



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

6a

AGENDA REPORT
 Public Hearing

August 2, 2021

TO: Commissioners

FROM: Keene Simonds, Executive Officer
 Priscilla Allen, Analyst I

SUBJECT: Proposed “Avion Reorganization” | Proposed Annexation to the Olivenhain Municipal Water District with Concurrent Expansion of an Activated Wastewater Service Area and Related Sphere of Influence Action (RO21-03)

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a reorganization proposal filed by the Olivenhain Municipal Water District (OMWD) with the principal action to annex 41.5 acres of incorporated territory in the City of San Diego. A concurrent expansion of OMWD’s activated wastewater service area is also proposed. The proposal purpose is to establish OMWD wastewater services in the affected territory and facilitate the tentative approval of 84 multi-family dwelling units as part of the planned “Avion” subdivision. Staff recommends conditional approval of the reorganization as submitted with a conforming sphere amendment as well as waiving protest proceedings.

BACKGROUND

Applicant Request

San Diego LAFCO has received a reorganization proposal by resolution from OMWD requesting approval to reorganize and annex approximately 42 acres of incorporated territory within the City of San Diego. A concurrent expansion of OMWD’s activated wastewater service area to include the affected territory is also proposed. The affected

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San Diego LAFCO

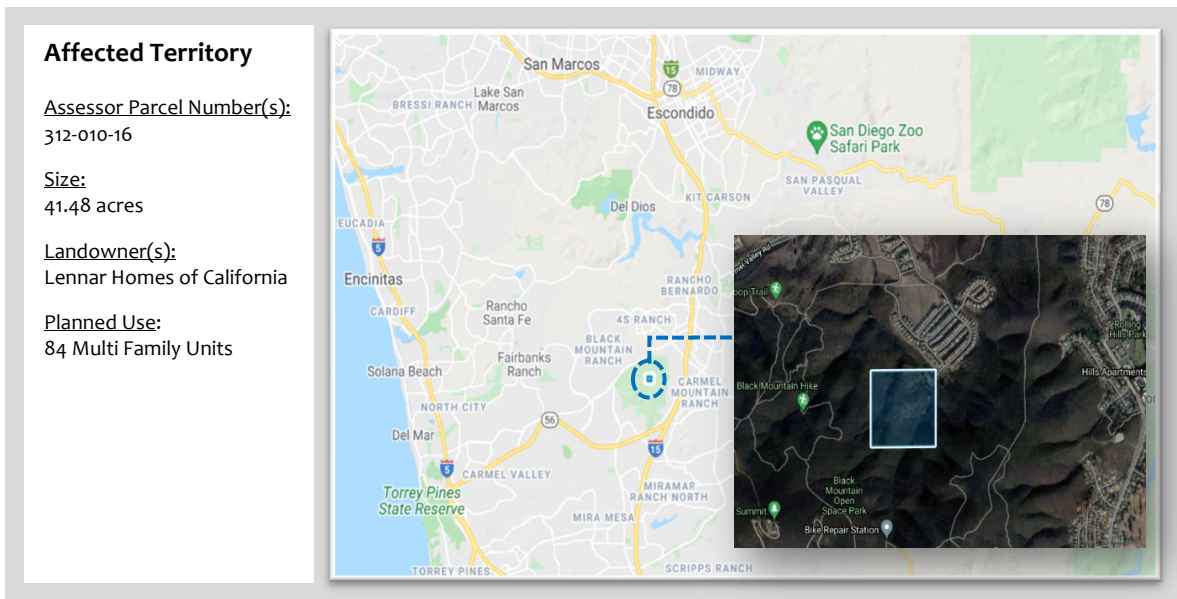
August 2, 2021 Meeting

Agenda Item No. 6a | Proposed “Avion Reorganization” (RO21-03)

territory as submitted includes one undeveloped incorporated parcel owned by Lennar Homes. The County of San Diego Assessor’s Office identifies the subject parcel as 312-010-16 and with an unassigned situs on Black Mountain Road.

Regional Setting

The affected territory lies entirely within the City of San Diego and part of the Black Mountain Ranch community. Carmel Valley Road provides arterial access to the affected territory and connects to Interstate 15 to the east (approximately 5 minutes) and Interstate 5 to the west (approximately 15 minutes). An aerial map of the affected territory and its regional setting follows. Attachment One shows the affected territory relative to the proposed boundary changes involving the subject agency (OMWD).



Subject Agencies

The proposed reorganization before San Diego LAFCO involves one subject agency: OMWD. A summary of the subject agency in terms of their governance, resident population, municipal functions, and financial standing follows.

- OMWD is an independent special district formed in 1959 with an estimated residential population of 72,882. The jurisdictional boundary spans 48.5 square miles and overlays the Cities of Encinitas, San Diego, and San Marcos as well as the unincorporated communities of 4S Ranch, Elfin Forest, and Rancho Cielo. A directly elected five-member Board of Directors governs OMWD and its five active municipal functions: water (potable and retail classes); wastewater (collection and treatment); hydroelectric generation; recycled water; and parks and recreation. All service functions are activated for the entire jurisdictional boundary with the exception of wastewater, which is presently restricted to an approximate 5,300-acre area in the 4S

Ranch, Rancho Cielo, and Black Mountain communities.¹ LAFCO established a sphere of influence for OMWD in 1984, which was last updated in 2013 and comprises an overall larger-than-agency designation.² OMWD’s audited net position is \$398.1 million as of June 30, 2020 and has increased by 1.8% over the prior three audited fiscal years.

Affected Local Agencies

The affected territory lies within the jurisdictional boundaries and/or spheres of influence of eight local agencies directly subject to San Diego LAFCO. These agencies qualify as “affected agencies” relative to the proposed reorganization and listed below.³

- City of San Diego
- Metropolitan Water District of Southern California
- Olivenhain MWD (secondary sphere only)
- Palomar Health Healthcare District
- Pomerado Cemetery District
- Resource Conservation District of Greater San Diego County
- San Diego County Water Authority
- San Diego Unified Port District

DISCUSSION

This item is for San Diego LAFCO to consider approving – with or without discretionary modifications – the proposed reorganization and the principal action to annex the affected territory to OMWD. A concurrent expansion of OMWD’s activated wastewater service area to include the affected territory is also proposed. The Commission may also consider applying conditions so long as it does not directly regulate land use, property development, or subdivision requirements. Additional discussion on proposal purpose, development opportunities, and Commission focus follows.

Proposal Purpose

The purpose of the proposed reorganization before San Diego LAFCO is to establish wastewater services within the affected territory from OMWD and in doing so facilitate the tentative approval and development of 84 multi-family dwelling units as part of the Avion project. The timing of this proposal follows the discretionary approval with conditions of the Avion project by the City of San Diego in September 2020 that includes a term requiring the developer (Lennar Homes) to establish wastewater service from OMWD. No other municipal service establishments are proposed given the affected territory is presently located within the City of San Diego and accessible to City services, such as water, fire protection and emergency medical services.

¹ LAFCO activated Olivenhain MWD’s wastewater services were established in 1998 in step with dissolving the 4S Ranch and Rancho Cielo Sanitation Districts and designating OMWD as successor. LAFCO also established a secondary service-specific sphere for OMWD for wastewater replicating the former boundaries of the 4S Ranch and Rancho Cielo Sanitation Districts.

² Less than 1.0% - or 192 acres – of the sphere is outside of the district and 1.0% - or 298 acres – of the district lies outside of its sphere.

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 San Diego’s General Plan designates most of the affected territory – 22.5 acres – as Low Residential and allows for two to five dwelling units per acre. The remaining 19 acres are designated as Resource Based Parks.⁴ The present zoning is Residential Single Unit (RS-1-14) and provides a minimum lot size of 5,000 square feet – or 0.115 acres. The adopted Black Mountain Ranch Subarea Plan (July 1998) assigns up to 117 dwelling units to the affected territory with 19 dedicated for affordable use (on or offsite). Avion’s conditional approval (September 2020) tiers from the Subarea Plan and involves 84 market-rate multifamily detached units in the affected territory. The balance of the remaining 33 units will be built as part of the Black Mountain Ranch Town Center and includes the 19 affordable units.⁵

Commission Focus

Three central and sequential policy items underlie San Diego LAFCO’s consideration of the proposed reorganization. These policy items take the form of determinations and orient the Commission to consider the interrelated merits of a (a) conforming sphere of influence action, (b) timing of the reorganization, and (c) whether 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 reorganization is divided into two distinct subsections. The first subsection pertains to evaluating the central issues referenced in the preceding section and headlined by analyzing the merits of amending OMWD’s sphere of influence and the reorganization itself. The second subsection considers other germane statutory issues required for LAFCO proposal consideration and this includes complying with the California Environmental Quality Act (CEQA).

Central Policy Items

Item No. 1 | Conforming Sphere of Influence Amendment

The proposed reorganization necessitates San Diego LAFCO consider a conforming sphere of influence action to achieve consistency with the requested jurisdictional changes as required under statute. The action involves amendment to the OMWD sphere of influence to include the affected territory and in doing so establish eligibility for the concurrent annexation and related expansion of the activated wastewater service area to proceed. Consideration of the amendment is premised on the Commission’s statutory responsibility to designate spheres to demark the affected agencies’ appropriate service areas relative to community needs as determined by the membership. This includes demarking the Commission’s expectation of exclusive responsibilities for one or more specified municipal services. Staff believes it would be merited for the Commission, accordingly, to proceed and

⁴ Resource-based Parks are defined by the City of San Diego as providing for recreational parks to be located at, or centered on, notable natural or man-made features (beaches, canyons, habitat systems, lakes, historic sites, and cultural facilities) and are intended to serve the citywide population as well as visitors.

⁵ Wastewater services for the 19 affordable housing units will be provided by the City of San Diego.

approve the conforming sphere amendment to fully recognize the Olivenhain MWD – and not City of San Diego – as the appropriate provider of wastewater services. This amendment compliments the 2017 action of the Commission to expand OMWD’s wastewater-specific sphere of influence to include the affected territory and recognizes the mutual social and economic interests among all three real parties of interest – City of San Diego, landowner, and OMWD – to proceed with a development.

CONCLUSION | MERITS OF A CONFORMING SPHERE OF INFLUENCE AMENDMENT

Proceeding with the conforming action to amend OMWD’s sphere of influence to include the affected territory is sufficiently warranted. Justification is marked by the preceding analysis and supports the Commission’s determinations to designate OMWD as the appropriate and exclusive wastewater service provider for the affected territory going forward. Additional analysis supporting the conclusion is provided in Appendix A.

Item No. 2 | Reorganization Timing

The timing of the proposed reorganization before San Diego LAFCO – and specifically the dual action to annex the affected territory and add it to OMWD’s activated wastewater service area – appears appropriate. This conclusion draws from the analysis of the statutory factors required for consideration of proposed jurisdictional changes along with locally adopted Commission policies. Most of the prescribed review factors for the proposed reorganization focus on the service and financial capacities of the *receiving* agency, OMWD (emphasis added). A summary of key conclusions generated in the review of these proposal factors and applicable local policies follows.

- Service Needs

Reorganization of the affected territory is intended to extend OMWD’s wastewater service for the planned development of 84 multi-family dwelling units. Approval satisfies a condition by the City of San Diego for the landowner to proceed with the development project and serves as a preferred alternative to building new public infrastructure (pump station/force main) and associated costs (equipment and energy consumption) to accommodate connection to the City’s wastewater collection system. Additional details follow.

- The approved development involving the affected territory dates back to the late 1990s with the City of San Diego’s approval of the Black Mountain Ranch Subarea Plan and subsequently tiered in September 2020 with the tentative approval of the Avion development project.⁶ The approved development permits the

⁶ The 1998 EIR MMRP was prepared as part of the Black Mountain Ranch development – an adjacent development to the affected territory – and involved a sewer report which analyzed the proposed design of the sanitary sewer facilities.

construction of 84 multi-family dwelling units. Proceeding with the development is dependent on the establishment of public wastewater services.

- The proposed reorganization is a preferred alternative to the City of San Diego expanding public infrastructure and associated costs to support the planned development of the affected territory. The City and OMWD agree OMWD would be the more logical and efficient service provider due to the District’s infrastructure proximity to the project and will allow for discharge to naturally flow into the collection system.
- The affected territory’s landowner (Lennar Homes) has provided their written consent to the proposed reorganization in conjunction with their interest to proceed with the planned development. These factors help to quantify the appropriateness of the reorganization by syncing the timing of the jurisdictional changes with a known and existing need that supports City land use policies.
- Service Capacities and Levels
OMWD would directly assume wastewater service responsibilities for the affected territory upon reorganization. Staff’s review of OMWD shows it has sufficient capacity and related resources to readily accommodate demands in the affected territory at its planned uses without expanding any public infrastructure. Additional details follow.
 - OMWD projects the demand for the affected territory and its planned uses at a daily average of 0.0184 million gallons. This projection translates to approximately 219 gallons per day for each of the proposed 84 residential units. The projected daily demand equals approximately 1.5% of the available excess capacity currently available to Olivenhain MWD at its 4S Ranch Reclamation Treatment Facility. Actual service to the affected territory from Olivenhain MWD is accessible from an existing private collection pipeline located on Wine Creek Drive within the adjacent Heritage Bluffs Project.⁷
- Service Funding and Costs
Staff believes OMWD has the financial resources coupled with administrative controls to provide wastewater services to the affected territory in support of its planned uses without adversely impacting current ratepayers. This comment is reflected in the staff analysis of Olivenhain MWD’s recent audited statements which shows – among other items – OMWD remained profitable over the last three audited fiscal years with an average total margin of 5.5%.

⁷ This project – approved by the Commission in 2017 – involved a resolution of application by the Olivenhain MWD to annex approximately 170-acres and a request to expand its activated wastewater service area to facilitate the development of 171 single residential dwelling units.

**CONCLUSION |
MERITS OF CHANGE OF REORGANIZATION TIMING**

The timing of the reorganization involving annexation of the affected territory to OMWD with concurrent expansion of its activated wastewater service area is sufficiently warranted. Justification is marked by the preceding analysis and highlighted by appropriately responding to the existing need for wastewater service for the affected territory through readily accessible public infrastructure and capacities. Additional analysis supporting the conclusion is provided in Appendix B.

Item No. 3 | Modifications and Terms

No modifications to the submitted reorganization have been identified by San Diego LAFCO staff meriting Commission consideration at this time. This includes noting annexation of the affected territory to OMWD and expansion of its activated wastewater service area would not result in any unserved corridors or other boundary irregularities for the subject agency. Staff is recommending applying standard terms of approval under Government Code Section 57302 along with incorporating the requested terms included in OMWD’s resolution of application, which are provided as Attachment Three.

**CONCLUSION |
MODIFICATIONS AND TERMS**

No modifications to the proposed reorganization appear merited as detailed. Standard approval terms are recommended under Government Code Section 57302 along with incorporating all requested terms forwarded by OMWD.

Other Statutory Considerations

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99(b)(6) requires the County of San Diego and subject agencies to submit an adopted resolution to LAFCO agreeing to accept the exchange of property tax revenues associated with the proposed reorganization. The associated statutes also empower the County of San Diego to make all related property tax exchange determinations on behalf of special districts without consultation unless the affected agencies request otherwise. Staff has confirmed the County has adopted a master enterprise district resolution applicable for the proposed reorganization. The County’s adopted master exchange resolution specifies no transfer of property taxes would occur following the proposed reorganization of the affected territory with OMWD.

Environmental Review

San Diego LAFCO is responsible under CEQA to assess whether environmental impacts would result from activities approved under the Commission’s authority. Accordingly, the Commission is tasked with making two distinct findings under CEQA in consideration the proposed reorganization. Staff’s analysis follows.

- San Diego LAFCO serves as lead agency under CEQA for the conforming sphere of influence action associated with accommodating the reorganization. It is recommended the Commission find this action – and specifically the amendment of the OMWD sphere to include the affected territory – is a project under CEQA but exempt from further review under State Guidelines 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) in and of itself does not change the environment or authorize any new uses or services.
- The City of San Diego serves as lead agency under CEQA for considering the reorganization and the concurrent annexation of the affected territory to OMWD and related expansion of OMWD’s activated wastewater service area as part of its discretion to approve the underlying development project. In this role as lead agency, on September 15, 2020 the City recertified and adopted a Notice of Determination and a supplement to an earlier certified 1998 Black Mountain Ranch Environmental Impact Report (EIR) and made findings that – and among other items – wastewater service by OMWD could be adequately provided. As responsible agency, San Diego LAFCO staff has reviewed the Supplemental EIR and associated documents and believes the City has made adequate findings for the Commission’s use in approving the reorganization and no further analysis is required under CEQA. Copies of the Supplemental EIR are available online on the LAFCO website.

Protest Proceedings

Protest proceedings for the proposed reorganization may be waived by San Diego LAFCO should the Commission proceed with an approval under Government Code 56662. The recommended waiver appropriately applies under this statute given the affected territory is uninhabited as defined under LAFCO law, the subject agency is the applicant and has not filed an objection to the waiver, and the landowner has provided consent to the proceedings.

RECOMMENDATION

Staff recommends San Diego LAFCO approve the proposed reorganization without modifications along with conforming sphere of influence action with specified terms 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 and can be accomplished with a single-motion:

Alternative One (recommended):

Adopt the attached draft resolution conditionally approving the reorganization proposal as submitted (without modifications) and conforming sphere of influence amendment for the subject agency. This includes making required findings under CEQA.

Alternative Two:

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

Alternative Three:

Disapprove the reorganization 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 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 public hearing and invite comments from the applicant and general public.
3. Discuss item and consider the staff recommendation.

On behalf of the Executive Officer,



Pricilla Allen
Analyst I

Appendices:

- A) Analysis of Sphere of Influence Determinations
- B) Analysis of Proposal Review Factors

Attachments:

- 1) Vicinity Maps of the Affected Territory
- 2) Draft Resolution of Approval
- 3) Resolution of Application from Olivenhain MWD
- 4) Supplemental EIR – City of San Diego (Online Only)

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APPENDIX A

STATEMENT OF DETERMINATIONS SPHERE OF INFLUENCE FACTORS Government Code Section 56425

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

The affected territory as submitted involves one vacant and incorporated parcel within the City of San Diego. The subject parcel is 41.48 acres with a current entitlement to develop into an 84 multi-family dwelling unit residential subdivision. The affected territory contains open-space lands and have been incorporated into the rezoning and development plan. The project conserves approximately 19 acres – or 46% – of the 41.5-acre site for open space. Amending the sphere of influence to include the affected territory into OMWD is consistent with these present and planned land uses.

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

There is an existing need for public wastewater services within the affected territory to accommodate the planned development of a residential subdivision to include 84 multi-family dwelling units. Proceeding with the development is dependent on the establishment of public wastewater services in which OMWD is best situated to accommodate. Amending the sphere of influence to include the affected territory into OMWD is consistent with these present and probable service needs.

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

OMWD has existing infrastructure and related capacities to readily accommodate wastewater demands within the affected territory through the 4S Ranch Reclamation Facility consistent with the approved development and highlighted by the construction of 84 residential units. Projected demands for wastewater within the affected territory are not expected to consume more than 1.5% of OMWD’s existing excess capacities. Amending the sphere of influence to include the affected territory into OMWD is consistent with these present and adequate capacities.

(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.

LAFCO initially established relevant social and economic ties between the affected territory and OMWD in concert with adding the subject lands to OMWD’s wastewater-specific sphere of influence in 2006 and 2017. This earlier action was done in step in accommodating wastewater to the adjacent East Clusters and Heritage Bluffs projects within the Black Mountain Ranch area, respectively. Amending OMWD’s sphere of influence to include the affected territory syncs and strengthens these existing social and economic ties.

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

The affected territory and adjacent lands therein do not contain census tracts qualifying as a disadvantaged unincorporated community (DUC) under State statute or LAFCO policy.

APPENDIX B

PROPOSAL REVIEW FACTORS Government Code Section 56668

- 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 comprises 41.48 of incorporated and undeveloped acres with no residents. Total assessed valuation for the affected territory is estimated by the County Auditor as \$194,946 with the last transaction in March 2021. The affected territory lies within Black Mountain Open Space Park in the City of San Diego and is approved for the development of 84 multi-family dwelling units contingent on the annexation to OMWD. Moderate growth is anticipated in the surrounding Black Mountain Ranch area within the next 10-year period and consistent with recent trends.

- 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 San Diego acts as the primary purveyor of general governmental services to the affected territory. This includes community planning, roads, water, and public safety. This proposal affects only the wastewater service provision to the affected territory and is the focus of the succeeding analysis.

- **Extending Public Wastewater Service to the Affected Territory**

OMWD projects the proposed reorganization’s demand for the affected territory at its planned use at a daily average of 0.0184 million gallons. This projection translates to approximately 219 gallons per day for each of the proposed 84 residential units. The projected daily demand equals approximately 1.5% of the available excess treatment capacity currently available to OMWD. Actual service to the affected territory from Olivenhain MWD is accessible through an existing collection pipeline located within the adjacent Heritage Bluffs development on Wine Creek Drive.

- 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.**
-

Approving the reorganization proposal and annexing the affected territory to Olivenhain MWD and expansion of the activated wastewater service area would formalize existing economic and social interests between the District and the affected territory. These ties

were initially established with the Commission previously adding adjacent territory to Olivenhain MWD’s wastewater-specific sphere of influence in 2017. This latter action reflects the Commission’s standing policy expectation OMWD should ultimately accommodate and support future development through the provision of wastewater.

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 reorganization and legal transfer of wastewater service responsibilities from City of San Diego to OMWD serves as a preferred alternative in LAFCO statute with respect to memorializing existing and long-term service commitments. The affected territory includes “open-space” as defined under LAFCO law; however, no new growth or development beyond the existing Avion project is associated with the proposed reorganization, therefore, no conflicts exist therein under G.C. Section 56377.

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 or further prescribed in local Commission policy. 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 reorganization proposal involving OMWD 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. Approval would be conditioned on a final map and description conforming to the referenced standards and address any modifications required by the Commission. Approval for the reorganization of the affected territory involving OMWD would not create any new service islands or corridors of unincorporated territory.

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

A notice of the proposed reorganization provided to the San Diego Association of Governments or SANDAG did not generate any comments, and as such no conflicts have been identified with respect to its regional transportation plan, San Diego Forward.

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

The primary purpose of the proposed reorganization before San Diego LAFCO is to extend wastewater service for a City of San Diego-approved development permit for an 84 multi-family dwelling unit subdivision. The planned residential uses are consistent with the City of San Diego General Plan, Black Mountain Ranch Subarea Plan and zoning designations.

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

See Appendix A.

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

Staff provided notice of the reorganization proposal to all subject and affected agencies as required under LAFCO law. No written comments were received ahead of preparing this agenda report for distribution on July 23, 2021.

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.

Should the proposed reorganization be approved OMWD will assume legal responsibility to provide wastewater services to the affected territory and the planned development of the Avion project. This service is organized as an enterprise and will be financed using user fees. The staff analysis of OMWD’s last three audited statements show – among other items – the District has been effectively managed and reflected in an average total margin of 5.5%.

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

The affected territory is presently within the City of San Diego’s retail domestic water system with wholesale supplies provided by the San Diego County Water Authority. Approval of the proposed reorganization would not affect the timely availability of water supplies to the affected territory for the proposed residential uses.

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 reorganization would contribute 19 affordable housing units and would not impact any local agencies in accommodating their regional housing needs. All potential units tied to the lands within the affected territory are already assigned to the City of San Diego by the region’s council of governments.

n) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

The affected territory contains 0 registered voters and qualifies as "uninhabited" as defined by LAFCO law (containing 11 registered voters or greater). Notice of the proposal and associated public hearing scheduled on August 2nd has been published in local newspapers with no comments received by the date of the agenda report.

o) Any information relating to existing land use designations.

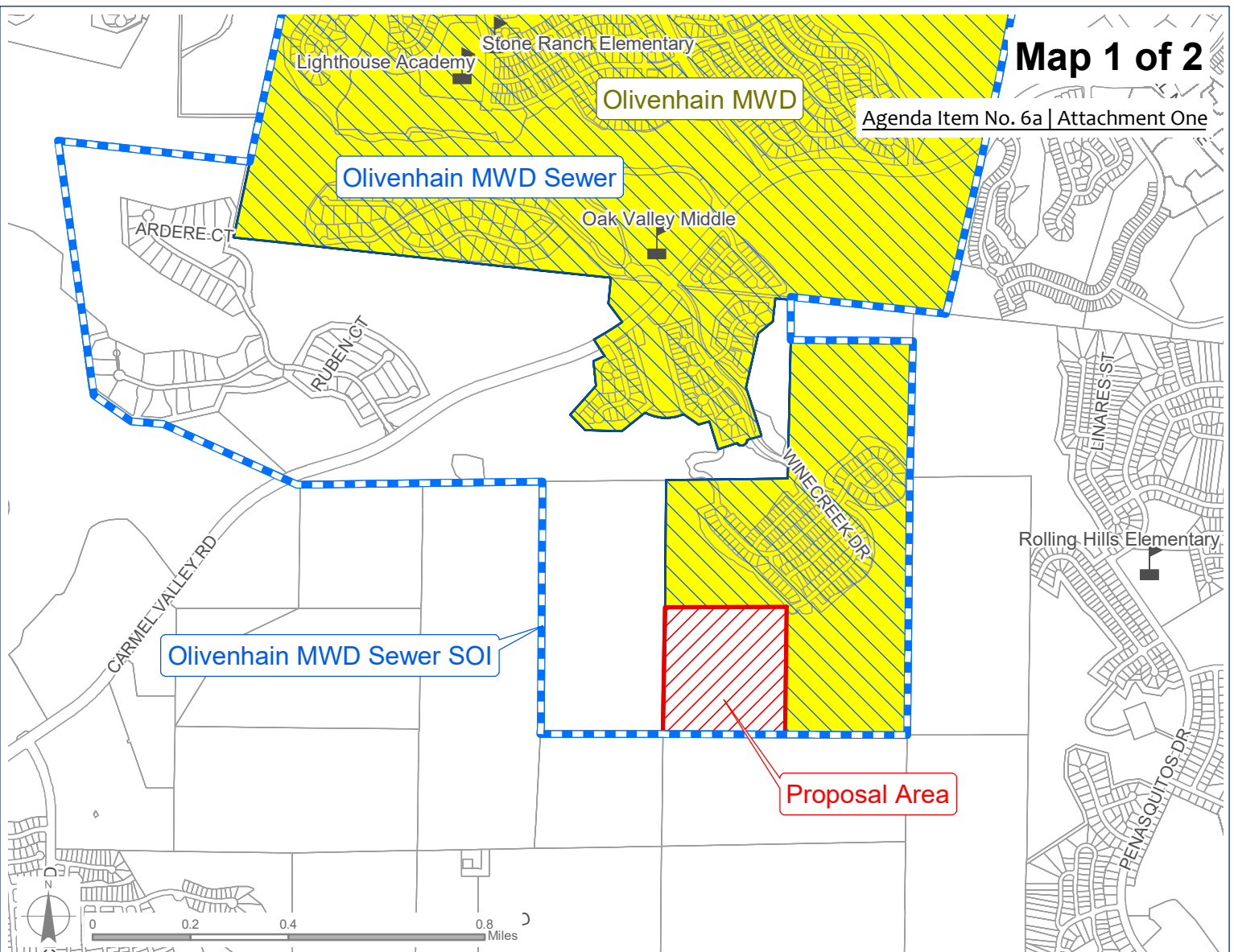
Please see above analysis for (h).

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 reorganization does not include locating new public facilities and therefore approval is not anticipated to directly influence the promotion of environmental justice within the affected territory.

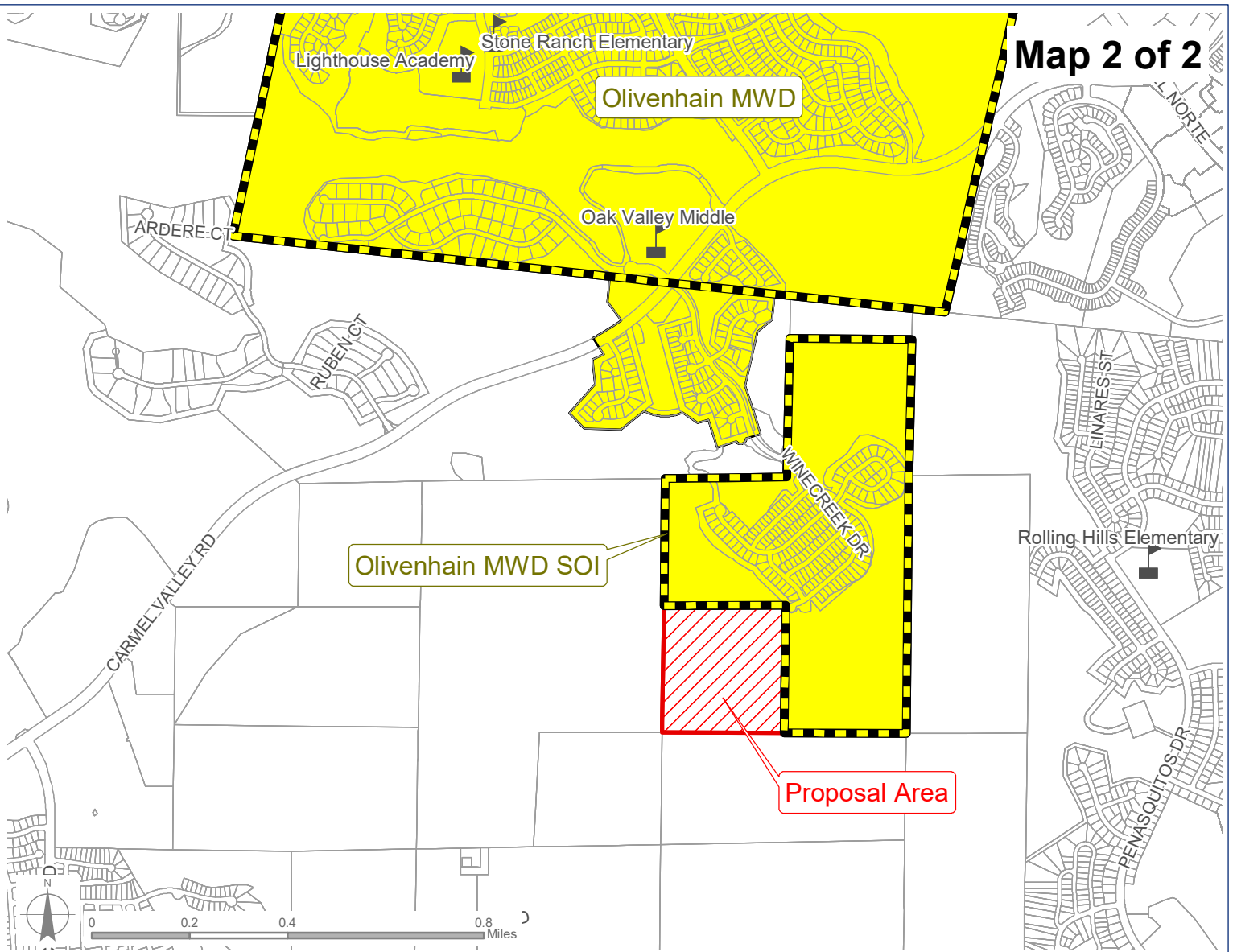
q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone or maps that identify land determined to be in a state responsibility area, if it is determined that such information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

The City of San Diego participates in the San Diego County's Multi-Jurisdictional Hazard Mitigation Plan. The County of San Diego General Plan contains a hazard mitigation plan for potential fire, flooding and earthquakes. The affected territory lies within "high risk" fire, earthquake, and flood hazard zones. Following the proposed reorganization, the City of San Diego would continue to provide fire protection and EMS service functions and responsibilities within the affected territory.






RO21-03 "AVION REORGANIZATION" | ANNEXATION TO OLIVENHAIN MWD WITH CONCURRENT LATENT SEWER EXPANSION OF WASTEWATER SERVICES

-  Proposal Area
 -  Olivenhain MWD
 -  Olivenhain MWD Sewer
 -  Olivenhain MWD Sewer SOI
- SOI = Sphere of Influence



RO21-03 "AVION REORGANIZATION" | ANNEXATION TO OLIVENHAIN MWD WITH CONCURRENT LATENT SEWER EXPANSION OF WASTEWATER SERVICES

-  Proposal Area
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RESOLUTION NO. _____

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING, AND ORDERING A CHANGE OF ORGANIZATION

“AVION REORGANIZATION”

**ANNEXATION TO THE OLIVENHAIN MUNICIPAL WATER DISTRICT
WITH CONCURRENT EXPANSION OF ACTIVATED WASTEWATER SERVICE AREA AND
RELATED SPHERE OF INFLUENCE ACTION**

LAFCO FILE NO. RO21-03

WHEREAS, on March 9, 2021, Olivenhain Municipal Water District (MWD) filed a resolution of application to initiate proceedings 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 reorganization for the primary purpose of annexing approximately 41.5 acres of incorporated territory within the City of San Diego to the Olivenhain MWD; and

WHEREAS, the reorganization also proposes the expansion of Olivenhain MWD’s activated wastewater service area to include the affected territory; and

WHEREAS, the affected territory as proposed includes one undeveloped parcel identified by the County of San Diego Assessor’s Office as 312-010-16; and

WHEREAS, the Commission has confirmed 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 reorganization 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 2, 2021; and

WHEREAS, the Commission considered all the factors required by law under Government Code Sections 56425 and 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. The Commission serves as responsible and lead agency under the California Environmental Quality Act (CEQA) in considering the two distinct "projects" associated with the proposed reorganization and as detailed in the Executive Officer's report: (a) reorganization and (b) the related conforming sphere of influence action. The Commission's findings follow.
 - a) The City of San Diego serves as lead agency under CEQA for considering the reorganization and the concurrent annexation of the affected territory to Olivenhain MWD and related expansion of OMWD's activated wastewater service area as part of its discretion to approve the underlying development project. In this role as lead agency, on September 15, 2020 the City recertified and adopted a Notice of Determination and a supplement to an earlier certified 1998 Black Mountain Ranch Environmental Impact Report (EIR) and made findings that – and among other items – wastewater service by OMWD could be adequately provided. As responsible agency, San Diego LAFCO staff has reviewed the Supplemental EIR and associated documents and believes the City has made adequate findings for the Commission's use in approving the reorganization and no further analysis is required under CEQA.
 - b) San Diego LAFCO serves as lead agency under CEQA for the conforming sphere of influence action associated with accommodating the reorganization. It is recommended the Commission find this action – and specifically the amendment of the Olivenhain MWD sphere to include the affected territory – is a project under CEQA but exempt from further review under State Guidelines 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) in and of itself does not change the environment or authorize any new uses or services.
4. The Commission APPROVES an amendment to Olivenhain MWD's sphere of influence to include the affected territory as further shown and described subject to all conditions below and in doing so makes the statements provided as Exhibit "A."
5. The Commission APPROVES the reorganization without modifications and subject to conditions as provided. Approval involves all of the follow:
 - a) Annexation of the affected territory to the Olivenhain MWD as shown in Exhibit "B-1" and described in Exhibit "B-2."
 - b) Addition of the affected territory to Olivenhain MWD's activated wastewater service area as shown in Exhibit "B-1" and described in Exhibit "B-2."

6. The Commission CONDITIONS all approvals on the following terms being satisfied by August 2, 2022 unless an extension is requested 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 \$1,200.00.
 - A check made payable to San Diego LAFCO in the amount of \$658.50 to reimburse the public hearing notice published in the San Diego Union Tribune.
 - d) Submittal of confirmation to the Executive Officer from Olivenhain MWD that all respective MWD terms and conditions set forth in its resolution of application have been satisfied.
7. The Commission assigns the proposal the following short-term designation:

“Avion Reorganization”
8. The affected territory as designated by the Commission is uninhabited as defined in Government Code Section 56046.
9. The Commission waives conducting authority proceedings under Government Code Section 56662.
10. Olivenhain MWD is a registered-voter district.
11. Olivenhain MWD utilizes the County of San Diego assessment roll.
12. The affected territory will be liable for any existing bonds, contracts, and/or obligations of Olivenhain MWD as provided under Section 57328.

13. 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.
14. 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.
15. The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Sections 56880-56882 of the Government Code.
16. 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 2, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

**

Attest:

Keene Simonds
Executive Officer

EXHIBIT A
SPHERE OF INFLUENCE DETERMINATIONS

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

The affected territory as submitted involves one vacant and incorporated parcel within the City of San Diego. The subject parcel is 41.48 acres with a current entitlement to develop into an 84 multi-family dwelling unit residential subdivision. The affected territory contains open-space lands and have been incorporated into the rezoning and development plan. The project conserves approximately 19 acres – or 46% – of the 41.5-acre site for open space. Amending the sphere of influence to include the affected territory into OMWD is consistent with these present and planned land uses.

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

There is an existing need for public wastewater services within the affected territory to accommodate the planned development of a residential subdivision to include 84 multi-family dwelling units. Proceeding with the development is dependent on the establishment of public wastewater services in which OMWD is best situated to accommodate. Amending the sphere of influence to include the affected territory into OMWD is consistent with these present and probable service needs.

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

OMWD has existing infrastructure and related capacities to readily accommodate wastewater demands within the affected territory through the 4S Ranch Reclamation Facility consistent with the approved development and highlighted by the construction of 84 residential units. Projected demands for wastewater within the affected territory are not expected to consume more than 1.5% of OMWD's existing excess capacities. Amending the sphere of influence to include the affected territory into OMWD is consistent with these present and adequate capacities.

(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.

LAFCO initially established relevant social and economic ties between the affected territory and OMWD in concert with adding the subject lands to OMWD's wastewater-specific sphere of influence in 2006 and 2017. This earlier action was done in step in accommodating wastewater to the adjacent East Clusters and Heritage Bluffs projects within the Black Mountain Ranch area, respectively. Amending OMWD's sphere of influence to include the affected territory syncs and strengthens these existing social and economic ties.

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

The affected territory and adjacent lands therein do not contain census tracts qualifying as a disadvantaged unincorporated community (DUC) under State statute or LAFCO policy.

EXHIBIT B-1
MAP OF THE AFFECTED TERRITORY

-Placeholder-

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EXHIBIT B-2
GEOGRAPHIC DESCRIPTION OF THE AFFECTED TERRITORY

-Placeholder-

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RESOLUTION NO. 2020-26

A RESOLUTION OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT REQUESTING THE LOCAL AGENCY FORMATION COMMISSION TAKE PROCEEDINGS FOR:

- 1) A REORGANIZATION CONSISTING OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT'S SEWER LATENT POWERS; AND
- 2) AN AMENDMENT OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT'S 4S RANCH SANITATION DISTRICT SEWER SPHERE OF SERVICE TO INCLUDE THE AVION PROJECT, COUNTY OF SAN DIEGO ASSESSOR'S PARCEL NO. 312-010-16-00

WHEREAS, the Board of Directors of the Olivenhain Municipal Water District (District) desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, and pursuant to California Government Code Section 56654 to provide sewer service to the Avion project (Project) proposed by Lennar Homes of California, Inc.; and

WHEREAS, the proposed reorganization of approximately 41.5 acres consists of the following jurisdictional changes:

1. Latent Powers Expansion for sewer service
2. Annexation to the Olivenhain Municipal Water District; and

WHEREAS, the territory subject to the proposed reorganization is uninhabited; and

WHEREAS, the Local Agency Formation Commission (LAFCO) has previously granted latent powers to the District for the provision of sewer services consisting of the collection, treatment, reclamation, and disposal within specified areas of the District; and

WHEREAS, water service is proposed to be supplied by the City of San Diego, the Project is located adjacent to the District's 4S Ranch Sanitation District, and the Project is currently within the Sewer Sphere of Influence of the Olivenhain Municipal Water District; and

WHEREAS, approval of the reorganization would provide for the extension of sewer service from the 4S Ranch Sanitation District Sewer Service Area to the proposed development of 84 multi-family homes in the City of San Diego; and

WHEREAS the proposed sphere of influence action and reorganization are:

1. The expansion of the District's sewer latent powers of approximately 41.5 acres to include the project as geographically described in Exhibit "A" and shown in Exhibit "B".
2. The annexation of approximately 41.5 acres to the Olivenhain Municipal Water District's 4S Ranch Sanitation District Sphere of Service

RESOLUTION NO. 2020-26 *continued*

WHEREAS, the following reasons support the District's approval of the proposed Latent Powers Expansion and Annexation;

1. The Project is located on vacant land, is uninhabited, and is within the City of San Diego. The City of San Diego will provide water and fire protection services to the Project. The Project is within the 4S Ranch Sanitation District's Sewer Sphere of Influence.
2. The Project is adjacent to the 4S Ranch Sanitation District and will flow by gravity into the District's existing sewer infrastructure, via sewer improvements constructed by the Heritage Bluffs II and Black Mountain Ranch East Clusters projects.
3. The Project would require additional facilities for sanitary discharge to flow to the City of San Diego. The City of San Diego agrees the District can more efficiently provide sewer services than the City of San Diego due to topography and access to District facilities. The City of San Diego Council approved the Project in September 2020 as being served sewer service from the 4S Ranch Sanitation District.
4. The 2.0 million gallon day (MGD) 4S Ranch Water Reclamation Facility is currently processing approximately 1.02 MGD and has ample capacity available for the Project and the 4S Neighborhood 1 Sewer Pump Station Replacement Project was designed to receive potential flows from the Project.
5. The District has sufficient conveyance and treatment capacity to accommodate the 84 multi-family dwelling units.

WHEREAS, the District hereby requests that LAFCO make conforming changes to the June 2013 4S Ranch Sanitation District Sewer Service Sphere map to clarify the Project is within the Sewer Service Sphere; and

WHEREAS, the District requests that the proposed reorganization be subject to the following terms and conditions:

1. Lennar Homes of California, Inc. will be required to pay all applicable sewer capacity and annexation fees, and all other fees and charges of the District in accordance with the District's Administration and Ethics Code, Article 28.
2. Lennar Homes of California is required to provide all fee sites and easements as required by the District for construction of on-site and off-site facilities as required by the District, in its sole discretion.
3. Lennar Homes of California is required to construct all on-site and off-site sewer facilities as required by the District, in its sole discretion.
4. A portion of the onsite facilities designed by Lennar Homes of California, Inc. do not meet District design standards and shall remain private, to be owned, maintained and operated by Lennar Homes of California and all successor entities to the Project.

RESOLUTION NO. 2020-26 continued

5. Lennar Homes of California shall file all Covenants, Conditions and Restrictions (CC&Rs) pertaining to the Project's private sewer system with the District prior to recordation of the LAFCO action. At the Board's discretion, the General Manager shall formally accept or revise and return within 30 days of receipt of the CC&Rs. The CC&Rs will contain at a minimum:
 - A. An exhibit clearly identifying the approximately 0.57 miles of pipeline and 21 manholes that make up the private sewer system (System).
 - B. Maintenance guidelines for System.
 - C. Maintenance obligations for the System including but not limited to annual inspections; and hydro evacuation line cleaning and closed circuit television videoing every three years and provide written documentation upon the District's request.
 - D. Obligation to fund and maintain a replacement fund for the System based on an anticipated 50 year life expectancy of the System.
 - E. Acknowledgement that Lennar Homes of California, Inc., or its successors or assigns, is responsible for all spills and the District is under no obligation to respond and any expenses incurred by the District while responding to a spill will be reimbursed by Lennar Homes of California, Inc., or its successors or assigns.
 - F. Compliance with the Article 28 of the District's Administrative and Ethics Code and Rules and Regulations for the Use of District Sewerage Facilities.
 - G. Compliance with the Rules and Regulations for billing of sewer services provided by the District based on Cost of Service
6. Lennar Homes of California, Inc. complete a sewer study showing the impacts of the Project that has been approved by the District.
7. Lennar Homes of California, Inc. will pay the District for all staff time, engineer's time, attorney fees, and consulting fees and costs incurred in the effort to obtain this approval.
8. Lennar Homes of California, Inc. will be required to comply with all LAFCO terms and conditions and to pay all LAFCO fees and charges.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Olivenhain Municipal Water District that Olivenhain Municipal Water District is a public agency under the laws of the State of California; and

BE IT FURTHER RESOLVED, the Board of Directors of the Olivenhain Municipal Water District does hereby find, determine and order as follows:

SECTION 1: The foregoing facts are found and determined to be true and correct.

SECTION 2: The Board of Directors of the Olivenhain Municipal Water District finds that

RESOLUTION NO. 2020-26 *continued*

reasons for the proposed expansion of latent powers and annexation to the 4S Ranch Sanitation District sewer service area are to provide sewer collection and treatment services for the Avion project; to enable the Olivenhain Municipal Water District to provide consistent and efficient public sewer service to the area; to promote and provide a program of total resource management which encompasses potable water, municipal wastewater, water reclamation, and reuse.

SECTION 3: The District has adequate sewer capacity to service the project.

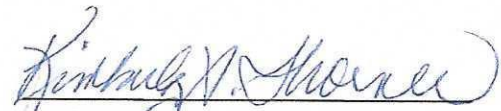
SECTION 4: The Board of Directors of the Olivenhain Municipal Water District directs the General Manager to file a certified copy of this Resolution with the LAFCO and request LAFCO take proceedings for the reorganization involving expansion of latent powers and annexation authorized by the District to serve the Avion project as described in Exhibit "A" and shown in Exhibit "C", according to the terms and conditions stated above and in the manner provided by the Cortese-Knox-Hertzberg local Government Act of 2000.

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of Olivenhain Municipal Water District held on December 9, 2020.



Edmund K. Sprague, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:



Kimberly A. Thorner, Assistant Secretary
Board of Directors
Olivenhain Municipal Water District