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September 29, 2023

San Diego Local Agency Formation Commission
Chair Jim Desmond
2550 5th Avenue, Suite 725
San Diego, CA 92103

Via email: erica.sellen@sdcounty.ca.gov

Subject: Comment Letter for Olivenhain Municipal Water District on Item 7a: Update to Draft Policy on Out-of-Agency Services

Dear Chair and Commissioners,

On behalf of Olivenhain Municipal Water District (OMWD), I am writing to comment on Item 7a: Update to Draft Policy on Out-of-Agency Services. OMWD supports the **removal of the provision of decision-making authority in determining exemption eligibility that is noted in the staff report as being recommended by the Special District's Advisory Committee (Committee).**

California Government Code section 56133 imposes a requirement for cities and districts to seek and receive Local Agency Formation Commission (LAFCO) approval for the provision of new or extended services outside of territorial boundaries. That same code section also contains several exemptions where this requirement does not apply, including one exemption which applies to situations where the new or extended out-of-boundary service is between *"Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider."*

There was a lengthy discussion at the Committee's September 15, 2023, meeting wherein members voiced concerns of an explicit provision directing local agencies to confirm with LAFCO on exemption eligibility that would create process burdens and stymie cost-sharing arrangements. OMWD concurs with the Committee recommendation and believes that LAFCO should be the authority that resolves disputes on the efficient and effective implementation of local government when they arise, but should not burden nor stymie effective mutual agreements between agencies that fall within the exemptions already written into Government Code section 56133.

Further, agencies undergo Municipal Service Reviews and Spheres of Influences with LAFCO at regular intervals wherein agreements between agencies can be reviewed and addressed, as they have in the past.



Adopting a local rule that conflicts with current state law does not make sense and will lead to future conflict, which is why OMWD supports the removal of the provision of decision-making authority as noted in the staff report as recommended by the Committee.

Sincerely,

A handwritten signature in black ink that reads "Kimberly A. Thorner". The signature is written in a cursive, flowing style.

Kimberly A. Thorner, Esq.
General Manager