



# San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

# 6c

## AGENDA REPORT Public Hearing

February 1, 2021

**TO:** Commissioners

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

**SUBJECT:** Proposed “Mercurio Service Agreement” and Sphere Amendment |  
Out-of-Agency Wastewater Service by the City of La Mesa (OAS-SA20-09)

### SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a request to authorize the City of La Mesa to enter into a contract with landowners to provide outside wastewater service to 0.91 acres of unincorporated territory in Valle de Oro. The affected territory is developed with a single-family residence utilizing an underground septic disposal system. The purpose of the proposal is to facilitate development of an accessory dwelling unit on the affected territory that would otherwise be prohibited given negative impacts on the existing septic system. A concurrent amendment to add the affected territory to the City’s sphere of influence is also required to accommodate the outside service extension in lieu of making a public health or safety finding. Staff recommends approval of the request with a concurrent sphere of influence amendment. Standard terms are also recommended.

### BACKGROUND

#### Applicant Request

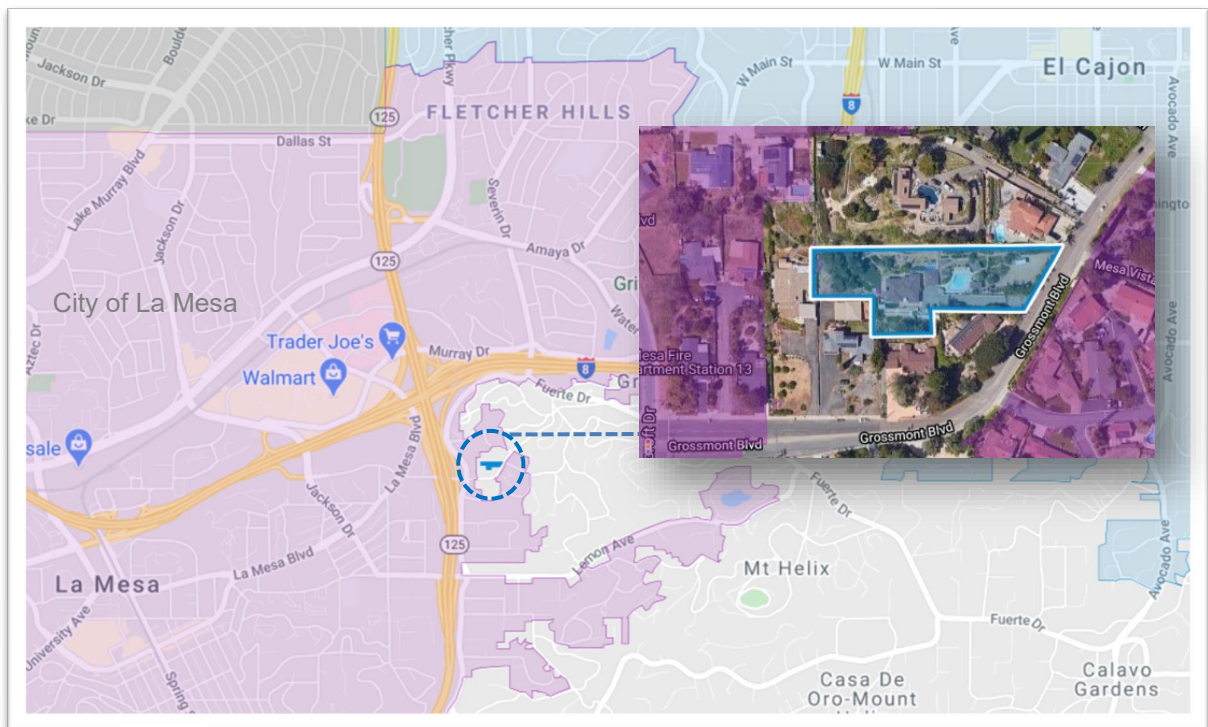
San Diego County LAFCO has received a request from interested landowners (Joseph and Carmen Mercurio) seeking Commission authorization to enter into an agreement with the City of La Mesa to establish outside wastewater service to an unincorporated residential

<b>Administration</b> Keene Simonds, Executive Officer County Operations Center 9335 Hazard Way, Suite 200 San Diego, California 92123 T 858.614.7755 F 858.614.7766 www.sdlafco.org	<b>Vice Chair Jim Desmond</b> County of San Diego	<b>Mary Casillas Salas</b> City of Chula Vista	<b>Chris Cate</b> City of San Diego	<b>Jo MacKenzie</b> Vista Irrigation	<b>Chair Andy Vanderlaan</b> General Public
	<b>Nora Vargas</b> County of San Diego	<b>Bill Wells</b> City of El Cajon	<b>Marni von Wilpert, Alt</b> City of San Diego	<b>Barry Willis</b> Alpine Fire Protection	<b>Harry Mathis, Alternate</b> General Public
	<b>Joel Anderson, Alternate</b> County of San Diego	<b>Paul McNamara, Alternate</b> City of Escondido		<b>Erin Lump, Alternate</b> Rincon del Diablo	

property in Valle De Oro. The affected territory consists of one legal parcel totaling 0.91 acres at 9200 Grossmont Boulevard and identified by County of San Diego Assessor’s Office as 491-812-16. The affected territory lies outside the City’s sphere of influence.

### Affected Territory

The affected territory lies within an unincorporated corridor that is substantially surrounded by the City of La Mesa. An existing 2,000 square foot single-family residence built in 1949 comprises the subject parcel and presently occupied and dependent on an onsite septic system. The affected territory is located generally south of Interstate-8, west of Jamacha Road, north of State Route-94, and east of Avocado Boulevard. An aerial map of the affected territory relative to the adjacent La Mesa boundary follows.



### Subject Agencies

The request before San Diego LAFCO involves one subject agency: City of La Mesa.<sup>1</sup> A summary of the subject agency in terms of governance, population, municipal functions, and financial standing follows.

- The City of La Mesa encompasses approximately 5,824 acres or 9.1 square miles making it the fourteenth largest sized incorporated territory in San Diego County. The La Mesa jurisdictional boundary is bordered by the City of San Diego to the north and west; the City of El Cajon to the northeast; the unincorporated communities of Valle de Oro and

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

Spring Valley to the east; and the City of Lemon Grove to the south. La Mesa was incorporated in 1912 and is governed by a five-member city council consisting of a directly elected mayor and four councilmembers elected at-large. La Mesa is a full-service municipality, and this includes directly providing community planning, fire protection, park and recreation, police, public works, and wastewater throughout its incorporated boundary with limited exceptions.<sup>2</sup> The current estimated resident population is 59,249 with an average annual growth rate of 0.4% since 2010. LAFCO established a coterminous sphere of influence for La Mesa in 1987, which was last reviewed and affirmed in 2008. La Mesa’ audited net position is \$162.9 million as of June 30, 2019 with (-\$29.9) million in unrestricted monies<sup>3</sup>. The total net position has decreased by (-1.6%) over prior three audited years.

### Affected Local Agencies

The affected territory lies within the jurisdictional boundaries and/or spheres of influence of nine local agencies directly subject to San Diego LAFCO. These agencies qualify as “affected agencies” relative to the proposed change of organization and listed below.<sup>4</sup>

- County Service Area No. 135 (Regional Communications and Fire Protection)
- Grossmont Healthcare District
- Helix Water District
- Metropolitan Water District of Southern California
- Resource Conservation District of Greater San Diego County (sphere only)
- San Diego County Street Lighting District
- San Diego County Flood Control District
- San Diego County Water Author
- San Miguel Consolidated Fire Protection District

### DISCUSSION

This item is for San Diego LAFCO to consider approving a request by interested landowners to establish outside wastewater service by contract with the City of La Mesa. 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 request purpose, development opportunities, and Commission focus follows.

### Request Purpose

The purpose of the request is to extend City of La Mesa wastewater service to an existing single-family residence and in doing so facilitate a planned accessory dwelling unit or ADU. The unincorporated residence utilizes an underground septic disposal system that is

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<sup>2</sup> Helix Water District provides retail water services within La Mesa.

<sup>3</sup> Non-current liabilities have increased due to financial reporting requirements for pension obligations.

<sup>4</sup> 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.

considered undersized and substandard but nonetheless functional for present uses. The existing system, however, cannot support additional intensification based on a review by the County Department of Environmental Health (DEH). La Mesa has existing wastewater infrastructure available to serve the affected territory and the City has conditionally agreed to extend wastewater service to the property by contract should the Commission approve.

### Development Potential

The affected territory is planned under the County of San Diego General Plan for low density single-family residential use (Semi-Rural Residential -Sr-0.5) with a confirming zoning standard of Rural Residential. This standard prescribes a minimum lot size of 0.5-acres (2.0 du/ac). The proposed development of one accessory dwelling unit (ADU) on the subject parcel would be permitted under present County use and zoning designations in addition to the existing single-family residence. The City of La Mesa does not designate or prezone the affected territory.

### Commission Focus

Three central and sequential policy items underlie San Diego LAFCO’s consideration of the requested approval for the City of La Mesa to contractually extend outside wastewater services to the affected territory. These central policy items orient the Commission to consider the interrelated merits of the (a) accommodating the extension – now or in the future – through a sphere of influence amendment or public threat finding, (b) timing of the requested extension itself and alternatives, and (c) whether discretionary terms are warranted. The Commission must also consider other relevant statutes as detailed.

### ANALYSIS

San Diego LAFCO’s analysis of the request is organized into two subsections. The first subsection pertains to evaluating the central issues referenced in the preceding section. The second subsection considers other germane issues required for consideration by the Commission in evaluating the proposal and highlighted by environmental review under the California Environmental Quality Act (CEQA).

### Central Policy Items

#### Item No. 1 |

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

Government Code Section 56133 is the statute outlining LAFCOs’ regulatory role in overseeing requests to allow cities and special districts to enter into contracts to provide municipal services outside their jurisdictional boundaries. The statute is prefaced on the legislative assumption that outside service contracts generally serve as interim solutions in establishing needed and/or otherwise merited municipal services in anticipation of later annexations. To this end, the statute limits LAFCOs’ approval of outside service extensions for lands located

within the affected agencies’ spheres of influence with the exception of addressing documented threats to public health or safety. The statute specifies the following two requirements must be satisfied for LAFCOs to make public health or safety findings and authorize outside service extensions beyond the agencies’ sphere of influence.

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

San Diego LAFCO policies and procedures for implementing Section 56133 generally rely on the evaluation and determinations of the County DEH when documenting present or impending health and safety threats.<sup>5</sup>

The affected territory is not located within the City of La Mesa’s sphere of influence but can be readily added given its shared connectivity with an adjacent public right-of-way. Separately, the landowners have provided documentation from County DEH as to the substandard status of the existing septic system and limitations in accommodating additional intensity. Accordingly, and as an alternative to making a public health finding, a concurrent sphere of influence amendment appears as the best means under LAFCO law to facilitate the outside wastewater service extension should the Commission deem the latter appropriate.

#### CONCLUSION | ACCOMMODATION UNDER GOVERNMENT CODE SECTION 56133

Amending the City of La Mesa’s sphere of influence to include the affected territory for the purpose of facilitating an outside wastewater service agreement appears to be the best available option to the Commission under statute. The conforming sphere amendment to include the affected territory will concurrently provide consistency with LAFCO statutory requirements in anticipation of a later change of organization to annex the subject property to the City. Additional analysis supporting the conclusion is provided as Appendix A.

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<sup>5</sup> County DEH is the local permitting and regulatory agency for on-site underground wastewater disposal systems and provides evaluations for the status of existing and proposed septic systems and a subject property’s capability to repair, rehabilitate, or expand an existing septic system.



## Item No. 2 |

### Timing of the Wastewater Extension by Contract or Alternates

The landowners are requesting approval from San Diego LAFCO to enter into an agreement with the City of La Mesa to establish outside wastewater services to the affected territory in conjunction with accommodating the construction of an ADU. Underlying the Commission’s consideration of the request is the timing and whether the membership believes the extension of wastewater service is needed and – if yes – whether it is readily available. Should the preceding determinations be in the affirmative the Commission is tasked with proceeding to consider the most appropriate delivery means: specifically, annexation or outside service extension. Staff’s analysis of these two related factors follow

#### Timing and Availability of Service

- The affected territory consists of an existing single-family residence within the developing unincorporated community of Valle De Oro. Existing County policies contemplate additional intensification of the affected territory to include an ADU, but currently impeded by a substandard septic.
- The extension of wastewater service to the affected territory is readily accessible via an existing and adjacent La Mesa wastewater main approximately 35-feet from the affected territory within the Grossmont Boulevard public-right-of-way. The landowner will finance all required connection costs and be responsible for the private lateral connection.
- It is projected the maximum average day wastewater demand generated within the affected territory at its maximum buildout (two dwelling units) is 540 gallons. This projected demand is equivalent represents 0.0003% of La Mesa’s existing available wastewater capacity, and as such can be readily accommodated without additional resources or infrastructure planning<sup>6</sup>
- The alternative to extending public wastewater service to the affected territory would be to maintain a private on-site septic system that has been identified as functional but substandard by County DEH. This alternative – among other items – would counter the Commission’s interest and practice in discouraging private septic systems in developing urban areas when alternatives are available.

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<sup>6</sup> La Mesa wastewater infrastructure includes 155 miles of wastewater lines that collect and convey wastewater for treatment and discharge to the City of San Diego’s Metropolitan Wastewater System (METRO) which delivers the wastewater to the City’s Point Loma Wastewater Treatment Plant (WWTP). The Point Loma WWTP provides advanced primary wastewater treatment for discharge to the Pacific Ocean through a 4.5 mile ocean outfall. The METRO System is governed and managed by the METRO Wastewater Joint Powers Authority (METRO JPA), a joint-powers authority co-membered by La Mesa and 12 other jurisdictions.

### Annexation v. Outside Service Agreement

- Annexations are the preferred method under LAFCO law to memorialize the relationship between a local agency and their service commitments unless local conditions suggest otherwise.
- Local conditions sufficiently justify an outside service extension as the most responsive means to provide wastewater services to the affected territory given annexation would not be orderly or efficient at this time. Most notably, the City of La Mesa has not contemplated the annexation or development of the affected territory in its General Plan or Zoning Ordinance. Annexation of the affected territory on its own would also create a substantially new unincorporated corridor. Further, annexation would counter the Commission’s standing determination that the County – and not La Mesa – is the appropriate land use authority for the affected territory based on the last sphere of influence review of the City.

#### CONCLUSION |

#### MERITS OF TIMING OF THE WASTEWATER EXTENSION BY CONTRACT OR ALTERNATES

The timing of the wastewater extension to the affected territory is warranted and best accommodated by an outside service contract with the City of La Mesa. Justification is marked by the preceding analysis and highlighted by appropriately responding to the need for wastewater service in a developing urban area consistent with available public infrastructure while avoiding a premature jurisdictional change given local conditions.

### **Item No. 3 |**

### **Potential Approval Terms**

Standard approval terms are recommended and includes requiring the applicant (landowners) to provide written consent to annexation to the City of La Mesa in the future should it be proposed. The written consent would be recorded and run with the property unless removed by the Commission.

#### CONCLUSION |

#### APPROVAL TERMS

Standard approval terms are recommended. This includes the applicants (landowners) providing written consent to the future annexation of the affected territory to the City of La Mesa should it be proposed.

## Other Statutory Considerations

### Environmental Review

CEQA requires San Diego LAFCO to assess whether impacts would result from activities approved under the Commission’s statutory authority. Accordingly, San Diego LAFCO is tasked with making two distinct determinations as lead agency under CEQA in considering the proposed reorganization. Staff’s analysis and recommendations follow.

- San Diego LAFCO serves as lead agency under CEQA for the accommodating sphere of influence action associated with the requested outside-of-agency wastewater service contract. It is recommended the Commission find the accommodating sphere action is a project under CEQA but exempt from further review under State Guidelines Section 15061(b)(3). This exemption appropriately applies given it can be seen with certainty that spheres are planning policies and any associated actions (establishment, update, or amendment) do not change the environment or authorize any new uses or services.
- San Diego LAFCO also serves as lead agency under CEQA for the requested outside-of-agency wastewater service contract. It is recommended the Commission find the outside-of-agency contract and the underlying extension of wastewater to the affected territory is a project under CEQA but exempt from further review under State Guidelines Section 15319(a). This exemption appropriately applies given the project involves the annexation of affected territory developed to the density allowed by the land use authority.

### RECOMMENDATION

Staff recommends San Diego LAFCO approve the requested outside wastewater service contract with an accommodating sphere of influence amendment to the City of La Mesa along with standard terms. 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):

- a) Approve the requested outside wastewater service contract between the applicants and the City of La Mesa with the following terms delegated to the Executive Officer:
  - Payment of any outstanding fees pursuant to the LAFCO fee schedule.



- Recordation of the applicants (landowners) written consent to the annexation of the affected territory to the City of La Mesa should it be proposed and permissible at a future date. The written consent shall be recorded on the property and remain unless released by the Commission.
  - Filing of a Notice of Exemption.
- b) Adopt the attached draft resolution amending the City of La Mesa sphere of influence to include the affected territory along with making the required determinations as described in Exhibit A.

Alternative Two:

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

Alternative Three:

Disapprove the request.

## PROCEDURES FOR CONSIDERATION

This item has been placed on 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) Initial questions or clarifications from the Commission.
- 3) Open the hearing and invite comments in the following order:
  - representatives from the City of La Mesa
  - other interested parties and the general public
- 4) Discuss item and consider the staff recommendation.

On behalf of the Executive Officer,



Robert Barry, AICP  
Chief Policy Analyst

Appendix:

- A) Analysis of Sphere of Influence Factors

Attachments:

- 1) Vicinity Map of the Affected Territory
- 2) Draft Resolution of Approval: Sphere Amendment
- 3) Proposed Wastewater Service Agreement Between City of La Mesa and Landowners

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## APPENDIX A

### STATEMENT OF DETERMINATIONS SPHERE OF INFLUENCE FACTORS

#### **(1) The present and planned land uses, including agricultural and open-space lands.**

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The affected territory includes one unincorporated parcel totaling approximately 0.91 acre and identified by the County of San Diego County Assessor’s Office as 491-812-16. The affected territory is developed with one single-family residence located at 9200 Grossmont Boulevard in the unincorporated Valle de Oro community. The landowners are requesting approval for an outside-of-agency wastewater service agreement with the City of La Mesa to serve the existing single-family residence and one planned accessory dwelling unit (ADU). The present County of San Diego General Plan designation for the affected unincorporated territory is Semi-Rural Residential (Sr-0.5) (2.0 dwelling units/one acre) with adopted zoning as Rural Residential with a 0.5-acre minimum lot size (2.0 du/ac). The proposed development of one ADU would be permitted under present County use and zoning designations in addition to the existing residence. The affected territory does not contain agricultural or open-space lands as defined by LAFCO law. An accommodating amendment to add the affected territory to La Mesa’s sphere of influence is needed under statute to facilitate the outside service and is consistent with present and planned land uses.

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

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The affected territory is presently developed with one single-family residence and surrounded by residential uses. The landowners plan to develop one ADU and has provided documentation from the County Department of Environmental Health attesting that the existing on-site septic wastewater disposal system is considered substandard in size for present uses and would not support additional intensification. The City of La Mesa has existing wastewater infrastructure adjacent to the affected territory and has requested LAFCO approval for an extension of wastewater service by contractual agreement with the landowners in anticipation of a later change of organization. An accommodating amendment to add the affected territory to La Mesa’s sphere of influence is needed under statute to facilitate the outside service and is consistent with present and probable needs specific to wastewater service.

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

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The proposed outside-of-agency wastewater service agreement for the affected territory is intended to extend the City of La Mesa’s retail wastewater service to one existing single-family residence and one planned ADU. The landowners have provided documentation from the County DEH confirming an existing substandard septic disposal system that is not adequate for existing uses and will not support the planned ADU development. An existing La Mesa wastewater main is located adjacent to the affected territory within the Grossmont

Boulevard public-right-of-way and analysis performed by LAFCO confirms the extension will not have a negative impact on La Mesa’s existing capacities. An accommodating amendment to add the affected territory to La Mesa’s sphere of influence is needed under statute to facilitate the outside service consistent with statute and is compatible with existing public infrastructure specific to wastewater.

**(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.**

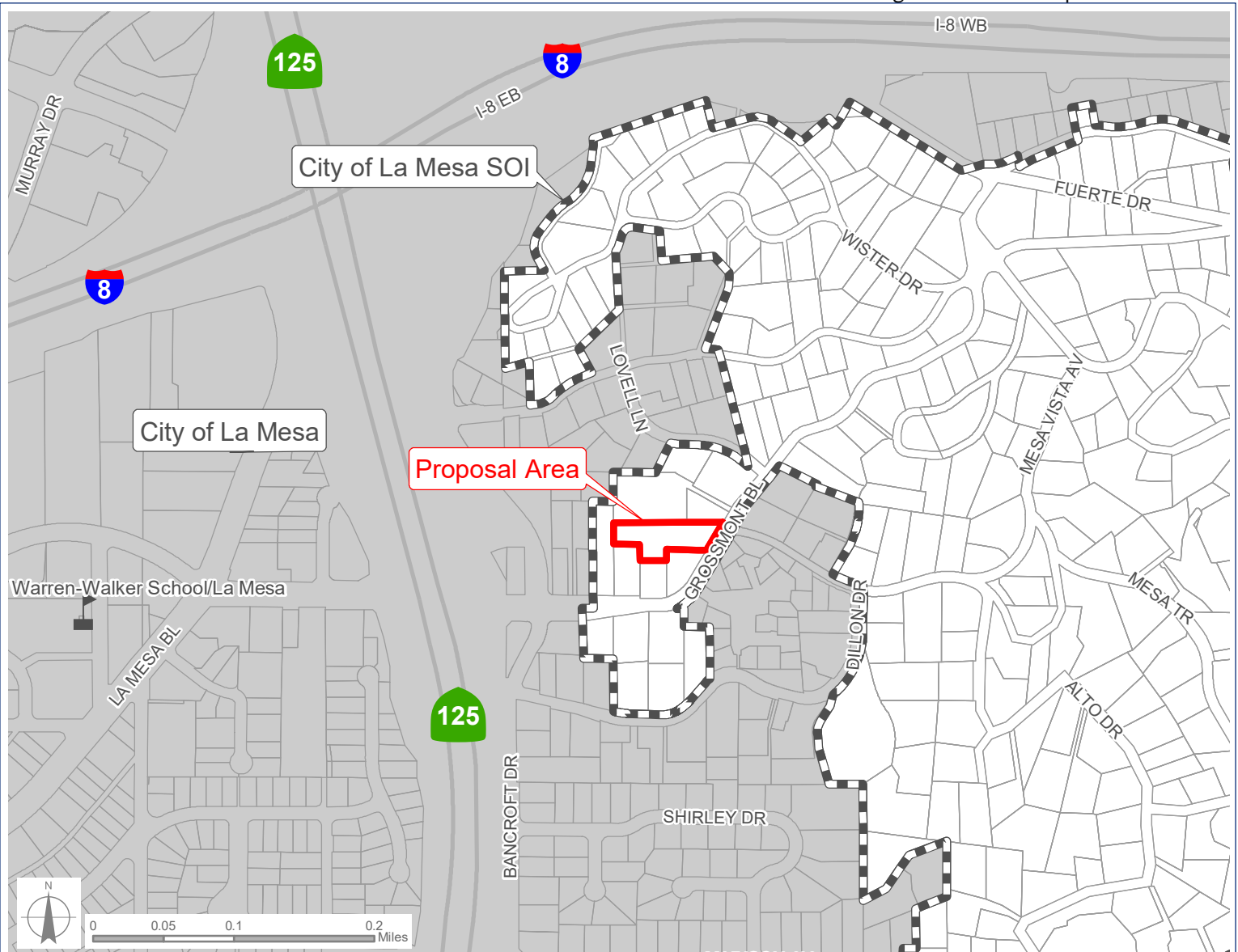
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The affected territory has existing communities of interest with the City of La Mesa through common economic and social ties. Expanding the La Mesa sphere to include the affected territory for purposes of establishing wastewater service is consistent with relevant economic and social communities of interest in the area.

**(5) The present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**

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The affected territory is not presently located within or adjacent to a census tract qualifying as a disadvantaged unincorporated community under State statute or LAFCO policy.



SA20-09  
OAS20-09

# "MERCURIO - GROSSMONT BLVD OUT-OF-AGENCY WASTEWATER SERVICE AGREEMENT AND SPHERE OF INFLUENCE AMENDMENT" | CITY OF LA MESA

SOI = Sphere of Influence

- Proposal Area
- City of La Mesa
- City of La Mesa SOI



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

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**RESOLUTION NO. \_\_\_\_\_**

**SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION**

**APPROVING AN AMENDMENT TO THE CITY OF LA MESA SPHERE OF INFLUENCE**

**“MERCURIO – GROSSMONT BOULEVARD OUTSIDE-OF-AGENCY WASTEWATER SERVICE  
AGREEMENT AND SPHERE OF INFLUENCE AMENDMENT”**

**LAFCO File No. OAS20-09 et al.**

**WHEREAS**, landowner applicants have filed a request with the San Diego County Local Agency Formation Commission, hereinafter referred to as “Commission,” pursuant to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

**WHEREAS**, the request seeks approval to extend City of La Mesa wastewater service by contractual agreement to one unincorporated parcel 0.91 acres in size with a single-family residence located at 9200 Grossmont Boulevard and identified further as 491-812-16; and

**WHEREAS**, the purpose of the request is to facilitate the intensification of the affected territory through the planned construction of an accessory dwelling unit by establishing a connection to the nearby public wastewater system; and

**WHEREAS**, the affected territory lies outside the City of La Mesa’s sphere of influence and in the absence of making a public health or safety finding would need to be amended to include the subject lands to allow for outside wastewater service under Government Code 56133; and

**WHEREAS**, the Commission’s Executive Officer has reviewed the request and the associated need for an accommodating sphere of influence amendment to the City of La Mesa and prepared a report with recommendations and presented it to the Commission; and

**WHEREAS**, the Commission heard and fully considered all the evidence presented at a public meeting – including the written report from the Executive Officer – held on February 1, 2021;

**WHEREAS**, the Commission considered all the factors required by law under Government Code Section 56425 and adopted local policies when deliberating changes to spheres of influence.

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

1. The Commission’s determinations on the accommodating sphere of influence amendment associated with the request for the City of La Mesa to establish outside wastewater service to the affected territory is based on the information and analysis provided in the Executive Officer’s written report presented on February 1, 2021.

2. The Commission serves as lead agency under the California Environmental Quality Act (CEQA) and determines an accommodating amendment to the City of La Mesa's sphere of influence to include the affected territory is a project but exempt from further review under State Guidelines 15061(b)(3). This exemption appropriately applies given it can be seen with certainty spheres are planning policies and the establishment, update, and amendment therein do not make changes to the environment or authorize any new land uses or municipal services.
3. An amendment to the City of La Mesa sphere of influence to include the affected territory is APPROVED with adjacent public right-of-way to provide contiguity.
4. Approval is CONDITIONED on the following terms being satisfied within one calendar year – or February 1, 2022 – unless a prior written request for a time extension is approved by the Commission.
  - a) Final approval – including satisfaction of all prescribed terms – of the associated outside wastewater service request between the City of La Mesa and the affected territory.
  - b) Submittal to the Commission of a check made payable to LAFCO in the amount of \$50.00 for the County of San Diego-Clerk Recorder.
5. The affected territory is shown in Exhibit "A."
6. The written statements of the Commission addressing the mandatory factors for consideration anytime spheres of influence are adopted, amended, or updated under Government code Section 56425 are provided as Exhibit "B."

Passed and adopted by the Commission this 1<sup>st</sup> day of February 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

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STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

I, KEENE SIMONDS, Executive Officer of the Local Agency Formation Commission of the County of San Diego, State of California, hereby certify that I have compared the foregoing copy with the original resolution adopted by said Commission at its regular meeting on February 1, 2021, which original resolution is now on file in my office; and that same contains a full, true, and correct transcript therefrom and of the whole thereof.

DATE:

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Keene Simonds  
Executive Officer  
San Diego Local Agency Formation Commission

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**RECORDING REQUESTED BY:**

La Mesa City Clerk  
FEE EXEMPT PER  
GOVERNMENT CODE SECTION 27383

**WHEN RECORDED, RETURN TO:**

Megan Wiegelman, City Clerk  
City of La Mesa  
P. O. Box 937  
La Mesa, CA 91944-0937

(Space Above for Recorder's Use Only)

**AGREEMENT FOR SANITARY SEWER SERVICE**

9200 Grossmont Blvd., • APN: 491-812-16

THIS AGREEMENT, made and entered into this \_\_\_\_ day of May, 2020 by and between the **City of La Mesa, a Municipal Corporation**, hereinafter referred to as the "City", and **Joseph H. Mercurio and Carmen E. Mercurio, trustees of the Carmen E. Mora Trust dated May 4, 1993 and revised February 9, 2000**, hereinafter referred to as the "Owners",

WITNESSETH:

WHEREAS, the owners desires to utilize the wastewater transportation and treatment facilities of the City for property located outside the City limits; and

WHEREAS, the City Engineer has determined that sanitary sewer service for the subject property is necessary to protect the health and safety of the areas residents; and

WHEREAS, the City has and is operating a sanitary sewer system so situated and of sufficient capacity to transport and treat the wastewater from the owner's property; and

NOW, THEREFORE, for and in consideration of the promises herein and for further good and valuable consideration hereinafter set forth, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

SECTION 1. The property of the owners proposed to be connected to the City's sanitary sewer system, at a point approved by the City Engineer, shall be that area in a territory located outside the City and described in **EXHIBIT A** attached hereunto.

SECTION 2. The owners may discharge wastewater into the City's sanitary sewer system, from the property described in Section 1 hereof, upon condition, however, that no waste oil, acid and other matter that may be detrimental to the treatment process employed in the City sanitary sewer system, nor any storm or ground waters, shall be permitted to be discharged into said connecting line, or lines, If any permitted discharge through said sewer system is contrary to limitations provided in this paragraph, the City may make such repair, mitigation or

maintenance work at the expense of the owners and the owners agrees to pay the expense of such repair, mitigation or maintenance work. Further, the Owner shall comply with all codes, ordinance or policies relating to sanitary sewer service within the City of La Mesa.

SECTION 3. The owners shall prepare plans and specifications for the development of the lot and/or lots for which the sewer system extension is required. These plans and specifications shall be reviewed and approved by the Development Advisory Board prior to the review of plans and specifications for the extension of the sewer. Plan review by the Development Advisory Board shall be in accordance with current fee schedules and established procedures of the Development Advisory Board.

SECTION 4. If a public sanitary sewer main is required to be installed, then the owners shall prepare plans and specifications for installation of a public sanitary sewer collection system, which shall meet the City's Design Criteria and shall be approved by the City Engineer. The owners shall install public sanitary sewer main lines in the public streets or in an approved easement granted to the City, from the owner's property to the existing public sanitary sewer system. Private sanitary sewer main and/or service laterals when installed shall be by the property owners. The applicant/owners shall be responsible to acquire private sewer easements if required. In addition, charges shall be paid by owner as follows: (**\*per current fee schedule established by the City Council**).

\*A. A Development Advisory Board review fee payable to City at Planning Department.

\*B. A plan check fee based on approved Engineer's estimate for reviewing plans for sanitary sewer collection system.

\*C. An inspection fee based on approved Engineer's estimate of construction cost for inspecting construction of the public sanitary sewer collection system.

\*D. A lump sum payment to the City, representing a sewer capacity charge to connect the City's existing facilities, and a lump sum payment representing the City's current connection fee based on equivalent dwelling units shall be paid.

\*E. A yearly or monthly service charge to reimburse the City for treatment cost and maintenance of the sewer main collector system serving the property. Said service charge shall be as established by ordinance or resolution.

\*F. Any sewer connection fees or reimbursement fees established by City to recover the cost of extending the public sanitary sewer system.



SECTION 5. The owners shall dedicate all newly constructed public sanitary sewer facilities to the City in exchange for valuable consideration and the permission to connect to the City's sanitary sewer system.

SECTION 6. It is understood and agreed that the City will own and maintain all public sanitary sewer systems, excluding private building laterals, installed by the Owner, which are inspected and approved by the City. Further, the City shall not be responsible or liable in any way for acts of God or any other act, or acts, beyond the control of the City which may in any way cause interruption or discontinuance of the sanitary sewer service provided for hereunder.

SECTION 7. The owners specifically agrees that all maintenance on the private sewer lateral from owner's premises to the public sewer main shall be Owner's responsibility.

SECTION 8. This agreement shall be terminated and the City shall disconnect service, upon the owner's breach of or failure to perform in terms of this agreement.

SECTION 9. The owners further agrees that in the event that an annexation proceeding be initiated, which includes the property described in Section 1 of this agreement, the owners will not object to inclusion in an annexation, and will be considered to be in favor of said annexation.

SECTION 10. The owners further agree that no new construction, development or subdivision of property affected by this agreement shall be served by sanitary sewer extended under terms of this agreement.

SECTION 11. This agreement shall be binding upon any successors, heirs, or assigns of the owners.

SECTION 12. The parties agree that this Agreement for Sanitary Sewer Service shall be recorded in the office of the County Recorder of San Diego County and that the provisions contained herein relative to the real property described in **Section 1** shall operate as covenants and restrictions thereof.

SECTION 13. This agreement shall be null and void and any lien or cloud on title shall be released upon annexation of subject property to the City of La Mesa, notice of which shall be recorded.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this agreement the day and year first above written.

\_\_\_\_\_  
Joseph H. Mercurio                      Date

\_\_\_\_\_  
Carmen E. Mercurio                      Date

CITY OF LA MESA, a Municipal Corporation

BY \_\_\_\_\_  
Mark Arapostathis, Mayor Date

BY \_\_\_\_\_  
Megan Wiegelman, City Clerk Date

Attachments:

Exhibit A, legal description (2 pages)

LAFCO Administrative Approval dated DA20-\_\_\_\_\_

E:\0400 AgrmtsCntrts\90 Sewer Service Agreements\9200 Grossmont Blvd., Mercurio.docx

## ACKNOWLEDGMENT

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

STATE OF CALIFORNIA     )  
  ) ss.  
COUNTY OF SAN DIEGO    )

On \_\_\_\_\_, 2020, before me, Megan Wiegelman, City Clerk, personally appeared Mark Arapostathis, Mayor, City of La Mesa, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Megan Wiegelman, CMC  
City Clerk of the City of La Mesa

(SEAL)

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