



San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

REGULAR MEETING AGENDA AS AMENDED AFTER INITIAL POSTING

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

MONDAY, AUGUST 3, 2020 9:00 A.M.
VIDEOCONFERENCE ATTENDANCE ONLY

Chair Dianne Jacob
Vice Chair Andy Vanderlaan

Consistent with the Governor's Executive Order N-29-20, the August 3, 2020 meeting will occur remotely through videoconferencing. The public may watch the meeting live using the link on our website home page (www.sdlafco.org).

The public may submit comments remotely and/or register to speak by:

1. Submitting an eComment at www.sdlafco.org prior to 2:00 P.M. on Friday, July 31, 2020
 - These comments will be distributed and posted online ahead of the meeting
 - This includes the option to request a call-in to directly comment during the meeting
2. Emailing erica.blom@sdcountry.ca.gov during the meeting on Monday, August 3, 2020
 - These comments will be read by staff into the record and subject to a three-minute limit

1. 9:00 A.M. – WELCOME AND ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. AGENDA REVIEW

The Chair will confirm with the Executive Officer if any changes to the agenda are needed.

4. PUBLIC COMMENT AND RELATED REQUESTS

Opportunity for members of the public to address the Commission on any subject matter within the Commission's jurisdiction but not an item listed on the agenda. Each speaker's presentation may not exceed three minutes. This is also an opportunity for members of the public to request discussion on any items listed under the consent calendar.

5. CONSENT ITEMS

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

a) Approval of Meeting Minutes for June 1, 2020 (action)

The Commission will consider approving action minutes prepared for the June 1, 2020 regular meeting. Recommendation to approve.

CONSENT ITEMS CONTINUED...

b) Commission Ratification | Recorded Payments for May and June 2020 (action)

The Commission will review payments received and made for the months of May and June 2020. These payments cover all recorded transactions for the period and include \$339,714 in total distributions made by the Executive Officer. Recommendation to ratify.

c) End of Year Budget Report for 2019-2020 (action)

The Commission will review an end of year report comparing budgeted and actual expense and revenue transactions for 2019-2020. The report notes the Commission finished the fiscal year with a net operating balance of \$143,189 or 8.0%. It is also noted the Commission was able to cancel a budgeted use of reserves during the fiscal year and results in a total improvement to the fund balance of \$215,789. Recommendation to accept and file.

**d) Proposed “Orphan-Eolus Avenue Change of Organization” |
Annexation to the Leucadia Wastewater District (CO20-03) (action)**

The Commission will consider a change of organization proposal filed by the Leucadia Wastewater District to annex approximately 0.56 acres of incorporated territory within the District’s sphere of influence. The affected territory as submitted includes one assessor parcel developed with a single-family residence within the City of Encinitas. The proposal purpose is to extend public wastewater service to replace an aging septic system. Staff recommends approval with a modification to include 0.1 acres of adjacent public right-of-way. Standard approval terms are also recommended along with waiving protest. The subject parcel is identified as 254-392-30.

**e) Proposed “Lupa - Anthony Heights Drive Change of Organization” |
Annexation to the Vallecitos Water District (CO20-01) (action)**

The Commission will consider a change of organization proposal filed by a landowner seeking approval to annex approximately 1.5 acres of unincorporated territory to the Vallecitos Water District (WD) for the provision of wastewater service. The affected territory is presently within the Vallecitos WD sphere of influence and primarily consists of one undeveloped assessor parcel at 1557 Anthony Heights Drive that lies in an unincorporated area between the Cities of San Marcos and Escondido. The purpose of the proposal is to make public wastewater service available to facilitate development of an accessory dwelling unit for an existing single-family residence. Staff recommends approval without modifications. Standard approval terms are recommended along with waiving protest proceedings. The subject parcel is identified as 228-010-25.

**f) Protest Hearing Results |
“County Service Area No. 137 Formation” (CO20-06) (information)**

The Commission will receive the results of the protest hearing held for the change of organization proposal involving the formation of County Service Area (CSA) No. 137. The noticed hearing was held by the Executive officer on July 2, 2020 and produced limited protest from landowners and registered voters as detailed. Accordingly, the Commission’s approval of the formation proceedings and related authority for the County of San Diego to assume potable water service to the unincorporated community of Live Oak Springs will be ordered once all terms are satisfied.

g) Progress Report on 2020-2021 Workplan (action)

The Commission will receive a progress report on accomplishing specific projects included in the adopted workplan for 2020-2021. This includes noting through the first month nearly one-half of all workplan projects are underway with three near completion. This latter category includes policy updates and establishing social media platforms. Recommendation to accept and file.

CONSENT ITEMS CONTINUED...

h) Current Proposals and Related Activities (information)

The Commission will receive a report identifying active change of organization or reorganization proposal applications on file as well as a summary of pending proposal application submittals. This includes identifying five new proposal applications submitted since the last report in June. The item is for information and concurrently satisfies LAFCO's reporting requirement to affected agencies for proposed special district annexations submitted by landowners or voters.

i) CALAFCO Update |

Annual Conference, Board Nominations, and Quarterly Report (information)

The Commission will receive updates on its statewide association – CALAFCO – with respect to current and planned activities.

j) Approval of Independent Audit Expense for FY2019-2020 (action)

The Commission will consider approval of an independent audit expense in the amount of \$9,950 with R.J. Ricciardi and Associates covering 2019-2020. This amount is consistent with the terms of an earlier multi-year proposal received from R.J. Ricciardi and Associates to provide year-end auditing services to the Commission as part of an open selection process completed in September 2019. Recommendation to approve.

6. PUBLIC HEARING ITEMS

Public hearing items require expanded public notification per provisions in State law or have been voluntarily scheduled by the Executive Officer to ensure opportunity for public input.

a) Proposed Amendments to Adopted Conflict of Interest Code (action)

The Commission will consider proposed amendments to its adopted Conflict of Interest Code as part of a biennial review. Most of the amendments involve clarifying and/or improving existing provisions with respect to identifying designated positions and applicable disclosure categories. Recommend approval.

7. BUSINESS CALENDAR

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

a) Draft Update to Agricultural and Open Space Lands Policy (discussion)

The Commission will review a draft update to its "Preservation of Open-Space and Agricultural Lands Policy." The draft returns substantially reworked from an earlier version presented in March 2019 to reflect initial Commission feedback and stakeholder input. The draft includes several substantive revisions that collectively aim to better balance the Commission's statutory direction to preserve agricultural and open space resources while reflecting local conditions and objectives. Recommend discussion and feedback ahead of initiating a formal review period.

b) Advisory Committee Update |

Proposed Rainbow MWD and Fallbrook PUD Reorganizations (discussion)

The Commission will receive an update on the Advisory Committee formed for the Rainbow MWD and Fallbrook PUD reorganization proposals. The update is being provided at the earlier request of the Commission and includes addressing agenda topics and related discussion from the Advisory Committee's July 6th meeting as well as agenda topics set for the next meeting scheduled for the afternoon on August 3rd. Recommend discussion only.

BUSINESS ITEMS CONTINUED...

c) Adoption of a Draft Resolution to Serve as Lead Applicant for Planning Grant (action)

The Commission will consider formalizing an earlier action and adopt a draft resolution of authorization to serve as lead applicant and apply for a \$250,000 agricultural conservation planning grant with the Department of Conservation and its Sustainable Agricultural Lands Conservation Program. Adoption serves to formalize the Commission's action at its June 2020 meeting directing staff to proceed with the grant application and in doing so satisfies a State eligibility requirement.

8. EXECUTIVE OFFICER REPORT

9. COMMISSIONER ANNOUNCEMENTS | REQUESTS FOR FUTURE ITEMS

10. CLOSED SESSION

None

11. ADJOURNMENT TO NEXT MEETING

October 5, 2020

Attest to Posting:

Tamaron Lockett
Executive Assistant

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

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



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

5a

AGENDA REPORT
 Consent | Action

August 3, 2020

TO: Commissioners
FROM: Tamaron Lockett, Commission Clerk
SUBJECT: Approval of Meeting Minutes for June 1, 2020

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider draft minutes prepared for the regular meeting held on Monday, June 1, 2020. The minutes are in action-form and being presented for formal approval with any desired corrections or clarifications as requested by the Commission.

BACKGROUND

The Ralph M. Brown Act was enacted by the State Legislature in 1953 and – among other items – requires public agencies to maintain written minutes for qualifying meetings.

DISCUSSION

This item is for San Diego LAFCO to consider approving action minutes for the June 1, 2020 regular meeting. The attendance record for the meeting follows.

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

Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org	Jim Desmond County of San Diego Chair Dianne Jacob County of San Diego Greg Cox, Alternate County of San Diego	Mary Casillas Salas City of Chula Vista Bill Wells City of El Cajon Paul McNamara, Alternate City of Escondido	Mark Kersey City of San Diego Chris Cate, Alternate City of San Diego	Jo MacKenzie Vista Irrigation Barry Willis Alpine Fire Protection Erin Lump, Alternate Rincon del Diablo MWD	Vice Chair Andy Vanderlaan General Public Harry Mathis, Alternate General Public
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ANALYSIS

The attached draft minutes for the June 1, 2020 regular meeting accurately reflect San Diego LAFCO's deliberations as recorded by staff. A video recording of the meeting has also been posted on the Commission's website (www.sdlafco.org).

RECOMMENDATION

It is recommended San Diego LAFCO approve the draft minutes prepared for the June 1, 2020 regular meeting as presented. This recommendation is consistent with Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO:

Alternative One (recommended):

Approve the draft minutes prepared for the June 1, 2020 regular meeting with any desired corrections or clarifications.

Alternative Two:

Continue item to the next regular meeting and provide direction to staff as needed.

PROCEDURES

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

Respectfully,



Tamaron Lockett
Commission Clerk

Attachment:

- 1) Draft Meeting Minutes for June 1, 2020

**DRAFT MINUTES
SAN DIEGO LAFCO
June 1, 2020 REGULAR MEETING**

**Via Videoconference Only
Per Governor's Executive Order N-29-20**

1. CALL TO ORDER | ROLL CALL

The regular meeting was called to order remotely by videoconference at 9:00 a.m. by Chair Jacob.

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

Regulars Present: Jim Desmond, County of San Diego
 Dianne Jacob, County of San Diego (CHAIR)
 Mark Kersey, City of San Diego
 Jo MacKenzie, Vista Irrigation District
 Mary Casillas Salas, City of Chula Vista
 Andy Vanderlaan, Public (VICE)
 Bill Wells, City of El Cajon
 Barry Willis, Alpine Fire Protection District

Alternates Present: Erin Lump, Rincon del Diablo Municipal Water District
 Harry Mathis, Public
 Paul McNamara, City of Escondido

Members Absent: Chris Cate, City of San Diego (alternate)
 Greg Cox, County of San Diego (alternate)

The Commission Clerk confirmed there was a virtual quorum by the Governor's order present with eight voting members. Also present: Executive Officer Keene Simonds; Commission Counsel Holly Whatley; Chief Policy Analyst Robert Barry; Local Government Analyst Linda Heckenkamp; Administrative Assistant Erica Blom; and Executive Assistant Tamaron Lockett serving as Commission Clerk.

2. PLEDGE OF ALLEGIANCE

Commissioner Wells led the Commission in the Pledge of Allegiance.

3. AGENDA REVIEW AND RELATED REQUESTS

Chair Jacob asked the Executive Officer if there were requests to remove or rearrange items on the agenda. The Executive Officer stated no changes to the agenda were needed and recommended the Commission proceed as planned. The Executive Officer also noted the meeting was being live-streamed on LAFCO's YouTube page and instructions for the general public to participate and provide comments are provided on the agenda.

4. PUBLIC COMMENT

Chair Jacob invited anyone from the public to address the Commission on a matter not related to an agenda item. The Commission Clerk confirmed no members of the public had registered to address the Commission. The Administrative Assistant also confirmed there were no live e-mail comments received for public comment.

5. CONSENT ITEMS

Item 5a

Approval of Meeting Minutes for May 4, 2020

Item presented to approve draft action minutes prepared for the Commission's May 4, 2020 regular meeting. Recommendation to approve.

Item 5b

Commission Ratification | Recorded Payments for April 2020

Item presented to ratify recorded payments made and received by the Executive Officer for the month of April 2020. Recommendation to ratify.

Item 5c

Proposed "Hamilton-Felicita Reorganization" | (RO19-15)

Annexation to the City of Escondido and Detachment from County Service Area No. 135

Item presented to consider a reorganization filed by interested landowners to annex 0.63 unincorporated acres to the City of Escondido with concurrent detachments from County Service Area No. 135. Recommendation to approve without modifications. Standard terms included exclusion from Rincon del Diablo Municipal Water District's Improvement "E" and waiver of protest proceedings.

Item 5d

Proposed Support Services Agreement with the County of San Diego

Item presented to consider approving a proposed support service agreement with the County of San Diego. The proposal agreement would replace a memorandum of understanding from June 1974 and ancillary agreement and serves to memorialize and clarify existing support services provided by the County and reimbursed by LAFCO. Recommendation to approve.

CONSENT ITEMS CONTINUED...

Item 5e

Progress Report on 2019-2020 Workplan

Item presented to receive a progress report on accomplishing specific projects as part of the adopted 2019-2020 workplan. Recommendation to accept and file.

Item 5f

Annual Report |

Sphere of Influence and Municipal Service Review Summary of Actions

Item presented to receive an annual report identifying the sphere of influence and municipal service review actions registered for the past calendar year. Recommendation to accept and file.

Item 5g

Current Proposals and Related Activities

Item presented to update current proposals on file along with identifying anticipated submittals. Item for information only.

**

Commissioner Vanderlaan motioned with a second from Commissioner Willis to approve the staff recommendations as provided in the agenda reports. Roll call requested:

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

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

6. PUBLIC HEARING ITEMS

Item 6a

Proposed “County Service Area No. 137 Formation |

Formation of County Service Area No. 137 in the Unincorporated Community of Live Oak Springs and Associated Sphere Establishment (CO20-06 et al.)

Item presented to consider a change of organization filed by resolution from the County of San Diego for the formation of County Service Area No. 137. Analyst Linda Heckenkamp provided the staff presentation and noted the purpose of the proposal is for the County to formally assume and make related improvements to an existing community water system serving the Live Oak Springs unincorporated community and its estimated 300 residents in the southeast San Diego County. Analyst Heckenkamp outlined the staff recommendation to approve the proposal as submitted with conditions that include receipt by the Executive Officer of satisfactory evidence of sufficient funding by the County to recover costs as well as delegating protest proceedings to the Executive Officer.

PUBLIC HEARING ITEMS CONTINUED...

Item 6a Continued

Chair Jacob invited questions from the Commission.

Commissioner MacKenzie asked for more information on water rates should the Commission approve the formation of County Service Area No. 137. County Counsel Suedy Alfaro responded the County has already committed monies to prepare a detailed rate study to fully recover operating costs and is prepared to take the resulting recommendations to the community for approval. Ms. Alfaro noted the County agrees with the staff recommendation to term approval on the County providing proof sufficient funding streams to cover the District's operating costs within the next 36 months. Ms. Alfaro added two members of County Public Works staff – Daniel Brogadir and Peejay Tubongbanua – were also available to the Commission to address more technical issues.

With no more questions from the Commission, Chair Jacob proceeded to open the public hearing and the Commission Clerk confirmed no members of the public were registered to address the Commission on this item. The Administrative Assistant also confirmed she had not received any emails in real-time on this item.

Chair Jacob proceeded to close the public hearing.

Additional Commission discussion followed.

Commissioner Jacob motioned to approve the staff recommendation as provided in the agenda report with a second from Commissioner Desmond. Roll call requested:

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

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

Item 6b

Sphere of Influence Update for County Service Area No. 135

Item presented to consider approving a sphere of influence update for County Service Area No. 135 and its active service functions: (a) public safety radio communication and (b) integrated fire protection. The Executive Officer provided the staff presentation and addressed the recommendations to proceed with affirming the primary (public safety radio) and secondary (fire protection and emergency medical) sphere of influence designations without changes along with making the required determinations under

PUBLIC HEARING ITEMS CONTINUED...

Item 6b Continued

LAFCO statute. The Executive Officer added this recommendation does not preclude the Commission from considering subsequent changes to the sphere designations in step with considering a pending proposal by the County of San Diego to reorganize and split the District to include a new dependent fire protection district.

Commission discussion followed.

Chair Jacob opened the public hearing and asked if there any public comments. The Commission Clerk confirmed no registered speakers had been received for this item. The Administrative Assistant confirmed one email had been received on this item from County Fire Chief Tony Mecham providing his support for the staff recommendation.

Chair Jacob proceeded to close the public hearing.

**

Commissioner Willis motioned to approve the staff recommendation as provided in the agenda report with a second from Commissioner Vanderlaan. Roll call requested:

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

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

7. BUSINESS ITEMS

Item 7a

Consideration to Form a Committee and Related Actions Involving Reorganization Proposals Filed by Fallbrook Public Utility District and Rainbow Municipal Water District

Item presented on business calendar to consider options to establish an advisory committee for the reorganization proposals recently filed by the Fallbrook Public Utility District and Rainbow Municipal Water District seeking – and among other actions – detachments from San Diego County Water Authority. The Executive Officer provided the staff presentation and outlined the distinct options before the Commission with respect to determining Committee (a) composition and (b) tasks. This included noting considerable discussions were held with the subject agencies and this produced firm consensus on tasking the Committee to follow the steps identified in the agenda report as Option 2a. It was also noted there was evolving consensus on setting the composition of the Committee to include 12 members and identified in the agenda report as Option 1d.

BUSINESS ITEMS CONTINUED...

Item 7a Continued

Chair Jacob invited questions and comments from the Commission.

General discussion followed and included Commissioner Desmond noting preference not to have Commissioners serve on the Committee unless others feel differently. Commissioner Desmond also sought clarification that the Committee's tasks under Option 2a would involve only advising the Executive Officer and there would be no formal votes or recommendations forwarded to the Commission. The Executive Officer confirmed the Committee would take no formal votes and they would disband prior to the Commission taking up the reorganization proposals at hearing.

Chair Jacob invited comments from the public. The Commission Clerk noted there were four registered speakers for the item and proceeded to invite each of the following persons to address the Commission:

- Sandy Kerl with San Diego County Water Authority
- Jack Bebee with Fallbrook Public Utility District
- Tom Kennedy with Rainbow Municipal Water District
- Joe Naiman with Fallbrook Village News

The Administrative Assistant confirmed no live e-mail comments had been received.

Chair Jacob invited any final comments or questions from the Commission.

Commissioner MacKenzie requested clarification on whether the Committee would be subject to the Brown Act and suggested the Commission set a timetable for their activities.

Commission Counsel Holly Whatley confirmed the Committee would be subject to the Brown Act.

The Executive Officer also responded that staff could provide regular updates to the Commission on the Committee's work.

Commissioner Desmond motioned to approve the establishment of the Committee with setting the composition consistent with Option 1d less the two representatives from the Commission as well as setting tasks consistent with Option 2a. Commissioner Desmond also added to the motion that staff provide regular updates to the Commission. The motion was seconded by Chair Jacob.

BUSINESS ITEMS CONTINUED...

Item 7a Continued

Roll call requested:

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

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

Item 7b

Outside Audit for the Fiscal Year Ending June 30, 2019

Item presented on business calendar to accept and file an outside audit prepared by R.J. Ricciardi for financial statements issued for 2018-2019. The Executive Officer provided the staff presentation and noted no material weaknesses were identified by the outside audit and all tested transactions were accompanied by sufficient documentation. The Executive Officer added the audited fund balance finished at \$1,488,233 and reflects a year-end change of (7.4%) from the prior fiscal year and the result of operating shortfall due to unique expenses incurred during the corresponding 12-month period.

Commission discussion followed.

**

Commissioner Willis motioned to approve the staff recommendation as provided in the agenda report with a second from Commissioner Wells. Roll call requested:

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

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

Item 7c

Review of Job Classes and Salary Ranges for Non-Management Positions | Proposed Revisions to Executive Assistant Position and Establishment of Commission Clerk Position and Other Related Actions

Item presented on the business calendar and involves the Commission's scheduled review of job classes and salary ranges for active and budgeted non-management positions. The Executive Officer provided the staff presentation and noted the report before the Commission had been prepared with the assistance of County of San Diego Human (cont)

BUSINESS ITEMS CONTINUED...

Item 7c Continued

Resources and includes three distinct recommendations with details provided in the agenda report: amend the existing job class description for the Executive Assistant position; establish a new job class description and salary range for Commission Clerk; and approve an organization chart with budgeted positions for 2020-2021.

Chair Jacob invited Commissioner comments or questions.

Commissioner MacKenzie noted the item has been on the Commission's to-do list for the last two years and supports the recommendations.

Additional Commission discussion followed.

**

Commissioner MacKenzie motioned to approve the staff recommendation as provided in the agenda report with a second from Commissioner Willis. Roll call requested:

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

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

Item 7d

Authorization to Serve as Lead Applicant for an Agricultural Planning Grant with the State of California Department of Conservation and Related Actions

Item presented on the business calendar to consider authorization for the Commission to serve as lead applicant for a \$250,000 planning grant with the Department of Conservation in collaboration with the County of San Diego, SANDAG, and Resource Conservation District of Greater San Diego County. Chief Policy Analyst Robert Barry provided the staff presentation and noted the purpose of the grant is to allow LAFCO and the other participating agencies to track past and current agricultural uses in San Diego County and collectively help inform the agencies' respective duties and tasks.

Chair Jacob invited Commissioner comments or questions.

No comments or questions were received.

**

BUSINESS ITEMS CONTINUED...

Item 7d Continued

Commissioner Desmond motioned to approve the staff recommendation as provided in the agenda report with a second from Commissioner Wells. Roll call requested:

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

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

8. EXECUTIVE OFFICER REPORT

The Executive Officer made the following comments:

- Directed the Commission's attention to off-agenda correspondence received from the County Fire Authority regarding fire response times in Julian.
- Noted staff remains in contract with the City of Escondido regarding their intentions in either completing their scheduled municipal service review or transitioning the project over to LAFCO staff.

9. COMMISSIONER ANNOUNCEMENTS | REQUESTS FOR FUTURE ITEMS

- Commissioner Willis addressed concerns regarding the current Governor orders relating to COVID-19 on San Diego County and the adverse financial ramifications going forward and noted the connection to LAFCO's task of orderly growth. Additional comments on the topic were provided by Commissioners Jacob, Desmond, and Lump.

10. CLOSED SESSION

None

11. ADJOURNMENT TO NEXT MEETING

With no further business the Chair adjourned the videoconference meeting at 10:48 a.m.

**

I hereby attest the minutes above accurately reflect the deliberations of the Commission at its June 1, 2020 videoconference meeting.

ATTEST,

//
Tameron Lockett
Executive Assistant

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A video recording of the June 1, 2020 regular meeting is also available online at www.sdlafco.org or by contacting LAFCO staff at 858-614-7755.



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

5b

AGENDA REPORT
 Consent | Action

August 3, 2020

TO: Commissioners

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

**SUBJECT: Commission Ratification |
 Recorded Payments for May and June 2020**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will review a report identifying all payments received and made for the months of May and June 2020. These payments cover all recorded transactions for the two-month period and include \$339,714 in total distributions made by the Executive Officer with four-fifths tied to reimbursements to the County of San Diego for payroll, rent, overhead, and information technology services. The payments are being presented to the Commission for formal ratification.

BACKGROUND

Accounting Policies and Procedures

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

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Imperial Beach</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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DISCUSSION

This item is for San Diego LAFCO to consider ratification of all payments made and received by the Executive Officer in May and June 2020. A detailing of these transactions prepared by the Administrative Assistant is provided in Attachments One (May) and Two (June). The item also provides the Commission the opportunity to provide feedback on related matters and inform potential changes in accounting procedures going forward.

ANALYSIS

San Diego LAFCO's recorded payments made by the Executive Officer for May and June 2020 totaled \$339,714 with 82% – or \$278,380 – tied to expenditures with the County of San Diego. This includes covering payroll obligations, office rent, overhead, and information technology services. Professional service expenses represent most of the remaining expenditures during the two-month period and tallied \$42,724 and include legal and consultant activities. Recorded revenues during the period totaled \$10,838 with most of the monies drawn from collecting two new application fees along with interest earnings. All transactions recorded during the period are consistent with the adopted budget.

RECOMMENDATION

It is recommended San Diego LAFCO ratify the payments received and made by the Executive Officer for May and June 2020 as presented. This recommendation is consistent with Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO:

Alternative One (recommended):

Ratify the recorded payments received and made by the Executive Officer in May and June 2020 as shown in Attachments One and Two.

Alternative Two:

Continue to the next regular meeting and provide direction to staff as needed.

Alternative Three

Take no action.¹

(continued)

¹ Payment ratifications are not required under LAFCO policy, but are presented to the Commission per practice.

PROCEDURES

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

Respectfully,



Erica Blom
Administrative Assistant

Attachments:

- 1) Recorded Payments in May 2020
- 2) Recorded Payments in June 2020

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SAN DIEGO LAFCO
Expenses by Vendor Detail
 May 2020

Payable Receivable Party	Date	Account	Amount	Purpose	Type	Funding Account
E After Effects						
	5/12/2020	52270 - Memberships	20.99	Monthly Video Editing Software Subscription	credit card	3558-60 - SDCCU Visa Credit Card
E Ambius						
	5/20/2020	52370.J - Professional Services	97.94	Monthly Plants Services	check	3558 - SDCCU Checking
E Apple						
	5/12/2020	52330 - Office Expense	59.99	Annual Subscription for PDF Reader	credit card	3558-60 - SDCCU Visa Credit Card
E ARCC (Assessor Recorder County)						
	5/7/2020	52490 - Publications	50.00	NOE Fee CSA No. 135 MSR	check	3558 - SDCCU Checking
	5/20/2020	52490 - Publications	50.00	NOE Fee Valley Center SOI	check	3558 - SDCCU Checking
			100.00			
E Billing Hostway						
	5/6/2020	52370.E - Professional Services	21.95	Monthly Website Hosting Services	check	3558 - SDCCU Checking
E Blue Barn Creative LLC						
	5/15/2020	52370 - Professional Services	1,000.00	Video Recording Services for Commission Meeting	electronic	1000 - County Account (44595)
E Chase Design Inc						
	5/27/2020	52370.I - Professional Services	264.00	Design of New Agency Brochure	electronic	1000 - County Account (44595)
E Colantuono, Highsmith & Whatley						
	5/27/2020	52370.B - Professional Services	4,766.50	Legal Services	electronic	1000 - County Account (44595)
E Cordata						
	5/20/2020	52330 - Office Expense	49.90	Document Storage	check	3558 - SDCCU Checking
E County of San Diego						
	5/1/2020	52530 - Office Lease	6,823.06	Rent	electronic	1000 - County Account (44595)
	5/1/2020	52354 - Mail/Postage ISF	509.91	Mail/Postage Services	electronic	1000 - County Account (44595)
	5/1/2020	52178 - Vehicle Maintenance	726.35	Vehicle Maintenance Services	electronic	1000 - County Account (44595)
	5/1/2020	52182 - Vehicle Fuel	0.00	Vehicle Fuel	electronic	1000 - County Account (44595)
	5/1/2020	52758 - Vehicle Lease	165.49	Vehicle Lease	electronic	1000 - County Account (44595)
	5/1/2020	52721 et al. - Communications (IT) Services	13,129.71	County IT Services (ITRACK)	electronic	1000 - County Account (44595)
	5/1/2020	51110 et al. - Employee Payroll	43,302.68	Payroll Pay Period 2020-22	electronic	1000 - County Account (44595)
	5/15/2020	51110 et al. - Employee Payroll	44,314.66	Payroll Pay Period 2020-23	electronic	1000 - County Account (44595)
	5/29/2020	51110 et al. - Employee Payroll	38,841.37	Payroll Pay Period 2020-24	electronic	1000 - County Account (44595)
	5/29/2020	52504 - Equipment Rental	1.57	County Surcharge Xerox	electronic	1000 - County Account (44595)
	5/31/2020	52550.B - County Overhead Costs	10,803.25	County Services A-87 Overhead (4th Quarter)	electronic	1000 - County Account (44595)
			158,618.05			
E Culligan of San Diego						
	5/6/2020	52330 - Office Expense	9.75	Monthly Water Service	check	3558 - SDCCU Checking
E Dieu Ngu						
	5/13/2020	52074 - Telecommunications	29.99	COVID-19 Telework Internet Reimbursement	check	3558 - SDCCU Checking
E Leaf & Cole LLP						
	5/27/2020	52370.H - Professional Services	440.00	Consultant Services Accounting	electronic	1000 - County Account (44595)
E Price Self Storage						
	5/22/2020	52504 - Equipment Rental	75.00	Storage Unit Monthly Payment	debit card	3558 - SDCCU Checking
E San Diego Union Tribune						
	5/1/2020	52490 - Publications	974.34	PHNs for Workplan and Budget for FY2021 & Valley Center MSR	debit card	3558 - SDCCU Checking
	5/13/2020	52490 - Publications	497.78	PHNs for Rainbow/Fallbrook & Valley Center SOI	check	3558 - SDCCU Checking
	5/19/2020	52490 - Publications	867.34	Annual Newspaper Subscription	debit card	3558 - SDCCU Checking
			2,339.46			
E State Archives						
	5/27/2020	52490 - Publications	10.00	Edmund Brown Photo for LAFCO Brochure	credit card	3558-60 - SDCCU Visa Credit Card
E State Board of Equalization						
	5/13/2020	52490 - Publications	300.00	SBE Fees for Las Flores Dr. (CO19-12)	check	3558 - SDCCU Checking
E Thomson West						
	5/13/2020	52336 - Books - Office Library	3,494.45	Updates to Government Code Hard Copies	check	3558 - SDCCU Checking
E Zoom						
	5/7/2020	52270 - Memberships	14.99	LAFCO Monthly Video Conferencing Subscription	debit card	3558 - SDCCU Checking
	5/12/2020	52270 - Memberships	14.99	EO Monthly Video Conferencing Subscription	debit card	3558 - SDCCU Checking
			29.98			
EXPENSE TOTAL			171,727.95			

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SAN DIEGO LAFCO
Expenses by Vendor Detail
 June 2020

Payable Receivable Party	Date	Account	Amount	Purpose	Type	Funding Account
E After Effects						
	6/12/2020	52270 · Memberships	20.99	Monthly Video Editing Software Subscription	credit card	3558-60 · SDCCU Visa Credit Card
E Alliant Insurance Services						
	6/30/2020	52138 · Public Liability Insurance	3,419.00	General Liability Insurance	check	3558 · SDCCU Checking
E Amazon						
	6/9/2020	52330 · Office Expense	49.55	Office Supplies	credit card	3558-60 · SDCCU Visa Credit Card
	6/28/2020	52330 · Office Expense	1,341.08	Office Supplies	credit card	3558-60 · SDCCU Visa Credit Card
			1,390.63			
E Ambius						
	6/17/2020	52370.J · Professional Services	97.94	Monthly Plants Services	check	3558 · SDCCU Checking
E ARCC (Assessor Recorder County)						
	6/8/2020	52490 · Publications	50.00	NOE Fee Hamilton-Felicita Rd. (RO19-15)	check	3558 · SDCCU Checking
	6/8/2020	52490 · Publications	50.00	NOE Fee CSA No. 135 MSR	check	3558 · SDCCU Checking
	6/8/2020	52490 · Publications	50.00	NOE Fee CSA No. 135 MSR SOI	check	3558 · SDCCU Checking
	6/8/2020	52490 · Publications	50.00	NOE Fee CSA No. 137 Formation (CO20-06)	check	3558 · SDCCU Checking
	6/8/2020	52490 · Publications	50.00	NOE Fee CSA No. 137 Formation SOI (CO20-06)	check	3558 · SDCCU Checking
			250.00			
E AT&T Mobility						
	6/3/2020	52074 · Telecommunications	303.46	Monthly Cell Phone Bill EO and Analysts	check	3558 · SDCCU Checking
E Billing Hostway						
	6/3/2020	52370.E · Professional Services	21.95	Monthly Website Hosting Services	check	3558 · SDCCU Checking
	6/30/2020	52370.E · Professional Services	21.95	Monthly Website Hosting Services	check	3558 · SDCCU Checking
			43.90			
E Blue Barn Creative LLC						
	6/10/2020	52370 · Professional Services	1,000.00	Video Recording Services for Commission Meeting	electronic	1000 · County Account (44595)
E Chase Design Inc						
	6/30/2020	52370.K · Professional Services	6,750.00	Consultant Services Flow Charts and Social Media	electronic	1000 · County Account (44595)
E Colantuono, Highsmith & Whatley						
	6/30/2020	52370.B · Professional Services	6,537.50	Legal Services	electronic	1000 · County Account (44595)
E Copy 2 Copy						
	6/30/2020	52490 · Publications	2,178.71	Printing of LAFCO Brochure	check	1000 · County Account (44595)
E Cordata						
	6/17/2020	52330 · Office Expense	49.90	Document Storage	check	3558 · SDCCU Checking
E County of San Diego						
	6/1/2020	52530 · Office Lease	6,823.06	Rent	electronic	1000 · County Account (44595)
	6/1/2020	52354 · Mail/Postage ISF	1,072.80	Mail/Postage Services	electronic	1000 · County Account (44595)
	6/1/2020	52178 · Vehicle Maintenance	27.89	Vehicle Maintenance Services	electronic	1000 · County Account (44595)
	6/1/2020	52182 · Vehicle Fuel	0.00	Vehicle Fuel	electronic	1000 · County Account (44595)
	6/1/2020	52758 · Vehicle Lease	165.49	Vehicle Lease	electronic	1000 · County Account (44595)
	6/1/2020	52721 et al. · Communications (IT) Services	16,266.96	County IT Services (ITRACK)	electronic	1000 · County Account (44595)
	6/12/2020	51110 et al. · Employee Payroll	45,297.20	Payroll Pay Period 2020-25	electronic	1000 · County Account (44595)
	6/26/2020	51110 et al. · Employee Payroll	49,871.90	Payroll Pay Period 2020-26	electronic	1000 · County Account (44595)
	6/30/2020	52344 · Stores Unallocated	231.52	Office Supplies Office Depot Order	electronic	1000 · County Account (44595)
	6/30/2020	52344 · Stores Unallocated	3.06	County Surcharge Office Depot order	electronic	1000 · County Account (44595)
	6/30/2020	52504 · Equipment Rental	1.74	County Surcharge Xerox	electronic	1000 · County Account (44595)
			119,761.62			
E Culligan of San Diego						
	6/3/2020	52330 · Office Expense	6.00	Monthly Water Service	check	3558 · SDCCU Checking
	6/30/2020	52330 · Office Expense	6.00	Monthly Water Service	check	3558 · SDCCU Checking
			12.00			
E Dieu Ngu						
	6/30/2020	52074 · Telecommunications	59.99	COVID-19 Telework Internet Reimbursement (Two Months)	check	3558 · SDCCU Checking
E Erica Blom						
	6/30/2020	52074 · Telecommunications	55.00	COVID-19 Telework Internet Reimbursement (Two Months)	check	3558 · SDCCU Checking
E Fine Art America						
	6/28/2020	52344 · Stores Unallocated	2,051.60	Office Wall Art	check	3558 · SDCCU Checking
E Granicus Inc						
	6/10/2020	52370.I · Professional Services	6,906.00	Website Support Services for FY2020	electronic	1000 · County Account (44595)

SAN DIEGO LAFCO
Expenses by Vendor Detail
 June 2020

Payable Receivable Party	Date	Account	Amount	Purpose	Type	Funding Account
E Grubhub						
	6/18/2020	52610 · Non-Travel/In-County	145.13	Virtual Quarterly Staff Meeting	credit card	3558-60 · SDCCU Visa Credit Card
E John S. Curry						
	6/30/2020	52370.F · Professional Services	3,250.00	Consultant Services MSR	check	3558 · SDCCU Checking
E Leaf & Cole LLP						
	6/30/2020	52370.H · Professional Services	2,475.00	Consultant Services Accounting	electronic	1000 · County Account (44595)
E Planwest Partners Inc						
	6/30/2020	52370.F · Professional Services	7,814.00	Consultant Services MSR	electronic	1000 · County Account (44595)
E Price Self Storage						
	6/26/2020	52504 · Equipment Rental	75.00	Storage Unit Monthly Payment	debit card	3558 · SDCCU Checking
E San Diego Union Tribune						
	6/17/2020	52490 · Publications	809.04	PHNs for CSA No. 135 MSR & CSA No. 137 Formation	check	3558 · SDCCU Checking
E Shutterstock						
	6/14/2020	52490 · Publications	49.00	Photostock for LAFCO Brochure	credit card	3558-60 · SDCCU Visa Credit Card
E Sprague & Associates						
	6/30/2020	52370.F · Professional Services	1,260.00	Consultant Services MSR & Fire	check	3558 · SDCCU Checking
E Tamaron Lockett						
	6/24/2020	52074 · Telecommunications	196.00	COVID-19 Telework Internet Reimbursement (Four Months)	check	3558 · SDCCU Checking
E Xerox						
	6/1/2020	52504 · Equipment Rental	394.52	Xerox Rental	electronic	1000 · County Account (44595)
	6/10/2020	52504 · Equipment Rental	284.57	Xerox Rental	electronic	1000 · County Account (44595)
	6/30/2020	52504 · Equipment Rental	315.57	Xerox Rental	electronic	1000 · County Account (44595)
			994.66			
E Zoom						
	6/4/2020	52270 · Memberships	14.99	LAFCO Monthly Video Conferencing Subscription	debit card	3558 · SDCCU Checking
	6/12/2020	52270 · Memberships	14.99	EO Monthly Video Conferencing Subscription	debit card	3558 · SDCCU Checking
			29.98			
		EXPENSE TOTAL	<u>167,986.05</u>			
R County of San Diego						
	6/30/2020	49200 · Interest & Dividends	942.64	Interest Payment to Account 46725	electronic	1001 · General Fund (46725)
	6/30/2020	49200 · Interest & Dividends	1105.56	Interest Payment to Account 46726	electronic	1002 · Special Projects Fund (46726)
	6/30/2020	49200 · Interest & Dividends	463.52	Interest Payment to Account 46727	electronic	1003 · Jurisdictional Fund (46727)
			2,511.72			
R Joseph Mercurio						
	6/5/2020	46234 · Applications	8,326.50	LAFCO Processing Fess (CO20-09)	check	3558 · SDCCU Checking
R Sarah Morell						
	6/5/2020	46234 · Applications	6,405.00	LAFCO Processing Fess (CO20-08)	check	3558 · SDCCU Checking
		REVENUE TOTAL	<u>10,838.22</u>			



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

5C

AGENDA REPORT
 Consent | Action

August 3, 2020

TO: Commissioners

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

SUBJECT: End of Year Budget Report for 2019-2020

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will review an end of year report comparing budget and actual expense and revenue transactions for 2019-2020. The report notes the Commission finished the fiscal year in positive standing with a net operating balance of \$143,189 or 8.0% and without the need to transact a budgeted use of reserves in the amount of \$72,600. The substantive result is an overall improvement of \$215,789 over budgeted expectations and increase to the fund balance from \$1.488 to \$1.704 million going into 2020-2021. The report is being presented to the Commission to formally accept and file.

BACKGROUND

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

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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service charges; earnings; and miscellaneous.¹ The Commission’s total audited fund balance as of July 1, 2019 was \$1.488 million with \$1.238 million in unassigned monies.

DISCUSSION

This item is for San Diego LAFCO to receive a final comparison of (a) budget to (b) actual expenses and revenues in conjunction with the administrative close of 2019-2020 and ahead of an audited review. The report provides the Commission the opportunity to review expense and revenue trends relative to recent years and provide follow up with staff as needed. The report is being presented to the Commission to formally accept and file.

**Summary |
 Operating Expenses**

San Diego LAFCO’s budgeted operating expense total for 2019-2020 was \$1.916 million. Actual expenses booked through the end of the year equaled \$1.788 million. This booked amount represents 93% of the budgeted total with unexpended savings of \$0.129 million. A breakdown of budget to actual expenses by unit through June 30th follows.

Expense Units	Adopted with Amendments	Actuals Through 6-30	Percent Expended	Unexpended Balance
1) Salaries and Benefits	1,189,183	1,153,901	97.0	35,282
2) Services and Supplies	722,177	631,341	87.4	90,836
3) Other	5,000	2,500	50.0	2,500
Total	\$1,916,300	\$1,787,742	93.3%	\$128,558

Budget Amendments:

San Diego LAFCO approved amendments to the 2019-2020 budget in May 2020 to decrease the budget for regular salaries (salaries and benefits) by \$0.030 million and concurrently increase the budget for professional services (services and supplies) by \$0.030 million. No other amendments were approved.

An expanded discussion on budgeted and actuals through the end of the year within the four expense units follow.

Expense Unit | Salaries and Benefits

San Diego LAFCO budgeted \$1.189 million in salaries and benefits for 2019-2020 with the proceeds largely tied to funding 8.0 fulltime equivalent employees as well as existing retiree obligations. The Commission’s actual expenses within the affected line item accounts totaled \$1.154 million or 97% of the budgeted amount. The mid-year vacancy of one of the Commission’s two Analyst I/II position underlies the unit savings.

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

Expense Unit | Services and Supplies

San Diego LAFCO budgeted \$0.722 million in services and supplies for 2019-2020 to provide funding for direct support services. Most of the budgeted funds were dedicated to professional services to cover such items as bookkeeping and legal services as well as making reimbursements to the County for office rent, information technology, and general overhead. The Commission’s actual expenses within the affected line accounts totaled \$0.631 million or 87% of the budgeted amount. Most of this savings is attributed to lower than expected overhead costs billed by the County.

Expense Unit | Other

San Diego LAFCO budgeted \$5,000 in two separate units to collectively address equipment depreciation and potential fixed asset purchases in 2019-2020. The Commission’s actual expenses totaled \$2,500 or 50% of the budgeted amount and tied to funding depreciation for LAFCO’s copier and scanning machines. No new capital assets were purchased during the fiscal year.

Summary | Operating Revenues

San Diego LAFCO’s budgeted operating revenue total for 2019-2020 was \$1.916 million. Actual revenues through the end of the year equaled \$1.931 million. This booked amount represents 101% of the budgeted total with unexpended surplus of \$0.015 million. A breakdown of budget to actual expenses by unit through June 30th follows.

Revenue Units	Adopted	Actuals Through 6-30	Percent Collected	Outstanding Balance
1) Intergovernmental	1,703,700	1,703,700	100.0	0
2) Service Charges	125,000	201,419	161.1	(76,419)
3) Earnings	15,000	25,812	172.1	(10,812)
4) Miscellaneous	72,600	0	0	72,600
Total	\$1,916,300	\$1,930,932	100.8%	\$14,632

An expanded discussion on budgeted and actuals through the end of the year within the four revenue units follow.

Revenue Unit | Intergovernmental Fees

San Diego LAFCO budgeted \$1.704 million in intergovernmental fees in 2019-2020. This total budgeted amount was subsequently divided between San Diego LAFCO’s four agency membership categories based on statutory formula. The County of San Diego, independent districts, and cities less San Diego all received apportionments equaling \$0.487 million. The remaining amount – \$0.244 million – was apportioned to the City of San Diego. All apportionments were collected by the close of the second quarter.

Revenue Unit | Service Charges

San Diego LAFCO budgeted \$0.125 million in application fees in 2019-2020. The Commission's actual revenues within the unit totaled \$0.201 million or 161% of the budgeted amount. The collected amount is tied to 21 proposal filings during the fiscal year coupled with implementing a new fee schedule. (LAFCO received 13 proposals in 2018-2019.)

Revenue Unit | Interest

San Diego LAFCO budgeted \$0.015 million in interest earnings in 2019-2020. The Commission's actual revenues in the unit totaled \$0.026 million or 172% of the budgeted amount and directly attributed to above-average returns in the investment pool administered by the County Treasurer's Office.

Revenue Unit | Miscellaneous

San Diego LAFCO budgeted \$0.073 million in operating transfers from unassigned reserves in 2019-2020. This transfer was purposefully budgeted in conjunction to use reserves to reduce increases in agency contributions. The Executive Officer cancelled the transfer, however, given overall revenues sufficiently outpaced expenses.

ANALYSIS

San Diego LAFCO finished 2019-2020 favorably and generated a sizeable net operating surplus of \$0.143 million or 8.0%. Savings in staff salaries and overhead charges from the County of San Diego along with implementing a new fee schedule directly underlies the surplus. The surplus – markedly – also allowed the Commission to eliminate a budgeted use of \$0.072 million in reserves as offsetting revenues during the fiscal year. The substantive result is an overall improvement of \$0.216 million over budgeted expectations and increase to the Commission fund balance from \$1.488 to \$1.704 million going into 2020-2021.

RECOMMENDATION

It is recommended San Diego LAFCO accept and file the report consistent with practice and as outlined as Alternative One below.

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO:

Alternative One (recommended):

Accept and file the report as presented.

Alternative Two:

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

PROCEDURES

This item has been placed on the agenda as part of the consent calendar. Accordingly, a successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission.

Respectfully,



Keene Simonds
Executive Officer

Attachment:

- 1) 2019-2020 Operating Budget with Actuals Through June 30, 2020

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San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

OPERATING EXPENSES

Salaries and Benefits Unit

Account No.	Description	FY 2016-2017		FY 2017-2018		FY 2018-2019		FY 2019-2020		
		Adopted	Year-End	Adopted	Year-End	Adopted	Year-End	w/Amendments	Year-End	% of Budget
51110-51310	Salaries and Wages	1,073,177	538,165	1,100,599	617,838	689,719	638,748	722,780	695,356	96.2%
51410	Retirement - SDCERA	-	187,262	-	166,680	239,780	230,865	258,148	255,294	98.9%
51415	Retirement - OPEB	-	9,323	-	7,256	10,560	10,091	10,539	10,165	96.5%
51421	Retirement - OPEB Bonds	-	34,496	-	27,841	41,598	37,308	40,321	38,219	94.8%
51450	Payroll Taxes (Social and Medicare)	-	36,919	-	35,613	48,958	46,163	53,393	49,698	93.1%
51510-51550	Group Insurance (Health and Dental)	-	69,440	-	74,615	96,958	95,405	100,234	105,031	104.8%
51560	Unemployment Insurance	-	154	-	235	4,032	163	3,769	138	3.7%
		1,073,177	875,759	1,100,599	930,078	1,131,604	1,058,743	1,189,183	1,153,901	97.0%

Services and Supplies Unit

Account No.	Description	FY 2016-2017		FY 2017-2018		FY 2018-2019		FY 2019-2020		
		Adopted	Year-End	Adopted	Year-End	Adopted	Year-End	w/Amendments	Year-End	% of Budget
52074	Telecommunications	500	-	500	2,266	2,500	3,860	3,600	3,829	106.4%
52138	General Liability Insurance	-	-	-	-	-	-	-	3,419	
52178	Vehicle - Maintenance	2,000	1,456	2,000	489	2,000	610	1,500	1,309	87.2%
52182	Vehicle - Fuel	1,500	1,096	1,500	401	1,500	367	1,000	245	24.5%
52270	Memberships	10,107	8,107	15,000	11,328	13,000	14,601	28,139	18,049	64.1%
52304	Miscellaneous	50	-	50	6,001	50	20	50	10	20.0%
52330	Office: General	1,000	-	1,000	15,253	8,500	6,399	7,420	4,781	64.4%
52332	Office: Postage	500	-	500	-	500	84	500	275	55.0%
52334	Office: Printing	7,500	20	7,500	-	10,000	4,795	10,000	1,199	12.0%
52336	Office: Books and Guidelines	2,000	-	2,000	3,609	2,000	3,226	2,000	4,112	205.6%
52338	Office: Drafting/Engineering	50	-	50	-	50	-	50	-	0.0%
52344	Office: Supplies and Furnishings	17,500	10,806	18,000	13,140	17,500	9,302	17,800	8,145	45.8%
52354	Office: County Mail Services	9,500	8,220	9,000	10,037	9,000	18,896	10,000	8,514	85.1%
52370	Professional Services: Consultants	402,500	408,717	382,500	326,850	259,110	398,125	234,505	226,762	96.7%
52490	Publications and Legal Notices	2,500	57	7,500	7,085	5,000	10,382	4,650	8,088	173.9%
52504	Leases: Equipment	-	4,779	4,000	5,498	6,500	8,137	6,600	5,915	89.6%
52530	Leases: Office Space	77,000	75,722	80,000	79,789	79,880	79,555	82,657	81,877	99.1%
52550	Special Expenses: County Overhead	100,000	196,412	155,000	47,826	155,000	113,842	100,896	48,613	48.2%
52562	Special Expenses: New Hire Backgrounds	-	-	-	572	-	689	-	-	
52566	Special Expenses: Minor Equipment	1,000	-	1,000	1,164	1,000	2,788	1,000	641	64.1%
52602	Computer Training	2,000	-	2,000	-	2,000	-	2,000	-	0.0%
52610	Travel and Training In County	500	-	500	11,301	5,000	6,634	4,500	7,367	163.7%
52612	Employee Auto	10,000	8,802	10,000	8,724	10,000	9,069	9,700	8,779	90.5%
52622	Travel and Training Out of County	1,000	-	1,000	14,390	10,000	25,432	23,550	13,271	56.4%
52704-52722	Reimbursements: Network	33,500	29,140	31,500	27,137	30,000	26,450	30,000	29,065	96.9%
52723	Reimbursements: Data Center	51,000	52,403	45,000	48,214	45,000	30,728	45,000	29,233	65.0%
52725	Reimbursements: Financial Systems	6,000	20,940	20,000	18,888	20,000	27,556	20,000	23,320	116.6%
52726-52732	Reimbursements: Desktop Computing	40,200	28,248	27,700	47,462	25,000	25,311	25,000	51,246	205.0%
52734	Reimbursements: Help Desk	2,500	4,531	2,500	3,154	3,000	4,743	3,000	2,689	89.6%
52750-52754	Reimbursements: Catalog Equipment	117,480	27,121	51,000	23,973	45,000	32,097	45,000	38,604	85.8%
52758	Reimbursements: Vehicle Lease	2,500	166	3,000	1,986	2,000	1,986	2,000	1,986	99.3%
		901,887	886,743	881,300	736,535	770,090	865,684	722,117	631,341	87.4%

OPERATING EXPENSES CONTINUED...

Other Units										
Account No.	Description									
53585	Equipment Depreciation	2,500	2,019	2,500	2,019	2,500	2,500	2,500	100.0%	
54955-54961	Fixed Assets	1,500	-	2,500	-	2,500	-	2,500	0.0%	
		4,000	2,019	5,000	2,019	5,000	2,500	5,000	50.0%	
	EXPENSE TOTALS	1,979,064	1,764,521	1,986,899	1,668,632	1,906,694	1,926,927	1,916,300	1,787,742	93.3%

OPERATING REVENUES

		FY 2016-2017		FY 2017-2018		FY 2018-2019		FY 2019-2020		
		Adopted	Year-End	Adopted	Year-End	Adopted	Year-End	Adopted	Year-End	% of Budget
Intergovernmental Unit										
Account No.	Description									
45918.1	Apportionments County	451,018	451,018	467,171	467,171	475,684	475,684	486,771	486,771	100.0%
45918.2	Apportionments Cities (less SD)	451,018	451,018	467,171	467,171	475,684	475,684	486,771	486,771	100.0%
45918.3	Apportionments City of San Diego	225,509	225,509	233,586	233,586	237,842	237,842	243,386	243,387	100.0%
45918.4	Apportionments Special Districts	451,018	450,090	467,171	467,171	475,684	475,684	486,771	486,771	100.0%
		1,578,564	1,577,636	1,635,099	1,635,099	1,664,894	1,664,894	1,703,700	1,703,700	100.0%
Service Charges Unit										
Account No.	Description									
46234	Service Charges	150,000	186,717	125,000	168,009	125,000	82,147	125,000	201,419	161.1%
		150,000	186,717	125,000	168,009	125,000	82,147	125,000	201,419	161.1%
Earnings Unit										
Account No.	Description									
44105	Interest and Dividends	5,500	-	6,800	15,535	6,800	19,052	15,000	25,812	172.1%
		5,500	-	6,800	15,535	6,800	19,052	15,000	25,812	172.1%
Miscellaneous Unit										
Account No.	Description									
47540	Transfer from Fund Balance	250,000	-	220,000	-	110,000	217,186	72,600	-	0.0%
		250,000	-	220,000	-	110,000	217,186	72,600	-	0.0%
	REVENUE TOTALS	1,984,064	1,764,353	1,986,899	1,818,643	1,906,694	1,983,279	1,916,300	1,930,932	100.8%

OPERATING NET	5,000	(168)	-	150,011	-	56,352	-	143,189
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FUND BALANCE | JUNE 30th

Audited Statements					
	Committed	-	175,000	175,000	
	Assigned	75,000	75,000	75,000	
	Unassigned	1,394,699	1,375,486	1,238,223	
		1,469,699	1,607,486	1,488,233	



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

5d

AGENDA REPORT
 Consent | Action

August 3, 2020

TO: Commissioners

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

SUBJECT: **Proposed “Orphan-Eolus Avenue Change of Organization” |
 Annexation to the Leucadia Wastewater District (CO20-03)**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a change of organization proposal filed by the Leucadia Wastewater District (WWD) to annex approximately 0.56 acres of incorporated territory within the District’s sphere of influence. The affected territory as submitted includes one assessor parcel developed with a single-family residence within the City of Encinitas. The proposal purpose is to extend public wastewater service to replace an aging underground septic disposal system. Staff recommends approval of the proposal with a modification to include 0.1 acres of adjacent public right-of-way along Eolus Avenue to its centerline. Standard approval terms are also recommended along with waiving protest proceedings.

BACKGROUND

Applicant Request

San Diego LAFCO has received a proposal from Leucadia WWD on behalf of an interested landowner (Victor Orphan) requesting approval to annex approximately 0.56 acres of incorporated territory within the District’s sphere of influence. The affected territory as submitted comprises one assessor parcel developed with a single-family residence with a situs

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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of 1077 Eolus Avenue in the City of Encinitas. The existing single-family residence was built in 1946 and currently utilizes an onsite underground septic disposal system for domestic wastewater service that is nearing the end of its functional use. The County of San Diego Assessor's Office identifies the subject assessor parcel as 254-392-30.

Affected Territory

The following map shows the approximate location of the affected territory as submitted in relation to the surrounding local area. Attachment One shows the affected territory relative to the proposed boundary change involving the subject agency (Leucadia WWD) and the incorporated territory of the principal affected agency (City of Encinitas).



Subject Agency

The proposed change of organization filed with San Diego LAFCO involves one subject agency: Leucadia WWD.¹ A summary of the subject agency in terms of municipal function, resident population, and financial standing follows.

- Leucadia WWD is an independent special district formed in 1959 and provides two active municipal functions: wastewater (collection, treatment, and discharge) and limited recycled water (wholesale and retail). Wastewater is Leucadia WWD's primary function and authorized throughout an approximate 15 square-mile jurisdictional boundary with a projected resident service population of 63,000.² The jurisdictional

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

² Leucadia WWD's recycled water function (wholesale and retail) is authorized within an approximate 215-acre site currently developed as a golf course and part of the Omni La Costa Resort and Spa. This authorization is drawn from a grandfather determination made by the Executive Officer in January 2020 following receipt of a related request for clarification by Carlsbad Municipal Water District.

boundary is divided between two municipalities with the City of Encinitas comprising the southern boundary and the City of Carlsbad comprising the northern boundary. Key wastewater infrastructure includes 218 miles of collection lines that conveys raw wastewater for treatment and discharge to the Encina Wastewater Authority; a joint-powers authority co-membered by the District and operator of the Encina Wastewater Pollution Control Facility in Carlsbad. LAFCO most recently updated Leucadia WWD's sphere of influence in 2013 and it includes 547 non-jurisdictional acres. The undesignated fund balance as of July 30, 2019 totaled \$32.7 million and sufficient to cover 27 months of normal operating costs based on the current budget.

Affected Local Agencies

The affected territory presently lies within the jurisdictional boundaries and/or spheres of influence of seven local agencies directly subject to San Diego LAFCO's planning and regulatory responsibilities. These agencies qualify as "affected agencies" relative to the proposed change of organization and listed below.³

- City of Encinitas
- Resource Conservation District of Greater San Diego County (sphere only)
- Metropolitan Water District of Southern California
- San Dieguito Water District
- San Diego County Water Authority
- CSA No. 17 (San Dieguito Ambulance Function)
- CSA No. 135 (Regional Communications Function)

DISCUSSION

This item is for San Diego LAFCO to consider approving – with or without discretionary modifications – the change of organization proposal to annex the affected territory to the Leucadia WWD. The Commission may also consider applying conditions so long as it does not directly regulate land use, property development, or subdivision requirements. Additional discussion with respect to proposal purpose and Commission focus follows.

Proposal Purpose

The primary purpose of the proposed change of organization before San Diego LAFCO is to facilitate the connection of one existing single-family residence to public wastewater service and in doing so replace an aging onsite septic system. Leucadia WWD has an existing wastewater main located immediately adjacent to the affected territory within the public right-of-way on Eolus Avenue and accessible by a private lateral connection. Leucadia WWD attests sufficient wastewater conveyance and treatment capacity exists to extend service to the affected territory without the need for system improvements or additional infrastructure.

³ State law defines "affected local agency" as any entity that contains, or would contain, or whose sphere contains or would contain, any territory for which a change of organization is proposed or ordered. Notice of the proposal and hearing were provided to the agencies.

Development Potential

The City of Encinitas General Plan designates the affected incorporated territory as Residential (R-3) and specifies a minimum lot size of 0.33 acres. The subject parcel is presently developed with one single-family residence and a storage structure in the rear of the property. This present density assignment precludes additional density but would allow for increased intensity through the construction of an accessory dwelling unit.

Commission Focus

San Diego LAFCO's sphere of influence designation for Leucadia WWD includes the affected territory and can readily accommodate the proposed annexation to the District without amendment. This existing sphere determination narrows the Commission's consideration of the proposed change of organization to two central and sequential policy items. These policy items ultimately take the form of determinations and orient the Commission to consider the stand-alone merits of the (a) timing of the change of organization and (b) whether discretionary boundary modifications or approval terms are appropriate. The Commission must also consider other relevant statutes as detailed.

ANALYSIS

San Diego LAFCO's analysis of the proposed change of organization is divided into two subsections. The first subsection pertains to evaluating the central issues referenced in the preceding section regarding the timing of the change of organization relative to the factors mandated for review by the Legislature and local policies as well as whether modifications and terms are appropriate in further addressing Commission goals and policies. The second subsection considers other germane issues and highlighted by environmental review under the California Environmental Quality Act (CEQA) and the disposition of protest proceedings.

Central Policy Items

Item No. 1 |

Change of Organization Timing

The timing of the change of organization involving annexation to the Leucadia WWD for public wastewater service appears appropriate. This conclusion draws from the analysis of the statutory factors required for consideration of proposed jurisdictional changes along with the proposal's conformance with locally adopted Commission policies. Most of the prescribed review factors and applicable policies focus on the effects of the proposed annexation on the service and financial capacities of the *receiving* agency, Leucadia WWD (emphasis added). A summary of key conclusions generated from the review of these factors and applicable local policies follow with a complete analysis provided in Appendix A.

- Service Needs

Annexation of the affected territory to Leucadia WWD would represent a logical and orderly expansion of the District's jurisdictional boundary and public wastewater services therein and marked by replacing an aging on-site septic disposal system in a developed area. Additional details on relevant service needs follow.

- The Commission has previously designated Leucadia WWD as the appropriate long-term wastewater provider for the affected territory through its standing inclusion within the District's sphere of influence. Annexation now implements this standing expectation through a public process and accommodates the expressed interest of the affected landowner as evident in their decision to request Leucadia WWD to initiate LAFCO annexation proceedings.
- Annexation of the affected territory to Leucadia WWD for purpose of establishing public wastewater services going forward is consistent with the adopted land use policies of the City of Encinitas. Encinitas is the current and appropriate long-term land use authority as determined by Commission and marked by the subject land's standing inclusion in the City's sphere of influence.
- There is a demonstrated present need for public wastewater service to accommodate the current and planned residential use within the affected territory given the alternative would be to maintain an aging private onsite septic disposal system in need of extensive refurbishment. This alternative – among other items – would counter the Commission's interest and practice in discouraging private septic disposal systems in developing urban areas.

- Service Capacities and Levels

Leucadia WWD has available and sufficient collection and contracted treatment capacities to accommodate projected service demands within the affected territory at its planned maximum uses without expanding any public infrastructure. Additional details on relevant service capacities and levels follow.

- An existing Leucadia WWD wastewater main is located immediately adjacent to the affected territory within the frontage public right-of-way on Eolus Avenue and accessible through an approximate 50-foot lateral connection.
- It is projected the maximum average day wastewater demand generated within the affected territory is 860 gallons. This amount represents 0.00013% of the existing available capacity of Leucadia WWD, and as such can be readily accommodated without additional resources or infrastructure planning.

- Service Funding and Costs

Leucadia WWD has the financial resources coupled with administrative controls to provide wastewater services to the affected territory in support of its current and planned development without adversely impacting current ratepayers. This comment is reflected in the staff analysis of Leucadia WWD's recent audited statements which shows – among other items – the District remained profitable in each of the last three audited fiscal years with an average total margin of 151%.

**CONCLUSION |
MERITS OF CHANGE OF ORGANIZATION TIMING**

The timing of the change of organization involving annexation therein of the affected territory to Leucadia WWD is warranted. Justification is marked by the preceding analysis and highlighted by appropriately responding to the need for public wastewater service in a developing urban area and reflects available capacities and infrastructure. Additional analysis supporting the conclusion is provided in Appendix A.

Item No. 2 |

Modifications and Terms

Staff believes one modification to the submitted change of organization proposal is appropriate and it involves San Diego LAFCO adding the adjacent frontage public right-of-way to the centerline of Eolus Avenue. This recommendation expands the annexation by 0.07 acres of public right of way. The recommended modification does not have a material effect on the applicant and would provide consistency with adjacent roadway territory presently within Leucadia WWD. Applying standard approval terms also appears appropriate. A map of the affected territory with the recommended modification is provided as Attachment One.

**CONCLUSION |
MODIFICATIONS AND TERMS**

One proposal area modification appears warranted, involving expansion of the affected annexation territory to include 0.07 acres of adjacent public right-of-way on Eolus Avenue and thereby provide a more consistent and orderly Leucadia WWD boundary. Standard approval terms are recommended.

Other Statutory Considerations

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99(b)(6) requires the County of San Diego to adopt a property tax exchange agreement for the subject proposed change of organization or reorganization prior to San Diego LAFCO issuing a Certificate of Filing and scheduling the proposal for hearing, unless an existing master property tax exchange agreement would govern the proposal's exchange. The associated statutes also empower the County of San Diego to make all related property tax exchange determinations on behalf of affected special districts. Staff has confirmed the County Board of Supervisors has adopted a Master Enterprise District Resolution (MEDR) that will govern the tax exchange for the proposed change of organization. The MEDR exchange agreement specifies no transfer of property taxes would occur following the annexation of the affected territory to Leucadia WWD.

Environmental Review

Leucadia WWD serves as the lead agency for assessing potential impacts of the proposal under CEQA given the District has initiated the change of organization proceedings. Leucadia WWD has determined the action qualifies as a project but is exempt from further review under State CEQA Guidelines Section 15319(a). Staff independently concurs Leucadia WWD has made an appropriate determination given the affected territory contains existing private structures consistent with the applicable zoning and there is no corresponding need for an expansion of public infrastructure.

Protest Proceedings

Protest proceedings for the proposed change of organization may be waived by San Diego LAFCO should the Commission proceed with an approval under Government Code Section 56662. The recommended waiver appropriately applies under this statute given the affected territory is uninhabited as defined under LAFCO law; the subject agency has not filed an objection to the waiver; and all landowners have consented to the underlying action.⁴ Approval of the recommended modification to include the adjacent public right-of-way would not affect the proposed waiver of protest proceedings.

RECOMMENDATION

Staff recommends approval of the change of organization proposal with modifications as specified along with standard terms. This recommendation is consistent with Alternative One in the proceeding section.

⁴ LAFCO law defines uninhabited as territory in which 11 or less registered voters reside.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO:

Alternative One (recommended):

Adopt the attached draft resolution approving the change of organization proposal with a modification to include the adjacent public right-of-way on Eolus Avenue along with standard terms.

Alternative Two:

Continue consideration to the next regular meeting.

Alternative Three:

Disapprove the change of organization proposal with direction to staff to return at the next regular meeting with a conforming resolution for adoption.

PROCEDURES FOR CONSIDERATION

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

On behalf of the Executive Officer,



Linda Heckenkamp
Analyst I

Appendices:

- A) Analysis of Boundary Change Factors

Attachments:

- 1) Map of the Affected Territory with Recommended Modification
- 2) Draft Resolution of Approval

APPENDIX A

Government Code Section 56668 Proposal Review Factors

- a) **Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent areas, during the next 10 years.**
-

The affected territory includes one incorporated parcel in the City of Encinitas totaling 0.56 acres plus a recommended modification to include approximately 0.07 acres of adjacent public right-of-way. The subject parcel is presently developed with one approximate 1,940 square-foot detached single-family residence with three bedrooms and four bathrooms. The submitted application materials identify the affected territory is currently unoccupied. The current assessed value of the subject parcel – including land and improvements – is \$225,470 with the last transaction recorded in December 1985. The affected territory lies within a developing urban-residential area and within the portion of the City of Encinitas historically known as Leucadia. No significant growth is anticipated in the surrounding area within the next 10-year period beyond existing residential land use and zoning designations.

- b) **The need for municipal services; the present cost and adequacy of municipal services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**
-

The City of Encinitas serves as the primary purveyor of general governmental services to the affected incorporated territory. These governmental services include community planning, roads, and public safety with the latter including fire protection and law enforcement via a contract with the County Sheriff. Other pertinent service providers include San Dieguito Water District (domestic water) and County Service Area No. 17 (ambulance). This proposal affects only wastewater and is the focus of the succeeding analysis.

- **Extending Public Wastewater to Affected Territory**

The affected territory and its existing residential uses is currently dependent on an existing on-site underground septic disposal system. The septic system was initially established in the 1940s with minimal repairs thereafter and is now reaching the end of its normal functional use. Connection to Leucadia WWD is readily available through an approximate 50-foot lateral to an existing wastewater main located within the adjacent public right-of-way on Eolus Avenue. The average daily wastewater flow for the affected territory at planned maximum use is projected as approximately 860 gallons per day and accommodates the existing residence along with a potential accessory dwelling unit. This projected amount represents less than

0.00013% of the current 3,100 million gallons of available and remaining daily contracted capacity allocated to Leucadia WWD.

c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on local governmental structure.

Approval of the proposed change of organization and annexation therein to Leucadia WWD would recognize and strengthen existing economic and social ties between the District and the affected territory. These ties were initially established in the 1980's when the Commission included the local area within Leucadia WWD's sphere of influence and signaled the lands would eventually warrant public wastewater service from the District when appropriate.

d) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies/priorities set forth in G.C. Section 56377.

Approving the proposed change of organization and annexation to Leucadia WWD would facilitate the extension of public wastewater services to the existing single-family residence currently comprising the affected territory, and in doing so support Encinitas' community planning policies. Similarly, approval would be consistent with the Commission's adopted policies to sync urbanized uses with urbanized services. The affected territory does not contain "open-space" as defined under LAFCO law and no conflicts exists under Government Code Section 56377. Additional analysis concerning conformance with germane Commission policies follows.

- San Diego LAFCO Policy L-107 requires applicants to disclose and address potential jurisdictional issues associated with their proposals and if applicable requires a consultation process with affected agencies, interested parties, or organizations to help discuss and potentially remedy concerns unless waived by the San Diego LAFCO Executive Officer. No jurisdictional disputes or related concerns were identified or disclosed by the applicant or by affected agencies or interested parties in the review of the proposal.

e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.

The affected territory does not contain "prime agricultural land" or "agricultural land" as defined under LAFCO law. Specifically, the affected territory does not contain lands currently used for any of the following purposes: producing an agricultural commodity for commercial purposes; left fallow under a crop rotational program; or enrolled in an agricultural subsidy program. Approval of the change of organization proposal and annexation to Leucadia WWD would have no effect on maintaining the physical and economic integrity of agricultural lands.

f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment, the creation of islands or corridors of unincorporated territory, and other similar matters.

LAFCO is in receipt of a draft map and geographic description of the affected territory that details metes and bounds consistent with the standard of the State Board of Equalization and conforming with lines of assessment. LAFCO approval would be conditioned on submittal of a final map and description conforming to the referenced standards and addressing any proposal area modifications enacted by the Commission. Approval – with or without the recommended modification – would not create service islands or corridors.

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

The proposal does not involve new development or additional intensity and would not conflict with San Diego Forward, the regional transportation plan established by the San Diego Association of Governments (SANDAG) for the San Diego Region.

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

The affected incorporated territory is presently designated for moderate-density single-family residential use under the adopted land use policies of the City of Encinitas. The affected territory is zoned as R-3, which prescribes a minimum parcel size of 0.33 acres. The existing and planned residential uses are consistent with the proposal's purpose to provide public wastewater to the existing single-family residence.

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

The affected territory lies entirely within the sphere of influence designated for the Leucadia WWD. Additional details are provided in the analysis provided on page 10.

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

Notice of the submitted change of organization proposal was distributed to all affected and interested agencies as required under LAFCO law. No written comments on the proposal were received ahead of preparing this agenda report for distribution on July 24, 2020.

k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Information collected and reviewed as part of this proposal indicates Leucadia WWD has sufficient and available financial resources and administrative controls therein relative to providing public wastewater to the affected territory without adversely impacting existing

ratepayers. This statement is supported by the following factors.

- Leucadia WWD’s last audit covers 2018-2019 and shows the District finished with good liquidity levels with an agency-wide current ratio of 8.0 (i.e., \$8.00 in current assets for every \$1.00 in current liabilities).
- Leucadia WWD finished 2018-2019 with high capital levels as evident by a relatively low debt ratio of 4.9% (i.e., only \$4.90 out of every \$100.00 in net assets are financed.)
- Leucadia WWD has remained profitable in each of the last three audited fiscal years with an average operating margin of 151%. The most recent year – 2018-2019 – the operating margin was 32.9%.

The landowners of the affected territory are responsible for payment of all required fees and service charges commensurate with Leucadia WWD’s adopted fee ordinance in establishing wastewater services. At present, the wastewater service charge is \$346.68 per year or \$28.64 per month. The wastewater rates are fixed and are not based on flow or water usage. Extending wastewater service to one additional residence following approval of the proposed annexation would not adversely impact existing ratepayers.

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

The affected territory’s existing residential uses are presently within and connected to San Dieguito Water District’s retail domestic water system with wholesale supplies provided by the San Diego County Water Authority. Approval of the proposed change of organization would not affect the timely availability of water supplies to the affected territory.

m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments.

The proposed change of organization would not impact any local agencies in accommodating their regional housing needs. All potential units tied to the lands are already assigned to the City of Encinitas by the region’s council of governments, SANDAG. The boundary change would not affect this assignment.

n) Any information or comments from the landowners, voters, or residents.

The affected territory is considered uninhabited as defined by LAFCO law (containing 11 registered voters or less). The landowner supports the proposed change of organization and has provided written consent to the proceedings.

o) Any information relating to existing land use designations.

See above analysis for (h).

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

As used in this review factor, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed change of organization does not include locating new public facilities and the proposed provision of public services would be limited to the existing single-family residence. Approval of the proposed change of organization is not anticipated to affect the promotion of environmental justice.

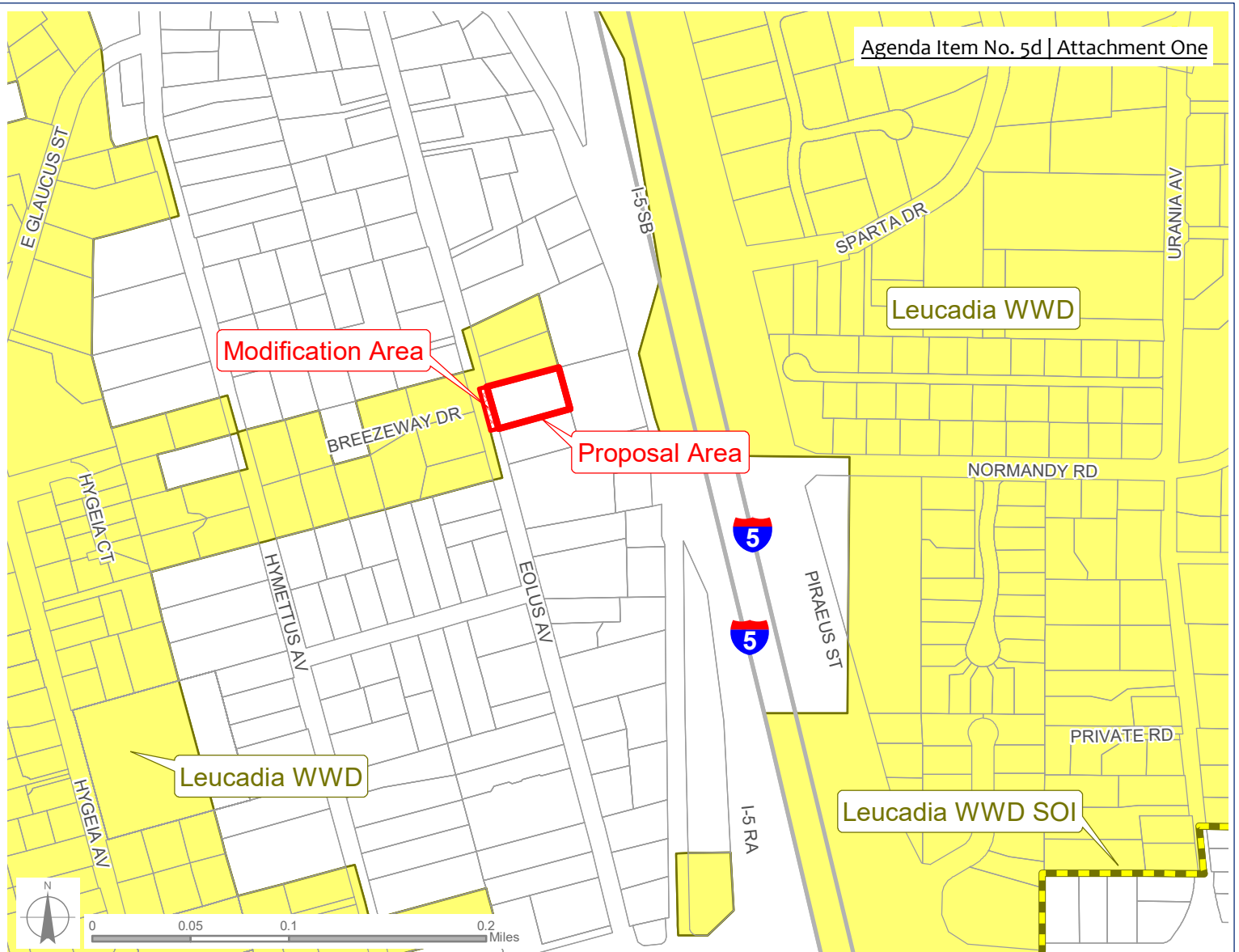
q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone or maps that identify land determined to be in a state responsibility area, if it is determined that such information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

The City of Encinitas General contains a hazard mitigation plan for potential fire, flooding and earthquakes. The affected territory lies outside any identified threat designations.

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




Approval of the change of organization would be in the best interest of the current and future landowners and/or residents of the affected territory by providing access to reliable public wastewater service going forward. Approval would also benefit adjacent landowners and/or residents by eliminating the operation of a private septic system and the potential therein for failures.

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CO20-03 PROPOSED "ORPHAN - EOLUS AVENUE CHANGE OF ORGANIZATION" TO LEUCADIA WASTEWATER DISTRICT

SOI = Sphere of Influence

-  Proposal Area
-  Leucadia WWD
-  Leucadia WWD SOI

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RESOLUTION NO. _____

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING, AND ORDERING A REORGANIZATION

**“ORPHAN-EOLUS AVENUE CHANGE OF ORGANIZATION”
ANNEXATION TO THE LEUCADIA WASTEWATER DISTRICT
LAFCO FILE NO. CO20-03**

WHEREAS, on March 4, 2019, Leucadia Wastewater District filed a resolution to initiate proceedings and an application with the San Diego County Local Agency Formation Commission, hereinafter referred to as “Commission,” pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the application seeks approval of a change of organization to annex approximately 0.56 acres of incorporated territory within the City of Encinitas to the Leucadia Wastewater District; and

WHEREAS, the affected territory as proposed includes one incorporated assessor parcel developed with an existing single-family residence and identified by the County of San Diego Assessor’s Office as 254-392-30; and

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

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

WHEREAS, the Executive Officer’s report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a noticed public meeting on the proposal on August 3, 2020; and

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

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

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

2. At the public meeting, the Commission considered the Executive Officer’s report.
3. Leucadia Wastewater District serves as the lead agency for assessing potential impacts of the proposal under CEQA given the District has initiated the change of organization proceedings. Leucadia WWD has determined the action qualifies as a project, but is exempt from further review under State CEQA Guidelines Section 15319(a) given the affected territory contains existing private structures consistent with the applicable zoning and there is no corresponding need for an expansion of public infrastructure. The Commission serves as the responsible agency and independently concurs Leucadia WWD has made an appropriate determination.
4. The Commission APPROVES the change of organization with a discretionary modification as described below and subject to conditions as provided. Approval involves all of the follow:
 - a) The affected territory is modified to include the adjacent incorporated public right-of-way to the centerline on Eolus Avenue.
 - b) Annexation of the affected territory as modified to the Leucadia Wastewater District is shown in “Exhibit A-1” and described in “Exhibit A-2.”
5. The Commission CONDITIONS all approvals on the following terms being satisfied by August 3, 2021 unless an extension is requested in writing and approved by the Executive Officer:
 - a) Completion of the 30-day reconsideration period provided under Government Code Section 56895.
 - b) Submittal to the Commission of final map and geographic description of the affected territory as approved by the Commission conforming to the requirements of the State Board of Equalization – Tax Services Division.
 - c) Submittal to the Commission of the following payments:
 - A check made payable to LAFCO in the amount of \$50.00 for the County of San Diego-Clerk Recorder to reimburse for filing a CEQA Notice of Exemption consistent with the findings in the resolution.
 - A check made payable to the State Board of Equalization for processing fees in the amount of \$300.00.
6. The Commission assigns the proposal the following short-term designation:

“Orphan – Eolus Avenue Change of Organization”

7. The affected territory as designated by the Commission is uninhabited as defined in Government Code Section 56046.
8. The Commission waives conducting authority proceedings under Government Code Section 56662.
9. The Leucadia Wastewater District is a registered-voter district.
10. The Leucadia Wastewater District utilizes the County of San Diego assessment roll.
11. The affected territory will be liable for any existing bonds, contracts, and/or obligations of the Leucadia Wastewater District as provided under Government Section 57328.
12. The effective date of the approval shall be the date of recordation but not before the completion of a 30-day reconsideration period and only after all terms have been completed as attested by the Executive Officer.
13. As allowed under Government Code Section 56107, the Commission authorizes the Executive Officer to make non-substantive corrections to this resolution to address any technical defects, errors, irregularities, or omissions.
14. The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Sections 56880-56882 of the Government Code.
15. The Executive Officer is further authorized and directed to prepare, execute, and record a Certificate of Completion, make the required filings with the County Assessor, County Auditor, and the State Board of Equalization as required by Section 57200, et seq., of the Government Code.

**

PASSED AND ADOPTED by the Commission on August 3, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**

Attest:

Keene Simonds
Executive Officer

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EXHIBIT A
MAP OF THE AFFECTED TERRITORY

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EXHIBIT B
GEOGRAPHIC DESCRIPTION OF THE AFFECTED TERRITORY

-Placeholder-

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

5e

AGENDA REPORT
 Consent | Action

August 3, 2020

TO: Commissioners

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

SUBJECT: **Proposed “Lupa - Anthony Heights Drive Change of Organization” | Annexation to the Vallecitos Water District (CO20-01)**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a change of organization proposal filed by a landowner seeking approval to annex approximately 1.51 acres of unincorporated territory to the Vallecitos Water District (WD). The affected territory is presently within the Vallecitos WD sphere of influence and primarily consists of one undeveloped assessor parcel at 1557 Anthony Heights Drive that lies in an unincorporated area between the Cities of San Marcos and Escondido. The remainder of affected territory consists of adjacent public right-of-way along Nordahl Road to its centerline. The affected territory comprises one legal lot in combination with the landowner’s adjacent parcel, which is presently developed with a single-family residence and already within and connected to the Vallecitos WD wastewater system. The purpose of the proposal is to make public wastewater service available to the remainder of the legal lot and facilitate development of an accessory dwelling unit for the existing single-family residence. No other jurisdictional changes are proposed and this includes retaining the affected territory within Vista Irrigation District (ID) for potable water service. Staff recommends approval of the change of organization proposal without modifications. Standard approval terms are recommended along with waiving protest proceedings.

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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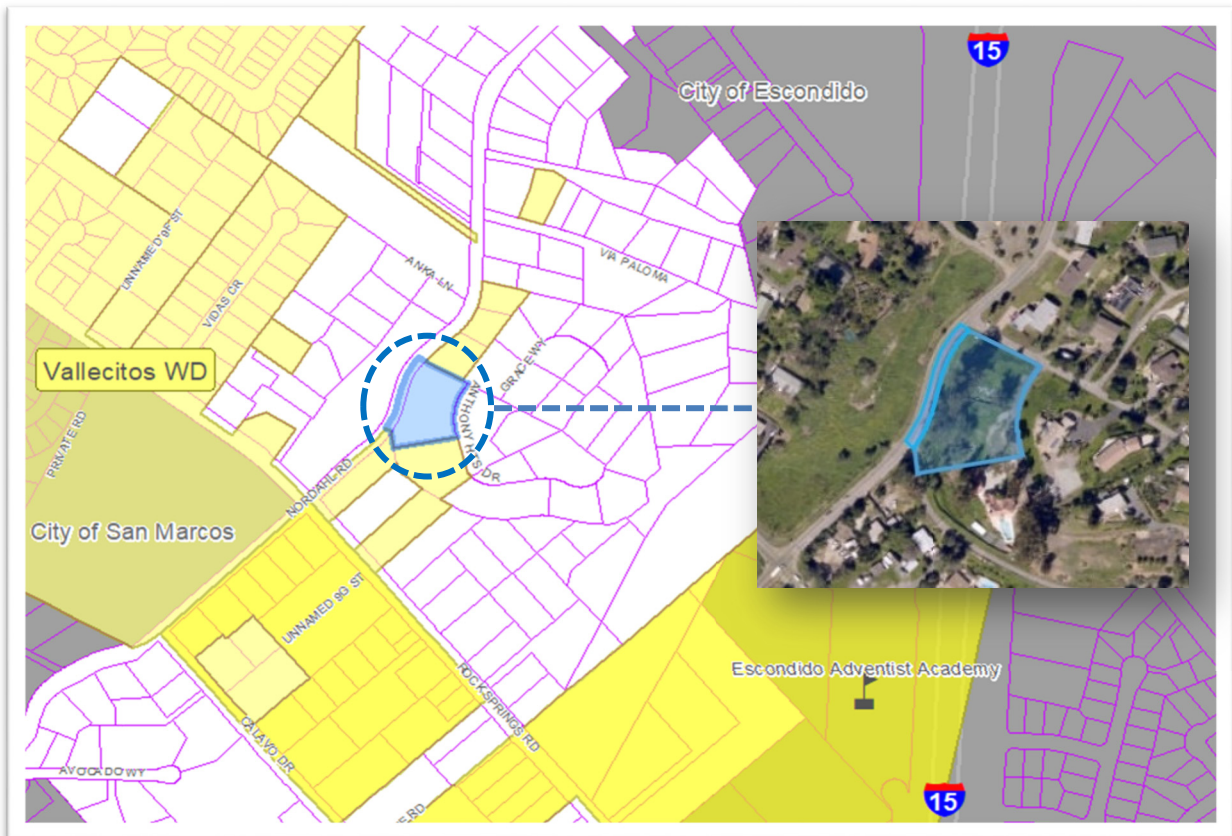
BACKGROUND

Applicant Request

San Diego LAFCO has received a petition and proposal application from a landowner (Richard Lupa, Lupa Family Trust) seeking approval for a change of organization to annex one unincorporated parcel totaling approximately 1.35 acres to Vallecitos WD for the provision of wastewater service. An approximate 0.16 acre portion of the adjacent public right-of-way along Nordahl Road to its centerline is also included. The affected territory is presently within the Vallecitos WD sphere of influence and has a situs address of 1557-1561 Anthony Heights Drive in the unincorporated North County Metro community between the Cities of San Marcos and Escondido. The affected territory comprises one legal lot totaling approximately 2.33 acres in combination with the landowner’s adjacent developed parcel. The County of San Diego Assessor’s Office identifies the subject parcel as 228-010-25.

Affected Territory

The following vicinity map shows the location of the affected territory relative to local municipalities. Attachment One shows the affected territory relative to the proposed boundary change involving the subject agency (Vallecitos WD).



Subject Agency

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

- Vallecitos WD is an independent special district formed in 1955 and spans approximately 28,800 acres or 45 square miles and includes most of the City of San Marcos as well as portions of the Cities of Carlsbad, Escondido, and Vista. The Vallecitos WD service area also extends into adjacent unincorporated territory, including the communities of Twin Oaks and Deer Springs. A five-member elected Board of Directors oversees Vallecitos WD’s three active municipal functions: potable water service (retail class); recycled water service (retail class); and wastewater service (collection, treatment, and disposal classes). The estimated resident population is 102,129 with an average annual growth rate of 1.9% since 2010 and the last census reset. LAFCO established a sphere of influence for Vallecitos WD in 1985, which was last updated in 2007 with a larger-than-agency designation to include 2,150 non-jurisdictional acres and equals 7.5% of the jurisdictional boundary. Vallecitos WD’s audited net position is \$279.179 million as of June 30, 2019 and has increased by 6.5% over the prior three fiscal years.

Affected Local Agencies

The affected territory presently lies within the jurisdictional boundaries and/or spheres of influence of nine local agencies directly subject to San Diego LAFCO’s planning and regulatory responsibilities. These agencies qualify as “affected local agencies” relative to the proposed change of organization and listed below.²

- City of Escondido (sphere only)
- CSA No. 135 (Regional Communications Function)
- Metropolitan Water District of Southern California
- North County Cemetery District
- Palomar Health Healthcare District
- Resource Conservation District of Greater San Diego County
- San Diego County Water Authority
- San Marcos Fire Protection District
- Vista Irrigation District

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

² State law defines “affected local agency” as any entity that contains, or would contain, or whose sphere contains or would contain, any territory for which a change of organization is proposed or ordered. Notice of the proposal and hearing were provided to the agencies.

DISCUSSION

This item is for San Diego LAFCO to consider approving – with or without discretionary modifications – the change of organization proposal to annex the affected territory to the Vallecitos WD for wastewater. The Commission may also consider applying conditions so long as it does not directly regulate land use, property development, or subdivision requirements. Additional discussion with respect to proposal purpose and Commission focus follows.

Proposal Purpose

The purpose of the proposed change of organization before San Diego LAFCO is to facilitate the development of one accessory dwelling unit by extending public wastewater service to the affected territory and its vacant unincorporated parcel. Vallecitos WD has an existing wastewater main located immediately adjacent to the affected territory within the public right-of-way of Nordahl Road and directly accessible by a private lateral connection.³

Development Potential

The affected territory's subject assessor parcel is one of two adjacent assessor parcels owned by the applicant landowner that comprise one legal lot totaling approximately 2.33-acres in size. The second adjacent parcel is presently developed with a single-family residence and already within and connected to the Vallecitos WD wastewater system. The County of San Diego General Plan designates the affected territory as Village Residential 4.3 with a zoning assignment of Single-Family Residential. This latter assignment prescribes a minimum lot size of 0.14 acres. However, the legal lot containing the affected territory contains slopes >25% and is limited by the County to a 2.0-acre minimum lot size. No additional intensification would be allowed on the lot following the proposed annexation and development of one accessory dwelling unit. Separately, the affected territory lies within the City of Escondido's sphere of influence. The Escondido General Plan designates the affected territory as Estate Residential II, which prescribes a minimum lot size of 0.50, 1.0, or 20.0 acres depending on slope.

Commission Focus

San Diego LAFCO's sphere of influence designation for Vallecitos WD includes the affected territory and can accommodate the proposed annexation to the District without amendment. This existing sphere determination narrows the Commission's consideration of the proposed change of organization to two central and sequential policy items. These policy items ultimately take the form of determinations and orient the Commission to consider the stand-alone merits of the (a) timing of the change of organization and (b) whether discretionary boundary modifications or approval terms are appropriate. The Commission must also consider other relevant statutes as detailed.

³ The landowner's annexation request is also intended to facilitate an intensity improvement to the existing single-family residence occupying the adjacent parcel and accommodate development of an accessory dwelling unit on the affected territory. The existing residence is presently connected to the Vallecitos WD wastewater system and located within Vallecitos WD sewer (wastewater) Improvement Districts. The affected territory and the existing residence are currently within the Vista Irrigation District (ID) for water service; no changes to the water service arrangement are proposed as part of the annexation to Vallecitos WD for wastewater service. The planned development of one accessory dwelling unit is consistent with existing land uses and zoning and precludes any further lot divisions.

ANALYSIS

San Diego LAFCO’s analysis of the proposed change of organization is divided into two subsections. The first subsection pertains to evaluating the central issues referenced in the preceding section regarding the timing of the change of organization relative to the factors mandated for review by the Legislature and local policies as well as whether modifications and terms are appropriate in further addressing Commission goals and policies. The second subsection considers other germane issues and highlighted by environmental review under the California Environmental Quality Act (CEQA) and the disposition of protest proceedings.

Central Policy Items

Item No. 1 |

Change of Organization Timing

The timing of the change of organization involving annexation of the affected territory to the Vallecitos WD for public wastewater service appears appropriate. This conclusion draws from the analysis of the statutory factors required for consideration of proposed jurisdictional changes along with the proposal’s conformance with locally adopted Commission policies. Most of the prescribed review factors and applicable policies focus on the effects of the proposed annexation on the service and financial capacities of the receiving agency, Vallecitos WD (emphasis added). A summary of key conclusions generated from the review of these factors and applicable local policies follow with a complete analysis provided in Appendix A.

- Service Needs

Annexation of the affected territory to Vallecitos WD would represent a logical and orderly expansion of the District’s jurisdictional boundary and public wastewater services therein. Additional details on relevant service needs follow.

- The Commission has previously designated Vallecitos WD as the appropriate long-term wastewater provider for the affected territory through its standing inclusion within the District’s sphere of influence. Annexation now implements this standing expectation through a public process and accommodates the expressed interest of the affected landowner as evident in their decision to initiate annexation proceedings directly with LAFCO.
- Annexation of the affected territory to Vallecitos WD for purpose of establishing public wastewater services going forward is consistent with the adopted land use policies of the County of San Diego. The annexation and extension of wastewater to the affected territory, notably, is also consistent with the City of Escondido’s planned residential use as the anticipated long-term land use authority by the Commission given the lands standing inclusion in the City’s sphere of influence.

- There is a present need for public wastewater service to accommodate the pending and planned residential use within the affected territory under both the County of San Diego (current land use authority) and the City of Escondido (designated future land use authority). The alternative to annexation would redirect the applicant to explore installing an onsite septic to serve the planned accessory dwelling unit, which counters the Commission’s interest and practice in discouraging the use of these types of systems in developing urban areas.
- Service Capacities and Levels
Vallecitos WD has available and sufficient collection and contracted treatment capacities to accommodate projected service demands within the affected territory at its planned maximum uses without expanding any public infrastructure. Additional details on relevant service capacities and levels follow.
 - An existing Vallecitos WD wastewater main is located immediately adjacent to the affected territory within the frontage public right-of-way of Nordahl Road and accessible through a private lateral connection. No extension of the public wastewater main is needed.
 - The maximum average day wastewater demand generated within the affected territory is projected at 250 gallons or one equivalent dwelling unit or EDU. This projected demand represents approximately 0.00005% of the existing available capacity of Vallecitos WD and can be accommodated without any public improvements to the collection, treatment, and disposal facilities.
- Service Funding and Costs
Vallecitos WD has adequate financial resources and administrative controls to provide wastewater services to the affected territory in support of its planned development without adversely impacting current ratepayers. The Vallecitos WD’s recent audited statements reflects the District remained profitable in each of the last three audited fiscal years with an average total margin of 115%.

**CONCLUSION |
MERITS OF CHANGE OF ORGANIZATION TIMING**

The timing of the change of organization involving the annexation of the affected territory to Vallecitos WD and extension therein of public wastewater service is warranted. Justification is marked by the preceding analysis and highlighted by appropriately syncing public wastewater service to a pending and planned new residential use (accessory dwelling unit) in an urban area and reflects available capacities and infrastructure. Additional analysis supporting the conclusion is provided in Appendix A.

Item No. 2 |

Modifications and Terms

No modifications to the proposed change of organization have been identified by staff meriting consideration by San Diego LAFCO at this time. This includes noting the applicant proactively consulted with LAFCO staff prior to filing and in doing so appropriately included the adjacent public right-of-way along Nordahl Road to its centerline as part of the proposal. Applying standard approval terms are appropriate.

CONCLUSION | MODIFICATIONS AND TERMS

No modifications are merited for reasons detailed in the preceding analysis. Standard terms – including payment of all third-party fees associated with completing the boundary change – are appropriate.

Other Statutory Considerations

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99(b)(6) requires the County of San Diego to adopt a property tax exchange agreement for proposed changes of organization or reorganization prior to San Diego LAFCO issuance of a Certificate of Filing and scheduling the proposal for hearing, unless an existing master property tax exchange agreement would govern the subject proposal's exchange of annual property tax revenues. The associated statutes also empower the County of San Diego to make all related property tax exchange determinations on behalf of affected special districts. Staff has confirmed the County Board of Supervisors has adopted a master tax exchange agreement applicable to the proposed change of organization. The application of this master tax exchange agreement will result in no transfer of property taxes to Vallecitos WD.

Environmental Review

CEQA requires San Diego LAFCO to assess whether impacts to the environment as prescribed would result from the proposed change of organization initiated by a landowner.⁴ Staff has determined the subject proposal qualifies as a “project” under CEQA but is exempt from further environmental review under State CEQA Guidelines Section 15319(b). This categorical exemption applies given the proposed change of organization involves annexation of individual small parcels of the minimum size for facilities exempted by Section 15303(a). LAFCO would accordingly file a Notice of Exemption as lead agency for the subject annexation proposal if approved by the Commission.

⁴ LAFCO generally serves as a responsible agency under CEQA when the lead agency for a proposal has previously produced and adopted a Negative Declaration or Impact Report for the project. No environmental documents were previously adopted by an affected agency for the subject proposal.

Protest Proceedings

Protest proceedings for the proposed change of organization may be waived by San Diego LAFCO should the Commission proceed with an approval under Government Code Section 56662. The recommended waiver appropriately applies under this statute given the affected territory is uninhabited as defined under LAFCO law; the subject agency has not filed an objection to the waiver; and all affected landowners have consented to the underlying action.⁵ Inclusion of the adjacent public right-of-way portion of Nordahl Road within the affected territory will not affect the proposed waiver of protest proceedings.

RECOMMENDATION

Staff recommends approval of the change of organization proposal as submitted along with standard terms. This recommendation is consistent with Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO.

Alternative One (recommended):

Adopt the attached draft resolution approving the change of organization proposal along with standard terms.

Alternative Two:

Continue consideration to the next regular meeting.

Alternative Three:

Disapprove the change of organization proposal with direction to staff to return at the next regular meeting with a conforming resolution for adoption.

PROCEDURES FOR CONSIDERATION

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

On behalf of the Executive Officer,



Robert Barry, AICP
Chief Policy Analyst

Appendices:

- A) Analysis of Boundary Change Factors

Attachments:

- 1) Map of the Affected Territory
- 2) Draft Resolution of Approval

⁵ LAFCO law defines uninhabited territory as containing 11 or less registered voters.

APPENDIX A

Government Code Section 56668 Proposal Review Factors

- a) **Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent areas, during the next 10 years.**
-

The affected territory includes one undeveloped assessor parcel with a situs address of 1557-1561 Anthony Heights Drive in the unincorporated North County Metro community between the Cities of San Marcos and Escondido and within the Escondido sphere of influence. The County Assessor Office's identifies the subject parcel as 228-010-25, which is one of two assessor parcels that comprise one legal residential lot totaling approximately 2.33 acres. (The second assessor parcel is identified as 228-010-24 and is presently developed with one existing single-family residence that is currently within and connected to the Vallecitos WD wastewater system.) The affected territory also includes an adjacent public right-of-way segment of Nordahl Road to its centerline totaling approximately 0.16 acre to provide consistency with the existing Vallecitos WD boundary. The landowner's annexation request is intended to facilitate an intensity improvement to the existing single-family residence occupying the adjacent parcel and accommodate development of one accessory dwelling unit on the affected territory. The current assessed value of the subject parcel – including land and no improvements – is \$27,548. No significant growth is anticipated in the surrounding area within the next 10-year period beyond existing residential land use and zoning designations.

- b) **The need for municipal services; the present cost and adequacy of municipal services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**
-

The County of San Diego serves as the primary purveyor of general governmental services to the affected unincorporated territory. These governmental services include community planning, flood control, street lighting, roads, and public safety with the latter including law enforcement via the County Sheriff. Other pertinent service providers include San Marcos Fire Protection District (fire protection and emergency medical services) and Vista ID (potable water). The subject proposal affects only wastewater service and is the focus of the following analysis.

- **Extending Public Wastewater to Affected Territory**

The subject parcel within the affected territory is undeveloped with no active wastewater system. The subject parcel is part of one legal residential lot totaling

approximately 2.33 acres comprised with the landowner’s adjacent residential parcel. The adjacent parcel is presently developed with one single-family residence within and connected to the Vallecitos WD wastewater system. The landowner intends to develop one single-family residence as an accessory dwelling unit on the subject parcel and is requesting annexation to Vallecitos WD to include the remainder of the legal lot within the Vallecitos WD wastewater service area. Connection of the subject parcel and its planned accessory dwelling unit to Vallecitos WD is readily available through a private lateral to an existing wastewater main located within the adjacent frontage public right-of-way of Nordahl Road. The average daily wastewater flow for the affected territory at planned maximum use is projected as approximately 250 gallons per day or one equivalent dwelling unit (EDU). This projected amount represents less than 0.00005% of the current approximate 5.0 million gallons of available and remaining daily contracted capacity allocated to Vallecitos WD.

c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on local governmental structure.

Approval of the proposed change of organization and annexation therein to Vallecitos WD would recognize and strengthen existing economic and social ties between the District and the affected territory. These ties were initially established in the 1980’s when the Commission included the local area within Vallecitos WD’s sphere of influence and signaled the lands would eventually warrant public wastewater service from the District when appropriate.

d) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies/priorities set forth in G.C. Section 56377.

Approving the proposed change of organization and annexation to Vallecitos WD would facilitate the permanent extension of public wastewater services for the planned development of an accessory dwelling unit and in doing so support County of San Diego’s community planning policies. Similarly, approval would be consistent with the Commission’s adopted policies to sync urban uses with urban services. The affected territory does not contain “open-space” as defined under LAFCO law and no conflicts exists under Government Code Section 56377. Additional analysis concerning conformance with germane Commission policies follows.

- San Diego LAFCO Policy L-107 requires applicants to identify, address, and disclose any potential jurisdictional issues associated with their proposals, and describe any meetings or consultation conducted with affected agencies, interested parties, or organizations to discuss and potentially remedy concerns unless waived by the San Diego LAFCO Executive Officer. No jurisdictional issues or related concerns were identified or disclosed by the applicant or by affected agencies or interested parties in the review of the proposal.

e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.

The affected territory does not contain “prime agricultural land” or “agricultural land” as defined under LAFCO law. Specifically, the affected territory does not contain lands currently used for any of the following purposes: producing an agricultural commodity for commercial purposes; left fallow under a crop rotational program; or enrolled in an agricultural subsidy program. Approval of the change of organization proposal and annexation to Vallecitos WD would have no effect on maintaining the physical and economic integrity of agricultural lands.

f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment, the creation of islands or corridors of unincorporated territory, and other similar matters.

LAFCO is in receipt of a draft map and geographic description of the affected territory that details metes and bounds consistent with the standard of the State Board of Equalization and conforming with lines of assessment and including a portion of the frontage Nordahl Road public-right-of-way to the centerline. LAFCO approval would be conditioned on submittal of a final map and description conforming to the referenced standards and addressing any proposal area modifications enacted by the Commission. Approval of the proposed change of organization for the affected territory as submitted would be consistent with the Vallecitos WD boundary and would not create service islands or corridors.

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

The proposal does not involve new development or additional intensity beyond present land use designations and therefore would not conflict with San Diego Forward, the regional transportation plan established by the San Diego Association of Governments (SANDAG) for the San Diego Region in 2015.

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

The County of San Diego General Plan has designated the affected territory as Village Residential 4.3 (4.3 dwelling units/one acre) and adopted zoning as Single-Family Residential with a 6,000 square-foot minimum lot size (7.3 du/ac). However, the affected territory contains slopes >25% and is limited to a 2-acre minimum lot size in combination with the adjacent parcel. The landowner’s annexation request is intended to facilitate an intensity improvement to the existing single-family residence occupying the adjacent assessor parcel and accommodate development of an accessory dwelling unit on the affected territory. The planned residential uses are consistent with the proposal’s purpose to provide public wastewater to the planned single-family residence to be constructed.

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

The affected territory presently lies entirely within the adopted sphere of influence for the City of Escondido and the Vallecitos WD. The proposed annexation of the affected territory to the Vallecitos WD for wastewater services and development of one single-family residence would be consistent with the adopted spheres of the affected agencies.

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

Notice of the submitted change of organization proposal was distributed to all subject, affected, and interested agencies as required under LAFCO law. No written comments on the proposal were received from affected agencies or other local agencies ahead of preparing this agenda report for distribution on July 24, 2020.

k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Information collected and reviewed as part of this proposal indicates Vallecitos WD has sufficient and available financial resources and administrative controls therein relative to providing public wastewater to the affected territory without adversely impacting existing ratepayers. This statement is supported by the following factors.

- Vallecitos WD’s last audit (2018-2019) showed the District’s total net position at \$279.179 million with \$89.960 million categorized as unrestricted. This latter amount equals approximately 20 months of operating expenses based on 2018-2019 actuals.
- Vallecitos WD’s net position has increased overall by 6.5% over the past three-year audited period.
- Vallecitos WD’s average total margin over the last three audit years has been 14.7%. All three fiscal years produced positive total margins.

Should the Commission approve the change of organization the landowner will pay all required fees and service charges commensurate with Vallecitos WD’s adopted fee ordinance in establishing wastewater services for the affected territory. Extending wastewater service to one additional residence following approval of the proposed annexation would not adversely impact existing ratepayers.

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

The affected territory's existing residential uses are presently within the Vista ID's retail potable water system with wholesale supplies provided by the San Diego County Water Authority and the Metropolitan Water District of Southern California. No changes to this service arrangement are proposed. Approval of the proposed change of organization would not affect the timely availability of water supplies to the affected territory.

m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments.

The proposed change of organization would not impact any local agencies in accommodating their regional housing needs. All potential units tied to the lands are already assigned to the County of San Diego by the region's council of governments, SANDAG. The proposed annexation to Vallecitos WD would not affect this assignment.

n) Any information or comments from the landowners, voters, or residents.

The affected territory is considered uninhabited as defined by LAFCO law (containing 11 registered voters or less). The landowner supports the proposed change of organization and has provided written consent to the proceedings.

o) Any information relating to existing land use designations.

See above analysis for (h).

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

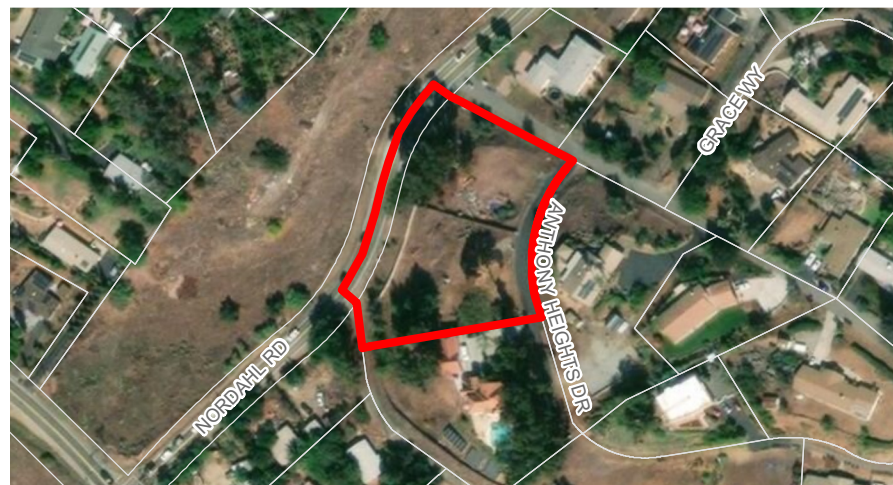
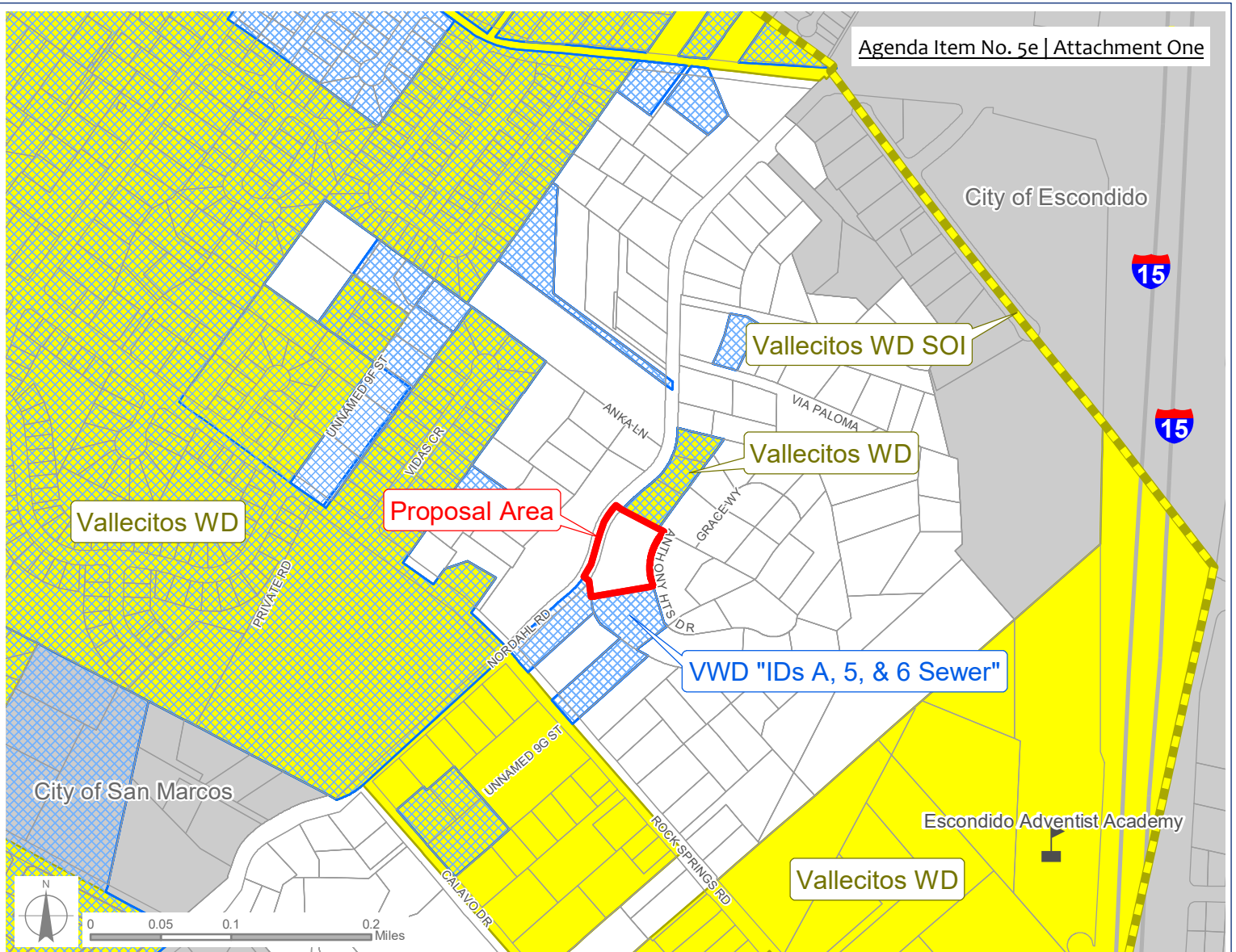
As used in this review factor, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed change of organization does not include locating new public facilities and the proposed provision of public services would be limited to the planned single-family residence. Approval of the proposed change of organization is not anticipated to affect the promotion of environmental justice.

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

The County of San Diego has adopted a multi-jurisdiction hazard mitigation plan for potential fire, flooding, and earthquakes. The affected territory lies outside any identified threat designations.

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

Approval of the proposed change of organization would be in the interest of the current and future landowners and/or residents of the affected territory by providing access to reliable public wastewater service going forward. Approval would also benefit adjacent landowners and/or residents by eliminating the potential operation of a private septic system and the potential therein for failures.



CO20-01 PROPOSED "LUPA - ANTHONY HEIGHTS DRIVE CHANGE OF ORGANIZATION" | ANNEXATION TO VALLECITOS WD (WASTEWATER)

SOI = Sphere of Influence

- Proposal Area
- Vallecitos WD
- Vallecitos WD SOI
- VWD "IDs A, 5, & 6 - Sewer"

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RESOLUTION NO. _____

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING, AND ORDERING A REORGANIZATION

**“LUPA – ANTHONY HEIGHTS DRIVE CHANGE OF ORGANIZATION”
ANNEXATION TO THE VALLECITOS WATER DISTRICT
LAFCO FILE NO. CO20-01**

WHEREAS, on February 11, 2020, landowner Richard Lupa filed a petition to initiate proceedings and an application with the San Diego County Local Agency Formation Commission, hereinafter referred to as “Commission,” pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the application seeks approval for a proposed change of organization involving annexation to the Vallecitos Water District of approximately 1.51 acres of unincorporated territory within the County of San Diego; and

WHEREAS, the affected territory as proposed is 1.51 acres in size and comprises one unincorporated vacant parcel identified by the County of San Diego Assessor’s Office as 228-010-25 as well as the adjacent frontage of Nordahl Road right-of-way to the centerline; and

WHEREAS, the San Diego County Board of Supervisors has adopted an applicable master property tax transfer agreement applicable to the proposed change of organization dated December 14, 1982; and

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

WHEREAS, the Executive Officer’s report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a noticed public hearing on the proposal on August 3, 2020; and

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

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The public hearing was held on the date set therefore, and due notice of said meeting was given in the manner required by law.
2. At the public hearing, the Commission considered the Executive Officer's report.
3. The Commission serves as lead agency for environmental review of the proposed change of organization under the California Environmental Quality Act (CEQA) as detailed in the Executive Officer's report. The Commission's findings follow.
 - a) The Commission finds the proposed change of organization to annex the affected territory as described to the Vallecitos Water District qualifies as a project under CEQA but is categorically exempt from further environmental review under State CEQA Guidelines Section 15319(b). This categorical exemption appropriately applies given the proposed change of organization involves annexation of one residential parcel planned for construction of one single-family residence as a second dwelling unit within an urbanized residential area as exempted by Section 15303(a).
4. The Commission APPROVES the change of organization as submitted and without modification, as described below and subject to conditions as provided. Approval involves the following:
 - a) Annexation of the affected territory as submitted to the Vallecitos Water District for wastewater service as shown in "Exhibit A-1" and described in "Exhibit A-2."
5. The Commission CONDITIONS all approvals on the following terms being satisfied by August 3, 2021 unless an extension is requested in writing and approved by the Executive Officer:
 - a) Completion of the 30-day reconsideration period provided under Government Code Section 56895.
 - b) Submittal to the Commission of final map and geographic description of the affected territory relative to the approved by the Commission conforming to the requirements of the State Board of Equalization – Tax Services Division.
 - c) Submittal to the Commission of the following payments:
 - A check made payable to LAFCO in the amount of \$50.00 for the County of San Diego-Clerk Recorder to reimburse for filing a CEQA Notice of Exemption consistent with the findings in the resolution.

- A check made payable to the State Board of Equalization for processing fees in the amount of \$300.00.
6. The Commission assigns the proposal the following short-term designation:
“Lupa - Anthony Heights Drive Change of Organization”
 7. The affected territory as designated by the Commission is uninhabited as defined in Government Code Section 56046.
 8. The Commission waives conducting authority proceedings under Government Code Section 56662.
 9. The Vallecitos Water District is a registered-voter district.
 10. The Vallecitos Water District utilizes the County of San Diego assessment roll.
 11. The affected territory will be liable for any existing bonds, contracts, and/or obligations of the Vallecitos Water District as provided under Government Section 57328.
 12. The effective date of the approval shall be the date of recordation but not before the completion of a 30-day reconsideration period and only after all terms have been completed as attested by the Executive Officer.
 13. As allowed under Government Code Section 56107, the Commission authorizes the Executive Officer to make non-substantive corrections to this resolution to address any technical defects, errors, irregularities, or omissions.
 14. The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Sections 56880-56882 of the Government Code.
 15. The Executive Officer is further authorized and directed to prepare, execute, and record a Certificate of Completion, make the required filings with the County Assessor, County Auditor, and the State Board of Equalization as required by Section 57200, et seq., of the Government Code.

**

PASSED AND ADOPTED by the Commission on August 3, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**

Attest:

Keene Simonds
Executive Officer

EXHIBIT A-1

EXHIBIT A-2



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

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AGENDA REPORT
 Consent | Information

August 3, 2020

TO: Commissioners

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

SUBJECT: Protest Hearing Results |
“County Service Area No. 137 Formation” (CO20-06)

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive the results of the protest hearing held for the change of organization proposal involving the formation of County Service Area (CSA) No. 137. The noticed hearing was held by staff on July 2, 2020 and produced limited protest from landowners and registered voters as detailed. Accordingly, the Commission’s approval of the formation proceedings and related authority for the County of San Diego to assume and provide potable water service to the unincorporated community of Live Oak Springs will be ordered once all terms are satisfied.

BACKGROUND

Proposal Request

In March 2020, the County of San Diego filed a proposal with San Diego LAFCO proposing the formation of CSA No.137 to formally assume potable water service responsibility within the unincorporated community of Live Oak Springs. The affected territory spans 151.5 acres and includes 173 assessor parcels primarily developed with low density residential uses. Also in the affected territory is an established groundwater source and related infrastructure owned by a private operator that presently serves 92 residential and two commercial connections.

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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Commission Action

On June 1, 2020, San Diego LAFCO held a noticed public hearing to consider the proposal filed by the County of San Diego. The Commission proceeded to approve the change of organization without modifications and standard terms. The Commission also delegated protest hearings to the Executive Officer as allowed under policy.

DISCUSSION

This information item is for San Diego LAFCO to receive the results of the protest hearing delegated to the Executive Officer involving the Commission's earlier approval of the formation of CSA No. 137 as required under policy. The protest hearing was held on July 2, 2020 at the LAFCO office and produced the following results within the two distinct categories – landowners and registered voters – prescribed under statute.

- **Landowner Protests**

There are 173 total legal parcels within the affected territory at the time of the Commission's action on June 1st with a combined assessed land value of \$9.634 million. At the conclusion of the protest hearing, two of these legal parcels' owners representing a cumulative assessed land value of \$0.425 million filed protests subsequently validated by the County Assessor's Office. These validated amounts represent 4.4% of the respective total and are below the 25.0% threshold to require an election and the 50.0% threshold to terminate the proceedings.

- **Registered Voter Protests**

There are 68 total registered voters within the affected territory at the time of the Commission's action on June 1st. At the conclusion of the protest hearing, two of these registered voters filed protests subsequently validated by the County Registrar of Voters' Office. These validated amounts represent 2.9% of the affected territory total and below the 25.0% threshold to require an election and the 50.0% threshold to terminate the proceedings.

With the preceding results in mind, a confirming resolution ordering the change of organization has been executed by the Executive Officer, and the proceedings will become final once the applicant satisfies all remaining terms.

ANALYSIS

The formation of CSA No. 137 has cleared its last substantive threshold. All remaining actions necessary to record and enact the formation are ministerial.¹

¹ San Diego LAFCO policy directs the Executive Officer to proceed and issue an ordering resolution at the conclusion of the protest hearing process so long as the results do not require the proposal to be terminated or confirmed by an election. The Executive Officer is also responsible for informing the Commission of the protest results resulting in an action being ordered at the next regular meeting. [Policy on Conducting Protest Hearings Section 4(h)].

RECOMMENDATION

Receive the item for information purposes only.

ALTERNATIVES FOR ACTION

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

PROCEDURES

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

On behalf of the Executive Officer,

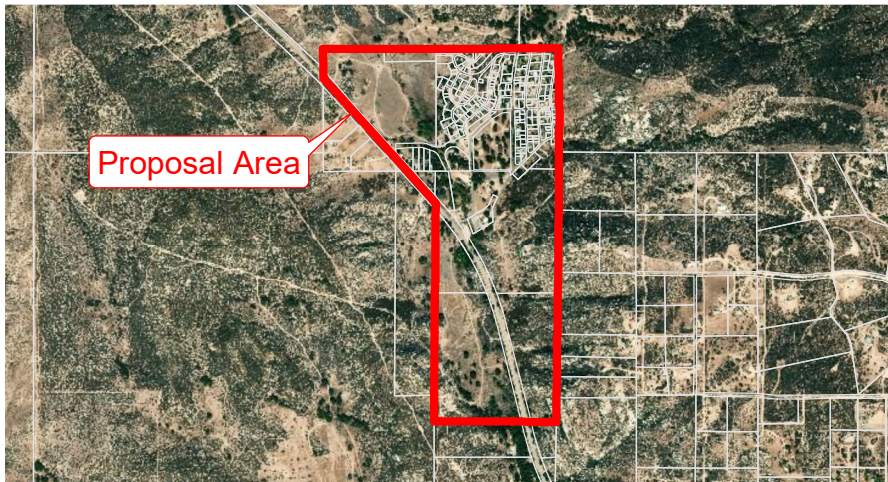
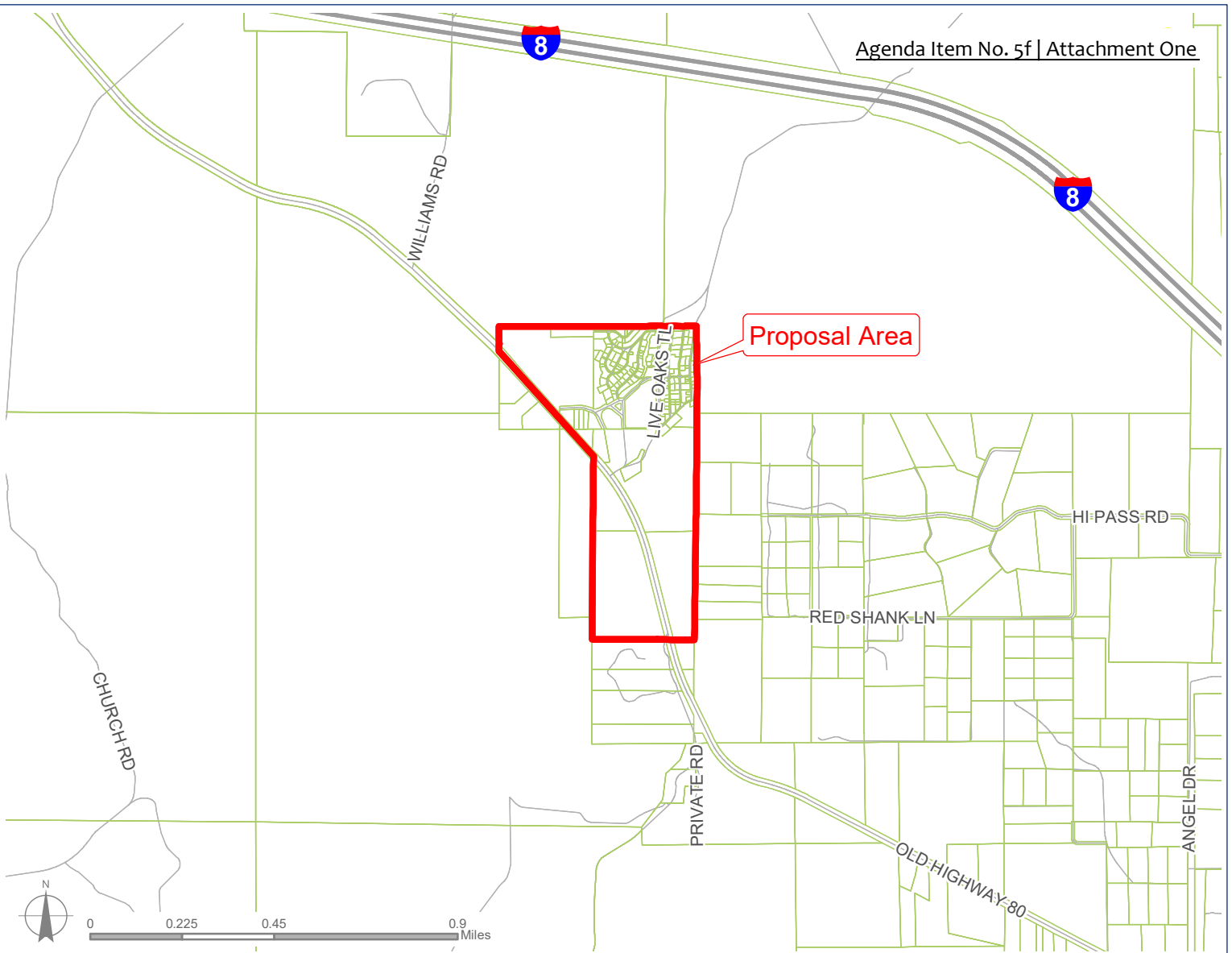


Linda Heckenkamp
Analyst I

Attachment:

- 1) Map of the Affected Territory

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CO20-06 PROPOSED "FORMATION OF COUNTY SERVICE AREA NO. 137 (LIVE OAK SPRINGS)"

 Proposal Area



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

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AGENDA REPORT
 Consent | Action

August 3, 2020

TO: Commissioners
FROM: Keene Simonds, Executive Officer
SUBJECT: Progress Report on 2020-2021 Workplan

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a progress report on accomplishing the 26 specific projects included in the adopted workplan for 2020-2021. This includes noting through the first month close to one-half of all workplan projects are underway with three nearing completion. This latter category includes schedule policy updates and establishing social media platforms. The report is being presented to the Commission to receive and file and to provide related direction.

BACKGROUND

2020-2021 Workplan

San Diego LAFCO’s current fiscal year workplan was adopted at a noticed public hearing held on May 4, 2020. The workplan includes 26 projects and divided into two distinct categories – statutory and administrative – with one of three priority rankings: high; moderate; or low. The intent of the workplan is to serve as a management tool to allocate resources over the 12-month period and track performance. The Commission also reserves discretion to amend the workplan during the fiscal year to address changes in priorities or resources as well as to continue projects into subsequent fiscal years.

Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org	Jim Desmond County of San Diego Chair Dianne Jacob County of San Diego Greg Cox, Alternate County of San Diego	Mary Casillas Salas City of Chula Vista Bill Wells City of El Cajon Paul McNamara, Alternate City of Escondido	Mark Kersey City of San Diego Chris Cate, Alternate City of San Diego	Jo MacKenzie Vista Irrigation Barry Willis Alpine Fire Protection Erin Lump, Alternate Rincon del Diablo MWD	Vice Chair Andy Vanderlaan General Public Harry Mathis, Alternate General Public
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DISCUSSION

This item provides San Diego LAFCO with its first update on the 26 targeted projects formally established for the fiscal year. This includes staff assigning one of four status categories to projects ranging from pending to complete and detailed in Attachment One. The item is being presented for the Commission to receive and file as well as provide general direction on listed projects. The item also provides the Commission the opportunity to discuss the merits of new projects and/or amendments for future consideration.

ANALYSIS

San Diego LAFCO has initiated work on 14 of the 26 projects included in the adopted workplan and represents nearly one-half – or 46% – of the total through one month of the fiscal year. Most of the initiated work involves high-priority projects that have been forwarded from the prior fiscal year and includes several comprehensive municipal service reviews in the North County region. Work has also been initiated on several new projects and highlighted by establishing social media activities on Twitter and Facebook.

RECOMMENDATION

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

ALTERNATIVES FOR ACTION

The following alternatives are available to San Diego LAFCO:

Alternative One (recommended):

Receive and file the item as presented.

Alternative Two:

Continue consideration of the item to a future meeting and provide direction to staff for more information as needed.

Alternate Three:

Take no action.

(continued to next page)

PROCEDURES

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

Respectfully,



Keene Simonds
Executive Officer

Attachment:

- 1) 2020-2021 Workplan with Status Notations

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San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

2020-2021 Workplan

Introduction:

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

Objective:

This document represents San Diego LAFCO's ("Commission") formal 2020-2021 Workplan. The Workplan draws on the recommendations of the Executive Officer as vetted and approved by the Commission. The Workplan is divided into two distinct categories – statutory and administrative – with one of three priority rankings: high; moderate; or low. The underlying intent of the Workplan is to serve as a management tool to allocate Commission resources in a transparent manner over the 12-month period. Further, while it is a stand-alone document, the Workplan should be reviewed in relationship to the adopted operating budget given the planned goals and activities are facilitated and or limited accordingly. Additionally, and as needed, the Commission reserves discretion to amend the Workplan during the fiscal year to address changes in resources and or priorities and to carry-forward projects into subsequent years.

Executive Summary:

The 2020-2021 Workplan continues to guide the Commission to prioritize resources in addressing statutory duties and responsibilities. This includes continuing work on existing projects established – but not yet completed – from earlier fiscal years and marked by completing municipal service reviews for the Escondido, Vista, San Marcos, and Fallbrook-Rainbow regions. Several policy updates are also scheduled and include reviewing LAFCO's existing policies regarding the identification and authorization of special district service functions and classes. Other administrative projects filling the Analyst I/II position and securing a long-term office lease.

Priority	Level	Type	Project	Description and Key Issues	Status
Continual	...	Statutory	Applicant Proposals	LAFCO will prioritize resources to address proposals involving boundary changes and outside service requests and includes the following prominent proposals already on file or expected to be filed in 2020-2021: <ul style="list-style-type: none"> - Fallbrook PUD/Rainbow MWD/County Water Authority - Reorganization of CSA No. 135 into FPD - Fallbrook PUD Latent Powers Activation - Reorganization of Valley Center CSD into CSA - Harvest Hills (Escondido et al) 	
Continual	...	Administrative	Targeted LAFCO Presentations	LAFCO will prioritize public outreach; emphasis on informing stakeholders ahead of MSR work	
1	High	Statutory	MSR Fallbrook-Rainbow Region	Reviews of Fallbrook PUD, Rainbow MWD, San Luis Rey MWD, & North County FPD	In progress
2	High	Statutory	MSR Escondido Region Part II	Review of the City of Escondido; follows completion of Part I (Rincon del Diablo MWD and Deer Springs FPD) in 2019-2020	In progress
3	High	Statutory	MSR Resource Conservation Services	Countywide study on RCD services; reviews of Mission RCD, Upper San Luis Rey RCD, & Greater San Diego RCD	In progress
4	High	Administrative	Policy Review Ag and Open Space	Update existing policies and procedures involving ag and open space; incorporate stakeholder outreach (Farm Bureau, etc.)	Near completion
5	High	Administrative	Policy Review Rule No. 4	Update Rule No. 4 and its provisions guiding LAFCO's duty to identify and establish special districts' service functions and classes	Pending
6	High	Statutory	MSR Poway Region	Review is specific to the City of Poway	In progress
7	High	Statutory	MSR San Marcos Region	Reviews of the City of San Marcos, San Marcos FPD, & Vallecitos WD	In progress
8	High	Statutory	MSR Vista Region	Reviews of the City of Vista, Vista ID, Vista FPD, & Buena SD	In progress
9	High	Administrative	Analyst I/II Position	Perform recruitment and hire of a new Analyst I/II	In progress
10	High	Administrative	Office Space	Current lease for office space with County of San Diego expires in August 2020 with no extension options	Pending
11	Moderate	Statutory	MSR Ramona Region	Review is specific to the Ramona MWD	In progress
12	Moderate	Statutory	MSR Pauma Valley Region	Reviews of Pauma MWD, Pauma CSD, Yuima MWD, Mootamai MWD, and Rincon Ranch CSD	Pending
13	Moderate	Administrative	Cities Advisory Committee	Staff and maintain feedback with Cities Advisory Committee and hold no less than two formal meetings in FY	Pending
14	Moderate	Administrative	Special Districts Advisory Committee	Staff and maintain feedback with Special Districts Advisory Committee and hold no less than three formal meetings in FY	Pending
15	Moderate	Administrative	Live-Streaming	Expand LAFCO's real-time accessibility to the general public to include live streaming meetings	Near completion
16	Moderate	Administrative	2019-2020 Audit	Coordinate outside consultant's review of financial statements for 2019-2020 and identify opportunities to improve accounting system	Pending
17	Moderate	Administrative	Policy Review Study Schedule	Update study schedule calendaring municipal service reviews to reflect current progress and related observations	Pending
18	Moderate	Administrative	SANDAG	Re-establish regular participation in SANDAG's Technical Working Group (TWG)	Pending
19	Moderate	Administrative	State Groundwater Management Act	Prepare report on State Groundwater Management Act (SGMA) implementation in San Diego County relative to LAFCO duties/interests	Pending
20	Moderate	Administrative	CALAFCO	Participate in CALAFCO through the Board, Leg Committee, and Annual Workshop and Conference in FY	In progress
21	Low	Administrative	Application Procedures	Streamline existing application packet to be more user-friendly; address new statutory requirements	Pending
22	Low	Statutory	MSR Oceanside and Carlsbad Region	Reviews of the Cities of Oceanside and Carlsbad as well as Carlsbad MWD and Morro Hills	Pending
23	Low	Statutory	MSR Encinitas Region	Reviews of the City of Encinitas and Leucadia WWD, Olivenhain MWD, & San Dieguito WD	Pending
24	Low	Administrative	SOI/MSR Annual Report	Prepare annual report to serve as living record of all sphere actions in San Diego County	Pending
25	Low	Administrative	Local Agency Directory	Create user-friendly publication identifying and summarizing local governmental agencies subject to LAFCO oversight	Pending
26	Low	Administrative	Social Media	Establish social media presence as a new communication forum; develop policies/procedures accordingly	Near completion



San Diego County
Local Agency Formation Commission
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AGENDA REPORT
 Consent | Information

August 3, 2020

TO: Commissioners

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

SUBJECT: Active Proposals and Related Activities

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a report identifying active change of organization or reorganization proposal applications on file with the Commission as well as a summary of pending proposal application submittals. This includes identifying five new proposal applications submitted since the last report in June. The item is for information and concurrently satisfies LAFCO’s reporting requirement to affected agencies for notification of proposed special district annexations submitted by petition of landowners or voters.

BACKGROUND

Processing Procedures and Timelines

LAFCO proceedings for consideration of proposed changes of organization or reorganizations – which may include incorporations, formations, annexations, detachments, mergers, consolidations, and service function activations or divestures – are typically initiated by outside applicants (subject landowners or registered voters, and/or local affected agencies). LAFCOs may also initiate proposals specific to forming, consolidating, or dissolving special districts if consistent with the recommendations of approved municipal service reviews. Following submittal, proposal applications are reviewed by San Diego LAFCO staff for

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completeness and status letters are sent to the applicants within 30 days. If additional documentation is required, the submitted proposal application is deemed incomplete and the status letter will itemize the needed information. Once the application is complete, a *Certificate of Filing* is issued by the Executive Officer and the proposal is scheduled for Commission consideration and placed on the agenda as consent, business, or hearing items based on noticing requirements.¹ Overall, most proposals are forwarded to the Commission within six months from the date of submittal.

DISCUSSION

This item is being presented for information only and identifies all active proposal applications currently being processed by San Diego LAFCO. The report also – and for telegraphing purposes of future workload – identifies pending proposals staff anticipates being submitted with LAFCO in the near term. The information item also serves to concurrently satisfy the Commission’s reporting requirement to provide notice on agendas to affected special districts when proposed annexation applications are initiated by petition of landowners or registered voters.² A summary of active and pending proposal applications follow and detailed in Attachment One.

Active Proposals & Related Petition Notifications

There are 26 proposal applications currently active and undergoing processing with San Diego LAFCO as of date. Current processing stages of these active applications range from pre-Commission action (22) to post-Commission action (4) with the latter category representing items already approved but awaiting the completion of conducting authority proceedings (i.e., protest) or terms. Five new proposal applications have been submitted since the last meeting in June and are identified below.

- “Mercurio – Grossmont Boulevard Out-of-Agency Wastewater Contractual Service Agreement” OAS20-09 | Sphere of influence Amendment and Contractual Wastewater Service Agreement with the City of La Mesa
- “Lindauer – Olive Street Reorganization” RO20-11 | Annexation to Vallecitos Water District and Concurrent Detachment from Vista Irrigation District
- “Ortiz – Olive Avenue Reorganization” RO20-12 | Annexation to the City of Vista and Concurrent Detachment from Vista Fire Protection District
- “Valley Center Community Services District - County Service Area No. 138 Reorganization” RO20-13 | Dissolution of Valley Center Community Services District and Concurrent Formation of County Service Area No. 138”

¹ The Executive Officer may also place proposals otherwise meriting consent on the business calendar to solicit additional review and discussion if warranted. Separately, applications involving outside-of-agency service extension requests follow separate proceedings and may be administratively approved by the Executive Officer if addressing documented public health or safety threats.

² Government Code Section 56857 directs LAFCOs to provide notice on agendas of any proposal involving special districts that have been initiated by landowners or registered voters. The agenda notification starts a 60-day period in which the affected special districts may request termination of the proceedings due to financial or service-related concerns.

- “San Diego County Fire Protection District Reorganization” RO20-14 | Formation of San Diego County Fire Protection District and Concurrent Divestiture of Fire Protection and Emergency Medical Service Functions of County Service Area No. 135

Pending Proposals

There are five substantive proposals staff anticipates being submitted to San Diego LAFCO contingent with local agency development and environmental reviews for the associated projects, and following hearing and approval by affected local agencies.³ Three of these pending proposals would involve city annexations in North County to accommodate relatively large residential subdivision projects presently undergoing local planning review, including Harvest Hills (Escondido), Sager Ranch (Escondido), and Rancho Lomas Verdes (Vista).

ANALYSIS

San Diego LAFCO remains active in processing almost two dozen proposals. Submitted proposal applications are generally on file for less than one calendar year and most actively progress through the proposal review process. The active proposal applications include three recent and substantive proposal applications. These involve separate reorganization proposals submitted by Fallbrook Public Utility District and Rainbow Municipal Water District to detach from the San Diego County Water Authority and annex to Eastern Municipal Water District (Riverside); as well as the County of San Diego’s submitted reorganization application to form a dependent San Diego County Fire Protection District and concurrently divest fire protection and emergency medical services from County Service Area No. 135. Other substantive proposals on file include requested latent powers activation by Fallbrook Public Utility District and various actions associated with the Valiano – Eden Hills development proposal. There are a few proposal applications that have been on file with the Commission as incomplete for more than five years and have become dormant for various reasons with some meriting formal termination. To this end, and consistent with earlier Chair direction, staff anticipates presenting draft policy language shortly to authorize the Executive Officer to terminate or otherwise abandon proposals considered non-active and/or non-responsive for 60 months following submittal.

RECOMMENDATION

This item is presented to San Diego LAFCO for information only.

ALTERNATIVES FOR ACTION

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

³ Staff uses discretion in listing pending proposals and limits notice to only activities to be initiated by a local governmental agency. Pending proposals to be initiated by landowners and/or registered voters are not disclosed until an actual filing is made.

PROCEDURES

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

On behalf of staff,



Linda Heckenkamp
Analyst I

Attachment:

- 1) Active and Pending Proposal Applications as of August 3, 2020

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

File Number	Proposal Name Affected Agencies	Project Manager	Proposal Summary
6	DA16-10 "CSA 17 Harmony Grove Annexation" - CSA 17 (Annexation)	Linda Heckenkamp	Application submitted in May 2016 to annex approximately 3,600 acres to CSA 17 for ambulance service and done so as a cross-condition of the Rancho Santa Fe Fire Protection District Reorganization: Dissolution of CSA No. 107 (Elfin Forest/Harmony Grove). The proposal was deemed incomplete in June 2016 status letter. The CSA 17 Advisory Committee has opposed the annexation. A negotiated property tax exchange agreement is also necessary. LAFCO staff met with the applicant in August 2019 to provide assistance and continues to discuss opportunities to proceed forward.
7	RO16-11 "Rancho Hills Annexation" - Rancho Santa Fe CSD (Annexation)	Robert Barry	Application submitted in October 2016 to annex a portion of a 37-lot residential subdivision titled "Rancho Hills" to Rancho Santa Fe CSD for wastewater service. A concurrent latent power expansion for Olivenhain MWD is needed to accommodate sewer to the remaining project site. The proposal was deemed incomplete in November 2016 status letter. Applicant has requested the proposal processing be placed on hold. Staff has remained in contact with the applicant and is awaiting their confirmation to proceed.
8	RO19-04 "Ortega – Olde Highway 80 Change of Organization" - San Diego County Sanitation District (Annexation)	Linda Heckenkamp	Application submitted in February 2019 by landowner petition to annex two residential lots totaling approximately 5.07 acres to San Diego County Sanitation District for wastewater service. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
9	SA19-26 RO19-26 OAS19-26 "Valiano - Eden Valley Reorganization" - City of Escondido (Sphere Amendment, Contractual Wastewater Service Agreement - San Marcos FPD (Annexation) - Rancho Santa Fe FPD (Sphere Amendment, Detachment)	Robert Barry	Application submitted in November 2019 by landowner petition and the City of Escondido. Proposal involves reorganization of approximately 10.76 acres with annexation to San Marcos Fire Protection District (FPD) and concurrent detachment and sphere exclusion from Rancho Santa Fe FPD; and, amendments to the spheres of influence for the Cities of Escondido (inclusion) and San Marcos (exclusion) for two unincorporated parcels totaling 82.9 acres and subject to a 240.6 acre County of San Diego-approved Specific Plan (TM-5575); and, approval of a contractual wastewater agreement between the landowner of the unincorporated Specific Plan area and the City of Escondido to extend City wastewater service to 326 single-family residences to be constructed within the Escondido sphere. The submitted proposal application is incomplete and pending staff's analysis. (On January 27, 2020, the San Diego Superior Court overturned the County development approvals for the project. The applicant is appealing the Court decision and has requested LAFCO continue to process the reorganization.)
10	LP(E)19-27 "Fallbrook Public Utility District Latent Power Expansion Park & Rec et.al."	Robert Barry	Application submitted in November 2019 by resolution seeking approval to activate Fallbrook PUD's latent power to exercise park and recreation, street lighting and roads and street functions within its boundaries. The submitted proposal application is incomplete and pending receipt of additional documentation and this includes completion of a scheduled municipal service review for the Fallbrook-Rainbow region.

File Number	Proposal Name Affected Agencies	Project Manager	Proposal Summary
11	CO20-01 “Anthony Heights - Lupa Change of Organization” - Vallecitos Water District (Annexation)	Robert Barry	Application submitted in February 2020 by landowner petition and involves annexation of one unincorporated residential parcel totaling approximately 1.35 acres to Vallecitos WD for wastewater service along with a 0.16 acre frontage portion of Nordahl Road. The submitted proposal is scheduled for the August 3rd Commission hearing.
12	CO20-03 “Orphan – Eolus Avenue Change of Organization” - Leucadia Wastewater District (Annexation)	Linda Heckenkamp	Application submitted in February 2020 by resolution of Leucadia WWD and involves annexation of approximately 0.56 acres within its boundaries for connection to public wastewater service. The submitted proposal is scheduled for the August 3rd Commission hearing.
13	RO20-04 “Rainbow MWD – Eastern MWD Wholesale Water Service Reorganization” – San Diego County Water Authority (detachment) – Eastern Municipal Water District (annexation)	Robert Barry	Application submitted April 2020 by resolution from the Rainbow MWD to concurrently detach from the San Diego County Water Authority and annex to the Eastern MWD. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff’s analysis. A 10-member advisory committee has also been established by the Commission to assist staff in evaluating the proposal.
14	RO20-05 “Fallbrook PUD – Eastern MWD Wholesale Water Service Reorganization” – San Diego County Water Authority (detachment) – Eastern Municipal Water District (annexation)	Robert Barry	Application submitted April 2020 by resolution from the Fallbrook PUD to concurrently detach from the San Diego County Water Authority and annex to the Eastern MWD. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff’s analysis. A 10-member advisory committee has also been established by the Commission to assist staff in evaluating the proposal.
15	CO20-07 “Schirber – Hymettus Avenue Change of Organization” - Leucadia Wastewater District (Annexation)	Linda Heckenkamp	Application submitted in April 2020 by resolution from Leucadia WWD and involves annexation of approximately 1.69 acres for connection to public wastewater service. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff’s analysis.
16	CO20-08 “Fuerte Ranch Estates Change of Organization” - San Diego County Sanitation District (Annexation)	Robert Barry	Application submitted in May 2020 by landowner petition and involves annexation of approximately 27.3 acres to San Diego County Sanitation District to facilitate the development of 36 single-family homes. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff’s analysis.
17	SA20-09 OAS20-09 “Mercurio – Grossmont Boulevard Out-of-Agency Wastewater Contractual Service Agreement” - City of La Mesa (Annexation)	Robert Barry	Application submitted in June 2020 by landowner request and involves an out-of-agency contractual wastewater service agreement with the City of La Mesa for one existing single-family residence and one proposed ADU. The unincorporated property totals approximately 0.91 acres, is not contiguous with the City, and is not within the La Mesa sphere of influence. Per Government Code Section 56133, the proposed wastewater OAS agreement requires an amendment for inclusion of the affected territory within the La Mesa sphere in anticipation of a future annexation. The request is incomplete and pending receipt of additional documentation and information from the applicant to complete staff’s analysis.

File Number	Proposal Name Affected Agencies	Project Manager	Proposal Summary
18	RO20-10 "Meadowood Reorganization" - Rainbow Municipal Water District (Annexation) - Valley Center Municipal Water District (Detachment)	Robert Barry	Application submitted in June 2020 by resolution from the Rainbow MWD and involves annexation of approximately 374.7 acres and the development of 844 units for water and wastewater service. A concurrent detachment from Valley Center MWD is also proposed. The submitted proposal application is incomplete and pending receipt of additional documentation and this includes completing a scheduled municipal service review involving Rainbow MWD.
19	RO20-11 "Lindauer – Olive Street Reorganization" - Vallecitos Water District (Annexation) - Vista Irrigation District (Detachment)	Robert Barry	Application submitted in June 2020 by landowner petition and involves annexation of approximately 4.0 acres for water and wastewater service. The affected territory is developed with a single-family residence experiencing a failing well for domestic water uses. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
20	RO20-12 "Ortiz – Olive Avenue Reorganization" - City of Vista (Annexation) - Vista Fire Protection District (Detachment)	Linda Heckenkamp	Application submitted in June 2020 by landowner petition and involves annexation to the City of Vista of approximately 4.94 acres for wastewater service and concurrent detachment from Vista Fire Protection District. The affected territory has proposed development of 15 residential lots. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
21	RO20-13 "Valley Center Community Services District -County Service Area No. 138 Reorganization" Valley Center Community Services District (Dissolution) County Service Area No. 138 (Formation)	Linda Heckenkamp	Application submitted in June 2020 by resolution and involves the concurrent dissolution of Valley Center Community Services District and formation of County Service Area No. 138 to assume park and recreation services. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
22	RO20-14 "San Diego County Fire Protection District Reorganization" County Service Area No. 135 (Divestiture of Fire Protection and EMS Functions) San Diego County Fire Protection District (Formation)	Robert Barry	Proposal submitted June 2020 by resolution of the County Board of Supervisors. Involving the divestiture of latent powers for fire protection and emergency medical service functions of County Service Area No. 135 and the concurrent formation of a dependent San Diego County Fire Protection District within the divestiture territory. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.

File Number	Proposal Name Affected Agencies	Project Manager	Proposal Summary	
ACTIVE PROPOSALS POST COMMISSION ACTION				
23	SA16-20 LP16-20	<p>“CSA 135 Islands Reorganization”</p> <ul style="list-style-type: none"> - CSA 135 – LP Fire Area (Latent Powers Expansion) - Bonita-Sunnyside FPD (Annexation) - Lakeside FPD (Annexation) - San Miguel FPD (Annexation) - Ramona MWD (Annexation) 	Robert Barry	<p>Proposal submitted November 2016 by resolution of the San Diego County Fire Authority. Involved annexation of remaining unserved Islands 2, 3, and 4 via reorganization of local fire service territory among five local agencies: CSA 135; Bonita-Sunnyside FPD; Lakeside FPD; Ramona MWD; and San Miguel FPD. Reorganization involved annexation to the subject agencies and expansion of CSA No. 135’s latent powers to provide fire protection and emergency medical services to three unincorporated and unserved island areas totaling approximately 21,048 acres. Conforming amendments to add the affected territory to the subject agencies’ spheres of influence were also required. The reorganization proposal was approved February 4, 2018 and is now pending recordation once all terms are satisfied. A noticed protest hearing was held on March 13, 2019 at the LAFCO office. No protest was received by affected registered voters or landowners.</p>
24	SA18-07 OAS18-07	<p>“Carmichael Drive – Wyman Service Agreement”</p> <ul style="list-style-type: none"> - City of La Mesa (Sphere Amendment, OAS) 	Robert Barry	<p>Proposal involves an outside-of-agency contractual wastewater service agreement between the property owner and the City of La Mesa. OAS covers extension of City wastewater sewer service to one existing unincorporated single-family residence located outside of the La Mesa sphere of influence. The purpose of the OAS is to allow the landowner to proceed with an intensity improvement to develop an accessory workshop unit, which exceeds the permitted capacity of the existing onsite septic system. The proposal was approved by the Commission on April 8, 2018 and is now pending recordation once all terms are satisfied.</p>
25	RO19-15 OAS19-15	<p>“Hamilton-Felicita Reorganization”</p> <ul style="list-style-type: none"> - City of Escondido (Annexation) - CSA No. 135 (Detachment) - Rincon del Diablo MWD (ID”E”) (Exclusion) 	Linda Heckenkamp	<p>Proposal application submitted in August 2019 by landowner petition requesting reorganization with the City of Escondido of two unincorporated parcels totaling approximately 0.63 acres and each developed with one single-family residence. Both residences provided documentation of failing/failed septic systems. Emergency OAS agreements for wastewater were granted to resolve the health and emergency situation in advance of annexation to Escondido. Reorganization with Escondido also required concurrent detachment from CSA No. 135 (Regional Communications) and exclusion from RDDMWD ID”E.” The proposal was approved by the Commission on June 1st, 2020 and is now pending recordation once all terms are satisfied.</p>
26	CO20-06	<p>“County Service Area No. 137 - Live Oak Springs Formation”</p> <ul style="list-style-type: none"> - Formation of County Service Area No.137 (Live Oak Springs Water) 	Linda Heckenkamp	<p>Proposal application submitted April 2020 by resolution of the County of San Diego. Involves formation of County Service Area No. 137 to assume retail water service responsibility for a failing private water company located in the unincorporated community of Live Oak Springs in the southeastern portion of unincorporated San Diego County. The affected territory includes approximately 151.5 acres. The proposal was approved by the Commission on June 1st, 2020 with a protest hearing held on July 2nd and now pending recordation once all terms are satisfied.</p>

File Number	Proposal Name Affected Agencies	Project Manager	Proposal Summary
PENDING PROPOSAL APPLICATION SUBMITTALS (No project manager; inquiries should be direct to Robert Barry)			
27	Pending “Harvest Hills Reorganization” - City of Escondido		This anticipated reorganization proposal is currently undergoing development and environmental review by the City of Escondido. Submittal to LAFCO anticipated for late 2020-2021. The anticipated proposal involves annexation of approximately 1,098 acres to the City for the primary purpose of developing a 550-lot residential subdivision. All of the affected territory lies outside the adopted Escondido sphere. Due to the scope of the proposal area a comprehensive update of the City’s sphere is warranted along with preparing the supporting municipal service review document. These and issues have been communicated to the City and are currently under joint review with other stakeholders. Project was originally titled as “Safari Highlands.”
28	Pending “Rancho Lomas Verde Reorganization” - City of Vista		This anticipated reorganization proposal is currently undergoing development and environmental review by the City of Vista. The anticipated proposal involves annexation of approximately 300 acres to the City of Vista and concurrent detachments from CSA 135 and the Vista FPD to facilitate a 153-lot residential development. Close to three-fourths of the project area lies outside the adopted Vista sphere. Due to the scope of the proposal area a comprehensive update of the City’s sphere is warranted along with preparing the supporting municipal service review document. These and issues have been communicated to the City and are currently under joint review with other stakeholders.
29	Pending “Sager Ranch Reorganization” - City of Escondido		This anticipated reorganization involves annexation of approximate 1,800 unincorporated acres to the City of Escondido and concurrent detachments from CSA 135 and the Valley Center FPD. The reorganization would facilitate the proposed development of approximately 200 acres to include 203 residential units and a 225-room resort. Portions of the project area lies outside the current City sphere. Due to the scope of the proposal area a comprehensive update of the City’s sphere is warranted along with preparing the supporting municipal service review document. These and issues have been communicated to the City and are currently under joint review with other stakeholders.
30	Pending Harmony Grove Village South (TM-626)		This anticipated reorganization involves the unincorporated Harmony Grove Village South project and specific to accommodating sewer services (among a variety of options) for the planned development of approximately 111 acres to include 453 residential units. On January 27, the San Diego Superior Court overturned the County development approvals for the project.



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

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AGENDA REPORT
 Consent | Information

August 3, 2020

TO: Commissioners

FROM: Tamaron Lockett, Commission Clerk
 Erica Blom, Administrative Assistant

**SUBJECT: CALAFCO Update |
 Annual Conference, Board Nominations, and Quarterly Report**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive updates on its statewide association – CALAFCO – and its current and planned activities. This includes CALAFCO recently canceling its Annual Conference previously scheduled for October 21-23 in Monterey due to COVID-19 with the goal of transitioning some and/or all planned content to one or more virtual sessions. Board elections will also transition this year and be carried out by mail ballot with nominations due no later than September 22nd. The updates are being presented for information and includes affirming past practice for the Chair to make any related Board nominations on behalf of the Commission.

BACKGROUND

California Association of Local Agency Formation Commissions (CALAFCO) was established in 1971 to assist members in fulfilling their prescribed regional growth management duties. Key services include facilitating information sharing among the 58 members by organizing annual conferences and workshops as well as providing technical assistance through training classes and email list-serves. A 16-member Board governs CALAFCO with elections done by region (northern, coastal, central, and southern). Each region is responsible for

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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electing four representatives consisting of one county, city, special district, and public member. Budget details are provided in the accompanying footnote.¹

DISCUSSION

This item is for San Diego LAFCO to receive updates on CALAFCO with respect to the Annual Conference as well as Board nominations. The item also includes the most recent quarterly report and related news from around the state's 58 LAFCOs. The item is being presented to the Commission for information only. Additional details follow.

Annual Conference

The CALAFCO Annual Conference scheduled for October 21-23 in Monterey has been canceled by the Board due to the ongoing COVID-19 pandemic. Notice of the cancellation was provided to the membership on July 7th along with advising that the Board is currently considering an alternative and virtual format for some or all of the planned sessions. More information on potential alternative sessions is expected shortly.

Board Nominations

San Diego LAFCO is assigned to CALAFCO's southern region with five other LAFCOs (Imperial, Los Angeles, Orange, Riverside, and San Bernardino). Two of the region's four assigned Board seats are up for election and involve (a) city and (b) public members. Due to the cancellation of the Annual Conference, the Board has transitioned the elections to mail-ballots with individual nominations due no later than September 22nd. Ballots will be subsequently distributed to all LAFCOs on October 7th with candidate information and due back to CALAFCO no later than October 21st.

Quarterly Report

CALAFCO's most recent quarterly report was issued in June and addresses several topics of interest, including news from other LAFCOs. A copy of the report is attached.

ANALYSIS

The cancellation of the Annual Conference is unfortunate given this venue serves as an excellent opportunity for attendees to learn and share insights in effectuating LAFCOs' duties and interests in facilitating orderly municipal growth. The Annual Conferences also serves as a valuable opportunity to network with colleagues. Accordingly, and while the networking value is lost, staff is hopeful CALAFCO proceeds in a substantive manner to transition some or all of the planned Annual Conference to online sessions. Staff separately encourages all city and public members on the Commission to consider their interest to serve on CALAFCO and coordinate with the Executive Officer and Chair in preparing any formal nominations.

¹ CALAFCO's adopted budget is currently \$0.300 million and entirely supported by membership dues that are based on a county per capita calculation with minimum and maximum amounts. San Diego LAFCO is one of 15 members that pay the maximum annual due of \$10,662.

RECOMMENDATION

This item is presented to San Diego LAFCO for information only.

ALTERNATIVES FOR ACTION

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

PROCEDURES

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

On behalf of staff,



Erica Blom
Administrative Assistant

Attachments:

- 1) CALAFCO Notice of Annual Conference Cancellation
- 2) Election Notice and Request for Nominations
- 3) CALAFCO Quarterly Report

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July 7, 2020

Dear CALAFCO Membership:

We continue to live in unprecedented times, dealing with the myriad of disruptive changes thrust upon us and our agencies. All of us continue to learn how to best navigate the path forward, both individually and collectively, with resilience and courage.

With the ongoing pandemic and the dialing back by many counties on re-opening, and the significant budget cuts looming for all local government agencies, careful consideration is being given to every decision organizations are making today. The same is true for CALAFCO and our Annual Conference.

Taking all of that into consideration with respect to the October Annual Conference, the CALAFCO Board of Directors and Executive Director believe CALAFCO has an ethical and corporate responsibility to our members, speakers, guests, their families and our collective communities. This responsibility includes mitigating as much as possible the spread of the virus and being responsible in our decisions to aid in the containment and protect the health and safety of our members. Given the fluidity of the situation, there are still no state guidelines as to larger gathering events and it is not likely they can be done safely anytime soon.

After careful thought and consideration, CALAFCO has decided to cancel this year's in-person Annual Conference which was scheduled for October 21-23 in Monterey.

So, what's next?

- Staff is researching options for a virtual event of some kind and will report to the Board of Directors during the July 24 meeting what options are reasonable and available. At this time, we do not know what that may look like, but we are hopeful by the end of the month we will know whether there will be a virtual event. As soon as there is information, you will be advised.
- CALAFCO staff may reach out to your LAFCo staff and commissioners and request feedback via a Survey Monkey survey. **Your feedback will be critical so please respond if asked.**
- CALAFCO is working with the Monterey Hyatt to re-book the Conference in 2023.
- The Board of Directors 2020 elections will be held by email ballot. Please watch for an update from the Elections Committee coming this week.
- We are researching options for holding the Annual Business Meeting and will advise you when that decision has been made.

If you have suggestions or questions, please let Executive Director Pamela Miller know. You can reach her at pmiller@calafco.org.

On behalf of the Board, we thank you for the leadership and the integrity you demonstrate as local government leaders every day, and especially in difficult times such as these.

Yours sincerely,

Mike McGill
Chair of the Board

Pamela Miller
Executive Director

CC: CALAFCO Board of Directors

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July 7, 2020

To: Local Agency Formation Commission
Members and Alternate Members

From: Shiva Frentzen, Committee Chair
CALAFCO Board Election Committee
CALAFCO Board of Directors



RE: IMPORTANT UPDATE - Elections for 2020/2021 CALAFCO Board of Directors

As you know, nominations are now open for the fall elections of the CALAFCO Board of Directors. Please refer to the announcement and nomination packet sent out to you on June 19, 2020 for details on which seats are open and other important information.

In that announcement we advised you that if we are unable to have an in-person annual conference due to the COVID-19 pandemic, the elections will be conducted by all mail ballot. **As the in-person annual conference has been cancelled, the 2020 Board of Directors elections will be an electronic ballot procedure.**

- ✓ We will use the timelines outlined in CALAFCO policies as detailed in the June 19 announcement with some slight modifications as provided below.
- ✓ CALAFCO still needs the name of your voting delegate. Please also provide their title and email address as the ballot will be emailed directly to your voting delegate. The voting delegate will also cast votes on behalf of your LAFCo at whatever virtual annual business meeting we may have.

Since there will be no caucus, there is no ability to nominate a candidate from the floor. All nominations must come from the nomination packets submitted and acknowledged as received by the deadline of September 22, 2020 at 5:00 p.m.

Please inform your Commission that the CALAFCO Election Committee is accepting nominations until Tuesday, September 22, 2020 at 5:00 p.m. and that this is the only way to get your name on the ballot and be considered for election.

The election committee and CALAFCO staff will meet virtually the morning of October 22 for purposes of tabulating the results and certifying the election. All election documents will be available for member LAFCo inspection upon request.

- **June 19** – Nomination Announcement and packet sent to LAFCo membership and posted on the CALAFCO website.
- **September 22** – Completed Nomination packet due
- **September 22** – Voting delegate name and email address due to CALAFCO
- **October 7** – Distribution of the Election Committee Report (includes all completed/submitted nomination papers)
- **October 7** – Distribution of ballots by email to voting delegate
- **October 21** – Ballots due to CALAFCO by 4:00 p.m. – **NO LATE BALLOTS WILL BE ACCEPTED**
- **October 22** – Elections tabulated by the Elections Committee and an announcement made to the membership

Please direct any questions you have about the election process to Executive Director Pamela Miller at pmiller@calafco.org or by calling her at 916-442-6536; or to the Election Committee Chair Shiva Frentzen at sfrentzen@calafco.org or by calling her at 530-621-5390.



News from the Board of Directors

CALAFCO QUARTERLY June 2020

A message from the Executive Director

So much has changed in our world since the last Quarterly Report in February of this year. Each of us have dealt personally with changes and health matters related to the COVID-19 pandemic; we've professionally dealt with

keeping LAFCo business going while striving to keep ourselves, each other and our communities healthy and safe; and been faced with understanding and responding to the fiscal fallout of the pandemic and the recent calls for racial and social justice...it can all overwhelm us if we let it.

This Quarterly Report will begin differently. We are highlighting the good news in our CALAFCO family first, followed by Association updates. Happy reading!

Welcome New LAFCo Family Members

We welcome two new babies to the CALAFCO family!

San Mateo LAFCo Mgmt. Analyst Rob Bartoli and his wife Michelle welcomed (10 days early) **Luca Robert Bartoli** on March 30, 2020. Luca weighed in at 7 lbs., 11 oz. The family is all well, healthy and enjoying the comforts of home.



Not to be outdone, Napa LAFCo Executive Officer Brendon Freeman and family welcomed **Noah Campos Freeman** into the world on April 6, 2020. Noah tipped the scales at 8 lbs., 11 oz. upon his release from quarantine. Mom Isabel, Noah and Dad are all doing fine. Although neither set of parents are getting much sleep right now!

Congratulations to the Freemans and Bartoli's on bringing two future LAFCo EOs into the world!

Congratulations on Upcoming Retirements

We want to congratulate two long-time LAFCo leaders on their upcoming retirements. Their contributions to CALAFCO and to LAFCos statewide are far too numerous to list here. Needless to say, they both leave huge shoes to fill and will be greatly missed. We wish them both all the best in their retirement!

After a distinguished near 20-year career with Sonoma LAFCo, Asst. EO **Carole Cooper** is retiring at the end of June. Carole spent 12 years on the CALAFCO Legislative Committee and was the recipient of the CALAFCO Project of the Year Award as part of the team that revised the definition section of CKH, and received the Outstanding LAFCo Professional Award.



San Luis Obispo LAFCo EO **David Church** is also calling it time to retire. David has been with his LAFCo for almost 19 years and will be retiring in July. David also spent a number of years contributing to CALAFCO on the Legislative Committee and as the Deputy EO representing the coastal region for four years. David received several CALAFCO Achievement Awards including the Mike Gotch Courage & Innovation in Local Government Leadership Award and the Outstanding LAFCo Professional Award.



LAFCos in the News

Tuolumne LAFCo Adds Special Districts

For the first time since 2012, special districts have been added to a LAFCo! CALAFCO acknowledges the hard work of **Tuolumne LAFCo** and congratulates them on adding special districts to their LAFCo. This is no easy feat and their process was a long one. We will learn more about it from EO **Quincy Yaley** in our next edition of *The Sphere*. As of today, 31 of the 58 LAFCos have special district representation. Way to go Tuolumne LAFCo!

Santa Clara LAFCo Receives Award for Communication and Outreach Plan

Earlier this month, **Santa Clara LAFCo** received the American Planning Association - California Northern Chapter's "Award of Excellence - Communication Initiative" for their communication and outreach plan. The APA highlighted the plan as one of the outstanding winners for its "fresh ideas that are transferable to other communities and represent guidebooks toward a more inclusive, accessible and equitable planning future."

Los Angeles LAFCo Receives Award of Excellence

In May, the Los Angeles Chapter of the American Planning Association awarded its "Award of Excellence: Hard Won Victories" for "Rescuing the Sativa Water System" to **LA LAFCo**, the County of Los Angeles, and the SWRCB for their collaborative work on the Agency.

CALAFCO congratulates **Tuolumne, Santa Clara** and **Los Angeles** LAFCos on their achievements!



News from the Board of Directors

CALAFCO QUARTERLY

June 2020

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CALAFCO BOARD UPDATE

The CALAFCO Board met February 21 and May 1. Here is a summary of the actions taken by the Board at these respective meetings.



February 21

As a follow up to the December 2019 meeting, the Board continued the discussion of transitioning the two primary contractors to employees to comply with AB 5. In executive session, the Board accepted the retirement announcement of Executive Director Pamela Miller, developed a recruitment plan and timeline and discussed the transition.

The Board considered the Tulare LAFCo proposed dues structure. After much discussion, they unanimously approved the convening of an ad hoc committee sometime in the summer to once again look at the dues structure that was adopted by the membership in October 2019. It is likely that this ad hoc committee will also include several member LAFCos outside of the Board.

Other actions the Board took at this meeting included:

- ✓ Reconfirmed no CPI increase (pursuant to Bylaws) for the FY 2020-21 LAFCo dues;
- ✓ Approved a request from Contra Costa LAFCo to prepare and file an amicus brief
- ✓ Conducted the annual dashboard review of the 2019 Strategic Plan objectives; and
- ✓ Accepted a series of reports including the 2020 conflict of interest filings, quarterly financial and investment reports, and the legislative report.

May 1

After careful consideration, the Board adopted a balanced budget for FY 2020-21. There are several notable differences in this budget as compared to past budgets, including:

- The Annual Conference revenue and expenses were adjusted for a smaller attendance and for a break-even model due to the pandemic;
- We are now budgeting for employer expenses such as employer's insurance, payroll services and payroll taxes, workers' compensation and overtime for the Administrator which is a non-exempt position; and
- For the first time, the operational costs of the Association are covered by member LAFCo dues, so there is no budget deficit. This is a result of the membership approving the new dues structure at the October 31, 2019 annual business meeting.

The Board also received a report from the Executive Director (ED) Recruitment Committee on the progress of the recruitment. During this report current ED Pamela Miller shared that given the uncertain times we are currently in and will be facing for the unforeseen future, she did not see

this is not a good time for a change in leadership for the Association and offered to stay on as the ED. The Recruitment Committee then took this under advisement.

Other actions taken by the Board at the May 1 meeting included:

- ✓ Received and filed the quarterly financial and investment reports;
- ✓ Received and filed the Legislative Committee report; and
- ✓ Received a verbal update on the Annual Conference from the Conference Chair and Program Chair.

All Board meeting packets are posted on the CALAFCO website.

EXECUTIVE DIRECTOR PAMELA MILLER STAYING WITH CALAFCO

As was announced in early June, Pamela Miller will be staying with the Association as Executive Director. To comply with the requirements of AB 5, both Pamela and Jeni Tickler, CALAFCO's Administrator, will be transitioning to employee status effective September 1. Both will remain as part-time employees.

2020 STAFF WORKSHOP AND ANNUAL CONFERENCE

Staff Workshop

Due to the COVID-19 pandemic, CALAFCO's Staff Workshop was cancelled. The workshop was scheduled for March 25-27 in Newport Beach. As it turned out, this was the right call, and done ahead of the March 19 stay-at-home order issued by the Governor.

CALAFCO staff was able to negotiate a revision in the facility contract to avoid a cancellation fee of over \$36,000. The workshop for 2020 has been booked at the same facility with only a slight increase in the food and beverage minimum and room rates. Further, all deposits (hotel, bus, boat, and caterer for the mobile workshop) were successfully moved forward to next year without penalty.

We wish to thank our Workshop hosts, *Imperial* and *Orange LAFCos* and their staff who worked so hard to prepare a fabulous workshop, and Program Chair *Gary Thompson*. His team did such an outstanding job that the program as planned will be moved forward to the 2021 Workshop.

Annual Conference

The Annual Conference is currently scheduled for October 21-23 in Monterey at the Hyatt Regency. Due to the ongoing restrictions on gatherings because of COVID-19, and due to shrinking local agency budgets, CALAFCO staff is currently exploring viable options for the Conference. The Program Planning Committee is already hard at work and planning session topics that are extremely relevant for the times. Details about the Conference will be announced as soon as a decision is made. We want to thank Conference Chair 110

News from the Board of Directors

CALAFCO QUARTERLY

June 2020

Page 3



Jane Parker and Program Chair *Christine Crawford*, as well as the entire program planning team for their work thus far.

Your Board's top priority is ensuring the health and safety of all of you, our Association members, your families, and those at the hotel facility. Our decision will be based with that in mind as priority #1.

CALAFCO UNIVERSITY

Under the leadership of *Martha Poyatos*, the format of the CALAFCO University is being revised. For the remainder of the year, we will be offering all CALAFCO U sessions virtually. We are currently planning a series of short online sessions including LAFCo 101 for staff, Clerk 101 (to include Public Records Requests and BOE info), and a LAFCo Primer for Commissioners. This series will be offered at no cost to all member LAFCo staff and commissioners, and will be recorded and placed online for on-demand access to our members. A number of other courses are also being planned, so keep an eye open for announcements coming soon.



CALAFCO LEGISLATIVE UPDATE

This has been a legislative year like no other given the pandemic. As we have been reporting, the Legislature went into recess to comply with the Governor's stay at home orders and was out for several months without bills moving. Upon return, both houses adopted revised calendars and cut

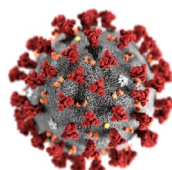
back their bill count significantly.

As you are all aware, the state is now grappling with a \$54 billion deficit and Legislators are having to make difficult decisions on how to close that deficit gap. One thing is certain – even if there is federal funding assistance, local governments throughout the state will be operating in fiscal crisis for several years to come.

As a result, the CALAFCO legislative priorities for the year have all but vanished. The LAFCo funding bill not be moving forward and our work with the Protest Provisions Rewrite Working Group has been put on pause. Staff hopes to reconvene that working group in late summer.

CALAFCO'S COVID-19 RESPONSE AND MEMBER SUPPORT

As all of you were forced to quickly pivot and revise the way you conduct business in March, so was CALAFCO staff. We have been working remotely since mid-March and monitor the office mail and voicemails. Both Pamela and Jeni continue to do everything as usual, just from home.



Seeing a need to support LAFCo staff as they navigated the difficult waters of caring for themselves, their commissions, and the public so that business would be seamless, CALAFCO began hosting weekly meetings for Executive Officers and another for Clerks. These meetings create a space in which LAFCo staff can discuss the unusual issues they are dealing with, share ideas and collectively develop solutions. Over three months later, the meetings are now transitioning to bi-weekly.

CALAFCO staff also issued a number of special bulletins to the full membership over the past several months, sharing critical information and resources as appropriate. In addition, we are sharing a variety of resources and educational opportunities from other resources on things like conducting virtual meetings, fiscal impacts of COVID, etc.

Seeing a need for remote meeting resources for our member LAFCos, CALAFCO offered our toll free conference calling system for you to conduct your meetings and in May purchased several Zoom licenses, one specifically for use by our member LAFCos to conduct your meetings virtually at no cost to you.

We hope you have found these resources useful and we will continue to work in providing you the support you need.

CALAFCO ADMINISTRATIVE UPDATE

We successfully migrated to a new email server at the end of February and are happy to report the transition was seamless and has resolved all of CALAFCO staff's email issues.



The CALAFCO website is being updated to enhance the library archives and member forms sections. So far over the past several months the following updates have occurred:

- ✓ CALAFCO University session archives are fully updated with all prior CALAFCO U session materials online
- ✓ Attorney General Opinions section is fully updated with all AG Opinions posted
- ✓ CALAFCO Directories have all been indexed, reorganized and updated
- ✓ In CALAFCO Publications, The Sphere section has been fully updated with a more usable indexing
- ✓ In the Resources section, all of the Useful Weblinks have been updated.

Future updates (some currently in progress) include a full update and re-indexing of the Forms Library and updating of the LAFCo litigation section.



CALAFCO BOARD OF DIRECTORS NOMINATION PERIOD OPEN

The nomination period for the 2020 CALAFCO Board of Directors election is open. Nominations are being accepted through 5:00 p.m. September 22, 2020. Nomination packets were emailed to all LAFCo EOs, are placed on the CALAFCO website, and hard copies will be mailed to each LAFCo office.



CALAFCO Associate Members' Corner

This section highlights our Associate Members. The information below is provided to CALAFCO by the Associate member upon joining the Association. All Associate member information can be found in the CALAFCO Member Directory.

Our last edition featured our Gold Associate Members. In our next several editions we will highlight our Silver Associate Members.

Berkson Associates **Berkson Associates**

provides clear, concise analysis for preparation of governance studies including district formation, consolidation and dissolutions. Extensive experience completing incorporation studies. Expertise also includes market analysis, public agency budget forecasting and demographic/housing analysis in support of MSRs. For more information, contact **Richard Berkson** at richard@berksonassociates.com. You can also visit their website at www.berksonassociates.com.



Santa Ynez Community Services District



SANTA YNEZ
COMMUNITY SERVICES DISTRICT

Founded in 1971, **the Santa Ynez Community Services District** provides wastewater collection and transportation and street lighting, serving approximately 688 wastewater connections. Effluent collected by the District is treated at the City of Solvang wastewater treatment plant. For more information about the District, visit their website at www.sycsd.com, or contact the Secretary/Treasurer **Wendy Berry** at wendy@sycsd.com.

Rosenow Spevacek Group, Inc.

RSG is a creatively charged counterpart to California public agencies. They work with the people responsible for vibrant places and propel them to their goals. Better Communities. Bolder futures. To learn more about them visit their website at www.webrsg.com or contact **Jim Simon** at jsimon@webrsg.com.



City of Fontana



City of Fontana is responsible for managing the City's annexation program, which includes coordinating annexation meetings, meeting with landowners and developers concerning the benefits of annexation, preparing Plans for Services, overseeing preparation of environmental documents pertaining to rezoning and annexation, and presenting them to the Planning Commission, City Council and LAFCo for review and consideration. In addition, oversee the preparation of out-of-agency service agreements for sewer and other municipal services. Visit them at www.fontana.org.

CALAFCO wishes to thank all of our Associate Members for your ongoing support and partnership. We look forward to continue highlighting you in future Quarterly Reports.

Mark Your Calendars For These Upcoming CALAFCO Events

- ❖ CALAFCO Legislative Committee meeting – July 17, 2020 via conference call
- ❖ CALAFCO Board of Directors meeting – July 24, 2020 – Location TBD



The full revised CALAFCO 2020 Calendar of Events can be found on the CALAFCO website. It is being updated regularly as events and meetings are cancelled or changed.

All CALAFCO Board and Legislative Committee meeting packets are available online at www.calafco.org.

Your CALAFCO Board and Staff wish all of you a safe and healthy summer. We continue to face both known and unknown challenges. As we do, keeping ourselves, our families, our work teams, and our communities healthy and safe remains a priority. Please, be well.





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

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AGENDA REPORT
 Consent | Action

August 3, 2020

TO: Commissioners

FROM: Keene Simonds, Executive Officer
 Ruth Arellano, Executive Assistant

SUBJECT: Approval of Independent Audit Expense for FY2019-2020

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider approval of an independent audit expense in the amount of \$9,950 with R.J. Ricciardi and Associates covering 2019-2020. This amount is consistent with the terms of an earlier proposal received from R.J. Ricciardi and Associates to provide annual auditing services to the Commission as part of an open selection process completed in September 2019. Staff recommends the Commission approve the expense with any related direction in proceeding with the audit.

BACKGROUND

**Adopted Policies |
 Selection of Independent Auditor and Audit Expense Approval**

San Diego LAFCO’s adopted policies authorize the Executive Officer to engage the services of an outside accounting firm to audit the Commission’s financial statements on an annual basis. The Commission separately establishes procurement allowances for the Executive Officer and includes competitive bid procedures for transactions at or above \$10,000 and separate Commission approval for transactions at or above \$125,000. The procurement

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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policies apply for all transactions with the notable exception of requiring Commission approval for any independent audit expense regardless of the amount.

DISCUSSION

This item is for San Diego LAFCO to consider a recommendation from the Executive Officer to approve an independent audit expense for R.J. Ricciardi and Associates (San Rafael) to review the Commission's financial statements for 2019-2020. The expense totals \$9,950 and includes the preparation of the audit report, management letter, and all related travel expenses associated with preparing the documents.

ANALYSIS

The recommended expense approval for independent audit services to review San Diego LAFCO's financial statements in 2019-2020 can be readily accommodated through the adopted budget. Approval is also informed by a recent competitive selection process with additional details footnoted.¹ If approved, R.J. Ricciardi and Associates anticipates initiating the audit in September with an onsite visit in early October subject to any travel restrictions associated with the COVID-19 pandemic.

RECOMMENDATION

It is recommended San Diego LAFCO approve the independent audit expense with R.J. Ricciardi and Associates in the amount of \$9,950 to provide an audit report for 2019-2020. This recommendation is consistent with Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO.

Alternative One (recommended):

Approve the independent audit expense with R.J. Ricciardi and Associates to prepare an audit for 2019-2020 as provided under policy.

Alternative Two:

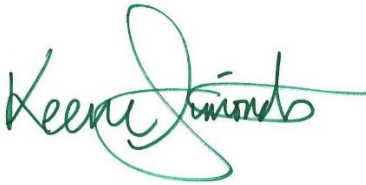
Continue consideration to a future meeting and provide direction to staff concerning additional information or related tasks.

¹ The competitive process commenced in June 2019 with the preparation of a request for proposal (RFP) by the Executive Officer for auditing services beginning with 2018-2019 with one-year options through 2022-2023. The RFP was directly circulated to 15 established accounting firms as well as posted on the LAFCO website. The RFP generated four written responses and were subsequently reviewed for completeness by the Executive Officer. All four responders proceeded to participate in interviews with the Executive Officer and Administrative Assistant and relative to considering four distinct criteria factors: (a) completeness of the written proposal; (b) firm qualifications; (c) client references; and (d) costs. At the conclusion of the interview process, the Executive Officer subsequently selected R.J. Ricciardi's proposal.

PROCEDURES

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

Respectfully,



Keene Simonds
Executive Officer

Attachment:

- 1) Audit Engagement Letter

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R. J. RICCIARDI, INC.
CERTIFIED PUBLIC ACCOUNTANTS

June 10, 2020

Keene Simonds, Executive Officer
San Diego Local Agency Formation Commission
9335 Hazard Way, Suite 200
San Diego, California 92123

Dear Mr. Simonds:

We are pleased to confirm our understanding of the services we are to provide San Diego Local Agency Formation Commission for the year ended June 30, 2020. We will audit the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of San Diego Local Agency Formation Commission as of and for the year ended June 30, 2020. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement San Diego Local Agency Formation Commission's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to San Diego Local Agency Formation Commission's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis.
2. Statements of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual – General Fund.
3. Proportionate Share of Net Pension Liability (Asset).
4. Schedule of Contributions.
5. Schedule of Changes in Net Other-Post Employment Benefits Liability and Related Ratios.
6. Schedule of Contributions – OPEB.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions.

We will issue a written report upon completion of our audit of San Diego Local Agency Formation Commission's financial statements. Our report will be addressed to the Board of Directors of San Diego Local Agency Formation Commission. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of San Diego Local Agency Formation Commission's compliance with provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion.

Other Services

We will also assist in preparing the financial statements of San Diego Local Agency Formation Commission in conformity with U.S. generally accepted accounting principles based on information provided by you. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for designing, implementing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, including identification of all related parties and all related-party relationships and transactions, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws and regulations.

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

You agree to assume all management responsibilities for financial statement preparation services and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party

service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, and other confirmations we request and will locate any documents selected by us for testing. Further, we understand that your employees will prepare all information we request in our Client Participation List in the format requested and send it to us 30 days prior to scheduling the audit field work. If you have insufficient personnel or time to prepare these items we can assist you in this area and we will discuss with you the additional time required and estimated fee for these services.

The audit documentation for this engagement is the property of R. J. Ricciardi, Inc. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the regulating entity or its designee. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of R. J. Ricciardi, Inc. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the regulating entity or its designee. The regulating entity or its designee may intend or decide to distribute the copies or information contained therein to others, including other governmental agencies.

Michael O'Connor is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our estimated fees for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our estimated fee, including expenses will be \$9,950 for the audit. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes thirty days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit.

You may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you regarding the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.

If additional time is needed for us to assist San Diego Local Agency Formation Commission in the resolution or investigation of accounting errors, discrepancies, or reconciliation issues, assistance in the preparation of schedules, or to reflect in our workpapers corrections to the San Diego Local Agency Formation Commission's accounting records made after the start of the engagement, we will perform such additional work at our standard hourly rates indicated below:

Director \$180
Manager \$130
Senior accountant \$100-115
Staff accountant \$70-75

In addition to the estimated fees noted above, we reserve the right to invoice San Diego Local Agency Formation Commission at our standard hourly rates for time incurred providing information to successor auditors in compliance with SAS. No. 84. Our invoices and related fees for this service will be payable upon presentation.

We reserve the right to suspend or terminate our work if you have failed to fulfill your responsibilities set forth in this engagement letter, and such failure materially interferes with our work. If our work is suspended or terminated because

of your failure to fulfill your responsibilities set forth in this engagement letter, you agree that we will not be responsible for your failure to meet government and other deadlines, for any penalties or interest that may be assessed against you resulting from your failure to meet such deadlines, and for any damages (including consequential damages) incurred as a result of the suspension or termination of our work.

We appreciate the opportunity to be of service to San Diego Local Agency Formation Commission, and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

R. J. Ricciardi, Inc.

R.J. Ricciardi, Inc.
Certified Public Accountants

RESPONSE:

This letter correctly sets forth the understanding of San Diego Local Agency Formation Commission:

Officer signature: _____

Title: _____

Date: _____

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

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AGENDA REPORT
 Public Hearing

August 3, 2020

TO: Commissioners

FROM: Keene Simonds, Executive Officer
 Holly O. Whatley, Commission Counsel

SUBJECT: Proposed Amendments to Adopted Conflict of Interest Code

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider amendments to its adopted Conflict of Interest Code as part of a biennial review. Most of the amendments involve clarifying existing provisions with respect to identifying designated positions and applicable disclosure categories in filing annual statements of economic interest. This includes – notably – revising the disclosure categories to readily sync with Form 700s. The proposed amendments are being presented for Commission approval and for subsequent filing with the County of San Diego Board of Supervisors as the code-reviewing body for LAFCO.

BACKGROUND

Political Reform Act

California Government Code Section 87300 codifies the Political Reform Act of 1974 and requires State and local government agencies to adopt their own conflict of interest codes and perform biennial reviews to consider amendments as needed. The conflict of interest code prescribes filing requirements for public officials with respect to reporting outside incomes, gifts, and other financial interests. The underlying purpose of the conflict of interest code is to prevent biases – actual and apparent – tied to the financial interests of decision-makers.

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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Adopted Conflict of Interest Code

San Diego LAFCO adopted its Conflict of Interest Code in 1992 with subsequent amendments approved by the Commission in 1995 and 2008. The Code follows best practices that were in place at the time of its adoption and subsequent amendments and this includes incorporating by reference the standard requirements established by the Fair Political Practices Commission. The remainder of the Code provides guidance in filing statements of economic interests – or Forms 700. This includes designating reporting positions and assigning disclosure categories.

DISCUSSION

This item is for San Diego LAFCO to consider approving proposed amendments to its Conflict of Interest Code as part of the Commission’s biennial review. Should the Commission approve the amendments they would be forwarded to the County of San Diego Board of Supervisors for their approval as the code-reviewing body for LAFCO under statute. A summary of proposed amendments follows and further detailed in Attachment One.

- Designate the newly created Commission Clerk position as the official filling officer for San Diego LAFCO and responsible for requesting, receiving, and retaining all Form 700s. The current Code does not identify a filling officer.
- Identify two filing options for designated officials, employees, and consultants to submit their Form 700s: (a) paper and (b) electronically through the County of San Diego’s e-filing system. The current Code does not address the latter option.
- Streamline designated positions in the Code with respect to Commissioners and reduce listings to regular and alternates. The current Code distinguishes Commissioners by their appointing authority (i.e. County, city, district, and public).
- Add Commission Counsel and Deputy Commission Counsel to the list of designated positions required to file annual Form 700s. The current Code by practice requires these positions file as consultants. Also add the recently created position of GIS/IT Analyst.
- Restructure “disclosure categories” to more readily sync to Form 700 with respect to having five distinct fields and in doing so make it easier for designated positions to know what schedules (i.e. A, B, C, etc.) apply.
- Differentiate levels of disclosures required of designated positions at San Diego based on their level decision-making authority. The current code applies the same disclosure thresholds for all designated positions.

ANALYSIS

San Diego LAFCO's existing Conflict of Interest Code dates to 2008 and the proposed amendments take aim to clarify and simplify administration and end-user compliance. Substantive clarifications include designating a position-specific filing officer (Commission Clerk) and allowing filers the option under policy to submit Form 700s by paper or electronically using the County of San Diego's e-filing system. Substantive simplifications include revising the disclosure categories to explicitly align with Form 700s and help avoid filing inconsistencies.

RECOMMENDATION

Staff recommends San Diego LAFCO approve the proposed amendments to the Conflict of Interest Code based on the preceding analysis. This recommendation is consistent with Alternative One outlined in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO:

Alternative One (recommended):

- (a) Approve the proposed amendments to the Conflict of Interest Code as presented in Attachment One with any specified changes.
- (b) Direct the Commission Clerk to file the amended Conflict of Interest Code with the Board Clerk for the County of San Diego for consideration by the Board of Supervisors.

Alternative Two:

Continue consideration to a future meeting and provide direction to staff concerning additional information, as needed.

Alternative Three:

No action.

(continued to next page)

PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of a noticed public hearing. The following procedures are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff unless waived.
- 2) Open the hearing and invite comments.
- 3) Discuss item and consider the staff recommendation.

Respectfully,



Keene Simonds
Executive Officer

Attachments:

- 1) Proposed Amendments to Conflict of Interest Code (track-changes)

**SAN DIEGO COUNTY
LOCAL AGENCY FORMATION COMMISSION**

**ARTICLE VII
CONFLICT OF INTEREST CODE**

On September 14, 1992, pursuant to the provisions of Government Code Section 87306, the San Diego Local Agency Formation Commission (LAFCO) amended its Conflict of Interest Code adopted September 12, 1977 by substituting and incorporating by reference the terms of Fair Political Practices Commission Regulation No. 18730. Said amended Code was approved by the Board of Supervisors, as LAFCO's Code Reviewing Body, on January 5, 1993.

Copies of the Commission's amended Conflict of Interest Code and FPPC Regulation 18730 are attached hereto for reference, and identified as, respectively, Attachment 1 and Attachment 2.

*Adopted September 14, 1992
Administratively Revised and Corrected September 22, 1994
Updated July 31, 1995
Administratively Revised and Corrected March 27, 2000
Comprehensively Updated and re-adopted March 3, 2008
Administratively Revised and Corrected June 15, 2010*

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CONFLICT OF INTEREST CODE FOR THE SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

The Political Reform Act, Government Code Section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interests codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference, and, along with the attached Appendix in which members and employees are designated and disclosure categories are set forth, constitute the conflict of interest code of the San Diego County Local Agency Formation Commission.

~~All officials and Pursuant to Section 4 of the standard code, designated employees shall file statements of economic interests – also known as Form 700 – with the agency Commission Clerk. Should statements be received in signed paper format the Commission Clerk shall make and retain copies and forward the originals to the Clerk of the Board of Supervisors for the County of San Diego as the LAFCO filing officer. Should statements be filed using the County of San Diego’s Form 700 e-filing system both the Commission Clerk and the Clerk of the Board of Supervisors will receive access to the e-filed statements simultaneously. The Commission Clerk will make all retained statements available for public inspection and reproduction during regular business hours. Upon receipt of the statements of the designated commissioners and the executive officer, the San Diego Local Agency Formation Commission shall make and retain a copy and forward the original of these statements to the office of the Clerk of the Board of~~

~~Supervisors. Statements for all other designated employees will be retained by the agency.~~

Exhibit A:

Designated Positions

Exhibit B:

Disclosure Categories

Adopted September 14, 1992

Administratively Revised and Corrected September 22, 1994

Updated July 31, 1995

Administratively Revised and Corrected March 27, 2000

Comprehensively Updated and re-adopted March 3, 2008

Administratively Revised and Corrected June 15, 2010

APPENDIX
EXHIBIT A

DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>*Reportable Economic Interest Category Number</u>
<u>A. -Officials</u>	
Regular Members of the Commission-Regular and Alternate	1, 2, 3, 4, and 5
—City Members	
Alternate Members of the CommissionRegular and Alternate	1, 2, 3, 4 and 5
City of San Diego Members	1, 2, 3
—Regular and Alternate	
—Special District Members	1, 2, 3
—Regular and Alternate	
—Public Members	1, 2, 3
<u>B. Management and Other Employees</u>	
Executive Officer	1, 2, 3, 4, and 5
Assistant Executive Officer	1, 2, 3, 4, and 5
Chief, Policy Research	1, 2, 3, 4, and 5
Chief, Governmental Services	1, 2, 3, 4, and 5
Local Governmental Analyst III	1, 2, 3 4 and 5
Local Governmental Analyst II	1, 2, 3 4 and 5
Local Governmental Analyst I	1, 2, 3 4 and 5
<u>GIS/IT Analyst</u>	<u>4 and 5</u>
<u>C. General Counsel</u>	
<u>Commission Counsel</u>	<u>1, 2, 3, 4, and 5</u>
<u>Deputy Commission Counsel</u>	<u>1, 2, 3, 4, and 5</u>

D. Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitations:

The Executive Officer may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

EXHIBIT B

DISCLOSURE CATEGORIES

~~*(1) All sources of income, (2) Interests in real property, (3) Investments and business positions in business entities, as defined in FPPC Reg. No. 18730.~~

Category 1

Designated officials or employees assigned to this category must report:

All investments involving stocks, bonds, and other interest where ownership is less than 10 percent. (Schedule A-1 in Form 700)

All investments, income, and assets of businesses entities and/or trusts where ownership is 10 percent or greater. (Schedule A-2 in Form 700)

Category 2

Designated officials or employees assigned to this category must report:

All interests in real estate – including rental properties – located within San Diego County and any other areas in which the Commission is exercising any of its regulatory or planning duties and powers. (Schedule B in Form 700)

Category 3

Designated officials or employees assigned to this category must report:

All income and associated businesses and business positions that include spouses or domestic partners as well as any personnel loans. (Schedule C in Form 700)

Category 4

Designated officials or employees assigned to this category must report:

All gifts received directly or through intermediaries with a fair market value of \$50 or more. (Schedule D in Form 700).

Category 5

Designated officials or employees assigned to this category must report:

All travel and associated lodging and meals provided free of charge or reimbursed.
(Schedule E in Form 700)



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

7a

AGENDA REPORT
 Business | Discussion

August 3, 2020

TO: Commission

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

SUBJECT: Draft Update to Agricultural and Open Space Lands Policy

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will review a draft update to the “Preservation of Open-Space and Agricultural Lands Policy.” The draft returns with changes from an earlier version presented in March 2019 to reflect initial Commission feedback and stakeholder input. The draft includes several substantive revisions that collectively aim to better balance the Commission’s statutory direction to preserve agricultural and open space resources while reflecting local conditions and objectives. This latter consideration includes – notably – policy provisions to encourage new agricultural uses. The update is being presented for discussion and feedback and ahead of staff initiating a formal public review process before returning for action as early as October 2020.

BACKGROUND

Agricultural and Open Space Lands Policy

San Diego LAFCO’s Preservation of Open-Space and Agricultural Lands Policy was adopted in November 1978 and last amended by the Commission in May 1998. The policy restates germane provisions of statute with respect to tasking the Commission to preserve open-space and agricultural lands and associated procedures. This includes a premising statement to discourage proposals that would convert prime agricultural or open-space lands to other

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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uses the actions would promote the planned orderly and efficient development of an area. Technical revisions to the policy to include updated cross-references were performed by the Executive Officer in 2001 and 2015.

Scheduled Update to Agricultural and Open Space Lands Policy | Initial Presentation and Feedback on a Draft Update in March 2019

The Commission’s current 2020-2021 workplan was adopted at a noticed hearing in May 2020 and outlines over two-dozen project goals for the fiscal year. The workplan is also organized to categorize projects into one of three priority levels: high; moderate; and low. The workplan includes continuation of an earlier scheduled update to the Commission’s Preservation of Open-Space and Agricultural Lands Policy as a high priority and – among other considerations – timed in response to the issuance of a topical CALAFCO white paper exploring industry best practices.¹ The project was originally scheduled as part of the 2018-2019 workplan with an initial draft update presented to the Commission in March 2019 with subsequent direction to staff to revisit and perform local stakeholder outreach. The Executive Officer subsequently requested and received approval to continue the project into 2020-2021.

DISCUSSION

This item is for San Diego LAFCO to review and discuss a draft update to the Preservation of Open-Space and Agricultural Lands Policy and provide feedback to staff ahead of initiating a formal public review and comment period. The draft has been substantively reworked compared to an initial version presented in March 2019 and incorporates Commission comments as well as subsequent input solicited from key stakeholders – including the San Diego County Farm Bureau and Wildlife Habitat Conservation Coalition. Staff also actively consulted with both the Cities and Special Districts Advisory Committees with the latter group creating a dedicated subcommittee to more closely review and discuss revisions.²

Notable revisions in the draft update are summarized below and detailed in Attachment One.

- Distinguish Between Agricultural and Open Space Lands
Bifurcate the policy to explicitly distinguish between agricultural and open space lands and their distinct societal functions relative to Commission’s duties.
- Address Wildlife and Local Habitat Planning in Open Space Considerations
Expand the policy to distinguish differences in open space types and prioritize the protection of natural (unbuilt) open space lands supporting wildlife.

¹ The CALAFCO white paper was prepared in partnership with the American Farmland Trust in February 2018 and explores statewide trends involving the conversion of “important farmland” along with reviewing the policies of several LAFCOs in ag-concentrated counties in devising a series of best practices divided between three distinct phases: (a) avoidance; (b) minimization; and (c) mitigation. The white paper further recommends LAFCOs orient their agricultural preservation policies to be – and among other attributes – goal-oriented, programmatic, and simple.

² The Special Districts Advisory Committee’s subcommittee includes Chair Kimberly Thorner (Olivenhain MWD), Tom Kennedy (Rainbow MWD), Sheryl Landrum (RCD of Greater San Diego County), and Jack Bebee (Fallbrook PUD).

- Use of Open Space as Municipal Greenbelts
Encourage the County of San Diego and cities to strategically coordinate and maintain open space lands as municipal greenbelts and create community separators. This addition – pertinently – recognizes open space as a municipal service.
- Expand Focus to Address All Agricultural
Expand the policy provisions from its existing focus on prime agriculture to address all agriculture (i.e. unique farmland, farmland of statewide or local importance, etc.).
- Distinguish Between In-Ground and Above-Ground Agriculture
Revise the policy to make distinctions between above-ground agriculture activities (e.g. floral nurseries) and in-ground activities (e.g. row crops) and provide the Commission additional latitude in considering proposals involving the former category.
- No Harm Provision: Lands No Longer Viable for Agricultural Use
Add a policy exception for lands that otherwise qualify as agriculture or prime agriculture under statute (i.e., potential to generate a commodity value of at least \$400 an acre) if disused for agricultural purposes over the preceding 60-month period. This provision helps to locally quantify the economic viability of agricultural uses for lands subject to Commission proceedings and intended to also encourage (or not discourage) new agricultural ventures without triggering future LAFCO restrictions.
- Extending Municipal Services to Support Agricultural Uses
Broaden the policy to contemplate circumstances when the extension of municipal services to agricultural lands through jurisdictional changes and/or out-of-agency contracts may be appropriate in maintaining economic vitality.

ANALYSIS

San Diego LAFCO's Preservation of Open-Space and Agricultural Lands Policy directly addresses the Commission's central and sometimes competing interests in statute to protect agricultural and open space while accommodating new growth and development. The draft update incorporates earlier Commission feedback as well as solicited stakeholder input to better address this balance relative to current trends and local conditions. These efforts are highlighted by the seven highlighted revisions detailed in the preceding section and collectively reflect a more proactive approach to communicating Commission orientation towards agriculture and open space lands to potential applicants. Staff anticipates further refining the update following broader public review but believes the version before the Commission is a good starting point for reengaging the membership.

RECOMMENDATION

It is recommended San Diego LAFCO discuss the draft update to the Preservation of Open-Space Agricultural Lands Policy and provide feedback as appropriate. The level and type of feedback will inform staff whether to proceed with a formal public comment period.

ALTERNATIVES FOR ACTION

This item is being presented to San Diego LAFCO for discussion and feedback; no formal action.

PROCEDURES

This item has been placed on San Diego LAFCO's agenda for discussion as part of the business calendar. The following procedures, accordingly, apply:

- 1) Receive verbal presentation from staff unless waived.
- 2) Initial questions or clarifications from the Committee.
- 3) Discuss item and provide feedback as requested.

Respectfully,



Keene Simonds
Executive Officer

Attachment:

- 1) Draft Update to Agricultural and Open Space Lands Policy (track-changes)

DRAFT UPDATE
July 24, 2020

LEGISLATIVE POLICY L-101

Subject

PRESERVATION OF OPEN SPACE AND AGRICULTURAL LANDS

Purpose

To further the policies and priorities of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 regarding the preservation and enhancement of natural open space and prime agricultural lands and provide guidance therein to applicants and other interested parties.

Background

The State Legislature has instructed Local Agency Formation Commissions to establish policies that address the preservation of open space and agriculture (Govt. Codes § 56300 and 56377). This includes considering the effects of all spheres of influence and jurisdictional changes on open space and agricultural lands (Govt. Codes § 56425 and 56668). Additional instruction involves prime agricultural lands and open space supporting wildlife as defined under Fish and Game Code 89.5. LAFCOs are required to consider how spheres of influence or changes of local governmental organization could affect open space and prime agricultural lands. Specifically, Commissions are directed to guide development away from prime agricultural lands and open space supporting wildlife – unless that action would not promote the planned, orderly and efficient development of an area – and to encourage development of existing vacant lands within an agencies' boundaries or non-prime agricultural lands within a jurisdiction before approving any proposal that would allow development of open space lands outside of an agency's boundary (Govt. Code § 56377). Proposals must be further reviewed for their effect on maintaining the physical and economic integrity of agricultural lands (Govt. Code § 56668).

Gov. Code § 56064 contains a definition of "Prime Agricultural Land." "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION

Commented [S1]: "enhancement" reflects SD LAFCO discretion to proactively aid existing and new ag and open space uses

Commented [S2]: Unbuilt open space; excludes golf courses, parks, and other improvements, park spaces

Commented [S3]: striking of "prime" broadens policy coverage consistent with legislative direction to LAFCOs in 56300 to "establish written policies and procedures and exercise its powers pursuant to this part and in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open space and agricultural lands with those patterns"

Commented [S4]: "guidance" added to reflect the disclosure aspect/role of the policy

Commented [S5]: 56300 references "agricultural lands" and 56377 references "prime agricultural lands"

Commented [S6]: attempt to highlight order of significance to LAFCOs with respect to ag lands (important) and prime ag lands (most important)

Commented [S7]: "supporting wildlife" serves to distinguish between natural open space v. vacant land...

- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- (e) Land that has returned from the production of unprocessed agricultural plan products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

Policy

It is the policy of the San Diego Local Agency Formation Commission to:

- 1. Make appropriate distinctions between open space and agriculture and their separate functions and benefits.
- 2. Protect and preserve open space lands – and of most importance lands that support wildlife – against their premature conversion.
 - (a) Discourage proposals that would convert open space to other uses.
 - (b) The Commission reserves discretion to consider proposals involving the conversion of open space based on local conditions and in conjunction with ensuring orderly growth and development reflecting local habitat planning.
 - (c) Encourage the County of San Diego and incorporated cities to coordinate the designation and protection of open space lands and associated uses as community greenbelts and separators.

Commented [S8]: make explicit distinction between open space and ag

Commented [S9]: objective for open space is to protect and preserve and different from ag (protect and enhance)

Commented [S10]: Wildlife Coalition...

Commented [S11]: tie back into land use authorities' planning

Commented [S12]: telegraphing tool to land use authorities

LEGISLATIVE POLICY L-101

3. ~~Protect and enhance agricultural lands and their uses.~~

~~(a) Discourage proposals that would convert any agricultural lands – including and of highest priority prime agricultural – or open space lands to other uses, unless such an action would not promote the planned, orderly, efficient development of an area or the affected jurisdiction has identified all prime agricultural lands within its sphere of influence and adopted measures that would effectively preserve prime agricultural lands for agricultural use;~~

Commented [S13]: objective for ag is to protect and enhance and different from open space (protect and preserve)

~~(b) The Commission reserves discretion to consider proposals involving the conversion of agriculture based on local conditions and in conjunction with ensuring orderly growth and development. This includes considering the economic viability of agricultural uses within the affected territory.~~

Commented [S14]: opportunity for landowners to show LAFCO that ag is not cost-effective

~~(c) No harm provisions.~~

~~i) Lands otherwise qualifying as agricultural under Gov Code Section 56016 and prime agriculture under Gov Code Section 56064 shall not be subject to this policy and its limitations on conversions if left fallow, unsown, or disused for agricultural purposes at the present time and for more than 60 consecutive months.~~

Commented [S15]: makes explicit the sunset provided in statute with the addition of unsown and disused, i.e. long-time ag uses are no longer viable

~~ii) Lands otherwise qualifying as agricultural under Gov Code Section 56016 and prime agriculture under Gov Code Section 56064 shall not be subject to this policy and its limitations on conversions if their qualification commenced only within the last 60 consecutive months.~~

Commented [S16]: does not penalize new ag ventures

~~(d) Encourage landowners to establish and/or expand agriculture uses if permissible under zoning. This includes – but not limited to – the Commission considering proposals to extend municipal services in support of maintaining and enhancing agricultural uses.~~

~~(d) Recognize the uniqueness of agricultural uses in San Diego County to include above-ground and mobile production, such as nurseries, that merit separate considerations when applying State statutes.~~

Commented [S17]: addresses broad definition for prime ag in LAFCO law to include any land that produces an annual gross value of \$400 per acre (not net but gross...) under 56016(e)

~~Require rezoning of territory (city only) to identify areas subject to agricultural/preservation and planned development;~~

L-101 LEGISLATIVE POLICY

34. Follow San Diego LAFCO's adopted procedures when reviewing proposals that could effect agricultural and open space lands and provided herein as Appendix A. to define agricultural and open space lands and to determine when a proposal may adversely affect such lands.

Adopted: November 6, 1978
Amended: June 4, 1990
Amended: May 4, 1998
Technically Updated: January 1, 2001
Technically Updated: June 16, 2015

Cross-reference Appendix:

SAN DIEGO LAFCO PROCEDURES:
-Open Space and Agricultural Preservation

APPENDIX A

Open Space and Agricultural Preservation

The Cortese-Knox-Hertzberg Act requires LAFCOs to consider how adoption of spheres of influence or changes of local governmental organization could affect open space and prime agricultural lands. In determining spheres of influence, LAFCOs are directed to prepare a written statement of determinations with respect to the present and planned land uses including agricultural and open space lands (56425(e)(1)).

In reviewing and approving or disapproving proposals for changes of organization, LAFCOs must consider the effect of the proposal on maintaining the physical and economic integrity of agricultural lands (56668) and guide development away from existing prime agricultural and open space lands and towards areas containing non-prime agricultural lands — unless that action would not promote the planned, orderly, efficient development of an area (56377(a)). LAFCOs are further directed to encourage development of existing vacant or non-prime agricultural lands within a jurisdictional boundary or sphere of influence before approving a proposal that would allow development of open-space lands outside of the jurisdiction (56377(b)).

Definitions

Agricultural Lands: Agricultural land means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program (56016).

Prime Agricultural Land: Prime agricultural land means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications (56064):

1. Land that, if irrigated, qualifies for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification whether or not the land is actually irrigated, provided that irrigation is feasible;

2. Land that qualifies for rating 80 through 100 Storie Index Rating;
3. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July 1967, developed pursuant to Public Law 46, December 1935;
4. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a non-bearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre; or
5. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years;

Open Space: Open space is any parcel or area of land or water that is substantially unimproved and devoted to an open-space use and designated on a local, regional or state open space plan as any of the conditions described in Section 65560(b)(1) through (6).

Procedure

The following criteria will be considered when reviewing a proposal that could adversely affect agricultural and open space lands:

1. The use and value of the proposal area and surrounding parcels;
2. Determination as to whether any of the proposal area is designated for agricultural preservation by adopted local plans, including Local Coastal Plans and the County Agricultural Element; and

3. Determination of:
 - A. Whether public facilities would be extended through or adjacent to any other agricultural lands to provide services to the development anticipated on the proposal property;
 - B. Whether the proposal area is adjacent to or surrounded by existing urban or residential development;
 - C. Whether surrounding parcels may be expected to develop to urban uses within the next five years; and
 - D. Whether natural or man-made barriers would serve to buffer the proposal area from existing urban uses.

Special Annexation Procedures for Williamson Act Territory (51243.5, 56738, 56752)

The Williamson Act provides that a property owner may enter into a contract with a county or city whereby the assessed property taxes are reduced in return for keeping the property in an agricultural preserve for a minimum of ten years. Except as provided in Government Code Section 51243.5, on and after the effective date of an annexation by a city of any land under contract with the county, the city shall succeed to all rights, duties, and powers of the county under the contract.

A city may refuse to succeed to a Williamson Act contract if either of the following conditions exist:

1. Prior to December 8, 1971 the land being annexed was within one mile of the city boundary when the contract was executed and the city filed a resolution protesting the contract with the board of supervisors;
or

L-101 LEGISLATIVE POLICY

2. Prior to January 1, 1991: (a) the land being annexed was within one mile of the city boundary; (b) the city had filed a resolution protesting the contract with LAFCO; (c) LAFCO held a hearing to consider the protest; (d) LAFCO made a finding of inconsistency with future land use; and (e) LAFCO approved the city's protest.

Please refer to the applicable code sections for specific procedures regarding the annexation of Williamson Act territory.



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

7b

AGENDA REPORT
 Business | Discussion

August 3, 2020

TO: Commissioners

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

**SUBJECT: Advisory Committee Update |
 Proposed Rainbow MWD and Fallbrook PUD Reorganizations**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive an update on the Advisory Committee formed for the Rainbow MWD and Fallbrook PUD reorganization proposals. The 10-member Advisory Committee was established by the Commission in June 2020 and tasked with advising LAFCO staff in the evaluation of the proposals with respect to statutory factors as well as local considerations. The update is being provided at the request of the Commission and includes addressing agenda topics and related discussion from the Advisory Committee’s July 6th meeting as well as agenda topics set for the next meeting scheduled for the afternoon on August 3rd. Item is for information and discussion only.

BACKGROUND

**Reorganization Proposal Filings by Fallbrook PUD and Rainbow MWD |
 County Water Authority Applications for Alternative Conducting Authority Proceedings**

San Diego LAFCO received separate reorganization proposals in March 2020 from Fallbrook PUD and Rainbow MWD seeking Commission approval to concurrently (a) detach from the County Water Authority and (b) annex to Eastern MWD. The stated purpose of the reorganizations as detailed in the proposal materials is to achieve cost-savings for the

Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org	Jim Desmond County of San Diego	Mary Casillas Salas City of Chula Vista	Mark Kersey City of San Diego	Jo MacKenzie Vista Irrigation	Vice Chair Andy Vanderlaan General Public
	Chair Dianne Jacob County of San Diego	Bill Wells City of El Cajon	Chris Cate, Alternate City of San Diego	Barry Willis Alpine Fire Protection	Harry Mathis, Alternate General Public
	Greg Cox, Alternate County of San Diego	Paul McNamara, Alternate City of Escondido		Erin Lump, Alternate Rincon del Diablo MWD	

agencies by transitioning the purchase of wholesale supplies. Staff currently anticipates an approximate 15 to 20-month timeline to process the reorganization proposals and this includes soliciting input from Riverside LAFCO based on an earlier agreement with the Commission.¹ Copies of both Fallbrook PUD and Rainbow MWD’s proposals are available on the Commission website. Also available on the website are two responding applications from the County Water Authority to apply alternative conducting authority proceedings for both proposals, which were subsequently approved by the Commission at its May 2020 meeting.²

Establishment of an Advisory Committee

San Diego LAFCO established the Advisory Committee on the Fallbrook PUD and Rainbow MWD reorganization proposals at its June 2020 meeting. The Advisory Committee includes 10-members and tasked to directly advise LAFCO staff in real-time on both statutory factors as well as local considerations and done so in recognition of the complexities and controversies underlying both proposals. The Commission also requested staff to provide regular updates on the Advisory Committee in step with ensuring timely and constructive proceeding/. The Advisory Committee roster was subsequently finalized by the Executive Officer following the June meeting and identified below.

Advisory Committee Rainbow MWD and Fallbrook PUD Reorganization Proposals		
Member	Title	Agency
Jack Bebee	General Manager	Fallbrook PUD (Subject Agency)
Tom Kennedy	General Manager	Rainbow MWD (Subject Agency)
Nick Kanetis	Assistant General Manager	Eastern MWD (Subject Agency)
Sandy Kerl	General Manager	County Water Authority (Subject Agency)
Lydia Romero	City Manager	City of Lemon Grove (Cities Advisory Committee)
Kimberly Thorner	General Manager	Olivenhain MWD (Districts Advisory Committee)
Gary Croucher	Board Member	Otay WD (County Water Authority Member)
David Cherashore	Mayor Appointee	City of San Diego (County Water Authority Member)
Brian Albright	Park and Recreation Director	County of San Diego (At-Large Representative)
Rachel Cortes	Senior Researcher	SANDAG (At-Large Representative)

¹ In October 2019, San Diego and Riverside LAFCOs entered into an agreement to delegate all processing approvals for the Fallbrook PUD and Rainbow MWD reorganization proposals – including associated sphere amendments – to San Diego LAFCO. The agreement specifies San Diego LAFCO shall actively consult with Riverside LAFCO in processing the reorganizations and this includes providing input on all related recommendations.

² Approval of the alternative process was based on the County Water Authority meeting certain criteria under statute and substantively means any approval of the reorganization proposals will bypass standard protest proceedings and directly proceed to a confirmation election of registered voters. The Commission separately took no action involving two related requests by the County Water Authority to suspend work on the reorganization proposals due to COVID-19 and condition any future approvals on an expanded vote in all 24 member agencies’ jurisdictions.

DISCUSSION

This agenda item is for San Diego LAFCO to receive its scheduled update on the Advisory Committee on the Fallbrook PUD and Rainbow MWD reorganization proposals. This includes reviewing the below summary of agenda topics covered at the Advisory Committee's first meeting held on July 6th as well as scheduled topics for the next August 3rd. Copies of written correspondence received relating to the Advisory Committee and commencing with its first meeting are also attached for Commission review.

Initial July 6th Meeting

The Advisory Committee's initial meeting on July 6th was held by videoconference with full attendance. The meeting was purposefully set by the Executive Officer to focus on non-substantive issues and marked by providing a primer on processing boundary changes under statute as well as discussing the status of the two reorganization proposals. The subject agencies' representatives also were given the opportunity to discuss their agencies' core interests and objectives in participating in the Advisory Committee. A copy of the agenda is attached and a video recording of the meeting is available on the LAFCO website.

Scheduled August 3rd Meeting

The next meeting of the Advisory Committee is scheduled for August 3rd at 1:00 P.M. and will be held by videoconference and live-stream online. Agenda topics for the meeting are intended to cover more substantive topics and include the following:

- Commission Counsel Overview
 - LAFCOs' responsibility under the California Environmental Quality Act
 - LAFCOs' authority (scope and scale) to condition proposals

- Need and Role of Outside Consultants
 - Water reliability
 - Water rate impacts
 - Potential exit fees

- Addressing Outside Input/Comments
 - Other County Water Authority members

ANALYSIS

San Diego LAFCO's first meeting of the Advisory Committee on the Fallbrook PUD and Rainbow MWD reorganization proposals proceeded as planned and proved productive in covering baseline review factors and generating consensus on future topics. This consensus is reflected in the agenda set for the next meeting and – importantly – highlighted by commencing discussions on key service and financial issues informing the potential merits/demerits of the reorganization proposals. Nonetheless, staff is in receipt of

correspondence from the County Water Authority outlining their concerns with certain representations made by staff during the July 6th meeting (Attachment Five). Staff respectfully disagrees with the County Water Authority and believes the referenced comments were appropriate overall given their specific context but will remain mindful of the underlying concerns going forward.

RECOMMENDATION

It is recommended San Diego LAFCO discuss the item and provide feedback.

ALTERNATIVES FOR ACTION

No action; discussion and feedback only.

PROCEDURES

This item has been placed on San Diego LAFCO's agenda for discussion as part of the business calendar. The following procedures, accordingly, are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff unless waived.
- 2) Invite comments from interested audience members (voluntary).
- 3) Discuss item and provide any feedback as appropriate.

Respectfully,



Keene Simonds
Executive Officer

Attachments:

- 1) Agenda from Advisory Committee's July 6th Meeting
- 2) July 2nd Letter from County Water Authority
- 3) July 6th Email Submittal from Mark Muir
- 4) July 6th Email Submittal from Rodney T. Smith
- 5) July 15th Letter from County Water Authority
- 6) July 23rd Letter from Fallbrook PUD (Best Best & Krieger)
- 7) July 25th Letter from Rainbow MWD (Nossaman LLP)



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

SPECIAL MEETING AGENDA

AD HOC ADVISORY COMMITTEE

- Rainbow MWD & Fallbrook PUD Reorganization Proposals -

Monday, July 6, 2020 at 9:00 A.M.

Videoconference Attendance Only

Live Public Viewing Available on San Diego LAFCO’s YouTube Channel

Moderator Keene Simonds
 San Diego LAFCO Executive Officer

1. CALL TO ORDER & WELCOMING

2. INTRODUCTIONS & COMMITTEE ROLL CALL

3. PUBLIC COMMENT

This is an opportunity for any member of the public to provide comments on a non-agenda topic germane to the Advisory Committee. The public may submit comments by emailing erica.blom@sdcountry.ca.gov. Comments received prior to the conclusion of public comment period will be read and/or summarized by the Committee and posted online.

4. BUSINESS ITEMS

a) LAFCO Process Overview (10 minutes)

The Advisory Committee will receive a presentation from LAFCO staff summarizing baseline procedures in the evaluation of jurisdictional change proposals under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The presentation will also summarize LAFCO’s responsibilities under other germane statutes, including the California Environmental Quality Act. Information only.

b) Current Status of Reorganization Proposals (5 minutes)

The Advisory Committee will receive an update from LAFCO staff on the current processing status of the reorganization proposals filed by Fallbrook PUD and Rainbow MWD separately requesting concurrent detachments from County Water Authority and annexations to Eastern MWD. Information only.

Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org	Jim Desmond County of San Diego	Mary Casillas Salas City of Chula Vista	Mark Kersey City of San Diego	Jo MacKenzie Vista Irrigation	Vice Chair Andy Vanderlaan General Public
	Chair Dianne Jacob County of San Diego	Bill Wells City of El Cajon	Chris Cate, Alternate City of San Diego	Barry Willis Alpine Fire Protection	Harry Mathis, Alternate General Public
	Greg Cox, Alternate County of San Diego	Paul McNamara, Alternate City of Escondido	Erin Lump, Alternate Rincon del Diablo MWD		

BUSINESS ITEMS CONTINUED...

- c) Expectations for Advisory Committee (10 minutes)
LAFCO staff will discuss the Commission's expectations for the Advisory Committee and related tasks in the evaluation of the Fallbrook PUD and Rainbow MWD reorganization proposals. Information only.
- d) Expectations from Subject Agencies (10 minutes)
Representatives from the four subject agencies – Fallbrook PUD, Rainbow MWD, Eastern MWD, and San Diego County Water Authority – will be asked to share their expectations and interests in the work of the Advisory Committee. Information only.
- e) Agenda Setting for Next Meeting (5 minutes)
The Advisory Committee will provide input on scheduling the next meeting along with identifying agenda items.

5. ADJOURNMENT

Attest to Posting

Tameron Lockett
Commission Clerk

Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting. Please contact the LAFCO office at least three (3) working days prior to the meeting at 858-614-7755 or lafco@sdcounty.ca.gov for any requested arraignments or accommodations.



July 2, 2020

MEMBER AGENCIES

VIA EMAIL AND U.S. MAIL

- Carlsbad Municipal Water District
- City of Del Mar
- City of Escondido
- City of National City
- City of Oceanside
- City of Poway
- City of San Diego

Mr. Keene Simonds
 Executive Officer
 San Diego County LAFCO
 9335 Hazard Way, Suite 200
 San Diego, CA 92123
 E-Mail: Keene.Simonds@sdcounty.ca.gov

- Fallbrook Public Utility District
- Helix Water District
- Lakeside Water District

Re: CEQA Process for Rainbow Municipal Water District ("Rainbow") and Fallbrook Public Utilities District ("Fallbrook") Applications for Detachment and Annexation

- Olivenhain Municipal Water District
- Otay Water District

Dear Mr. Simonds:

- Padre Dam Municipal Water District
- Camp Pendleton Marine Corps Base
- Rainbow Municipal Water District

As its General Counsel, I send this letter on behalf of the San Diego County Water Authority (the "Water Authority") in connection with the above-referenced applications by two of its member agencies to detach from the Water Authority, and LAFCO's June 16, 2020 "Preliminary Staff Reports" regarding these applications.

- Ramona Municipal Water District
- Rincon del Diablo Municipal Water District
- San Dieguito Water District
- Santa Fe Irrigation District
- South Bay Irrigation District
- Vallecitos Water District
- Valley Center Municipal Water District
- Vista Irrigation District

The LAFCO Staff Reports for the applications each assert that consideration of the applications "is expected to be exempt from the California Environmental Quality Act 'CEQA' per State CEQA Guidelines Section 15320." This "expectation" has no stated basis and is erroneous. The exemption cited does not apply to these applications, both facially and as a result of the circumstances arising from the facts underlying the detachments proposed by these applications. This letter therefore constitutes an objection by the Water Authority to LAFCO's potential attempt to use the Section 15320 exemption, and to avoid proper compliance with CEQA.

- Yuima Municipal Water District

OTHER REPRESENTATIVE

- County of San Diego

There are potentially significant environmental impacts arising from the proposed detachments by Rainbow and Fallbrook from the Water Authority and the proposed annexations of Rainbow and Fallbrook to Eastern Municipal Water District (the "Project"). LAFCO must therefore, in connection with its review and determination of whether the Project will proceed, perform a full environmental review of these projects under CEQA. This will include LAFCO, as the lead agency for these projects, producing a detailed initial study and, thereafter, an environmental impact report ("EIR") that fully evaluates all potential environmental impacts of the Project.

Because LAFCO is required to investigate the basis for, review, and approve or reject the applications of Rainbow and Fallbrook based upon the record before it, it is uniquely positioned to perform a full environmental review of each Project and the cumulative effects of the Projects together. LAFCOs are particularly equipped to perform an analysis of the regional, and in this case potentially statewide, environmental impacts of annexations and detachments, as opposed to the entities seeking changes in their own

jurisdictions. The Supreme Court, in *Bozung v. LAFCO (Ventura County)* (1975) 13 Cal. 3d 263, a case involving LAFCO action on an annexation to a city, recognized this fact:

"A vital provision of the Guidelines (Cal. Admin. Code, tit. 14, Sec. 15142) stresses that an EIR must describe the environment from both a local 'and regional' perspective and that knowledge of the regional setting is critical to the assessment of environmental impacts. It directs special emphasis on environmental resources peculiar to the region and directs reference to projects, existent and planned, in the region so that the cumulative impact of all projects in the region can be assessed. While, of course, a city is not necessarily incompetent to prepare and evaluate an EIR complying with section 15142, obviously a LAFCO must be presumed to be better qualified on both scores.... CEQA does not, indeed cannot, guarantee that these decisions will always be those which favor environmental considerations. At the very least, however, the People have a right to expect that those who must decide will approach their task neutrally, with no parochial interest at stake." (*Bozung*, 13 Cal. 3d. at 283.)

Any previous "environmental review" performed by Rainbow or Fallbrook was related only to their submission to LAFCO of applications for detachment and annexation, not as to the potential impacts of the detachment or annexation themselves. Neither Rainbow¹ nor Fallbrook² performed an environmental review that can be relied upon in connection with consideration of the Project, and neither agency seriously considered any potential regional or statewide impacts of the Project. Indeed, Rainbow and Fallbrook provided very limited information to the public as to precisely how their detachments would work, focusing only on the narrow questions required to simply submit their applications to LAFCO. Even in that limited context, they ignored comments made during the process of submission of the applications, and the entities claimed that the approvals sought were exempt from CEQA review or did not constitute a project at all. These assertions do not have any factual basis and are incorrect.

Earlier this year, Otay Water District ("Otay") filed separate petitions for writs of mandate against Rainbow and Fallbrook in the San Diego Superior Court seeking a determination that the agencies failed to comply with CEQA in that they failed to perform a sufficient environmental analysis of potential environmental impacts associated with the approval to file the applications for detachment and annexation. Those suits in the

¹ Rainbow's Notice of Exemption ("NOE") describes the project as "Resolution of Application Authorizing the GM to Prepare and Submit an Application to San Diego LAFCO to Detach from SDCWA and Annex to EMWD."

² Fallbrook's NOE identifies the project as "The Fallbrook Public Utility District (FPUD) adopted a resolution of application requesting the San Diego County Local Agency Formation [sic] (LAFCO) to commence proceedings for a reorganization to include detachment/exclusion of territory from San Diego County Water Authority (SDCWA) and annexation to Eastern Municipal Water District (EMWD)."

alternative sought a declaration that the notices of exemption could not be used to avoid review of the environmental impacts of the changes that were being sought at LAFCO. The agencies had filed Notices of Exemption that asserted that their actions in filing those applications were exempt from CEQA.

Rainbow and Fallbrook, however, each stipulated that their approvals of Notices of Exemption did not bind LAFCO and are not applicable to LAFCO's obligations under CEQA. These stipulations were incorporated in the Court's order of dismissal in each of these cases, entered on May 28 and June 2, respectively. In each case, the parties stipulated, in relevant part, that:

"[t]he NOE may not be utilized or relied upon by San Diego LAFCO or any other agency for the purpose of that agency's CEQA compliance in connection with any potential detachment by Respondent [Rainbow or Fallbrook] from the San Diego County Water Authority, or for any potential annexation by Respondent into Eastern Municipal Water District. Nothing in this Stipulation and Order for Judgment is intended to limit the discretion of any agency to independently determine the appropriate level of CEQA review required for any potential detachment by Respondent from the San Diego County Water Authority, or for any potential annexation by Respondent into Eastern Municipal Water District."

Rainbow's and Fallbrook's stipulations, and the Court's orders, mean that Fallbrook and Rainbow have admitted that their Notices of Exemption are insufficient to substitute for a full and complete CEQA analysis by LAFCO, acting as lead agency with respect to the detachment and annexation applications.

To the extent that substantial evidence exists, in light of the whole record before LAFCO, that the Project may have a significant effect upon the environment, it must prepare an EIR. (CEQA § 21080(d).) "Substantial evidence" means that "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." This means, in this case, that there is substantial evidence to support a fair argument that the Project may have a significant effect on the environment. (14 Cal. Code of Regs., Division 6, Chapter 3 ["Guidelines"], § 15384(a).) As explained below, there are clearly potential impacts on the environment from the proposed detachments and annexations.

The Project is Not Exempt from CEQA Review

LAFCO's stated "expectation," prior to any environmental review, that the Project is exempt from CEQA under Section 15320 is without merit.

The categorical exemption cited in the Preliminary Staff Reports is located in CEQA Guidelines Section 15320, "Changes in Organization of Local Agencies," also known as "Class 20." This exemption encompasses projects that consist of "changes in the organization or reorganization of local governmental agencies where the changes *do*

not change the geographical area in which previously existing powers are exercised." (Emphasis added.) Among the examples cited are the establishment of a subsidiary district, consolidation of two or more districts having identical powers, and merger with a city of a district lying entirely within the boundaries of the city.

Categorical exemptions are to be interpreted narrowly in order to maximize the protection of the environment provided by CEQA. The examples provided by these exemptions are not just illustrative but also significant. Generally, courts have upheld the application of exemptions to activities that are similar to the listed examples and have rejected the use of exemptions where the activity is not similar to the listed examples. (*Practice Under the California Environmental Quality Act* (2d ed. Cal CEB) § 5.69.) "This principle of interpretation is embodied in the Guidelines, which state that CEQA should be interpreted to 'afford the fullest possible protection to the environment within the reasonable scope of the statutory language. [Citation.]" (*Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster*, 52 Cal.App. 4th 1165, 1193).

None of the Class 20 examples in the CEQA Guidelines apply to this Project. The Project is not the creation of a subsidiary district, a consolidation of districts with identical powers, or a merger of a district into a city which encompasses it. Instead, the Project seeks detachment of two districts from a county water authority that encompasses both of them, and their annexation into an entity located in a different county than the detaching entities. By seeking detachment from the Authority and annexation by the Riverside County-based Eastern, Rainbow and Fallbrook will *change the geographical areas* in which the Authority, by subtraction, and Eastern, by addition, *exercise their powers*. If Rainbow and Fallbrook are detached, the Authority will no longer exercise its powers within the boundaries of these two districts, and Eastern will have the new right to exercise its powers within the boundaries of these two districts. This Project is not a mere consolidation, creation of a new subsidiary district, or a merger. The Class 20 exemption is facially inapplicable to the Project, and there is no factual evidence to support any determination that the Project is exempt from a full CEQA analysis.

Categorical exemptions are also inapplicable if an exception to the exemption applies to the projects. This exception applies where a reasonable possibility exists that the project may have significant impacts because of unusual circumstances. (CEQA Guidelines § 15300.2(c).) An "unusual circumstance" is some feature of the project which distinguishes it from others in the exempt class. (*Berkeley Hillside Pres. v. City of Berkeley* (2015) 60 Cal. 4th 1086, 1105-1106.)

The Project will impact the environment in ways not previously considered by Rainbow or Fallbrook. Rainbow has conceded, for example, in its "Supplemental Information Package for Reorganization Application," that the detachment and annexation will require it to accelerate the construction of "improvement projects" for which the cost estimates total \$10-\$15 million. (See pp. 5-6.) Although these projects are generally described in that package as necessary to serve some higher elevation areas in the southern part of Rainbow's service area, no substantial details or environmental analysis was identified with respect to these projects. Among these projects is construction that will provide service to an area of "new development," but there is no consideration of potential impacts regarding future development at that location or elsewhere. No analysis

Mr. Keene Simonds
July 2, 2020
Page 5 of 6

has been disclosed by Rainbow about the impacts of construction, operation or growth inducement, among other potential environmental impacts, regarding these projects. Neither Rainbow nor Fallbrook has apparently undertaken or presented any environmental analysis of the potential cumulative impacts of their simultaneous detachments and annexations. The existence of these potential impacts is an unusual circumstance for projects covered by the Class 20 exemption.

Importantly, the Project may also increase the reliance of Fallbrook and Rainbow upon water imported from the Bay-Delta, a unique ecosystem, in direct contradiction to the Delta Reform Act (Water Code § 85000, *et seq.*). That Act established a state policy calling for reduced reliance on the Bay-Delta through the development of regional supplies, conservation, and water use efficiency, and the Project's variance from these goals requires a full environmental analysis. By moving to complete reliance on imported water from a wholesaler which has high dependence on the Bay-Delta (MWD), and away from a wholesaler that has a much lower reliance on Bay-Delta water (the Water Authority), there is a likelihood of overall increased Bay-Delta reliance. Neither Fallbrook nor Rainbow provided a full analysis of this issue, and LAFCO must do so. These types of impacts are not part of the usual "reorganization" project covered by Class 20, and constitute "unusual circumstances" under CEQA Guidelines section 15300.2(c).

Since these circumstances of the Project are "unusual," this exception prevents use of the Class 20 Exemption so long as substantial evidence exists in the record to support a "fair argument" that the "exempt" project has a "reasonable probability" of creating a significant environmental impact as a result of the unusual circumstances. (*Berkeley Hillside Pres.*, 60 Cal. 4th at 1115; *Respect Life S. San Francisco v. City of S. San Francisco* (2017) 15 Cal.App.5th 449, 458). The unusual circumstances described above have a reasonable probability of creating significant environmental impacts, both direct and indirect. Substantial evidence has been shown and will be further developed to support a fair argument that such impacts are reasonably probable. Therefore, the Class 20 exemption cannot apply, and LAFCO must produce an EIR to perform a full environmental analysis of the Project.

Though we realize that the recent notices from LAFCO simply informed the recipients that LAFCO was anticipating use of Section 15320, and that LAFCO has not yet formally applied the exemption, we believed it important to provide this information and objection at an early stage so that LAFCO has an opportunity to fully review its position before mistakenly applying an improper exemption. LAFCO must perform a full environmental analysis of the Project that complies with CEQA. LAFCO has no basis to support its preliminary contention that the Project is exempt from CEQA, and it must begin a full environmental analysis beginning with an initial study of potential impacts. Thank you for consideration of these important issues.

Very truly yours,



Mark J. Hattam
General Counsel

Mr. Keene Simonds

July 2, 2020

Page 6 of 6

cc via email:

Dianne Jacob, Chair, San Diego LAFCO
Holly Whatley, Commission Counsel
Aleks Giragosian, Deputy Commission Counsel
Robert Barry, Chief Policy Analyst
Gary Thompson, Executive Officer, Riverside LAFCO
Sandra L. Kerl, General Manager, San Diego County Water Authority
Kristina Lawson, Counsel, San Diego County Water Authority
Jack Bebee, General Manager, Fallbrook PUD
Paula C. P. de Sousa, Counsel, Fallbrook PUD
Paul Jones, General Manager, Eastern MWD
Nick Kanetis, Deputy General Manager, Eastern MWD
Tom Kennedy, General Manager, Rainbow MWD
Alfred Smith, Counsel, Rainbow MWD
Water Authority Board of Directors

**San Diego County LAFCO
Rainbow MWD and Fallbrook PUD Reorganization Proposals
Monday, July 6, 2020 at 9:00 AM
Public Comment by Mark Muir**

- Good morning, Mr. Simonds and members of the Ad Hoc Advisory Committee. My name is Mark Muir. I am a retired former Encinitas Fire Chief and City Councilmember.
- I am also the last past Chairman of the San Diego County Water Authority, where I represented the City of Encinitas. Prior to that time, I was an elected member of the board of directors of the Olivenhain Municipal Water District, which I also represented at that time on the Water Authority Board of Directors.
- As a former Fire Chief, I've been involved with a number of high-level reorganizations, consolidations, and other types of organizational studies. Most reorganizations are focused on cutting costs, promoting growth, cultural change, and/or shifting strategic focus. Whatever the specific objectives, reorganizations almost always involve making major structural changes in pursuit of better performance.
- Despite the fanfare that usually invites or accompanies a reorganization movement, most create fallout that is unanticipated and unproductive to one or more parties. Prior to making any recommendations, I would strongly suggest that subject matter experts be retained who are accountable to LAFCO and the public to independently assess the facts and claims about detachment benefits.
- Given the nature of the water business and long term planning horizons, the guiding principles and structural review of detachment cannot focus on short term issues or the next rate increase but must also focus on the long term financial impacts and complex future water service and delivery needs of our region. This is consistent with the requirements of the State of California to provide 20-25 year assessments in Urban Water Management Plans.
- I believe San Diego LAFCO, like the Water Authority, has a responsibility to evaluate how the proposed detachments will impact all member agency ratepayers within San Diego County, including Fallbrook and Rainbow.
- One final note I would add is that there is no way of knowing whether MWD's costs are fairly allocated, whether its rates are appropriately set or include project implementation costs, without access to the financial planning model MWD uses to set its rates and charges. MWD's position is that it will not allow access to its rate model, claiming it is proprietary and a trade secret. Claims of knowing what MWD's rates will be are for this and other reasons, purely speculative.

- The regional planning process for water supply in San Diego County has been especially strong and successful due to the Water Authority's longstanding collaboration with SANDAG and the board's focus on—and planning for—future generations.
- I wish you the best and look forward to following your work. Please do not hesitate to call upon me if I may be of any assistance to the process.

July 3, 2020

VIA EMAIL

Mr. Keene Simonds
San Diego LAFCO Executive Officer

RE: Ad Hoc Advisory Committee—Rainbow MWD and Fallbrook PUD Reorganization Proposals

Dear Mr. Simonds:

I am submitting a public comment for the July 6th meeting of the Ad Hoc Advisory Committee pursuant to Public Comment item of the meeting's agenda.

I support the Ad Hoc Advisory Committee managing a comprehensive analysis of the merits and consequences of Rainbow's and Fallbrook's proposal. I share my perspective on what analysis would be helpful in reaching a conclusion about Rainbow and Fallbrook's proposal.

I moved to Fallbrook last September and became aware of the Rainbow MWD and Fallbrook PUD plans to detach from the San Diego County Water Authority. As a new homeowner, I am concerned about the future water supply reliability of water service and hitching my water bill to the Metropolitan Water District of Southern California.

I am an expert in water resource matters, including the Colorado River, the State Water Project and Southern California water agencies. My expertise includes water supply reliability, water economics and strategic planning, with four decades of experience on behalf of public and private sector clients. For more information, visit my firm's website (www.stratwater.com) and my blog (www.hydrowonk.com).

The public information I have reviewed is incomplete at best and insufficient for disciplined decision-making. Below, I summarize the key points that I have previously made last October before San Diego LAFCO, last December before the Rainbow MWD board, and last March in a letter to the editor of Village News, all of which are attached for your convenience.

From the perspective of a Fallbrook resident, my objective is that decisions are made with thorough and publicly vetted professional analysis of the future water supply reliability and water rates of the Metropolitan Water District of Southern California versus the San Diego County Water Authority.

As I shared last October with San Diego LAFCO, the reliability of water service will be a key driver of property values. At a minimum, disclosures by real estate developers going forward will need to address the consequences of decisions by governmental agencies, including San Diego LAFCO on the future market value of real estate in their service areas. I urge the Ad Hoc Committee to assess the water supply reliability inherent in the Rainbow and Fallbrook proposals.

Since 2003, Metropolitan's Colorado River water supplies have fallen by 400,000 acre-feet per year. Metropolitan's other major water source, the State Water Project, has been in free

fall for over a decade. It will be another decade at least before we will know whether Governor Newsom's new attempt of resurrecting an improved the State Water Project proves successful.

In comparison, San Diego's Colorado River water supplies secured through its long-term agreement with the Imperial Irrigation District (whom I represented in negotiations) and related Quantification Settlement Agreement are senior to Metropolitan's Colorado River water supplies. Where Metropolitan's non-Colorado River water supplies are claims on a deteriorating hydrologic lottery (the State Water Project), San Diego's non-Colorado River water supplies are the drought-proof desalinated water supply from the Carlsbad Desalination Plant.

By leaving the Water Authority, Fallbrook and Rainbow would be trading senior water rights for junior water rights. Would a responsible provider of municipal water service make this trade?

None of these factors are considered in the Weinberg Water Consulting report on water supply reliability. Instead, he calculates that detachment will result in Rainbow municipal water users facing greater cutbacks in municipal water service when Metropolitan water supplies prove inadequate to meet customer demands. The Weinberg study does not include quantitative risk assessments like that undertaken by the Bureau of Reclamation for Colorado River water supplies and by the California Department of Water Resources for State Water Project supplies. I trust the Ad Hoc Committee will do better.

The existing analysis of future water rates is no better. As I told the Rainbow board last December,

“What matters is how water rates will evolve in the future. Capital markets are aware of Metropolitan's water rate history: its rates and charges have increased substantially faster than inflation since the 1960s. The experience over the last ten years is no exception. A comparative analysis requires addressing the fundamentals of Metropolitan's future versus the Water Authority. Where Metropolitan is still seeking new water supplies, the Water Authority has secured its investments in Colorado River water and desalinated seawater. Going forward, the ‘stubborn dynamics’ of Metropolitan rates must be compared with the Water Authority's contractual provisions for its Colorado River water supplies and Carlsbad desalinated water.”

One cannot find any of this in Rainbow's materials.

What should the Ad Hoc Committee do? In my letter to the Valley News, I asked which local non-profit will step up and sponsor townhalls to better understand the proposal and “kick the tires hard to assure ourselves that the detachment proposal will not become a ‘Fallbrook Folly.’” The Ad Hoc Committee can develop the analysis and materials to serve that civic function.

I conclude with two points that I have made on previous occasions. COVID-19 threatens to up-end the water industry's economic model and requires “kicking up a notch” the industry's

strategic planning, risk assessment and learning.¹ How the world looks today may be different than how it looked on New Year’s Eve. Therefore, the Ad Hoc Committee’s assessment of the future must consider the new challenges facing the water industry from COVID-19.

Second, the Ad Hoc Committee will best serve the public interest by a disciplined and timely process. Develop up front a written scope of work and assignment of responsibilities acceptable to the public agencies that includes a timeline for key milestones to assure that the analysis is conducted within a defined time period. I recommend an expeditious schedule measured in months because (1) I believe it should be feasible, (2) provides enforceable incentives for the parties, and (3) avoids a protracted dispute among the parties.

Regarding the latter point, as a former resident of the City of Claremont in Los Angeles County, I have witnessed personally and professionally how poorly thought out proposals can divide a community politically and, at least in the case of Claremont, the ultimate failure of an ill-conceived venture cost city taxpayers \$10 million spent on lawyers and consultants advocating the condemnation and a multi-million liability to the local water utility (whom I have represented) after the city lost in superior court.

Please feel free to contact me if you have questions or seek further input. I stand ready to help that, whatever the ultimate outcome, the full consequences of the proposals are fully and properly understood.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodney T. Smith". The signature is fluid and cursive, with a large initial "R" and a long horizontal stroke at the end.

Rodney T. Smith

Email: rsmith@stratwater.com

Cell: (951) 201-5603

¹ See my blog posts, “COVID-19 Will Change the Water Industry: A Trilogy—The Industry’s Economic Model is Dead”, <https://hydrowonk.com/blog/2020/04/20/covid-19-will-change-the-water-industry-a-trilogy-the-industrys-economic-model-is-dead/>, and “COVID-19 Will Change the Water Industry: A Trilogy Engage in Strategic Planning, Risk Assessment and Learning” <https://hydrowonk.com/blog/2020/05/19/covid-19-will-change-the-water-industry-a-trilogy-engage-in-strategic-planning-risk-assessment-and-learning/>

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MEMBER AGENCIES

July 15, 2020

- Carlsbad
Municipal Water District
- City of Del Mar
- City of Escondido
- City of National City
- City of Oceanside
- City of Poway
- City of San Diego
- Fallbrook
Public Utility District
- Helix Water District
- Lakeside Water District
- Olivenhain
Municipal Water District
- Otay Water District
- Padre Dam
Municipal Water District
- Camp Pendleton
Marine Corps Base
- Rainbow
Municipal Water District
- Ramona
Municipal Water District
- Rincon del Diablo
Municipal Water District
- San Dieguito Water District
- Santa Fe Irrigation District
- South Bay Irrigation District
- Vallecitos Water District
- Valley Center
Municipal Water District
- Vista Irrigation District
- Yuima
Municipal Water District
- OTHER REPRESENTATIVE**
County of San Diego

Keene Simonds
Executive Officer
San Diego LAFCO
9335 Hazard Way
San Diego, CA 92123

Re: LAFCO Detachment Special Advisory Committee July 6 Meeting and Next Steps

Dear Keene:

San Diego County Water Authority is pleased to participate as a member of LAFCO’s special Advisory Committee to the Executive Officer in connection with the detachment proposals of Rainbow Municipal Water District and Fallbrook Public Utility District. With Committee members drawn from high-level staff and appointed and elected officials from the applicants and other regional and affected entities,¹ we believe the Committee has the potential to provide great value as LAFCO staff begins its review of the Fallbrook and Rainbow applications. It is in this spirit that I write to express some concerns we had regarding the Committee’s initial meeting on July 6.

First, the Water Authority was informed that the purpose of the initial July 6 meeting was to provide a procedural overview of the detachment processes at San Diego LAFCO. Given that initial comments on the applications have not yet been filed and are not due until September 18, we specifically discussed that it would not be possible to talk about substantive issues at this meeting. In other words, at this early stage of the process, only one party has spoken.

At the July 6 meeting, you provided a portion of the procedural overview, which we found to be succinct and consistent with our expectations. However, the presentation by LAFCO Chief Policy Analyst Robert Barry ventured far beyond procedural issues. Moreover, his comments included incorrect statements of fact, purported legal analyses and even certain conclusions he has apparently reached on the merits of the issues pending before LAFCO—all unsupported by facts and prior to the filing of initial comments.

¹Given comments made by Eastern Municipal Water District (Riverside County) at the meeting, we would like to discuss as part of the next meeting agenda how “parties” or “subject agencies” (July 6 Ad Hoc Advisory Committee agenda item 4-d) are identified and defined for purposes of these proceedings. Eastern has been identified by LAFCO staff as a “subject agency” (and was therefore called upon especially with the Water Authority, Fallbrook and Rainbow to state their “expectations and interests” in the work of the Advisory Committee), while the Otay Water District and City of San Diego were not—even though any financial impacts of detachment will fall on the Water Authority’s member agencies, not the Water Authority itself. We appreciate Mr. Kanetis stating that Eastern has “no skin in this game;” however, that is not entirely accurate. It is correct in the sense that Eastern will not make any of its independent water supplies and facilities available to the applicants, and is for all practical purposes, simply a “middle man” so that the applicants may purchase water directly from Metropolitan (which they would otherwise be unable to do because they are not Metropolitan member agencies). But under the applicants’ proposals, San Diego County would lose voting rights and Eastern would gain voting rights at the Metropolitan Water

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Mr. Barry is not an attorney and to our knowledge, does not have experience in either California water law or CEQA. In spite of this fact, Mr. Barry opined on many substantive issues including CEQA-related issues during his presentation.² He described a number of preliminary conclusions he had drawn after looking only at the record that was before him, consisting of admittedly incomplete applications and no responsive comments by the Water Authority or any other affected party. Mr. Barry did not include in his comments that the Water Authority had recently submitted a detailed CEQA letter to LAFCO, stating why it believes the exemption does not apply and full CEQA review is not required. He also failed to mention the lawsuits by the Otay Water District against each applicant, challenging the applicants' Notice of Exemption; or, that a stipulation has been entered in that litigation that LAFCO may not rely on the Notices of Exemption filed by the applicants.

With respect to Local Policy L-107, Mr. Barry correctly informed the Committee that LAFCO requires the applicants to discuss their proposals with the affected agencies; however, he also went on to state that the applicants have been "rebuffed" in their attempts to do so. Mr. Barry did not describe his understanding of the facts or what efforts he believes the applicants have made, nor did he identify what parties he believes have "rebuffed" those efforts.

To the extent Mr. Barry was referring to the Water Authority in his comments on Local Policy L-107, the statement is incorrect. There has in fact been correspondence and communications between the parties. We will not burden this letter or the Committee members with all of the details at this point; however, we are willing to compile a complete summary of the facts in this regard to the extent it is deemed still relevant to the process going forward. Suffice it to say that from the beginning and even now, the proposals have remained incomplete in material respects and both lack and misstate material facts. As a result, it has been difficult for the Water Authority or its member agencies to have the kind of substantive discussion³ Local Policy L-107 requires. We hope that the LAFCO process will afford all parties an opportunity to have a more meaningful dialogue once all of the facts and issues are on the table.

Pending your response on whether such a detailed factual summary would be helpful, it is at best inappropriate for Mr. Barry to accept a bald assertion by one or more of the applicants as truth, and then recite it to the Committee and public record as a matter of fact. LAFCO's role in assisting the parties to discuss a potential solution after more information is presented will be greatly benefited by it staying neutral.

District. With its lower assessed valuation, Riverside County benefits when Metropolitan's costs are recovered by property taxes in lieu of higher volumetric water rates based on usage. Eastern has consistently supported higher property taxes while the Water Authority has consistently opposed them when they are voted on annually at Metropolitan board meetings. Eastern is also an adverse party in litigation that has been pending for more than 10 years and remains pending in San Francisco Superior Court, in which the Water Authority has (successfully) challenged unlawful water rates imposed by the Metropolitan Water District (Los Angeles) (the Water Authority and Eastern are both member agencies of Metropolitan).

² For example, Mr. Barry stated that there were "very compelling arguments both facially and factually as to why Class 20 [exemption] would apply to this proposal for LAFCO's use" and later stated that the applicants' evidence was "substantial and compelling" and that "a fair argument can be made that Class 20 applies" and "doesn't require LAFCO action" under CEQA. The terms "substantial evidence" and "fair argument" are technical legal terms in CEQA. He also opined on CEQA's approach to the financial implications of the proposals and made conflicting statements about the role of LAFCO in the CEQA process, appearing to suggest that LAFCO would serve both as a responsible and lead agency.

³ Consistent with their approach to CEQA, the applicants have failed to address a wide range of issues that are critical to consideration of these applications, contending that relevant issues and concerns simply "do not apply," and with a principle focus on the potential payment (or more accurately stated, the non-payment) of an "exit fee." However, there is no "exit fee" that can address such issues as voting rights and environmental impacts on the California Bay-Delta that are presented by these applications.

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Turning again to the substantive issues, Mr. Barry was on the right track when he acknowledged that the applications present “complex proposals;” but then, he went on to say that they are “very straightforward.” Given these statements by Mr. Barry, we would like to share directly with the Committee members now, as we have shared with you, our perspective as a regional planning agency that these applications are not “very straightforward.” In fact, they are unprecedented before LAFCO and involve substantially complex water supply, legal, financial and governance issues at the local, regional, state and federal level. The Water Authority looks forward to providing information LAFCO will need to begin to evaluate these issues on or before the September 18, 2020 filing deadline.

Finally, I wanted to remind you of my inquiry prior to the July 6 meeting, and my subsequent request after receiving the meeting agenda, that future Committee meetings include an opportunity for public comment consistent with LAFCO, Water Authority and other public agency procedures. The Water Authority Board’s culture and practice is committed to hearing from, understanding and considering not only technical, legal, policy and financial issues, but also the passionate perspectives held by communities, water agencies and stakeholders across California. With respect, we do not believe that a process “summarizing” public comment such as occurred at the last Committee meeting is sufficient. While we realize that some challenges are presented in the current COVID-19 environment, the Water Authority is conducting meetings with a 36-member board of directors, with a full opportunity for real-time public comment. My staff would be happy to work with LAFCO staff on the technical arrangements we have made if that would be helpful.

In closing, we appreciate the experience and deep knowledge of LAFCO that you and your staff possess, and that there are unique challenges presented by these unprecedented applications. Over time, and with the support of the parties and with the assistance of independent and qualified consultants and counsel, we are confident of finding a resolution that meets the needs of all parties, water ratepayers and land owners in San Diego County. We are deeply grateful to the Committee members who have agreed to serve on the Committee and will do everything possible to make this process efficient. As a first step and by way of background, we attach copies of the documents listed at the end of this letter.

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Best regards,



Sandra L. Kerl, General Manager
San Diego County Water Authority

Attachments:

San Diego County Grand Jury 2012-2013 (filed May 15, 2013), *Reduce Dependence on Imported Water*
[San Diego County Grand Jury 2012-2013 \(filed May 15, 2013\)](#)

SANDAG (October 2015), *SAN DIEGO FORWARD THE REGIONAL PLAN*
[SAN DIEGO FORWARD THE REGIONAL PLAN](#)

2002 SANDAG and Water Authority Agreement

https://www.sandag.org/uploads/projectid/projectid_216_1018.pdf

2008 SANDAG Publication

https://www.sandag.org/uploads/publicationid/publicationid_1364_8010.pdf

cc:

Dianne Jacob, Chair, San Diego LAFCO

Holly Whatley, Commission Counsel

Aleks Giragosian, Deputy Commission Counsel

Robert Barry, Chief Policy Analyst

Kristina Lawson, Counsel, San Diego County Water Authority

Gary Croucher, Vice Chair SDCWA Board of Directors/ President Otay Water District Board

David Cherashore, Director SDCWA Board and City of San Diego Representative

Brian Albright, Director of Parks and Recreation San Diego County

Rachel Cortes, SANDAG Regional Model Analyst

Gary Thompson, Executive Officer, Riverside LAFCO

Jack Bebee, General Manager, Fallbrook PUD

Paula C. P. de Sousa, Counsel, Fallbrook PUD

Kim Thorner, LAFCO Special Districts Advisory Committee/Olivenhain General Manager

Lydia Romero, LAFCO Cities Advisory Committee/Lemon Grove City Manager

Paul Jones, General Manager, Eastern MWD

Nick Kanetis, Deputy General Manager, Eastern MWD

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July 23, 2020

Via U.S. Mail and Email to: Keene.Simonds@sdcounty.ca.gov

Keene Simonds
Executive Officer
San Diego LAFCO
9335 Hazard Way
San Diego, CA 92123

Re: CEQA Process for Fallbrook Public Utility District’s Reorganization Application

Dear Mr. Simonds:

Best Best & Krieger LLP represents Fallbrook Public Utility District (“FPUD”) as general counsel. We submit this letter to the San Diego County Local Agency Formation Commission (“LAFCO”) in response to the San Diego County Water Authority’s (“SDCWA”) July 2, 2020 letter to LAFCO (“SDCWA Letter”). Because the SDCWA Letter misstates both the law and the facts, we felt compelled to provide LAFCO with this response.

1. The stipulated judgment between FPUD and Otay Water District explicitly affirms the validity of FPUD’s exemption determination.

In the SDCWA Letter, SDCWA appears to argue that a settlement negotiated between FPUD and Otay Water District somehow binds LAFCO and requires LAFCO to prepare an environmental impact report (“EIR”) for FPUD’s Reorganization Application (“Reorganization Application”). This argument grossly misstates the facts.

On December 9, 2019, FPUD adopted Resolution No. 4985, which determined that the Reorganization was exempt from CEQA review and authorized FPUD’s General Manager to submit a Reorganization Application to LAFCO to detach from SDCWA and annex to Eastern Municipal Water District (“Eastern”) (the “Reorganization”). The purpose of the Reorganization Application and the effect of the Reorganization, if approved, would be to change FPUD’s wholesale water provider from SDCWA to Eastern. FPUD filed a Notice of Exemption on December 24, 2019. SDCWA, for whatever reason, did not bring a legal challenge to either FPUD’s CEQA determination or FPUD’s decision to pursue Reorganization.



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Otay Water District, however, did bring a lawsuit contending that FPUD’s exemption determination and Notice of Exemption violated CEQA. Soon after the lawsuit was filed—before the record was certified and merits briefing commenced, and in order to not needlessly spend FPUD ratepayer funds in defending a lawsuit that in FPUD’s opinion was baseless and vexatious—FPUD and Otay Water District settled the lawsuit through a stipulated judgment. The stipulated judgment effectively affirms the actions taken by FPUD at its December 9, 2019 meeting, and restates that which the law already requires.

The stipulated order for judgment states: FPUD’s “*CEQA Finding and the 2019 NOE are valid . . .*” Accordingly, contrary to SDCWA’s assertion, the stipulated order thus expressly affirms the validity of FPUD’s exemption determination. The stipulated order also states that FPUD’s exemption determination and Notice of Exemption do not apply to “any other agency’s action on any potential detachment or annexation” and that other agencies, including LAFCO, may not rely on FPUD’s exemption determination in connection with FPUD’s Reorganization Application. In the SDCWA Letter, SDCWA argues that this language means that FPUD “admitted that” its Notice of Exemption is “insufficient to substitute for a full and complete CEQA analysis by LAFCO, acting as lead agency with respect to the detachment and annexation application[. . .].” This argument is specious. SDCWA was not a party to Otay’s lawsuit nor a signatory to the stipulated order and thus is not qualified to speak to the stipulated order’s meaning. Further, this language in the stipulated order recognizes that LAFCO: (1) was not a party to Otay’s lawsuit; (2) had not yet taken any action on FPUD’s Reorganization Application; and (3) retains full discretion regarding FPUD’s Reorganization Application consistent with state law.

Indeed, the stipulated order expressly states that it does not limit LAFCO’s discretion to “*independently determine the applicability of CEQA, or what level of CEQA review may or may not be required*” in connection with FPUD’s Reorganization Application. (emphasis added.) The stipulated order thus simply contemplates, as LAFCO is fully aware, what the law requires—that in processing FPUD’s Reorganization Application, LAFCO would independently determine whether CEQA applied to the Reorganization; if it did apply, whether the Reorganization was exempt; and if it was not exempt, what level of CEQA review was required. As such, SDCWA’s suggestion that FPUD admitted an EIR would be required has no basis in fact.

2. The proposed Reorganization is not subject to CEQA.

CEQA only applies to discretionary actions that “may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Pub. Resources Code § 21080, subd. (a), and § 21065.) As detailed in FPUD’s March 17, 2020 Reorganization Application, the Reorganization will not cause *any* physical



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change to the environment, either direct or indirect. The Reorganization will not require the construction of any new or additional infrastructure that would not otherwise be needed if LAFCO denied the Reorganization Application and FPUD remained a member of SDCWA. Further, the Reorganization would not result in any change in the manner in which FPUD receives its water supplies—or change the source of water for such supplies. FPUD currently receives Metropolitan Water District water by purchase through SDCWA, which water is delivered directly from Metropolitan Water District facilities—a fact that will not change if the Reorganization is approved. If the Reorganization is approved, FPUD would receive Metropolitan Water District water by purchase through Eastern. Thus, if the Reorganization Application is approved, FPUD will continue to receive the same water, through the same infrastructure, that it currently receives as a member of SDCWA. FPUD will simply pay less for that water. As LAFCO knows, CEQA does not apply to purely economic issues. (CEQA Guidelines, § 15131.)

3. The proposed Reorganization is exempt from CEQA.

The proposed Reorganization is also exempt from CEQA, meaning that no CEQA review is required. (*Walters v. City of Redondo Beach* (2016) 1 Cal.App.5th 809, 817.) Section 15320 of the CEQA Guidelines exempts “changes in the organization or reorganization of local government agencies where the changes do not change the geographical area in which previously existing powers are exercised.” (CEQA Guidelines, § 15320.) Here, the Reorganization proposes a change in FPUD’s organizational structure that will not result in any change to the geographic area in which FPUD exercises its previously existing powers. As such, the proposed Reorganization fits squarely within Section 15320 and is exempt from CEQA.

Apparently, SDCWA disagrees. First, in the SDCWA Letter, SDCWA argues, that Section 15320 is inapplicable because the proposed Reorganization would “change the geographical areas in which” SDCWA, “by subtraction, and Eastern, by addition, exercise their powers.” (emphasis omitted.) This argument fails. As discussed above, the proposed Reorganization proposes a change to FPUD’s wholesale water provider and that change will not result in any modification to the geographic area in which FPUD exercises its existing powers, and will not change the geographic area in which wholesale water services are provided. Moreover, the argument ignores the fact that the examples listed in Section 15320—creation of a subsidiary district, consolidation of two or more districts, and merger of a district with a city where the district is located entirely within the city—all contemplate some sort of “subtraction” and “addition.” For example, if two or more districts are consolidated, the geographic area of one district would necessarily be subtracted while the other’s is increased.



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Second, citing *Azusa Land Reclamation Co. v. Main San Gabriel Watermaster* (1997) 52 Cal.App.4th 1165, SDCWA contends that categorical exemptions like Section 15320 should be narrowly interpreted. But given that the Reorganization clearly fits within Section 15320's parameters, SDCWA's interpretation is not narrow. Instead its interpretation nullifies Section 15320 by ignoring its plain language. Further, *Azusa Land Reclamation* is factually different because it involved a proposal to dump 3.2 million tons of garbage into an 80-acre unlined solid waste landfill overlying a groundwater basin that provided water to over one million people. (*Ibid*, at p. 1175-1176.) In contrast to those facts, the Reorganization only proposes a change in what entity will deliver wholesale water supplies to FPUD. It does not propose any infrastructure construction or change in the amount of water supplied or source of the water.

Third, SDCWA asserts that the proposed Reorganization is not specifically listed as an example in Section 15320 and as such, the exemption does not apply. Section 15320, however specifically states that “[e]xamples include *but are not limited to*” the examples listed in subdivisions (a), (b) and (c) to Section 15320. (CEQA Guidelines § 15320)(emphasis added.) Section 15320 thus expressly states that other types of changes in organization structure will fit within the exemption.

Finally, citing CEQA Guidelines section 15300.2, subdivision (c), SDCWA argues that there are “unusual circumstances” that preclude use of the Section 15320 exemption here. The “unusual circumstances” exception to the applicability of an exemption only applies where the *proposed activity itself* is unusual as compared to the class of activities normally covered by the exemption. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 241 Cal.App.4th 943, 955-956.) The “unusual circumstances” exception would apply here only if there was substantial evidence showing there was something unusual about the Reorganization as compared to governmental organizations or reorganizations in general, or annexations or detachments in particular. SDCWA has presented no evidence, much less substantial evidence, of anything unusual about the proposed Reorganization. “Argument, speculation, unsubstantiated opinion, or narrative” do not constitute substantial evidence. (CEQA Guidelines, § 15384, subd. (a).)

4. SDCWA does not present any substantial evidence that the Reorganization might have a significant effect on the physical environment.

On June 16, 2020, LAFCO's staff prepared a Preliminary Staff Report stating that the Reorganization Application is “expected to be” exempt from the CEQA under Section 15320.



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SDCWA opposes this preliminary determination but the SDCWA Letter does not present any substantial evidence sufficient to call the validity of the preliminary determination into question.¹

In the SDCWA Letter, SDCWA argues that an initial Study and an EIR are required. As LAFCO is aware, an initial study is only required when the lead agency finds, after preliminary review, that the activity is subject to CEQA. (CEQA Guidelines, §§ 15061, 15063, subd. (a).) As FPUD explains above and in its Reorganization Application, the Reorganization is not subject to CEQA because the Reorganization will not result in any direct or indirect change to the physical environment.

An EIR is only required where there is a fair argument—based on substantial evidence—that the proposed activity may have a potentially significant impact on the environment. (*Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 685.) SDCWA’s vague allegations of environmental impacts do not meet this test.

For example, SDCWA speculates that the Reorganization would increase reliance on the Sacramento-San Joaquin Bay Delta. However, Eastern’s technical memorandum (included as part of FPUD’s Reorganization Application) states: “The de-annexation of FPUD and RMWD from the SDCWA would not result in Metropolitan, as a State Water Contractor, increasing its reliance on the Sacramento-San Joaquin Delta (Delta) since FPUD and RMWD would continue to be supplied from Metropolitan’s Robert A. Skinner Water Treatment Plant. . . . There would be no net increase in imported water to the region.” The change in wholesale water suppliers from SDCWA to Eastern will not change the source of water supplied to FPUD. As such, there is no evidence that the Reorganization would have any significant impact on the Delta.

SDCWA also posits that an EIR is necessary to analyze cumulative impacts resulting from FPUD’s proposed Reorganization in combination with Rainbow Municipal Water District’s proposed detachment and annexation, which LAFCO is also considering. A “cumulative impact of a project is an impact to which that project contributes and to which other projects contribute as well. [¶] *The project must make some contribution to the impact; otherwise, it cannot be characterized as a cumulative impact of that project.*” (*Sierra Club v. West Side Irrigation Dist.* (2005)128 Cal.App.4th 690, 700 [citing *Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2003) § 13.36, p. 533*])(emphasis added.) As explained above, the proposed Reorganization would not have any impact on the physical environment. By definition, therefore, the Reorganization cannot result in cumulative environmental impacts.

¹ We note that many, if not all, of the assertions included in SDCWA’s July 2, 2020 letter were also included in SDCWA’s December 9, 2019 letter to FPUD, received the morning of FPUD’s December 9, 2019 Board Meeting at which the FPUD Board would consider initiating the Reorganization. Contrary to SDCWA’s recent assertions, FPUD did not ignore SDCWA’s comments—in fact as part of its staff presentation, FPUD responded to each of SDCWA’s comments.



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Finally, SDCWA complains that FPUD refused to engage with stakeholders, provided only limited information to the public and ignored comments from other agencies. This is false and, in addition to being false, these complaints do not constitute substantial evidence that the Project might result in significant impacts to the physical environment. Specifically, during the months preceding the December 9, 2019 decision to authorize submittal of the Reorganization Application, FPUD gave the public and interested parties extensive information regarding the proposed Reorganization and provided many opportunities for the public to comment. Further, FPUD has been attempting since Spring of 2019 to engage with SDCWA, as a “subject agency” under the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”), regarding the Reorganization, to no avail.² (Gov. Code §56077 [“‘Subject Agency’ means each district or city for which a change of organization or reorganization is proposed or provided in a plan of reorganization”].) FPUD has also reached out to numerous SDCWA member agencies to discuss its Reorganization Application—while not “subject agencies,” “interested agencies,” or “affected agencies,” as defined by CKH, FPUD desired to provide a forum to discuss any concerns these agencies may have.³ Again, as stated above, these complaints do not constitute substantial evidence that the Project might result in significant impacts to the physical environment.

FPUD’s Reorganization Application provides substantial evidence demonstrating that the Reorganization would not have any direct or indirect physical impact on the environment. SDCWA does not offer any evidence to rebut this and instead proffers only speculation, argument and unsubstantiated opinion. This is insufficient as a matter of law to require an EIR.

5. Conclusion

The law and the evidence fully support LAFCO Staff’s preliminary determination that FPUD’s proposed Reorganization is exempt from CEQA. SDCWA opposes Reorganization but it misstates the facts, misinterprets the law, and fails to present any substantial evidence that would support reconsidering LAFCO Staff’s preliminary determination.

² See October 10, 2019 letter to SDCWA Chair, Jim Madaffer, delineating the various attempts to engage SDCWA and SDCWA member agencies in meaningful dialogue regarding the proposed Reorganization.

³ SDCWA has regularly included agenda items related to the proposed Reorganization on its Board agendas, where representatives from all SDCWA member agencies receive updates on the Reorganization from SDCWA. In addition, SDCWA also provides regular updates to the general managers of each of its member agencies during the SDCWA monthly “GM Meetings.” In both of these forums, FPUD has continued to identify that it is willing to have more detailed discussion or provide any information at the request of any SDCWA member agency. The idea that other interested parties are not aware of this process or have not had the opportunity to provide input is baseless.

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We appreciate the work that LAFCO and its Staff is undertaking to review the FPUD Reorganization Application, and ask that this letter be distributed to the members of the Ad Hoc Advisory Committee on the RMWD and FPUD Reorganization Proposals. We remain available to provide LAFCO Staff with further information not only regarding the content of this letter, but also regarding the FPUD Reorganization Application itself.

Sincerely,

Paula C. P. de Sousa Mills
of BEST BEST & KRIEGER LLP

cc: Jack Bebee, FPUD General Manager
Holly Whatley, Commission Counsel
Mark Hattam, General Counsel SDCWA
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Refer To File # 501668-0005

VIA EMAIL AND U.S. MAIL

July 15, 2020

Mark Hattam
General Counsel
San Diego County Water Authority
4677 Overland Avenue
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Re: Response to San Diego County Water Authority's ("SDCWA") July 2, 2020
Objection to the Proposed Eastern Municipal Water District Wholesale Water
Reorganization and Annexation to Eastern Municipal Water District for Wholesale
Water Service with Concurrent Detachment from SDCWA

Dear Mr. Hattam:

Nossaman LLP is general counsel to the Rainbow Municipal Water District ("RMWD"). This letter responds to SDCWA's meritless objection to the above-referenced reorganization, detachment and annexation.

To the degree that SDCWA's objection is based on the San Diego County Local Agency Formation Commission ("SD LAFCO") staff's preliminary determination that the Proposed Eastern Municipal Water District Wholesale Water Reorganization and Annexation to Eastern Municipal Water District for Wholesale Water Service with Concurrent Detachment from San Diego County Water Authority (collectively, "Project") is exempt from the California Environmental Quality Act ("CEQA"), SDCWA fails to identify any evidentiary, legal, or policy grounds for SD LAFCO staff to revisit the preliminary determination. SDCWA's objection also attempts to rehash CEQA claims that have already been resolved through a settlement that validated RMWD's decision to exempt the Project from CEQA review under CEQA Guidelines section 15320 (changes in the organization of local agencies).

SDCWA's assertion that RMWD failed to engage with SDCWA badly misstates the facts. Included for your reference as **Attachment 1** to this letter, is a listing of RMWD's repeated efforts to engage specifically with SDCWA and its member agencies in connection with RMWD's proposed detachment from SDCWA.

I. The Settlements That Resolved Otay Water District's CEQA Challenges Expressly Affirmed the Validity of RMWD's Decision to Exempt the Project From CEQA Review.

On December 3, 2019, the RMWD Board of Directors determined that the Project was exempt from CEQA review and authorized RMWD's General Manager to submit an application to SD LAFCO to detach from SDCWA and annex to Eastern Municipal Water District. In finding the

application exempt from CEQA review, RMWD's Board of Directors was legally required to consider the environmental consequences of the whole of the detachment and annexation, and not the specific governmental approval before it (i.e., the application). (See CEQA Guidelines, §§ 15060-15061.) This is because CEQA and the CEQA Guidelines define the term "project" broadly as the underlying "activity which is being approved and which may be subject to several discretionary approvals by governmental agencies." (CEQA Guidelines, § 15378, subd. (c); see also Pub. Resources Code, § 21065.) As such, RMWD considered as part of its CEQA screening process the reorganization, detachment, and annexation that are pending SD LAFCO's review.

SDCWA did not challenge RMWD's CEQA determination, or RMWD's decision to pursue the detachment and annexation to which SDCWA now objects. RMWD's actions were, however, challenged under CEQA by Otay Water District ("Otay") on the grounds that categorical exemption 15320 does not apply to the Project and that RMWD was required, but failed to consider the Project's potentially significant infrastructure, Sacramento-San Joaquin Bay Delta, and cumulative impacts when taken together with Fallbrook's proposed detachments from SDCWA.

Otay and RMWD executed a settlement agreement mere months after Otay filed its action – and before RMWD filed any responsive pleading or dispositive motion -- whereby the parties stipulated as follows:

On December 3, 2019 Respondent approved the "Resolution of Application Authorizing the GM to Prepare and Submit an Application to San Diego LAFCO to Detach from SDCWA and Annex to EMWD" and Respondent's related Notice of Exemption ("NOE"), which was posted and filed with the County Clerk on December 5, 2019. ***Prior to the approval, Respondent examined the aforementioned Resolution and Application to determine whether they were subject to the California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA") and determined that they were exempt. The NOE is valid***

Because SD LAFCO was not a party to Otay's suit, and had not yet rendered any decision regarding RMWD's application, the settlement expressly reserved SD LAFCO's discretion, consistent with state law, "to independently determine the appropriate level of CEQA review required for any potential detachment . . . or any potential annexation . . ." The stipulation does not preclude SD LAFCO from reaching the exact same determination that was reached by RMWD.

The stipulation also recites what is already expressly provided for under state law; that SD LAFCO would be required to file its own notice of exemption, if it determined to exempt the Project from CEQA review and, subsequently, elect to shorten the period for CEQA litigants to challenge SD LAFCO's own future CEQA determination.

CEQA does not require public agencies to file notices of exemption when deciding to exempt activities from CEQA review. (See Pub. Resources Code, § 21152, subd. (b); CEQA Guidelines, § 15062, subd. (a).) The chief purpose of a notice of exemption is to start the

running of a shorter statute of limitations than would otherwise apply. “A notice of exemption ordinarily has no significance other than to start the statute of limitations running.” (Kostka & Zischke, Practice Under the California Environmental Quality Act, § 5.116, citing *San Lorenzo Valley Community Advocates for Responsible Educ. v. San Lorenzo Valley Unified School District* (2006) 139 Cal.App.4th 1356, 1385.)

The settlement agreement, in relevant part, provides:

The NOE [Notice of Exemption] may not be utilized or relied upon by the San Diego LAFCO or any other agency for the purpose of that agency’s CEQA compliance in connection with any potential detachment by Respondent from the San Diego County Water Authority, or for any potential annexation by Respondent into Eastern Municipal Water District.

It is quite clear that SD LAFCO would file its own notice of exemption, with or without the settlement agreement, if SD LAFCO were to determine its action on the reorganization exempt from CEQA review.

SDCWA was not a party to the settlement agreement. Yet, SDCWA purports to be best-positioned to interpret the settlement’s meaning. SDCWA’s interpretation fails on the plain language of the settlement. Rather than operating as an admission of insufficiency of RMWD’s CEQA review, as SDCWA claims, the settlement clearly and expressly states that RMWD’s exemption determination in the “NOE is **valid**.” (See CEQA Guidelines, § 15062, subd. (a)(4) [a notice of exemption is required to include “a brief statement of reasons to support the finding” of exemption].)

SDCWA makes much of the settlement’s reservation of SD LAFCO’s CEQA discretion which, as discussed above, could not bind SD LAFCO in any event. It is understood that SD LAFCO will exercise its discretion, consistent with the law and the evidence, when it acts on the proposed reorganization, detachment and annexation.

II. The Proposed Reorganization, Detachment and Annexation are not Subject to CEQA.

CEQA applies only to discretionary “activities which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (See Pub. Resources Code, §§ 21080, subd. (a) and 21065 [defining project].) As is documented in RMWD’s March 18, 2020 Reorganization Application to SD LAFCO, the water lines that convey water to RMWD do not coincide with the delineation of County lines. RMWD currently has connections directly to Metropolitan Water District’s distribution system, which will remain in place and will continue to remain the source of RMWD’s water supply under Project implementation. The Project neither includes nor contemplates any new water service connections or divestitures from service. Accordingly, RMWD’s annexation to Eastern Municipal Water District and concurrent detachment from SDCWA involves a paper change of boundaries that results in no direct or reasonably foreseeable indirect changes to the environment, and is therefore not subject to CEQA.

Changes in the organization or reorganizations of local governmental agencies are also recognized by the California Natural Resources Agency as a category of activities that are presumptively exempt from CEQA review. (See Pub. Resources Code, § 21084, subd. (a); CEQA Guidelines, § 15320.) If a project is found to be subject to a categorical exemption, no formal environmental review is required. (*City of Pasadena v. State* (1993) 14 Cal.App.4th 810, 820.) A project that is categorically exempt “may be implemented without any CEQA compliance whatsoever.” (*Association for Protection of Environmental Values v. City of Ukiah* (1991) 2 Cal.App.4th 720, 726.)

CEQA Guidelines section 15320 applies where there is no change in the geographical area in which previously existing powers were exercised, and is facially applicable to the reorganization, detachment and annexation. RMWD currently receives Metropolitan Water District water through SDCWA and, if the reorganization, detachment and annexation are accomplished, would continue to receive Metropolitan Water District water from Eastern Municipal Water District using existing connections and distribution system. As discussed above, RMWD’s service area will not change as a result of the proposed detachment and annexation. As such, the proposed reorganization affects no physical changes to previously rendered governmental services.

Citing *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1193, SDCWA argues that categorical exemptions are to be applied narrowly in order to maximize the protection of the environment provided by CEQA. *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* concerned a decision to exempt from CEQA review a proposal to dump 3.2 million tons of garbage into an 80-acre unlined municipal solid waste landfill overlying a groundwater basin that supplied the water needs of approximately 1,000,000 people. (See *id.* at p. 1175-1176.) This decision is factually distinguishable from RMWD’s proposed change of wholesale water suppliers. However, because the reorganization, detachment, and annexation result in no “direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” CEQA’s environmental protections do not apply in the first instance. (See Pub. Resources Code, §§ 21080, 21065.)

SDCWA next argues that none of the illustrative examples listed in CEQA Guidelines section 15320 describe the specific circumstances of RMWD’s application, because “[b]y seeking detachment from the Authority and annexation by the Riverside County-based Eastern . . . [RMWD] will *change the geographical areas* in which the Authority, by subtraction, and Eastern, by addition *exercise their powers.*” (Emphasis in original.) SDCWA is wrong. Indeed, each of the examples listed in CEQA Guidelines section 15320 contemplate the “subtraction” and “addition” of a geographic service area in various circumstances. (See CEQA Guidelines, § 15320, subds. (a)-(c).)

The courts have liberally construed categorical exemptions to effectuate their obvious purpose. (Kostka & Zischke, Practice Under the California Environmental Quality Act, § 5.126, citing *Save the Plastic Bag Coalition v. County of Marin* (2013) 218 Cal.App.4th 209, 219.) The proposed annexation and detachment are functionally identical to the examples listed in CEQA Guidelines section 15320, and are likewise exempt from CEQA review, because they involve no physical changes in service. (See CEQA Guidelines, § 15320, subd. (a)-(c); see also *Walters v.*

City of Redondo Beach (2016) 1 Cal.App.5th 809, 818 [holding that car washes are functionally similar to the commercial enterprises expressly listed in categorical exemption and, therefore, exempt].)

Finally, CEQA Guidelines section 15320 expressly provides that the examples listed therein are nonexclusive. Accordingly, the mere fact that the specific circumstances of RMWD's application are not described in the regulation is not dispositive.

For all of the above reasons, the reorganization, detachment, and annexation are not subject to CEQA and are facially exempt from CEQA review under CEQA Guidelines section 15320.

III. SDCWA Has Failed to Present Any Legally Relevant Argument or Evidence That Warrants SD LAFCO Staff Revisiting the Preliminary CEQA Determination.

SDCWA asserts that the Project may result in potentially significant environmental impacts and that, therefore, SD LAFCO must conduct a full environmental review, including the preparation of an Initial Study and an Environmental Impact Report. SDCWA's objection then states that "**to the extent that substantial evidence exists**" that the Project may have a significant effect, SD LAFCO will be required to prepare an EIR. (Emphasis added.) SDCWA's objection identifies no such evidence.¹ (See CEQA Guidelines, § 15384, subd. (a) ["Argument, speculation, unsubstantiated opinion, or narrative" do not constitute substantial evidence."]) Indeed, SDCWA's objection is based on the very same allegations that Otay abandoned shortly after filing its CEQA suit against RMWD.

A. RMWD's Proposed Detachment and Annexation Do Not Involve Unusual Circumstances.

Categorical exemptions do not apply where there is a reasonable possibility that an activity will have a significant effect on the environment due to "unusual circumstances." (See CEQA Guidelines, 15300.2, subd. (c).) This exception applies in the limited situation where the activity itself is unusual, or atypical, as compared to the classes of activities normally covered by the categorical exemption. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 241 Cal.App.4th 943.)

The possibility that an activity may result in potentially significant environmental effects does not make a project unusual for purposes of the unusual circumstances exception. (See *id.* at pp. 1104-1105.) RMWD's request to change wholesale water suppliers is a routine matter. SDCWA's vague and unsupported allegations of environmental impacts are legally irrelevant to

¹ Notably, an Initial Study is required only where a project is found to be subject to CEQA in the first instance. (CEQA Guidelines, § 15063, subd. (a).) As discussed above, the Project is not subject to CEQA review. An Environmental Impact Report is required only where there is a fair argument, based on substantial evidence, that the project may result in a potentially significant impact. (CEQA Guidelines, § 15063, subd. (b).) SDCWA has failed to provide a fair argument of a potentially significant impact.

the question of whether RMWD's application presents unusual circumstances. SDCWA fails to identify any aspect of RMWD's application that renders it atypical, as compared to annexation and detachment actions that are normally considered by SD LAFCO.

B. The Infrastructure Improvements Referenced in RMWD's Application Are Not New Information, Were Specifically Considered by RMWD When it Determined the Project was Exempt from CEQA Review, and Would Be Undertaken With or Without the Project.

SDCWA asserts that RMWD's application to SD LAFCO reveals not previously considered infrastructure improvements and a development project with unexamined growth inducing effects. As stated in RMWD's application, all of the improvements identified in RMWD's application were included in previous Water Master Plans and other Capital Improvement Project forecasts, and are needed to maintain RMWD's aging infrastructure with or without the proposed reorganization, detachment and annexation. The identified improvements are also not new information. The RMWD Board of Directors considered these improvements when it found the Project exempt from CEQA review. The Rice Canyon Tank pipeline that is referenced in RMWD's application is proposed to interconnect to a development project that was environmentally cleared and approved by the County of San Diego nearly a decade ago and will, therefore, not result in any new or unanalyzed growth-inducing effects.

C. The Project Will Not Increase Reliance on the Sacramento-San Joaquin Bay-Delta.

RMWD's application documents that the Project will not result in any impact on the Delta. This documentation includes, but is not limited to, a technical memorandum prepared by Eastern Municipal Water District, which concludes: "The de-annexation of FPUD and RMWD from the SDCWA would not result in Metropolitan, as a State Water Contractor, increasing its reliance on the Sacramento-San Joaquin Delta (Delta) since FPUD and RMWD would continue to be supplied from Metropolitan's Robert A. Skinner Water Treatment Plant **There would be no net increase in imported water to the region.**" (Emphasis in original.) The water supply will be from the exact same blend of imported water sources whether RMWD is a member of SDCWA or Eastern Municipal Water District and thus the change in wholesale suppliers, by definition, cannot have any impact on the environment. Claims related to impacts on the Sacramento-San Joaquin Bay Delta lack any factual validity.

D. RMWD's Application Does not Result in Cumulative Impacts That Preclude Reliance on CEQA Guidelines Section 15320.

An action that results in no environmental impacts cannot result in cumulative environmental impacts. (See *North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal.App.4th 832.) As discussed above, the proposed reorganization, detachment and annexation will result in no changes in the physical environment.

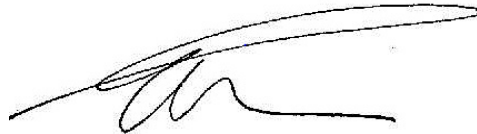
IV. SDCWA's Claim That RMWD Did Not Engage With SDCWA and Other Stakeholders in Connection with its Proposal to Detach from SDCWA is False.

SDCWA asserts that RMWD provided "very limited information to the public," "ignored comments" and refused to engage with stakeholders. These accusations are patently false. RMWD offered multiple opportunities for interested parties to provide comments and obtain information for months leading up to the RMWD Board of Directors' decision to authorize RMWD's General Manager to file an application for detachment from SDCWA and annexation to Eastern Municipal Water District. (See, e.g., Attachment 1.) Further, as detailed in RMWD's application, RMWD had been attempting to engage specifically with SDCWA since May 2019.

V. Conclusion.

For the above reasons, SD LAFCO staff's preliminary determination to exempt RMWD's proposed reorganization, detachment and annexation is fully consistent with the law and supported by the record evidence. SDCWA's latent CEQA objection, which meanders through issues that have already either been resolved in RMWD's favor or fully addressed by technical documentation, is testament of SDCWA's deliberate obstruction of RMWD's application.

Sincerely,



Elizabeth Klebaner
Nossaman LLP

LK:

Cc: Keene Simonds; Jack Bebee

Attach.

ATTACHMENT 1

The following discussion is excerpted from the Rainbow Municipal Water District's Supplemental Information Package for Reorganization Application, included as part of the District's March 18, 2020 Reorganization Application. The complete Reorganization Application is available at <https://www.sdlafco.org/home/showdocument?id=4830>

The District, in accordance with SDLAFCO Policy L-107, began its outreach with the primary affected agency, SDCWA, on May 21, 2019. On that day, RMWD General Manager Tom Kennedy met with Sandra Kerl, Acting General Manager of SDCWA and later in the day with SDCWA Board Chairman Jim Madaffer and Vice Chairman Gary Croucher. In these meetings, the District indicated that it was exploring this process and requested that we meet formally to discuss the County Water Authority Act's provisions related to detachment. At the conclusion of the meeting with SDCWA Chair and Vice Chair, we agreed to meet in a few weeks to discuss the matter.

Prior to that meeting, SDCWA served RMWD with a Public Records Act request for information, communications or other documents related to our exploration of the detachment. The meeting that was discussed in May was never set as SDCWA wanted to review the PRA information prior to holding a meeting. Those documents were produced to SDCWA in June 2019. The following is a chronology of the District's efforts to comply with SDLAFCO Policy L-107:

- June 27, 2019 – at the Regular SDCWA Board meeting, both Jack Bebee (GM at FPUD) and Rainbow GM Tom Kennedy notified all SDCWA Board Members in open session about our desire to meet with any of them to discuss this matter.
- July/August 2019 – both Jack Bebee and RMWD GM Tom Kennedy met with several SDCWA member agencies to discuss the matter. There were also discussions at the SDCWA Member Agency Manager meeting that is attended by nearly every agency.
- July 30, 2019 – Representatives from staff and legal counsel from SDCWA, FPUD, and RMWD met at the SDCWA offices to discuss the potential detachment. While FPUD and RMWD came prepared to discuss the provisions of the County Water Authority Act, SDCWA staff and counsel deferred from any such discussion, indicating that they were not up to speed on the Act.
- August 22, 2019 – SDCWA held a closed session meeting on the detachment discussion and excludes both RMWD and FPUD from the discussion on the grounds of “risk of litigation”. To be clear, neither FPUD nor RMWD has any basis for litigating anything with SDCWA, so our exclusion was questionable. RMWD and FPUD were allowed to make a statement, but each was only afforded three minutes to address the Board from the lectern where public comments are received. In his comments, RMWD GM Kennedy reiterated his willingness to discuss the detachment with any interested party. At this closed session, the SDCWA Board authorized a contract for \$1 Million for legal services related to the detachment.
- September 16, 2019 – RMWD GM Kennedy and FPUD GM Bebee met at FPUD's offices with Sandra Kerl, SDCWA Acting GM and consultant Juanita Hayes to discuss detachment issues without their respective legal counsels present. This was a productive meeting at which we all agreed to meet again with our finance staff present to talk about specific details as to how the detachment would impact financial issues with the goal of finding a common ground.
- September 26, 2019 – At the SDCWA regular Board meeting, FPUD's Bebee again informed the entire SDCWA Board in open session that both FPUD and RMWD would like to meet with any interested party to discuss the matter.
- October 9, 2019 – FPUD GM Bebee and RMWD Gm Kennedy, along with FPUD CFO Shank, met with Sandra Kerl and Juanita Hayes at the SDCWA offices. This meeting was the follow up from

the September 16, 2019 meeting and was intended to dig into the details of financial matters. At this meeting, when no SDCWA finance staff was present, SDCWA's Kerl indicated that we would not be having the discussion we had all agreed to a few weeks before. Ms. Kerl indicated that instead of discussions with SDCWA directly, their position was that we needed to meet with the other 22 member agencies. This outcome was memorialized in an email from Ms. Kerl to GM's Kennedy and Bebee on October 10, 2019.

- October 16, 2019 – in an email communication to SDCWA and all member agencies, RMWD GM Kennedy again invited any interested party to meet with the District to discuss the detachment matter. As of the beginning of February 2020, RMWD and FPUD have met with at least 12 member agencies directly with more meetings still scheduled.
- November 6, 2019 – RMWD sent out formal letters to SDCWA and all member agencies notifying them of the District's intent to consider a Resolution of Application at RMWD's December 3, 2019 Board meeting. This letter fulfilled the requirement to provide at least 21 day's written notice in advance of the meeting.

There were a great deal more informal communications regarding the detachment between the District and affected agencies at various meetings over the months, but this summary demonstrates that the District has greatly exceeded the minimum requirements of SDLAFCO Policy L-107.

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

7C

AGENDA REPORT
 Business | Action

August 3, 2020

TO: Commissioners

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

SUBJECT: Adoption of a Draft Resolution to Serve as Lead Applicant for an Agricultural Conservation Planning Grant with the California Department of Conservation

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider formalizing an earlier action and adopt a draft resolution of authorization to serve as lead applicant and apply for a \$250,000 agricultural conservation planning grant with the Department of Conservation and its Sustainable Agricultural Lands Conservation Program. The grant application partners with Resource Conservation District (RCD) of Greater San Diego and others for purposes of identifying and monitoring agricultural lands and uses as well as to inform future enhancement opportunities. Adoption serves to formalize the Commission’s action at its June 2020 meeting directing staff to proceed with the grant application and in doing so satisfies a State eligibility requirement. The resolution includes a term for the Commission to enter into an agreement with RCD of Greater San Diego to specify RCD shall serve as project manager and be responsible for all related matching and program costs.

BACKGROUND

Sustainable Agricultural Lands Conservation Program

The Sustainable Agricultural Lands Conservation Program (SALC) was created in 2014 as a component of the California Strategic Growth Council and administered by the Department of Conservation. The SALC program is primarily funded through the California Climate

<p>Administration Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org</p>	<p>Jim Desmond County of San Diego</p> <p>Chair Dianne Jacob County of San Diego</p> <p>Greg Cox, Alternate County of San Diego</p>	<p>Mary Casillas Salas City of Chula Vista</p> <p>Bill Wells City of El Cajon</p> <p>Paul McNamara, Alternate City of Escondido</p>	<p>Mark Kersey City of San Diego</p> <p>Chris Cate, Alternate City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>Erin Lump, Alternate Rincon del Diablo MWD</p>	<p>Vice Chair Andy Vanderlaan General Public</p> <p>Harry Mathis, Alternate General Public</p>
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Investments, a statewide program that provides cap-and-trade funds through agricultural conservation acquisition and planning grants for programs intended to reduce greenhouse gas emissions. The principal goals of SALC are stated as:

- Protect at-risk agricultural lands from sprawl development to promote growth within existing jurisdictions, ensure open space remains available, and support a healthy agricultural economy.
- Further the purposes of Assembly Bill 32 by avoiding increases in the greenhouse gas emissions associated with the conversion of agricultural land to more greenhouse gas-intensive nonagricultural uses.

The 6th and current round of SALC program grants (2020-2021) are designated for funding either agricultural conservation acquisitions or agricultural conservation planning projects. Agricultural conservation planning grants are intended to develop and implement plans for the protection of agricultural lands at risk of conversion to more greenhouse gas-intensive non-agricultural uses. The SALC grant program guidelines were recently approved in February 2020 for the current grant funding period that extends from December 2020 through December 2022. The 2020-2021 SALC program guidelines specify eligible applicants for the agricultural conservation planning grants as counties, cities, LAFCOs, councils of government, municipal planning organizations, regional transportation planning agencies, groundwater management agencies, and special districts with land use or transportation planning authority.¹

Request by RCD of Greater San Diego | Earlier Commission Approval

San Diego LAFCO received an initial request in March 2020 from RCD of Greater San Diego to serve as collaborating partner for a proposed agricultural conservation planning grant to identify and track agricultural trends in San Diego County. At the time, it was RCD's intention to serve as lead applicant for the grant with the County of San Diego, San Diego Association of Governments (SANDAG), and the San Diego Farm Bureau. LAFCO staff agreed to collaborate on the project given – and among other factors – the parallel timing of reinitiating a scheduled review of the Commission's agricultural and open space preservation policy. However, and as a result of an update to the final grant program guidelines, it was subsequently learned RCDs are not eligible applicants for the agricultural conservation planning grants and led the other participants to request LAFCO to assume the applicant role.

At the June 1, 2020 meeting, the Commission approved a request by staff to proceed with the SALC application. The approval included authorizing the Executive Officer to sign the grant award should it be approved and in conjunction with executing a memorandum of understanding with the RCD and other participating agencies subject to the review and approval of Commission Counsel. Markedly, at the time of the approval, it was not known a formal resolution was required as part of the grant application process.

¹ LAFCOs became eligible for SALC program agricultural conservation planning grants in January 2019.

DISCUSSION

This item is for San Diego LAFCO to formalize its earlier approval and adopt a draft resolution authorizing the Commission to serve as lead applicant for a SALC program agricultural conservation planning grant in the amount of \$250,000. The draft resolution is attached.

ANALYSIS

Adoption of the draft resolution formalizes an earlier approval by San Diego LAFCO and satisfies an eligibility requirement to seek SALC grant funding. Adoption enables the Commission to proceed with a unique and potentially pertinent pivot for LAFCO to more directly contribute to its statutory interests to enhance existing and future agricultural uses and opportunities in San Diego County. The resolution also includes a term consistent with the earlier Commission approval to require a memorandum of understanding with RCD of Greater San Diego to ensure the RCD is responsible for all matching and related program costs.

RECOMMENDATION

It is recommended San Diego LAFCO adopt the draft resolution authorizing the Commission to serve as lead applicant in applying for the SALC grant as described. This recommendation is consistent with Alternative One outlined in the proceeding section.

ALTERNATIVES FOR ACTION

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

Alternative One (recommended):

Adopt the draft resolution authorizing the Commission to serve as lead applicant and submit the SALC program agricultural conservation planning grant application in the amount of \$250,000 as provided as Attachment One.

Alternative Two:

Continue consideration with the understanding the deadline to submit the application packet is August 23, 2020.

Alternative Three:

No action.

PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of the business calendar. The following procedures are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff unless waived.
- 2) Commission discussion.
- 3) Consideration of the staff recommendation.

On behalf of the Executive Officer,

A handwritten signature in black ink, appearing to read 'R. Barry', with a stylized flourish at the end.

Robert Barry, AICP
Chief Policy Analyst

Attachments: as stated

RESOLUTION NO. _____

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

**AUTHORIZING AND CERTIFYING SAN DIEGO LAFCO TO SERVE AS LEAD APPLICANT FOR
A SUSTAINABLE AGRICULTURAL LANDS CONSERVATION PLANNING GRANT WITH
THE STATE OF CALIFORNIA DEPARTMENT OF CONSERVATION**

WHEREAS, on March 25, 2020, the Resource Conservation District of Greater San Diego requested the San Diego County Local Agency Formation Commission, hereinafter referred to as “Commission,” to partner and serve as lead applicant for a \$250,000 agricultural conservation planning grant with the California Department of Conservation and its Sustainable Agricultural Lands Conservation Program (SALC); and,

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 identifies the purposes of a Commission to include discouraging urban sprawl, preserving open-space and prime agricultural lands, encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances; and,

WHEREAS, the proposed SALC agricultural planning grant application partners local governmental agencies and organizations for purposes of identifying and monitoring agricultural lands and uses and to inform future agricultural enhancement opportunities; and,

WHEREAS, the Cortese Knox Hertzberg Act of 2000 allows the Commission to apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state or federal government or from a local government per Section 56378(b); and,

WHEREAS, on June 1, 2020 the Commission provided conditional authorization to serve as lead applicant and submit a SALC agricultural conservation planning grant application in the amount of \$250,000; and,

WHEREAS, the Commission understands and accepts the SALC grant applicant is responsible for costs to complete work related to the development and execution of the grant agricultural planning project until reimbursement by the State; and,

WHEREAS, the Commission’s approval authorized the Executive Officer to sign the grant award should it be approved and in conjunction with executing a memorandum of understanding with the other grant participating agency subject to the review and approval of Commission Counsel; and,

WHEREAS, the SALC planning grant guidelines require submittal of a resolution from the applicant regarding commitment to grant program requirements; and,

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE AND AUTHORIZE as follows:

1. The Commission APPROVES the request by the Resource Conservation District of Greater San Diego, as described below and subject to conditions as provided. Approval involves the following:
 - a) Authorize the Commission to serve as lead applicant in partnership with the Resource Conservation District of Greater San Diego and file the SALC agricultural conservation planning grant application in the amount of \$250,000 as provided as Attachment One.
 - b) Certify that the Commission understands the assurances and certification in the SALC grant application.
 - c) Certify that the Commission's application if granted will have sufficient funds to meet the match requirement.
 - d) Certify that the Commission's application will work towards the Governor's State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1.
 - e) Authorize entrance into a grant agreement with the Department of Conservation for the project and agree to accept the template included in the SALC Guidelines as provided as Attachment Two.
 - f) Authorize the Executive Officer as agent to accept the award of grant funding and to, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for development of the aforementioned plan
2. The Commission CONDITIONS all approvals on the following terms:
 - a) Authorize the Executive Officer to sign the grant award should it be approved and in conjunction with executing a memorandum of understanding with the Resource Conservation District of Greater San Diego and any other grant participating agency or organization subject to the review and approval of Commission Counsel.

- b) The condition of entering into a memorandum of understanding with the Resource Conservation District of Greater San Diego shall – and among other items – prescribe the District to assume all matching contributions required as part of the SALC grant.

**

PASSED AND ADOPTED by the Commission on August 3, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**

Attest:

Keene Simonds
Executive Officer

EXHIBIT A-1

Draft SALC Grant Application

EXHIBIT A-2

SALC Guidelines Grant Application Template

SALC San Diego
Led by the Resource Conservation District of Greater San Diego County
APPENDIX D – Planning Grant Pre-proposal

SUBMITTAL REQUIREMENTS

All applicants are encouraged to provide the Department with a structured summary of their proposed project prior to the full application deadline.

By providing basic information about the potential project’s scope and goals, the Department of Conservation staff can provide preliminary technical assistance to the applicant in advance of completion of full project proposals.

Please submit the below form to the Department of Conservation via email to SALCP@conservation.ca.gov.

Project Title: Promoting Agriculture in San Diego County: A Planning Vision
Applicant Name: San Diego Local Agency Formation Commission (LAFCO)
Department/Office: n/a
Federal Employer ID Number: 95-6000934
Mailing Address: 9335 Hazard Way, Suite 200, San Diego, CA 92123

Location (County and/or City): San Diego County
Claiming Priority Population Benefits Status (circle one): **Y** ~~N~~
If yes, you will need to submit a Priority Population Benefits Checklist with your application (not with this pre-proposal).

Grant Request Amount: \$250,000.00
Matching Funds Pending: \$
Matching Funds Committed: \$
Total Estimated Project Cost: \$

Contact Person: Keene Simonds, LAFCO
Title: Executive Officer
Phone Number: 585-614-7755
Email Address: keene.simonds@sdcounty.ca.gov; sheryl.landrum@rcdsandiego.org

Executive Summary and Proposed Planning Project

Please provide a brief overview of the project (1-page maximum) that describes the following:

- Provide a brief description of the proposed planning project.
- Why the proposed project is appropriate for protecting agricultural lands in your jurisdiction.
- Participating stakeholders.
- Any critical deadlines.

San Diego Local Agency Formation Commission (LAFCO) plans to collaborate with the Resource Conservation District of Greater San Diego County (RCDGSDC), San Diego County Farm Bureau (Farm Bureau), the County of San Diego (County), and San Diego Association of Governments (SANDAG) to create a solid foundation for a SALC project. This core team seeks to develop a community vision and strategic plan to increase and preserve San Diego region's agricultural lands and preserve its economic viability in semi-rural and rural communities. More specifically, this diverse team aims to identify and monitor active or historical agricultural lands, land zoned for agriculture, and potential land for conservation practices within the region. This project will leverage existing programs, projects, and policies underway by the core team, including SANDAG's TerraCount project and consider input from local stakeholders to directly strengthen agricultural communities and the economy.

According to the USDA Agriculture Census, the San Diego region is home to more than 5,000 farms on 222,094 acres and is the 19th largest farm economy of over 3,000 counties in the United States. Moreover, agriculture contributed to the local economy through 1.77 billion dollars in revenue in 2018, according to the County of San Diego 2018 Crop Report. On a national scale, the San Diego region is the second-leading producer of avocado and nursery crops, accommodates more small farms (less than 10 acres in size) than any other county, and has the most part-time farmers who create local products and drive the economy. Agricultural management of farmland and rangelands is an essential part of the robust San Diego economy and local food system; however, San Diego agriculture is severely threatened.

High San Diego land and water costs, the latter which are rising faster here than anywhere else in Southern California, are driving many farmers to halt agricultural production and, in some cases, sell their lands. By identifying important agricultural lands in San Diego region and building a community vision for sustaining them, we believe we can counter this trend. A SALC project will support San Diego County's Climate Action Plan and its goal of reducing GHG emissions, especially if San Diego County lands are strategically protected and stewarded through integrated policies, planning, investment, and collaborative action. This project work and results would also directly benefit the Climate Action Plans developed by Oceanside, Carlsbad, and Escondido because they have similar CAP goals related to agricultural lands.

While this project is under direction of the above-mentioned entities: LAFCO as lead applicant, RCDGSDC as project leader and manager, and the Farm Bureau, SANDAG, and County as core support, we will collaborate with multiple relevant agencies involved with land use, climate change, and agricultural and environmental concerns. These agencies include the University of California Cooperative Extension, Natural Resource Conservation Service, and San Diego Food System Alliance. LAFCO and these stakeholders are members of the San Diego Carbon Farming Task Force, which consists of multi-sector regional organizations engaged in the movement to identify, adopt, and promote climate-friendly and soil health practices countywide. A San Diego SALC project will create a high-priority action plan to promote and scale-up agricultural management to help producers maintain economically-viable agricultural operations.

Questions and Responses

The questions below are designed to solicit specific facts regarding how the planned project will address the SALC Program goals and objectives. More detailed information and documentation will be required in the complete application.

1. Describe the proposed planning project. What outcome and deliverables are expected?

Describe the agricultural land base, economy, and regional food systems and infrastructure within the project area? What amount and quality of agricultural land that can be expected to receive protection through the proposed project?

Include maps of important farmland, jurisdictional boundaries, and other pertinent data that would portray the project scope (as attachments to the application).

Why and to what extent agricultural land is being converted to other uses within the project area? To what extent those conversion risks are expected to continue. How will the proposed project address those conversion risks?

Response:

The proposed project will identify, monitor, and assess the ownership of active agricultural lands within the San Diego region to determine effective methods to preserve, promote, and enhance agricultural production and the growing agricultural economy. Upon developing a full inventory of agricultural lands within the County, the core team will identify causes of agricultural land conversion and then develop a suite of actions to assist producers to ensure the preservation and enhancement of their lands. A partnership approach, with an emphasis to work with producers, will support our overarching goals to significantly expand on current projects and programs to champion their needs and gain buy-in on our suite of actions. This approach will also strengthen the agricultural economy, and help meet local, regional, and statewide greenhouse gas emissions reduction targets. The County's Purchase of Agricultural Conservation Easement (PACE) Program currently promotes the long-term preservation and oversight of agricultural land and resources in the unincorporated region¹. Additionally, the California Air Resources Board (CARB) has several funding strategies to help meet statewide goals. These efforts will be complemented by SANDAG as a part of the TerraCount assessment, which will provide an estimate of the region's land-based greenhouse gas emissions. Ultimately, this project will build a community vision that outlines potential strategies to protect the San Diego region's deeply rooted agricultural heritage, economic viability, and working lands base.

The proposed planning project area includes both unincorporated and incorporated areas within the San Diego region, totalling approximately 4,260 acres and including 3.22 million residents.

¹ County of San Diego Purchase of Agricultural Conservation Easement (PACE) Program. (2014). <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/PACE/PACE-Guidelines.pdf>

Unincorporated San Diego County encompasses 3,570 square miles, with a 2015 population of 504,330 residents under the land use and planning jurisdiction of the County of San Diego². The unincorporated area includes 26 distinct communities that vary from suburban densities adjacent to neighboring cities, to lower density rural communities surrounded by hillsides, deserts, and agricultural lands. Incorporated San Diego County encompasses 690 square miles, with a 2019 population of 2,723,166 residents. The incorporated area holds 84.4% of the total population in jurisdictions across 18 distinct communities, including Oceanside and Vista in the north, National City and Imperial Beach in the south, and Lemon Grove and Santee in the east.

This project planning area includes 242,554 acres of agricultural land, with an economic output of \$1,769,815,715 in 2018³. This equates to a 0.2% decrease from the 2017 total value of \$1,774,206,410 and an equivalent decrease of 0.2% in production acres, down from 243,029 acres in 2017⁴. The agricultural economy in the San Diego region remains within the top 20 counties in the United States but has lost significant ground in growing citrus and avocados due to decreasing farmland acreages. This decrease in producing acres between 2015 and 2016 resulted in the San Diego region becoming the second-leading producer of any county in the nation, after Ventura County⁵. Since 1984, the County has seen 50% of its irrigated agricultural land transition to non-irrigated uses and has lost over 30,000 acres total in agricultural lands due to high water costs during drought years and land use conversion from prime, statewide, and unique farmland to non-agricultural uses⁶. According to the 2015 California Farmland Conversion Report, San Diego region has consistently ranked in the top 10 counties in California with the largest net loss of irrigated farmland since 1994. San Diego region also accounted for 20% of the state total for urban development, with 5,775 acres of new urban and built-up lands. Between 2006 and 2018, agricultural land in the San Diego region decreased by 60,381 acres, which was a loss of 24%⁷.

Rising land values, escalating costs of water for irrigation, and a complex regulatory environment equally result in agriculture land conversion in San Diego County. Agricultural land in the County has declined significantly in the past decade and especially dropped precipitously between 2007 and 2011 due to the loss of about 10,000 acres of orchard trees. To date, the region has less than 40,000 acres of land in fruits, vegetables, and vine crops³. A shortage of labor and complex farming regulations on local, state, and federal levels also contributes significantly to financial stress to the local agricultural community and therefore significant loss of agricultural land.

² SANDAG. (2016). Demographics in the San Diego Region.

https://www.sandag.org/uploads/publicationid/publicationid_2001_20213.pdf

³ County of San Diego Department of Agriculture, Weights and Measures. (2018) 2018 Crop Report.

⁴ County of San Diego Department of Agriculture, Weights and Measures. (2017) 2017 Crop Report.

⁵ California Avocado Commission. (2016) Acreage Inventory Summaries.

<https://www.californiaavocadogrowers.com/sites/default/files/documents/2016-Acreage-Inventory-Survey-Results-WEB%20Version.pdf>

⁶ California Department of Conservation. (2015). California Farmland Conservation Report. Division of Land Resource Protection (DLRP), Farmland Mapping and Monitoring Program (FMMP).

⁷ County of San Diego Department of Agriculture, Weights and Measures. (2006) 2006 Crop Report.

The composite crop production in San Diego County is also shifting. Nursery crops and ornamental plants have increased to 71% of the total agricultural production value, indicating a transition away from food crops⁸. The region now boasts the largest nursery, greenhouse, floriculture, and sod value in California, second in the nation. The increase in nursery products to 29% of the total crop yield shows a trend toward crops that garner a steady income. The high value of nursery crops is expected to continue, putting additional pressures on farmers to choose products that command a high value rather than producing food crops such as fruit, nuts, vegetable, and vine crops. The value of fruit and nut crops and of vegetable and vine crops decreased by 3% and 4% between 2017 and 2018, respectively. One exception is avocados, which represent the commodity with the greatest amount of planted acreage at 8% of total crops, with an increase in acres planted over the past year; however, the total value of avocados decreased by 1% due to the decrease in price per ton. Citrus value also had a slight decline of 1% due to reductions in citrus acreage and the price per ton.

The average age of producers in the San Diego region in 2012 was 62 years old, and compared to 2007, fewer multi-generational families are continuing the farming and/or ranching professions, which is a 14% decrease from farm numbers⁹. The majority of producers are males, with a 4-year college education or higher degrees, and those with an income outside of farming¹⁰. San Diego region has the highest number of small and certified organic farms of any county in the nation¹¹, many of which are farmed by younger generations. This indicates an opportunity area for growth and education that could be further explored through an analysis of how to inform and recruit young farmers, support the transition of land management to younger generations without prior family farm ownership, and expand affordable access to agricultural land and its resources.

Agriculture Weights and Measures, a department within the County of San Diego, produces an annual crop report with data on acreage, crop production, total value, and statistics on trends. What the County does not track, currently, is the amount of carbon sequestration provided by agricultural and working lands, the co-benefits provided by agriculture such as wildlife habitat, fire resilience, soil health, soil stabilization, and water retention.

This SALC grant opportunity could provide a mechanism to evaluate conversion risks and better understand the socio-economic and ecological services that agriculture provides the San Diego region. This grant would be instrumental in exploring new farmer training and farmland access programs and evaluating the policies, incentives, and programs supporting producer operations

⁸ County of San Diego Department of Agriculture, Weights and Measures. (2018) 2018 Crop Report.

⁹ USDA National Agricultural Statistical Service (NASS) (2012). Census of Agriculture: San Diego County, California.
https://www.nass.usda.gov/Publications/AgCensus/2012/Online_Resources/County_Profiles/California/cp06073.pdf.

¹⁰ University of California Cooperative Extension San Diego. (2018). Growers Needs Assessment for Sustainable Food Production in San Diego County. Final Report.

¹¹ Jasperse, Pairis, and Flint. (2019). Climate-smart agriculture in San Diego County.

for food and agricultural production and implementation of regenerative agriculture practices to build soil health, strengthen fire resilience, and boost local economies. Our overarching focus is to improve human health in San Diego region directly through healthy food production and carbon sequestration, which will indirectly offer direct benefits to the environment.

2. How will the project avoid or reduce greenhouse gas emissions?

Response:

This SALC planning project will avoid and potentially reduce greenhouse gas emissions through targeted planning and implementation of carbon sequestration or carbon farming practices on agricultural lands. An adaptive strategy to building soil and ecosystem health, carbon farming engages a suite of agricultural practices to sequester carbon in vegetation and soil, ultimately reducing atmospheric greenhouse gas emissions. Between 1990 and 2006, greenhouse gas emissions increased by 18% to 34 million metric tons (MMT) carbon dioxide equivalent (CO_{2E}), an increase associated with population growth of San Diego County by 435,000 people over a sixteen-year period¹². This grant will also assist our core team to quantify the amount of carbon sequestered in agricultural lands currently, and land management practices that yield greenhouse gas reduction benefits, which will, in turn, offer multiple co-benefits to the land. Widescale carbon farming across San Diego also has the potential to boost biological activity, water quality and efficiency, soil structure, and nutrient cycling and provide healthy foods for millions of residents and tourists.

Agriculture in San Diego region is the fifth largest economy and currently represents 242,554 acres, or 8% of the region¹³. Over 200,000 acres of the region's soils are classified as Important Farmland, which includes farmland that is prime, unique, of statewide importance, and of local importance¹⁴. Rangelands represented the majority of agricultural lands on roughly 194,013 acres, or 80% of agricultural lands; the remainder is cropland, orchards, or vineyards on 48,541 acres¹⁵. Agriculture, combined with forestry and land use in the emission inventory, contributes to 2% of greenhouse gas emissions in the San Diego region⁹. Agriculture-based emissions are associated with poor land and soil management, fertilizer use and production, livestock production, and fuel for farm equipment and transportation. For example, a single quarter-inch application of compost to all grazing lands in San Diego could potentially sequester 5.8 MMT

¹² Anders, S. J. et al. (2008). San Diego County Greenhouse Gas Inventory: An Analysis of Regional Emissions and Strategies to Achieve AB 32 Targets. Executive Summary. University of San Diego Energy Policy Initiatives Center

¹³ San Diego Gas & Electric. (2017). TL 695 & TL 6971 Reconductoring Project Final IS/MND: Agriculture and Forestry Resources.
https://www.cpuc.ca.gov/environment/info/panoramaenv/TL695_TL6971/Pendleton_DraftMND.html

¹⁴ California Department of Conservation. (2015). California Farmland Conservation Report. Division of Land Resource Protection (DLRP), Farmland Mapping and Monitoring Program (FMMP).

¹⁵ County of San Diego Department of Agriculture, Weights and Measures. (2018) 2018 Crop Report.

CO_{2E} per decade¹⁶. Similarly, an increase in soil organic carbon from 1% to 2% on San Diego agricultural lands would sequester 11 MMT CO_{2E} and also increase associated water-holding capacities by 56,000 acre-feet¹⁷. These analyses indicate agricultural management is a monumental piece in the solution to lower or stabilize increasing greenhouse gas emissions.

The TerraCount tool is a scenario planning tool involving the use of greenhouse gas and natural resource implications of a suite of management activities and development patterns¹⁸. It is specifically designed to identify areas where conservation goals align directly with that of greenhouse gas emission reductions, as well as carbon sequestration into vegetation and soil. TerraCount is funded independently of this work in a collaborative effort through several local, state, and non-governmental organizations. This tool is based on five data sets, including the landscape carbon inventory, predefined development patterns and footprints, land management and agricultural activities and adoption caps, complementary co-benefits, and user-defined development footprints and land conservation. The compilation of these sets can produce specific outputs on landscape carbon and complementary co-benefits for the San Diego region and support the results from this project to better inform our suite of actions and local climate action plans.

Stakeholder support, producer assistance, and agricultural incentives are an important piece to protect agricultural land at risk of conversion to non-agricultural uses. Current projections of land use indicate decreasing urban conversion and increasing conversions of irrigated lands to non-irrigated lands. With decreasing food production systems and increasing nurseries occurring regionally, San Diego may need to focus on both the expansion of non-irrigated lands and the protection of the remaining irrigated and other agricultural lands, as all of these parcels can indirectly remain a resource for carbon sequestration while avoiding the simultaneous greenhouse gas emissions that the conversion may pose. Ultimately, these lands must remain in production for conservation, hydrologic, and sequestration benefits to support resilience within the San Diego region.

3. How will the proposed project implement an adopted or draft Sustainable Communities Strategy or, if a Sustainable Communities Strategy is not required for a region by law, a regional plan that includes policies and programs to reduce greenhouse gas emissions? Provide references to the specific goals, objectives, or policies that the project supports.

Response:

¹⁶ USDA NRCS, and Colorado State University (2019). COMET-Planner, to Evaluate Potential Carbon Sequestration and Greenhouse Gas Reductions from Adopting NRCS Conservation Practices.

¹⁷ Creque, J. (2016). Carbon Farming: Increasing Carbon Capture on California's Working Lands. Adapted from calculations by Carbon Cycle Institute.

¹⁸ Department of Conservation (2018). TerraCount. <https://maps.conservation.ca.gov/terraccount/>

The project aligns directly with the current Sustainable Communities Strategy (SCS) included within San Diego Forward: the 2015 Regional Plan¹⁹. The most applicable policy aligns well with this project's goals to prioritize landscape-scale approaches to conservation and greenhouse gas emission reductions and continue tracking land conservation rates, while also streamline land management functions, and support producers to maintain long-term stewardship of their operation and/or lands. In all, this work is an excellent opportunity to assist producers and land managers in expanding and promoting agricultural lands, open space, farmland, and rangeland, while protecting sensitive habitat and the environment within the San Diego region. The proposed project will also inform SANDAG's 2021 Regional Plan, specifically to meet or exceed state climate goals; this Plan will be adopted by the SANDAG Board of Directors in late 2021²⁰.

4. How is the proposed plan consistent with the State's Planning Priorities?

Response:

This plan consistently mirrors California's Planning Priorities, specifically to protect the environmental and agricultural resources by protecting, increasing, and enhancing California's most valuable resources, including working landscapes, natural lands, recreation lands, and landscapes with locally unique features (ex. of cultural and historic significance) and areas identified by the state as deserving special protection (ex. wetlands and wildlands)²¹. The US Census Bureau has projected a population of 50 million residents by 2050; this expansive growth must be accommodated with improvements to the environment and economy, increased quantities of healthy foods, and preservation of natural and working landscapes. California consistently faces multiple severe and frequent climatic events, including droughts, wildfire, flooding, and air and water quality challenges, all of which result in a downturn to the economic and environmental state and also declines in public health and safety. Safeguarding agricultural lands in the San Diego region directly aligns with California's Planning Priorities to combat these issues in coming decades.

The proposed project also seeks to implement several regional plans that seek to protect the health of agricultural lands, while ensuring their resilience against climatic events and further increases in greenhouse gas emissions. In 2018, the County of San Diego adopted a Climate Action Plan (CAP) to build and move its existing programs towards mitigation and resilience, environmental stewardship, and sustainability within the unincorporated County. The CAP contains measures that preserve agricultural lands through the placement of agricultural easements, increase carbon sequestration through tree planting, open space conservation and restoration, and educational and outreach components that contribute towards meeting the County's 2020 and 2030 greenhouse gas emissions reductions targets. While this plan is

¹⁹ SANDAG Board of Directors (2015). San Diego Forward: The 2015 Regional Plan.

<https://www.sdfoward.com/2019-federal-rtp/2015-regional-plan>

²⁰ SANDAG Board of Directors (2020). Developing the 2021 Regional Plan.

<https://www.sdfoward.com/about-san-diego-forward/developing-the-2021-regional-plan>

²¹ California Laws | Government Code, Planning and Land Use, Planning and Zoning: Section 65041.1

centered on the unincorporated County, adjacent local jurisdictions would still directly benefit from the regional impacts to climate change, as there is no limitation by jurisdictional boundaries. These jurisdictions would also benefit from their local CAPs, whose goals directly align with the unincorporated County CAP.

This work is consistent with the goals of the California Climate Investment program to utilize a diverse mix of landscape-scale management actions that follow industry standards and will make an ecologically-meaningful difference by providing enduring and sustainable co-benefits and accelerating carbon sequestration towards greenhouse gas reductions. These activities coincide with the statewide strategic plans, including Forest Carbon Plan and Natural and Working Lands Implementation Plan, to increase forest reforestation rates by 2020 and expand high priority habitat areas by 5% above baseline levels by 2025. While creating lands resilient to future wildfires, pest outbreaks, and climatic events, this project also matches well with our Regional Forest and Fire Capacity Grant from the Department of Conservation, with several jurisdictions in the San Diego region listed as a targeted priorities for their Regional Fire Protection Plan.

5. What economic, environmental, public health or other co-benefits that would arise from the project?

How will those co-benefits be measured?

Response:

As part of this project, RCDGSDC and project partners will learn more about existing barriers to agricultural production and what tools, programs, and policies can support agricultural production, preservation, and expansion.

The County of San Diego currently manages a Purchase of Agricultural Easements program (PACE) to acquire permanent easements on land that was downzoned through the County's General Plan update process. As of 2018, the PACE program has preserved local agriculture over 28 easements and 2,035 acres. The County's Climate Action Plan Measure T-1.2 takes into account PACE acquisitions since 2015 (793 acres of easements) and aims to reach a goal of 4,873 acres by 2030 through implementation of Climate Action Plan Measure T-1.2. The County currently targets properties that received an allowable density decrease during the General Plan update process. This grant program will help to support this existing program and help the County spur economic development and achieve climate action targets by providing detailed information on agricultural and land management practices occurring in the County.

As part of the grant program, SANDAG will utilize the TerraCount tool developed by the Department of Conservation to evaluate the application of agricultural management activities that can avoid conversion or loss to development. Once an inventory has been conducted on existing carbon stocks within the region, SANDAG will also evaluate the carbon sequestration potential of pursuing various types of carbon farming and sustainable land management practices on County parkland and private lands. With substantial producer input on agricultural

practices, we believe that this process will identify what carbon farming practices have the greatest potential for carbon sequestration to aid San Diego County in achieving statewide greenhouse gas emissions reduction targets. Carbon farming offers multiple co-benefits on air, soil, water, plants, animal habitat, production, and efficiency to ultimately build regional resilience. As a County with a large agricultural land base, the SALC grant program provides an opportunity to help evaluate how increased carbon sequestration can be achieved, in part, through land-based management programs on County-owned lands and affirmative easements requiring active production of working lands, as well as incentives for carbon sequestration on private lands.

6. How will the proposal complement other efforts in the region, including comprehensive planning efforts (e.g., Greenprints, general or special plan objectives or goals), and agricultural land use policies (e.g., Williamson Act)?

How would the project leverage other permanently protected lands to promote location and resource-efficient development?

Response:

San Diego region is covered under the Williamson Act, and the County has designated approximately 402,100 acres as Agricultural Preserves. Over 100 contracts within these Preserves exist totaling approximately 80,500 acres in the San Diego region. We believe that this project will be the first step in identifying important agricultural lands for future funding efforts to protect them from development.

This proposal supports current efforts by the County of San Diego to purchase agricultural conservation easements for agricultural preservation. By providing an inventory of local agricultural lands, it will provide the necessary land use data needed to consider how best to support carbon farming and sustainable land management practices in the region. This project would help the County of San Diego better understand the carbon sequestration potential of carbon farming practices on working lands in the region. This project directly aligns with and supports the County's work to implement its climate action plan which includes existing measures and supporting efforts for conservation land acquisition, agricultural easements, local food production, and carbon farming practices. This project also directly aligns with the San Diego County LAFCO Open-Space and Agricultural Lands Policy, which will be updated by the end of the fiscal year; these updates will include directive to protect against the loss of open space and agricultural lands and reorienting objectives to continue preserving and enhancing lands in San Diego County²². Additionally, San Diego producers will be instrumental in demonstrating the value of land management strategies, especially those that improve environmental and financial co-benefits.

²² San Diego County LAFCO. (2020) Administrative Draft | Update on Agricultural and Open Space Lands Policy. <https://www.sdlafco.org/home/showdocument?id=4816>

7. Which stakeholders will participate in the proposed project? How will these stakeholders participate?

Response:

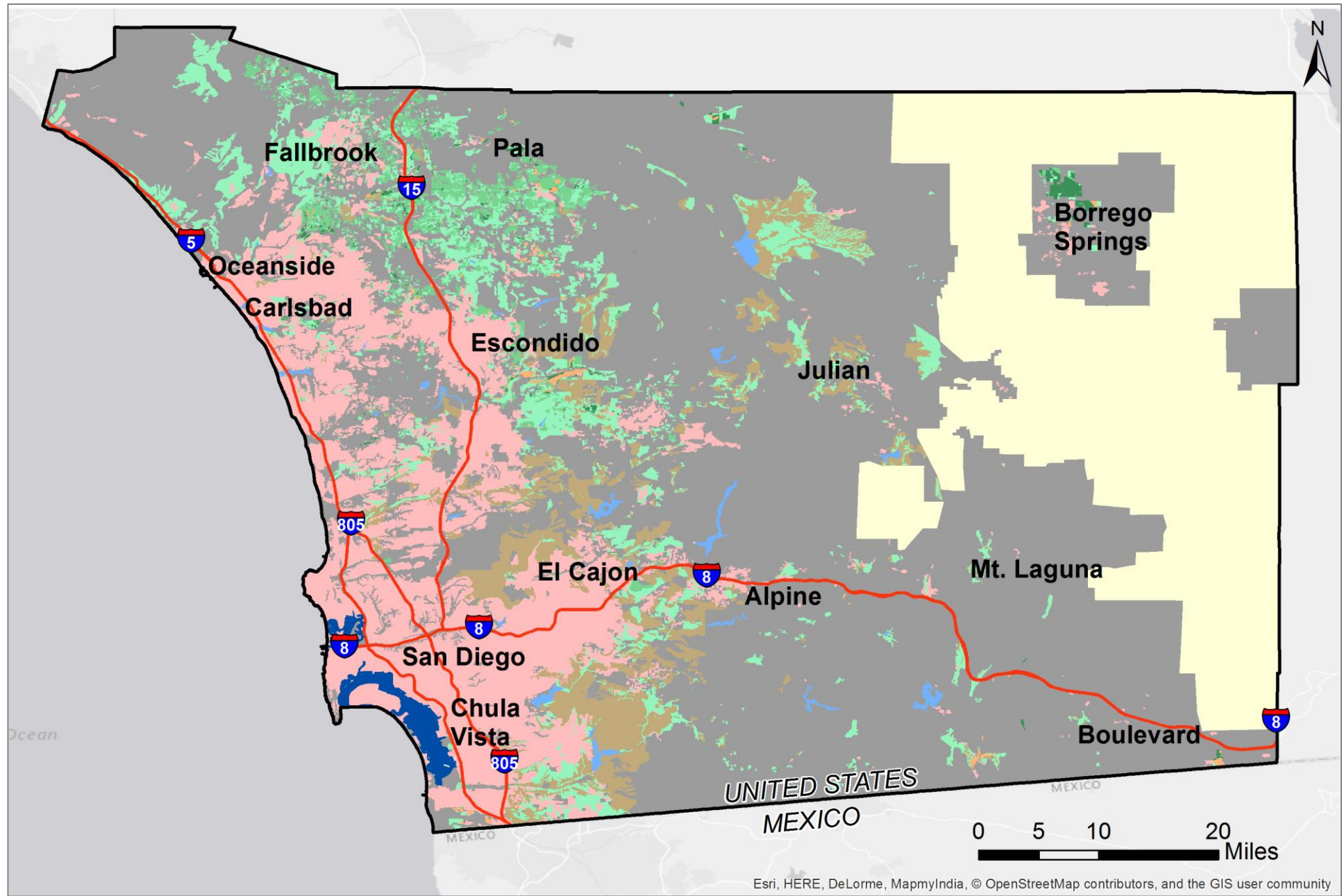
LAFCO will be the lead applicant for this project. The project administrator and manager will be the RCDGSDC, which has significant experience soliciting and managing grants and other funds from federal, state, and local agencies, as well as from foundations, private donors, and contracts. The RCDGSDC is a non-enterprise Special District founded in 1941 under Division 9 of the California State Public Resources code and is tasked with voluntary natural resources conservation on public and private lands. The organization has a 70-year track record of successful program management and currently manages twenty-six major grants and contracts, totaling \$3,274,265. Outside of these efforts, the RCDGSDC allocates approximately \$50,000 annually to its Special Discretionary Projects committee to reinvest within the San Diego Community. Environmental education, support for farmers, and conservation of natural resources are at the heart of our mission as a Resource Conservation District. To date, the RCDGSDC Executive Director, Sheryl Landrum, and RCDGSDC Conservation Ecologist, Dr. Chandra Richards, are working on a Regional Fire Priority Plan with a diversity of fire agency partners and stakeholders; this plan will identify and prioritize project areas requiring funding for regional fire prevention efforts.

The RCDGSDC will coordinate, manage, and report on the outcomes for the group; the RCDGSDC will also be active in promoting our work with our Board of Supervisors, local legislators, and stakeholders, as well as informing policy makers in Sacramento of our results to generate more funding and interest in a statewide initiative. The Farm Bureau is our connection to the agricultural community and will be instrumental in ensuring that the farming community can be included to approve of all recommendations. SANDAG has an exceptional planning department with the capacity to advance the goals and larger vision of this work and effect change. They also have an extensive collection of regularly-scheduled meetings, including on environmental mitigation, all of which can be leveraged to gain input and reach a diversity of audiences. SANDAG has ongoing work with many local jurisdictions to prepare, update, implement, and monitor their Climate Action Plans, and their work with these local groups is instrumental to increase capacity and communication with the larger review team.

The County of San Diego will be instrumental in ensuring that our plan hits the objectives of the Climate Action Plan, PACE Program, and other land use plans instrumental to our region. Our review team of stakeholders includes city and county leaders, NRCS, San Diego River Conservancy (SDRC), water districts, agricultural producers, and tribal communities - whose input will be valuable towards the completion of the full SALC application. All of these agencies will work together to bring the necessary stakeholders to the table. Our core team is quite proficient and has an excellent ability at success to preserve agricultural lands while strengthening the agricultural community across the region.

SAN DIEGO REGION

Farmland Conservation Planning Area



- Farmland (FMMP 2016)**
- Farmland of Local Importance
 - Prime Farmland
 - Unique Farmland
 - Urban and Built Up Lands
 - Grazing Land
 - Farmland of Statewide Importance
 - Water
 - Other Land
 - Anza Borrego Desert State Park



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