dec. 19, 1990.

4.2 Landform Alteration and Visual Quality.

The document internally contradicts its own findings, the DSEIR failed to adequately identify impacts to adjacent communities.

In Table 1-1, Summary of Significant Impacts and Mitigation Measures, page 1-5 it states:
"No significant impacts regarding Landform Alteration and Visual Quality are identified beyond those impacts analyzed in DEIR 90-13. No new mitigation measures are required."
However, on page 4.2-20, under Significance of Impacts it contradicts this determination by stating, *"A significant adverse landform impact is expected to result from an extensive cut slope required for the extension of Las Posas Road through the site. Therefore, this visual impact is an unavoidable adverse impact."*

At the bottom of the page and on page 4.2.21 it states, "*The large cut slopes required for the proposed alignment of Las Posas Road within Planning Area 1 is too extensive to be mitigated through measures identified and is considered a significant, unavoidable adverse impact."*

As a solution it then states,*" Landform and visual impact could be further reduced through either the large-lot or Las Posas Road alignment alternative.*

From the above it is clear that the document is internally inconsistent. Based on our knowledge of the area we believe the supporting statements are correct and the summary is incorrect. Viable alternatives exist which have not been evaluated.

4.2.1.1

Aesthetics

The DSEIR tries to show that the proposed Highlands project creates insignificant impacts to the variety, unity, vividness and uniqueness of the surrounding community.

On page 7 of the Twin Oaks Community Plan, FINDINGS it defines areas, including the portion of the Highlands site, within its planning area by stating:

> *"There are no common design housing tracts within the planning area and the homes in the area generally express the individual character of their owners. This has resulted in a wide variety of architectural styles and designs which should be encouraged."*

It is clear to any reasonable person that the Highlands, which will be similar in style and intensity to Santa Fe Hills, conflicts with the style and appearance of the existing rural community, and will dramatically change the visual character of the area.

The project will have substantial adverse effects on the scenic vistas from properties near the project, from Buena Creek Road, and from Hwy 78. These scenic vistas are currently comprised of open space, and natural hillsides, and the intensive building of so many houses on small lots cannot help but have an adverse affect. When viewed from a distance of ¼ to several miles the architectural details are lost and the impact of a project like this is one of high-density housing. Tract style homes seldom incorporate architectural detail on the sides and back of the dwellings. Residents in the adjacent community of Robin Hood Ranch and homes on Esplendido Ave will have a view of a box with windows. (See image b) This will adversely affect the property values of nearby residences. This is a potentially significant impact.

Figure 4.2-3 on page 4.2-4 illustrates where the DSEIR took data needed to evaluate the impact the Highlands will have on the views of adjacent dwellings. By viewing figure 4.2-3 it is apparent that no photos were taken from the northern end of the project site adjacent towards the homes in the Robin Hood Ranch area. The statement made of page 4.2-6 of the DSEIR *"Residences along Siddall Drive may also have view of the project (no images available due to private access)."* is an excuse not to identify the potentially significant impacts. Attached is a map and photos illustrating some of the impacts. These photos were gathered in one hour by simply driving to various homes as asking permission to take a photo. (See attached images A, A-1, A-2, A-3, A-4)

Light Pollution

<u>The DSEIR fails to identify the impacts of nighttime light pollution from the proposed project. This project conflicts with the San Diego County Dark Skys Policy and the Twin Oaks Valley Community Plan Dark Skies Policy.</u>

The introduction of urban development within a rural area cannot help but create new sources of substantial light and glare, which would adversely affect nighttime views in the area. The existing residents west and north of the project live in a rural area characterized by the absence of streetlights and restrained use of outside lighting resulting in a lack of light pollution. Rural residents generally appreciate the ability to see stars, planets, etc. Even with street lighting being minimized, the new residents would certainly leave their shades open, have outside lights, and use the lights on their vehicles while coming and going. This is normal, natural, and expected behavior for urban residents, but it will increase the ambient light affecting the rural area surrounding the proposed project. This is a potentially significant impact.

Landform Alteration

Page 4.2-11 of the DSEIR state *"Large cut slopes approximately 100 feet high and 1,100 feet long and 60 feet high and 400 feet long would be created in the central and south-central portion of the site, respectively. Grading requirement within the eastern portion of the site (Planning Area 2) would also be extensive to develop 76 lots and roads on generally rugged terrain. A cut slope of approximately 80 feet and a fill slope of approximately 35 feet would be created in the east central portion of the site"*

As previously stated, the Highlands is in violation of the Twin Oaks Community Plan. On page 8 of this plan under item (5) it states *"Prohibit residential construction which would adversely affect view shed, if it is found that it will significantly alter land contours and drainage courses, or require removal of significant natural vegetation and rock outcropping or detract from the rural character of the area."*

The grading variance required to cut and fill in order to accommodate this project illustrates that the Highlands will have a significant visual impact on the adjacent communities. The attached photos illustrate this.

Page 4.2-11 states, *"Artificial appearing slopes shall be avoided."* The cuts identified are about the size of the cut slopes required to build S-7 on Palomar Mountain east of S6. These cut slopes can be seen from downtown San Diego 45 miles away. Planting with native species will help if the ground is property stabilized and prepared, but this is frequently not done because a cut this substantial generally

exposes rock rather than soil. Even if native plantings take root and thrive, the change in landform will be un-natural enough to draw notice. This is a potentially significant impact. With such significant cuts required it is unreasonable to think that these slopes shall render any other appearance than an artificial one. The mitigation measures such as landscaping will not make an 80-foot or a 100-foot cut natural for the reasons stated above. The DSEIR fails to supply any proof that the mitigation measures will be sufficient. Digital images illustrating how mitigation will address this problem should be supplied, along with a detailed plan how this issue will be addressed.

In summation, the DSEIR findings of less than significant impact with mitigation measures, is therefore unsupported.

4.4 Traffic

See air quality and environmental sections

Water Quality

Page 4.7-2
4.7.4 Potential Impacts and Mitigation Measures
The proposed project could potentially violate water quality standards or waste discharge requirements.

Although the DSEIR says mitigation measures have been incorporated into the project therefore making impacts less than significant; it fails to adequately identify those measures or demonstrate that they will be sufficient.

Issues identified in section VIII, Hydrology and Water Quality, specifically items a, b, c, d. and f, in our comments made in our response to the MND[11] were not addressed by the DSEIR.

In addition, new information indicates the City plans not to comply with the Order 2001-1, the new storm water ordinance. According to a recent newspaper article, the city council is challenging this storm water ordinance[12]because the city does not support unfounded mandates and is concerned about costs for compliance. The DSEIR fails to identify if the Best Management Practices will comply with Order 2001-1 and who will pay for the costs. In addition, DSEIR fails to identify the cumulative impact these costs will have on the residents

[11] Ref page 8-10, Attachment A. Comments on RMND San Marcos Highlands, Twin Oaks Valley Community Sponsor Group , February 21, 2001
[12] SM to join storm-water regulations challenge, North County Times, Saturday December 15,2001

of the Highlands project. Finally, if the City chooses not to comply, what impacts the Highlands project will have to Hedionda Creek? Due to worsening pollution sections of Agua Hedionda Creek are now being considered for 303D listing.[13] We strongly recommended that the FSEIR or new EIR address this issue. In addition we recommend water from the pond located on the Highlands site be tested and compared to water from the pond on the property adjacent to the north west portion of Santa Fe Hills so that the public can see how current methods used by the Santa Fe Hills development keep urban and storm water run off from polluting Agua Hedionda Creek.

Section 4.10 Air Quality

The DSEIR does not address the effects of this project on the existing rural community, compares impacts to an expired project and does not address the effects that will be present once the planned extension of Las Posas Road is completed. The determination *"Impacts Found To Be Less Than Significant"* is false.

The DSEIR states the following:
"The proposed project would not violate any air quality standard or contribute substantially to an existing or projected air quality violation for long-term implementation."

"As indicated in Section 4.4 Traffic and circulation, the proposed project will result in a reduction of 660 daily vehicle trips as permitted by the previously adopted Specific Plan."

The DSEIR fails to look at the cumulative impacts planed road extensions will have on the Highlands development and surrounding community. Although the extension of Las Posas Road through to Buena Creek Road is not a part of this project, the eventual extension of Las Posas through to Buena Creek Road is part of the City Circulation element and may dramatically affect air quality for residents of the adjacent to the Highlands as well as its residents. SANDAG 2020 forecast traffic maps show that with the extension of Las Posas through to Buena Creek road traffic on the section from Buena Creek to Borden road will reach 13,000 ADT per day. This is significant effect not identified in the DSEIR needs to be reviewed, and mitigation measures need to be incorporated into the project.

[13] Table 3-Recommended Additions/Modifications to Region 9 303 (d), RWQCB

Page 4.10-6 of the DSEIR states *"However, the project may be considered to have the potential for significant air quality impacts if daily and early emissions were to exceed the emission rates displayed in Table 4.10-9"*
How does the planned extension of Las Posas impact the rates on Table 4.10-9?

Page 4.10-8, Short –Term Construction Emissions states *"If all 60.3 acres of land targeted for development were under simultaneous disturbance, and standard dust control was implemented, peak daily PM_{10} emissions would total 1,501 pounds. This exceeds the 100 pounds per day threshold identified by the APCD for a "major source".*

PM_{10} particulate emissions are especially harmful because once inside the lungs, are not expelled. Humans with respiratory problems can suffer irreversible lung damage. We therefore recommend that additional measures be incorporated to reduce PM_{10} emissions into the environment. Any grading should be immediately followed by watering of the soil before particulates become airborne. Grading, should be done in increments, should be limited to days when there is sufficient enough humidity and no high winds to keep particulate matter close to the soil.

Page 4-10-10 4.10.6 Cumulative Impacts states *"..the project site is located within the APCD, an extreme non-attainment zone, and any increase in regionally significant ozone (smog) precursor emissions is cumulatively significant to the region. MM4.10-1 and 4.10-2 reduce any cumulative impacts."*

Although MM4.10-1 is given, 4.10-2 was not provided with the DSEIR. We recommend that a description be added for 4.10-2 and this document re-circulated.

San Diego met state and federal air quality standards for carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead. The current federal PM_{10} standard was met, however, the state standard was exceeded for inhalable particulates. Geographic areas are designated by the federal Environmental Protection Agency (EPA) and/or the state Air Resources Board (ARB) as "attainment areas" or "nonattainment areas". An attainment area is in compliance with the National and/or California Ambient Air Quality Standards for a given pollutant. A nonattainment area does not meet the standards for a given pollutant.

In addition, nonattainment areas are classified according to the severity of their pollution problem. There are five classes of nonattainment areas for ozone (smog) ranging from marginal (relatively easy to clean up quickly) to extreme (which will take a lot of work and a long time to clean up).

San Diego has been classified as a serious nonattainment area for ozone by both the state and federal government. In addition, EPA and ARB have designated San Diego as in attainment for carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead.

The state has designated San Diego as nonattainment for PM_{10} (inhalable particles 10 microns or less in diameter). Currently, the federal EPA has designated San Diego as unclassifiable. EPA is adding new particulate standards targeting even smaller particles, those 2.5 microns or less. A preliminary analysis of the District's limited $PM_{2.5}$ data suggests that San Diego will be close to meeting the new $PM_{2.5}$ standards, however, it is unclear whether San Diego will be in attainment.[14]

No mention was made in the DSEIR of $PM_{2.5}$ particulate matter generated from the site. Does PM $_{2.5}$ pollution exists in the area and if so what impact does the Highlands have on generation of $PM_{2.5}$? What mitigation measures will be incorporated into the project?

Projection for traffic generated by this development is 2300 average daily trips. The city's Public Works Department listing of average daily volumes in 2000 for the 138 city streets showed the greatest increase by far was on Los Posas Road between Mission Road and Grand Avenue. This increase is listed as a very substantial 426 percent compared with 1996. In spite of this explosive growth the MND claimed the increase in traffic would have "no impact," and failed to address the cumulative impacts. Current San Marcos subdivisions as of January 25, 2001 totaled 54 in various stages of processing and construction, according to the city's Planning Department records. The huge number of lots included 3,398 in the San Elijo Ranch project and 1557 in the New Millennium development, both under construction. This indicates a potentially significant impact.

4.12 Hazards

[14] http://www.sdapcd.co.san-diego.ca.us/news/FAQS.htm#Q07

The DSEIR failed to address issues related to fire and proximity to the San Diego Aqueduct that could place residents of the Highlands in jeopardy.

The close proximity of residential housing to the Second San Diego County Water Authority Aqueduct is a potential significant hazard not identified in the DSEIR. In a recent article in the North County Times, Gene Nordgren, Water Authority's director of operations and Bryan Troupe, operation and maintenance manager detailed what happened when the pipeline break occurred in 1994 on a section of the aqueduct pipeline along Del Dios Road. Troupe stated, *"Neighbors said they saw a jet of water shooting 200 feet into the air. It blew a chunk out of the top of the pipe about 10-foot long by 6 foot wide, and there was a boulder about eh size of a Volkswagen about 10 feet away. The ground was leveled-I paced it our-for a 475-yard radius….it looked like moonscape."*[15]

Several homes shown on the map for Highlands are adjacent to this aqueduct. If this type of occurrence happened again it could result in loss of life to residents living adjacent to the aqueduct. This is a significant impact not identified in the DSIER.

4.13 Utilities and Service Systems

The DSEIR fails to address issues raised in the Vallecitos Water District response to the NOP

Page 4.15-2 states *"No impact. The project area is located within the boundaries of two water districts:…As member agencies of the San Diego County Water Authority, both districts are guaranteed a supply of water."*

In the letter by Vallecitos Water District in response to the NOP it states, *"The Vallecitos Water District relies 100 percent on imported water supplies, and although the District may have available capacity at this time, due to the inadequacy of water supplies, water may not be available at the time the project is built.*[16]*"* The DSEIR does not address this statement. How will San Marcos guarantee water to the Highlands?

[15] p. A-8, Invisible flood flows through county, North county Times, Sunday December 23, 2001 title
[16] letter dated May 2, 2001 Cheryl Brandstrom, Vallecitos Water District to Jerry Backoff from

This same letter states *"A large portion of the southeast corner of the project is above the maximum service elevation for the "Richland" service zone, This area is within a future service area zone of the District known as the "La Cienega" pressure zone which would maintain a hydraulic gradeline of 1275 feet above sea level. The facilities required for this area include a 175 horsepower pump station, 10" force main and approximately 5.5 million gallons of storage.*

The DSEIR fails to address this issue. Where will the 5.5 million gallon storage facility and the pumping station be located?

This letter also states *"The project is not currently within the sewer service boundaries of the District."* The DSEIR only states "Vallecitos Water District (VWD) will provide sewer service to the proposed development." It does not clearly answer how the project will be brought within the service boundaries of the Vallecitos Water District. Is this to be an extension of service? If so, how is the extension of services supported by LAFCO laws and policies?

The DSEIR does not adequately address the use of the on site pond as a detention facility and does not demonstrate that the project will not *"require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects."*

No calculations have been provided to show the adequacy of the pond to serve as a runoff detention facility as previously described in the MND. In addition, the project owner stated at the public meeting of the Twin Oaks Valley Community Sponsor Group on 2/21/01 that well water would be used to maintain the pond at an even level. A full or near full reservoir provides no help in runoff detention.

Additionally, the statement that drainage will be directed to a release point below the pond eventually into Agua Hedionda Creek is a grave concern as we have previously described in these section 4.7, Hydrology and Water Quality. It is clear that this project, if implemented, will require the construction of new storm water drainage facilities and could cause significant environmental effects.

4.15 Agricultural Resources

By not acknowledging existing zoning and the projects location within an agricultural community the DSEIR fails to identify impacts to agriculture.

As previously shown, a significant portion of the proposed project is located in the county and zoned A70. Although the preservation of agricultural land is not a stated goal of the College Area Community Plan, it is a stated goal of the Twin Oaks Community Plan. Several properties adjacent to the proposed project are currently being used for agricultural production for equestrian facilities. The dense project, adjacent to farming, will restrict the farmer's choices for aerial application of pesticides, herbicides, bee attractants, etc. It will also restrict the application of fertilizers or other agents which would produce odors which would be objectionable by urban standards. When urban developments are placed adjacent to equestrian or dairy operations, conflicts almost always occur regarding odors, noise, flies, runoff, etc. Although the MND says that preservation of agricultural land is not an objective of the City of San Marcos, it is an objective of the County, and certainly is an objective of those currently engaged in farming near the proposed project. Since the majority of the project is in the county, this conflict is highly significant and therefore a potentially significant impact.

4.16 Population and Housing

By not acknowledging existing zoning and the project's location within a rural community the DSEIR fails to identify impacts to population and housing

As previously discussed in our comments, a significant portion of the Highlands is located in the county and zoned A70. The determination of no impact because the DSIER compares this project to one that is expired with less dwelling units than the city approved project is erroneous.

Firstly, according to county DPLU there is no approved project for the portion of land that lies outside the city boundaries. Since the county is the designated land use agency for this area and has not approved any projects for this site, this project cannot be compared to any other project. Moreover, if the portion of the site in the county were allowed to develop as per this existing zoning, the site would hold approximately 45 dwelling units; not the over 200 proposed for the same space.

We have demonstrated previously in these comments, the city's documented desire for the extension of Las Posas Road to Buena Creek Road. We have shown how this will dramatically increase traffic though the site as per SADAG 2020 forecast maps. Any reasonable person can deduce that the implementation of this project requires the extension of a road through an existing rural community and will be growth inducing to this community. Therefore the implementation of the Highlands will add substantial population growth in the area both directly and indirectly.

4.3 Biological Resources

The studies performed do not address a significant State Species of Concern and significant concern exists about the effectiveness of the habitat and other mitigations proposed.

Sensitive Species

The draft SEIR failed to address the potential adverse effects of the project on the San Diego horned lizard, a State Species of Concern and proposed for conservation under MHCP. Though the entire site supports suitable habitat, biological surveys apparently were not conducted for this regionally declining species. This omission renders the draft SEIR incomplete and inaccurate. Unless surveys are conducted and subsequent CEQA documents prepared to address this issue, potentially significant, unmitigated impacts could result without acknowledgment or measures to avoid, minimize, and mitigate adverse effects to a level of insignificance.

Inadequate Mitigation

The proposed off-site mitigation at an undisclosed location for 12 acres of coastal sage scrub habitat would not benefit the populations of species adversely affected by the proposed project. To benefit the populations of species adversely affected by the proposed project, mitigation habitat is needed on-site or on parcels adjoining the project. Otherwise, the proposed mitigation would benefit different populations in another, unknown area. This out-of-area subsidization would have the unavoidable effect of reducing the persistence probability of survival for those species adversely affected
by the proposed project that occur in the rapidly disappearing block of habitat remaining between Buena Creek and the Palomar College area. Therefore, reduction of the proposed project footprint or mandatory off-site mitigation elsewhere within the affected habitat patch would be

needed to provide for the long-term conservation needs of species in the local area. Please note that the 20+ acre portion of the project site treated as "Not A Part", could provide an opportunity to permanently protect additional habitat in the project area.

Indirect Effects

The draft SEIR only cursorily addressed indirect effects to wildlife by claiming that edge effects from the proposed land uses would extend 50 meters into adjoining habitats. Scientific references were not provided to corroborate this unsupported opinion, and specific effects on different species were not analyzed. For example, urban development is known to contribute to the spread of Argentine ants, an alien species that displaces native ant species. This adverse effect reverberates up the food chain by eliminating the primary prey (native ants) of the San Diego horned lizard. The draft SEIR did not identify this significant regional problem, nor did it analyze the distance such adverse impacts extend from the urban interface. Further, mitigation measures were not identified or analyzed to reduce this adverse effect to a level of insignificance.

The draft SEIR did not address the significant reductions in wildlife habitat value along riparian habitats that are not adequately buffered with adjoining natural terrestrial habitats typically required by species that depend on portions of their life cycle on aquatic and riparian habitats. For example, toads, frogs and nesting waterfowl require extensive amounts of upland habitat to complement the aquatic habitats upon which they depend for reproduction. Likewise, breeding migratory birds on-site, such as the common yellowthroat, likely would be displaced by the elimination of adjoining upland habitats and significant increases in human-related disturbance that would accompany the proposed high density residential development. Though buffer requirements typically differ regionally, among species and habitats, and across various regulatory jurisdictions (e.g., California Coastal Commission, California Department of Fish and Game), the range of potential mitigation buffers and edge treatments appropriate for species and habitats on-site were not analyzed in the draft SEIR. Similarly, the draft SEIR failed to address the adverse impacts of edge effects on the resident pairs of coastal California gnatcatchers with home ranges on and adjoining the project site. Without appropriate management of on-site mitigation habitat, human-related disturbance, including introduction of domestic cats and dogs in the hundreds of houses proposed for development, has the potential to eliminate the apparently small gnatcatcher population in

the area. Edge effects should be quantified and mitigated in the same manner as direct effects. For example, if the 50-meter buffer mentioned in the draft SEIR is an accurate measure of compromised wildlife habitat value along the proposed urban interface, the acreage of this habitat band should be calculated and added to the impact base for application of the 2:1 habitat mitigation ratio.

Without an analysis of these and other edge effects in the draft SEIR, it is not possible to address the management needs and costs to maintain the ostensibly viable populations intended to benefit from the habitat open space set-aside by the proposed project. Given the significant fragmentation and edge effects portended, a substantial endowment to fund the management of project open space likely will be needed. The draft SEIR should analyze the management program and costs needed to reduce edge effects to a level of insignificance.

Connectivity

The proposed project would fragment the currently monolithic block of habitat that extends from the Owens Peak hills north of Palomar College to the hills northwest of the project site along Buena Creek. This several thousand-acre block of habitat would be severed by the proposed project, creating two isolated fragments. The equilibrium theory of island biogeography, upon which the current tenets of conservation biology are based, indicates that neither of these isolates will be as capable of maintaining the levels of biodiversity currently found in the single, larger habitat patch. This suggests that numerous species in the region likely will be extirpated in the foreseeable future, especially considering the significant increase in adverse edge effects introduced by the proposed project.

The proposed 48-inch culverts for wildlife connectivity are neither large or extensive enough, nor strategically placed to accomplish their intended function. Reducing a several thousand foot wide expanse of habitat down to a couple of 48-inch culverts could not possibly provide the levels of wildlife dispersal needed to maintain viable populations in the two newly created islands of habitat. This is particularly true of the proposed southernmost culvert, which does nothing more than direct wildlife movement into a diverticulum bordered by dense housing and the proposed Las Posas extension. This small peninsula of habitat will likely function more as a population sink (or death trap), rather than facilitating wildlife movement on a regional scale.

To maintain the east-west connectivity that currently exists, the northern edge of Planning Area 1 should be moved southward, such as by eliminating the northern row of housing that extends from Agua Hedionda Creek west to the San Diego Aqueduct. This reconfiguration would provide a band of habitat between the project site and the southernmost extent of Robinhood Ridge. Similarly, the westernmost row of housing proposed in Planning Area 1 along the San Diego Aqueduct should be removed to allow wildlife movement around the western edge of the proposed development.

Cumulative Effects

Unless addressed by the current proposal, the 20+ acre "Not A Part" portion of the project site could be proposed for development at a later date. Such potential piece-mealing runs counter to the full disclosure requirements of CEQA and sound land use decision-making. Given the significant adverse effects of the proposed project discussed above, the 20+ acre piece should be required as habitat mitigation to help benefit wildlife populations inhabiting the regional habitat patch at issue.

4.5 Noise

The DSEIR is inadequate and supplies false or unclear information. In addition, it fails to clearly identify future noise emitters associated with this project, specifically Las Posas Road and impacts to adjacent rural residents and equestrian operations.

Upon review of both the findings in the DSEIR, Noise Analysis prepared by Giroux &
Associates, and a conversation with Hans D. Giroux we have several concerns. Firstly, we are concerned that the data was gathered in a method that would skew the results in favor of the applicant. Secondly, that the data was evaluated in such a manner so that impacts could be perceived as insignificant. Lastly, the findings do not adequately identify nor mitigate for all impacts associated with the Highlands and Las Posas road.

The data is questionable when comparing Table 4.5-3 on page 4.5-5, Off-Site Noise Impact with the table on page 5 of the Noise Analysis. Table 4.5-3 show that *Las Posas Road, north of Borden Road existing off site noise to be 51.1 CNEL in 2000 and 57.9 CNEL, in 2000 existing plus project*. However, according to page 5 of the noise analysis the reading of *51.1 CNEL was taken at a distance of 25 feet from the*

centerline of the road and the reading of 57.9 CNEL (with project) is at a distance of 70' from the centerline of the road.

One must therefore assume that if both readings were calculated from the same location, the noise level with project would be substantially higher that the 57.9 CNEL identified in the DSEIR.

A second questionable data gathering methodology occurs on page 4.5-2, Existing Setting, it states *"Measurements were made for 48 + hours on July 2-4, 2001."* However, in the Noise Analysis supplied with the DSEIR, the data only shows readings for Tuesday, July 3 and Wednesday July 4. In a conversation with Hans Giroux he said that his firm chose a holiday so that *"noise could be evaluated under those conditions"*. He implied that during a holiday noise would be at higher levels than during a normal weekday or weekend. July 2 –4, 2001 represented a Monday-Wednesday for the readings. Since this holiday fell in the middle of a week at many people may have taken Monday and Tuesday off to make the 4th of July holiday an extended weekend. Since many people often leave town during this time it can be concluded that the traffic and noise level at this time would have been substantially less than during a normal work week. Although the 4th of July is associated with fireworks and so a reasonable person might believe the noise level to be higher during this time, fireworks are illegal and few incidents of fireworks attributed noise were heard during this time.

On this same page it also states *"However, if Las Posas Road is ever extended by the County beyond Planning Area 1 north to Buena Creek Road at a future date, the baseline traffic noise will rise and any individual project contribution will not be perceptible."* Mr. Giroux said that the extension of Las Posas Road through to Buena Creek Road would create noise that would be more than the noise generated by the Highlands project. Although the extension of Las Posas to Buena Creek Road is considered not part of this project the extension is planned by the City of San Marcos as shown in Allen Schuler, Director of Engineering for the City of San Marcos letter to Army Corps dated June 27, 2001. In this letter Schuler states *"Without the extension of Las Posas Road to Buena Vista Road* (meaning Buena Creek Road), *the City of San Marcos would experience an unacceptable level of congestion on Twin Oaks Valley Road and San Marcos Blvd. In the vicinity of Highway 78."*[17] It is clear that the Highlands project will be

[17] Letter dated June 27, 2001 from Alan F. Schuler, P.E., Director of Engineering, City of San Marcos to U.S Army Corps of Engineers

used to create a road that will be eventually extended through to Buena Creek Road. According to SANAG traffic forecast maps, the planned extension of Las Posas through to Buena Creek Road, north of Borden road, is estimated to go from 1,000 ADT to 11,000-13,000 ADT. This is substantially more than identified in the DSEIR. It is clear that once Las Posas connects to Buena Creek Road that the Highlands project will fail to meet the noise standards of 60 dB CNEL established by the city. In addition, since the reading (with project) of 57.9 CNEL is also suspect as explained above, the noise level within the project recreational rear yard areas for units abutting on Las Posas Road will be in excess of the 67 dB CNEL stated in the Noise Analysis. Therefore, the mitigation measures identified will be insufficient to reduce interior noise levels to city and county standards for residential development. The statement on page 7 of the Noise Analysis *"The project will likely marginally meet City interior standards of 45 db DNEL with zero margin of safety."* is false.

The DSEIR states in MM4.5-2*, "Air conditioning is recommended as a standard feature to allow for window closure to shut out roadway noise."* Considering the current energy problems related to growth in the region and the fact that this project is located where air conditioning is unnecessary for cooling purposes, it is preposterous to recommend air conditioning as a solution to road noise. Furthermore, the noise impacts of the additional air conditioning units have not been included in the evaluation.

The DSIER fails to identify what noise impacts residents in the county could face once the Highlands is implemented. In addition, since it is obvious that the extension of Las Posas through to Buena Creek Road is planned by the city and is tied to this project, impacts to county residents from road noise generated from 11,000-13,000 [18]ADT from Las Posas need to be identified.

The issues surrounding Cannon Road in Oceanside support concerns that a road running in a low valley area creates acoustical phenomena that amplify road noise and can significant impact homes on adjacent hillsides in the county. A recent article in the North County Times, Carlsbad city engineer Dave Hauser is quoted *saying "If Cannon were to follow the original alignment along the creek bed, Hauser said, there would be no way to build sound walls that would have any real affect.*

[18] SANDAG 2020 forecast maps show ADT with and without Las Posas road connecting to Buena Creek Road.

All of that noise would just rise up to the homes along with emissions from hundreds of car trips daily."[19]

This statement is supported by findings listed on page 16 and 17 of the Twin Oaks Valley Community Plan. It states, "*The topography of the Twin Oaks Valley Community with its hills and valleys creates an acoustic chamber-effect which can transmit and intensify noise at much higher levels than flat terrain*." Las Posas Road and the surrounding topography will have the same effect. Road noise generated from the vehicles will bounce off the tight-packed stucco homes and hillsides resulting in a significant increased level of noise for dwellings located on hillsides adjacent to the project.

Noise significantly impacts wildlife. Since Las Posas road will run through the middle of an existing wildlife corridor, the impacts of road noise from the Highlands project as well as the cumulative impact generated by the extension of the road to Buena Creek road need to be identified. The DSIER fails to acknowledge noise impact to wildlife.

Thus as we stated in our previous comments to the MND,[20] the impact of noise from the adjacent unincorporated land on the proposed project has not been considered. While the impact of the noise generated by project residents has been addressed, it seriously underestimates the impact of urban development on a rural community. A noise level of 60 dB (A) on a 24 hour weighted average basis would be a serious impact on a rural neighborhood. It should not be a surprise to anyone that urban noises (electronic entertainment, traffic, human interaction, etc.) are very different in character, timing, and volume than rural noises (tractors and other farm equipment, domestic and wild animals, aerial spraying of crops, etc.) Putting rural and urban land uses immediately adjacent to each other will result in inevitable conflicts over a variety of issues including noise. A density gradient buffer or geographic feature buffer should be provided to avoid these conflicts. Since the topographical features across the southern portion of this project provide an excellent natural buffer between the urban development to the south and the rural areas to the north it would be an ideal boundary to stop urban sprawl, especially so since this is very near the current San Marcos city limit. Furthermore, the DSEIR statement that the noise levels would be lower than with the expired plan is meaningless.

[19] P. B-10, North County Times, December 23, 2001:

[20] P11 Attachment A. Comments on RMND San Marcos Highlands, Twin Oaks Valley Community Sponsor Group , February 21, 2001

4.9 PUBLIC SERVICES

Schools
The overcrowding of schools in San Marcos and Vista is common knowledge. The developer of San Marcos Highlands has indicated that San Marcos schools would be used by student residents of the proposed 230 homes. The MND declares, "All schools within the SMUSD (San Marcos Unified School District) are currently near or above design capacities." It then draws the illogical conclusion that "While the addition of students to the already overcrowded SMUSD schools is a potential impact, the payment of school mitigation fees to the SMUSD would mitigate the impact to below a level of significance." If the fees were sufficient to allow construction of additional schools, which is doubtful, these schools would not be available to accept students for a substantial period of time after the students moved in. This is a potentially significant impact not addressed in the DSEIR.

Fire Protection
Page 4.12-3 states, *"In any situation, the minimum distance between a structure and undisturbed native plant communities would be 100 feet,…"* Is this 100 feet calculated as part of the development or part of the open space? Since it requires destruction of native habitat, it should be considered part of the project or development. It is not clear that this has been done.

8.0 Growth Inducement

By not acknowledging existing zoning and the projects location within a rural community the DSEIR fails to identify the growth inducement this project will have on the present rural community

As previously discussed in our comments over 50% of the Highlands is located in the county and zoned A70. The determination that the proposed project would not induce substantial population growth either directly or indirectly is false. Once again the DSIER compares this project to one that is expired and violates all current zoning on the property outside the city's boundaries. According to county DPLU, there is no approved project for the portion of land that lies outside the city boundaries. Since the county is still the legal land use jurisdiction for this area and has not approved any projects for this

site, this project cannot be compared to any other project. This area, as zoned, supports approximately 45 dwelling units. The Highlands proposes 230 dwelling units. To any reasonable person this increase in density is substantial and will put undo pressure on the adjacent rural properties. The planned eventual extension of Las Posas road to Buena Creek Road as previously shown in this document, although not a part of this project, has been proven to be an objective of the City of San Marcos. In addition, it is common knowledge in land use planning circles that placing high density development adjacent to low density rural uses leads to understandable friction and the conversion of the rural land uses to urban. New urban residents do not typically tolerate well the rural activities like horse ranching, farming, dairy operations, etc. A geographic, density gradient, or other type of buffer is needed. Therefore the Highlands project, as proposed, is clearly a stepping-stone project designed to induce growth in the rural Twin Oaks area. This is very simply planned sprawl for the city's and developer's benefit at the expense of the property rights of residents in the county.

Summation

After reviewing the DSEIR, it is clear that no intention was made on the part of the author to respond to comments previously raised by our planning group, LAFCO, San Diego County, and others. The DSEIR is a flawed document that is full of inconsistencies, errors and omissions. It is misleading to the public to the point of not providing the public with enough valid information to write effective comments. The repeated comparison to an expired project in the City is meaningless for the majority of the project located outside the City of San Marcos. It violates CEQA by being so superficial that it is mere lip service to the law. If this project truly had merit, all associated lands would have been annexed to the city years ago.

The Highlands project as presented in the DSIER fails all test of reason. It fails to acknowledge the existing zoning on 58% of the land. It fails to identify numerous significant impacts to the community as listed in these comments.

The Twin Oaks Community Sponsor Group is a strong supporter property rights and would whole-heartedly support any project that reflects existing community character, follows the community plan, abides by County land use laws and is environmentally sensitive. We ask that the developer revise this project and return with one we can

support. We offer our assistance to Mr. Kubba and the City of San Marcos to make this possible.

Gil Jemmott

Chairman


Twin Oaks Valley
San Marcos
Carlsbad
Robinhood Ranches
San Marcos Highlands
Morganita Heights

Vista San Marcos Ltd.

7021 Leeward Street, Carlsbad, Ca 92011

Tel. (949) 922-3070 / Fax. (949) 643-9913

October 1, 2019

Via email

Re: Continuance of the San Marcos Highlands Annexation hearing

Dear Chairwoman MacKenzie,

Please accept this request to your Board of Commissioners to continue the public hearing for the annexation of the San Marcos Highlands Project that will be before you on October 7, 2019 to November 4, 2019. The reason for the request is to allow time to resolve an outstanding issue with the County of San Diego.

Sincerely,



Farouk Kubba

Vista San Marcos Ltd.

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

MEMORANDUM

November 4, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Robert Barry, Chief Policy Analyst

SUBJECT: **Agenda Item No. 6a |**
Additional Discussion on Local Policies and CEQA

This memorandum provides additional discussion on two separate items involving San Diego LAFCO's review of the proposed "San Marcos Highlands Reorganization." The first item addresses local San Diego LAFCO policies and their applicability to the reorganization. The second item addresses LAFCO's duties under the California Environmental Quality Act (CEQA) with respect to considering the potential impacts of the reorganization. The memorandum responds to questions generated in the public's review of the proposal and clarifies and expands the analysis provided in the associated staff report.

Item No. 1 |
Consideration of Local Policies

San Diego LAFCO has adopted two local policies – L-102 and L-107 – staff believes are most pertinent to the Commission's review of the proposed reorganization. L-102 provides prescription to LAFCO in establishing and updating spheres of influence for all local agencies and this includes encouraging cities to reconcile land use conflicts with the County. The County and San Marcos both contemplate residential uses for the affected territory, although at markedly different density levels. The density difference is addressed in the agenda report and reconciled by staff in recommending approval given the standing inclusion of the lands within the San Marcos sphere of influence along with attesting to the ability of the City (and other subject districts) to provide municipal services at planned buildout. L-107 separately requires applicants to disclose and address potential jurisdictional issues associated with their proposals and if applicable require a consultation process with the affected agencies, interested parties, or organizations to help remedy concerns unless

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

Jim Desmond, County of San Diego
Mary Casillas Salas, City of Chula Vista
Mark Kersey, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Andy Vanderlaan, General Public
Dianne Jacob, Vice Chair, County of San Diego
Bill Wells, City of El Cajon
Chris Cate, Alternate, City of San Diego
Barry Willis, Alpine Fire Protection
Harry Mathis, Alternate, General Public
Greg Cox, Alternate, County of San Diego
Paul McNamara, Alternate, City of Escondido
Erin Lump, Alternate, Rincon del Diablo MWD

waived by the Executive Officer. All three principal parties (applicant, San Marcos, and County) individually identified to LAFCO the need to address an unresolved term tied to the development approval itself. This development term involves the City and County addressing the project's compatibility with a local conservation plan (North County Multiple Species Conservation Program) through an "annexation agreement." Consultation between the two agencies resulted in the City Council and Board of Supervisors approving a negotiated annexation agreement at noticed meetings on September 10th and October 16th, respectively.[1] No other jurisdictional issues were disclosed or otherwise identified by the principal parties in processing the proposal.

Staff believes L-102 and L-107 have been substantively satisfied relative to the proposed reorganization and for reasons provided in the preceding paragraph. This conclusion – pertinently – defers to the affected territory's existing placement in San Marcos' sphere paired with the approved City-County annexation agreement in collectively addressing the underlying policy prompts in L-102 and L-107 to consider compatibility with the County General Plan. (The conclusion relatedly affirms an intent of the sphere of influence to guide future land use and/or service planning towards the affected agency.) The Commission may conclude differently if it believes a disconnect in residential densities has not been appropriately reconciled under L-102 and/or the consultation between San Marcos, County, or others have not sufficiently covered all jurisdictional issues under L-107.

Item No. 2 |
Consideration of CEQA

San Diego LAFCO is required to evaluate the environmental impacts of its discretionary approvals involving sphere of influence actions and jurisdictional changes either as a lead or responsible agency under CEQA. LAFCO generally serves as a responsible agency in evaluating jurisdictional changes and must utilize the environmental documents prepared by the lead agency, which is typically the affected land use authority.[2] LAFCO staff provides comments to the lead agency during the project's environmental review to ensure the final environmental document adequately addresses any issues germane to LAFCO's statutory authority and local policies and procedures. LAFCO may assume the lead agency role if it determines an applicable CEQA document does not exist or is inadequate for its purposes.

The City of San Marcos serves as lead agency for the proposed reorganization under CEQA given it has the principal responsibility for carrying out the underlying development project known as "San Marcos Highlands." The San Marcos Highlands project was originally approved by San Marcos in 1990 as a 275-unit specific plan and tentative subdivision map along with a certified environmental impact report (EIR). This initial tentative subdivision map approval, however, expired in 1998. San Marcos approved a subsequent amendment to the San Marcos Highlands Specific Plan in 1999 that reduced the development to 230

[1] LAFCO staff aligned the proposal processing to coincide with the completion of the City-County negotiations on the annexation agreement. This includes scheduling the initial October 7, 2019 hearing on the proposal after the City Council approved the annexation agreement on September 10th and ahead of the Board of Supervisors' calendaring a September 25th hearing. The Board of Supervisors, however, did not approve the annexation agreement on September 25th meeting and instead continued the item to October 16th. The continuance by the Board of Supervisors in considering the annexation agreement prompted the applicant to request and receive approval to continue the LAFCO hearing on the proposal from October 7th to November 4th.

[2] LAFCO typically serves as lead agency with respect to taking actions on spheres of influence.

units and prepared a mitigated negative declaration (MND). Subsequent comments on the MND prompted San Marcos to prepare a supplemental EIR or SEIR to clarify the project changes. The amendment to the San Marcos Highlands Specific Plan was approved and the SEIR was certified by San Marcos in 2002. The project was unable to secure required permitting from State and Federal wildlife agencies, however, and the San Marcos approvals expired in 2006. In 2013, a new amendment to the San Marcos Highlands Specific Plan was proposed to reduce the units to 198 and increase the habitat conservation area. San Marcos ultimately prepared – and consistent with comments provided at the time by LAFCO – a new EIR. The new amendment to the San Marcos Highlands Specific Plan and accompanying EIR was certified by San Marcos in 2016 and is the CEQA document of record for the proposal before the Commission. Staff has reviewed the new EIR from 2016 and believes the document sufficiently responds to LAFCO's earlier comment letter and adequately addresses the environmental impacts associated with the jurisdictional boundary changes.

Attachments:

1) LAFCO Policy L-102
2) LAFCO Policy L-107

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LEGISLATIVE POLICY L–102

Subject

SPHERES OF INFLUENCE OF CITIES AND SPECIAL DISTRICTS

Purpose

To establish the manner in which the San Diego Local Agency Formation Commission establishes and updates spheres of influence.

Background

In 1972, the State Legislature directed LAFCOs to adopt a sphere of influence for each local governmental agency. Spheres are to be developed in cooperation with each agency to represent . . . *the probable physical boundaries and service area of a local agency as determined by the Commission*. . . (Government Code § 56076). Spheres of influence provide guidance for the expansion and organization of local agencies; however, designation of a sphere does not *entitle* future annexation or require that areas within a sphere be annexed.

Since enactment of AB 2838 (Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000), State law directs LAFCOs to periodically review and update spheres of influence in concert with conducting Municipal Service Reviews. Spheres are used as regional planning tools to discourage urban sprawl and encourage orderly growth; accordingly, spheres must be based upon a comprehensive analysis of all relevant factors and they must be up-to-date. To ensure comprehensive updates, city spheres are reviewed in conjunction with the spheres of affected special districts and a determination is made regarding whether a city or an adjacent special district should provide future services to unincorporated areas. Special districts are also subject to sphere adoption/update provisions.

Policy

It is the policy of the San Diego Local Agency Formation Commission to:

1. Designate spheres of influence in close cooperation with affected local agencies and communities;
2. Utilize spheres of influence to:
    a. Guide deliberations on specific changes of organization;

b. Discourage potential duplication of services by two or more local governmental agencies;

c. Determine the need for specific governmental reorganization studies;

d. Preserve community identities and boundaries;

e. Encourage political and functional reorganization of local agencies which cross-cut communities;

f. Encourage annexation of territory that has been specified as available for urban development prior to annexation of other areas; and

g. Encourage the extension of urban services to existing urban areas prior to extending services to areas that are not devoted to urban uses.

3. Encourage cities, which are adjacent to unincorporated territory, to reconcile incompatible general plan land use elements with the County of San Diego;

4. Review city spheres of influence and special district spheres at approximately five-year intervals;

5. Discourage major amendments to a city or special district sphere if the sphere has been updated or affirmed within the prior five year period except for the following conditions:

   a. Public health or safety needs; for example, amending a jurisdiction's sphere to permit annexation of a parcel that requires public sewer service because of a failed septic system;

   b. Property under a single ownership that is split by a sphere boundary if the split property shares characteristics including access, geography, communities of interest and the manner in which services will be provided;

   c. A reorganization involving two or more jurisdictions if the sphere of influence boundaries are coterminous and each jurisdiction agrees to the sphere amendments and reorganization;

d. If a city or special district can provide adequate documentation showing that conditions have significantly changed to warrant a sphere amendment.

6. Conduct sphere of influence evaluations and updates prior to the five-year interval if an affected jurisdiction or interested party submits a request based on adequate justification and the appropriate processing fee;

7. Maintain a sphere of influence for the San Diego County Water Authority, which is coterminous with the spheres of influence for SDCWA member-agencies, by amending or updating the SDCWA sphere concurrent with each amendment or update to spheres of member agencies;

8. Maintain a sphere of influence for the area of Metropolitan Water District of Southern California (MET) in San Diego County, which is coterminous with the sphere of influence for SDCWA, by amending or updating the MET sphere concurrent with each amendment or update to the SDCWA sphere; and

9. Facilitate communication with affected public agencies, communities, property owners and residents concerning the sphere of influence update process.

Adopted: August 6, 1990
Amended: May 4, 1998
Amended: June 5, 2000
Technical Update: May 2, 2005
Technical Update: August 25, 2008

Cross-reference:

SAN DIEGO LAFCO POLICY:
-A-101 SAN DIEGO ASSOCIATION OF GOVERNMENTS AND THE REGIONAL GROWTH MANAGEMENT STRATEGY
-L-104 LAFCO-INITIATED CHANGES OF ORGANIZATION

SAN DIEGO LAFCO PROCEDURES:
-SPHERES OF INFLUENCE
-LAFCO-INITIATED PROPOSALS

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LEGISLATIVE POLICY L–107

Subject

JURISDICTIONAL ISSUES ASSOCIATED WITH PROPOSED OR PENDING CHANGES OF ORGANIZATION OR REORGANIZATION

Purpose

To establish a procedure for cities, special districts, the County of San Diego, and other interested parties and organizations to identify and discuss potential jurisdictional issues associated with proposed or pending LAFCO discretionary actions.

Background

Proposed changes of organization or reorganization may involve issues of concern for affected local residents, property owners, registered voters, interested parties, and organizations, as well as potential jurisdictional issues for affected cities, special districts, counties, and other public agencies.

While LAFCO is prohibited by State Law from directly regulating land use density or intensity, property development, or subdivision requirements [Government Code § 56375(a)(6)], LAFCO is required to consider a number of factors in the review of a proposal, including: the effects of a proposal on adjacent areas (Government Code § 56668(c); the proposal's consistency with city or county general and specific plans (Government Code § 56668(h); the comments of any affected local agency or other public agency (Government Code § 56668(j); any information or comments from the landowner or owners, voters, or residents of the affected territory (Government Code § 56668(n); and, any information relating to existing land use designations (Government Code § 56668(o).

When there are potential jurisdictional issues associated with proposed or pending jurisdictional changes, LAFCO staff has historically encouraged the lead agency and applicant to consult with all affected jurisdictions and interested parties to identify, discuss, and resolve the jurisdictional issues prior to LAFCO submittal. Proposal-related jurisdictional issues may involve questions about community character and/or cohesion; the ability of an agency to extend public services; potential environmental impacts; appropriate transitional areas between jurisdictions; special district detachment issues; or other local community or governmental concerns.

Therefore, the following policy has been adopted to encourage and facilitate early identification, discussion and potential resolution of any jurisdictional issues associated with proposed or pending LAFCO changes of organization of reorganization. While the identified jurisdictional issues may not be ultimately resolved to the satisfaction of all interested parties, the policy requires the proposal applicant or proponent to engage the interested parties and/or jurisdictions, to address the concerns associated with the proposal, and to determine if the identified issues have been resolved, or if additional discussions would allow for resolution.

Policy

It is the policy of the San Diego Local Agency Formation Commission that:

1. Prior to submission of a proposal requesting LAFCO consideration of a change of organization or reorganization, the proposal applicant and representatives from affected public agencies, interested parties, and/or organizations, shall meet at the earliest possible stage for the purpose of identifying and attempting to resolve any issues associated with the proposed jurisdictional change(s). The Executive Officer may waive the consultation procedure outlined in this provision when it can be determined with certainty that there will be no possibility that the proposal in question will result in identified and unresolved jurisdictional issues.

2. The consultation process described in provision no. 1 should identify any jurisdictional issues or concerns related to:

    a. Differing development standards;

    b. Existing and/or planned land uses and zoning, including densities, community character, and appropriate jurisdictional transition areas;

    c. Existing and/or planned provision of governmental services, including any potential impacts to service levels or financial ability to sustain service levels; and,

    d. Any other local community or governmental concerns.

3. If an agreement is reached regarding provision no. 2, the subject proposal's

LAFCO application shall include signed confirmation by representatives of the agencies or interested parties. LAFCO applications shall include signature confirmation forms documenting the agreement.

4. The Commission shall consider the agreement in its evaluation of the proposed jurisdictional change(s) to the extent that it is consistent with State Law and San Diego LAFCO policies and procedures.

5. If the parties have consulted in accordance with this policy and are unable to reach agreement, the parties shall, in writing, inform the Executive Officer of the areas in which they are unable to reach agreement and the desired outcome. Thereafter, the proposal shall proceed in accordance with State Law and applicable San Diego LAFCO policies and procedures.

6. Affected local agencies shall be encouraged to explore additional methods to improve future inter- and intra-departmental and jurisdictional communications for the purpose of discussing and commenting on proposed or pending jurisdictional changes at the earliest possible stage.

Adopted: May 3, 2010
Revised: April 4, 2016

Cross-reference:

SAN DIEGO LAFCO POLICY:
-L-100 CITY ANNEXATION OF UNINCORPORATED TERRITORY WITHIN SPECIAL DISTRICTS
-L-103 RECOGNITION OF UNINCORPORATED COMMUNITIES

SAN DIEGO LAFCO PROCEDURES:
-SPHERES OF INFLUENCE
-LAFCO-INITIATED PROPOSALS

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6b

AGENDA REPORT
Public Hearing

November 4, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Linda Zambito, Analyst I

SUBJECT: **Proposed "Hollow Glen Change of Organization" | Annexation to Julian Community Services District (DA19-14)**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a change of organization proposal filed by the Julian Community Services District (CSD) to annex approximately 0.65 acres of unincorporated territory. The affected territory as submitted is developed with a newly constructed public facility consisting of sand barn used by Caltrans to store road safety and repair materials. The proposal purpose is to extend public water service to the affected territory to enable the operation of fire sprinklers. Staff recommends approval of the proposal with one modification to expand the annexation to include 0.05 acres of adjacent public right-of-way way. A conforming sphere of influence amendment and standard approval terms are also recommended as well as a waiver of protest proceedings.

BACKGROUND

Applicant Request

San Diego LAFCO has received a proposal from the Julian CSD on behalf of an interested landowner – County of San Diego – requesting approval to annex approximately 0.65 acres of unincorporated territory. The affected territory as submitted comprises one parcel already developed with a newly constructed sand barn with a situs of 1471 Hollow Glen Road.

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

Jim Desmond, County of San Diego
Dianne Jacob, Vice Chair, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Escondido
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

Construction on the sand barn was completed in September 2019 and it is approximately 1,600 square feet in size with a small surface parking lot. The County of San Diego Assessor's Office identifies the subject parcel as 291-122-20. The affected territory lies entirely outside he sphere of influence established for Julian CSD.

Affected Territory

The following map shows the approximate location of the affected territory in context to the surrounding Julian region. Attachment One shows the affected territory relative to the proposed boundary change involving the Julian CSD.



San Diego LAFCO / SANGIS Mapping

Subject Agencies

The proposed change of organization involves one subject agency: Julian CSD.[1] A summary of Julian CSD in terms of resident population, municipal service functions, and financial standing follows.

- Julian CSD is an independent special district formed in 1965 and spans approximately 290 acres and generally overlaps the central village area of the unincorporated community of Julian. A five-member Board of Directors oversees the lone municipal service function: water (retail). LAFCO estimates the current resident population is 315 along with an average annual growth rate of 0.85% since 2010. LAFCO established Julian CSD's sphere of influence in 1988 with the most recent update in June 2019 following the completion of a regional municipal service review. The sphere is coterminous with the boundary. Julian CSD's last audited net position tallied $1.310 million as of July 30, 2017 with ($0.240) million designated as unrestricted.

[1] State law defines "subject agency" to mean any district or city for which a change of organization or reorganization is proposed.

Affected Local Agencies

The affected territory lies within the jurisdictional boundaries and/or spheres of influence of three local agencies directly subject to San Diego LAFCO. These agencies qualify as "affected agencies" under statute relative to the proposed change of organization and listed below.[2]

- CSA No. 135 - Fire and Emergency Medical Services
- CSA No. 135 - Regional Communications
- Resource Conservation District of Greater San Diego County

DISCUSSION

This item is for San Diego LAFCO to consider approving – with or without discretionary modifications – the change of organization and annexation therein of the affected territory to Julian CSD. 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 and Commission focus follows.

Proposal Purpose

The purpose of the proposal is to facilitate the extension of public water service to a newly constructed public facility comprising the affected territory in order to enable fire sprinklers. Annexation and connection to the Julian CSD public water system would serve as an alternative to establishing a private well system and/or storing trucked supplies.

Development Potential

The affected territory as proposed and detailed in Appendix A is planned for low-density industrial use by the County of San Diego. These uses are memorialized under the County's Zoning Ordinance, which assigns the affected territory as Semi-Rural Medium Impact Industrial with a maximum parcel size of one acre. This precludes any further density within the affected territory based on the current parcel size.

Commission Focus

Three central and sequential policy items underlie the San Diego LAFCO's consideration of the change of organization. These policy items ultimately take the form of determinations and orient the Commission to consider the stand-alone merits of a (a) sphere of influence amendment, (b) timing of the change of organization itself, and (c) whether discretionary boundary modifications or approval terms are appropriate. The Commission must consider other relevant statutes in and outside of LAFCO law as detailed.

[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.

ANALYSIS

The analysis of the change of organization is divided into two subsections. The first subsection pertains to evaluating the central issues referenced in the preceding section and specifically analyzing the merits of a conforming sphere amendment and the change of organization as well as whether modifications and/or terms are appropriate. The second subsection considers other germane issues required under LAFCO law or other applicable State statutes and highlighted by the California Environmental Quality Act (CEQA).

Central Policy Items

Item No. 1 |
Sphere of Influence Amendment

The change of organization proposal necessitates San Diego LAFCO consider a conforming amendment to add the affected territory to Julian CSD's sphere of influence to achieve consistency with the requested annexation pursuant to Government Code Section 56375.5. Consideration of the amendment is premised on the Commission's statutory task to designate spheres to demark the affected agencies' appropriate current and future service areas relative to community benefits and needs as determined by LAFCO. To this end, staff believes it would be appropriate for the Commission to approve the amendment for the cumulative effect of recognizing Julian CSD should ultimately provide water service to the affected territory when the timing is separately deemed appropriate. Three related policy factors underlie this conclusion. First, the affected territory is planned and used for an industrial purpose and readily suggests the need for urban supporting services - like water. Second, the affected territory's location does not materially alter the footprint of the existing water system. Third, there appears to be no viable service alternatives given suspected deficiencies with groundwater and the costs/inefficiencies in trucking and storing supplies. Additional analysis supporting the conclusion is provided in Appendix A.

Conclusion | Merits of the Sphere Amendment

Approval of the sphere of influence amendment to designate Julian CSD as the appropriate current and future provider of public water service for the affected territory is warranted. Justification is marked by the preceding analysis and would produce a minor amendment that better aligns Julian CSD's sphere to support a present and planned urban use within the existing footprint of the District's service area. Additional analysis supporting the conclusion is provided in Appendix A.

Item No. 2 |
Change of Organization Timing

The timing of the change of organization appears appropriate and highlighted by the analysis of the factors required for consideration under statute anytime jurisdictional changes are proposed. The majority of the prescribed factors focus on the impacts of the proposed annexation on the service and financial capacities of the *receiving* agency, Julian CSD (emphasis added). No single factor is determinative, and the intent is to provide a uniform baseline for San Diego LAFCO in considering all jurisdictional changes in context to the Commission's own adopted policies and practices. A summary of key conclusions generated in the review of these factors follows with a complete analysis in Appendix B.

- Service Needs
  Annexation of the affected territory to Julian CSD would represent a logical and orderly expansion of the District's jurisdictional boundary and water services therein and marked by accommodating an existing need. Additional details follow.

  - Establishing public water services to the affected territory is consistent with the adopted land use policies of the County of San Diego; the governmental entity tasked now and into the foreseeable future with community planning by LAFCO as evident by the land not being within any city sphere.

  - There is an existing and reasonable need for public water service to accommodate the current and planned light industrial uses within the affected territory given the no other viable alternatives are available.

- Service Capacities and Levels
  Julian CSD has available and sufficient supply, storage, and treatment capacities to accommodate projected demands in the affected territory at its potential maximum uses without expanding any public infrastructure. Additional details follow.

  - An existing Julian CSD water main is located immediately adjacent to the affected territory within the public right-of-way on Hollow Glen Road and accessible through a private lateral connection. No extension of public infrastructure, accordingly, is required to serve the affected territory.

  - It is projected the maximum average day water demand generated within the affected territory is 740 gallons and matches the current use of the subject parcel as a 1,600 square foot storage facility. This amount represents less than 0.2% of the existing available supply capacity of Julian CSD, and as such can be readily accommodated without additional District resources or planning.

- Service Funding and Costs
  Julian CSD's financial resources are limited and have experienced recent downward trends and marked by total margin losses in each of the last four audited fiscal years with an overall average of (9.5%).[3] This and other financial factors were detailed in a recent municipal service review and produces reasonable pause with respect to considering the expansion of Julian CSD's service commitments. This pause, however, is mitigated given the limited scope of the annexation and recognition the resulting connection will not produce any new fixed costs for the District.

Conclusion | Merits of Change of Organization Timing

The timing of the change of organization and annexation therein of the affected territory to Julian CSD is warranted. Justification is marked by the preceding analysis and highlighted by appropriately responding to the need for water service and reflects available capacities and infrastructure. Julian CSD's financial resources – while limited and the source of concern – would ultimately benefit from the additional revenue given no new fixed costs are needed for the District to establish water service to the affected territory.

Item No. 3 |
Merits of Modification and Terms

Staff believes one modification to the submitted change of organization proposal is appropriate and it involves San Diego LAFCO adding the adjacent public right-of-way to the centerline of Hollow Glen Road. This recommendation expands the annexation by 0.05 acres and captures the existing water main needed to provide service to the affected territory. The recommended modification does not have a material effect on the applicant. Applying standard approval terms also appears appropriate.

Conclusion | Merits of Modifications and Terms

One modification of including 0.05 acres of public right-of-way on Hollow Glen Road is merited at this time and provides for a more orderly jurisdictional boundary. Standard terms are appropriate.

[3] FY2014 through FY2017.

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 LAFCO can consider any jurisdictional change unless an applicable master agreement applies.[4] The associated statutes also empower the County of San Diego to make all related property tax exchange determinations on behalf of special districts. To this end, San Diego LAFCO has confirmed the County has adopted a master tax exchange applicable to the proposed change of organization. The application of this master agreement will result in a "no" exchange.

Environmental Review

CEQA requires San Diego LAFCO to assess whether environmental impacts would result from activities approved under the Commission's statutory authority. Accordingly, San Diego LAFCO is tasked with making two distinct determinations as lead agency under CEQA with respect to this proposal. This involves the (a) accommodating sphere of influence amendment and the (b) change of organization itself. The Executive Officer has determined both actions qualify as projects under CEQA but are exempt from further review based on the following findings.

- The sphere of influence amendment qualifies for exemption under State CEQA Guidelines Section 15061(b)(3). This exemption appropriately applies given it can be seen with certainty spheres of influence are planning policies and any amendments do not make any changes to the environment or authorize any new uses or services.

- The change of organization qualifies for exemption under State CEQA Guidelines Section 15319(a). This exemption and its cross-reference to Section 15303 appropriately applies given the affected territory involves an annexation of land already developed to its maximum density under existing land use policies.

Protest Proceedings

Protest proceedings for the change of organization may be waived by San Diego LAFCO should the Commission advance 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 and the subject agency and landowner have provided their respective written consents to the underlying proceedings.[5]

[4] Jurisdictional change is defined under State law to include latent power expansions.
[5] LAFCO law defines uninhabited as territory in which 11 or less registered voters reside.

RECOMMENDATION

Staff recommends approval of the change of organization proposal with modifications as specified along with a conforming sphere of influence amendment and standard terms. This recommendation is provided as Alternative One in the proceeding section.

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):
Adopt the attached draft resolution approving the change of organization proposal with a modification to include the adjacent public right-of-way on Willow Glen Road along with the conforming sphere of influence amendment and standard terms.

Alternative Two:
Continue consideration of the proposal to the next regular meeting and provide direction to staff concerning additional information, as needed.

Alternative Three:
Disapprove the proposal with direction to the Executive Officer 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 a noticed hearing. The following procedures, accordingly, are suggested in the Commission's consideration.

1. Receive verbal report from staff unless waived;
2. Invite comments from the applicant and the subject agency;
3. Open the public hearing and receive audience comments; and
4. Close the public hearing and consider the recommendation.

On behalf of the Executive Officer,



Linda Zambito
Analyst I

Appendices:

A) Analysis of Sphere Change Factors
B) Analysis of Boundary Change Factors

Attachments:

1) LAFCO Vicinity Map
2) Draft Resolution of Approval
3) Application Materials

APPENDIX A
STATEMENT OF DETERMINATIONS
SPHERE OF INFLUENCE FACTORS

1) The present and planned land uses, including agricultural and open-space lands.

The affected territory is entirely unincorporated and presently planned and used for light industrial consistent with the County of San Diego General Plan and Zoning Ordinance. This current and planned land use is consistent with the proposal's purpose to establish water services with the specific aim of enabling fire sprinklers. The affected territory has not been cultivated for agricultural products and is not subject to the Williamson Act. The lands would not be considered prime agriculture under LAFCO law.

(2) The present and probable need for public facilities and services in the area.

There is an existing and reasonable need for public water service to accommodate and support the current and planned light industrial use of the affected territory. It is further noted the affected territory's location does not materially alter the footprint of the existing water system and there appears to be no viable service alternatives given suspected deficiencies with groundwater and the costs/inefficiencies in trucking in supplies.

(3) The present capacity of public facilities and adequacy of public services the agency provides or is authorized to provide.

San Diego LAFCO recently prepared a comprehensive evaluation of Julian CSD as part of a regional municipal service review. This document coupled with additional analysis preformed in the review of the proposal adequately attests Julian CSD has sufficient infrastructure capacities to extend public water service to the affected territory.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

The affected territory lies immediately adjacent to Julian CSD's sphere of influence and jurisdictional boundary. Amending the sphere to include the affected territory would result in a minor expansion and facilitate a readily available connection to the water system.

(5) The present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

All lands within the Julian region – including the affected territory – qualify as a disadvantaged unincorporated community under San Diego LAFCO policy.

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APPENDIX B
ANALYSIS OF MANDATORY PROPOSAL REVIEW FACTORS
GOVERNMENT CODE SECTION 56668

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 incorporated and unincorporated areas, during the next 10 years.

The affected territory includes one unincorporated and uninhabited parcel in the County of San Diego totaling 0.65 acres along with the recommended modification by staff to include an adjacent 0.05 acre public right-of-way segment.[6] The subject parcel is developed with an approximate 1,600 square foot public facility comprising of on sand barn to be used by Caltrans to store sand and cinders under cover for road safety and repair work. The County of San Diego is the current landowner and as such there is no assessed value. No significant growth in expected in the Julian region within the next 10 years.

b) The need for organized community services; the present cost and adequacy of governmental 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 acts as the primary purveyor of general governmental services to the affected territory. This includes community planning, roads and drainage, and public safety divided between County Sherriff and County Fire Authority. This proposal affects only water and is the focus of the succeeding analysis.

- **Extending Public Water to Affected Territory**
  The affected territory currently has no available water source. Annexation would allow the affected territory to connect to the adjacent Julian CSD public water main located within the public right-of-way on Willow Glen Road. Connection would involve a private lateral; no public infrastructure extension would be required. It is projected the average daily water flow for the affected territory at its maximum development use – which matches the existing 1,600 square foot utility storage facility – is 740 gallons. This projected demand represents less than 0.17% of the current 0.440 million gallons of available and remaining daily supply capacity available to Julian CSD. The projected demand would similarly have negligible impacts on Julian CSD's treatment and storage capacities.

[6] The subject parcel is located at 1165 Guava Lane. The County Assessor's Office identifies the subject parcel as 498-270-12.

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 change of organization would establish economic and social ties between Julian CSD and the affected territory based on mutual interest therein in expanding the role of the District as the public water provider in support of planned urban-type uses.

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.

The affected territory is developed as a conforming limited industrial use under the County of San Diego General Plan. Approving the proposed change of organization would facilitate the establishment of public water services to the newly constructed public and in doing so support County's community planning policies. None of the lands qualify as "open-space" under LAFCO law and therefore does not conflict with G.C. Section 56377.

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 qualify as "prime agricultural land" under LAFCO law. Specifically, the lands are not 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, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and similar matters affecting the proposed boundaries.

LAFCO is in receipt of a draft map and geographic description of the affected territory that details metes and bounds consistent with the standard of the State Board of Equalization. Approval would be conditioned on a final map and description confirming to the referenced standards if approved by the Commission and this includes incorporating any approved modifications. The affected territory does not cross lines of assessment.

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

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

h) The proposal's consistency with city or county general and specific plans.

The affected territory is entirely designated for limited industrial use under the adopted land use policies of the County of San Diego. This includes designating and zoning the lands as M52 Limited Industrial. These existing and planned uses are consistent with the proposal's purpose to provide public water to the existing utility structure.

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

The affected territory is not located within the Julian CSD sphere of influence and a concurrent amendment to include the subject parcel is recommended for consistency with the change of organization. See Appendix A for additional analysis.

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

Staff provided notice of the proposal to all subject and affected agencies as required under LAFCO law. No written comments were received ahead of preparing this agenda report.

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 San Diego LAFCO's recent municipal service review for the Julian region concluded Julian CSD operates with modest financial resources and its long-term sustainability merits attention going forward. This includes the municipal service review identifying the following downward trends based on audited information collected between Fiscal Years 2014 and 2017:

- Julian CSD's net position steadily decreased during the period with an ending amount of 1.310 million and reflecting an overall change of (9.8%). The ending amount is also entirely categorized as restricted or capital with no unrestricted monies available.

- Julian CSD experienced average annual total margin loss during the period of (9.5%).

The preceding factors produces reasonable pause with respect to considering the expansion of Julian CSD's service commitments. Staff believes this pause is reasonably mitigated given the limited scope of the annexation and recognition the resulting connection will not produce any new fixed costs and as such will generate net revenue for Julian CSD through the payment of a connection fee and ongoing usage charges.

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

San Diego LAFCO's recently completed municipal service review on the Julian region independently concludes Julian CSD has sufficient water supplies and related capacities in meeting current demands. These capacities would not be materially affected by the annexation and connection therein of the affected territory to the Julian CSD water system based on the subject parcel's current and planned land uses.

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 consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

The change of organization would not impact regional housing needs given the affected territory is designated and zoned for non-residential uses by the County of San Diego. Annexation would not change the land use authority.

n) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

The affected territory is uninhabited as defined LAFCO law (11 registered voters or less). The landowner supports the annexation underlying the change of organization and has provided their written consent to the proceedings.

o) Any information relating to existing land use designations.

See earlier analysis on page 11.

p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

There is no documentation or evidence suggesting the proposal will have a measurable effect – positive or negative – with respect to promoting environmental justice.

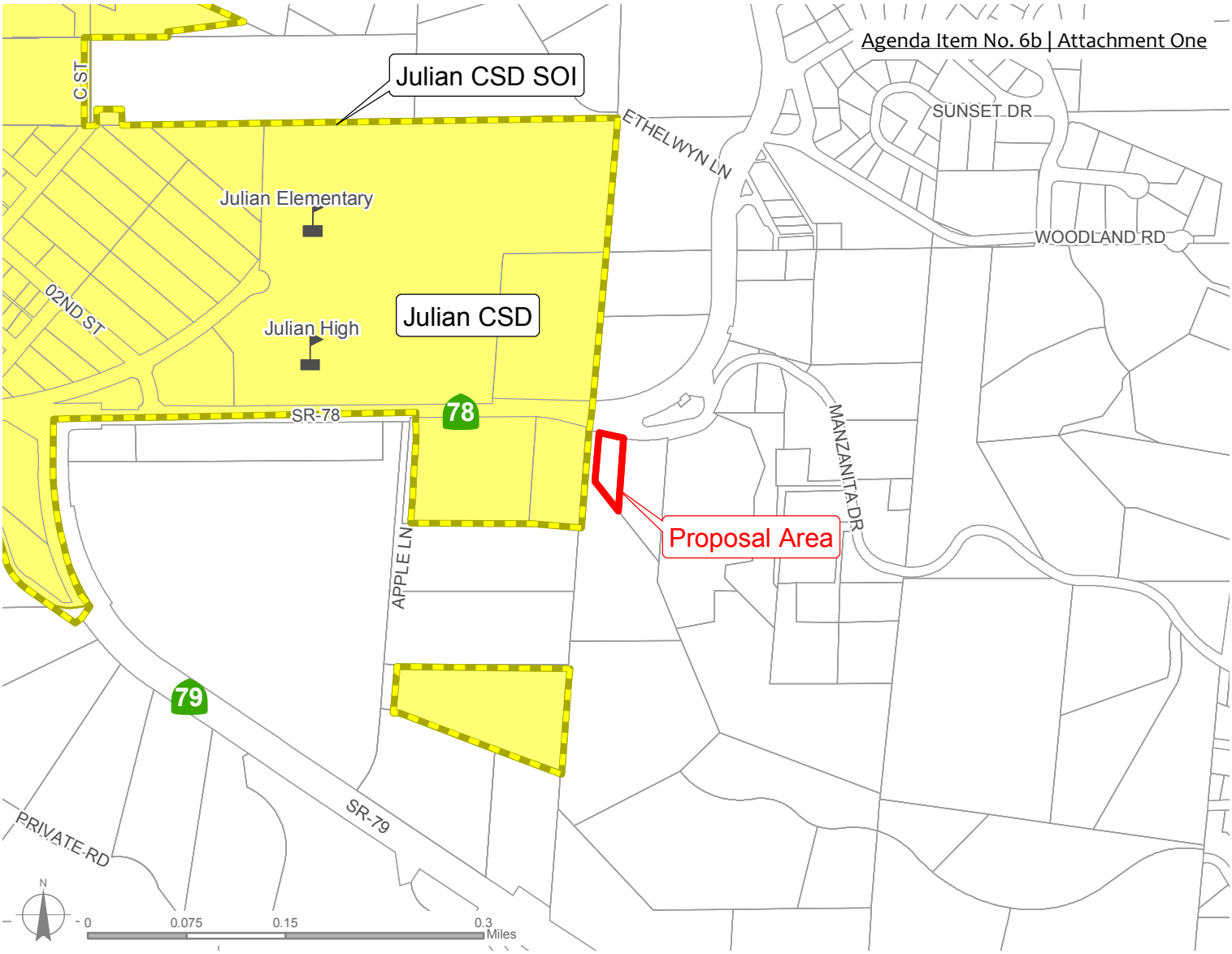
q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined it is relevant to the area that is the subject of the proposal.

All of the affected territory lies within a State Responsibility Area. The affected territory is also included within a "very-high fire hazard severity zone" under the County of San Diego General Plan.

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 annex to the district.

Approval of the change of organization would be in the best interest of the current and future landowners as well as surrounding residents by enabling the operation of fire sprinklers for a light industrial use.

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DA19-14

PROPOSED "HOLLOW GLEN CHANGE OF ORGANIZATION" TO JULIAN COMMUNITY SERVICES DISTRICT (CSD)

- Proposal Area
- Julian CSD
- Julian CSD SOI

SOI = Sphere of Influence

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

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RESOLUTION NO._____

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING, AND ORDERING A CHANGE OF ORGANIZATION AND ASSOCIATED SPHERE OF INFLUENCE AMENDMENT

HOLLOW GLEN CHANGE OF ORGANIZATION ANNEXATION TO THE JULIAN COMMUNITY SERVICES DISTRICT LAFCO FILE NO. DA19-14

WHEREAS, on August 8, 2019, the Julian Community Services District filed a resolution of 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 proposal seeks approval for a change of organization involving annexation of approximately 0.65 acres of unincorporated territory for the purpose of connection to the Julian Community Services District's potable water system; and

WHEREAS, the affected territory as proposed comprises one improved and unincorporated parcel identified by the County of San Diego Assessor's Office as 291-122-20; and

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

WHEREAS, the Commission's Executive Officer has reviewed the proposed change of organization 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 hearing on the proposal on November 4, 2019; and

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

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

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

2. At the hearing, the Commission called for, heard, and considered all interested parties and public comments and read and considered the Executive Officer's report.

3. The Commission serves as lead agency under the California Environmental Quality Act (CEQA) in considering two distinct "projects" associated with the Hollow Glen Change of Organization proposal as detailed in the Executive Officer's report: (a) an accommodating sphere of influence amendment and the (b) the change of reorganization itself. The Commission's findings follow.

    a) The Commission finds the sphere of influence amendment to the Julian Community Services District to include the affected territory as described qualifies as a project under CEQA but exempt from further review under the "general rule" provision provided 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 or services.

    b) The Commission finds the change of organization to annex the affected territory as described to the Julian Community Services District qualifies as a project under CEQA but is exempt from further environmental review under State CEQA Guidelines Section 15319(a). This exemption appropriately applies given the project involves an annexation of land at its maximum density.

4. The Commission APPROVES the following sphere of influence amendment subject to successful recordation of the associated change of organization and in doing so makes the statements required under Government Code Section 56425 and provided in "Exhibit A."

    a) The sphere of influence for the Julian Community Services District is amended to include the affected territory as shown in "Exhibit B."

5. The Commission APPROVES the change of organization with modifications as described below and subject to conditions as provided. Approval involves all of the follow:

    a) The affected territory is modified to include the adjacent public right-of-way to the centerline on Hollow Glen Road.

    b) The affected territory as modified by the Commission is fully shown in "Exhibit B" and described in "Exhibit C."

6. The Commission CONDITIONS the approvals on the following terms being satisfied by November 4, 2020 unless an extension is requested 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 a 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 Division.

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 two CEQA Notices of Exemption consistent with the findings in the resolution.

- A check made payable to LAFCO in the amount of $303.72 to reimburse for the public hearing notice publication.

- A check made payable to the State Board of Equalization for processing fees in the amount of $300.00.

7. The Commission assigns the proposal the following short-term designation:

   "Hollow Glen Change of Organization" to the Julian Community Services District

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 Julian Community Services District is a registered-voter district.

11. The Julian Community Services District utilizes the County of San Diego assessment roll.

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

13. The effective date of the approval a shall be the date of recordation but not before December 4, 2019 and only after all terms have been completed as attested by the Executive Officer.

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

15. The Executive Officer is hereby authorized and directed to mail 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 4th of November 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**

Approve to Form:

_____
Holly Whatley,
Commission Counsel

Attest:

_____
Jo MacKenzie
Commission Chair

EXHIBIT A

SPHERE OF INFLUENCE DETERMINATIONS

1) The present and planned land uses, including agricultural and open-space lands.

The affected territory is entirely unincorporated and presently planned and used for light industrial consistent with the County of San Diego General Plan and Zoning Ordinance. This current and planned land use is consistent with the proposal's purpose to establish water services with the specific aim of enabling fire sprinklers. The affected territory has not been cultivated for agricultural products and is not subject to the Williamson Act. The lands would not be considered prime agriculture under LAFCO law.

(2) The present and probable need for public facilities and services in the area.

There is an existing and reasonable need for public water service to accommodate and support the current and planned light industrial use of the affected territory. It is further noted the affected territory's location does not materially alter the footprint of the existing water system and there appears to be no viable service alternatives given suspected deficiencies with groundwater and the costs/inefficiencies in trucking in supplies.

(3) The present capacity of public facilities and adequacy of public services the agency provides or is authorized to provide.

San Diego LAFCO recently prepared a comprehensive evaluation of Julian CSD as part of a regional municipal service review. This document coupled with additional analysis preformed in the review of the proposal adequately attests Julian CSD has sufficient infrastructure capacities to extend public water service to the affected territory.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

The affected territory lies immediately adjacent to Julian CSD's sphere of influence and jurisdictional boundary. Amending the sphere to include the affected territory would result in a minor expansion and facilitate a readily available connection to the water system.

(5) The present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

All lands within the Julian region – including the affected territory – qualify as a disadvantaged unincorporated community under San Diego LAFCO policy.

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EXHIBIT B

Placeholder for Recordation
Map of Affected Territory
and Annexation to Julian Community Services District

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EXHIBIT C

Placeholder for Recordation
Description of Affected Territory
and Annexation to Julian Community Services District

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JULIAN COMMUNITY SERVICES DISTRICT
RESOLUTION 19-02

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE JULIAN COMMUNITY SERVICES DISTRICT TO MAKE AN APPLICATION TO THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION FOR ANNEXATION

WHEREAS, the Julian Community Services District ("District") is a Community Services District organized pursuant to Section 61000 *et seq*. of the California Government Code; and

WHEREAS, the Board of the District is informed that the County of San Diego has constructed facilities for CALTRANS upon San Diego County Assessor's Parcel Number 291-122-20, located at 1471 Hollow Glen Road, Julian, CA 92036, ("the Property"); and

WHEREAS, the County of San Diego has requested the Board of the District to annex the Property to permit the extension of water utility service to the Property to enable the operation of fire sprinklers; and

WHEREAS, the Board of the District wishes to annex the Property upon the request of the County of San Diego, for the purpose of providing water service to the facilities on the Property; and

THEREFORE, it is resolved:

That the Board of Directors of the Julian Community Services District directs that an application for the annexation of the Property be submitted to the San Diego Local Agency Formation Commission.

PASSED, APPROVED AND ADOPTED this 16th day of July, 2019.

AYES: 5
NOES: Ø
ABSENT: Ø
ABSTAIN: Ø

Herbert Dackermann, President
Board of Directors of the Julian
Community Services District

ATTEST my hand and the seal of the Board of Directors this 16th day of July, 2019.

Secretary of the Julian Community Services District

JULIAN COMMUNITY SERVICES DISTRICT
RESOLUTION 19-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE JULIAN COMMUNITY SERVICES DISTRICT CERTIFYING THAT THE ANNEXATION OF ASSESSOR'S PARCEL NUMBER 291-122-20 QUALIFIES FOR THE CATEGORICAL EXEMPTION SET FORTH AT 14 CALIFORNIA CODE OF REGULATIONS SECTION 15319

WHEREAS, the Julian Community Services District ("District") is a Community Services District organized pursuant to Section 61000 *et seq.* of the California Government Code; and

WHEREAS, the Board of the District is informed that the County of San Diego has constructed facilities for CALTRANS upon San Diego County Assessor's Parcel Number 291-122-20, located at 1471 Hollow Glen Road, Julian, CA 92036, ("the Property"); and

WHEREAS, the County of San Diego has requested the Board of the District to annex the Property to permit the extension of water utility service to the Property to enable the operation of fire sprinklers; and

WHEREAS, the Board of the District wishes to annex the Property upon the request of the County of San Diego, for the purpose of providing water service to the facilities on the Property; and

WHEREAS, the Board of the District is informed that the extension of water utility service to the existing facilities located upon the Property will have the capacity to serve only the existing facilities, and it is not foreseeable that the extension of water service to the Property will have the potential to serve a greater capacity than existing uses; and

WHEREAS, 14 California Code of Regulations §15319 provides a categorical exemption from environmental review pursuant to California Public Resources Act §§ 21000 to 21177 (CEQA) which exempts the annexation of public facilities by special districts when the extension of utility services to such facilities has the capacity to serve only the existing facilities.

THEREFORE, it is resolved:

That the Board of Directors of the Julian Community Services District finds and certifies that the annexation of the Property qualifies for the categorical exemption set forth in of 14 California Code of Regulations §15319, (14 CCR 15319) .

PASSED, APPROVED AND ADOPTED this 16th day of July, 2019.

AYES: 5
NOES: Ø
ABSENT: Ø
ABSTAIN: Ø

Herbert Dackermann
President
Board of Directors of the Julian
Community Services District

ATTEST my hand and the seal of the Board of Directors this 16th day of July, 2019.

Secretary of the Julian Community Services District

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