

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
RIVERSIDE LOCAL AGENCY FORMATION COMMISSION AND
THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION
INVOLVING A REORGANIZATION PROPOSAL TO DETACH THE FALLBROOK
PUBLIC UTILITY DISTRICT AND RAINBOW MUNICIPAL WATER DISTRICT
FROM THE SAN DIEGO COUNTY WATER AUTHORITY AND
CONCURRENTLY ANNEX TO THE EASTERN MUNICIPAL WATER DISTRICT**

This MEMORANDUM OF UNDERSTANDING ("MOU") is made this 24th day of October 2019 by and between the San Diego Local Agency Formation Commission ("SDLAFCO"), a corporate public entity, and the Riverside Local Agency Formation Commission ("RLAFCO"), a corporate public entity. Each may be referred to individually as "LAFCO" or collectively as "LAFCOs."

RECITALS

WHEREAS, the Fallbrook Public Utility District ("FPUD") is a special district that provides — among other services — water to the community of Fallbrook;

WHEREAS, the Rainbow Municipal Water District ("RMWD") is a special district that provides — among other services — water to the unincorporated communities of Rainbow, Bonsall, and portions of Vista, Oceanside and Fallbrook;

WHEREAS, the San Diego County Water Authority ("SDCWA") is a public agency that produces, imports and sells wholesale water to its 24 retail member agencies and cities in San Diego County;

WHEREAS, FPUD and RMWD are member agencies of SDCWA;

WHEREAS, the Eastern Municipal Water District ("EMWD") is a special district that provides retail water service to some cities and wholesale water to other cities and special districts in Riverside County;

WHEREAS, FPUD and RMWD are contemplating the initiation of proceedings to obtain wholesale water from EMWD and detach from SDCWA and annex to EMWD;

WHEREAS, the contemplated detachment and annexation would require conforming sphere of influence amendments approved by the relevant LAFCO ("Proceedings");

WHEREAS, San Diego County and Riverside County are both an "affected county" for purposes of the Proceedings, which is defined in Government Code section 56012 as "any county that contains, or would contain, any territory for which a change of organization is proposed or ordered either singularly or as part of a reorganization or that contains all or any part of a district for which a change of organization or reorganization is proposed with respect to territory outside that county;"

WHEREAS, Riverside County is the "principal county" for purposes of EMWD's sphere of influence amendment and annexation proceedings because, under Government Code section 56066, Riverside is "the county having the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed;"

WHEREAS, San Diego County is the "principal county" for purposes of SDWA's sphere of influence amendment and detachment proceedings because, under Government Code section 56066, San Diego is "the county having the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed;"

WHEREAS, under Government Code sections 56123, RLAFCO has exclusive jurisdiction to process an application for the proposed change of organization to EMWD, and SDLAFCO has exclusive jurisdiction to process an application for the proposed change of organization to SDCWA;

WHEREAS, under Government Code section 56124, "If a proposed change of organization or a reorganization applies to two or more affected counties, for purposes of this division, exclusive jurisdiction may be vested in the commission of an affected county other than the commission of the principal county if all of the following occur:

- (a) The commission of the principal county approves of having exclusive jurisdiction vested in another affected county.
- (b) The commission of the principal county designates the affected county which shall assume exclusive jurisdiction.
- (c) The commission of the affected county so designated agrees to assume exclusive jurisdiction.";

WHEREAS, RLAFCO approves of having exclusive jurisdiction for purposes of EMWD's sphere of influence amendment and detachment proceedings vested in San Diego County;

WHEREAS, RLAFCO designates San Diego County to assume exclusive jurisdiction for purposes of EMWD's sphere of influence amendment and detachment proceedings;

WHEREAS, SDLAFCO agrees to assume exclusive jurisdiction for purposes of EMWD's sphere of influence amendment and detachment proceedings for any application received for a reorganization as described above;

WHEREAS, the Parties desire to enter into this MOU to memorialize their understanding.

NOW, THEREFORE, in consideration of the covenants, conditions and promises contained herein, the parties mutually agree as follows:

1. Sphere of Influence. Any sphere of influence determination in connection with FPUD's or RMWD's application to detach from SDCWA and annex to EMWD will be the exclusive jurisdiction of SDLAFCO.

2. Reorganization Proceedings. Any reorganization proceeding in connection with FPUD's or RMWD's application to detach from SDCWA and annex to EMWD will be the exclusive jurisdiction of SDLAFCO.

3. Applicable Policies and Procedures. The Proceedings will be governed according to SDLAFCO's policies and procedures. SDLAFCO is not required to follow RLAFCO's policies and procedures in processing a sphere of influence or reorganization application submitted by FPUD or RMWD.

4. Consultation. SDLAFCO agrees to consult with RLAFCO staff regarding the Proceedings and before making any recommendations in connection with FPUD's or RMWD's application to detach from SDCWA and annex to EMWD. RLAFCO agrees to provide technical assistance to process the relevant applications upon SDLAFCO's request. Any technical assistance provided by RLAFCO in connection with the Proceedings will be billed to FPUD and RMWD at RLAFCO's established hourly rate.

5. Term. This MOU will take effect upon its execution by both SDLAFCO and RLAFCO and shall remain in effect until the Proceedings are complete.

6. LAFCOs' Responsibilities. The LAFCOs will advise FPUD, RMWD, SDCWA, and EMWD that the required application and corresponding documentation and fees must be submitted to SDLAFCO pursuant to this MOU. Nothing in this MOU will be construed to limit in any way the provision of State law governing the consideration process for a sphere of influence determination or reorganization proceeding.

7. Modification. This MOU constitutes the entire agreement and understanding between the LAFCOs with respect to the subject matter hereof and supersedes any previous agreements, oral or written. This MOU may be modified only by subsequent mutual written agreement and will not be effective until signed by all parties.

8. Termination. This MOU may be terminated by either LAFCO upon 30 days' notice in writing to the other LAFCO. Under Government Code section 56651, the Proceedings shall be deemed initiated on the date a petition or resolution of application of FPUD or RMWD is accepted for filing and a certificate of filing is issued by the executive officer of SDLAFCO to FPUD or RMWD. Once the Proceedings are initiated, RLAFCO is prohibited from terminating this MOU until SDLAFCO's Proceedings are complete.

9. California Law. This MOU shall be construed in accordance with the laws of the State of California. Any action commenced related to this MOU shall be filed in the Superior Court of either San Diego or Riverside County. This MOU shall be construed as though jointly drafted by the Parties with the assistance of independent legal counsel.

10. Indemnification. LAFCOs agree to indemnify, defend at their own expense, including attorneys' fees, and hold each other harmless from and against all claims, costs, penalties, causes of action, demands, losses and liability of any nature, whatsoever, caused by or arising out of or related to any negligent act or willful misconduct of that party, its officers or employees or any other agent acting pursuant to its control and performing under this MOU.

12. Notices. All notices shall be personally delivered or mailed, via first-class mail to the below listed addresses:

a. Keene Simonds
Executive Officer
San Diego Local Agency Formation Commission
9335 Hazard Way, Suite 200
San Diego, California 92123
(858) 614-7755
keene.simonds@sdcounty.ca.gov

b. Gary Thompson
Executive Officer
Riverside Local Agency Formation Commission
6216 Brockton Avenue, Suite 111-B
Riverside, California 92506
(951) 369-0631
gthompson@lafco.org

c. Courtesy Copy to:
Holly O. Whatley
General Counsel for SDLAFCO
Colantuono, Highsmith & Whatley, PC
790 East Colorado Blvd., Suite 850
Pasadena, California 91101
hwhatley@chwlaw.us

d. Courtesy Copy to:
Tiffany N. North, Assistant County Counsel
Counsel for RLAFCO
Office of Riverside County Counsel
3960 Orange Street, Ste. 500
Riverside, California 92501
tnorth@rivco.org

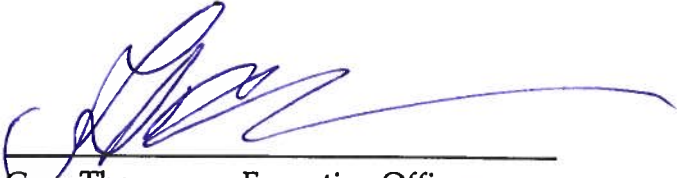
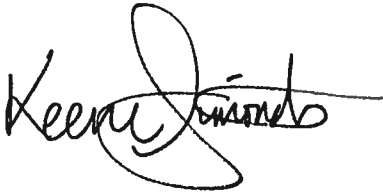
13. Severance. Should a provision of this MOU be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

14. Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, these parties have executed this MOU on the day and year shown above.

SAN DIEGO LOCAL AGENCY
FORMATION COMMISSION

RIVERSIDE LOCAL AGENCY
FORMATION COMMISSION

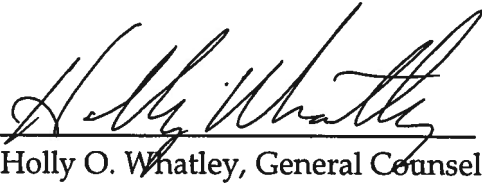


Keene Simonds, Executive Officer

Gary Thompson, Executive Officer

APPROVED AS TO FORM

APPROVED AS TO FORM



Holly O. Whatley, General Counsel



Tiffany N. North, Assistant County Counsel