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AGENDA REPORT Public Hearing | Action

August 6, 2018

TO: San Diego Commissioners

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

SUBJECT: **Pankey Contractual Wastewater Service Agreement and Sphere of Influence Amendment | Valley Center Municipal Wastewater District, SA18-04 et al. (action)**

SUMMARY

The San Diego Local Agency Formation Commission (LAFCO) will consider a request by the Valley Center Municipal Water District (MWD) to enter into a contract to provide outside wastewater service to two unincorporated parcels totaling 13.1 acres that are under common ownership in the Fallbrook area. Approval would preemptively avoid future construction impacts associated with an adjacent development to the onsite septic system that serves the existing single-family residence comprising the affected territory. An associated sphere of influence amendment is also required in the absence of LAFCO determining a public health or safety threat exists or impending. Staff recommends approval of the request and a concurrent sphere of influence amendment. Standard terms are also recommended. The County Assessor's Office identifies the affected territory as 108-122-14 and 17.

BACKGROUND

[Applicant Request | Affected Territory as Proposed](#)

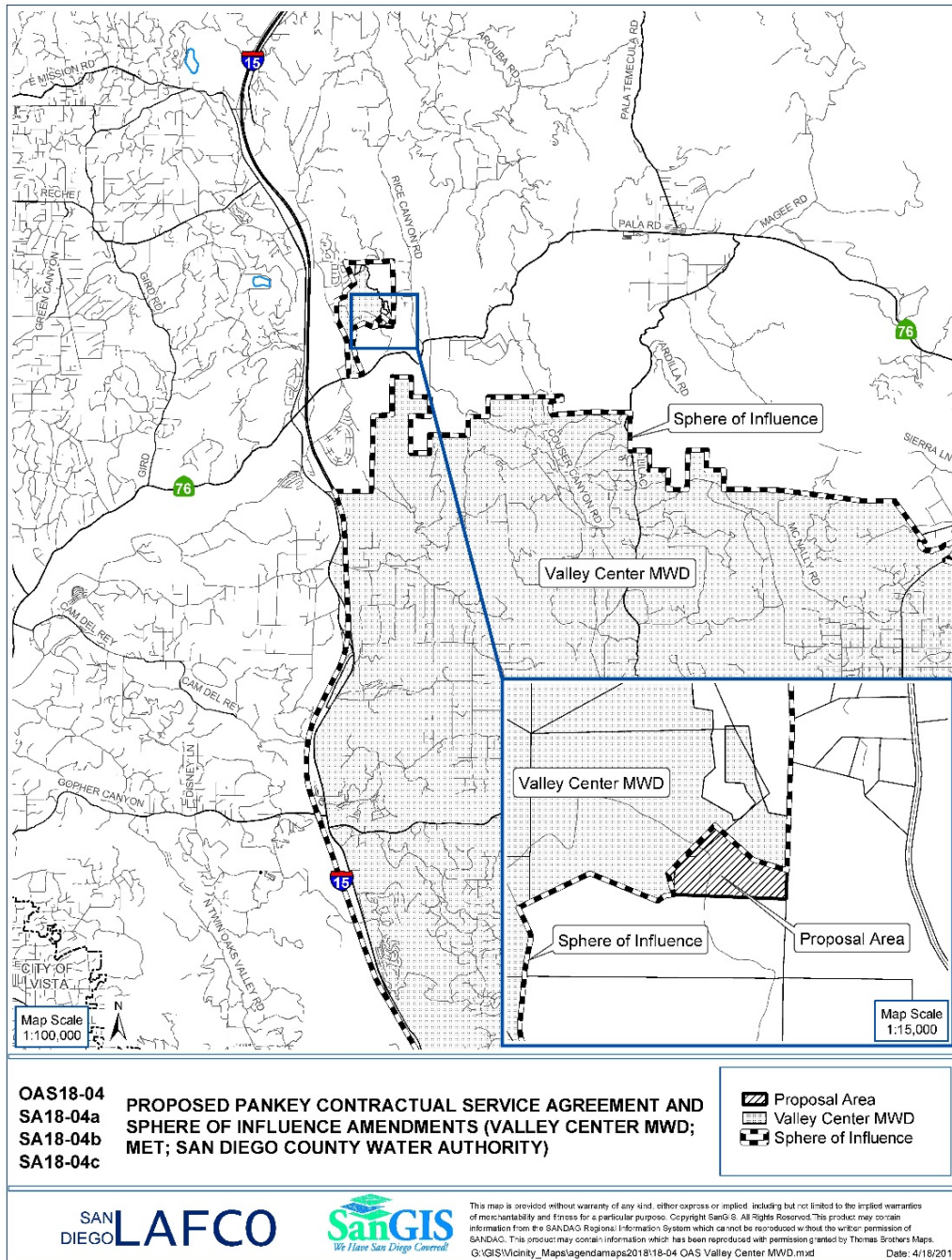
San Diego LAFCO has received a request from the Valley Center MWD ("applicant") seeking approval to contractually extend and provide wastewater service outside of its jurisdictional boundary and sphere of influence. The affected territory consists of one legal lot divided between two

San Diego LAFCO

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assessor parcels totaling 13.1 acres with a situs address of 5328 Highway 76 in the Fallbrook area. An existing and occupied single-family residence overlays the affected territory and is presently dependent on an onsite septic system to collect and dispose of wastewater.¹ The County of San Diego zones the affected territory for agricultural use with a two acre minimum parcel size for residential uses.



¹ The existing residence utilizes groundwater for its water demands.

Subject Agency

The proposal involves one subject agency: Valley Center MWD.² A summary description of the lone subject agency follows.

- Valley Center MWD is an independent special district formed in 1954 and governed by a five-member Board, each representing a geographic area within the MWD. Directors are elected by the voters within their divisions for four-year staggered terms. Valley Center MWD’s jurisdictional boundary spans just over 100 square miles and comprises the unincorporated community of Valley Center including a small northern portion of the City of Escondido and the adjacent unincorporated territory located on the eastern side of the local I-15 corridor. Valley Center MWD is currently authorized to provide three distinct services: (a) domestic water; (b) wastewater collection and treatment; and (c) recycled water. The San Diego Association of Governments (SANDAG) estimates Valley Center MWD’s resident population at 26,433 (2016). LAFCO most recently reviewed and affirmed Valley Center MWD’s sphere in 2014. The MWD’s audited unrestricted or uncommitted reserves as of July 30th 2017 totaled \$8.0 million and represents 6 months of current budgeted operating and maintenance expenses excluding wholesale water and power purchases.

Affected Local Agencies

The affected territory lies within the jurisdictional boundaries of the following local agencies directly subject to San Diego LAFCO.³

- County Service Area No. 81 (Fallbrook Local Parks)
- CSA No. 135 (Regional Communications)
- CSA No. 135 (Fire Protection LP Area – San Diego County Fire Authority)
- San Diego County Street Lighting District
- San Diego County Flood Control District
- North County Cemetery District
- Fallbrook Regional Healthcare District
- Resource Conservation District of Greater San Diego County
- San Luis Rey Municipal Water District

DISCUSSION

This item is for San Diego LAFCO to consider approving Valley Center MWD’s request to provide outside wastewater services by contract to the affected territory. The Commission may also consider applying conditions so long as it does not directly regulate land use, property development, or subdivision requirements.

² State law defines “subject agency” to mean any district or city for which a change or organization or reorganization is proposed.

³ State law defines “affected local agency” as any entity that contains, or would contain, or whose sphere of influence contains or would contain, any territory for which a change or organization is proposed or ordered.

Proposal Purpose

As submitted by Valley Center MWD, the proposed contractual wastewater service extension with the affected territory's landowner (Pankey) is intended to preemptively avoid potential impacts to the existing residence's septic system from adjacent grading for a pending 390 acre residential development – Meadowood.⁴ Pertinently, and in the course of the development review as the designated water and wastewater provider, Valley Center MWD determined that potential septic impacts from the adjacent grading operations for Meadowood will create a health and safety emergency for the residents of the affected territory. The County responded by conditioning the grading permit approvals for Meadowood contingent on abandonment of the affected territory's septic system and connection to public wastewater system. As a result, the developer of Meadowood has agreed to finance, construct, and extend a private lateral from a planned wastewater system adjacent to the affected territory in step with securing grading permits.⁵

Commission Focus

Staff has identified three central and sequential policy items for San Diego LAFCO in considering the merits of the requested approval for Valley Center MWD to contractually extend outside wastewater services to the affected territory. These central policy items are the stand-alone merits of (a) accommodating the extension – now or in the future – through a sphere of influence amendment or public threat finding, (b) timing of the requested extension itself, and (c) whether discretionary terms are appropriate. The Commission must also consider other relevant statutes of LAFCO law as detailed.

ANALYSIS

The analysis of the proposal is organized into two subsections. The first subsection considers the three central policy issues introduced in the preceding section. This pertains to accommodating the extension under LAFCO law, evaluating the timing of the extension, and appropriateness of applying potential terms. The second subsection considers policy issues required by other applicable State statutes.

(over)

⁴ Existing County approvals for Meadowood allow for the construction of 355 single-family homes, 164 detached condominiums, 325 townhomes, a park and recreation center, elementary school, wastewater treatment plant and an area designated for agriculture.

⁵ Valley Center MWD's proposed contractual wastewater service agreement restricts service only to the existing single-family residence. It specifically excludes any extension of water service to the affected territory.

Central Policy Items

Item No. 1 |

Accommodation under Government Code Section 56133 (Sphere of Influence Amendment v. Public Threat Finding)

Government Code Section 56133 is the statute outlining LAFCOs' regulatory role in overseeing requests from cities and special districts to enter into contracts to provide municipal services outside their jurisdictional boundaries. The statute is prefaced on the legislative assumption that outside service contracts generally serve as interim solutions in establishing needed and/or otherwise merited municipal services in anticipation of later annexations. To this end, the statute limits LAFCOs' approval of outside service extensions for lands located within the affected agencies' spheres of influence with the exception of addressing documented threats to public health or safety. The statute specifies the following two requirements must be satisfied for LAFCOs to make public health or safety findings and authorize outside service extensions beyond the agencies' sphere of influence.

- The entity applying for approval has provided LAFCO with documentation of a threat to the health and safety of the public or the affected residents.
- LAFCO has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, which has filed a map and a statement of its service capabilities with the commission.

San Diego LAFCO policies and procedures for implementing Section 56133 generally rely on the evaluation and determinations of the County Department of Environmental Health (DEH) when documenting present or impending health and safety threats.⁶

Valley Center MWD has requested approval of the outside wastewater service extension on the premise of addressing a public health threat tied to the anticipated grading impacts to the septic system associated with the adjacent Meadowood development. However, and relevant to Commission policies and practices, the applicant has not submitted supporting documentation from County DEH establishing that an existing or impending public threat to the subject residents exists. Further, and while staff recognizes the referenced grading activities pose a threat to the existing septic system, it does not preclude the landowner from relocating a septic system elsewhere on the 13.1 acre property. The timing for the construction-related impact to the existing septic system is also unknown and not absolute. This variable contrasts with the statute and its description of "existing or impending" in quantifying an applicable public health or safety threat. Accordingly, staff believes a concurrent amendment to the Valley Center MWD's sphere of influence to include the

⁶ County DEH is the local permitting and regulatory agency for on-site underground wastewater disposal systems and provides evaluations for the status of existing and proposed septic systems and a subject property's capability to repair, rehabilitate, or expand an existing septic system.

affected territory is the best means under LAFCO law to facilitate the outside wastewater service extension should the Commission deem the latter appropriate.

Item No. 2 |

Timing of the Wastewater Extension to the Affected Territory

Valley Center MWD is requesting LAFCO approval to contractually extend wastewater service to the existing single-family residence comprising the affected territory and in doing so replace an existing onsite septic system. Underlying the Commission's consideration of the request is the timing and whether the membership believes the extension of wastewater service is needed and – if yes – whether it is readily available. Should the preceding determinations be in the affirmative the Commission is tasked with proceeding to consider most appropriate delivery means: annexation or outside service extension. Staff's analysis of these two related factors follows.

- **Need and Availability of Service**

- The need for service is justified given the affected territory is already developed with a single-family residence and its septic system is expected to be adversely impacted by pending grading activities tied to the adjacent Meadowood project. This need has been substantiated by the County and reflected in its development approvals for the Meadowood project to require the affected territory abandon its septic system and connect to Valley Center MWD's wastewater system.
- The extension of wastewater service to the affected territory appears readily available and without impacting other ratepayers. The proposed wastewater service would be extended from a planned Valley Center MWD line to be constructed within the adjacent Meadowood residential development. The Meadowood developer has agreed to finance all costs for the contractual agreement, wastewater service extension, abandonment of the septic system, and connection of the residence. Additionally, the Meadowood development's planned wastewater collection and treatment capacities are sufficient to accommodate one additional EDU for the affected residence's projected demands.

- **Annexation v. Outside Service Agreement**

- Annexations are the preferred method under LAFCO law to use boundary changes to memorialize the relationship between land and service providers unless local conditions suggest otherwise.
- Local conditions sufficiently justify an outside service extension as the most responsive means to provide wastewater services to the affected territory. This option avoids the growth inducement potential associated with an annexation and the legal availability therein of making water available to the affected territory. It

also avoids costs to the landowner to pair annexation to Valley Center MWD to include concurrent annexation to the Metropolitan Water District of Southern California and San Diego County Water Authority as footnoted.⁷

Item No. 3 | Potential Approval Terms

The application of standard LAFCO approval terms appears sufficient. This includes the applicant paying any outstanding fees necessary to complete the extension approval.

Other Statutory Considerations

Environmental Review

The California Environmental Quality Act (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 either lead or responsible agency under CEQA with respect to considering the request filed by Valley Center MWD to enter into a contract to provide outside wastewater services to the affected territory. This involves the (a) accommodating sphere of influence amendment and the (b) extension itself. Staff's analysis and recommendations follow.

- San Diego LAFCO serves as lead agency under CEQA for the accommodating sphere of influence amendment to Valley Center MWD to include the affected territory given the Commission has sole authority to approve or deny the action. Staff has determined the activity is a project under CEQA, but exempt from further review under the "general rule" provision provided under Public Resources Code 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.
- San Diego LAFCO serves as responsible agency under CEQA for the outside wastewater extension given Valley Center MWD has assumed lead agency status in step with initiating the activity and filing the request with the Commission. Valley Center MWD has determined the wastewater extension is a project under CEQA, but exempt from further review under Public Resources Code Section 15302(c). This exemption contemplates negligible expansion of uses associated with public facilities. Staff has independently reviewed this determination and concurs Valley Center MWD's finding is appropriate under CEQA.

⁷ The Valley Center MWD is a retail member agency of the San Diego County Water Authority (CWA), which provides wholesale imported water supply to the San Diego Region as a member agency of the Metropolitan Water District of Southern California (MET). The CWA and MET have overlying spheres of influence and service areas coterminous with the retail member agency boundaries. Per the CWA/MET Administrative Codes, annexation to a special district member agency such as the Valley Center MWD requires conditional approvals from the CWA and MET Boards.

RECOMMENDATION

Staff believes it is appropriate for San Diego LAFCO to approve the request by Valley Center MWD to enter into a contract and provide outside wastewater services to the affected territory. As detailed, the timing of the extension through a contractual agreement is the best available option in addressing the need for public wastewater services while avoiding growth inducement concerns tied to annexation and availability of water. Accommodating the outside extension through a sphere of influence amendment – and in contrast to making a public health finding – is also appropriate and serves to appropriately memorialize the service relationship between Valley Center MWD and the affected territory going forward. This recommendation is further prescribed in the succeeding section as Alternative One.

ALTERNATIVES FOR ACTION

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

Alternative One (Recommended):

- a) Accept and incorporate the analysis of the Executive Officer's written report.
- b) Make the following findings under CEQA.
 1. As lead agency, the Commission determines the amendment to expand Valley Center MWD's sphere of influence to include the affected territory is a project under CEQA, but qualifies for exemption under Public Resources Code 15061(b)(3).
 2. As responsible agency, the Commission independently concurs with Valley Center MWD and its own determination as lead agency that the extension of outside wastewater service to the affected territory is a project under CEQA, but qualifies for exemption under Public Resources Code Section 15302(c).
- c) Adopt the form of resolution approving a sphere of influence amendment for Valley Center MWD to include the affected territory as shown in Attachment One. The resolution will include abbreviated determinative statements as provided in Appendix A.
- d) Approve the proposed contractual agreement between Valley Center MWD and the affected territory landowner (Pankey) as provided in Attachment Two. Approval is termed on the following terms:
 1. Completion of the 30-day reconsideration period for the amendment to Valley Center MWD's sphere of influence to include the affected territory under Section 56895.
 2. Payment of any outstanding charges under the LAFCO fee schedule.

Alternative Two:

Continue consideration to a time-specified regular meeting and provide direction to staff concerning additional information, as needed.

Alternative Three:

Disapprove the request.

PROCEDURES FOR CONSIDERATION

This item has been placed on the agenda as part of a noticed public hearing.⁸ The following procedures, accordingly, are recommended in the consideration of this item:

- 1) Receive verbal report from staff;
- 2) Invite comments from the applicant or representatives
- 3) Open the hearing and invite audience comments (mandatory); and
- 4) Close the hearing, discuss item, and consider action on recommendation.

On behalf of staff,



Robert Barry, AICP
Chief Policy Analyst

Attachments:

- 1) Vicinity Map of the Affected Territory
- 2) Proposed Contractual Agreement

⁸ LAFCO law requires all sphere changes be considered at noticed public hearings (G.C. Section 56427).

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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 subject to the proposed contractual wastewater service agreement and concurrent sphere amendment for Valley Center MWD includes two unincorporated parcels totaling 13.1 acres (APNs 108-122-14, 11.92 acres; and -17, 1.19 acre) under common ownership (Pankey). The affected territory is presently developed with one single-family residence in the unincorporated Fallbrook Community Planning Area. The County of San Diego General Plan presently designates the territory as RL-40 (Rural Lands) which allows for residential development up to 1 dwelling unit per 40 acres. Current County zoning is A-70 (Limited Agriculture), which requires a 2 acre minimum lot size for residential uses. The affected territory includes active agricultural uses and is designated as Farmland per the State's Farmland Mapping and Monitoring Program (FMMP). Surrounding land uses include rural residential, agricultural, and open space uses to the north, east, and south, and the Meadowood residential development project to the west. No changes to the present land uses in the area are proposed in association with the proposal actions.

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

The affected territory subject to the proposed contractual wastewater service agreement and concurrent sphere of influence amendment for Valley Center MWD contains one existing single-family residence that utilizes groundwater for its water demands and an onsite underground septic disposal system for wastewater disposal. The present need for public facilities and services in the area are provided by the following public agencies:

- County Service Area No. 81 (Fallbrook Local Parks)
- CSA No. 135 (Regional Emergency Communications)
- CSA No. 135 (Fire Protection LP Area – San Diego County Fire Authority)
- San Diego County Street Lighting District
- San Diego County Flood Control District
- North County Cemetery District
- Fallbrook Regional Healthcare District
- Resource Conservation District of Greater San Diego County
- San Luis Rey Municipal Water District (Groundwater Protection)

The local public agencies plan for the area's probable public facilities and services needs

through master service planning documents and capital improvement programs in coordination with the County's land use planning and SANDAG regional growth forecast. Each of the local special district service providers has adequate infrastructure and available services to serve the present and probable needs of the proposed reorganization area. The special district service providers were most recently reviewed by LAFCO in 2013 and determined to adequately provide their authorized services within their respective service areas. The proposal territory has been recommended for inclusion in the Valley Center MWD Sphere, which would reflect its service relationship with the MWD as well as facilitate the property's potential annexation to the MWD if water service was requested in the future. Any future annexation to the MWD for water service would also require conditional approvals from the MWD's imported water wholesalers – the San Diego County Water Authority (CWA) and the Metropolitan Water District of Southern California (MET).

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

Valley Center MWD is an independent special district formed in 1954 and governed by a five-member Board, each representing a geographic area within the MWD. Directors are elected by the voters within their divisions for four-year staggered terms. Valley Center MWD's jurisdictional boundary spans just over 100 square miles and comprises the unincorporated community of Valley Center including a small northern portion of the City of Escondido and the adjacent unincorporated territory generally located on the eastern side of the local I-15 corridor. The MWD is a retail member agency of the San Diego County Water Authority (CWA) and is currently authorized to provide three distinct services: domestic water; wastewater collection and treatment; and recycled water. The San Diego Association of Governments (SANDAG) estimates Valley Center MWD's resident population at 26,433 (2016). LAFCO most recently reviewed and affirmed Valley Center MWD's sphere in 2014. The 2014 sphere review determined the MWD facilities had sufficient capacities and the District was adequately providing its authorized services. The next LAFCO service and sphere review for the Valley Center MWD has been scheduled for FY 2019-2020. The MWD reports its unrestricted or uncommitted reserves as of July 30th 2017 totaled \$8.0 million and represents 6 months of current budgeted operating and maintenance expenses.

The Valley Center MWD's Urban Water Management Plan (UWMP, 2015 Update) describes the present and projected availability of water and discusses water use, reclamation, and water conservation activities. The 2015 UWMP concludes that the water supplies available to the Valley Center MWD's customers are adequate over the next 20-year planning period. The MWD's adopted budget for FY 2016-2017 states the MWD projects to supply approximately 19,700 acre-feet of water to serve anticipated customer demands, with approximately 100 percent as potable treated water purchased from the San Diego CWA. Agricultural uses comprise approximately 70% of the water demands within the MWD, with residential uses at approximately 22% and commercial uses at about 8%.

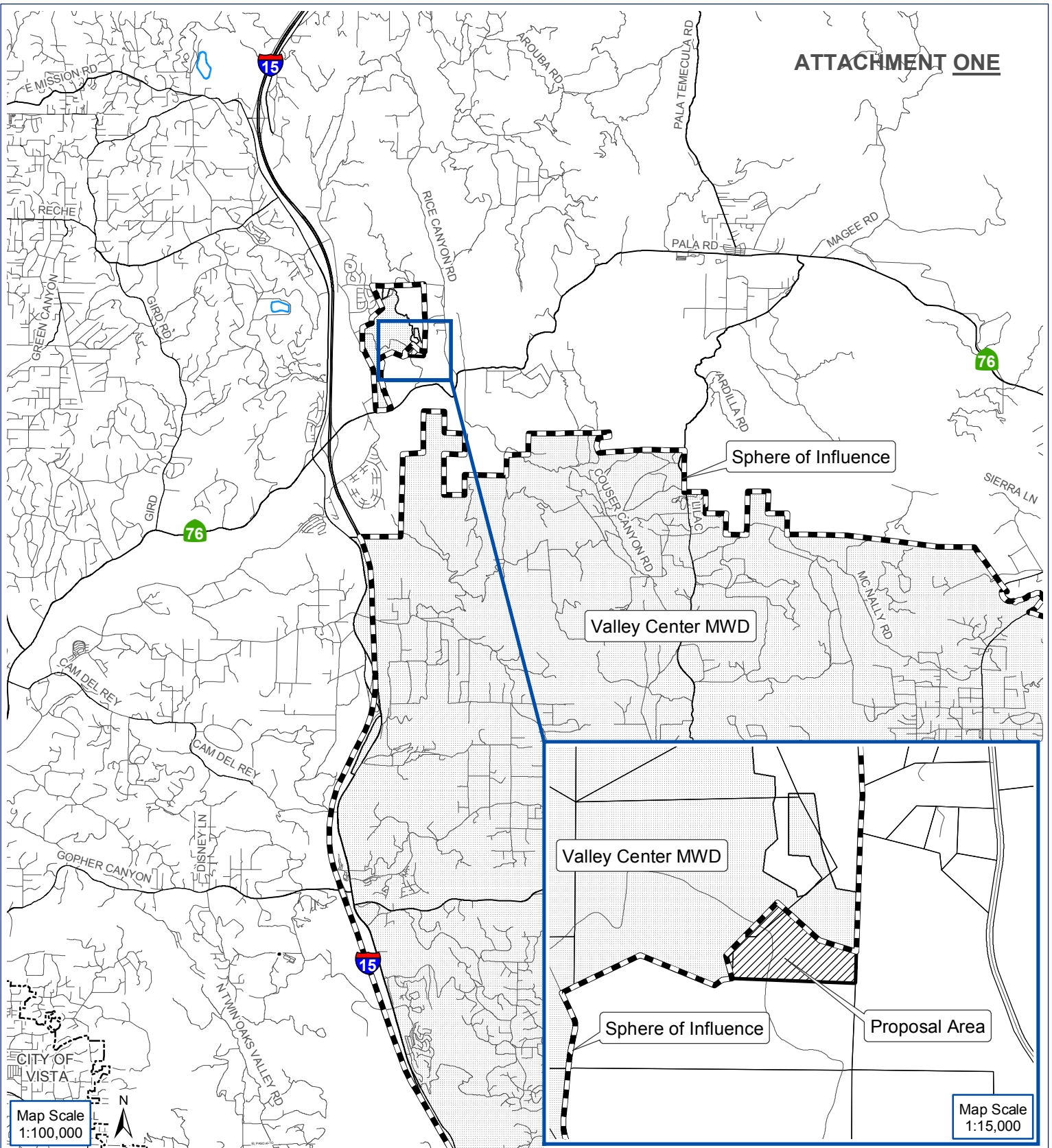
Valley MWD provides wastewater collection, treatment, water recycling, and disposal services for 2,751 customers through two wastewater treatment facilities, Lower Moosa and Woods Valley Ranch. While the MWD is authorized to provide wastewater services district-wide, the Lower Moosa Canyon Water Reclamation Facility and the Woods Valley Ranch Water Reclamation Facility each serve separate and limited areas within the MWD's service area. The Moosa facility has a maximum treatment and disposal capacity of 0.50 mgd, or 2,500 equivalent dwelling units (EDU), and can accommodate the existing average nominal daily flow rate of approximately 0.30 mgd, or 2,353 EDUs. The Moosa wastewater monthly service charge is \$53.76. The low pressure wastewater collection system maintenance fee is \$44.36. The current service area is anticipated to have an ultimate wastewater demand of 600,000 gallons per day. The Woods Valley Ranch Reclamation Facility, which serves the Woods Valley Ranch residential development, has a maximum capacity of 75,000 gallons daily with an average flow of 67,500 gpd or 270 EDUs. The tertiary treated effluent is used for irrigation of the Woods Valley Ranch Golf Course, which is part of the Woods Valley Ranch development. All flow to the treatment facility is by gravity, and treated effluent is pumped back to a series of storage ponds on the golf course. The treatment facility has 24-hour emergency storage capacity, with additional failsafe emergency storage on a nearby golf course pond. The Woods Valley Ranch wastewater charges and standby fees for properties not yet connected to the wastewater system are collected as a fixed charge special assessment on the property tax roll. The monthly fee is \$98.60 per EDU. The planned expansion of the Woods Valley Ranch facilities will also be collecting wastewater standby fees for properties not yet connected to the wastewater system. The fees are charged at \$550.32 per EDU and are used to establish a replacement reserve. There are approximately 57 miles of wastewater lines throughout the MWD. The Woods Valley Ranch collection system consists of 5.2 miles of 8 inch PVC wastewater lines, 109 manholes and 274 laterals. The system was placed into service in 2005. The Moosa collection system serves the I-15 corridor area and consists of 21.6 miles of VCP and PVC gravity collection main varying in size from 8 inch to 18 inch, 500 manholes and over 2200 laterals. Portions of the Moosa collection have been in service since the early 1970s. Two lift stations are included in the system along with one subdivision that is served by a low pressure wastewater Septic Tank Effluent Pump (STEP) system. This subdivision consists of approximately 180 lots, of which, approximately 80 have been connected to the low pressure wastewater collection system. District maintenance of the privately owned on-site wastewater pumping facilities included in an additional monthly service charge established for areas served by low pressure wastewater collection systems.

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 Commission has not determined that social or economic communities of interest relevant to the agency exist in the area.




- 5) For an update of a sphere of influence of a city or special district that provides public facilities or services related to wastewaters, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**
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The proposed contractual wastewater service agreement and concurrent sphere of influence amendment does not involve an update to the adopted sphere of influence for the Valley Center MWD; therefore the determination is not applicable.



**OAS18-04
SA18-04a
SA18-04b
SA18-04c**

**PROPOSED PANKEY CONTRACTUAL SERVICE AGREEMENT AND
SPHERE OF INFLUENCE AMENDMENTS (VALLEY CENTER MWD;
MET; SAN DIEGO COUNTY WATER AUTHORITY)**

-  Proposal Area
-  Valley Center MWD
-  Sphere of Influence

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RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

Valley Center Municipal Water District
29300 Valley Center Road
Valley Center, CA 92082

EXEMPT FROM FEES PURSUANT TO GOVERNMENT CODE § 27383, 6103

APNs: 108-122-14, 108-122-17

Space above this line for Recorder's use.

OUT-OF-AREA SERVICE AGREEMENT FOR PROVISION OF SANITARY SEWER SERVICE

This Out-of-Area Service Agreement for Provision of Sanitary Sewer Service (this "**Agreement**") is entered into by and among the Valley Center Municipal Water District, a California municipal water district ("**District**"), Pankey Ranch LP, a California limited partnership ("**Owner**"), and Pardee Homes, a California corporation ("**Developer**"). District, Owner, and Developer may each be individually referred to herein as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. Owner is the fee title holder of two parcels in the County of San Diego, State of California ("**County**") with Assessor's Parcel Numbers 108-122-14 and 108-122-17 ("**Owner's Parcels**"). Owner's Parcels are located outside the District's boundaries and sphere of influence, and are more particularly described in Exhibit A attached hereto and incorporated herein.

B. Owner's Parcels currently include a single existing residential structure approximately 4,000 square feet in size and located on Owner's Parcels ("**Residence**"). The sewage and wastewater needs of Owner's Parcels are presently served by septic tank systems.

C. Developer is developing properties near Owner's Parcels as part of Developer's Meadowood project ("**Meadowood Development**"), and grading related to the Meadowood Development may adversely impact the leach field and septic tank system serving the Residence.

D. The District's Engineer has determined that grading of the nearby parcels of the Meadowood Development, and the potential adverse impact to the leach field and septic tank system serving the Residence, poses an impending threat to the health and safety of the public and residents of the Residence.

E. In light of the above, Owner has requested to receive from the District sanitary sewer services to the Residence ("**Services**") pursuant to Section 56133 of the California Government Code and the policies and procedures of the San Diego Local Agency Formation Commission ("**SDLAFCO**").

F. As part of the Meadowood Development, which is within the District's boundaries, Developer will construct or install sewer treatment facilities, collection lines and other public improvements to be dedicated to the District ("**Public Facilities**"). The District anticipates that the Public Facilities will, once accepted by the District, be of sufficient capacity to provide Services to the Residence, and that the District will be able to provide Services to the Residence subject to the terms and conditions of this Agreement.

G. Owner and Developer desire to have the District consent to providing Services to the Residence by the installation and connection, at Developer's and Owner's sole cost and expense, of a private sewer lateral from the Public Facilities in the vicinity of the Residence across Developer's proposed open space parcel and on Owner's Parcels as necessary to connect the Residence to the Public Facilities ("**Private Lateral**"). The Public Facilities and Private Lateral shall collectively be known as the "**Improvements**" for purposes of this Agreement.

H. The provision of Services by the District to the Residence pursuant to the terms and conditions of this Agreement will not adversely impact sewer services to other District customers or result in a significant loss of revenue to the District.

I. Owner, Developer, and the District wish to set forth the circumstances and terms and conditions under which the District will provide Services to the Residence.

J. Pursuant to California Government Code Section 56133, an out-of-area service agreement must be approved by SDLAFCO. Under California Government Code Section 56133, SDLAFCO may authorize a district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or residents of the affected territory.

K. The District will submit this Agreement to SDLAFCO for approval.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants as well as for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. PROVISION OF SERVICES

1.1. District Provision of Service. The District hereby agrees to furnish, and Owner hereby agrees to accept, Service to the Residence in accordance with the terms and conditions in this Agreement, subject to the Developer completing the Public Facilities in accordance with the District's ordinances, rules, regulations, orders, and Administrative Code ("**Rules and Regulations**").

1.2. Construction, Ownership and Responsibility for Private Lateral. Developer shall install and connect the Private Lateral in accordance with all applicable federal, state, and local statutes and regulations and all of the terms and conditions of this Agreement, including, but not limited to, review and approval of the planning materials for the Private Lateral, obtaining all inspections, County permits, or other authorizations required to install and connect the Private Lateral. Owner specifically agrees that ownership and maintenance of the Private Lateral shall be and remain Owner's responsibility. Developer shall grant to Owner an easement for the

operation, maintenance, repair, and replacement of those portions of the Private Lateral located on Developer's land.

1.3. Service Limited to Existing Residence. The Parties agree that District's Service under this Agreement is exclusively limited to sewer service to the existing Residence on the Owner's Parcels. Owner understands and agrees that no new construction, development, or subdivision of Owner's Parcels shall receive sewer service from the District under this Agreement. Any sewer service to structures or facilities on Owner's Parcels other than the Residence shall require SDLAFCO review and approval prior to the addition/extension of any such services.

2. PAYMENT FOR CONNECTION AND SERVICES

Owner hereby agrees to and shall timely pay to the District any monthly or yearly charges for the Services, a sewer connection fee, plan check fee, inspection fee, capacity charge, and any other applicable one-time or recurring fees and charges in effect and paid by the owners of similarly situated real property at the rate(s) established therefor by the District (subject to any adjustments provided for by the District from time to time), including any applicable penalties or interest lawfully imposed by the District ("**Fees and Charges**"). The District reserves the right to collect the Fees and Charges (or any delinquencies thereof) in any lawful manner, including, but not limited to, having them collected on the property tax bill for Owner's Parcels. Developer and Owner may separately contract for Developer to pay any or all of the Fees and Charges due under this section; provided, however, that Owner shall remain liable to the District for payment of Fees and Charges if not timely paid.

3. CONDITIONS AND COVENANTS

3.1. Conditions Prior to Services. Prior to and as a condition of providing Services to the Residence, the Developer shall complete the Public Facilities, which shall be subject to acceptance by the District under its Rules and Regulations.

3.2. Compliance with Applicable Law. Developer will comply with all applicable laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of the United States, the State of California, the County of San Diego, the District, or any other political subdivision with jurisdiction over the Meadowood Development or Owner's Parcels, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over the District, Owner, the Meadowood Development, or the Owner's Parcels, including all applicable federal, state, and local occupation, safety and health laws, rules, regulations and standards, applicable state and labor standards, zoning and development standards, District or County permits and approvals, building, plumbing, mechanical and electrical codes, as they apply to work undertaken pursuant to this Agreement, and all other provisions of the District and its Rules and Regulations. Without limiting the generality or applicability of the foregoing, neither Developer nor Owner shall discharge into the Improvements any waste oil, acid, stormwater, ground water, or any other matter detrimental to the District's sanitary sewer system or treatment processes, and shall otherwise comply with District requirements related thereto. Further, if Developer or Owner makes any such non-permitted discharge, the District may perform repairs, mitigation, or maintenance work at the expense of the responsible Party, and such Party agrees to pay for such repair, mitigation, or maintenance work.

3.3. Failure to Construct Public Facilities and Connect.

3.3.1. Failure to Construct. Developer and Owner understand and agree that this Agreement and the District's obligations, duties and responsibilities hereunder shall be null and void and of no further force or effect in the event that Developer fails, neglects, or refuses to construct the Public Facilities to the satisfaction of the District Engineer and actually connect the Private Lateral to the Public Facilities.

3.3.2. Interim Services. Should Developer commence grading operations and adversely affect Owner's septic system prior to completion and acceptance of the Public Facilities and completion of the Private Lateral, Developer shall provide interim sanitary sewer services acceptable to the County, until such time as the Public Facilities and Private Lateral have been completed and accepted.

3.4. Submission of Plans; Notification of Construction and Connection. Before Developer may submit its plans for the Private Lateral to the County for the County's approval, Developer shall submit such plans to the District Engineer, which he or she may review and reasonably approve or deny within 15 days. Developer shall provide at least 48-hours written notice to the District prior to commencing any construction activity and prior to making connection to the District's sewer system.

3.5. Indemnification.

3.5.1. Indemnification of District. Developer and Owner covenant to indemnify, defend and hold the District and its officers, employees, contractors and agents ("Indemnitees") harmless from and against any and all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") arising from or as a result of Developer's or Owner's failure to comply with any provision of this Agreement, or occasioned wholly or in part by any act or omission of Developer, Owner, or their respective officers, employees, contractors and agents arising out of or in connection with this Agreement or the design, construction or installation of the Improvements. In case the District shall, without fault, be made a party to any litigation commenced by or against Developer, Owner, or any other person, or if the District shall, in its sole and reasonable discretion, determine that it must intervene in such litigation to protect its interest hereunder, including, without limitation, the incurring of costs, expenses, and attorneys' fees, then Developer and Owner shall protect and hold the District harmless by attorneys satisfactory to the District and shall pay all costs, expenses and reasonable attorneys' fees incurred or paid by the District in connection with such litigation.

3.5.2. District's Right to Engage Attorneys. The District shall have the right to engage its own attorneys in connection with any of the provisions of this section or any other provision of this Agreement, including, without limitation, any defense of the District or intervention by the District, notwithstanding any contrary provisions of the laws or court decisions of the state.

3.5.3. Survival. Developer's and Owner's obligations under this Section 3.5 (Indemnification) shall survive the termination of this Agreement.

3.6. Further Construction and Dedication Requirements. District and Developer anticipate that they will enter into a District Facilities Agreement or other separate agreement(s)

regarding development or services for the Meadowood Development and construction of the Public Facilities. Any such agreement shall not limit or abrogate District's or Developer's obligations under this Agreement.

4. NO OBLIGATION TO ANNEX OR PROVIDE OTHER SERVICES

Notwithstanding any other provision of this Agreement, the District shall not have any obligation to annex the Owner's Parcels to the District, or to provide water or any other service to the Owner's Parcels except as expressly set forth in this Agreement.

5. SDLAFCO APPROVAL; EFFECTIVE DATE OF AGREEMENT

Because this Agreement is an out-of-area service agreement, California Government Code Section 56133 requires that Agreement be submitted for approval by SDLAFCO. The effective date of this Agreement is the date on which SDLAFCO approves this Agreement ("**Effective Date**").

6. DEFAULT; REMEDIES.

Developer or Owner will be in default under this Agreement if either Party fails to comply with any obligation hereunder, has been given a written notice specifying the failure, and: (a) with respect to a default involving the payment of money, fails to cure it within the period of ten (10) days, or (b) with respect to any other type of default, (i) fails to cure it within the period of thirty (30) days, or (ii) commences to cure the default within such period of time, and if the default cannot be cured within the time specified above in (i), thereafter does not diligently proceed to complete the curing of the default. In addition to any other available rights in law or equity, in the event Developer or Owner defaults under this Agreement, the District shall have the right to seek damages, terminate this Agreement, or enjoin such violation or threatened violation in a court of competent jurisdiction.

7. RECORDATION

This Agreement shall be recorded in the Official Records of the County of San Diego, State of California at Developer's sole cost.

8. MISCELLANEOUS PROVISIONS

8.1. Recitals. The above Recitals are true and correct and fully incorporated in this Agreement.

8.2. Scope of Agreement. Nothing contained in this Agreement shall be construed as representing the establishment of any precedent or the formation of any policy by the District to supply Services or any other District service in the future to any unincorporated territory on the terms and conditions contained herein or on any terms and conditions whatsoever.

8.3. No Third Party Beneficiaries. This Agreement is intended to benefit only the parties hereto and no other person or entity has or shall acquire any rights hereunder. This Agreement does not create any third party beneficiary rights.

8.4. Binding Effect; Assignment. All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective

successors and assigns. No assignment of this Agreement shall be made without the prior written consent of the parties to the Agreement, which consent may not be unreasonably withheld.

8.5. Covenants Running with the Land. All of the benefits and obligations described herein, including any and all covenants, conditions, and restrictions set forth in this Agreement shall be binding on the Parties and their heirs, successors, grantees, transferees and permissible assigns and shall run with the land comprising the Owner's Parcels.

8.6. Performance. Whenever performance is required of any party hereunder, that party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, or damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of a party (acts by the performing party causing the situation to be beyond reasonable control excepted), then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.

8.7. Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person or circumstance, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

8.8. Notice.

8.8.1. Form of Notice. Any notice to any party shall be in writing and given by delivering the same to such party in person or by sending the same by certified mail, return receipt requested, with postage prepaid to the party's mailing address. The respective mailing addresses of the parties thereto are, until changed as hereinafter provided, the following:

To the District:	Valley Center Municipal Water District 29300 Valley Center Road Valley Center, CA 92082 Attn: General Manager
To Owner:	William H. Pankey 5328 Highway 76 (Pala Road) Fallbrook, CA 92028
To Developer:	Pardee Homes Attn: Jimmy Ayala, Division President 13400 Sabre Springs Parkway, Suite 200 San Diego, CA 92128

8.8.2. Change of Address. Any party may change its mailing address at any time by giving written notice of such change to the other parties in the manner provided herein at least ten days prior to the date such change is effective.

8.8.3. Effective Date of Notice. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

8.9. Entire Agreement. This writing constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all oral or written representations or written agreements which may have been entered into between the parties. This Agreement may be cancelled, changed, modified or amended in whole or in part only by a written and recorded instrument executed by the Parties (or their respective successors and assigns).

8.10. Time is of the Essence. Time is of the essence of this Agreement and each and every provision hereof.

8.11. Term of Agreement. The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect unless terminated (i) by the mutual agreement of the Parties or (ii) as otherwise specified herein.

8.12. Governing Law; Venue. This Agreement shall be governed by the laws of the State of California. Any legal action concerning or arising out of this Agreement shall be filed in a court of the State of California having jurisdiction of the subject matter, and venue shall be in the County of San Diego, California.

8.13. Section Headings. All section headings and subheadings are inserted for convenience only and will not affect any construction or interpretation of this Agreement.

8.14. Attorney Fees. The prevailing party in any action or proceeding to enforce or interpret this Agreement or otherwise arising out of or in connection with the subject matter hereof (including, but not limited to, any suit, arbitration, entry of judgment, post-judgment motion or enforcement, appeal, bankruptcy litigation, attachment, or levy) shall be entitled to recover its costs and expenses, including, but not limited to, reasonable attorneys', experts', and consultants' fees and costs.

8.15. Non-Waiver. No waiver by any Party of any default in performance on the part of the another Party, or of any breach or series of breaches of the terms, covenants, or conditions of this Agreement, will constitute a waiver of any subsequent breach or a waiver of any term, covenant, or condition.

8.16. Counterparts. This Agreement may be executed in one or more counterparts, each of which counterparts shall, for all purposes, be deemed an original and all of which counterparts, when taken together, shall constitute one and the same instrument.

SIGNATURES AND APPROVAL ON THE FOLLOWING PAGES

IN WITNESS WHEREOF, this Out-of-Area Service Agreement for the Provision of Sanitary Sewer Services by and among the Valley Center Municipal Water District, Pankey LP, and Pardee Homes, has been executed and delivered by District, Owner and Developer as of _____, 2018.


DISTRICT

VALLEY CENTER MUNICIPAL WATER DISTRICT,
a California Municipal Water District

Date: 4/25/18

By: 
Name: Gary T. Arant
Its: General Manager

Approved as to Form:

By: 
Name: Paula C.P. de Sousa Mills
Its: General Counsel

OWNER

Pankey Ranch LP, a California limited partnership

Date: 3/22/18

By: Pankey LLC, a California limited liability company,
General Partner


William H. Pankey, Managing Member

DEVELOPER

PARDEE HOMES
A California corporation

Date: 4.4.18

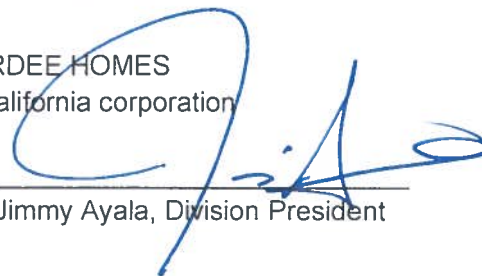
By: 
Jimmy Ayala, Division President

EXHIBIT 'A'

LEGAL DESCRIPTION OF OWNER'S PARCELS

APN 108-122-14 and 17

THAT PORTION OF FRACTIONAL SECTION 36, TOWNSHIP 9 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, BEING DESCRIBED AS EXCEPTION PARCEL 'B' OF EXHIBIT 'B' IN GRANT DEED RECORDED OCTOBER 19, 2007, DOCUMENT NO. 2007-0673087 OF OFFICIAL RECORDS OF SAID SAN DIEGO COUNTY.

SAID PARCEL CONTAINS 13.1 ACRES, MORE OR LESS.



David W. Ambler 1/18/2018

DAVID W. AMBLER
L.S. 7322

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

On 4/4/18, 201__ before me, Stephany V. McGreevy
Notary Public, personally appeared Jimmy Ayala, Division President
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:  (seal)



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

On 03/22/18, 2018 before me, Stephany V. McGreevy
Notary Public, personally appeared William Henry Pankey,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:  (seal)



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

On April 25, 2018 before me, J. Lovelady
Notary Public, personally appeared Gary T. Arant,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: J. Lovelady

(seal)

