



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

**6**

**AGENDA REPORT**  
 Consent | Action

June 3, 2019

**TO:** Commissioners

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

**SUBJECT: Ratification of an Administrative Approval |  
 “Rains–Acacia Avenue Outside-of-Agency Wastewater Service Agreement –  
 San Diego County Sanitation District” (OAS19-07)**

**SUMMARY**

The San Diego County Local Agency Formation Commission (LAFCO) will consider ratification of an administrative approval by the Executive Officer of an outside wastewater service agreement involving the San Diego County Sanitation District (SD). The agreement authorizes San Diego County SD to provide wastewater service to an existing unincorporated residence in Bonita and was approved by the Executive Officer consistent with adopted policies and in response to a documented public health threat involving a failed septic system. Approval has been termed on receipt of a landowner application to annex the affected territory.

**BACKGROUND**

**Statute and Policy Direction**

Government Code Section 56133 prohibits cities or special districts from providing new or extended services outside of their jurisdictional boundaries by contracts or agreements without LAFCO review and approval less certain and limited exemptions. In addition, cities or districts may only provide services by contract or agreement outside of their boundaries and within their spheres of influence in anticipation of later changes of organization to annex the affected territory. If the affected territory lies outside the subject agencies’ spheres, outside

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

services may only be extended in response to documented health or safety threats.

San Diego LAFCO’s adopted policies outline procedures to consider requests for cities and districts to provide outside services by contracts or agreements. These policies include providing the Executive Officer with administrative authority to approve outside services in response to documented health and safety emergencies and premised on addressing failed and/or failing wells and septic systems. The administrative approval requires applicants to provide documentation from the County Department of Environmental Health (DEH) regarding the status of the failed/failing septic systems or wells and recommendations to connect to public wastewater or water systems. The policies also require the Executive Officer to inform the Commission of all administrative approvals at the next available meeting.

### Administrative Approval

San Diego LAFCO received a request from an interested landowner (Rains) on April 15, 2019 for approval to enter into an outside-of-agency wastewater service agreement to connect their single-family residence to San Diego County SD to remedy a failed septic system. The affected residence is part of a 0.45 acre unincorporated parcel at 4392 Acacia Avenue in Bonita.<sup>1</sup> Staff proceeded to coordinate with San Diego County SD and DEH and the Executive Officer subsequently issued an administrative approval on May 14<sup>th</sup>. Approval is termed on the landowner filing an application to annex the affected territory to San Diego County SD.<sup>2</sup>

### DISCUSSION

This item is for San Diego LAFCO to ratify an earlier administrative approval by the Executive Officer involving an outside of agency service agreement allowing the San Diego County SD to provide wastewater service to 4392 Acacia Avenue in Bonita. The item also provides the Commission the opportunity to offer related direction to staff in processing these types of requests proceeding forward consistent with membership preferences.

### ANALYSIS

The Executive Officer’s administrative approval involving 4392 Acacia Avenue conforms to San Diego LAFCO policies and practices to expedite connection of occupied residences to public wastewater systems when documentation shows related public threats exist. The administrative approval followed coordination with DEH attesting the threat to the public as well as San Diego County SD verifying the accessibility and capacity to extend public wastewater service.<sup>3</sup> It also – pertinently – includes receipt of an application by the landowner to annex the affected territory to San Diego County SD, and in doing so align with the Commission’s preference for services to ultimately conform to jurisdictional boundaries. Ratification serves to formalize the approval under statute and clarifies the Commission’s

<sup>1</sup> The County of San Diego Assessor’s Office identifies the subject parcel as 594-062-07.

<sup>2</sup> The affected territory lies outside the sphere of influence of the San Diego County SD; however, it does lie within the City of Chula Vista sphere of influence. Existing policy allows for annexation to the San Diego County SD without a sphere amendment for unincorporated properties within the City of Chula Vista sphere of influence. The property is subject to a pending annexation to the San Diego County SD (“Rains-Acacia Avenue Change of Organization,” Ref No. DA19-07).

<sup>3</sup> Administrative approval to provide service through a contractual service agreement has been granted because DEH has documented in a letter, dated December 26, 2018, that the property’s existing vertical seepage pit has collapsed, and the site contains high groundwater levels and poor soil conditions for percolation. The DEH letter recommends the property be connected to public wastewater service to address the current hazards and avoid future problems from the failure of the septic system.

interest in the Executive Officer administratively processing future requests similarly.

## RECOMMENDATION

It is recommended San Diego LAFCO formally ratify the Executive Officer's administrative approval authorizing the San Diego County SD to extend wastewater services to 4392 Acacia Avenue in Bonita. This recommendation is consistent with Alternative One outlined below and formalizes a relatively modest outside-of-agency wastewater extension with the expectation of transitioning into a preferred boundary change by the end of the calendar year.

## ALTERNATIVES FOR ACTION

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

Alternative One (recommended):

Ratify approval of the outside of agency wastewater service agreement provided as Attachment Two involving the San Diego County SD.

Alternative Two:

Continue item to a future meeting.

## PROCEDURES FOR CONSIDERATION

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

On behalf of staff,

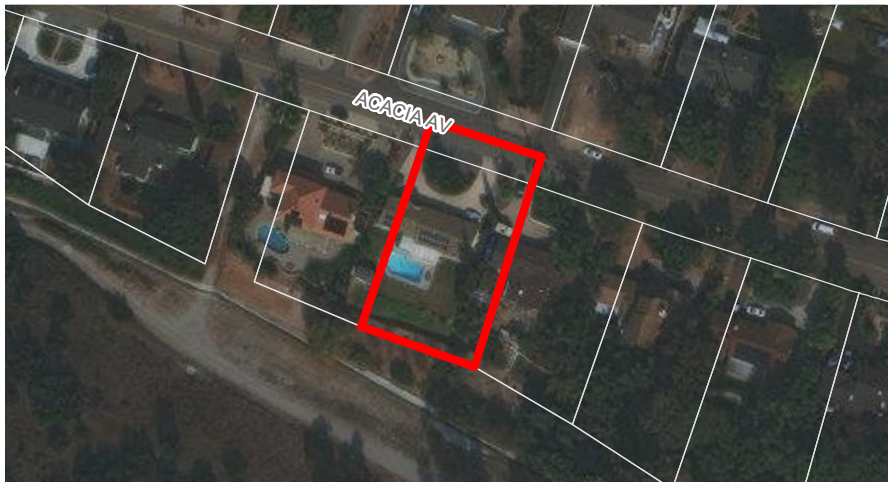
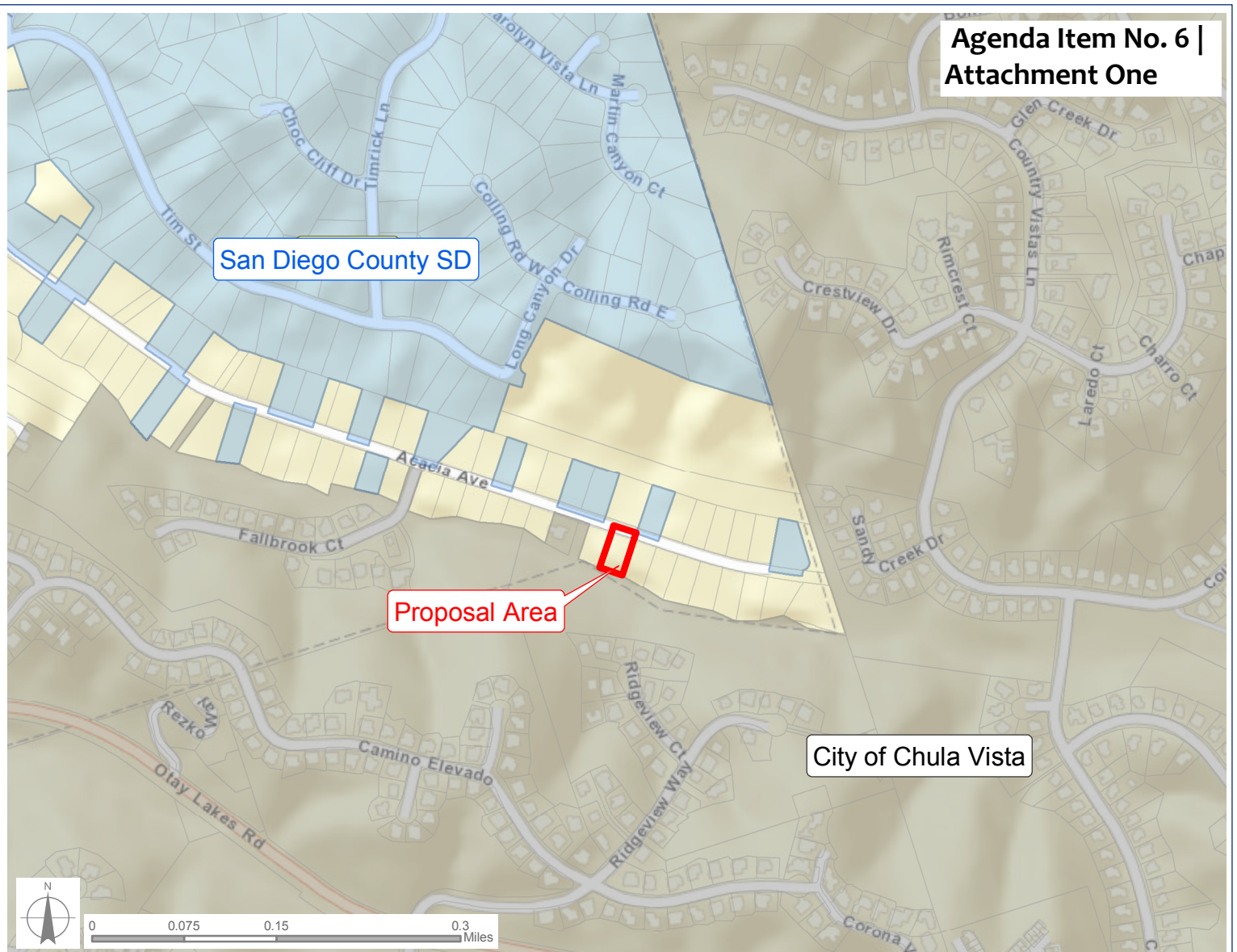


Robert Barry  
Chief Policy Analyst

Attachments:




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

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DA19-07  
OAS19-07

**PROPOSED "RAINS - ACACIA AVENUE CHANGE OF ORGANIZATION AND CONTRACTUAL WASTEWATER SERVICE AGREEMENT" | ANNEXATION TO SAN DIEGO COUNTY SD**

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



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San Diego County
Local Agency Formation Commission
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CERTIFICATE OF ADMINISTRATIVE APPROVAL OF A
CONTRACTUAL WASTEWATER SERVICE AGREEMENT

San Diego County Sanitation District / Rains Revocable Trust
(LAFCO File No. OAS19-07)

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

Table with 2 columns: City or District, Service(s) to be Provided. Row 1: San Diego County Sanitation District, Wastewater

A legal description and map of the boundaries of the above-cited contractual service agreement area as well as a copy of the agreement signed by all parties are available in the LAFCO office. The terms and conditions, if any, are contained in the agreement. The affected territory totals approximately 0.45 acres and includes one unincorporated parcel (APN 594-062-07) developed with one single-family residence with a situs address of 4392 Acacia Avenue, Bonita, CA 91902. The property is not located within the sphere of influence of the San Diego County Sanitation District (SD); however, the property is within the City of Chula Vista sphere of influence. The property is subject to a pending annexation to the San Diego County SD ("Rains-Acacia Avenue Change of Organization," Ref No. DA19-07).

Administrative approval to provide service through a contractual service agreement has been granted because the County of San Diego Department of Environmental Health has documented in a letter, dated December 26, 2018, that the property's existing vertical seepage pit has collapsed, and the site contains high groundwater levels and poor soil conditions for percolation. The DEH letter recommends the property be connected to public wastewater service to address the current hazards and avoid future problems from the failure of the septic system. San Diego County SD has indicated that capacity exists to provide sewer services to the existing single-family residence from an existing line located within Acacia Avenue. The property owner will finance all connection costs.

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Alpine Fire Protection
Erin Lump, Alternate
Rincon del Diablo MWD

Andy Vanderlaan
General Public
Harry Mathis, Alternate
General Public

**San Diego LAFCO**

May 14, 2019

Certificate of Administrative Approval of a Contractual Wastewater Service Agreement: "Rains – Acacia Avenue Change of Organization" | Annexation to San Diego County Sanitation District (DA19-07; OAS19-07)



Keene Simonds, Executive Officer

Date: May 14, 2019

**SAN DIEGO COUNTY**  
**Local Agency Formation Commission**  
9335 Hazard Way, Suite 200  
San Diego, CA 92123  
MS: O-216



### CONTRACTUAL SERVICE AGREEMENT APPLICATION FORM

*In addition to the materials required for any change(s) of organization, submit the following items:*

1. One copy of either an approved Resolution of the City Council/District Board of Directors or a letter from the City Manager/District General Manager requesting approval for a contractual service agreement.
2. One copy of the contract or agreement stipulating the terms and conditions of extending service to the property signed by the property owner(s) and the agency that is to provide the service.
3. LAFCO processing fee. Contact the LAFCO office or refer to fee schedule.

Print/Type Name: RAINS REVOCABLE TRUST [REDACTED]

Property Address: 4392 Acacia Ave (594-062-07)

Phone #: [REDACTED] Date: 12-27-2018

This application is used by LAFCO staff to provide supplemental information for contractual service agreement requests.

1. What type or types of public service(s) will be provided? SEWER SERVICE
2. Why is the service needed? If the service agreement is in response to an emergency health and safety situation, such as a failed septic system, provide information documenting the circumstances (e.g., letter from the County Department of Environmental Health).
3. If a jurisdictional change, such as annexation, is not possible at this time, explain the circumstances that prevent annexation and when the jurisdictional change is anticipated. ANNEXATION TO COUNTY SANITATION DISTRICT
4. Are there any jurisdictional issues associated with the  YES  NO proposed contractual service agreement?  
(If yes, please complete the LAFCO [Policy L-107 form](#))

**San Diego Local Agency Formation Commission**  
9335 Hazard Way, Suite 200  
San Diego, CA 92123  
(858) 614-7755



# County of San Diego

ELISE ROTHSCHILD  
DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH  
LAND AND WATER QUALITY DIVISION  
P.O. BOX 129261, SAN DIEGO, CA 92112-9261  
Phone: (858) 505-6700 or (800) 253-9933 Fax: (858) 514-6583  
www.sdcdeh.org

AMY HARBERT  
ASSISTANT DIRECTOR

December 26, 2018

Rains Revocable Trust  
4392 Acacia Avenue (594-062-07)  
Bonita, 91902-2534

Mr. & Mrs. Rains,

Per your request, I am writing this letter in support of emergency connection to and annexation into the County Sanitation District. I observed the following conditions at your property on December 26<sup>th</sup>, 2018:

- The existing vertical seepage pit in your backyard has collapsed, creating a large diameter (~6') hole in the ground. This hole creates an immediate hazard, but also renders your existing onsite wastewater treatment system unusable.
- An attempt by Blackburn Drainage Systems to install a new vertical seepage pit in the driveway of your property resulted in the discovery of poor soil conditions and groundwater at elevated levels. With the required separation to the observed groundwater and the cap depth of the pit, the resulting vertical pit would have less than a 20' sidewall. This pit would be considered very substandard given the soil conditions observed.

Given these conditions it would be of benefit to connect the home to the sanitary sewer that exists on Acacia Avenue, rather than complete the installation of an onsite wastewater treatment system of questionable capacity. The Department of Environmental Health would recommend the property be connected to sanitary sewer at this time. Expediting the connection/annexation process would help to address that current hazards and would prevent potential issues that may arise from future failure of the existing onsite wastewater treatment system. Upon connection to the sanitary sewer the existing septic tank and vertical pit must be pumped, collapsed, and backfilled with sand, gravel, native soil, or cement slurry. No permit is required for this activity. A permit will be required by Planning and Development Services for the sewer connection. Please feel free to contact me at your convenience.

Sincerely,

Scott Rosecrans, REHS  
Environmental Health Specialist III  
(619) 208-0337



# County of San Diego

RICHARD E. CROMPTON  
DIRECTOR

DEPARTMENT OF PUBLIC WORKS  
5510 OVERLAND AVE, SUITE 410  
SAN DIEGO, CALIFORNIA 92123-1237  
(858) 694-2212 FAX: (858) 694-3597  
Web Site: [www.sdcounty.ca.gov/dpw/](http://www.sdcounty.ca.gov/dpw/)

April 4, 2019

To: Keene Simonds, Executive Officer  
Local Agency Formation Commission (MS 216)

From: Daniel Brogadir, Program Manager  
San Diego County Sanitation District  
Department of Public Works (MS O384)

**REQUEST FOR ADMINISTRATIVE APPROVAL OF A TEMPORARY CONNECTION AGREEMENT FOR RAINS REVOCABLE TRUST (SINGLE FAMILY DWELLING), SAN DIEGO COUNTY SANITATION DISTRICT (SPRING VALLEY SERVICE AREA), APN 594-062-07**

Rains Revocable Trust, owners of the above referenced property have requested a Temporary Connection Agreement due to a failed septic system. This property is within the Sphere of Influence of the City of Chula Vista. The public sewer main (NS 1767) is in Acacia Avenue. The public sewer main does not have a sewer lateral and will have to be installed by contractor. Rains Revocable Trust (owners) have received a letter from the Department of Environmental Health recommending connection to public sewer.

The San Diego County Sanitation District (District) has received the annexation application, checks, and legal description information to process the annexation.

We are requesting administrative approval of the Temporary Connection Agreement in order to expeditiously connect this property to the sewer system prior to formal annexation into the District.

If you have any questions, or need further information, please call Louis Conde at 858-694-2600 and he will assist you.

Sincerely,

DANIEL S. BROGADIR, Program Manager  
San Diego County Sanitation District  
County of San Diego, Department of Public Works

DB:LC:lt

Attachments 1. Contractual Service Agreement Application Form  
2. Temporary Connection Agreement

## CONTRACTUAL SERVICE AGREEMENT

The San Diego County Sanitation District, an independent sewer agency formed and operating under the County Sanitation District Act, Health & Safety Code § 4700 et seq., hereinafter called the "District", and Rains Revocable Trust "parcel owner", hereinafter called the "Owner(s)", agree as of April 8, 2019, as follows:

1. The Owner(s) represent that they hold title to that certain real property located in the County of San Diego, State of California, commonly referred to as 4392 Acacia Ave and also identified by Assessor's Parcel Number 594-062-07.
2. That said real property is located outside of the District, but with the approval of the San Diego Local Agency Formation Commission ("LAFCO") may be connected to the District's facilities pursuant to Government Code § 56133 to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory. There is an existing and impending threat to public health and safety because the septic system serving the property is unable to reliably receive wastewater for treatment. This threat will be eliminated if the property is connected to District sewer facilities
3. That subject to the approval of LAFCO of this Contractual Service Agreement and payment of all applicable District fees and charges the Owner(s) shall have the privilege of connecting a sewer line from the structure located on said real property to the District's sanitary sewer system
4. That the connection to the District's sanitary sewer shall occur under the direction of the Director, Department of Public Works of the County of San Diego ("Director"), acting on behalf of the District, in accordance with the ordinances and regulations of the District, and shall be made at such place on the District's sanitary sewer and in such manner as the Director shall specify. The cost of such connection shall be paid by the Owner(s).
5. Owner(s) shall pay all fees and costs incurred by the District to process this Contractual Services Agreement, including without limitation any LAFCO fees. In addition, Owner(s) shall obtain a Wastewater Discharge Permit from District and pay all fees and charges required by District to connect the real property to the District's facilities and for the District to provide ongoing wastewater service to the real property.
6. The Owner(s), Owners' executors, administrators, heirs, successors and assigns shall pay to the District through the Department of Public Works of the County of San Diego, and prior to the connection of the property defined in this Agreement, an annual sewer service fee at the prevailing rate, prorated at time of permit issuance. Said fee shall be paid pursuant

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

7. The District shall have the power to increase the amount of the annual sewer service charge prescribed in Paragraph 6 in proportion to any increased cost or expenses of operating the District.
8. The Owner(s) of said real property consent to the commencement of proceedings by the District to annex said property to the District. The Owner(s) agree that, upon connection of the real property to the District's sewer system, said property shall become subject to any and all ordinances, regulations, fees, taxes and assessments applicable to the property within the District whether or not the property is ever annexed into the District. Notwithstanding the foregoing, Owner(s) agree to work with LAFCO to facilitate the annexation of the property to the District within one (1) year of the Execution Date.
9. The District agrees that upon connection of said property to the District's sanitary sewer, the District shall pursuant to the terms of this Agreement accept the domestic sewage from such building discharged into its sewer lines, which obligation of the District shall continue under the Agreement until such time as the above described real property, upon which such hookup is located, is annexed to the District, or until this Agreement is terminated as hereinafter specified, which ever first occurs. Owner(s) shall be responsible for all costs incurred by District, if any, to disconnect the property from District's facilities upon the termination of this Agreement.
10. This Agreement may be terminated by the Owner(s), Owners' executors, administrators, heirs, successors or assigns by giving to the District ninety (90) days written notice of intention to terminate by serving such notice to the Clerk of the Board of Directors of the District.
11. This Agreement may be terminated by the District by giving ninety (90) days written notice of intention to terminate to the Owner(s), Owners' executors, administrators, heirs, successors or assigns, or to the occupants of the aforesaid property.
12. This Agreement is entered pursuant to the authority granted to the District in the Health and Safety Code § 4742.1 and Government Code § 56133.
13. This Agreement is subject to the LAFCO review and approval.
14. This Agreement shall take effect after execution by the parties and when administratively approved by LAFCO.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

*Bill E. Cyst*

Director, Department of Public Works  
San Diego County Sanitation District

\_\_\_\_\_  
Executive Officer, LAFCO Date

*Shirley C. Beens*

*V. Navabain*

\_\_\_\_\_  
Applicant's Signature