



San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

6d

AGENDA REPORT
Consent | Action

October 7, 2019

TO: Commissioners

FROM: Keene Simonds, Executive Officer
Linda Zambito, Analyst I

SUBJECT: Ratification of an Administrative Approval |
"Hamilton Lane-Felicita Road Outside Wastewater Service Agreement" -
City of Escondido (OAS19-15)

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider ratification of an administrative approval by the Executive Officer of an outside-of-agency wastewater service agreement involving the City of Escondido. The agreement authorizes the City to provide public wastewater service to two unincorporated and developed single-family residential parcels and was approved by the Executive Officer consistent with policies given a documented public health threat involving failed septic systems. Approval has been termed on receipt of the landowners filing an 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 by contracts or agreements outside of their jurisdictional boundaries without LAFCO review and approval less certain and limited exemptions. In addition, cities or districts may only provide services by contract or agreement outside of their boundaries and within their spheres of influence in anticipation of later changes of organization to

Administration

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

San Diego LAFCO’s adopted policies outline procedures to consider requests for cities and districts to provide outside-of-agency services by contracts or agreements. These policies include providing the Executive Officer with administrative authority to approve agreements in response to documented health and safety emergencies and generally premised on remediation of failed and/or failing wells and septic systems. The administrative approval requires applicants to provide substantiating documentation from the County Department of Environmental Health (DEH). 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 two interested landowners – Shaw and Ingram – on August 19, 2019 for approval to enter into an outside-of-agency wastewater service agreement with the City of Escondido in advance of processing a reorganization.¹ The service agreement involves connection of two non-contiguous unincorporated and developed single-family residential parcels to the City’s public wastewater system to respectively remedy failing onsite septic systems. The two subject parcels are located at 903 Hamilton Way and 2517 Felicita Road and 0.35 and 0.28 acres in size, respectively.² Both subject parcels lie within the City sphere of influence. Staff coordinated with the City and DEH and the Executive Officer proceeded to issue an administrative approval on August 30th.³ Approval was termed on the landowners filing an application to reorganize the affected territory and annex to the City.

DISCUSSION

This item is for San Diego LAFCO to ratify an earlier administrative approval by the Executive Officer involving an outside-of-agency wastewater service agreement allowing the City of Escondido to extend wastewater service to 903 Hamilton Lane and 2517 Felicita Road.⁴ The item also provides the Commission the opportunity to offer related direction in processing these types of requests proceeding forward consistent with membership preferences.

(continued)

¹ Consistent with Commission policy and practice the reorganization would involve annexation of the affected territory to the City of Escondido and concurrent detachment from County Service Area No. 135 – Regional Communications. An associated filing with the State Board of Equalization would also be required to remove the affected territory from Rincon del Diablo Municipal Water District’s fire improvement district.

² The County of San Diego Assessor’s Office identifies the subject parcels as APN 238-360-05 and APN 238-360-19.

³ In letters dated November 16, 2018 and May 22, 2019, DEH confirms each property’s on-site septic is experiencing failure and recommends connection to public wastewater service to 2517 Felicita Road, as well as 903 Hamilton Lane.

⁴ The affected territory is within a mailing zip code assigned to the unincorporated area of the City of Escondido.

ANALYSIS

The Executive Officer's administrative approval allowing the City of Escondido to contractually extend wastewater service beyond its jurisdictional boundary to 903 Hamilton Lane and 2517 Felicita Road conforms to San Diego LAFCO policies and practices. Approval expedites connection of the two developed residential subject parcels to the City's public wastewater system and follows coordination with DEH attesting to the public health threat associated with the failing septic systems. Approval has also been termed on the receipt of an application by the landowners to annex the affected territory to the City and in doing so aligns 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 interest in the Executive Officer administratively processing future requests similarly.

RECOMMENDATION

It is recommended San Diego LAFCO ratify the Executive Officer's administrative approval authorizing the City of Escondido to extend public wastewater service to 903 Hamilton Lane and 2517 Felicita Road. This recommendation draws on the preceding analysis and is consistent with Alternative One outlined below.

ALTERNATIVES FOR ACTION

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

Alternative One (recommended):

Ratify approval of the outside-of-agency wastewater service agreement between the City of Escondido and the two subject parcels provided as Attachment Three.

Alternative Two:

Continue item to a future meeting.

PROCEDURES FOR CONSIDERATION

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

On behalf of the Executive Officer,

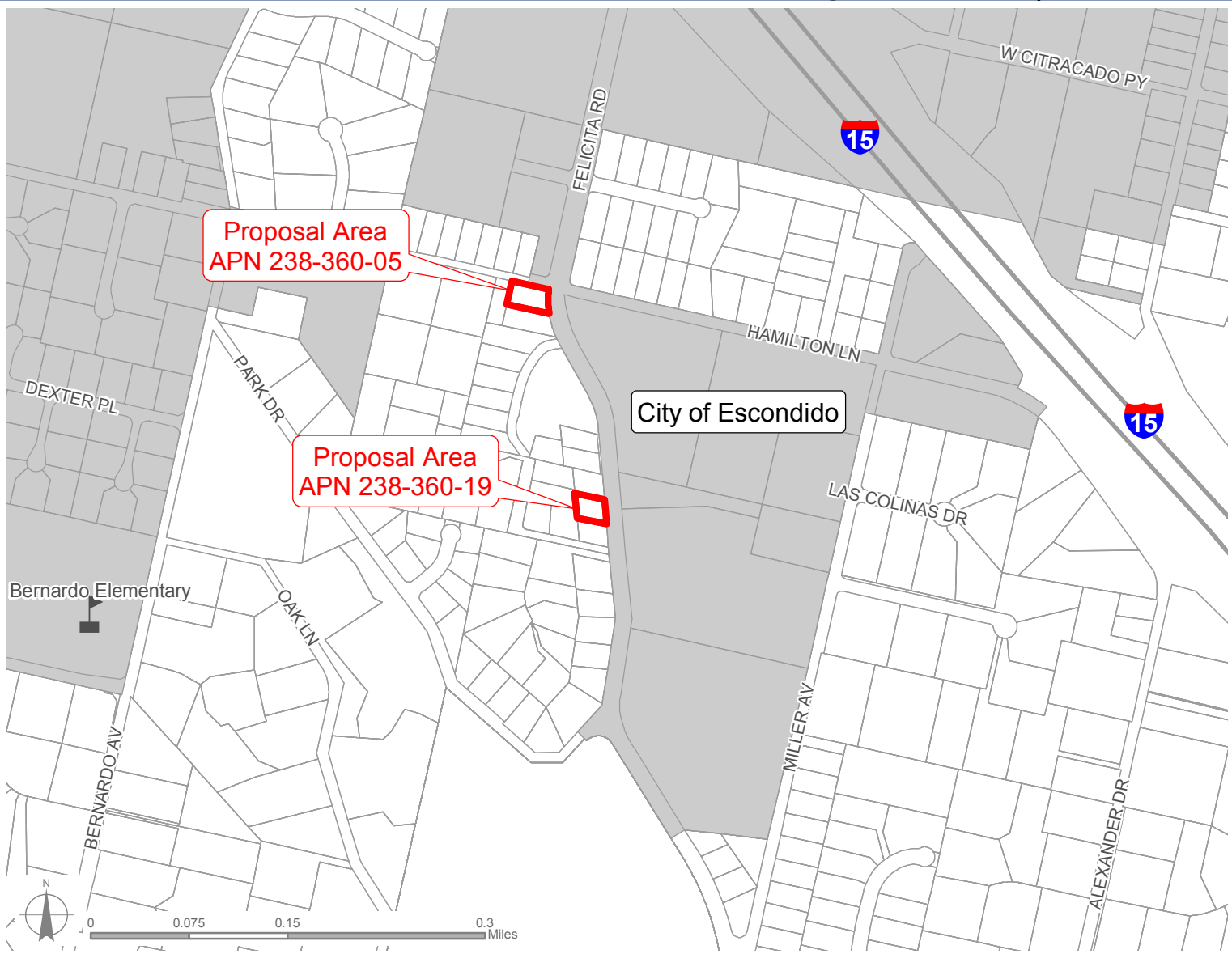


Linda Zambito
Analyst I

Attachments:

- 1) Map of the Affected Territory
- 2) Certificate of Administrative Approval
- 3) Applications for Contractual Service Agreements

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OAS19-15
RO19-15

PROPOSED "HAMILTON - FELICITA REORGANIZATION AND CONTRACTUAL WASTEWATER SERVICE AGREEMENT" | ANNEXATION TO THE CITY OF ESCONDIDO

 Proposal Area

 City of Escondido

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San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

CERTIFICATE OF ADMINISTRATIVE APPROVAL OF A CONTRACTUAL WASTEWATER SERVICE AGREEMENT

**City of Escondido / Bill and Sharon Shaw
(LAFCO File No. OAS19-15)**

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 City of Escondido's Temporary Wastewater Connection Agreement with the property owner. The name of each city and/or district included in the contractual service agreement, all located within San Diego County, and the type of service(s) to be provided is/are as follows:

City or District	Service(s) to be Provided
City of Escondido	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 0.28 acres and includes one unincorporated parcel (APN 238-360-19) developed with one single-family residence with a situs address of 2517 Felicita Rd, Escondido, CA 92029. The existing residence utilizes an on-site septic for wastewater use that is experiencing failure, and the County Department of Environmental Health (DEH) has recommended the residence be connected to public wastewater service. The property is located within the sphere of influence of the City of Escondido and is subject to a pending reorganization ("Hamilton-Felicita Reorganization," Ref No. RO19-15) involving an annexation to the City of Escondido.

Administrative approval to provide wastewater service through a contractual service agreement has been granted by the County of San Diego Department of Environmental Health documented in a letter dated May 22, 2019, that the property's existing on-site septic posed a health and safety emergency and recommended an expedited connection to the City of Escondido's wastewater system.

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Harry Mathis, Alternate
General Public

San Diego LAFCO

August 30, 2019

Certificate of Administrative Approval of a Contractual Wastewater Service Agreement | "Hamilton-Felicita Reorganization & Contractual Wastewater Service Agreement" | City of Escondido (RO19-15; OAS19-15)

Accordingly, the request by the City of Escondido for approval of a temporary contractual water service agreement in advance of the pending annexation is warranted to resolve the emergency threat to the health and safety of the residents.



Keene Simonds, Executive Officer

Date: August 30, 2019

SAN DIEGO COUNTY

Local Agency Formation Commission

9335 Hazard Way, Suite 200

San Diego, CA 92123

MS: O-216



San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

CERTIFICATE OF ADMINISTRATIVE APPROVAL OF A CONTRACTUAL WASTEWATER SERVICE AGREEMENT

City of Escondido / Jayme Ingram
(LAFCO File No. OAS19-15)

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 City of Escondido's Temporary Wastewater Connection Agreement with the property owner. The name of each city and/or district included in the contractual service agreement, all located within San Diego County, and the type of service(s) to be provided is/are as follows:

City or District	Service(s) to be Provided
City of Escondido	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 0.35 acres and includes one unincorporated parcel (APN 238-360-05) developed with one single-family residence with a situs address of 903 Hamilton Lane, Escondido, CA 92029. The existing residence utilizes an on-site septic for wastewater use that is experiencing failure, and the County Department of Environmental Health (DEH) has recommended the residence be connected to public wastewater service. The property is located within the sphere of influence of the City of Escondido and is subject to a pending reorganization ("Hamilton-Felicita Reorganization," Ref No. RO19-15) involving an annexation to the City of Escondido.

Administrative approval to provide wastewater service through a contractual service agreement has been granted by the County of San Diego Department of Environmental Health documented in a letter dated November 16, 2018, that the property's existing on-site septic posed a health and safety emergency and recommended an expedited connection to the City of Escondido's wastewater system.

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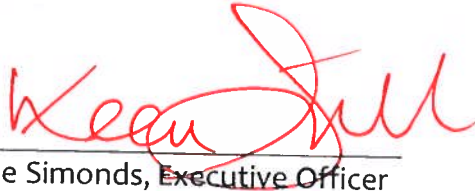
Harry Mathis, Alternate
General Public

San Diego LAFCO

August 30, 2019

Certificate of Administrative Approval of a Contractual Wastewater Service Agreement | "Hamilton-Felicitia
Reorganization & Contractual Wastewater Service Agreement" | City of Escondido (RO19-15; OAS19-15)

Accordingly, the request by the City of Escondido for approval of a temporary contractual water service agreement in advance of the pending annexation is warranted to resolve the emergency threat to the health and safety of the residents.



Keene Simonds, Executive Officer

Date: August 30, 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: William R. Shaw

Property Address: 2517 Felicita Rd., Escondido, Ca. 92029

Phone #: 760-855-5214 Date: 8/8/2019

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. NA
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
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(858) 614-7755

CAMPAIGN CONTRIBUTION DISCLOSURE PROVISIONS

LAFCOs are subject to the campaign disclosure provisions detailed in Government Code Section 84308, and the Regulations of the Fair Political Practices Commission (FPPC), Section 18438.

Please carefully read the following information to determine if the provisions apply to you. If you determine that the provisions are applicable, the Campaign Disclosure Form must be completed and returned to San Diego LAFCO with your application.

1. No LAFCO commissioner shall accept, solicit, or direct a contribution of more than \$250 from any party¹ or agent² while a change of organization proceeding is pending, and for three months subsequent to the date a final decision is rendered by LAFCO. This prohibition commences when your application has been filed, or the proceeding is otherwise initiated.

2. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than \$250 made to any commissioner by the party, or agent, during the preceding 12 months. No party to a LAFCO proceeding, or agent, shall make a contribution to a commissioner during the proceeding and for three months following the date a final decision is rendered by LAFCO.

3. Prior to rendering a decision on a LAFCO proceeding, any commissioner who received contribution of more than \$250 within the preceding 12 months from any party, or agent, to a proceeding shall disclose that fact on the record of the proceeding, and shall be disqualified from participating in the proceeding. However, if any commissioner receives a contribution that otherwise would require disqualification, and returns the contribution within 30 days of knowing about the contribution and the relevant proceeding, that commissioner shall be permitted to participate in the proceeding.

¹ "Party" is defined as any person who files an application for, or is the subject of, a proceeding.

² "Agent" is defined as a person who represents a party in connection with a proceeding. If an individual acting as an agent also is acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar entity or corporation, both the individual and the entity or corporation are agents. When a closed corporation is a party to a proceeding, the majority shareholder is subject to these provisions.

To determine whether a campaign contribution of more than \$250 has been made by you or your agent to a commissioner within the preceding 12 months, all contributions made by you or your agent during that period must be aggregated.

Names of current LAFCO commissioners are available at <http://www.sdlafco.org/document/CommRoster.pdf>. If you have questions about Government Code Section 84308, FPPC regulations, or the Campaign Disclosure Form, please contact San Diego LAFCO at 9335 Hazard Way, Suite 200, San Diego, CA 92123, (858) 614-7755.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

(a) Proposed change(s) of organization: _____
ANNEXATION TO ESCONDIDO

(b) Name and address of any party, or agent, who has contributed more than \$250 to any commissioner within the preceding 12 months:

1. NONE
- 2.

(c) Date and amount of contribution:

Date _____ Amount \$ _____

Date _____ Amount \$ _____

(d) Name of commissioner to whom contribution was made:

- 1.
- 2.

(e) I certify that the above information is provided to the best of my knowledge.

Printed Name **WILLIAM R SHAW**

Signature 

Date **8/9/2019** Phone **760-855-5214**

To be completed by LAFCO:

Proposal:

Ref. No.

DISCLOSURE OF POLITICAL EXPENDITURES

Effective January 1, 2008, expenditures for political purposes, which are related to a change of organization or reorganization proposal that will be or has been submitted to LAFCO, are subject to the reporting and disclosure requirements of the Political Reform Act of 1974 and the Cortese-Knox-Hertzberg Act of 2000.

Please carefully read the following information to determine if reporting and disclosure provisions apply to you.

- 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 of 1974 (Government Code Section 81000 et seq.) as provided for local initiative measures, and Section 56700.1 of the Cortese-Knox-Hertzberg Act of 2000.
- 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 filed with the Secretary of State and the appropriate city or county clerk. Copies of the report must also be filed with the Executive Officer of San Diego LAFCO.
- A roster of current San Diego LAFCO commissioners is available from the LAFCO office: 9335 Hazard Way, Suite 200, San Diego, CA 92123, (858) 614-7755, or from <http://www.sdlafco.org/document/CommRoster.pdf>

EVALUATION CHECKLIST FOR DISCLOSURE OF POLITICAL EXPENDITURES

The following checklist is provided to assist you in determining if the requirements of Government Code Sections 81000 et seq. apply to you. For further assistance contact the Fair Political Practices Commission at 428 J Street, Suite 450, Sacramento, CA 95814, (866) 275-3772 or at <http://www.fppc.ca.gov>.

1. Have you directly or indirectly made a contribution or expenditure of \$1,000 or more related to the support or opposition of a proposal that has been or will be submitted to LAFCO?

☐ Yes

☒ No

NONE

Date of contribution _____ Amount \$ _____

Name/Ref. No. of LAFCO proposal _____

Date proposal submitted to LAFCO _____

2. Have you, in combination with other person(s), directly or indirectly contributed or expended \$1,000 or more related to the support or opposition of a proposal that has been or will be submitted to LAFCO?

☐ Yes

☒ No

NONE

Date of contribution _____ Amount \$ _____

Name/Ref. No. of LAFCO proposal _____

Date proposal submitted to LAFCO _____

3. If you have filed a report in accordance with FPPC requirements, has a copy of the report been filed with San Diego LAFCO?

☐ Yes

☐ No

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: JAYME INGRAM

Property Address: 903 HAMILTON LANE, ESCONDIDO CA 92029

Phone #: 619-760-7502 Date: 08/14/2019

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 CONNECTION
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. _____
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](#))

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Please carefully read the following information to determine if the provisions apply to you. If you determine that the provisions are applicable, the Campaign Disclosure Form must be completed and returned to San Diego LAFCO with your application.

1. No LAFCO commissioner shall accept, solicit, or direct a contribution of more than \$250 from any party¹ or agent² while a change of organization proceeding is pending, and for three months subsequent to the date a final decision is rendered by LAFCO. This prohibition commences when your application has been filed, or the proceeding is otherwise initiated.

2. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than \$250 made to any commissioner by the party, or agent, during the preceding 12 months. No party to a LAFCO proceeding, or agent, shall make a contribution to a commissioner during the proceeding and for three months following the date a final decision is rendered by LAFCO.

3. Prior to rendering a decision on a LAFCO proceeding, any commissioner who received contribution of more than \$250 within the preceding 12 months from any party, or agent, to a proceeding shall disclose that fact on the record of the proceeding, and shall be disqualified from participating in the proceeding. However, if any commissioner receives a contribution that otherwise would require disqualification, and returns the contribution within 30 days of knowing about the contribution and the relevant proceeding, that commissioner shall be permitted to participate in the proceeding.

¹ "Party" is defined as any person who files an application for, or is the subject of, a proceeding.

² "Agent" is defined as a person who represents a party in connection with a proceeding. If an individual acting as an agent also is acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar entity or corporation, both the individual and the entity or corporation are agents. When a closed corporation is a party to a proceeding, the majority shareholder is subject to these provisions.

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Names of current LAFCO commissioners are available at <http://www.sdlafco.org/document/CommRoster.pdf>. If you have questions about Government Code Section 84308, FPPC regulations, or the Campaign Disclosure Form, please contact San Diego LAFCO at 9335 Hazard Way, Suite 200, San Diego, CA 92123, (858) 614-7755.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

(a) Proposed change(s) of organization: _____
ESCONDIDO

(b) Name and address of any party, or agent, who has contributed more than \$250 to any commissioner within the preceding 12 months:

1. NA
- 2.

(c) Date and amount of contribution:

Date _____ Amount \$ _____
Date _____ Amount \$ _____

(d) Name of commissioner to whom contribution was made:

- 1.
- 2.

(e) I certify that the above information is provided to the best of my knowledge.

Printed Name JAYME INGRAM
Signature Jayme Ingram
Date 08/14/2019 Phone 619-760-7502

To be completed by LAFCO:

Proposal:

Ref. No.

DISCLOSURE OF POLITICAL EXPENDITURES

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Please carefully read the following information to determine if reporting and disclosure provisions apply to you.

- 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 of 1974 (Government Code Section 81000 et seq.) as provided for local initiative measures, and Section 56700.1 of the Cortese-Knox-Hertzberg Act of 2000.
- 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 filed with the Secretary of State and the appropriate city or county clerk. Copies of the report must also be filed with the Executive Officer of San Diego LAFCO.
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1. Have you directly or indirectly made a contribution or expenditure of \$1,000 or more related to the support or opposition of a proposal that has been or will be submitted to LAFCO?

☐ Yes

☒ No

Date of contribution _____ Amount \$ _____

Name/Ref. No. of LAFCO proposal _____

Date proposal submitted to LAFCO _____

2. Have you, in combination with other person(s), directly or indirectly contributed or expended \$1,000 or more related to the support or opposition of a proposal that has been or will be submitted to LAFCO?

☐ Yes

☒ No

Date of contribution _____ Amount \$ _____

Name/Ref. No. of LAFCO proposal _____

Date proposal submitted to LAFCO _____

3. If you have filed a report in accordance with FPPC requirements, has a copy of the report been filed with San Diego LAFCO?

☐ Yes

☒ No