



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

**7a**

**AGENDA REPORT**  
 Business | Action

February 5, 2024

**TO:** Commissioners

**FROM:** Keene Simonds, Executive Officer  
 Carolanne Ieromnimon, Analyst II

**SUBJECT:** **Proposed “Garcia - Curtis Drive Out-of-Agency Wastewater Services” | City of Vista (OAS23-14)**

**SUMMARY**

The San Diego County Local Agency Formation Commission (LAFCO) will consider a request by the City of Vista to provide new out-of-agency wastewater services to an unincorporated parcel located north of the City and within its sphere of influence. The affected territory and its lone subject parcel is 2.8 acres in size and developed with a single-family residence at 211 Curtis Drive. The purpose of the request is to make available public wastewater to accommodate the construction of an accessory dwelling unit (ADU) that would otherwise be prohibited given the limitations on the existing septic system. Staff recommends approval authorizing service to the existing single-family residence and planned ADU; any additional future uses are prohibited. Standard terms are also recommended. Staff is relatedly recommending the Commission dispense with the otherwise special condition commonly applied to require the landowner to file an annexation proposal with LAFCO for future processing given local conditions as detailed. A categorical exemption applies.

<p><b>Administration:</b>          Keene Simonds, Executive Officer          2550 Fifth Avenue, Suite 725          San Diego, California 92103          T 619.321.3380          E lafco@sdcountry.ca.gov          www.sdlafco.org</p>	<p><b>Chair Jim Desmond</b>          County of San Diego</p> <p><b>Joel Anderson</b>          County of San Diego</p> <p><b>Nora Vargas, Alt.</b>          County of San Diego</p>	<p><b>Kristi Becker</b>          City of Solana Beach</p> <p><b>Dane White</b>          City of Escondido</p> <p><b>John McCann, Alt.</b>          City of Chula Vista</p>	<p><b>Vice Chair Stephen Whitburn</b>          City of San Diego</p> <p><b>Mami von Wilpert, Alt.</b>          City of San Diego</p>	<p><b>Jo MacKenzie</b>          Vista Irrigation</p> <p><b>Barry Willis</b>          Alpine Fire Protection</p> <p><b>David A. Drake, Alt.</b>          Rincon del Diablo</p>	<p><b>Vacant</b>          General Public</p> <p><b>Harry Mathis, Alt.</b>          General Public</p>
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## BACKGROUND

### Out-of-Agency Services: Statute and Local Policies

Government Code Section 56133 prohibits cities or special districts from providing new or extended services by contracts outside of their jurisdictional boundaries without prior LAFCO review and approval less certain and limited exemptions. In addition, cities or districts may only provide services by contract outside of their boundaries and within their spheres of influence in anticipation of later annexations. If the affected territory lies outside the subject agencies’ spheres, outside-of-agency services may only be extended in response to documented threats to public health and/or safety as determined by LAFCO.

San Diego LAFCO’s current policies authorize the Executive Officer to approve outside-of-agency services in response to documented health, safety, or welfare impacts.<sup>1</sup> Otherwise, all out-of-agency approvals require formal Commission action.

### Applicant Request

San Diego LAFCO received a request from the City of Vista in December 2023 for approval to provide new wastewater services outside its jurisdictional boundary by contract with a landowner (Michael Garcia) involving an approximate 2.8-acre unincorporated parcel. The subject parcel is developed with a 1,908 square-foot single-family residence, which was built in 1980 with a situs of 2111 Curtis Drive (171-150-10). The subject parcel lies immediately adjacent to the existing Vista boundary and within its sphere of influence. The request is premised on accommodating the planned development of an ADU.

A map showing the affected territory is provided as Attachment One.

## DISCUSSION

This item is for San Diego LAFCO to consider approving the City of Vista’s request under Government Code Section 56133 to provide new out-of-agency wastewater services (collection, treatment, and disposal classes) to the subject parcel at 2111 Curtis Drive. The Commission maintains discretion to approve the request with or without terms so long as the latter does not directly regulate land use, property development, or subdivision requirements. Additional discussion on proposal purpose, land use policies, and Commission focus follows.

### Proposal Purpose

The purpose of the proposal and the request to establish out-of-agency wastewater service to the affected territory is to accommodate the landowner’s interest to develop an ADU that would otherwise be prohibited due to limitations with the existing septic system.

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<sup>1</sup> These policies also delegate discretion to the Executive Officer in determining whether public health, safety, or welfare threats exists on a case-by-case basis. Reference to Rule No. 1.8.

## Current and Planned Land Uses

The affected territory’s lone subject parcel is currently developed with a single-family residence built in 1980. The County of San Diego designates the subject parcel as Semi Residential with a zoning assignment of Rural Residential, which sets the minimum lot density to 1.0 acres. The City of Vista similarly designates the subject parcel as Rural Residential without a current rezoning assignment.

## Commission Focus

Staff has identified two central and sequential policy items for San Diego LAFCO in considering the merits of the requested approval for the City of Vista to provide new out-of-agency wastewater services to the affected territory. These items involve the stand-alone merits of the (a) timing of the requested service extension itself and (b) whether discretionary terms are appropriate. The Commission must also consider other relevant statutes as detailed

## ANALYSIS

The following analysis address the two policy considerations outlined in the preceding section most relevant to San Diego LAFCO consideration of the requested authorized – timing of the out-of-agency service and whether terms are appropriate.

### Policy Consideration | Timing of the Out-of-Agency Wastewater Service

The City of Vista is requesting approval from San Diego LAFCO to establish new out-of-agency wastewater services to the affected territory at 211 Curtis Drive on behalf of the landowner and their interest to construct an ADU. Underlying the Commission’s consideration of the request is the timing and whether the membership believes the extension of municipal wastewater service is merited and – if yes – whether it is readily available. Should the preceding determinations be in the affirmative the Commission is tasked with proceeding to consider most appropriate delivery means, annexation or outside service extension. Staff’s analysis of these two related factors follows.

- Need and Availability of Service

The affected territory consists of an existing single-family residence within a developing unincorporated area that is becoming decreasingly affiliated with Bonsal. Existing County policies allow for additional intensification of the affected territory to include an ADU. Accommodating an ADU – however – exceeds the capacity of the aging onsite septic system less significant improvements. Alternatively, the extension of Vista’s wastewater service to the affected territory is readily accessible via a wastewater main and corresponding public-right-of-way easement located directly along the east side of the entire property line. It is projected the maximum average day wastewater demand generated within the affected territory is 348.5 gallons based on accommodating the existing single-family residence and planned ADU. This

projected amount can be readily accommodated without adverse impacts given it represents less than 0.05% of the existing available capacity of the wastewater system.

- **Out-of-Agency Service v. Annexation**

Annexations are the preferred method under LAFCO law to use boundary changes to memorialize the relationship between land and service providers unless local conditions suggest otherwise. Annexation of the affected territory is readily permissible in statute given its existing common border. However, local conditions sufficiently justify an out-of-agency 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, access to the affected territory from Vista does not currently exist. Access is currently limited to traveling through the unincorporated area via two County roadways – Barsby Street and Curtis Drive. Given “cherry-stem annexations” are no longer permissible, annexation of the affected territory without adding other neighboring parcels does not appear practical without causing a boundary disconnect with respect to accessibility.

### Policy Consideration | Potential Terms

The application of standard approval terms appears sufficient. This includes the applicant paying any outstanding fees necessary to complete the approval per the San Diego LAFCO fee schedule. Separately, consideration has been given consistent with practice to require the landowner to file an annexation proposal with LAFCO for future processing in conjunction with expediting the anticipated annexation under statute. Staff believes it is appropriate to proceed without this term given local condition. This is marked by recognizing the associated actions needed to facilitate an orderly annexation requires considerable Vista planning resources – and specifically taking ownership and maintenance of County roads – and unlikely to materialize within the immediate future.

### RECOMMENDATION

It is recommended San Diego LAFCO approve the requested out-of-agency wastewater service authorization allowing the City of Vista to serve the affected territory specific to the existing single-family residence and planned ADU with terms as specified above. This recommendation is consistent with Alternative One outlined below.

### ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO and can be accomplished through a single-approved motion.

Alternative One (recommended):

- (a) Approve the requested out-of-agency wastewater service authorization between the City of Vista and the landowner of the affected territory at 211 Curtis Drive subject to the scope and terms as provided in preceding sections.
  
- (b) Authorize the Executive Officer to file a Notice of Exemption consistent with the finding the request qualifies as a “project” under the California Environmental Quality Act but exempt from further review under State Guidelines Section 15303(a). This exemption appropriately applies given its accommodation of new construction of single-family residence, or a second dwelling unit in a residential zone.

Alternative Two:

Continue item to a future meeting.

Alternative Three:

Disapprove the request.

**PROCEDURES**

This item has been placed on the agenda for action as part of San Diego LAFCO’s business calendar. The following procedures are suggested in the consideration of this item:

- 1) Receive verbal report from staff unless waived.
- 2) Discuss item and consider recommendation.

On behalf of the Executive Officer,



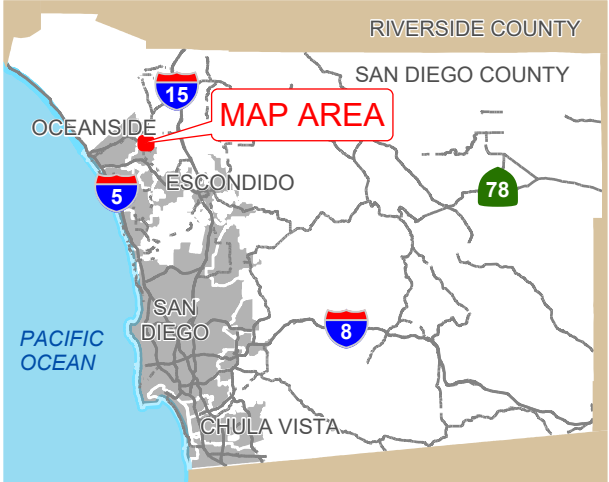
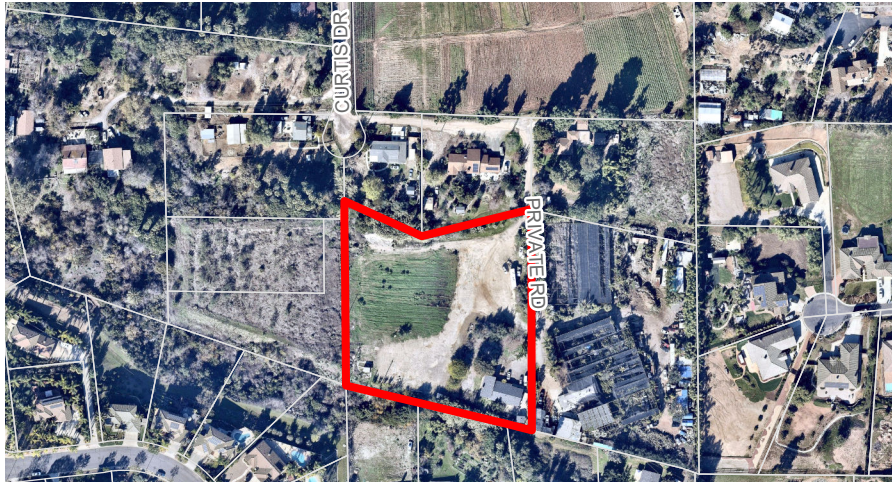
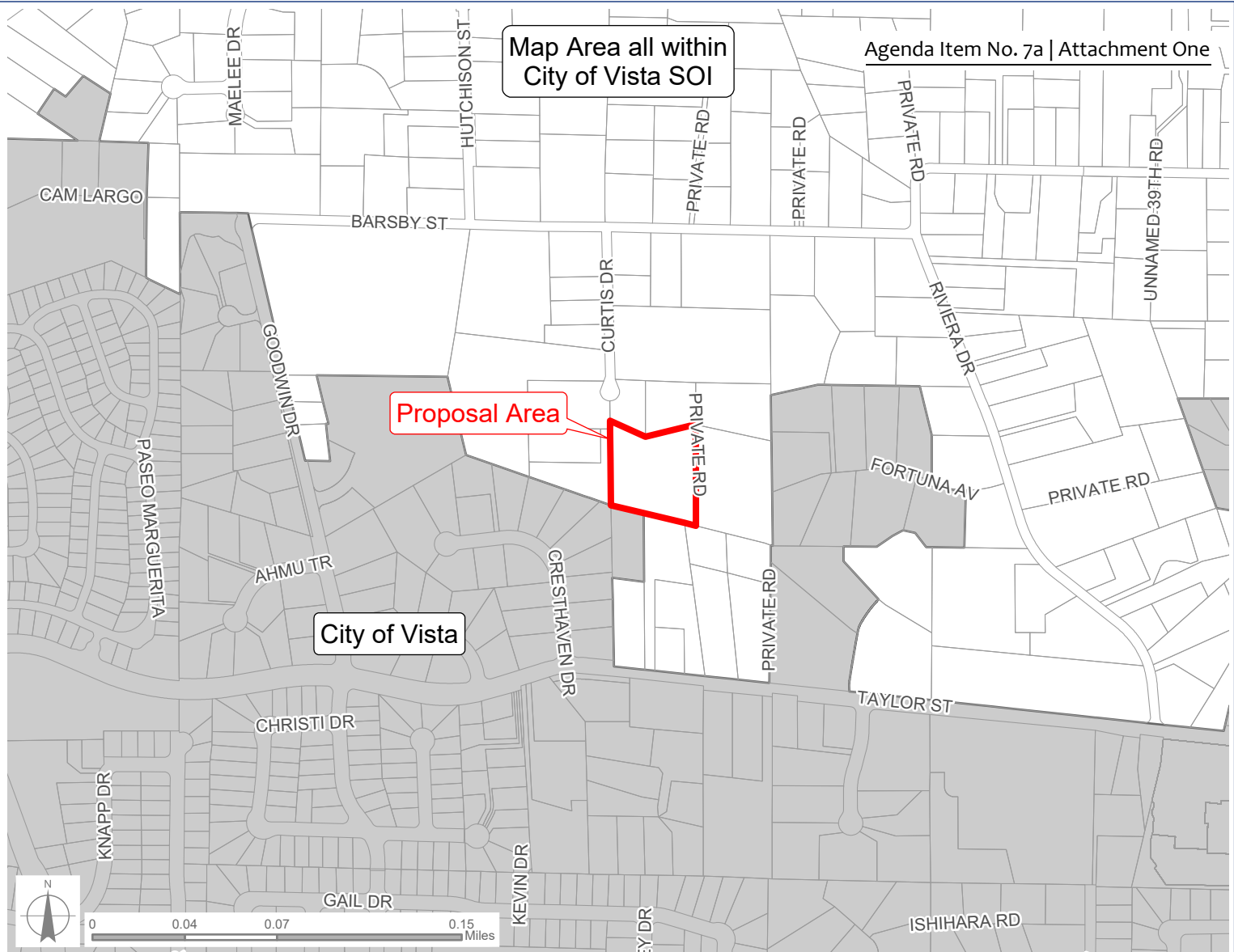
Carolanne Ieromnimon  
Analyst II

Attachments:

- 1) Map of the Affected Territory
- 2) Related Requested Documents



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Map Area all within City of Vista SOI



OAS23-14

# "GARCIA - CURTIS DRIVE OUTSIDE-OF-AGENCY WASTEWATER SERVICES" | CITY OF VISTA

-  Proposal Area
-  City of Vista

SOI = Sphere of Influence



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

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November 30, 2023

San Diego County LAFCO  
Attn: Keene Simonds  
2550 Fifth Avenue, Suite 725  
San Diego, California 92103

Re: Out of Agency Wastewater Service Request - 2111 Curtis Dr.

Dear Mr. Simonds,

The City of Vista is requesting approval from San Diego LAFCO to provide wastewater services to the property located at 2111 Curtis Dr. (APN 171-150-10-00) which is outside of the City of Vista municipal boundary. Though the property is located within the city's Sphere of Influence, annexation is not supported at this time due to the lack of access from a city owned and maintained street which is a requirement of the city's General Plan.

City of Vista public sewer infrastructure is readily available and has adequate capacity to provide service to the property. Due to health and safety concerns associated with the existing aging septic system, the City is amenable to offering out-of-agency sewer service to the property. The agreement will be memorialized with an Out-of-Area Sewer Service Agreement, recorded in the office of the County Recorder.

Pursuant to direction received from your office, a check for \$1,921.50 is included with this request.

I appreciate your consideration in this manner. Please feel free to reach out to me at 760-643-5201 or [jconley@ci.vista.ca.us](mailto:jconley@ci.vista.ca.us), or Steve Nowak at 760-643-5403 or [snowak@ci.vista.ca.us](mailto:snowak@ci.vista.ca.us) with any questions you may have.

Sincerely,

  
John Conley  
City Manager

RECEIVED

DEC 21 2023

SAN DIEGO LAFCO

RECORDING REQUESTED BY:  
**CITY OF VISTA**

WHEN RECORDED MAIL TO:

**CITY OF VISTA  
200 CIVIC CENTER DRIVE  
VISTA, CA 92084-6275  
ATTN: CITY CLERK**

**Fee Exempt: Government Code Section 27383**

**APN: apn**

**IRREVOCABLE OFFER OF ANNEXATION TO THE CITY OF VISTA,  
AGREEMENT TO PAY FUTURE ANNEXATION FEES, AND  
OUT OF AREA SEWER SERVICE AGREEMENT  
address**

THIS AGREEMENT is entered into as of **date** ("Agreement Date"), by and between the **CITY OF VISTA**, a chartered municipal corporation, ("City") and, **NAME1 [and NAME2]**, status ("Owner/Developer").

**RECITALS**

1. Owner/Developer has applied to City for sewer service for the real property hereinafter described ("Property") now under Owner/Developer's ownership.
2. The Property is within the Local Agency Formation Commission ("LAFCO") sphere of influence for City, but the Property is not within the City limits.
3. It has been determined to be in the public interest to provide sewer service to this Property.
4. An irrevocable offer of annexation of the Property to the City is a requirement for the provision of sewer service by the City.

**NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**

**SECTION 1.** Owner/Developer makes an irrevocable offer to annex the Property to the City and to take all actions necessary to accomplish that annexation upon request by City. For purposes of calculating any votes or protests, this Agreement shall constitute and shall be counted as a written approval or consent to an annexation application initiated by the City or which has received the written support of the Vista City Manager or Vista City Council. Additionally, Owner/Developer agrees to pay all applicable annexation fees (including City fees, LAFCO fees, and State Board of Equalization fees) at the time the annexation is initiated by the Vista City Council, or at such other time as shall be authorized by the City in advance of the annexation of the Property. These fees, without limitation, include all application fees, processing fees, and "deficit offset" payments described in that certain Codicil to the Master Property Tax Agreement, dated February 27, 2004, which supplements the Master Property Tax Agreement of November 20, 1984 between the City and the County of San Diego, as shall be amended from time to time ("Property Agreement"). A copy of the Property Agreement is on file with the City Clerk of the City. Owner/Developer agrees and accepts that the payment of such fees, unless waived by the City, constitutes a precondition to the annexation of the Property.

**SECTION 2.** Owner/Developer shall acquire any necessary off-site easements, shall construct the mainline sewer and lateral to a point on the Property as determined by City's Department of Engineering, and shall be

**Irrevocable Offer of Annexation to City of Vista, Agreement to Pay Future Annexation Fees, and Out-of-Area Sewer Service Agreement**

address

APN: apn

Page 2

responsible for all costs including engineering, permits, inspection and any other costs related to the physical construction of the sewer. Owner/Developer shall comply will all rules, regulations, ordinances or statutes currently in effect or as may be amended from time to time. Owner/Developer agrees to indemnify, defend and hold harmless City for any loss, damage, or claim of damage resulting from an alleged or actual failure of the domestic sewer lateral or the City sewer main.

**SECTION 3.** Owner/Developer shall pay sewer capacity fees, sewer service fees, and permit fees to City as required by City from time to time. Sewer service charges will be billed as determined by City, and shall be paid within thirty (30) days of the billing date. If within that 30 day period, such charges have not been paid, Owner/Developer and its successors in interest hereby authorize the filing of a law suit in a court of competent jurisdiction by City. Parties refusing to pay their sewer service charge within the specified time shall, in addition be liable for any and all cost of suit and reasonable attorney's fees incurred by City in initiating any legal action pursuant to the terms of this Agreement.

**SECTION 4.** Owner/Developer irrevocably agrees to grant to City, without compensation, an on-site sanitary sewer easement, if necessary in the sole discretion of City, for the future extension of the sewer.

**SECTION 5.** Subdivision and/or development shall be compatible with City's General Plan and shall be in conformance with City development standards, including City review and approval of the site development plan and payment of any development fees not required by the County but required by City, such as drainage fees and traffic mitigation fees.

**SECTION 6.** City will provide sewer service upon satisfaction of the conditions set forth in this Agreement, applicable law, and other requirements which are standard preconditions to the provision of sewer service.

**SECTION 7.** A description of the Property upon which said irrevocable offer of annexation is imposed is described in Exhibit A, attached hereto and incorporated herein by reference.

**SECTION 8.** The obligations of this Agreement shall constitute covenants or servitudes which shall run with the land comprising the Property and shall be binding on the successors and assigns of Owner/Developer, including all estates and interests in the Property. Notwithstanding the foregoing, the decision to initiate or support an application for annexation to the Local Agency Formation Commission ("LAFCO") is reserved to the sole discretion of City, and this Agreement does not contain any representation or commitment that City will initiate or support such an application in the future. LAFCO must approve any annexation to City.

**SECTION 9.** This Agreement shall continue in effect until such time as the Property is annexed to the City or this Agreement is terminated as hereinafter specified, whichever occurs first.

**SECTION 10.** This Agreement may be terminated by the City by giving Owner/Developer, its heirs, successors or assigns, five (5) days advance written notice if [1] Owner/Developer fails to pay the fees described in paragraphs One (1), Two (2), Three (3) or Five (5) above, or [2] the annexation is not approved for any reason.

[Continued on page 3.]

**Irrevocable Offer of Annexation to City of Vista, Agreement to Pay Future Annexation Fees, and Out-of-Area Sewer Service Agreement**

**address**

**APN: apn**

Page 3

SECTION 11. This Agreement is subject to the LAFCO review and approval. It shall be effective following execution by the parties and upon approval by LAFCO. Should LAFCO fail to approve this Agreement it shall be of no further force or effect.

SECTION 12. This Agreement contains the entire agreement between the parties, and neither party relies upon any warranty or representation made by either party if not contained in this Agreement.

**IN WITNESS, WHEREOF,** the parties hereto have executed this Agreement as of the Agreement Date.

“CITY”

“OWNER/DEVELOPER”

**CITY OF VISTA**, a chartered municipal corporation

**NAME1 [and NAME2]**, status

By: \_\_\_\_\_  
JOHN CONLEY, CITY MANAGER

By: \_\_\_\_\_

\_\_\_\_\_  
NAME/TITLE

BY: \_\_\_\_\_

\_\_\_\_\_  
Name/Title

(When signing as Corporation necessary signatures are  
President OR Vice President AND Secretary OR  
Assistant Secretary.)

*NOTE: A CALIFORNIA ALL PURPOSE NOTARY ACKNOWLEDGMENT MUST BE ATTACHED FOR ALL SIGNATURES ABOVE*

**ATTEST:**

**KATHY VALDEZ, CITY CLERK**

By: \_\_\_\_\_

**APPROVED AS TO FORM:**

**WALTER CHUNG, CITY ATTORNEY**

By: \_\_\_\_\_

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**DEC 21 2023**

**SAN DIEGO LAFCO**

**CONTRACTUAL SERVICE AGREEMENT  
APPLICATION FORM**

*In addition to the materials required for any change(s) of organization, submit the following items:*

1. One copy of either an approved Resolution of the City Council/District Board of Directors or a letter from the City Manager/District General Manager requesting approval for a contractual service agreement.
2. One copy of the contract or agreement stipulating the terms and conditions of extending service to the property signed by the property owner(s) and the agency that is to provide the service.
3. LAFCO processing fee. Contact the LAFCO office or refer to fee schedule.

Print/Type Name: Steve Nowak - City of Vista

Property Address: 2111 Curtis Dr., Vista, CA 92084

Phone #: 760-643-5403 Date: 12-21-23

This application is used by LAFCO staff to provide supplemental information for contractual service agreement requests.

1. What type or types of public service(s) will be provided? Sewer
2. Why is the service needed? If the service agreement is in response to an emergency health and safety situation, such as a failed septic system, provide information documenting the circumstances (e.g., letter from the County Department of Environmental Health).
3. If a jurisdictional change, such as annexation, is not possible at this time, explain the circumstances that prevent annexation and when the jurisdictional change is anticipated. Not consistent with General Plan requirement for property to be served by city owned street.
4. Are there any jurisdictional issues associated with the  YES  NO proposed contractual service agreement?  
(If yes, please complete the LAFCO [Policy L-107 form](#))

**San Diego Local Agency Formation Commission**  
2550 Fifth Ave., Suite 725  
San Diego, CA 92103  
(619) 321-3380

Revised November 2022

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