



August 19, 2021

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CAROLYN EMERY
EXECUTIVE OFFICER

TO: Local Agency Formation Commission

FROM: Executive Officer
Policy Analyst

SUMMARY: Proposed "Santa Margarita Water District Annexation of the City of San Juan Capistrano Water and Wastewater Utilities" (DA20-01)

BACKGROUND

In 2015, the City of San Juan Capistrano (CSJC) began exploring the divestiture of the City's water and wastewater utilities. The effort of transferring the operations, facilities, and liabilities of the City's utilities was conducted through a public outreach and workshop process that ultimately resulted in preliminary studies and development of criteria for evaluating the potential transfer. In August 2016, following discussions with LAFCO staff regarding its interest, the CSJC filed an application with the Commission to prepare a municipal service review (MSR) focused on an assessment of the City's water and wastewater utilities and the identification of a potential successor public agency, or agencies, to assume the responsibilities of these utilities.

Since 2005, LAFCO has prepared comprehensive and focused MSRs to review municipal service delivery and identify alternative governance options, if applicable. In accordance with the Commission's local policy for conducting MSRs and state law, an MSR was required to evaluate the potential transfer of the City's utilities and identify alternative governance options involving increased efficiency and enhanced water and wastewater service delivery to CSJC's utility customers. Adopted by the Commission on October 10, 2018, the *Focused Municipal Service Review for City of San Juan Capistrano Water and Wastewater Utilities* assesses the infrastructure and financial status of the utilities and evaluates the potential transfer of the City's systems to one or more public successor agencies, including the Moulton Niguel Water District

(MNWD), Santa Margarita Water District (SMWD), and South Coast Water District (SCWD). The MSR noted that all three of the independent special districts were in a better position than the City to address the financing and operational needs of the water and wastewater utilities, and that future improvements and maintenance to the systems were necessary. The study also acknowledged that MNWD and SMWD, due to their size, would typically realize economies of scale and could provide service improvements to the utilities without significantly expanding existing planning, operations, and administrative staff.

In February 2019, following presentations and discussions with the three districts and input from various City stakeholder communities and groups, the San Juan Capistrano City Council approved continuing discussions and negotiations solely with the Santa Margarita Water District (SMWD) to assume the City’s utilities. In part to its decision, the City indicated that transferring of the utility systems to SMWD would allow for an economies of scale and the enhancement of the operations and infrastructures of the systems while stabilizing the utility rates for the City residents. The City and SMWD subsequently entered into an annexation agreement, and in late Winter of 2020, SMWD filed an annexation application with LAFCO.

DISCUSSION

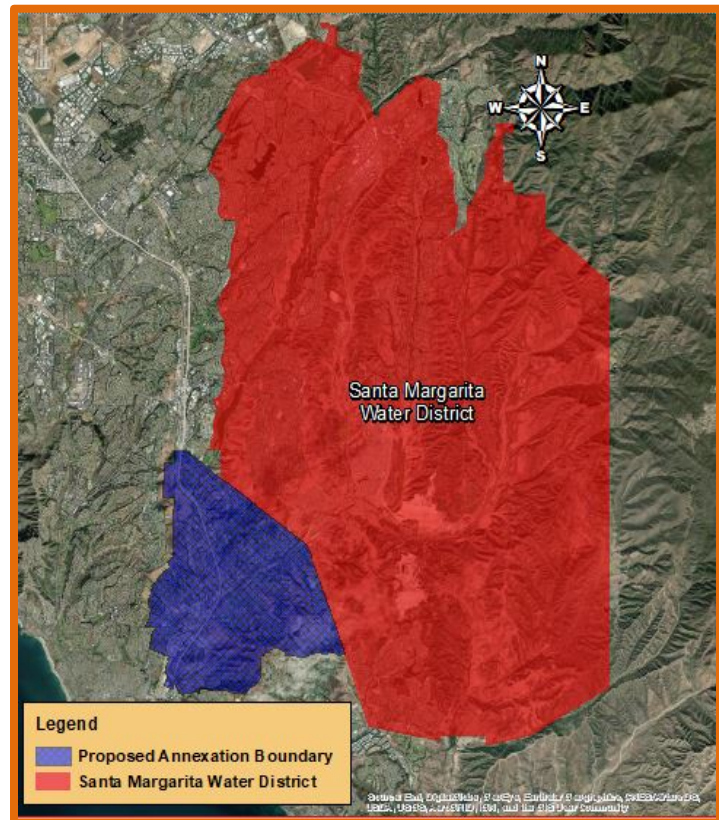
Over the past several months, LAFCO staff has participated in discussions with SMWD and CSJC staff to assist with the application requirements and process for transferring the City’s water and wastewater utilities to the District. The following section provides a discussion of the proposed annexation and the respective Plan for Service that outlines the approach and financing plan for SMWD to assume the City’s utilities.

PROPOSED ANNEXATION

On December 23, 2020, SMWD submitted an application and Plan for Service to annex and assume ownership, responsibilities, and rights of the water and wastewater systems currently owned and operated by the CSJC. The District indicates in its Plan for Service that it has the financial and operational capacity to assume the CSJC’s water and wastewater utilities, and that the transfer would result in enhanced efficiency and more cost-effective delivery of these services to the ratepayers within the affected area. The Plan also proposes that the transfer of the systems and operations to SMWD will result in improved water supply reliability, completion of capital improvement projects that support upgrades and long-term maintenance of the systems, and rate stability for the utility customers.

The boundary of the City’s water and wastewater utilities encompasses over 14 square miles located within San Juan Capistrano and a northeast portion of the City of Dana Point. The systems provide services to a population of approximately 36,262, through 11,572 water connections and approximately 125 miles of wastewater pipelines. Land uses within the territory include residential, commercial, agricultural, open space, and special use. SMWD is proposing to assume ownership and operation of the water and wastewater systems located within the CSJC. As shown in Exhibit 1, annexation of the systems to SMWD would expand the District’s service boundary to the South to include the majority of residents of the CSJC. Other areas of the City receive water and wastewater service from SCWD and MNWD.

Exhibit 1: Proposed Area for Annexation



As referenced above, a portion of the City’s water utility includes approximately 0.4 miles of territory located within the City of Dana Point and served by SCWD. The area includes approximately 3,000 residents and 1,000 water connections. The land uses within the service boundary include residential, recreation, open space, and industrial. In 2000, in part to the dissolving of the former Capistrano Valley Water District, the CSJC entered into a water service agreement with the SCWD to provide retail water to this area. As the City desires to fully divest itself from providing water service, upon annexation of the utilities to the SMWD, SCWD would assume CSJC’s responsibility for retail water service to this Dana Point area. Wastewater service within this area is already provided by SCWD. The anticipated transition of water service within this area to SCWD has been established through an agreement to be executed among SCWD, SMWD and CSJC should the annexation be approved. No service changes within the area currently served by MNWD will occur in part to SMWD’s annexation of the utilities.

PLAN FOR SERVICE REQUIREMENTS (GOVT. CODE SECTION 56653)

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires that the applicant submit a Plan for Service (Government Code Section 56653) for a change of organization or reorganization (i.e., annexation, detachment). The Plan for Service shall address the following: 1) an enumeration and description of the services currently provided or to be extended to the affected territory; 2) the level and range of those services; 3) an indication of when those services can feasibly be extended to the affected territory; 4) an indication of any improvements or upgrading of structures, roads, sewer or water facilities; and, 5) how those services will be financed. In addition to the requirements delineated by the CKH Act, the focused MSR for the CSJC water and wastewater utilities identified additional areas for Commission review relative to SMWD assuming the water and wastewater systems.

The next section provides staff’s review and analysis of SMWD’s Plan for Service and the addressing of the statutory and Commission requirements. In addition to the factors of Government Code Section 56633, State law requires the Commission to also review and consider the factors of Government Code Section 56668. The details of those factors are presented in Attachment 1.

SMWD PLAN FOR SERVICE - CSJC WATER AND WASTEWATER UTILITIES

SMWD currently provides potable water, recycled water, and wastewater services to a population of approximately 165,000 within a service area of 62,656 acres that includes the City of Rancho Santa Margarita, portions of the Cities of Mission Viejo and San Clemente, and the unincorporated communities of Coto de Caza, Ladera Ranch, Las Flores, Stonecliffe, Wagon Wheel, and Rancho Mission Viejo. Expansion of the District’s boundary to include the CSJC’s water and wastewater utilities would add approximately 32,262 residents, 10,572 water connections and 200 miles of sewer pipelines. SMWD’s Plan for Service supports the District’s financial and operational ability to provide the current level of water and wastewater services to CSJC residents and also to enhance levels in many areas. The Plan indicates that the District, upon annexation, will implement a robust capital improvement program to complete the necessary improvements, rehabilitations, and replacements to the water and wastewater infrastructures, and the range of services would be expanded to include an increase in the reliability of potable water and more access to recycled water resources. Additionally, the Plan anticipates that an economies of scale may be realized due to the size of SMWD and the District’s experience and focus on the management and operating of water and wastewater systems.

A critical component of the SMWD’s Plan for Service is the financing of the infrastructure and services to be provided upon annexation of the utilities to the District. The next

section of this report provides a review of the District’s long-range financial plan for providing these key and highly regulated services.

The District’s Financial Forecast

To address the statutory requirements for an agency to assume additional territory and associated services, SMWD provided a long-range financial forecast indicating how the district would finance water and wastewater services within the CSJC immediately upon annexation. The financial plan provides a deliberative forecast of costs, revenues, and reserve balances associated with the systems and assesses how the services may be financed and provided in the most efficient and cost-effective manner. Below is a further discussion of the District’s approach.

Water and Recycled Water Utility

The elements of CSJC’s retail water infrastructure have an average age of 34 years and include 200 miles of conveyance water mains, nine reservoirs, nine active pump stations, two imported water connections, 12 emergency interconnections, and 11 wells. An additional and key asset of the City’s water operations is the Groundwater Recovery Plant (GWRP) which key function is to pump and treat the City’s groundwater. The elements of CSJC’s recycled water infrastructure have an average age of 12 years and includes 70 connections for irrigation purposes.

The revenues of the retail and recycled water systems are comprised of customer service charges (based on the volume of water consumed by customers), miscellaneous service fees, and investment income generated from reserve funds. Table A depicts the first five years of the District’s 10-year financial forecast of revenues and expenditures for the water utility. Beginning FY 2021-22, total revenues for the utility are projected at approximately \$20.3 million. Expenditures of the utility for the same period are projected at approximately \$27.2 million and generally include water supply, administrative, operations, and capital improvement projects expenses. An additional expenditure of the water utility reflected in Table A includes the lease payments and operating costs for the GWRP. The SMWD Plan for Service acknowledges maximizing the function of the GWRP through projects that will benefit current and future SMWD customers. As such, the GWRP costs will be absorbed systemwide, as with the remainder of the District’s capital replacement plan; thus, reducing the burden on residents of CSJC by a projected 80% percent. As indicated in Table A, one-time payment of approximately \$6 million to the Orange County Employees Retirement System (OCERS) would be made during the first year following annexation which includes costs associated with the transition of current CSJC utility employees to SMWD’s retirement system (CalPERS). A more detailed discussion on the staff transition is provided in a later section of this report.

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The projections provided in the SMWD Plan for Service, and reflected in Table A, indicate that upon annexation the cost to provide water services to customers will be adequately offset by the revenues of the utility. Excepting the first year following annexation, revenues are projected to exceed the expenditures during the initial five years following the transition. During FY 2021-22, the exceeded expenditures will be funded by a transfer of approximately \$6.8 million from the reserve fund. The District’s 10-year forecast indicates that the revenues of the water utility will remain financially sound and will support the long-term expenditures of the water utility. The financial forecast, along with detailed descriptions of the water utility’s key sources of revenues and expenditures, are referenced as Attachments 2 and 2a.

Table A: 5-Year Projections- Retail and Recycled Water Utility					
Revenues					
	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
Water Commodity Charges	\$13,274,541	\$13,309,496	\$13,333,872	\$14,409,122	\$13,516,671
Customer Service Charges	\$5,065,811	\$5,233,343	\$5,379,877	\$5,530,513	\$5,690,611
Recycled Water Revenues	\$1,361,587	\$1,409,442	\$1,451,863	\$1,495,561	\$1,540,577
MWD Grant	\$125,000	\$175,000	\$175,000		
Other Services/Misc.	\$395,974	\$403,893	\$411,971	\$420,211	\$428,615
Investment Income	\$83,628	\$49,301	\$132,136	\$142,100	\$148,752
Total System Revenues	\$20,306,541	\$20,580,475	\$20,884,719	\$20,997,507	\$21,325,226
Expenditures					
Imported Water Cost Supply	\$8,038,509	\$7,834,617	\$7,956,719	\$7,994,322	\$8,116,738
Salaries and Benefits	\$2,079,073	\$2,154,688	\$2,233,076	\$2,314,342	\$2,398,591
General and Admin	\$677,153	\$696,100	\$715,805	\$736,297	\$757,610
Maintenance and Operations	\$1,479,692	\$1,538,879	\$1,600,434	\$1,664,452	\$1,731,030
Transition Costs	\$1,251,029	\$222,925	\$0.00	\$0.00	\$0.00
OCERS Liability Payment	\$6,045,000	\$0.00	\$0.00	\$0.00	\$0.00
Recycled Water Cost	\$670,377	\$692,597	\$715,460	\$747,395	\$780,756
Capital Improvement Projects	\$3,530,000	\$3,635,900	\$3,744,977	\$3,857,326	\$3,973,046
Transfer Contingency Factor	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
GWRP Water Cost	\$426,020	\$639,137	\$667,295	\$696,709	\$727,436
GWRP Lease Payment	\$380,048	\$379,983	\$380,154	\$379,533	\$163,333
2014A Water Refunding Bonds	\$1,754,804	\$1,234,685	\$1,233,432	\$1,234,744	\$1,234,153
2017A Water Refunding Bonds	\$640,240	\$640,240	\$640,240	\$640,240	\$640,240
Total System Expenditures	\$27,171,945	\$19,869,751	\$20,087,592	\$20,465,360	\$20,722,933
Revenues/Expenditures Total	-\$6,865,404	\$710,724	\$797,127	\$532,147	\$602,393
Transfer of Reserves	\$6,865,404				
Total Balance	\$0.00	\$710,724	\$797,127	\$532,147	\$602,393

Wastewater Utility

The elements of CSJC’s wastewater infrastructure have an average age of 39 years and include 125 miles of sewer pipelines and pump stations that direct wastewater flows to the J.B Latham Plant located in the City of Dana Point. The City is a member of the South Orange County Wastewater Authority (SOCWA) and, as a SOCWA member facility, the plant accepts wastewater flows from the City for processing and treatment.

Revenue sources of the wastewater utility include sewer service fees, investment income, and bond revenue. Table B depicts the first five years of the District’s 10-year financial forecast of revenues and expenditures for the wastewater utility. Beginning FY 2021-22, total revenues of the utility are projected at approximately \$9.7 million. Expenditures of the utility for the same period are projected at approximately \$10.3 million and generally include the costs for administrative, operations, capital improvement projects, and repayment of bonds. Similar to the water utility, expenditures of the wastewater utility include a one-time payment of approximately \$455,000 to OCERS in FY 2021-22 for pension liability costs associated with employees of the utility that would transition to SMWD’s retirement system following annexation.

The projections provided in SMWD’s Plan for Service and reflected in Table B demonstrate that upon annexation, the provision of wastewater services to the customers will be adequately funded by revenues, reserves, and the attainment of bonds. During FY 2021-22, the exceeded expenditures will be funded by reserves and bonds will cover the expenditures for capital improvement projects planned for the fiscal year and transition of the utility to SMWD. SMWD’s 10-year forecast indicates that the wastewater utility will remain financially sound through the use of revenues, reserves, and projected attainment of bonds as depicted in FY 2021-22 and FY 2022-23. The financial forecast and a detailed description of the wastewater’s key revenues and expenditures are referenced as Attachments 3 and 3b.

Table B: 5-Year Projections - Wastewater Utility					
Revenues					
	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
Sewer Service Charges	\$4,171,897	\$4,932,797	\$5,584,997	\$6,237,197	\$6,889,397
Investment Income	\$38,397	\$35,489	\$48,019	\$61,966	\$77,070
Bond/Loan Generated	\$5,500,000		\$10,500,000		
Total System Revenues	\$9,710,294	\$4,968,286	\$16,133,016	\$6,299,163	\$6,966,467
Expenditures					
Salaries and Benefits	\$964,604	\$1,003,189	\$1,043,316	\$1,085,049	\$1,128,451
OCER Liability Payment	\$455,000	\$-	\$-	\$-	\$-
Maintenance and Operating	\$2,526,594	\$2,627,658	\$2,732,764	\$2,842,075	\$2,955,758
General and Admin.	\$176,585	\$182,316	\$188,233	\$194,340	\$200,645
Transfer Contingency Factors	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
New Bond Debt Service		\$353,001	\$353,001	\$769,324	\$1,007,901
Capital Improvement Projects	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
Capital Improvement Projects (SOCWA)	\$3,077,267	\$2,358,372	\$1,830,127	\$3,861,892	\$3,505,586
Transition Cost	\$1,391,755				
Total System Expenditures	\$10,291,805	\$8,224,536	\$7,847,441	\$10,452,680	\$10,498,340
Total Remaining Balance	(\$581,511)	(\$3,256,250)	\$8,285,575	-\$4,153,517	-\$3,531,875
Transfer from Reserve	\$581,511	\$3,256,250			\$1,723,893
Remaining Bond Proceeds				\$7,169,873	\$1,807,981
Transfer to Reserves			\$1,115,701	\$1,208,375	
Total FY Balance	\$0.00	\$0.00	\$7,169.874	\$1,807,981	\$0.00

SMWD's financial projections demonstrate yearly reserve balances in accordance with its policy. The following section provides an analysis of the reserves for the water and wastewater utilities, respectively.

Water and Wastewater Reserve Fund

Upon annexation of the water and wastewater utilities to SMWD, the CSJC will transfer the remaining reserve fund balance of \$16,725,536 associated with the systems to SMWD. SMWD's Plan for Service establishes the method for maintaining and use of the reserve fund of the utilities in accordance with the District's current reserve policy. Following the annexation, SMWD will adopt a reserve policy that will focus on funding level requirements and goals for the CSJC water and wastewater utilities. In the meantime, SMWD will adhere to the following reserve funding levels shown in Table C.

Table C: SMWD Reserve Level Requirements for CSJC Utilities		
Category	Required Funding Level	Goal for Funding Level
Operating Reserve (Including Dedicated Rate Stabilization Funds)	25% 3 Months of Operating Expenses	42% 5 Months of Operating Expenses
Capital Reserve - Emergency	2% Net Depreciable Assets	4% Net Depreciable Assets
Capital Reserve - Repair & Replacement	5% Of Upcoming 5 Year Total	15% Of Upcoming 5 Year Total
Restricted Loan/ Bond Reserves	Based on the Loan Bond Documents	Based on the Loan Bond Documents

Table D below depicts the five-year projections of the water and wastewater reserve fund. As mentioned in earlier sections of the report, the District will strategically allocate the reserve funds for annual improvements and other obligations of the utilities, such as payment to OCERS for the pension liability created by employees and one-time expenditure for the transition of the utilities to SMWD. SMWD’s projected reserves for potable water, recycled water, and wastewater services are in accordance with the District's current reserve policy.

Table D: 5-Year Projections – Water and Wastewater Utility Reserve Funds						
	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
Retail and Recycled Water Utility Reserve Fund						
Beginning Reserve Balance	\$16,725,536 ¹	\$16,725,536	\$10,570,856	\$11,367,981	\$11,900,128	\$12,502,420
Reserves Used for Expenditures		(\$6,865,404)				
FY Remaining Revenues			\$710,724	\$797,127	\$532,847	\$602,393
Reserve Balance		\$9,860,132	\$10,570,856	\$11,367,981	\$11,900,128	\$12,502,420
Wastewater Utility Reserve Fund						
	FY 20-21 ²	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
Beginning Reserve Balance	\$7,679,310	\$7,679,310	\$7,097,797	\$3,841,547	\$4,957,248	\$6,165,623
Reserves Used for Expenditures		(\$581,511)	(\$3,256,250)			(\$1,723,893)
FY Remaining Revenues				\$1,115,701	\$1,208,375	
Reserve Balance	\$7,679,310	\$7,097,797	\$3,841,547	\$4,957,248	\$6,165,623	\$4,441,730

¹ Transfer of water and recycled water reserve balance from the CSJC to SMWD upon effective date of annexation.

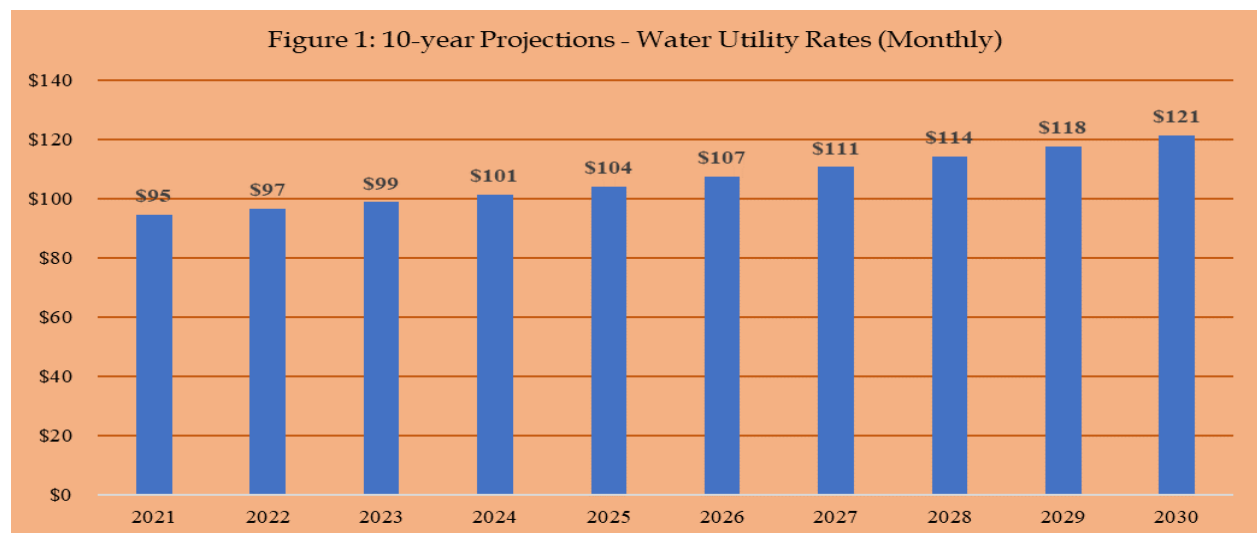
² Transfer of wastewater reserve balance from the CSJC to SMWD upon effective date of annexation.

Stabilizing Utility Rates

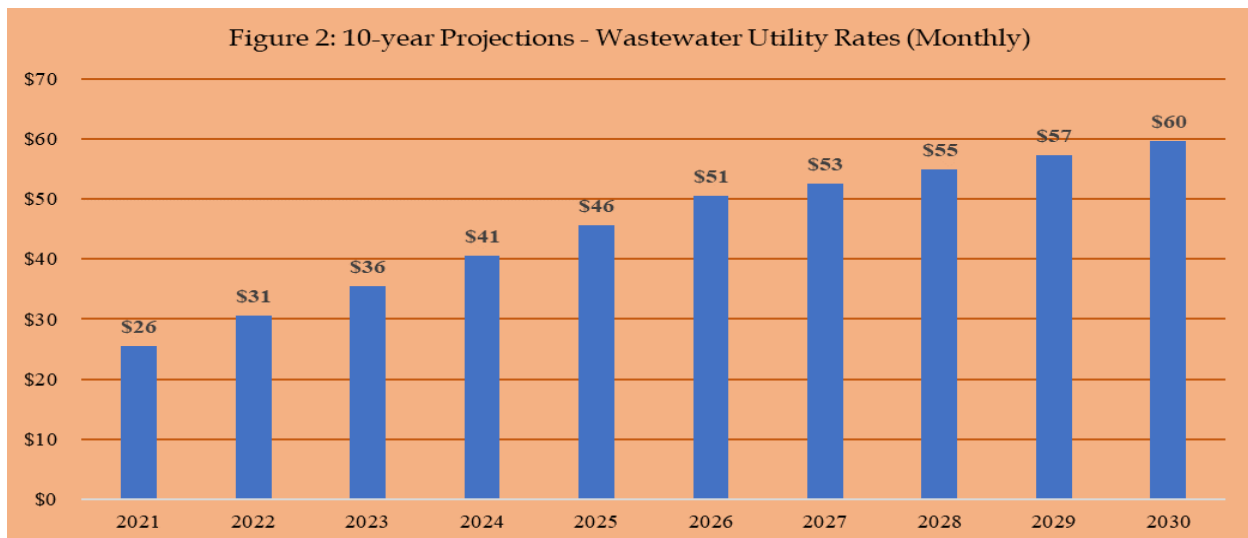
One of the CSJC’s key goals of the water and wastewater systems transfer to a successor agency is to stabilize the utility rates for its customers. Additionally, in part to the City’s decision to work with SMWD to assume the systems, the City expressed support involving the District’s intention to complete improvements and upgrades to the utilities that would also benefit the customers.

To meet the objectives above, SMWD’s Plan for Service includes a proposed rate structure for each utility over the 10 years following annexation. The proposed rates attempt to establish fees that will sufficiently assist in offsetting the expenditures of the utilities.

Figures 1 and 2 depict a 10-year projection of the water and wastewater rates that would be established by SMWD upon annexation. Currently, the average monthly costs to a single-family residence of the CSJC is approximately \$99 per month. As shown in Figure 1, upon annexation to SMWD, ratepayers are expected to immediately experience a decrease of approximately \$4 per month in their retail water rate. The decrease is due in part to a reduction in fixed water charges. In the following years, customers of the SMWD will see a monthly increase of \$2 to \$4 per household to fund necessary capital improvement projects and maintain the reserve policy levels at approximately 32% of the operational revenue. With a goal of continued stabilization of rates and ensuring that the water utility generates sufficient revenue to offset operational costs and anticipated capital improvements, SMWD will be undertaking a water rate study as soon as practical following annexation. The study would incorporate public outreach and input as required by law.



Due to its aging infrastructure, the wastewater utility requires multiple improvements over the next ten years. Notwithstanding this need, the current average monthly sewer rate of \$26 will be maintained for the first year following annexation. However, to fund critical improvements to the local sewer infrastructure and purchasing of needed equipment, as indicated in Figure 2, the monthly sewer rate is expected to increase by \$5 beginning in the latter part of year 2022. Sewer rates are expected to stabilize beginning in 2027 with an increase in the monthly rate of \$2 per property. As with the water utility, the projections provided in the SMWD Plan for Service represent the wastewater utility generating adequate revenue to offset the cost to provide local sewer service efficiently. SMWD’s rate study will also include an analysis of the wastewater utility and fees necessary to maintain or enhance the current level of service.



Infrastructure Improvements and Upgrades to the Water and Wastewater Utilities

A finding of the LAFCO 2018 focused MSR for the CSJC water and wastewater utilities noted that both systems require immediate improvements to increase fire flows and to upgrade pipeline, pump stations, and reservoir infrastructures. The MSR also stated that improvements were needed to the operational infrastructure, including tracking customer inquiries and complaints and the increased utilization of recycled water use within the proposed annexation area. The following sections provide discussion on how these needed improvements will be carried out upon annexation to SMWD.

Retail and Recycled Water Utility Improvements and Enhancements

The City’s retail water system was originally built in the 1930s, with additional expansions that occurred throughout following years. The system has an average age of approximately 34 years, and deferred maintenance and normal deterioration have yielded the need for numerous enhancements and improvements to the infrastructure.

The CSJC’s non-domestic water system was built in 1989 and was later converted to a recycled water system. The water supply for the recycled system is sourced from a combination of local groundwater and imported recycled water. As the system is relatively new, there is little need for improvements in the near future. Currently, CSJC is operating under recycled water constraints and must combine imported recycled water with local groundwater to serve the 70 existing connections. Required improvements to the system involve expansion of the infrastructure to include additional sources of recycled water supply to meet future demands.

The SMWD’s Plan for Service proposes a 10-year Capital Improvement Program (CIP) to facilitate upgrades and improvements to the CSJC’s retail and recycled water systems. The program includes an investment of approximately \$3.5 million for upgrades to the water utility during the first year and nearly the same amount in the subsequent four years. Improvements include replacement and realignment of pipelines and pump station components, increasing fire flows to enhance the aged infrastructure, and completing previously deferred, but necessary, infrastructure upgrades and maintenance. Over a five-year period, SMWD plans to invest approximately \$18.7 million in the water utility. Operating revenues and acquired bonds will fund the projected capital improvement projects.

Additionally, SMWD will apply its established customer service staff, policies, and procedures to enhance the response times to emergency and non-emergency incidences of the water utility. The SMWD Plan for Service indicates that the District will respond to emergency incidents within 30 minutes and to non-emergency ones within a few hours.

Wastewater Utility Upgrades and Improvements

The CSJC’s local wastewater system was originally built in the 1920s with expansions between 1960 to 1980. As with the water utility, the elements of the wastewater system have an average age of 39 years and have experienced deferred maintenance; that, along with normal deterioration, has necessitated numerous enhancements and improvements to the infrastructure. Required improvements include repairs and replacements of sewer mains, lift stations, and manholes. Additionally, the operational infrastructure requires implementing a customer service tracking system to appropriately track public inquiries, and comments relative to incidents and deficiencies involving the wastewater system.

To address the upgrades and improvements necessary for the wastewater system, the SMWD’s Plan for Service, similar to the improvement plan for the water utility, includes a 10-year CIP to facilitate and complete the system's required enhancements and replacements. During the initial year following annexation, the District has allocated

approximately \$4.5 million for upgrades to the wastewater utility, and over the subsequent four years, an additional \$17.5 million. The CIP's nearly \$22 million expenditures for the CSJC's wastewater utility will be funded by reserves and the issuance of bonds.

OTHER APPLICATION REQUIREMENTS

In addition to the requirements delineated in the CKH Act for a Plan for Service, the focused MSR for the CSJC water and wastewater utilities identified some pertinent areas to be addressed as part of SMWD's annexation application. These areas include: 1) the establishment of an improvement district or zone encompassing the annexation area; 2) staffing transition from CSJC to SMWD; 3) integration of existing agreements for the utility systems; and 4) identification of planned or future water reliability projects to benefit customers of the CSJC utilities. The next section provides a discussion of each of these areas relative to the SMWD's submitted Plan of Service.

Establishment of Improvement District No. 9 of SMWD

One of the purposes of an improvement district is to provide for an accounting of the costs, revenues, and projects of a specific area. The focused MSR for the CSJC's utilities acknowledged the need for SMWD to establish an improvement district for the proposed annexation area to ensure that all direct costs, revenues, liabilities, and assets remain with the water and wastewater utilities. Additionally, the improvement district would provide that ratepayers within the District's other improvement districts are not negatively or fiscally impacted unduly by the annexation and instead only contribute to the projects that directly benefit them.

To that end, the District's Plan for Service proposes to establish Improvement District No 9 (ID 9) of the Santa Margarita Water District as the fiscal fiduciary of the CSJC's utilities. Through ID 9, a chart of accounts for the revenues, expenditures, reserve fund and other activities of the City's water and wastewater utility will be captured. The District's current service boundary includes eight improvement districts (ID 1 through ID 8), geographically established, and adding of an improvement district for the proposed annexation area would increase the total to nine. Establishment of the improvement district is included as a term and condition of the annexation in the LAFCO resolution.

Staffing Integration Plan

Currently, the CSJC employs 20 utility department positions. For transitioning of the utility systems to the District, SMWD initially identified the need for 16 new and vacant full-time positions. However, upon further review the District has indicated in its financial forecast the requirement of 23 additional positions to efficiently maintain and operate the water and wastewater utilities. Details on the added positions are shown in Figure 3. SMWD and CSJC entered into the “Annexation Hiring Agreement” that

outlines how the staffing-related matters relative to the annexation will be handled, particularly the transitioning of current City utility department staff to the District operations. At the time of the submittal of the Plan for Service, SMWD had extended conditional offers of employment to 13 City employees and the agencies worked collaboratively with employees and the respective employee organizations involving the future transition. SMWD will administer the onboarding and training to the new employees, following its standards of operation to ensure quality and responsive service is provided to residents within CSJC.

Figure 3 - SMWD New Positions	
SMWD JOB CLASSIFICATION	# OF POSITIONS
Chief Plant Operation – GWRP	1
Plant Operator/Sr. Plant Operator -- GWRP	2
Project Engineer	1
Maintenance Foreman	1
Maintenance Mechanics	7
Maintenance Technician	5
Customer Relations Specialist	2
GIS Specialist	1
Office Specialist	1
Fleet Mechanic	1
Meter Technician	1

In early 2019, the CSJC initiated a request with the Orange County Employees Retirement System (OCERS) Board to consider the actions the City’s current pension system might take if the CSJC were to transfer some of the City’s utility employees who are covered under OCERS to SMWD which is covered under CalPERS. In subsequent months, the Board established options and a process for the City’s withdrawal of the utility employees from OCERS and determined the unfunded pension liability associated with the transfer of employees to the District would be \$6.5 million. The SMWD Plan for Service and the Annexation Agreement executed by the City and District acknowledges the City’s pension obligation associated with the annexation. Payment of the obligation to OCERS on behalf of the City will be made by SMWD on behalf of the City and will be funded through the City’s reserves transferring to the District upon annexation. Former City utility employees transferring to SMWD and following annexation will be enrolled in the District’s appropriate CalPERS plan.

Integration of Existing Agreements

As noted in the focused MSR for the City’s utility systems, it is important that the annexation process recognizes and includes the integration of appropriate existing agreements to ensure that the rights of all parties, including private entities, are protected and appropriately addressed. To meet this requirement of LAFCO, the District’s Plan of Service outlines a deliberative process for the integration of all multi-party agreements upon annexation of the subject territory to SMWD.

Table E below identifies the following for each of these agreements: purpose and function, signatories and affected agencies, and the respective effective dates. The LAFCO Resolution incorporates these agreements through respective terms and conditions requiring execution prior to recordation of the LAFCO Certificate of Completion, one of the final steps in the annexation process.

Table E: Agreements for the CSJC Water and Wastewater Utilities				
	Agreement Title	Agencies	Description	Effective Date
1	Annexation Agreement between Santa Margarita Water District and San Juan Capistrano	City of San Juan Capistrano and Santa Margarita Water District	The agreement provides the terms and conditions for the transition of the water and wastewater system.	60 days after recordation of the LAFCO Certificate of Completion.
2	Master Water Rights Transfer Agreement	City of San Juan Capistrano and Santa Margarita Water District	This agreement establishes common terms that apply to the additional water agreements, including definitions of terms, the effective date, indemnification clause, and various miscellaneous provisions.	Upon recordation of the LAFCO Certificate of Completion.
3	Agreement for the Exercise of City Appurtenant Water Rights	City of San Juan Capistrano and Santa Margarita Water District	The agreement allows SMWD to act as the agent for the City of San Juan Capistrano’s water rights in the City owned lands referenced as Christmas Tree Farm and Eastern Open Space.	Upon recordation of the LAFCO Certificate of Completion.

Table E: Agreements for the CSJC Water and Wastewater Utilities				
	Agreement Title	Agencies	Description	Effective Date
4	Agreement for Water Rights Dedicated to Public Use	City of San Juan Capistrano and Santa Margarita Water District	The agreement transfers the water rights from a community known as City Pueblo and designated Pre-1914 water rights to SMWD.	Upon recordation of the LAFCO Certificate of Completion.
5	Agreement for the Assignment and Assumption of San Juan Hills Settlement Agreement	City of San Juan Capistrano and Santa Margarita Water District	The agreement transfers all the rights and obligations under the San Juan Hills Settlement Agreements to SMWD.	Upon recordation of the LAFCO Certificate of Completion.
6	Agreement for the Assumption of the Cotton Settlement, Mutual Release, and Well Sharing	City of San Juan Capistrano and Santa Margarita Water District	The agreement transfers all the rights and obligations under the Cotton Agreement to SMWD.	Upon recordation of the LAFCO Certificate of Completion.
7	Agreement for the Assignment and Assumption of Recycled Water Agreement	City of San Juan Capistrano, Santa Margarita Water District, and Moulton Niguel Water District.	The agreement transfers all of the rights and obligations under the Moulton Niguel Water District Recycled Water Agreement to SMWD.	Upon recordation of the LAFCO Certificate of Completion.

Table E: Agreements for the CSJC Water and Wastewater Utilities				
	Agreement Title	Agencies	Description	Effective Date
8	Amended and Restated Project Implementation Agreement San Juan Basin Desalter Project	City of San Juan Capistrano, Santa Margarita Water District, Members of the San Juan Basin Authority.	The agreement transfers all of the rights and obligations the City of San Juan Capistrano has a member of the San Juan Basin Authority to SMWD.	Upon recordation of the LAFCO Certificate of Completion.
9	Assignment, Assumption, and Amendment Agreement Regarding Desalter Project Agreements	City of San Juan Capistrano and Santa Margarita Water District	The agreement transfers all of the rights and obligations under the 2002 Project Implementation Agreement (Project Implementation Agreement San Juan Basin Desalter Project), including but not limited to the City’s allocated interest in the Water Rights Permit 21074, and the related authority agreements to the District, and the District’s assumption of all such rights and obligations.	Upon recordation of the LAFCO Certificate of Completion.
10	Annexation Hiring Agreement Between the City of San Juan Capistrano and SMWD.	City of San Juan Capistrano and Santa Margarita Water District	The agreement memorializes the specific terms and conditions pertaining to the transfer of employees between the City of San Juan Capistrano to SMWD.	Upon recordation of the LAFCO Certificate of Completion.
11	South Orange County Wastewater Authority Assignment and Assumption Agreement	City of San Juan Capistrano, Santa Margarita Water District, and South Orange County Wastewater Authority	The agreement transfers the obligations, assets, claims, liabilities attributed to the City of San Juan Capistrano to SMWD	Upon recordation of the LAFCO Certificate of Completion.

Table E: Agreements for the CSJC Water and Wastewater Utilities				
	Agreement Title	Agencies	Description	Effective Date
12	Agreement for Water Services Among Santa Margarita Water District, South Coast Water District, and the City of San Juan Capistrano	City of San Juan Capistrano, South Coast Water District and Santa Margarita Water District	The agreement terminates the 2000 Water Service Agreement between the City of San Juan Capistrano and the South Coast Water District for the provision of water in the area located within the City of Dana Point. South Coast Water District will assume the assets and operations of the system within the area.	Upon recordation of the LAFCO Certificate of Completion.

Enhanced Water Supply Reliability

A factor emphasized during preparation of the focused MSR for the CSJC’s water and wastewater utilities was efforts and projects involving water reliability that may potentially impact and benefit the customers of the utilities. In response, SMWD was asked to address the District’s plan to enhance water supply reliability for the CSJC utility systems within their Plan for Service. Below are highlights of the District’s strategic plan objectives and efforts in this area.

SMWD’s Strategic Plan establishes the following key objectives to address the continued uncertainties of imported water supply and cost:

- Recycle 100 percent nominally of its wastewater.
- Secure 30 percent of its domestic supply from local sources and up to 50 percent from sources other than the Metropolitan Water District of Southern California (MET). The 30 percent supply approximates the indoor use by District customers.
- Six months of water supply storage by 2030.

To facilitate the overall objective of the District to provide and enhance efficient and reliable sources of water within the annexation area, SMWD has several existing water supply reliability facilities, including the Baker Treatment Plant, Upper Chiquita Reservoir, a groundwater connection with Irvine Ranch Water District and Orange County Water District, and El Toro R-6 Reservoir. Additionally, the District is planning projects which include the optimization of the existing San Juan Basin Groundwater system, recharge of the San Juan Watershed, development of groundwater in the Upper San Juan Basin, Cadiz Groundwater Project, and water storage opportunities in the Chino Basin and Irvine Lake.

Another water reliability effort of the District includes the SMWD’s Trampas Canyon Seasonal Storage Reservoir, which will provide the CSJC’s utility customers with a recycled water source that is not currently available through the City. Recycled water efforts are intended to replace the use of potable water sources, such as groundwater, for activities such as agriculture and irrigation. More specifically, the Reservoir will facilitate the District’s ability to provide recycled water and meet peak summer non-potable water demands within the annexation area. Other key water reliability projects in SMWD’s Plan for Service include the: Ground Water Recovery Plant, Doheny Seawater Desalination Project, the Oceanus Integrated Pumped Hydro Reverse Osmosis Clean Energy System Desalination Project at Camp Pendleton, and the Poseidon Huntington Beach Seawater Desalination Project.

Upon annexation and akin to the District’s current customers, ratepayers of the CSJC water and wastewater utilities would gain immediate access and benefits to the existing water reliability sources of the District. However, it should be noted, that SMWD’s Plan for Service did not include a cost-benefit analysis for any of the projects described within this section. Therefore, LAFCO was unable to perform an analysis beyond this review.

OTHER STATUTORY REQUIREMENTS

Comments from Affected Agencies

In accordance with Government Code Section 56658(b), on February 9, 2021, affected local and state agencies and other interested parties were notified of the annexation application submitted by SMWD. As of August 4 (publish date of the meeting agenda) comment letters were received from MNWD, SCWD, and SOCWA. The SCWD and SOCWA comment letters requested clarification in the boundaries of the annexation and adjacent areas and that the obligations and rights of all affected agencies be appropriately delineated in the approval of all applicable agreements related to the proposed annexation. The comment letter submitted from MNWD acknowledged notification of the application and noted MNWD’s provision of services within the CSJC. The agencies comments have been addressed appropriately.

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99 requires the City and County to adopt property tax resolutions for proposed changes of organization and reorganization. The City Council of San Juan Capistrano adopted Resolution No. 21-06-15-06 on June 15, 2021 resulting in the transfer of zero dollars (\$0.00) in property tax revenue from the CSJC to SMWD upon the effective date of annexation. The County of Orange Board of Supervisors adopted Resolution No. 21-080 on July 13, 2021 resulting in the transfer of zero dollars (\$0.00) in property tax revenue from the CSJC to SMWD upon the effective date of annexation.

In accordance with the letter dated June 14, 2021 to SCWD, the County of Orange approved the allocation of property taxes, currently received by the CSJC for an area located within the City of Dana Point and formerly located within the dissolved Capistrano Valley Water District, to the SCWD upon the effective date of annexation. The estimated and respective property taxes in the amount of \$58,042 is being transferred concurrent with the assuming of the provision of water services by SCWD to the areas of the CSJC water utility located in the City of Dana Point.

Environmental Review

On January 17, 2020, SMWD, as the lead agency under the California Environmental Quality Act (CEQA), filed a Notice of Exemption with the Orange County Clerk Recorder. As a responsible agency, the Commission will review the environmental documentation prepared by the District in its consideration of the proposed annexation. A Notice of Exemption is included within this report for the Commission’s review.

Protest Proceedings

An approval of the proposed annexation by OC LAFCO would require protest proceedings under Government Code Section 57000. In accordance with State law and following the expiration of the required 30-day reconsideration period, the Commission shall set a protest period of no less than 21 days or more than 60 days, during which registered voters and landowners within the proposed annexation area may submit written protests against the proposed annexation. Given the nature of the proposed annexation, staff is recommending the Commission set a 30-day protest period.

If the annexation is approved, the protest proceedings, including the hearing and receipt of written protests shall be conducted by the OC LAFCO Executive Officer in accordance with the Commission’s “*Policy & Procedural Guidelines for Conducting Protest Hearings.*”

SUMMARY CONCLUSION

The Commission is required to consider several factors prescribed in State law during the review and consideration of proposed boundary changes. This report focuses on the key areas of the delivery of efficient and cost-effective water and wastewater services to customers of the CSJC utilities and a deliberative plan that indicates how the delivery of services will be financed and sustained long-term.

SMWD has submitted a Plan for Service that supports the District’s operational and financial capability to assume the water and wastewater infrastructures within the subject annexation area. SMWD has over 50 years of experience as a water and wastewater purveyor, and the District has been successful in past annexation efforts approved by LAFCO that resulted in more enhanced and efficient services within multiple jurisdictions and communities. Additionally, SMWD’s Plan for Service

demonstrates the many benefits that the CSJC residents will experience upon annexation. Those benefits include: the stabilizing of utility rates, immediate and long-term improvements to the water and wastewater systems, enhancement of the area of customer service, and deliberative efforts to address the areas of water reliability and recycled water alternatives within and adjacent to City's water and wastewater utilities.

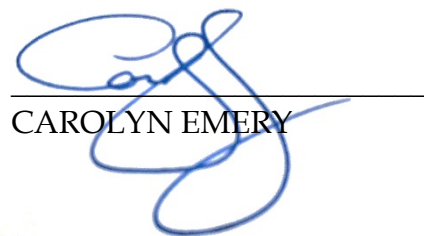
Therefore, staff is recommending that the Commission approve SMWD's request to assume the CSJC water and wastewater utilities as outlined in the actions identified in the next section of this report.

RECOMMENDED ACTIONS

Staff recommends that the Commission take the following actions:

1. Confirm the Commission has reviewed the information contained within the Notice of Exemption filed by Santa Margarita Water District with the Orange County Clerk Recorder.
2. As a responsible agency, direct the Executive Officer to file the Notice of Exemption (Attachment 4) for the "Santa Margarita Water District Annexation of the San Juan Capistrano Water and Wastewater Utilities (DA 20-01)" with the Orange County Clerk Recorder.
3. Adopt LAFCO Resolution No. DA 20-01 (Attachment 5) approving the "Santa Margarita Water District Annexation of the San Juan Capistrano Water and Wastewater Utilities (DA 20-01)" and a concurrent amendment to the Santa Margarita Water District sphere of influence to include the same territory.
4. Authorize and direct the Executive Officer to conduct protest proceedings pursuant to Government Code Section 57000 et seq. and set a 30-day protest period following the 30-day reconsideration period that is required pursuant to Government Code Section 56895.

Respectfully Submitted,



CAROLYN EMERY



LUIS TAPIA

Proposed “Santa Margarita Water District Annexation of the City of San Juan Capistrano Water and Wastewater Utilities” (DA20-01)

August 19, 2021

Page **22** of **22**

Attachments:

1. 56668 Factors Considered by the Commission
2. 10-Year Projections - Retail and Recycled Water Utility
- 2a. Revenue Sources and Expenditures for CSJC Water Utility
3. 10-Year Projections - Retail and Recycled Wastewater Utility
- 3b. Revenue Sources and Expenditures for CSJC Wastewater Utility
4. Notice of Exemption
5. Orange LAFCO Resolution No. DA20-01

GOVERNMENT CODE SECTION 56668
FACTORS CONSIDERED IN REVIEW OF PROPOSAL

I. Population and population density, land area, and land use, and assessed valuation.

- ❖ The subject territory is currently inhabited by approximately 36,262 residents.
- ❖ Approval of the annexation to Santa Margarita Water District (SMWD) will not impact current population, population density, or future population growth within the annexation territory.
- ❖ The land uses within the annexation area include residential, commercial, agricultural, open space, and special use.
- ❖ The assessed valuation of subject territory is \$7,951,568,425.
- ❖ The subject territory is within Tax Rate Areas 23-000, 23-002, 23-003, 23-004, 23-007, 23-008, 23-010, 23-011, 23-012, 23-013, 23-014, 23-015, 23-0216, 23-017, 23-018, 23-019, 23-020, 23-021, 23-023, 23-025, 23-027, 23-029, 23-030, 23-031, 23-032, 23-035, 23-036, 23-038, 23-039, 23-040, 23-041, 23-042, 23-045, 23-046, 23-048, 23-059, 23-062, 23-063, 23-064, 23-065, 23-066, 23-068, 23-075, 23-081.

II. Organized community services, present cost and adequacy, and future needs of governmental services, and probable effect of the proposed annexation.

- ❖ Staff has not identified a need for additional organized community services in the proposed annexation territory. The City of San Juan Capistrano (CSJC) is currently responsible for the water and wastewater services within the subject territory.
- ❖ Present Cost and Adequacy
 - ◆ According to the focused MSR completed in 2018, the CSJC water and wastewater utilities adequately meet the service demands of the annexation territory.
- ❖ Future Needs of Governmental Services
 - ◆ The CSJC and SMWD approved a pre-annexation agreement for SMWD to assume the water and wastewater systems. SMWD plans to enhance and maximize the economic and operational efficiencies of the utilities while stabilizing the rates of the utilities.
- ❖ Probable Effect of the Proposed Annexation
 - ◆ SMWD's Plan for Service provides a 20-year financial projection for each fiscal year with expected revenues and expenditures and demonstrates the District's ability to provide water and wastewater services within the annexation area. The projections presented by SMWD indicate that the systems will be adequately funded. Additionally, the District provided a 10-year Capital Improvement Program that will support the upgrades and enhancements to the utility systems.

III. Effect on adjacent areas, mutual social and economic interests, local government structure.

Government Code § 56375 (a)(1) Allows the Commission the authority to "review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission."

- ❖ The proposed annexation will transition the water and wastewater utilities from the CSJC to SMWD, increasing the District's service area and sphere of influence boundary. Additionally, the provision of retail water service for a small area located within the City of Dana Point and currently served by CSJC will be assumed by the South Coast Water District (SCWD). SCWD will be the purveyor of water services.

- ❖ If the annexation is approved, SMWD will designate the proposed area for annexation as Improvement District 9, and the residents would vote at large for the SMWD Board of Directors.
- ❖ The annexation will have no impact on the rates or physical boundary of the SMWD existing customers.

IV. The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Government Code Section 56377.

- ❖ The proposed annexation of water and wastewater services to SMWD conforms with the adopted Commission policies on providing planned, orderly, efficient patterns of urban development and the policies and priorities outlined in Government Code Section 56377.

V. Effect on Maintaining the physical and economic integrity of agricultural lands.

- ❖ The proposed annexation will have no impact on the physical or economic integrity of agricultural lands.

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

- ❖ A map and legal description of the proposal have been approved by the Orange County Surveyor's Office, which confirms lines of assessment and ownership. The annexation boundary conforms to lines of assessment and ownership within the subject territory and does not create any islands or corridors of unincorporated territory.

VII. Regional Transportation Plan (RTP) adopted and Consistency with city or county general and specific plans.

- ❖ Land use within the proposed annexation territory is consistent with the City's General Plan and will not impact the respective Regional Transportation Plan.

VIII. Sphere of Influence of Local Agencies.

- ❖ As part of the proposed annexation application, the sphere of influence for SMWD was reviewed. Upon annexation of the subject territory, SMWD's sphere of influence will be concurrently amended by the Commission. Pursuant to Government Code Section 56425, a statement of determinations for the sphere of influence amendment was prepared for SMWD.

IX. Comments from affected agencies and/or other public agency.

- ❖ A preliminary staff report was distributed to the affected agencies and other interested parties on February 9, 2021 notifying them of the proposed annexation. As of August 4, 2021, LAFCO received comments from SCWD, Moulton Niguel Water District and the South Orange County Wastewater Authority. The agencies' comments were addressed accordingly.

- X. **Ability of newly formed or receiving entity to provide services to proposal area and sufficiency of revenues for those services.**
- ❖ The Plan for Service submitted by SMWD indicates that the District will have sufficient revenues and resources to provide water and wastewater services to customers within the annexation territory.
- XI. **Timely availability of water supplies adequate for projected needs as specified in Government Code Section 65352.5.**
- ❖ The proposed annexation to SMWD will not interrupt or alter current service provision of water and wastewater services for the customers within the annexation territory.
- XII. **Extent to which the proposal will affect a city(ies) and the County in achieving their respective fair shares of the regional housing needs.**
- As the proposed change of organization does not involve a change in the CSJC or the County's boundary, the proposal will have no affect on respective allocations of the regional housing needs.
- XIII. **Information or comments from landowners, voters, or residents within affected territory.**
- Pursuant to Government Code Section 56157, a public notice was published in the Orange County Register, Orange County Patch, and Daily Journal Corporation on Wednesday, July 20, 2021, 21 days before the hearing date. As of the date of the agenda distribution on August 3, 2021, staff has received no additional comments.
- XIV. **Information relating to existing land use designations.**
- ❖ The land use within the annexation territory includes residential, commercial, agricultural, open space, and special use.
- XV. **The extent to which the proposal will promote environmental justice. As used in this subdivision, "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 annexation will not affect environmental justice as it relates to 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. If the annexation to SMWD is approved, the level of water and wastewater service within the subject territory will be maintained or enhanced in some areas.
- XVI. **Information contained in a local hazard mitigation plan, information contained in safety element of a general plan, and any maps that identify land as very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to 4102 of the Public Resources Code.**
- ❖ Government Code Section 51178 requires the California Department of Forestry and Fire Protection (CAL FIRE) to identify "very high fire hazard severity zones" using consistent statewide criteria. The City of San Juan Capistrano has adopted a Fire Hazard Severity Zones map provided by Orange County Fire Authority. The City's boundary includes very high fire hazard severity zones, high fire hazard severity zones, and moderate fire hazard severity zones.

Table A: 10- Year Projections- Retail and Recycled Water Utility

Revenues										
	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30	FY 30-31
Water Commodity Charges	\$13,274,541	\$13,309,496	\$13,333,872	\$14,409,122	\$13,516,671	\$13,890,594	\$14,281,404	\$14,683,128	\$15,096,071	\$15,523,056
Customer Service Charges	\$5,065,811	\$5,233,343	\$5,379,877	\$5,530,513	\$5,690,611	\$5,864,030	\$6,045,815	\$6,233,235	\$6,426,466	\$6,625,686
Recycled Water Revenues	\$1,361,587	\$1,409,442	\$1,451,863	\$1,495,561	\$1,540,577	\$1,623,470	\$1,710,438	\$1,800,914	\$1,895,879	\$1,993,389
MWD Grant	\$125,000	\$175,000	\$175,000							
Other Services/Misc.	\$395,974	\$403,893	\$411,971	\$420,211	\$428,615	\$437,187	\$445,931	\$454,849	\$463,946	\$473,225
Investment Income	\$83,628	\$49,301	\$132,136	\$142,100	\$148,752	\$156,280	\$164,381	\$172,037	\$177,902	\$183,088
Total System Revenues	\$20,306,541	\$20,580,475	\$20,884,719	\$20,997,507	\$21,325,226	\$21,971,797	\$22,647,969	\$23,344,164	\$24,060,264	\$24,798,444
Expenditures										
Imported Water Cost Supply	\$8,038,509	\$7,834,617	\$7,956,719	\$7,994,322	\$8,116,738	\$8,328,123	\$8,637,571	\$9,128,319	\$9,467,899	\$9,821,855
Salaries and Benefits	\$2,079,073	\$2,154,688	\$2,233,076	\$2,314,342	\$2,398,591	\$2,485,934	\$2,576,486	\$2,670,367	\$2,767,700	\$2,868,613
General and Admin	\$677,153	\$696,100	\$715,805	\$736,297	\$757,610	\$779,775	\$802,826	\$826,800	\$851,732	\$877,662
Maintenance and Operations	\$1,479,692	\$1,538,879	\$1,600,434	\$1,664,452	\$1,731,030	\$1,800,271	\$1,872,282	\$1,947,173	\$2,025,060	\$2,106,063
Transition Costs	\$1,251,029	\$222,925								
OCERS Liability Payment	\$6,045,000									
Recycled Water Cost	\$670,377	\$692,597	\$715,460	\$747,395	\$780,756	\$838,615	\$900,101	\$965,424	\$1,034,806	\$1,107,034
Capital Improvement Projects	\$3,530,000	\$3,635,900	\$3,744,977	\$3,857,326	\$3,973,046	\$4,092,237	\$4,215,005	\$4,341,455	\$4,471,698	\$4,605,849
Transfer Contingency Factor	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
GWRP Water Cost	\$426,020	\$639,137	\$667,295	\$696,709	\$727,436	\$759,535	\$793,067	\$755,089	\$788,037	\$822,440
GWRP Lease Payment	\$380,048	\$379,983	\$380,154	\$379,533	\$163,333	\$163,200	\$162,721	\$162,875	\$162,634	\$162,978
2014A Water Refunding Bonds	\$1,754,804	\$1,234,685	\$1,233,432	\$1,234,744	\$1,234,153	\$1,235,777	\$1,235,219	\$1,237,237	\$1,235,540	\$1,236,353
2017A Water Refunding Bonds	\$640,240	\$640,240	\$640,240	\$640,240	\$640,240	\$640,240	\$640,240	\$640,240	\$640,240	\$640,240
Total System Expenditures	\$27,171,945	\$19,869,751	\$20,087,592	\$20,465,360	\$20,722,933	\$21,323,707	\$22,035,518	\$22,874,979	\$23,645,346	\$24,449,087
Trasfer from Reserves	\$6,865,404									
Revenues/Expenditures Balance	\$0.00	\$710,724	\$797,127	\$532,147	\$602,393	\$648,090	\$612,451	\$469,185	\$360,918	\$349,357

**Revenue Sources and Expenditures
for
the CSJC Water Utility**

Retail and Recycled Water Utility

Revenue Sources:

- *Water Commodity:*
Water consumption charges to customers.
- *Customer Service Charges:*
Fixed administrative charges to provide water service to customers.
- *Recycled Water Revenues:*
Recycled water consumption charges to customers.
- *MWD Grant:*
Grant funding provided by the Metropolitan Water District of Southern California and provides \$250 per acre-foot of water produced from the GWRP.
- *Other Services/Miscellaneous*
Fees to customers for water meter replacements, inspections, plan checks, and late disconnection.
- *Investment Income:*
Revenues generated from the water system's reserve funds.

Expenditures:

- *Imported Water Supply:*
Water purchase from the Municipal Water District of Orange County (MWDOC).
- *Operating Salaries and Benefits:*
Staff salaries and benefits.
- *General and Administrative:*
Insurance, legal services, and consulting services.
- *Maintenance and Operations:*
Repairs and maintenance of the system, power and supplies.
- *Transition Costs:*
Purchase of equipment for the transition of the CSJC water system.

Retail and Recycled Water Utility

- *OCERS Liability Payment:*
One-time payment to Orange County Employees Retirement System (OCERS) associated with pension liability generated while the system was operated by the CSJC.
- *Recycled Water Costs:*
Operating costs to provide recycled water.
- *Capital Improvement Projects:*
Replacement and improvement projects for the water system.
- *Transfer Contingency Factor:*
Unanticipated costs for the water system.
- *Ground Water Replenishment Plant (GWRP) Water Cost:*
Operating costs of the GWRP.
- *GWRP Lease Payment:*
Costs for the use of the GWRP from the San Juan Basin Authority.
- *2014A Water Refunding Bonds*
Repayment of bond used to fund infrastructure improvements to the water system.
- *2017A Water Refunding Bonds*
Repayment of bond used to fund improvements to the GWRP.

Table B: 10- Year Projections - Wastewater Utility

Revenues										
	FY 21-22	FY22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30	FY 30-31
Sewer Service Charges	\$4,171,897	\$4,932,797	\$5,584,997	\$6,237,197	\$6,889,397	\$7,345,937	\$7,625,904	\$7,930,941	\$8,248,178	\$8,578,105
Investment Income	\$38,397	\$35,489	\$48,019	\$61,966	\$77,070	\$55,522	\$77,257	\$89,640	\$58,609	\$77,673
Bond/Loan Generated	\$5,500,000		\$10,500,000			\$9,000,000			\$7,000,000	
Total System Revenues	\$9,710,294	\$4,968,286	\$16,133,016	\$6,299,163	\$6,966,467	\$16,401,459	\$7,703,161	\$8,020,581	\$15,306,787	\$8,655,778
Expenditures										
Salaries and Benefits	\$964,604	\$1,003,189	\$1,043,316	\$1,085,049	\$1,128,451	\$1,173,589	\$1,220,532	\$1,269,354	\$1,320,128	\$1,372,933
OCER Liability Payment	\$455,000									
Maintenance and Operating	\$2,526,594	\$2,627,658	\$2,732,764	\$2,842,075	\$2,955,758	\$3,073,988	\$3,196,948	\$3,324,826	\$3,457,819	\$3,596,132
General and Admin.	\$176,585	\$182,316	\$188,233	\$194,340	\$200,645	\$207,153	\$213,871	\$220,806	\$227,965	\$235,355
Transfer Contingency Factors	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
New Bond Debt Service	\$-	\$353,001	\$353,001	\$769,324	\$1,007,901	\$1,007,901	\$1,575,773	\$1,575,773	\$1,575,773	\$2,020,862
Capital Improvement Projects	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
Capital Improvement Projects (SOCWA)	\$3,077,267	\$2,358,372	\$1,830,127	\$3,861,892	\$3,505,586	\$4,942,348	\$1,363,064	\$2,412,288	\$1,361,797	\$1,855,367
Transition Cost	\$1,391,755									
Total System Expenditures	\$10,291,805	\$8,224,536	\$7,847,441	\$10,452,680	\$10,498,340	\$12,104,979	\$9,270,188	\$10,503,047	\$9,643,482	\$10,780,649
Revenues/Expenditures Balance	(\$581,511)	(\$3,256,250)	\$8,285,575	-\$4,153,517	-\$3,531,875	\$4,296,480	-\$1,567,027	-\$2,482,466	\$5,663,305	-\$2,124,871
Transfer from Reserve	\$581,511	\$3,256,250			\$1,723,893			\$2,482,466		
Remaining Bond Proceeds				\$7,169,873	\$1,807,981		\$2,557,652			\$4,138,203
Transfer to Reserves			\$1,115,701	\$1,208,375		\$1,738,828	\$990,625		\$1,525,102	\$1,230,497
Total FY Balance	\$0.00	\$0.00	\$7,169.874	\$1,807,981	\$0.00	\$2,557,652	\$0.00	\$0.00	\$4,138,203	\$782,835

**Revenue Sources and Expenditures
for
the CSJC Wastewater Utility**

Wastewater Utility

Revenue Sources:

- **Sewer Service:**
Sewer fees charged to customers.
- **Investment Income:**
Revenues generated from the water system's reserve funds.
- **Bond/Loan Generated:**
Revenue generated by attainment of bonds.

Expenditures:

- **Operating Salaries and Benefits:**
Staff salaries and benefits.
- **OCER Liability Payment:**
One-time payment to Orange County Employees Retirement System (OCERS) associated with pension liability generated while the system was operated by the CSJC.
- **Maintenance and Operating:**
Repairs and maintenance of the system, power and supplies.
- **General and Administrative:**
Insurance, legal services, and consulting services.
- **Transfer Contingency:**
Unanticipated costs for the water system.
- **New Bond Debt Service:**
Repayment of Bond.
- **Capital Improvement Projects:**
Replacement and improvement projects for the water system.
- **Capital Improvement Projects (SOCWA):**
Cost associated with the use of projects by South Orange County Wastewater Authority for the treatment and disposal of wastewater.
- **Transition Cost:**
Purchase of equipment for the transition of the CSJC wastewater system.

NOTICE OF EXEMPTION

TO:	FROM:	Local Agency Formation Commission of Orange County (Responsible Agency)
<input type="checkbox"/> Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044	(Public Agency)	
<input checked="" type="checkbox"/> Clerk of the Board of Supervisors or County Clerk County of: Orange Address: 211 W. Santa Ana Blvd. Santa Ana, CA 92701	Address	2677 North Main Street Suite 1050 Santa Ana, CA 92705

1.	Project Title:	"Santa Margarita Water District Annexation of the City of San Juan Capistrano Water and Wastewater Utilities" (DA20-01)
2.	Project Applicant:	Santa Margarita Water District 26111 Antonio Parkway, Rancho Santa Margarita, CA 92688
3.	Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	The project is located within the City of San Juan Capistrano's jurisdictional boundary. (see map attached)
4.	(a) Project Location – City	City of San Juan Capistrano
	(b) Project Location – County	Orange
5.	Description of nature, purpose, and beneficiaries of Project:	The project involves the annexation of the City of San Juan Capistrano's water and wastewater utilities to Santa Margarita Water District and the concurrent amendment to the District's sphere of influence.
6.	Name of Public Agency approving project:	Local Agency Formation Commission of Orange County
7.	Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	Santa Margarita Water District
8.	Exempt status: (check one)	
(a)	<input type="checkbox"/> Ministerial project.	(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)
(b)	<input type="checkbox"/> Not a project.	
(c)	<input type="checkbox"/> Emergency Project.	(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b),(c))
(d)	<input checked="" type="checkbox"/> Categorical Exemption.	Changes in Organization of Local Agencies

State type and section number:		Class 20 § 15320
(e)	<input type="checkbox"/> Declared Emergency.	(Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
(f)	<input type="checkbox"/> Statutory Exemption. State Code section number:	CEQA Guidelines §15262 (Feasibility and Planning Studies)
(g)	<input type="checkbox"/> Other. Explanation:	
9.	Reason why project was exempt:	The change in the organization of a local governmental agency does not change the geographical area.
10.	Lead Agency Contact Person:	Dan Ferons
	Telephone:	(949) 459-6420
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.	
12.	Has a Notice of Exemption been filed by the public agency approving the project? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
13.	Was a public hearing held by the Lead Agency to consider the exemption? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, the date of the public hearing was: January 17, 2020	

Signature: _____ Date: _____ Title: Executive Officer

Name:

☒ Signed by Responsible Agency ☐ Signed by Applicant

Date Received for Filing: _____

(Clerk Stamp Here)

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

DA 20-01

RESOLUTION OF THE ORANGE COUNTY

LOCAL AGENCY FORMATION COMMISSION

**MAKING DETERMINATIONS AND APPROVING THE SANTA MARGARITA
WATER DISTRICT ANNEXATION OF THE SAN JUAN CAPISTRANO WATER AND
WASTEWATER UTILITIES AND A CONCURRENT AMENDMENT TO THE SANTA
MARGARITA WATER DISTRICT SPHERE OF INFLUENCE (DA 20-01)**

August 11, 2021

On motion of _____, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed annexation designated as the “Santa Margarita Water District Annexation of the San Juan Capistrano Water and Wastewater Utilities (DA 20-01)” (the “Project”) was heretofore filed with and accepted for filing on August 2, 2021 by the Executive Officer of this Local Agency Formation Commission (“LAFCO” or “Commission”) pursuant to Title 5, Division 3, commencing with Section 56000 et seq., of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set August 11, 2021 as the hearing date for this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665, has reviewed this proposal and prepared a report including her recommendation thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposal consists of the annexation of approximately 14 square miles of inhabited territory located within the jurisdiction of the City of San Juan Capistrano (“CSJC”) to the Santa Margarita Water District (“SMWD”), and concurrent amendment of the SMWD’s sphere of influence to include the annexation area; and

WHEREAS, this Commission on August 11, 2021 considered the proposal and the report of the Executive Officer, and considered all the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668; and

WHEREAS, this Commission called for and held a public hearing on the proposal on August 11, 2021, and at the hearing, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, the SMWD served as lead agency for the environmental review, analysis, and approval of the Project pursuant to the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., §15000 et seq.) (“CEQA”); and

WHEREAS, pursuant to CEQA, on January 17, 2020, the SMWD found the Project exempt from CEQA, approved the Project, and filed a Notice of Exemption (“NOE”) for the Project; and

WHEREAS, LAFCO has been asked to approve: 1) the annexation of the CSJC’s water and wastewater utilities to the SMWD, and 2) a concurrent sphere of influence amendment to the SMWD to include the CSJC’s water and wastewater utilities; and

WHEREAS, LAFCO is thus a “responsible agency” for the Project under CEQA because it has limited approval and implemental authority over the Project; and

WHEREAS, LAFCO, at its agendized public meeting on August 11, 2021, independently reviewed and considered the Project and all related documents in the record before it; and

WHEREAS, as contained herein, LAFCO has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, all of the findings and conclusions made by LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, LAFCO does hereby resolve as follows:

Section 1. LAFCO FINDINGS

The subject territory is found to be inhabited, is within the CSJC, and is assigned the following distinctive short-form designation: “Santa Margarita Water District Annexation of the San Juan Capistrano Water and Wastewater Utilities (DA 20-01).” The proposal consists of the annexation of approximately 14 square miles of inhabited territory located

within the CSJC, and concurrent sphere of influence amendment to the SMWD to include the CSJC's water and wastewater utilities ("Proposal"). The Statement of Determinations and amended sphere of influence map are shown as Exhibits A and B.

Section 2. Compliance with the California Environmental Quality Act.

As the decision-making body for LAFCO, and in LAFCO's limited role as a responsible agency under CEQA, the Commission has reviewed and considered the Project and all supporting documentation as more particularly set forth in SMWD Resolution No. 2020-01-03, the findings of which, together with its supporting documentation, are incorporated herein by this reference. Based on this review, the Commission concurs with SMWD's conclusion that the Project is exempt from CEQA, as set forth in greater detail in the SMWD's NOE, including the SMWD Annexation NOE Justification Memorandum attached thereto, which was filed with the Orange County Clerk-Recorder on January 17, 2020. Specifically, the Commission finds that the Project is categorically exempt from CEQA under (1) the Class 19 exemption set forth in State CEQA Guidelines section 15319 concerning annexation of property to a special district; and (2) the Class 20 exemption set forth in State CEQA Guidelines section 15320 concerning changes in organization of local agencies. The Commission additionally finds that the Project is exempt from CEQA under the common sense exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3) as it can be seen with certainty that there is no possibility that the Project may have a significant effect on the environment. The Project will not result in any construction or development of new infrastructure. Rather, the Project is comprised of administrative action (i.e., government reorganization and administrative boundary changes) that would not result in either a direct, or reasonably foreseeable indirect, physical change in the environment.

Section 3. The Proposal is approved subject to the following terms and conditions:

- a) Payment by the applicant (SMWD) of final accounting of LAFCO application costs, and County Clerk-Recorder and State Board of Equalization fees is a condition of approval.
- b) The applicant (SMWD) agrees to defend, hold harmless and indemnify LAFCO

and/or its agents, officers, and employees from any claim, action or proceeding against LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of LAFCO concerning this Proposal or any action relating to or arising out of such approval.

- c) The provisions of the “Annexation Agreement” entered into and executed by and between the CSJC and SMWD, dated as of January 21, 2020, are incorporated herein and adopted by the Commission by this reference as though fully set forth in this Section 3, and are attached hereto as Exhibit C.
- d) The provisions of the “Annexation Hiring Agreement” entered into and executed by and between the CSJC and SMWD, dated as of July 7, 2020, are incorporated herein and adopted by the Commission by this reference as though fully set forth in this Section 3, and are attached hereto as Exhibit D.
- e) The following agreements shall be executed by the appropriate agencies following approval of this annexation by LAFCO and delivered to LAFCO prior to the recordation of the LAFCO Certificate of Completion:
 - 1) “Master Water Rights Transfer Agreement” (Exhibit E) – to be executed by the CSJC and SMWD.
 - 2) “Agreement for the Exercise of City Appurtenant Water Rights” (Exhibit F) – to be executed by CSJC and SMWD.
 - 3) “Agreement Regarding Water Rights Dedicated to Public Use” (Exhibit G) – to be executed by CSJC and SMWD.
 - 4) “Agreement Regarding Assignment and Assumption of San Juan Hills Settlement Agreement” (Exhibit H) – to be executed by CSJC and SMWD.
 - 5) “Agreement Regarding Assignment and Assumption of Cotton Settlement, Mutual Release and Well Sharing Agreement” (Exhibit I) – to be executed by CSJC and SMWD.
 - 6) “Agreement Regarding Assignment and Assumption of Recycled Water Agreement” (Exhibit J) – to be executed by CSJC and SMWD.
 - 7) “Amended and Restated Project Implementation Agreement San Juan Basin Desalter Project” (Exhibit K) – to be executed by San Juan Basin Authority and SMWD.

- 8) “Assignment, Assumption and Amendment Agreement Regarding Desalter Project Agreements” (Exhibit L) – to be executed by CSJC and SMWD.
- f) Upon the effective date of this annexation, SMWD will accept and assume all obligations, assets, claims, and liabilities attributable to the CSJC’s capacity ownership in the Jay B. Latham Treatment Plant, per the provisions of the “South Orange County Wastewater Authority Assignment and Assumption Agreement” to be entered into between CSJC and SMWD, incorporated herein by this reference as though fully set forth in this Section 3, and attached hereto as Exhibit M.
 - g) Unless otherwise provided by the terms and conditions of the Annexation Agreement or unless otherwise agreed to in writing by CSJC and SMWD, all of CSJC’s rights, title and interest in and to real or personal property appurtenances held by the CSJC, or by the former Capistrano Valley Water District, and used in connection with the operation of CSJC’s water and wastewater utilities, shall be transferred to the SMWD upon the effective date of this annexation.
 - h) Upon the effective date of this annexation, the “Water Services Agreement” (Exhibit N) entered into by the CSJC and South Coast Water District (“SCWD”), dated as of May 2, 2000, that includes provisions for the assets and operations of the retail water system located within the City of Dana Point shall be terminated.
 - i) Upon the effective date of this annexation, the SCWD will accept and assume the assets and operations of the water system located within the City of Dana Point through the provisions of the “Agreement for Water Services Among Santa Margarita Water District, South Coast Water District and, the City of San Juan Capistrano,” incorporated herein by this reference as though fully set forth in this Section 3, and attached hereto as Exhibit O. The agreement shall be approved, in a form substantially similar to Exhibit O and executed by the appropriate agencies and delivered to LAFCO prior to the recordation of the LAFCO Certificate of Completion.
 - j) Upon the effective date of this annexation, the ad valorem tax revenue associated with the previously dissolved Capistrano Valley Water District, excluding that derived from the area located in the City of Dana Point, shall be consolidated with CSJC’s ad valorem apportionment pursuant to and in accordance with Resolution No.

21-080, adopted by the County of Orange Board of Supervisors on July 13, 2021 and Resolution No. 21-06-15-06, adopted by the City Council of the City of San Juan Capistrano on June 15, 2021.

- k) Upon the effective date of this annexation, the ad valorem tax revenue associated with the previously dissolved Capistrano Valley Water District and derived from the area located in the City of Dana Point will be reassigned to the SCWD as authorized by the County of Orange referenced in the letter dated June 14, 2021 and attached here to as Exhibit P.
- l) Upon the effective date of this annexation, an improvement district of SMWD, encompassing the entirety of the annexation area as defined in the map and legal description attached as Exhibit Q, shall be established and the same hereby is formed, which is contemplated to be named “Improvement District No. 9 of the Santa Margarita Water District.” Said improvement district shall be deemed to be an improvement district formed and existing under California Water Code Section 30000 et seq. The SMWD, on behalf of the improvement district, shall establish and maintain separate Chart of Accounts for the purpose of keeping separate the existing assets, liabilities, revenues, and expenditures, including but not limited to the reserves transferred to the SMWD from the CSJC as defined in the “Annexation Agreement.”
- m) Upon the effective date of this annexation, CSJC water and sewer rates currently authorized in the annexation area shall continue to apply to the annexation area until modified by SMWD. All other SMWD service charges (e.g., connection fees, meter installation fees, and plan check fees) shall apply to the annexation area upon the effective date of annexation.
- n) Upon the effective date of this annexation, SMWD shall be responsible for complying with all federal, state and local regulations that apply to public agencies that own and operate water facilities, wastewater facilities, or both.
- o) The effective date of this annexation shall be the date of recordation of the LAFCO Certificate of Completion, or the date agreed to by SMWD and CSJC, whichever date is later.

Section 4. Extraterritorial Contracts and Agreements (Government Code Section 56133).

Unless specifically enumerated in this Resolution or in the referenced implementing Agreements, nothing in this Resolution authorizes the commencement of new extraterritorial service by SMWD without Commission approval, as required under Government Code Section 56133.

Section 5. Notice of Exemption.

The Commission directs staff to file a Notice of Exemption with the Orange County Clerk's Office within five working days of adoption of this Resolution.

Section 6. Conducting Authority Proceedings.

The Commission authorizes and directs the Executive Officer to conduct protest proceedings pursuant to Government Code Sections 57000 et seq. and set a 30-day protest period to begin after the 30-day reconsideration period required by Government Code Section 56895.

Section 7. Mail Copy of Resolution.

The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Section 56882 of the Government Code.

Section 8. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of LAFCO. The custodian for these records is Orange County Local Agency Formation Commission, 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

**STATEMENT OF DETERMINATIONS
ANNEXATION OF THE CITY OF SAN JUAN CAPISTRANO
WATER AND WASTEWATER UTILITIES (DA20-01)
SPHERE OF INFLUENCE AMENDMENT
FOR THE SANTA MARGARITA WATER DISTRICT
Government Code Section 56425**

1. The present and planned land uses in the area, including agriculture and open-space lands.

The Santa Margarita Water District's (SMWD) current service area covers approximately 62,656 acres including the City of Rancho Santa Margarita, portions of the Cities of Mission Viejo and San Clemente, and the unincorporated communities of Coto de Caza, Ladera Ranch, Los Flores, Stonecliffe, Wagon Wheel, and Rancho Mission Viejo. Current and planned land uses within the annexation area includes residential, business, commercial, agricultural, open space, and special use.

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

SMWD currently serves a population of approximately 165,000 customers for both water and wastewater services provided through 54,214 potable water, 1,534 recycled water and 51,269 sewer service connections. The proposed annexation of the City of San Juan Capistrano's (CSJC) water and wastewater utilities would increase the District's service population to 201,262.

The water and wastewater systems currently include adequate infrastructure and capacity to meet the demands of the customers. The SMWD's Plan for Service for the annexation includes a Capital Improvement Program (CIP) that addresses the present and probable needs involving public facility upgrades, rehabilitations and replacements. The CIP includes projections for the financing of the capital improvements involving the CSJC water and wastewater utilities.

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

SMWD currently operates a water system that includes 54,214 retail water connections and 1,534 recycled water connections, and a wastewater system that includes 51,269 connections and 639 miles of local sewer lines for the collections of the flows. One of Orange County's largest water and wastewater providers, SMWD

EXHIBIT A

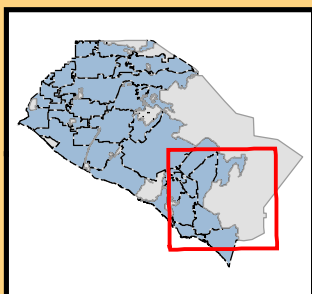
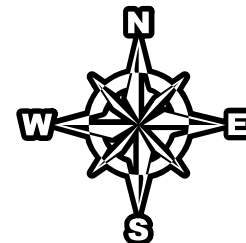
has the current operational capacity and public facilities to assume the CSJC water and wastewater utilities. SMWD will continue the current levels of services and enhancements in some areas for the customers of the utilities.

4. The existence of any social or economic communities of interest in the area.

The subject territory is within the jurisdiction of the City of San Juan Capistrano. Areas of social and economic communities of interest include the City of Rancho Santa Margarita, portions of the Cities of Mission Viejo and San Clemente, and the unincorporated communities of Coto de Caza, Ladera Ranch, Las Flores, Stonecliffe, Wagon Wheel, and Rancho Mission Viejo.

5. The present and probable need for public sewer, municipal and industrial water or structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

There are no disadvantaged unincorporated communities within or adjacent to the subject territory. However, there are adjacent disadvantaged communities located within the City's jurisdictional boundary.



Santa Margarita Water District
Sphere of Influence Map
 SOI Originally Adopted: 12/13/1978
 Last Updated: 08/11/2021



ANNEXATION AGREEMENT

This **Annexation Agreement**, dated as of January 21, 2020 (this "**Agreement**"), is entered into by and between the **City of San Juan Capistrano**, a municipal corporation duly organized and existing under the laws of the State of California (the "**City**"), and the **Santa Margarita Water District**, a water district duly organized and existing under the California Water District Law (California Water Code Section 34000 *et seq.*) ("**SMWD**"). The City and SMWD are, together, referred to in this Agreement as the "**Parties**" and, individually, as a "**Party**."

RECITALS

- A. The City owns and operates utilities systems (the "**Utilities Systems**") consisting of: (i) a potable water system and a recycled water system (together, the "**Water System**") and (ii) a wastewater system (the "**Wastewater System**").
- B. In 2015, the City began to evaluate options to re-organize the Utilities Systems.
- C. Based on such evaluation, in August 2016, the City submitted an application to the Orange County Local Agency Formation Commission ("**LAFCO**") pursuant to the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000, set forth in California Government Code Section 56000 *et seq.* (the "**Reorganization Act**") for a Municipal Service Review, to assess the potential transfer of the operation and facilities of the Utilities Systems to another public agency.
- D. After a period of study and the undertaking of a study session and then a public hearing, LAFCO received and filed the final Focused Municipal Service Review report on October 10, 2018 (the "**MSR**").
- E. The MSR assessed the potential transfer of the Utilities Systems to one or a combination of two or three independent special districts with service boundaries adjacent to the City: (i) Moulton Niguel Water District ("**MNWD**"), (ii) South Coast Water District ("**SCWD**") and (iii) SMWD.
- F. After additional discussions with MNWD, SCWD and SMWD, the City expressed its intention on February 19, 2019, to proceed by focusing its negotiation with SMWD with respect to the transfer of the Utilities Systems.
- G. The transfer of the Utilities Systems to SMWD will require a reorganization and/or change of organization within the meaning of the Reorganization Act.
- H. SMWD will submit to LAFCO an application and a plan for services for a sphere of influence amendment and annexation (collectively, the "**LAFCO Application**"), and LAFCO may impose terms and conditions as part of any such annexation.
- I. The Parties entered into a Memorandum of Understanding, dated as of August 23, 2019 (the "**MOU**"), which memorialized certain key understandings between the Parties with

respect to the annexation and other related matters, including the development of this Agreement.

J. This Agreement shall supersede the MOU in all respects.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS CONTAINED HEREIN, AND OTHER VALUABLE CONSIDERATION, THE ADEQUACY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth in Exhibit A.

2. PURPOSE

The Parties intend that this Agreement: (i) set forth certain key terms to be incorporated into the LAFCO Application, and (ii) address how other matters pertaining to the Annexation will be carried out by the Parties.

3. LAFCO APPLICATION; COOPERATION

3.1. LAFCO Application.

(a) As soon as practicable upon the Parties' execution of this Agreement (by March 31, 2020, unless otherwise agreed upon in writing by the Parties), SMWD shall submit the LAFCO Application (in form and substance acceptable to the City) to LAFCO. Prior to submission, a copy of the LAFCO Application shall be provided to the City.

(b) The City agrees to support the LAFCO Application so long as it is consistent with this Agreement and take all reasonably necessary action for such support, including, but not limited to, providing letters, documents or statements of support if necessary, and attending public hearings.

3.2. Cooperation in Good Faith; Target Date.

(a) The Parties shall cooperate in good faith to pursue the LAFCO Approval and complete the Annexation, so long as they are consistent with the terms of this Agreement and the Collateral Agreements and Documents.

(b) Until the earlier of: (1) the Annexation Effective Date, or (2) the termination of this Agreement pursuant to Section 20.2:

(i) The City shall not engage, negotiate with, or solicit or accept proposals from, any third party regarding the transfer of the Utilities Systems.

(ii) The City shall continue to operate the Utilities Systems in a reasonable manner consistent with past practices. The City shall not engage in any transaction outside of the ordinary course of business that would materially adversely affect the principal financial elements of the Utilities Systems to be transferred to SMWD as contemplated herein. Notwithstanding the limitations of this paragraph, nothing herein shall preclude the City from entering into agreements or undertaking projects before the Annexation Effective Date that are reasonably necessary as determined by the City for the safe and effective operation of the Utilities Systems.

(c) The Parties agree that the Annexation Effective Date shall be no earlier than 60 days after the issuance of the LAFCO Certificate of Completion (which is the expiration of the period to challenge the LAFCO Approval under California Civil Code of Procedure Section 860 *et seq.*); provided, if a legal challenge to this Agreement or the LAFCO Approval has been filed on a timely basis, then unless otherwise required by law, the Annexation Effective Date shall take place after the final resolution of the legal challenge(s) in a manner that results in this Agreement and Annexation remaining valid and enforceable with terms consistent with this Agreement and the Collateral Agreements and Documents.

(d) The City shall cooperate with all reasonable requests by SMWD to implement the terms, or to effectuate the intent, of this Agreement and the Collateral Agreements and Documents, so long as the same do not impose any liability or additional costs on the City beyond that contemplated in this Agreement and the Collateral Agreements and Documents. Such cooperation shall include, but not be limited to: (i) the execution of documents and instruments that are reasonably required for such purposes, and (ii) with respect to any request by SMWD regarding historical information about the Utilities Systems (which request shall be coordinated with the City Manager or the City Manager's designee), the provision of written or verbal responses by City employees involved in the operation of the Utilities Systems to the extent that the information is known to such employees; provided, in no event shall the City be required to disclose any information subject to attorney-client privilege.

3.3. SMWD Work Plan. To ensure the continuous and efficient provision of services to the Customers and operation of the Utilities Systems, SMWD shall prepare the SMWD Work Plan and shall present the SMWD Work Plan to the City Manager by March 31, 2020, or such later date as agreed upon in writing by the Parties. It is acknowledged that the implementation of the SMWD Work Plan will be subject to applicable law and the availability of funding.

3.4. Regulatory Permits. SMWD shall be solely responsible for obtaining all necessary regulatory permits for SMWD's operation of the Utilities Systems on and after the Annexation Effective Date.

4. REPRESENTATIONS REGARDING AUTHORITY, VALIDITY

4.1. City Representations. The City represents and warrants as follows:

(a) The City is a municipal corporation duly existing under the laws of the State.

(b) The City has full legal right and power to enter into this Agreement.

(c) The City's execution and delivery of this Agreement has been authorized by all necessary action on the part of the City.

(d) Assuming SMWD's due authorization, execution and delivery, this Agreement constitutes the legal, valid and binding agreement of the City, enforceable in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles, to the exercise of judicial discretion in appropriate cases and by the application of equitable principles if sought and by the limitations on legal remedies imposed on actions against public entities in the State.

(e) No action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency or body is pending and notice of which has been received by the City or, to the City's knowledge, threatened in any way contesting or affecting the validity or enforceability of this Agreement, or contesting the powers of the City with respect to this Agreement.

4.2. SMWD Representations. SMWD represents and warrants as follows:

(a) SMWD is a water district duly organized and existing under the California Water District Law (Water Code Section 34000 *et seq.*).

(b) SMWD has full legal right and power to enter into this Agreement.

(c) SMWD's execution and delivery of this Agreement has been authorized by all necessary action on the part of SMWD.

(d) Assuming the City's due authorization, execution and delivery, this Agreement constitutes the legal, valid and binding agreement of SMWD, enforceable in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles, to the exercise of judicial discretion in appropriate cases and by the application of equitable principles if sought and by the limitations on legal remedies imposed on actions against public entities in the State.

(e) No action, suit, proceeding or investigation at law or in equity before or by any court of governmental agency or body is pending and notice of which has been received by SMWD or, to SMWD's knowledge, threatened in any way contesting or affecting the validity or enforceability of this Agreement, or contesting the powers of SMWD with respect to this Agreement.

5. CEQA

5.1. SMWD to be Lead Agency for CEQA Compliance. SMWD shall be the lead agency for purposes of any CEQA compliance in connection with the Annexation and the LAFCO Application, pursuant to Section 15051(a) and Section 15051(d) of the CEQA Guidelines (14 Cal. Code Regs. 15000 *et seq*).

5.2. CEQA Determination. The Parties have determined that approval of this Agreement qualifies as exempt from additional review under CEQA because the activity to be undertaken by the Agreement qualifies under various exemptions to CEQA, including the Class 19 Categorical Exemption (State CEQA Guidelines Section 15319(a)) because the Agreement is to facilitate the annexation of existing City-owned and operated Utility Systems infrastructure into the boundaries, and operations, of SMWD and the Class 20 Categorical Exemption (State CEQA Guidelines Section 15320) because the annexation constitutes a change in organization of the Utility Systems rather than the development of new or additional utility systems. The Parties have also determined that no substantial evidence exists to find that the exceptions to these exemptions apply and that these determinations constitute the independent judgment of each of the Parties to this Agreement.

6. ASSETS INVENTORIES, CONTRACT LISTS, ACCOUNTING RECORDS; TRANSFER OF ASSETS AND CONTRACTS

6.1. Asset Register; Contract Lists; Accounting Records.

(a) SMWD acknowledges that it has reviewed the following:

(i) databases containing descriptions of the infrastructure assets of the Utilities Systems (including but not limited to pump stations, reservoirs, connections, wells, mains and pipes, and lift stations, but excluding the real property),

(ii) a list of the current capacity agreements and interconnection agreements and a copy of each such agreement;

(iii) a list of the current contracts with third party vendors and professional services consultants (except City Attorney Agreements) pertaining to the Utilities Systems, and a copy of each such contract;

(iv) a list of agreements with other utilities agencies, including those pertaining to the City's membership or cooperation with each of SJBA, SOCWA, MWDOC, JTM Joint Venture, and the ETM Joint Venture; and

(v) accounting records of the Utilities Systems, including: (A) current customer balances; and (B) current account balances of the Water Fund and the Sewer Fund.

(b) SMWD has conducted such inspection as it deems necessary or appropriate of the infrastructure assets of the Utilities Systems.

(c) The Parties agree that, except for the vehicles to be identified in the Assignment Agreement, none of the vehicles currently used by the City in connection with the Utilities Systems (regardless how they are reflected in the current City records) shall be included in the Assets to be transferred to SMWD.

(d) Unless an item is specifically identified by the City as among the Retained Assets, all computer equipment and SCADA systems associated with the GWRP and the operation of all pump stations shall be transferred to SMWD on the Annexation Effective Date.

6.2. Transfer of Assets and Contracts Generally.

(a) The City and SMWD shall enter into the Assignment Agreement, to become effective on the Annexation Effective Date. The Assignment Agreement shall provide for the City's transfer of all of its rights, title and interest in and to all Assets, contracts and accounts related to the Utilities Systems, except for: (i) the Retained Assets and the Retained Properties, (ii) the City Attorney Agreements, (iii) the SCWD Water Services Agreement, (iv) the City Water Rights, and (v) to the extent the Parties, in consultation with respective legal counsel, choose another form(s) of instrument (collectively, "Other Assignment Instruments") to effect such transfer: (A) real property interests, (B) settlement agreements, and (C) such other matters as agreed upon by the Parties.

(b) SMWD shall accept the assignment, and assume all obligations and liabilities transferred to it pursuant to the Assignment Agreement and the Other Assignment Instruments.

(c) SMWD shall accept all facilities, properties and other Assets of the Utilities Systems transferred to it on an "as is" basis as of the Annexation Effective Date.

(d) With respect to the contracts to be assigned to SMWD, the City shall not extend the term of any agreement identified in the Assignment Agreement without SMWD's written approval which approval shall not be unreasonably withheld.

6.3. SCWD Water Services Agreement. SMWD agrees to engage SCWD in discussions regarding the disposition of the SCWD Water Services Agreement prior to the Annexation Effective Date. SMWD shall not enter into any agreement with respect to the disposition of the SCWD Water Services Agreement without the City's written consent.

6.4. Water Rights Transfer Agreement. The Parties shall negotiate in good faith and enter into the Water Rights Transfer Agreement with respect to the City's Water Rights no later than the Annexation Effective Date (with the agreement to become effective as of the Annexation Effective Date). Pursuant to the Water Rights Agreement, as may be necessary, appropriate or beneficial to SMWD's provision of water service to the City and existing and future customers within the Territories, and as may be permitted by law, the City will transfer to, or otherwise provide SMWD with the right to exercise, the City's Water Rights, and SMWD will agree to

exercise reasonable efforts to protect and maintain each and all of the City's Water Rights first for the benefit of existing and future customers within the Territories.

6.5. Real Property.

(a) Each Party shall confirm its acceptance of a Real Property Inventory Report to be prepared by a consultant retained by SMWD and acceptable to the City, which shall identify: (i) all of the City's real property interests, including easements, which are currently part of the Utilities Systems; (ii) the Transferred Properties, (iii) the Retained Properties, and (iv) the New Easements. The City shall review the accuracy of the Real Property Inventory Report and the lists of Transferred Properties and Retained Properties and shall provide SMWD with information as to any material deficiencies or omissions, known to City staff, in that Report. The property currently identified by the City as the "Utilities Administration Building" shall be one of the Retained Properties. The Real Property Inventory Report shall be finalized only when it has been reviewed by the City and is in the form acceptable to both Parties.

(b) The Parties agree that the real property interests shall be transferred by City to SMWD either by grant deed or quitclaim deed, as mutually agreed to by the Parties.

(c) With respect to each Transferred Property, the City shall provide to SMWD copies of the following materials to the extent the same are in the City's possession: (i) the deed or other instrument showing the City's ownership or other interest in such property, (ii) the most recent title report, and (iii) the most recent environmental and physical condition report (*e.g.*, Phase I Environmental Site Assessment) and notices. The City shall cooperate with SMWD and provide any information or other documentation related to the Transferred Property, that is currently in the possession of the City and which is not otherwise subject to the attorney-client privilege for purposes of evaluating the Transferred Property.

(d) SMWD may, at its own expense, obtain one or more title reports or conduct environmental reviews with respect to the Transferred Property, provided, any access to the property shall be subject to the advance notice and legal or public safety restrictions pursuant to Section 6.6(b).

(e) The City and SMWD shall jointly review the encumbrances identified on title reports for the Transferred Property. With respect to any encumbrance which the Parties agree should and can be removed before the transfer of the property to SMWD, the City will provide such assistance (including the execution of instruments) as SMWD reasonably requests to remove the encumbrance.

6.6. Periodic Updates and Further Access Before Annexation Effective Date. Prior to the Annexation Effective Date or the termination of this Agreement, whichever is earlier:

(a) City Representatives and SMWD Representatives shall conduct periodic meetings, either in person or via teleconference, to provide updates regarding acquisitions, dispositions or other changes, if any, to the Assets, contracts and obligations to be transferred to SMWD, and the status of ongoing operations of the Utilities Systems, including updates regarding the finances of the Utilities Systems and its fund reserves.

(b) Upon reasonable notice and subject to any legal or public safety restrictions, the City shall allow SMWD Representatives access to the facilities and records of the Utilities Systems for inspection purposes.

(c) The City shall give SMWD Representatives full access and opportunity to inspect, investigate, and audit, as they relate to the City's operation and management of the Utilities Systems, the books, records, contracts, and other documents of the City and all of the City's assets and liabilities (actual or contingent), including, without limitation, inspecting the City's property and conducting additional environmental inspections of property and reviewing financial records, contracts, operating plans, and other business records for the purposes of evaluating issues related to the operation of the Utilities Systems. The City further agrees to provide SMWD Representatives with such additional information as may be reasonably requested pertaining to the Utilities Systems, Transferred Properties and Assets. Any such access shall be subject to the provisions of paragraph (b) of this Section related to reasonable advance notice and legal and public safety restrictions; and nothing in this Agreement shall require the City to disclose or provide access to attorney-client privileged communications.

7. CREATION OF NEW EASEMENTS; ADDITIONAL COOPERATION REGARDING ACCESS AND WORK WITHIN CITY

7.1. The City and SMWD shall enter into an Easement Agreement for the creation of the New Easements (which shall be identified in the Real Property Inventory Report). The Easement Agreement shall become effective as of the Annexation Effective Date. SMWD shall cause the Easement Agreement to be recorded in the Orange County Official Records. Once SMWD receives confirmation of such recordation, it shall cause a copy of such recorded Easement Agreement to be provided to the City.

7.2. To the extent that, after the Annexation Effective Date, SMWD proposes to create a new easement, an access license or a lease with respect to any City-owned property in order to effectively operate the Utilities Systems, the City shall cooperate with SMWD in good faith to consider, and develop the appropriate instruments for, such creation at no charge to SMWD for City staff time or administrative cost; provided that, upon the City's request and SMWD's approval of said request, SMWD shall either pay directly, or reimburse the City for any expenses that are payable to third parties.

7.3. SMWD shall provide advance notice to the City of any work performed on the Utilities Systems within City limits by SMWD. The City shall not impose any permit or application fees or costs (including but not limited to, encroachment permits and historic, archaeological and paleontological resource permits) that the City charges to other utility operators, which fees or costs relate to SMWD's operation of the Utilities Systems.

7.4. SMWD will accept the City's current (as of the date this Agreement is executed) standard trench paving requirements that the City applies to other utility operators for any Water System or Wastewater System related work within City right of way, including any additional paving requirements beyond SMWD standards.

8. OUTSTANDING BOND OBLIGATIONS

8.1. Transfer of Outstanding Bond Obligations.

(a) SMWD acknowledges that the City has provided such documents as SMWD has deemed necessary for its review of the Outstanding Bond Obligations. The City agrees to provide any additional documentation, except attorney-client privileged communications, that SMWD may deem reasonably necessary for purposes of evaluating and understanding the Outstanding Bond Obligations.

(b) The Parties agree to jointly negotiate with the respective holders of the Outstanding Bond Obligations to accomplish the successful transfer of such bond debt to SMWD. SMWD shall pledge the revenue necessary for such transfer. SMWD shall retain its own Bond Counsel and the City shall be included as an addressee of each of such Bond Counsel's opinions, except attorney-client privileged communications, regarding no adverse effect on the tax-exempt status of the Outstanding Bond Obligations created by the transfer of the Outstanding Bond Obligations. SMWD shall indemnify the City for any non-compliance with applicable laws (including but not limited to federal tax law) and debt covenants arising on or after the Annexation Effective Date. SMWD may choose to retire such Outstanding Bond Obligations by other means, including, but not limited to, the issuance of bonds (or incurrence of other debt) secured by SMWD's revenues.

8.2. No Outstanding Wastewater System Bond Obligations. The City represents and warrants that there is no outstanding bond debt secured by a lien on or pledge of Wastewater System revenues.

8.3. No Additional Bonds Without SMWD Consent. The City shall not incur any additional debt secured by a lien on or pledge of any funds or assets of the Utilities Systems without SMWD's prior written consent.

9. ASSUMPTION OF LIABILITIES; INDEMNIFICATION

9.1. Disclosure of Pending Litigation. The City represents and warrants that, except as previously disclosed in the Litigation Disclosure List, there is no litigation affecting the Utilities Systems to which the City is a party that is either: (i) pending and notice of which has been received by the City, or (ii) threatened and actually known to the City. The City shall promptly provide SMWD written updates to the Litigation Disclosure List, if any such new litigation arises before the Annexation Effective Date. In addition, pursuant and subject to common interest agreements by and between the City and SMWD, the City shall provide such documentation concerning the matters listed on the Litigation Disclosure List (and any updates to the Litigation Disclosure List) as SMWD may reasonably request in preparation of SMWD's assumption of the defense (or prosecution) of such litigation.

9.2. Settlement Agreements Obligations.

(a) Effective as of the Annexation Effective Date, the City shall delegate to SMWD, and SMWD shall assume, all of the City's rights and obligations under the stipulated judgments and related settlement agreements pertaining to the following:

(i) *San Juan Hills Golf Club, LP, v. City Of San Juan Capistrano, et al. (Orange County Sup. Court Case No. 30-2014-00742347-CU-CO-CJC) filed 08/28/2014; stipulated judgment entered 06/21/2016); and*

(ii) *Jeffrey Cotton and Shannon Cotton, As Trustees Of The Cotton Family Trust Dated September 9, 2002 v. The City Of San Juan Capistrano, et al. (Orange County Sup. Court Case No. 30-2015-00778655) filed 03/23/2015; stipulated judgment entered 11/03/2016).*

(b) The City and SMWD shall cooperate to obtain such consents or approvals as necessary to accomplish such delegation and assumption.

9.3. Defense of SCWD Administrative Complaint and Daneshmand Case Before Annexation Effective Date. Prior to the Annexation Effective Date, the City shall continue to be responsible for its defense, from whatever resources the City deems appropriate, with respect to the SCWD Administrative Complaint and the Daneshmand Case; provided, with respect to each such matter, the City shall not enter into any resolution of the matter or agree to any settlement term that will materially adversely affect SMWD's operation of the Utilities Systems without consulting SMWD and obtaining SMWD's prior written consent.

9.4. SMWD Assumption of Obligations and Liabilities.

(a) The City agrees to take all reasonable efforts to exhaust any and all available coverage from the City's risk pool insurance authority as it relates to any claims or litigation arising out of the City's operation of the Utilities Systems prior to the Annexation Effective Date.

(b) From and after the Annexation Effective Date, SMWD shall be responsible for all Post-Transfer Liabilities, including the defense of the SCWD Administrative Complaint and the Daneshmand Case, from resources of SMWD. With respect to each such matter, SMWD shall not enter into any resolution of the matter or agree to a settlement term affecting the City without: (i) consulting with the City, and (ii) obtaining the City's written consent to the settlement. If, however, the settlement terms involve only payments for which SMWD will pay or otherwise reimburse the City and the settlement does not require the City to take any other action and does not contain anything else affecting the City, and contains adequate and appropriate releases, the City's prior written consent shall not be unreasonably withheld. In addition, SMWD shall reimburse the City for all liabilities, costs and expenses (excluding City staff time) incurred by the City in connection with the SCWD Administrative Complaint, the Daneshmand Case and any other Post-Transfer Liabilities after the Annexation Effective Date (recognizing that such liabilities, costs and expenses would have been appropriately allocated to the Water System or Wastewater System, as applicable, regardless of the transfer), unless such liabilities, costs and expenses incurred are covered by the City's risk pool insurance. Subject to the foregoing, the City

shall cooperate with SMWD in good faith to assist SMWD in SMWD's defense of any Post-Transfer Liabilities and provide appropriate factual information and staff assistance; provided that the City shall not be required to disclose any information which is subject to attorney-client privilege.

(c) The intent of the foregoing is for SMWD to assume responsibility for all Post-Transfer Liabilities and not expand any liability of SMWD that would not have been the City's liability during the City's operation of the Utilities Systems prior to the Annexation Effective Date.

9.5. Indemnification. From and after the Annexation Effective Date, SMWD shall defend, with counsel approved by the City, indemnify and hold harmless the City from and against: (i) all Post-Transfer Liabilities; (ii) any action or proceeding to attack, review, set aside, enjoin, void or annul this Agreement or any of the Collateral Agreements and Documents, or any provision hereof or thereof, including the environmental determination and documents prepared and approved in connection with the approval of this Agreement under CEQA or any of the Collateral Agreements and Documents; and (iii) any action or proceeding to attack, review, set aside, enjoin, void or annul the LAFCO Approval, or any provision thereof, including the environmental determination and documents prepared and approved by LAFCO under CEQA in connection with the LAFCO Approval. SMWD shall also defend, with counsel approved by the City, indemnify and hold harmless City officials, employees and agents for any matter within the scope of the indemnification under this Section 9.5, to the same extent, and subject to the same limitations, that apply to the City's obligations to defend, indemnify and hold harmless such City officials, employees and agents under California law or applicable City contract with those officials, employees or agents. SMWD shall not seek reimbursement or contribution from the City for any costs, expenses or damages for, or related to, matters within the scope of the indemnification under this Section 9.5.

10. CITY PROPERTY TAX RETENTION

10.1. No Exchange of Property Tax. The Parties agree that there will be no exchange of property tax revenues between the Parties in connection with or arising from the Annexation.

10.2. Cooperation. The Parties shall cooperate to take such action as necessary or appropriate to effectuate Section 10.1.

11. PAYMENT OF CITY RETAINED PENSION COSTS

11.1. Recognition of City Retained Pension Cost. The Parties recognize that, because of the Annexation, the City will incur the OCERS Obligation.

11.2. Payment by SMWD. To address this retained cost, SMWD agrees to pay the OCERS Obligation and shall, in its discretion, pay the OCERS Obligation in either a lump payment or in level installments as prescribed by the OCERS 6/17/19 Determination.

12. USE AND TRANSFER OF CASH BALANCES

12.1. Transfer of Unexpended Cash Balances. All unexpended cash balances in the Water Fund and the Sewer Fund shall be transferred to SMWD on the Annexation Effective Date.

12.2. Use of Cash Balances Before Annexation Effective Date. Notwithstanding the provisions of Section 13.1, nothing contained herein shall preclude the City from using City reserves related to its Utilities Systems before the Annexation Effective Date consistent with Section 3.2(b)(ii). In addition, before the Annexation Effective Date, the City may use City reserves related to its Utilities Systems to pay any valid claim, demand, liability or judgment relating to or otherwise arising out of the City's operation of the Utility Systems. The City agrees that before the Annexation Effective Date, no expenditure related to any new Utilities Systems capital project that has a total estimated project cost of \$25,000 or more shall be made without at least five (5)-calendar-days' written notice to the SMWD General Manager before the material commencement of the project.

13. JOINT POWERS AUTHORITIES AND OTHER JOINT VENTURE MEMBERSHIP; GROUNDWATER RECOVERY PLANT PROPERTY AND OTHER CITY OWNED ASSETS INVOLVED IN JOINT VENTURE PROJECTS

13.1. Transfer of City Joint Venture Rights and Obligations. The City is a member of several Joint Ventures for the operation of the Utilities Systems, including SJBA, SOCWA, the JMT Joint Venture, the ETM Joint Venture and MWDOC. The City and SMWD shall cooperate to jointly negotiate with each Joint Venture to provide for the transfer of the City's rights and obligations as a member to the Joint Venture or as a counterparty to any contract with the Joint Venture.

13.2. GWRP Land. The City has leased the GWRP Land, which includes important facilities which are related to the Utilities Systems and associated with the 2014 SJBA Bonds, to SJBA for construction of the GWRP. The City and SMWD shall cooperate to jointly negotiate with SJBA to modify existing documents to provide for SMWD's operation of the GWRP and account for the transfer of GWRP Land from the City to SMWD as of the Annexation Effective Date or as soon thereafter as is practicable.

14. GOVERNANCE

14.1. Proposed Improvement District No. 9. The City understands that SMWD contemplates a new improvement district, ID9, which will include only the Territories.

14.2. City Voters Participation in SMWD District-Wide Elections. From and after the Annexation Effective Date, registered voters within the Territories shall be eligible to vote in any at-large election for SMWD governing board membership and any other elections involving SMWD district-wide measures. In the event that the SMWD governing board transitions from at-large elections to by-district elections, the boundaries of each electoral district shall be drawn in a

manner that shall not dilute the voting strength of the voters within the Territories, except to the extent necessary to comply with applicable law.

15. INFRASTRUCTURE INVESTMENT

15.1. Capital Improvement Budget. SMWD shall use its best efforts to include in the budget for its Capital Improvement Program expenditures of no less than \$25,000,000 over the next ten years for improvements in ID9 or for the direct and principal benefit of ID9.

15.2. Capital Improvement Projects Already in Progress. From and after the Annexation Effective Date, SMWD shall use its best efforts to timely and efficiently complete the capital improvement projects relating to the Utilities Systems which already have been approved and in progress before the Annexation Effective Date.

16. RATE SETTING

16.1. Rate Study. As soon as practicable after the Annexation Effective Date, SMWD shall initiate a rate study of the water and wastewater rates for the Customers.

16.2. Interim Billing Reduction. For the initial period after the Annexation Effective Date, before the completion of the rate study and the subsequent proceedings to establish rates, SMWD will, consistent with legal requirements and procedures, charge the Customers in the Territory in a manner that, on average, customer tier 1 commodity water rate for potable water services will reflect a modest overall reduction in the charges payable by the Customers that are billed each month for water services (relative to the rates charged by the City immediately before the Annexation Effective Date).

16.3. Contingency Adjustments. Notwithstanding the foregoing, SMWD may adjust the rates and charges to be paid by the Customers to the extent necessary to cover the payments for liabilities, costs and expenses made pursuant to Section 9.3, Section 9.4(a), Section 9.4(b) or Section 9.5. During the rate setting process, SMWD may include in the rates an amount to recover any unforeseen and/or uninsurable liabilities that might arise out of the City's operation of the Utilities Systems. Such rates and charges shall be adopted consistent with applicable legal requirements and procedures, including but not limited to the Proposition 218 requirements and process. The City agrees to support SMWD's effort to address the recovery of any unforeseen and/or uninsurable liabilities arising out of the City's operation of the Utilities Systems in the rate setting process.

16.4. Potential for Future Bonds. Recognizing the need for future improvements to the Utilities Systems infrastructure within ID9, the City acknowledges the potential issuance of future bonds or other financing measures to address future capital costs concerning collections systems, conveyance systems and distribution systems within ID9 or directly and principally benefitting Customers within ID9. ID9 Customers shall be responsible for their pro rata share of such costs of future capital improvements and facilities.

17. CUSTOMER PAYMENT AT CITY HALL AFTER TRANSFER

17.1. Maintenance of Bill-Pay Presence at City Hall. SMWD and the City shall cooperate to make available to the Customers a means to pay their water and wastewater bills at City Hall for a minimum of two years. SMWD and the City shall cooperate in addressing SMWD concerns related to the transition of Customer billing and use all efforts reasonably necessary to facilitate the transition of the billing system.

17.2. Designated City Employees; SMWD On-Line Access. The City shall make available one or more designated City employees to assist with the collection of such payments. SMWD shall provide on-line access to such designated employees in connection with the processing of such payments. The City shall take all reasonable action requested by SMWD concerning the transition of the billing system to SMWD including assisting SMWD, when requested, with the dissemination of information related to the transition of customer billing to SMWD.

17.3. SMWD to Reimburse City Costs and Expenses. SMWD shall reimburse the City for reasonable costs and expenses relating to the provision of Customers' bill-paying access and assistance (including, but not limited to, half of the personnel cost of one designated full-time City employee providing such service for no less than two years from the Annexation Effective Date).

18. STAFFING

18.1. Personnel to be Transferred. SMWD provided a list to the City identifying the sixteen anticipated new positions that would result from the Annexation. Based on the list developed, SMWD shall extend initial offers of employment to current City employees of the Utilities Systems in positions deemed comparable by SMWD. Offers of employment shall be contingent upon the following: (a) re-verification of minimum qualifications; and (b) pre-employment background check and medical examination.

18.2. Benefits and Compensation. The starting salary for Prospective Employees shall be offered at the applicable SMWD salary step for the position that is closest to, but not less than, their base salary at the City on the Annexation Effective Date. Prospective Employees shall be considered newly hired SMWD employees for purposes of SMWD employment terms, benefits and compensation, except as otherwise expressly agreed to and duly authorized by SMWD.

19. COLLATERAL AGREEMENTS AND DOCUMENTS

19.1. Collateral Agreements and Documents to Effectuate Transfer. The Parties acknowledge the need to enter into and prepare Collateral Agreements and Documents to further effectuate the transfer of the City's right, title and interests in the Utilities Systems and the related transfers contemplated in this Agreement. Such Collateral Agreements and Documents shall include:

- (a) the Assignment Agreement (referenced in Section 6.2);
- (b) the Other Assignment Instruments (referenced in Section 6.2);

- (c) the Water Rights Transfer Agreement (referenced in Section 6.4);
- (d) the Easement Agreement (referenced in Section 7);
- (e) an agreement related to water services at the property known as the "Riding Park" and other City-owned properties;
- (f) an agreement (or agreements) to effect the transfer of the Bond Obligations pursuant to Section 8;
- (g) such other agreements and documents required by LAFCO or otherwise determined by the Parties to be necessary or appropriate for the completion of the Annexation.

19.2. Collateral Agreements and Documents Effective Date. The Parties shall cooperate in good faith to complete the Collateral Agreements and Documents in a timely manner, so they will be executed or completed no later than the Annexation Effective Date and, unless otherwise specified in such agreement or document, will become effective as of the Annexation Effective Date.

20. MISCELLANEOUS

20.1. Notice. Any notice, request, demand or other communication under this Agreement shall be given by first class mail or personal delivery to the Party entitled thereto at its address set forth below, by overnight mail, as a ".pdf" attachment to electronic mail, or by telecopy or other form of telecommunication, confirmed by telephone at its number set forth below. Notice shall be effective either (i) upon transmission by telecopy, electronic mail or other form of telecommunication, (ii) 48 hours after deposit in the United States mail, postage prepaid, (iii) in the case of overnight mail, upon delivery to the addressed destination, or (iv) in the case of personal delivery to any person, upon actual receipt. Each Party may, by written notice to the other Party, from time to time modify the address or number to which communications are to be given under this Agreement:

If to the City:

City of San Juan Capistrano
 32400 Paseo Adelanto
 San Juan Capistrano, CA 92675
 Attention: City Manager
 Telephone: (949) 443-6315
 E-mail: bsiegel@sanjuancapistrano.org

If to SMWD:

Santa Margarita Water District
 26111 Antonio Parkway
 Rancho Santa Margarita, CA 92688
 Attention: General Manager
 Telephone: (949) 459-6590
 E-mail: danf@smwd.com

20.2. Termination.

(a) This Agreement shall be terminated at any time before the Annexation Effective Date upon the earlier of the following: (i) upon 30 days' written notice of termination by one Party to the other Party; or (ii) the official announcement by either Party of its abandonment of the transfer of the Utilities Systems as contemplated herein.

(b) In the event that either Party decides to terminate the Annexation proceedings for any reason, each Party shall bear its own costs and expenses, including professional fees and attorneys' fees, incurred in connection with all matters related to the preparation, analysis, drafting and evaluation of the MOU, this Agreement and the Annexation; except that the City shall reimburse SMWD for the cost of the Real Property Inventory Report.

20.3. MOU Superseded; Integration. Upon execution of this Agreement by the Parties, the MOU shall be superseded in its entirety. Except for the Collateral Agreements and Documents, this Agreement, together with all exhibits hereto, constitutes the entire understanding and agreement of the Parties with respect to the subject matters hereof, and integrates all of the terms and conditions mentioned herein or incidental thereto, and supersedes all prior or contemporaneous negotiations, discussions and previous agreements between the Parties concerning all or any part of the subject matters of this Agreement.

20.4. Nonliability of City and SMWD Officials, Employees and Agents. No official, employee or agent of the City or SMWD, acting in his or her official capacity, shall be personally liable to the City or SMWD, or any successor or assign, for any loss, costs, damage, claim, liability, or judgment, arising out of or in connection with this Agreement, or for any act or omission on the part of the City or SMWD, unless such liability is permitted and provided by either California law or the applicable City or SMWD contract with that official, employee or agent.

20.5. Interim Operations Agreements. Nothing in this Agreement shall be construed to prohibit the City and SMWD from entering into any limited operations or service agreements, with each other or with other outside consulting firms and entities, related to the Utilities Systems prior to the Annexation Effective Date.

20.6. Construction.

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of sections in this Agreement are solely for convenience of reference, do not constitute a part of this Agreement and shall not affect the meaning, construction or effect of the provisions of this Agreement.

20.7. Not Construed Against Drafter. This Agreement has been negotiated and prepared by the Parties and their respective counsel. The Parties agree that the rule of construction that a contract be construed against the drafter shall not apply. In the event of any ambiguity with

respect to a term of condition of this Agreement, such ambiguity shall not be construed for or against a Party on the basis that such Party did or did not author the same.

20.8. Governing Law and Venue. This Agreement has been negotiated and executed in the State and shall be governed by and construed under the laws of the State, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any action at law or in equity brought by any Party hereto arising out of this Agreement shall be brought in the Superior Court of the State in and for the County of Orange.

20.9. Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid or void, each of the remainder of the provisions shall continue in full force and effect, unless the rights and interests of a Party under a provision have been materially altered or abridged by such invalidation or voiding.

20.10. No Assignment. No part of this Agreement may be assigned by a Party to another person or entity without the prior written consent of the other Party.


20.11. No Third Party Beneficiary. This Agreement is not intended nor shall it be construed to create any third-party beneficiary rights in any person or entity other than the Parties. Nothing in this Agreement, expressed or implied, is intended to give to any person other than the City and SMWD any right, remedy or claim under or by reason of this Agreement.

20.12. Execution in Counterparts. This Agreement may be executed in counterparts, each of which, when the Parties have signed this Agreement, shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

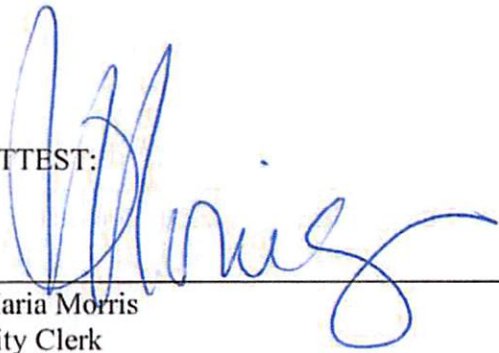
[Remainder of Page Intentionally Left Blank. Signatures Follow.]

IN WITNESS WHEREOF, the Parties to this Agreement have caused the same to be executed by each of their duly authorized officers as follows:


CITY OF SAN JUAN CAPISTRANO

By: 
Troy A. Bourne
Mayor

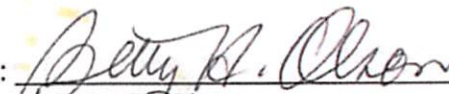
ATTEST:


Maria Morris
City Clerk

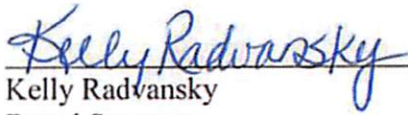
APPROVED AS TO FORM:


Kevin G. Ennis
Special Counsel


SANTA MARGARITA WATER DISTRICT

By: 
Betty H. Olson
President of Board of Directors

ATTEST:


Kelly Radvansky
Board Secretary

APPROVED AS TO FORM:

 for
DeeAnne Gillick
Special Counsel

SCHEDULE OF EXHIBITS

- Exhibit A -- Definitions**
- Exhibit B -- Maps showing the Service Areas/Territories of the Utilities Systems**

EXHIBIT A

DEFINITIONS

"2014 SJBA Bonds" means the \$20,361,090 (original principal amount) San Juan Basin Authority Lease Revenue Bonds (Ground Water Recovery Project), Issue of 2014.

"2014A Refunding Bonds" means the \$19,922,771 (original principal amount) City of San Juan Capistrano Water Revenue Refunding Bonds, Series 2014A.

"2017 Installment Purchase Agreement" means the Installment Purchase Agreement, dated as of December 1, 2017, by and between the City and the Public Property Financing Corporation of California, pursuant to which the City is obligated to make certain Installment Payments (as defined therein, with an original principal component of \$8,410,000).

"Agreement" means this Annexation Agreement, as the same may be modified from time to time, in writing by both Parties.

"Annexation" means SMWD's annexation of the Territories pursuant to the Reorganization Act, as contemplated in the Agreement.

"Annexation Effective Date" means the date to be agreed upon in writing by the Parties subject to the terms of the LAFCO Approval, as the date on which the Utilities Systems will be transferred by the City to SMWD to consummate the Annexation.

"Assets" means the assets owned by the City that are accounted for in the Asset Register and to be described in the Computer Equipment Report and the Real Property Inventory Report and that are used in connection with and for purposes of operating the Utilities Systems, as applicable, including but not limited to the City Water Rights, physical facilities, real property interests (including easements), personal property, cash or cash equivalents or other funds.

"Asset Register" means collectively, databases, lists and other compilations that document all of the Assets of the Utilities Systems.

"Assignment Agreement" means the Bill of Sale, Assignment and Assumption Agreement to be entered into by and between the City and SMWD pursuant to Section 6.2(a).

"CEQA" means the California Environmental Quality Act, set forth in California Public Resources Code Sections 21000 *et seq.*

"CEQA Guidelines" means regulations implementing CEQA, set forth in Title 14 of the California Code of Regulations Sections 15000 *et seq.*

"City" means the City of San Juan Capistrano, California.

“City Attorney Agreements” means, collectively, the agreements that the City has entered into for the engagement of attorney services, for the representation of the City in any matter pertaining to the Utilities Systems, including any matter relating to the Annexation.

“City Council” means the City Council of the City.

“City Manager” means the City Manager (or in the absence of the City Manager, the Assistant City Manager) of the City.

“City Representatives” means, with respect to a specified purpose, the persons (which may be employees, agents or consultants of City) designated by the City Manager, in writing, as authorized representatives of the City.

“City Water Rights” means all water rights controlled, exercised, applied for or held by the City, including, without limitation, pueblo, appropriative, riparian, overlying, and prescriptive right, and any other right, allocation or entitlement to divert, produce, or use surface water or groundwater, whether existing at common law or pursuant to any permit, agreement, contract, adjudication, or any judicial or administrative action.

“Collateral Agreements and Documents” means, collectively, the agreements to be entered into by the City and/or SMWD and other documents to be prepared as contemplated in Section 19.1 to effectuate the transfer of the City’s right, title and interests in the Utilities Systems and the related transfers contemplated in this Agreement.

“Computer Equipment Report” means the computer equipment associated with the GWRP and the SCADA systems to be specifically identified by the Parties to be transferred by the City to SMWD on the Annexation Effective Date.

“County” means the County of Orange, California.

“Customers” means ratepayers of the Utilities Systems.

“CVWD” means the former Capistrano Valley Water District (originally known as Orange County Waterworks District No. 4), which was a subsidiary district of the City and subsequently dissolved and merged into the City. The Certificate of Completion of such dissolution issued by LAFCO was recorded on July 29, 2004, in the Official Records of the County, as Document No. 2004000690271.

“Daneshmand Case” means “Hootan Daneshmand, et al. v. City of San Juan Capistrano, O.C. Sup. Court Case No. 30-2016-00829167-CU-CXC; App. Ct. Case No. G058394 and all related matters.”

“ETM Joint Venture” means the undertakings pursuant to the Agreement for Joint Construction and Operation of Water Transmission-Distribution Facilities, dated September 11, 1961, by and between Moulton Niguel Water District and Orange County Water Works District No. 4 (succeeded by CVWD, and later the City).

“GWRP” means the Groundwater Recovery Plant operated by the City.

“GWRP Land” means the City-owned land (or the applicable portion thereof) on which the GWRP is situated.

“ID9” means the new improvement district (currently contemplated to be designated “Improvement District No. 9”) proposed to be formed by SMWD, which will consist of only the Territories; provided that until the formation of such new improvement district, “ID9” shall refer to the geographical area of the Territories.

“Joint Venture” means a joint powers authority or joint venture of which the City is a member for the operation of the Water System or the Wastewater System.

“JTM Joint Venture” means the undertakings pursuant to the Amended and Restated Joint Exercise of Powers Agreement to Operate and Maintain the Joint Transmission Main Facilities, effective February 28, 2000, by and among Tri-Cities Municipal Water District, Moulton Niguel Water District, Irvine Ranch Water District, CVWD (as succeeded by the City), El Toro Water District, the City of San Clemente, and the SCWD.

“LAFCO” means the Local Agency Formation Commission of Orange County, California.

“LAFCO Application” means the application and plan for services for a sphere of influence amendment and annexation to be submitted to LAFCO with respect to the Annexation.

“LAFCO Approval” means the action to be taken by the LAFCO Commission to approve the Annexation.

“LAFCO Certificate of Completion” means the Certificate of Completion to be issued by the Executive Officer of LAFCO pursuant to California Government Code Section 56658, upon LAFCO Approval.

“Litigation Disclosure List” means a list of litigation affecting the Utilities Systems to which the City is a party that is either: (i) pending and actually known to the City, or (ii) threatened and actually known to the City as disclosed to SMWD on January [14], 2020.

“MOU” means the Memorandum of Understanding, dated August 23, 2019, by and between the City and SMWD.

“MWDOC” means Municipal Water District of Orange County.

“MSR” means the final Focused Municipal Service Review report received and filed by the LAFCO Commission on October 10, 2018, assessing the potential transfer of the operation and facilities of the Utilities Systems to another public agency.

“New Easements” means easements or access licenses, or other similar real property interests to any Retained Property or any other City-owned property, to be identified in the Real Property Inventory Report, that are proposed to be created in favor of SMWD, to enable SMWD’s operation of the Utilities Systems after the Annexation Effective Date.

“OCERS” means the Orange County Employees Retirement System.

“OCERS 6/17/19 Determination” means the determination by the Board of Retirement (which administers OCERS) on June 17, 2019 regarding the OCERS Obligation.

“OCERS Obligation” means the additional payment required to be paid by the City to OCERS as the result of the Annexation, pursuant to the OCERS 6/17/19 Determination.

“Outstanding Bond Obligations” means, collectively, the 2014 SJBA Bonds, the 2014A Refunding Bonds and the 2017 Installment Purchase Agreement.

“Party” means, as context requires, either the City or SMWD.

“Post-Transfer Liabilities” means all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, damages and expenses (of any nature whatsoever, in law or equity, known or unknown, foreseen or unforeseen, contingent or non-contingent), in any way related to or in any way arising out of or in connection with the Utilities Systems, unless such obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses both: (i) arose during the City’s operation of the Utilities Systems prior to the Annexation Effective Date, and (ii) are covered under the City’s risk pool insurance.

“Prospective Employees” means current City employees of the Utilities Systems who become SMWD employees upon Annexation.

“Real Property Inventory Report” means the report regarding real property interests to be prepared pursuant to Section 6.5.

“Reorganization Act” means the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000, set forth in California Government Code Section 56000 *et seq.*

“Retained Assets” means all of the assets (to be identified by the City in writing) that are to be retained by the City after the Annexation Effective Date.

“Retained Properties” means all of the real property interests (to be identified in the Real Property Inventory Report) that are to be retained by the City after the Annexation Effective Date.

“SCWD” means the South Coast Water District.

“SCWD Administrative Complaint” means the complaint to the SWRCB filed by SCWD on August 13, 2015, against the SJBA and the City regarding the City’s diversion and use of water pursuant to SWRCB Permit No. 21074 and all related matters, which complaint is pending.

“SCWD Water Services Agreement” means the Water Services Agreement, dated as of May 2, 2000, by and between the City and SCWD.

“SCWD Water Services Assignment Agreement” means the Assignment Agreement to be entered into by and among the City, SMWD and SCWD, to transfer of the City’s rights and obligations under the SCWD Water Services Agreement.

“Service Area” means the respective geographical area served by the Water System or the Wastewater System, as applicable, as shown in Exhibit B. **“Service Areas”** means, together, the Service Area with respect to the Water System and the Service Area with respect to the Wastewater System.

“Sewer Fund” means the funds established and held by the City for the Wastewater System (identified as the “Municipal Sewer Enterprise Fund” in the City’s most recent audited financial statements).

“SJBA” means the San Juan Basin Authority, a California joint powers authority.

“SMWD” means the Santa Margarita Water District.

“SMWD Board” means the Board of Directors of SMWD.

“SMWD General Manager” means the General Manager (or in the absence of the General Manager, the Deputy General Manager) of SMWD.

“SMWD Representatives” means, with respect to a specified purpose, the persons (which may be employees, agents or consultants of SMWD) designated by SMWD General Manager, in writing, as authorized representatives of SMWD.

“SMWD Work Plan” means the plan prepared by SMWD with respect to the integration of the Utilities Systems into SMWD’s operations.

“SOCWA” means the South Orange County Wastewater Authority, a California joint powers authority.

“State” means the State of California.

“SWRCB” means the California State Water Resources Control Board.

“Territory” means the portion of the Service Area with respect to the Water System or the Wastewater System, as applicable, within the City’s boundaries. **“Territories”** means, together, the Territory with respect to the Water System and the Territory with respect to the Wastewater System.

“Transferred Properties” means all of the real property interests, as identified in the Real Property Inventory Report, that are proposed to be transferred by the City to SMWD in connection with the Annexation.

“Utilities Systems” means, together, the Water System and the Wastewater System.

“Water Rights Transfer Agreement” means the agreement (or agreements) to be entered into by the Parties before the Annexation Effective Date to govern the transfer of the City Water Rights.

“Water System” means the potable water system and the recycled water system of the City, to be transferred to SMWD.

“Water Fund” means the fund established and held by the City for the Water System (identified as the “Water Enterprise Fund” in the City’s most recent audited financial statements).

“Wastewater System” means the wastewater system of the City, to be transferred to SMWD.

EXHIBIT B

MAPS SHOWING THE SERVICE AREAS/TERRITORIES OF THE UTILITIES SYSTEMS

(see attached)

SEWER SERVICE BOUNDARY

City of San Juan Capistrano



The City is the sewer service provider in this area. The City operates the sewer collection system in this area but connects to an MNWD sewer system for conveyance to waste water treatment plant.

Schuler-Bathgate property may be on septic. It is not clear.

Through a POC at this location between MNWD and CSJC, the City provides some 150 houses with sewer service.

MNWD provides sewer service to Hidden Creek Estates by agreement.

MNWD has agreed to provide sewer service to Hamilton Oaks Winery, and up to 2 restrooms on the CSJC NOS property.

The City provides sewer service to one private home.

The City has an agreement with MNWD to provide sewer service to four parcels in TPM 93-129. The laterals on site will be private.

The City provides sewer service to two homes and one lot.

Sewer service provided by South Coast Water District.

Portion of the Old CBWD (Capistrano Beach Water District) offices and waste water treatment plant. The area is not in CSJC sewer service area. There may be sewer provided by CSJC; based on aerial interpretation of apparent office and mobile homes parked in the area and the historic presence of CSJC sewer lines nearby.

Legend

- Sewer Service Boundary
- Sites served outside boundary
- City Boundary



WATER SERVICE BOUNDARY City of San Juan Capistrano



The former Schuler-Bathgate property is served water by MNWD. Only part of the property is in CSJC water service area. It receives no service from CSJC however, it does have a private well on OsoRoad, in CSJC, that serves its irrigation needs.

(5) RV Storage lot served by CSJC Water.

(7) MNWD provides sewer service to CSJC, providing water service for 8 homes in the Hidden Creek Estates area.

(8) MNWD provides sewer service to CSJC, providing water service for 3 sites in City's North Open Space.

(9) The City provides water and sewer service to one private home.

(10) The City provides sewer but not water service to two homes and one lot.

(4) County green waste facilities served by CSJC (water only).

(3) County landfill offices served by CSJC (water only).

(1) Portion of Dana Point Served by CSJC.

(2) Portion in Dana Point in the old CVWD service area, but not served water. There are no City water lines in this area.

Legend

- Water Service Boundary
- Sites served outside boundary
- City Boundary

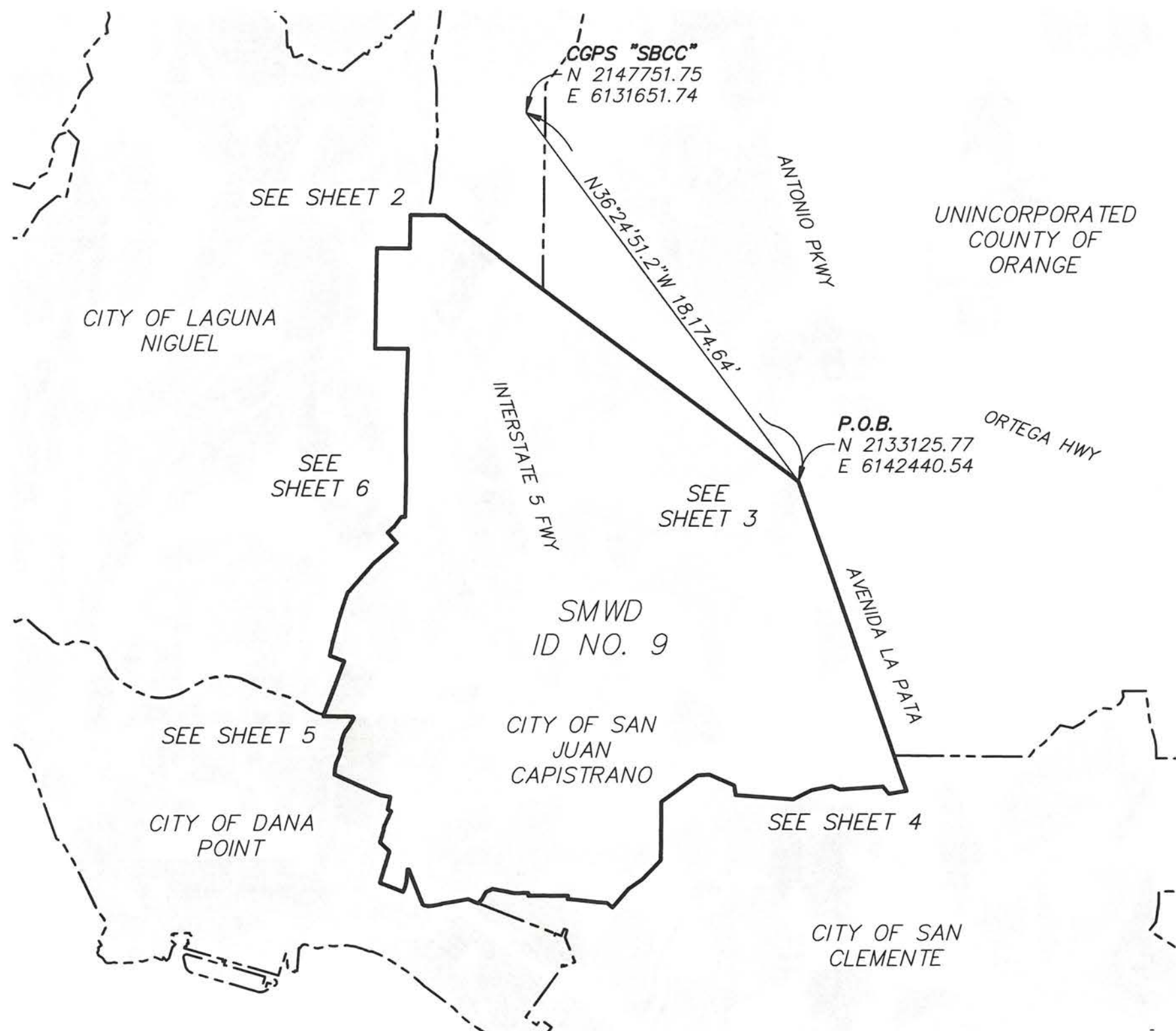


0 0.5 1 2 Miles

EXHIBIT B

MAP

RECORD OF SURVEY OF SAN JUAN CAPISTRANO RECORDED IN BOOK 2, PAGES
31 THROUGH 37 OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY
RECORDER OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA



HUITT-ZOLLARS

Huitt-Zollars, Inc.
2603 Main Street, Suite 400, Irvine 92614
(949) 988-5815

LEGEND:

- PROPOSED ANNEXATION BOUNDARY
- EXISTING CITY BOUNDARY
- ASSESSOR PARCEL NUMBER

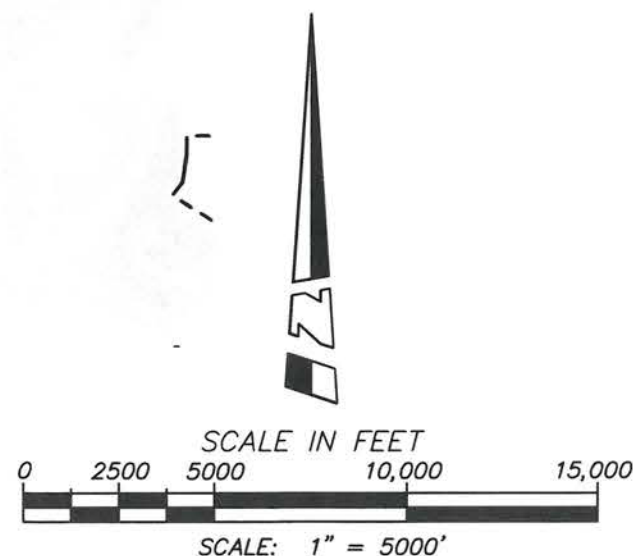


EXHIBIT "B"

SANTA MARGARITA WATER DISTRICT
ANNEXATION OF THE CITY OF SAN JUAN CAPISTRANO
WATER WASTEWATER UTILITIES (DA20-01)
ID No. 9

NOTE:

THIS ANNEXATION IS COMPRISED OF 1 AREA WHICH
COLLECTIVELY CONTAINS 8,730 ACRES +/-

COORDINATES SHOWN ARE BASED ON THE CALIFORNIA
COORDINATE SYSTEM (CCS83), ZONE VI, 1983 NAD
(2017.5 EPOCH OCS GPS ADJUSTMENT).

PREPARED BY ME OR UNDER MY DIRECT SUPERVISION:

Russell H. Hanson

RUSSELL H. HANSON
P.L.S. 8873

04/10/2020

Russell H. Hanson



THIS DESCRIPTION AND MAP OF PROPOSED ANNEXATION
DOES MEET THE APPROVAL OF THE ORANGE COUNTY
SURVEYOR'S OFFICE.

DATED THIS 21st DAY OF APRIL, 2020

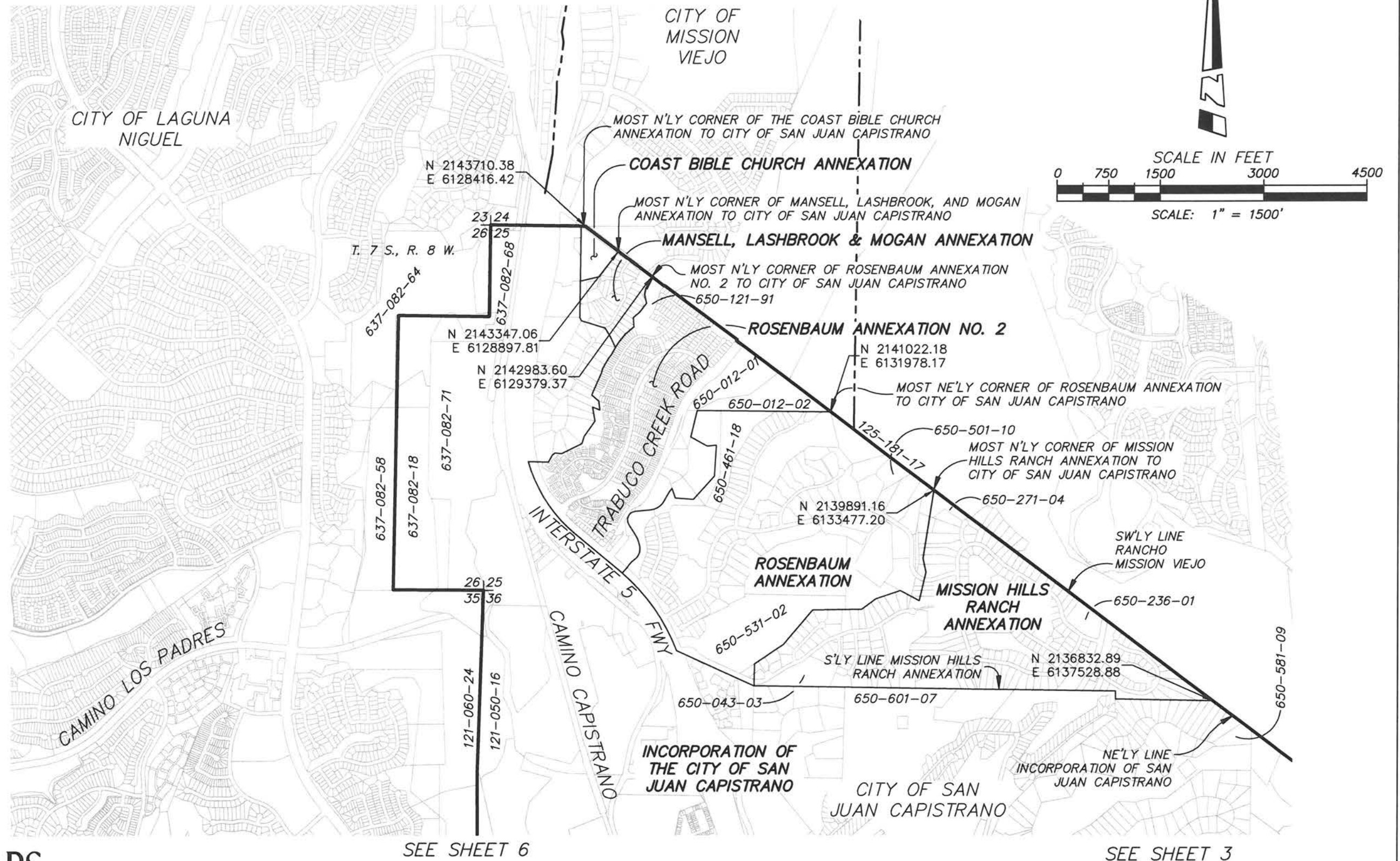
KEVIN R. HILL, COUNTY SURVEYOR
L.S. 6617

Lily M. N. Sandberg

BY: LILY M. N. SANDBERG, DEPUTY COUNTY SURVEYOR
P.L.S. 8402



EXHIBIT "B"

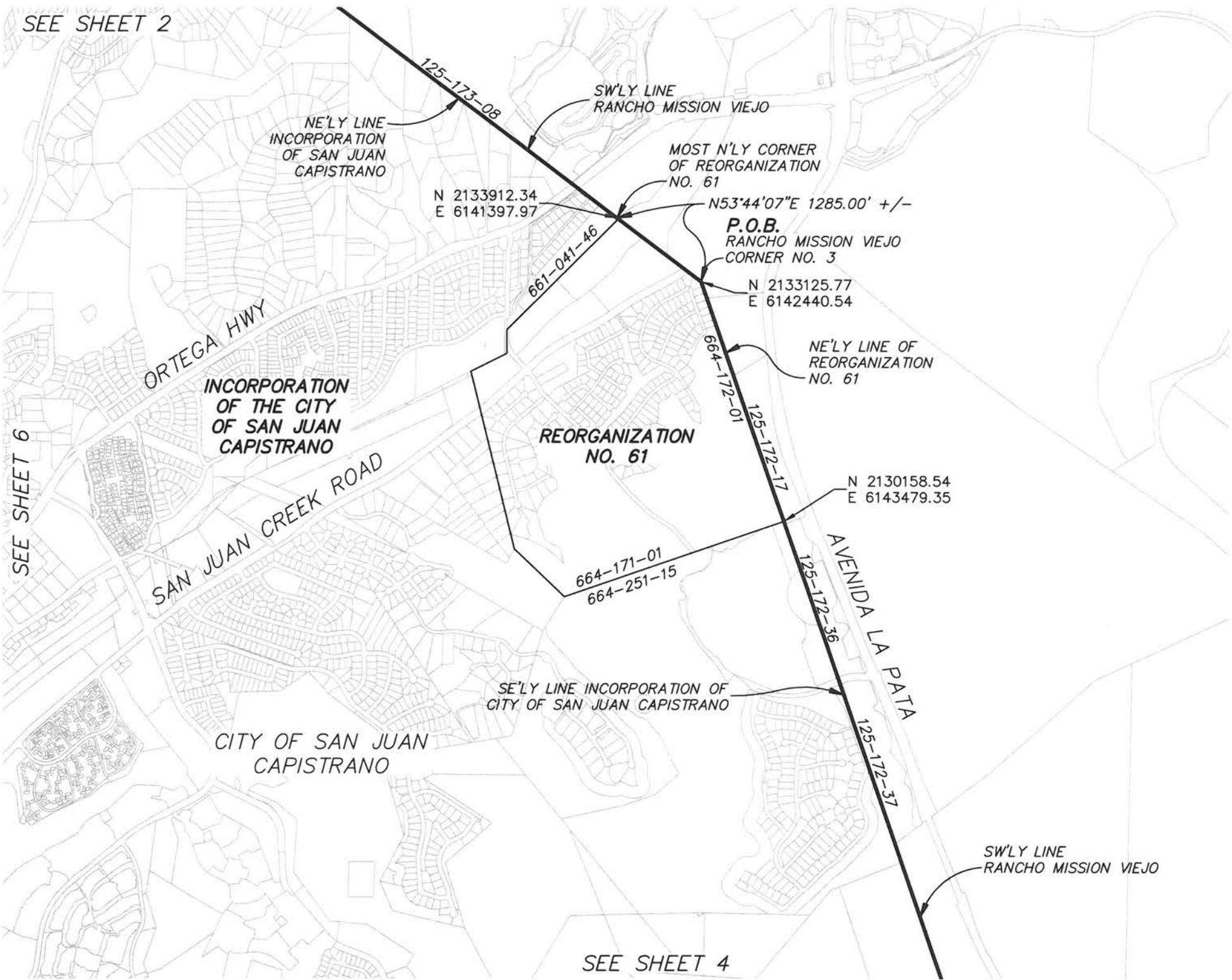


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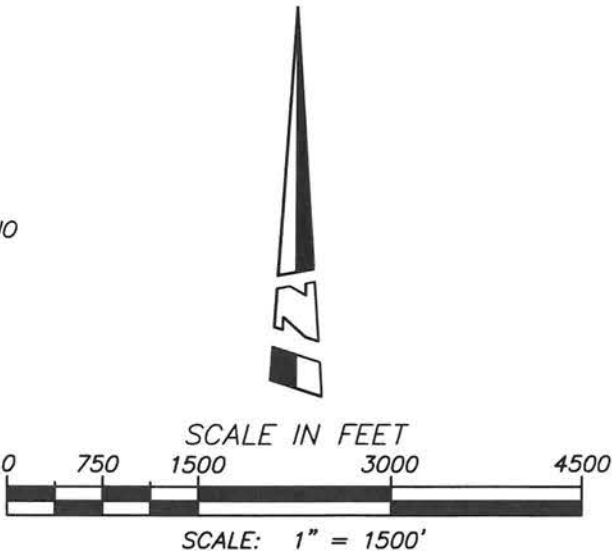
NOTE:

SEE SHEET 1 FOR LEGEND AND AREA SUMMARY.

EXHIBIT "B"



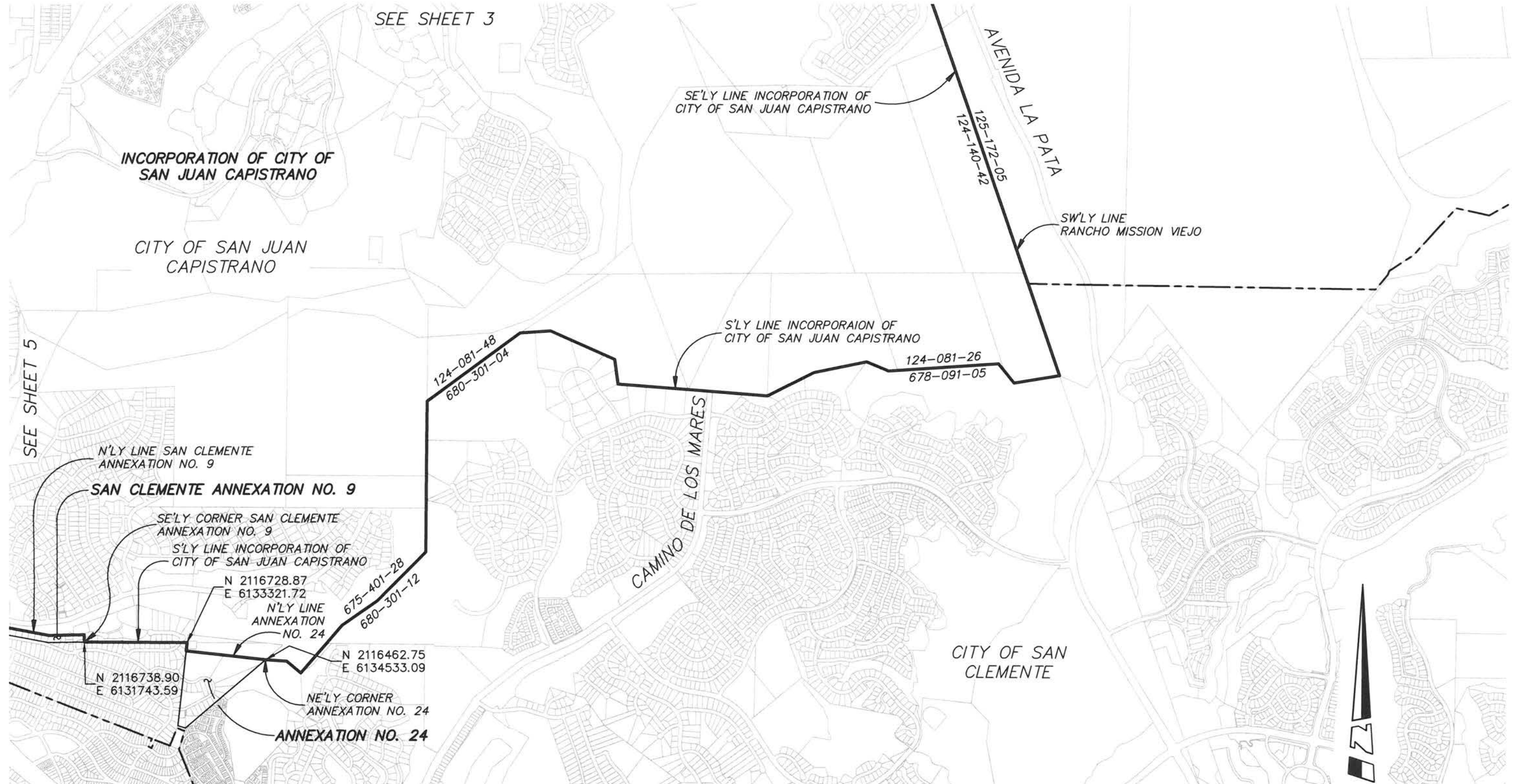
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NOTE:

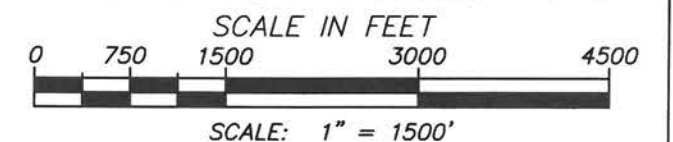
SEE SHEET 1 FOR LEGEND AND AREA SUMMARY.

EXHIBIT "B"



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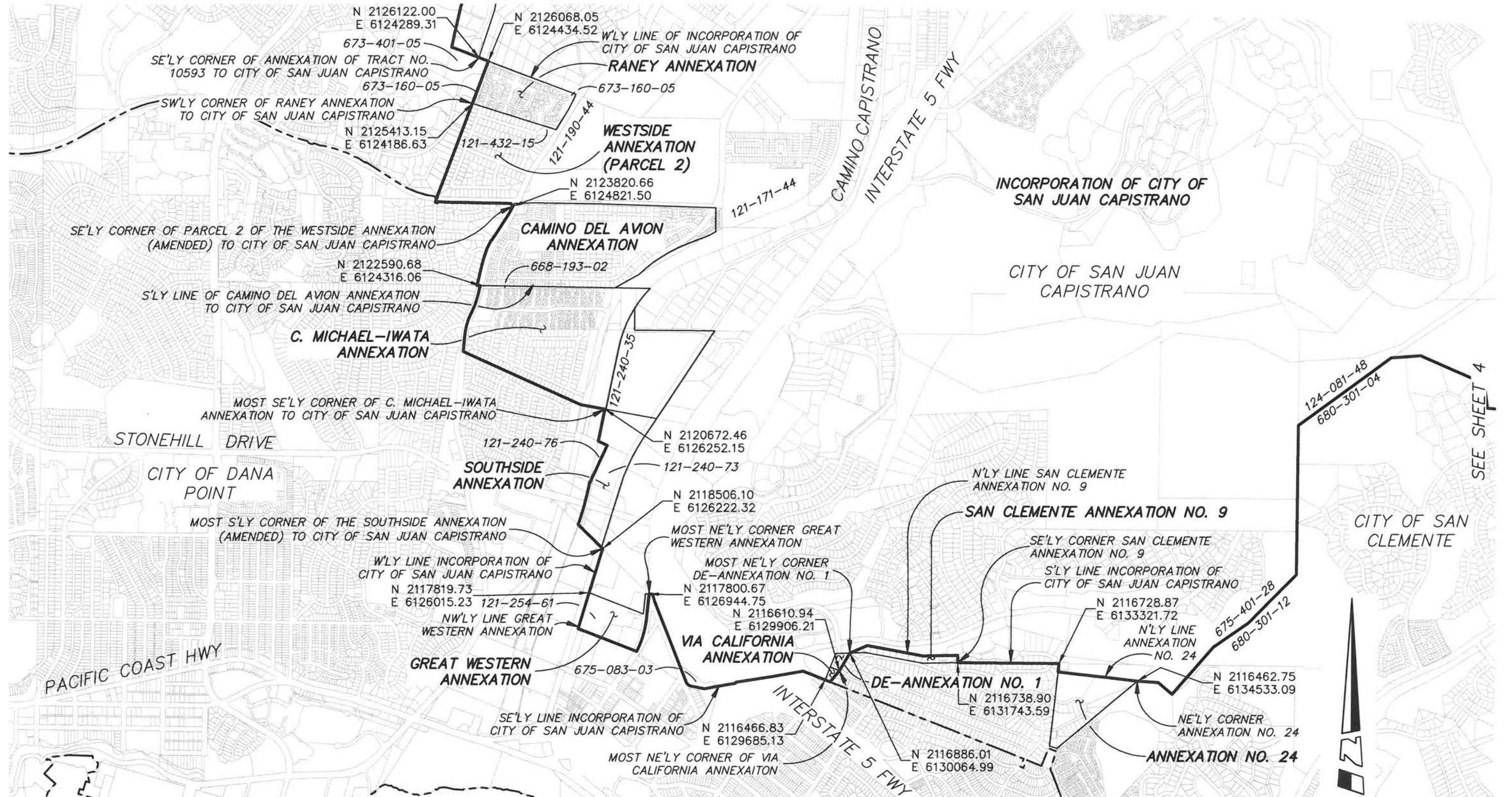


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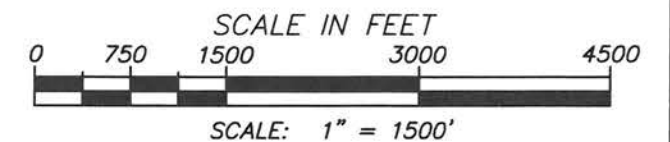
SEE SHEET 1 FOR LEGEND AND AREA SUMMARY.

EXHIBIT "B"

SEE SHEET 6

**HUITT-ZOLLARS**

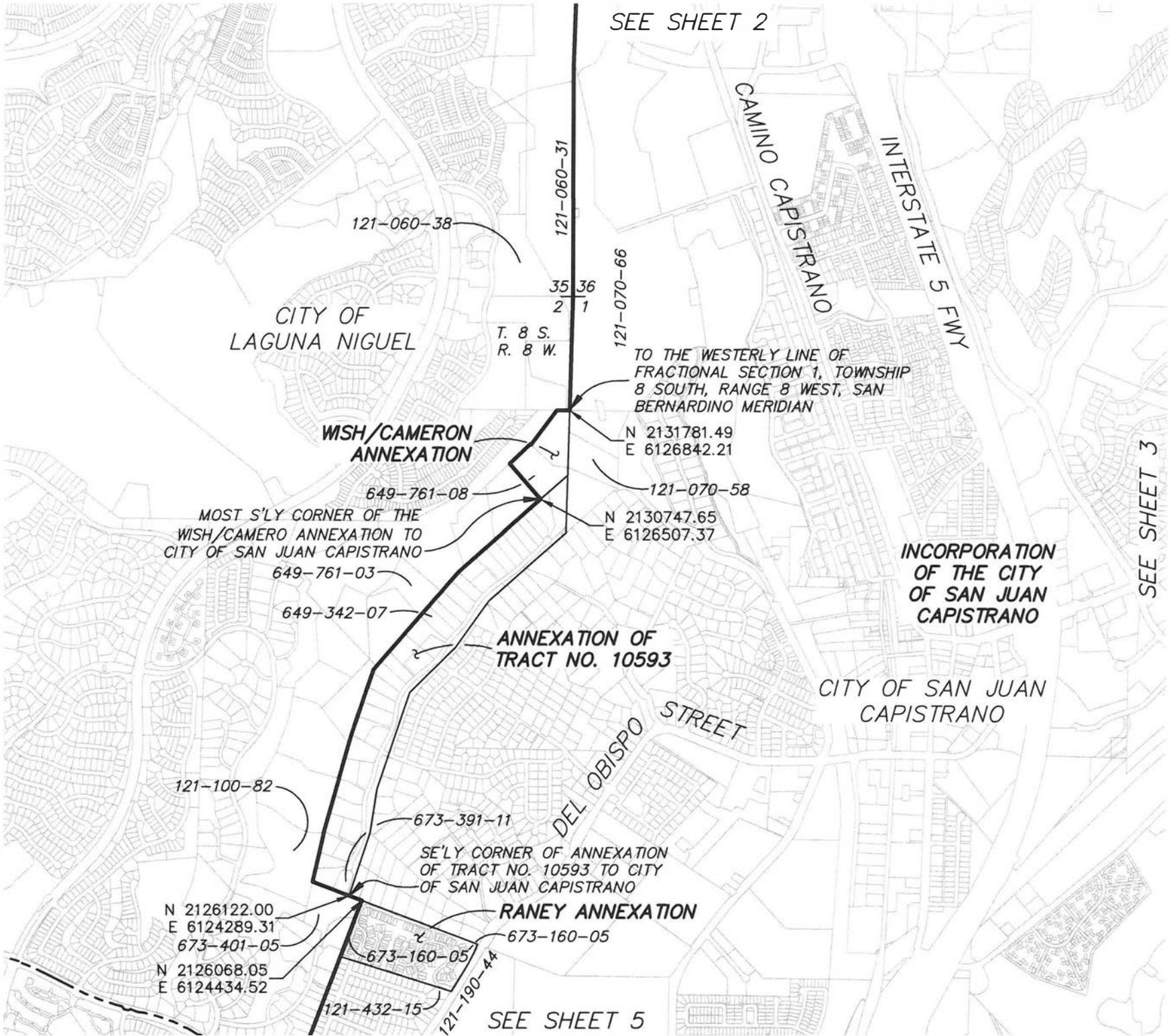
Huitt-Zollars, Inc.
 2603 Main Street, Suite 400, Irvine 92614
 (949) 988-5815



NOTE:

SEE SHEET 1 FOR LEGEND AND AREA SUMMARY.

EXHIBIT "B"



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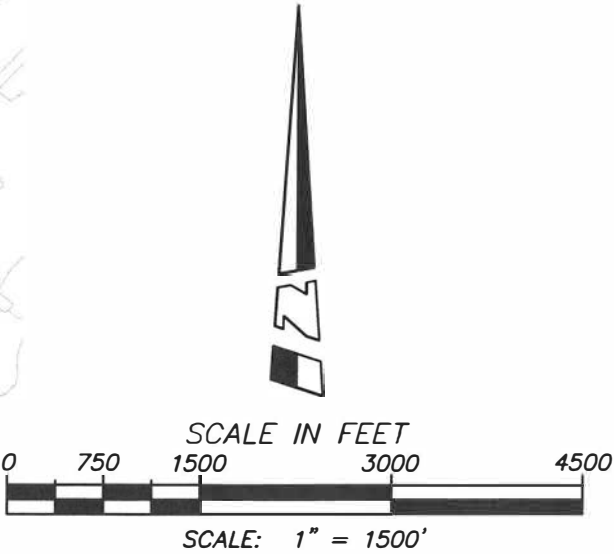


EXHIBIT C

Boundary Description

R307804.22

04-10-20

EXHIBIT "A"
SANTA MARGARITA WATER DISTRICT
ANNEXATION OF THE CITY OF SAN JUAN CAPISTRANO WATER
WASTEWATER UTILITIES (DA20-01)
ID No. 9

That portion of Fractional Sections 23, 25, 26, and Sections 35, 36 in Township 7 South, Range 8 West, San Bernardino Meridian; together with Fractional Sections 30, 31, and 32 in Township 7 South, Range 7 West, San Bernardino Meridian; together with Fractional Sections 1, 2, 11, 12, 13, and 14 in Township 8 South, Range 8 West, San Bernardino Meridian; and together with Fractional Sections 4, 5, 6, 7, 9, 16, 17, 18, and Section 8 in Township 8 South, Range 7 West, San Bernardino Meridian, as shown on the Record of Survey of San Juan Capistrano filed in Book 2, Pages 31 through 37 of Records of Survey, in the office of the County Recorder of the County of Orange, State of California; together with The Townsite of San Juan Capistrano, as shown in Book 3, Pages 120 and 121 of Miscellaneous Records of Los Angeles County, in the office of the County Recorder of the County of Los Angeles, State of California; together with Fractional Sections 13 and 23, and Section 24 in Township 8 South, Range 8 West and Fractional Sections 16, 17, 18, and 19 in Township 8 South, Range 7 West of Rancho Boca La Playa as said Sections are shown on Book 4, Pages 188 and 199 of Patents, in the District Land Office.

Commencing at the published coordinate value for the Continuous Global Positioning Station (CGPS) "SBCC", North 2147751.75 and East 6131651.74, being part of the California Spatial Reference Network (CSRN) per records on file in the office of the Orange County Surveyor for the County of Orange Horizontal Control Network:

Thence, South 36°24'51.2" East, 18,174.64 feet to the POINT OF BEGINNING, being the Southeasterly terminus of that certain course in the Northeasterly boundary of Reorganization No. 61 (Annexation of the LACOUAGUE RANCH to the City of San Juan Capistrano), as approved by the Orange County Surveyor's Office on May 19, 1982, as shown on map sheet as having a bearing and distance of "N 53°44'07" W 1285.00 feet" +/- as shown on map sheet, on said Reorganization, said point also described as "Rancho Mission Viejo Corner No. 3" as shown on the Record of Survey filed in Book 9, Pages 15 and 22, inclusive, of Records of Survey, in the office of the County Recorder of said Orange County.

Course 1: Southeasterly along the Northeasterly line of said Reorganization No. 61 to an angle point in the Incorporation of the City of San Juan Capistrano, as adopted by the Board of Supervisors of said County of Orange, certified on April 19, 1961 as Resolution No. 61-385, said point being an intersection of the Southeasterly line of said

Reorganization No. 61 and the Southwesterly line of Rancho Mission Viejo, as shown on said Record of Survey;

Course 2: Southeasterly, Westerly, and Southwesterly along said Incorporation of the City of San Juan Capistrano to the Northeasterly corner of Annexation No. 24, Tentative Tract No. 8495 to the City of San Clemente (Transfer of Territory from the City of San Juan Capistrano);

Course 3: Westerly along the Northerly line of said Annexation No. 24 to an angle point in said Incorporation of the City of San Juan Capistrano, said point being the intersection of the land described in Book 7385, Page 355 of Deeds and the Southerly line of said Incorporation of the City of San Juan Capistrano;

Course 4: Westerly along the Southerly line of said Incorporation of the City of San Juan Capistrano to the Southeasterly corner of San Clemente Annexation No. 9 and De-Annexation No. 1, as certified by the City of San Juan Capistrano on November 13, 1962 as Resolution No. 62-11-13-2;

Course 5: Northerly, Westerly, and Southwesterly along the Northerly line of said City of San Clemente Annexation No. 9 to the most Northeasterly corner of said De-Annexation No. 1;

Course 6: Southwesterly along the Southeasterly line of said City of San Clemente De-Annexation No. 1 to the most Northeasterly corner of the Via California Annexation to the City of San Juan Capistrano as certified by the California Secretary of State on August 27, 1965 as Ordinance No. 105;

Course 7: Southwesterly and Westerly along the Southeasterly and Southerly line of said Via California Annexation to the intersection of the Westerly line of said Via California Annexation and said Incorporation of the City of San Juan Capistrano;

Course 8: Westerly and Northwesterly along said Southeasterly line of said Incorporation of the City of San Juan Capistrano to the most Northeasterly corner of the Great Western Annexation to San Juan Capistrano, as approved by the Orange County Surveyor's Office on June 25, 1986;

Course 9: Southerly, Northwesterly and Northeasterly along the Easterly, Southwesterly and Northwesterly lines of said Great Western Annexation to the intersection of said Northwesterly line of said Great Western Annexation and the Westerly line of said Incorporation of the City of San Juan Capistrano;

Course 10: Northeasterly along said Westerly line of said Incorporation of the City of San Juan Capistrano to the most Southerly corner of the Southside Annexation (Amended) to City of San Juan Capistrano, as approved by the Orange County's Surveyor Office on October 27, 1987;

Course 11: Northwesterly and Northerly along the Southwesterly and Westerly line of said Southside Annexation to the most Southeasterly corner of the C. Michael – Iwata Annexation to the City of San Juan Capistrano, as certified by the California Secretary of State on May 14, 1973 as Ordinance No. 220;

Course 12: Northwesterly and Northerly along the Southwesterly and Westerly lines of said C. Michael – Iwata Annexation to a point on the Southerly line of the Camino Del Avion Annexation to the City of San Juan Capistrano, California, as certified by the California Secretary of State on August 10, 1964 as Ordinance No. 93;

Course 13: Westerly and Northeasterly line along said Southerly line and the Northwesterly line of said Camino Del Avion Annexation to the Southeasterly corner of Parcel 2 of the Westside Annexation (Amended) to the City of San Juan Capistrano as approved by the Orange County's Surveyor Office on October 27, 1987;

Course 14: Westerly and Northeasterly along the Southerly and Northwesterly lines of said Parcel 2 of said Westside Annexation to the Southwesterly corner of the Raney Annexation to the City of San Juan Capistrano, as certified by the California Secretary of State, on August 20, 1973 as Resolution No. 73-8-6-5;

Course 15: Northeasterly along the Northwesterly line of said Raney Annexation to a point on the Westerly line of said Incorporation to the City of San Juan Capistrano;

Course 16: Northwesterly along said Westerly line of said Incorporation to the City of San Juan Capistrano to the Southeasterly corner of the Annexation of Tract No. 10593 (Recorded) to the City of San Juan Capistrano, as approved by the Orange County Surveyor's Office on January 21, 1981;

Course 17: Northwesterly and Northeasterly along the Southwesterly and Northwesterly lines of said Annexation of Tract No. 10593 to the most Southerly corner of the Wish/Camero Annexation to the City of San Juan Capistrano, as approved by the Orange County Surveyor's Office on February 21, 1981;

Course 18: Northwesterly, Northeasterly, and Easterly along the Southwesterly, Northwesterly, and Northerly lines of said Wish/Camero Annexation to the Westerly line of said Fractional Section 1, Township 8 South, Range 8 West, San Bernardino Meridian, as shown on the Record of Survey filed in Book 53, Pages 17 through 18, in Records of Survey, in the office of the County Recorder of the County of Orange;

Course 19: Northerly, Westerly, Northerly, Easterly, Northerly, and Easterly along the Westerly lines of Fractional Section 1, Township 8 South, Range 8 West and Section 36 Township 7 South, Range 8 West, San Bernardino Meridian, the Southerly line of Fractional Section 26, Township 7 South, Range 8 West, the Westerly line of the East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of said Fractional Section 26, the Westerly line of the Southeast $\frac{1}{4}$ of

the Northeast $\frac{1}{4}$ of said Fractional Section 26, the Northerly line of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Fractional Section 26, the Easterly line of said Fractional Section 26, and the Northerly line of Fractional Section 25, Township 7 South, Range 8 West, as shown on said Record of Survey, to the most Northerly corner of the Coast Bible Church Annexation to the City of San Juan Capistrano, as approved by the Orange County Surveyor's Office on October 15, 1981;

Course 20: Southeasterly along the Northeasterly line of said Coast Bible Church Annexation to the most Northerly corner of the Mansell, Lashbrook and Mogan Annexation to the City of San Juan Capistrano, as approved by the Orange County Surveyor's Office on October 10, 1978;

Course 21: Southeasterly along the Northeasterly line of said Mansell, Lashbrook and Mogan Annexation to the most Northerly corner of the Rosenbaum Annexation Number 2 to the City of San Juan Capistrano, as certified by the California Secretary of State on August 27, 1971 as Ordinance No. 181;

Course 22: Southeasterly along the Northeasterly line of said Rosenbaum Annexation Number 2 to the most Northeasterly corner of the Rosenbaum Annexation to the City of San Juan Capistrano, as certified by the California Secretary of State on January 28, 1965 as Ordinance No. 103;

Course 23: Southeasterly along the Northeasterly line of said Rosenbaum Annexation to the most Northerly corner of the Mission Hills Ranch Annexation to the City of San Juan Capistrano, as certified by the California Secretary of State on January 16, 1967 as Resolution No. 66-12-19-3;

Course 24: Southeasterly along the Northeasterly line of said Mission Hills Ranch Annexation to an angle point in said Incorporation to the City of San Juan Capistrano, said point being the intersection of the Southerly line of said Mission Hills Ranch Annexation and said Incorporation of the City of San Juan Capistrano;

Course 25: Southeasterly along said Northeasterly line of the Incorporation of the City of San Juan Capistrano to the most Northerly corner of said Reorganization No. 61;

Course 26: Southeasterly along the Northeasterly line of said Reorganization No. 61 to the point of beginning.

Containing an area of 8,730 acres, more or less.

As shown on Exhibit B attached hereto and by this reference made a part hereof.

Subject to covenants, conditions, reservations, restrictions, right-of-way and easements, if any, of record.

Prepared by me or under my direct supervision:


4/10/2020
RUSSELL H. HANSON, PLS 8873





This description and map of proposed annexation does meet the approval of the Orange County Surveyor's Office.

Dated this 21st day of APRIL, 2020
Kevin R. Hill, County Surveyor
L.S. 6617


By: Lily M. N. Sandberg, Deputy County Surveyor
P.L.S. 8402



**Annexation Hiring Agreement
between
Santa Margarita Water District
and
City of San Juan Capistrano**

This Annexation Hiring Agreement (Agreement) is entered into by and between the Santa Margarita Water District (SMWD) and the City of San Juan Capistrano (City).

Whereas, in January 2020, the Santa Margarita Water District (SMWD) and the City of San Juan Capistrano (City) entered into an Annexation Agreement pertaining to the intended transfer of the City's water and wastewater systems (Utilities System) and annexation of the service area territory (Annexation).

Whereas, Section 18 of the Annexation Agreement reflects the general agreement between SMWD and City as to how the staffing-related matters pertaining to the Annexation will be carried out.

Whereas, SMWD and City wish to memorialize their agreement as to more specific terms and provisions pertaining to these staffing-related matters, and to certain rights and entitlements of City employees of the Utilities System who may or will be hired into SMWD employment in connection with the Annexation Agreement.

Now, therefore, SMWD and City hereby agree as follows:

A. New Positions

SMWD will authorize 16 new vacant full-time employment positions in the following job classifications:

SMWD Job Classification	Number of Positions
Chief Plant Operator – GWRP	1
Project Engineer	1
Maintenance Foreman	1
Construction Inspector	1
Plant Operator / Sr. Plant Operator – GWRP	2
Maintenance Mechanic / Sr. Maintenance Mechanic	7
Customer Relations Specialist	1
GIS Specialist	1
Office Specialist	1

B. Offers of Employment

Eligibility. Based on the above list of 16 new positions, SMWD shall extend initial Offers of Employment to current City employees of the Utilities System in positions deemed comparable by SMWD and who meet the minimum qualifications for the position. Offers of Employment shall be contingent upon the following: (a) effectuation of the transfer of the Utilities System; and (b) pre-employment background check and medical examination.

Additionally, SMWD shall be under no obligation to extend an offer of employment pursuant to these terms to any current City employee of the Utilities System who falls under any of the following circumstances, as deemed by the SMWD General Manager:

- Is no longer employed by the City as a regular full-time employee, or has notified the City of an effective date of voluntary resignation or retirement occurring prior to the Annexation;
- Is no longer working in the City's Utilities System due to a change in employment status at the City, such as reassignment, transfer, promotion, or demotion;
- Has expressly declined the opportunity to be offered employment by SMWD;
- Is under formal investigation, or is issued disciplinary action by the City, for serious misconduct or severe performance deficiencies; or,
- Whose employment with SMWD would be in violation of federal or state laws or regulations, or SMWD policy, rules, or procedures.

Starting Salary. The starting salary in the Offers of Employment shall be at the applicable SMWD salary step for the position that is closest to, but not less than, the City employee's base salary on the Annexation effective date. If the City employee's base salary exceeds SMWD's highest salary step for the offered position, the highest salary step shall be offered.

Acceptance of Employment. City employees wishing to accept a final Offer of Employment from SMWD shall be required to confirm their acceptance within a specified deadline, and shall also be required to confirm they are no longer employed by the City prior to the commencement of their employment with SMWD. The City and SMWD shall cooperate to effectuate a coordinated transition of City employees from separation from City employment to their anticipated employment with SMWD in accordance with the terms of this Agreement, with the aim of transitioning such employees on or around the effective date of Annexation.

Pre-Hire Orientation. Prior to the Transfer Date, SMWD shall provide City employees who have been offered employment with a group orientation session. The orientation session will also include reviewing and/or processing pre-employment-related information, policies, and forms. The Santa Margarita Water District Employees Association shall be given the opportunity to make a brief presentation during the orientation session.

C. Terms of Employment

All City employees of the Utilities Systems who become SMWD employees upon Annexation in accordance with the above terms (Prospective Employees) shall be considered newly hired SMWD employees for purposes of all SMWD employment terms, benefits and compensation, except as otherwise expressly provided for in this Agreement. Such terms include, but are not limited to, a mandatory probationary period of 180 calendar days consistent with SMWD Personnel Rules and Regulations and MOU, Article XI, during which time the Prospective Employee is "at-will" and may be terminated from employment by SMWD at any time, without notice and without cause.

Notwithstanding the above, the City and SMWD hereby expressly agree that the following terms shall be applicable to Prospective Employees:

Option to Transfer Vacation Hours to General Leave Hours. Prospective Employees shall be given the option, prior to separation from City employment, of either: (a) cashing out all of their City-accrued vacation hours, or (b) electing to have up to 80 vacation hours transferred to SMWD within fourteen days (14) days following their start date of employment with SMWD, with the remaining amount cashed out by the City. Vacation hours elected to be transferred to SMWD shall be converted to an equivalent number (1:1 ratio) of SMWD "General Leave" hours. Prospective Employees shall be permitted to use their transferred General Leave hours during their SMWD probationary period, and as otherwise subject to SMWD's general employment policies and practices for requesting and using General Leave. The City shall pay SMWD the cash value of the vacation hours (as calculated based on City salary) that are transferred to SMWD within 60 calendar days following the commencement of SMWD employment, or within such time as mutually agreed upon by the parties. Such payment from the City shall not be made, directly or indirectly, from the Water and Wastewater Reserve Fund.

Certificate Pay. In the event a Prospective Employee commences employment with SMWD during the month of April, May, or June, then the Prospective Employee shall be eligible to receive certificate pay, as set forth in Article XII, Section 6 of the Memorandum of Understanding between SMWD and the Santa Margarita Water District Employees Association, beginning on July 1st despite their probationary status. If a Prospective Employee starts employment during any other month, the Prospective Employee may be eligible to receive certificate pay only after completion of the probationary period. This provision applies only to Prospective Employees who are subject to the Memorandum of Understanding between SMWD and the Santa Margarita Water District Employees Association.

Probationary Severance. Except as provided herein, SMWD shall offer a severance payment to any Prospective Employee released from employment by SMWD during their probationary period. The amount of the offered severance payment shall be the dollar equivalent of one week of their final base salary for each full year of continuous and combined full-time City and SMWD employment. The Prospective Employee shall be required to sign a general release of claims against SMWD in exchange for the severance payment. Such payment shall be made through SMWD payroll. Prospective Employees who voluntarily resign or are released from probation because of gross misconduct or severe lack of performance, as determined by SMWD, shall not be eligible for this severance payment.

D. Labor Relations

Both SMWD and the City represent that each has met and conferred, and has reached agreement, with their respective recognized employee organizations as to the entirety of this Agreement.

E. Effective Date

This Agreement shall become effective immediately following execution by the Parties, on the latest date appearing below.

SANTA MARGARITA WATER DISTRICT

By: Betty H. Olson
Betty H. Olson, Ph.D.
President of the Board of Directors

Date: August 25, 2020

CITY OF SAN JUAN CAPISTRANO

By: Troy A. Bourne
Troy A. Bourne
Mayor

Date: 7/7/2020

ATTEST:

Maria Morris
Maria Morris, City Clerk

MASTER WATER RIGHTS TRANSFER AGREEMENT

This Master Water Rights Transfer Agreement dated _____, 2021 (“**Master Agreement**” or “**Agreement**”) is entered into by the City of San Juan Capistrano (“**City**”) and Santa Margarita Water District (“**SMWD**”). The City and SMWD may be referred to herein in the singular as “**Party**” and collectively as “**Parties**.”

RECITALS

- A.** The City is a general law city created and existing under the California Constitution and the laws of the State of California.
- B.** SMWD is a water district created and existing under the California Water District Law (California Water Code Section 34000 et seq.).
- C.** The City and SMWD entered into that certain Annexation Agreement dated as of January 21, 2020 (“**Annexation Agreement**”). Pursuant to the Annexation Agreement, the City and SMWD agreed to, among other things, negotiate in good faith and enter into a “Water Rights Transfer Agreement” with respect to the City’s water rights and the SMWD’s provision of water service to the City and its existing and future customers.
- D.** Concurrent with the Parties’ execution of this Master Agreement, the Parties and the San Juan Basin Authority are executing the Assignment, Assumption and Amendment Agreement Regarding Desalter Project Implementation Agreements (Water Rights Transfer Agreement No. 1) (“**Assignment of Desalter Project Agreements**”) by which the City assigns its rights, title, interest, duties and obligations in and to the San Juan Basin Authority Groundwater Recover Project (the “**Desalter Project**”) and the San Juan Basin Authority’s water right Permit 21074, and SMWD Assignee accepts all of the City’s rights, title, interest, duties and obligations in and to the Desalter Project and Permit 21074.
- E.** Also concurrent with the execution of this Master Agreement, the Parties are executing the following agreements: Agreement For The Exercise Of City Appurtenant Water Rights (Water Rights Transfer Agreement No. 2); Agreement Regarding Water Rights Dedicated To Public Use (Water Rights Transfer Agreement No. 3); Agreement Regarding Assignment And Assumption Of San Juan Hills Settlement Agreement (Water Rights Transfer Agreement No. 4); Agreement Regarding Assignment And Assumption Of Cotton Settlement, Mutual Release And Well Sharing Agreement (Water Rights Transfer Agreement No. 5); Agreement Regarding Assignment And Assumption Of Recycled Water Agreement (Water Rights Transfer Agreement No. 6). The Assignment of Desalter Project Agreements, together with the agreements listed in this paragraph E are collectively referred to as the “**Additional Water Agreements**.”
- F.** This Agreement and the Additional Water Agreements, are intended to fulfill the Parties’ respective obligations under the Annexation Agreement to enter into a “Water Rights Transfer Agreement.”

- G. The Parties seek to incorporate the term and conditions set forth in this Master Agreement into each of the Additional Water Agreements.

TERMS OF THE AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Recitals.** The Parties acknowledge that the above recitals preceding this paragraph 1 are true and correct, and are incorporated herein as material parts of this Agreement
2. **Provisions Incorporated Into Each of the Additional Water Agreements.** Sections 1, 2, 3, 4, 5 and 6 of this Agreement shall be incorporated into the each of the Additional Water Agreements.
3. **CVWD and OCWD No. 4.** If neither the LAFCO Approval nor the LAFCO Certificate of Completion (as those terms are defined in the Annexation Agreement) contains a finding that the City is the legal successor to the Capistrano Valley Water District (“**CVWD**”) and the Orange County Waterworks District No. 4 (“**OCWD No. 4**”), then the City shall be deemed to have made a representation and warranty to SMWD that the City is the legal successor to CVWD and OCWD No. 4.
4. **Effective Date.** This Agreement shall become effective on the “**Annexation Effective Date**,” as that term is defined in the Annexation Agreement.
5. **Defense of Agreement; Indemnification.** From and after the Annexation Effective Date, SMWD shall defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless the City from and against: (i) all liabilities, claims, costs, expenses and judgments arising from or related to this Agreement and the matters contained herein; and (ii) any action or proceeding to attack, review, set aside, enjoin, void or annul this Agreement. SMWD shall also defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless City officials, employees and agents for any matter within the scope of the indemnification under this Section 5, to the same extent, and subject to the same limitations, that apply to the City’s obligations to defend, indemnify and hold harmless such City officials, employees and agents under California law or applicable City contract with those officials, employees or agents. SMWD shall not seek reimbursement or contribution from the City for any costs, expenses or damages for, or related to, matters within the scope of the indemnification under this Section 5.
6. **Miscellaneous Provisions**
 - 6.1 **Amendment.** This Agreement may be amended only by a written agreement signed by all Parties.

6.2 Comprehension of Terms. Each of the Parties warrants and represents that he, she and it has read this Agreement in full, fully understands each and every provision hereof, and agrees to be bound by all of the terms and provisions set forth herein.

6.3 Construction.

- (a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.
- (b) Headings of sections in this Agreement are solely for convenience of reference, do not constitute a part of this Agreement and shall not affect the meaning, construction or effect of the provisions of this Agreement.
- (c) This Agreement has been negotiated and prepared by the Parties and their respective counsel. The Parties agree that the rule of construction that a contract be construed against the drafter shall not apply. In the event of any ambiguity with respect to a term of condition of this Agreement, such ambiguity shall not be construed for or against a Party on the basis that such Party did or did not author the same.
- (d) If any inconsistency arises in the application of this Agreement and the Annexation Agreement, the terms of the Annexation Agreement shall control.

6.4 Entire Agreement. This Agreement, together with all exhibits hereto, constitutes the entire understanding and agreement of the Parties with respect to the subject matters hereof, and integrates all of the terms and conditions mentioned herein or incidental thereto, and supersedes all prior or contemporaneous negotiations, discussions and previous agreements between the Parties concerning all or any part of the subject matters of this Agreement.

6.5 Execution in Counterparts. This Agreement may be executed in counterparts, each of which, when the Parties have signed this Agreement, shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

6.6 Governing Law and Venue. This Agreement has been negotiated and executed in the State and shall be governed by and construed under the laws of the State, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any action at law or in equity brought by any Party hereto arising out of this Agreement shall be brought in the Superior Court of the State in and for the County of Orange.

6.7 No Assignment. No part of this Agreement may be assigned by a Party to another person or entity without the prior written consent of the other Party.

6.8 No Reliance on Others. No representations, oral or otherwise, expressed or implied, other than those contained herein have been made by any Party, or any agent, attorney or

employee thereof. By executing this Agreement, each of the Parties warrants and represents that this Agreement is made and entered into without reliance upon any statements or representations of any other Party, or in reliance upon any statements or representations made by any agents, attorneys or employees, of any other Party.

6.9 No Third Party Beneficiary. This Agreement is not intended nor shall it be construed to create any third-party beneficiary rights in any person or entity other than the Parties. Nothing in this Agreement, expressed or implied, is intended to give to any person other than the City and SMWD any right, remedy or claim under or by reason of this Agreement.

6.10 Nonliability of City and SMWD Officials, Employees and Agents. No official, employee or agent of the City or SMWD, acting in his or her official capacity, shall be personally liable to the City or SMWD, or any successor or assign, for any loss, costs, damage, claim, liability, or judgment, arising out of or in connection with this Agreement, or for any act or omission on the part of the City or SMWD, unless such liability is permitted and provided by either California law or the applicable City or SMWD contract with that official, employee or agent.

6.11 Notice. Any notice, request, demand or other communication under this Agreement shall be given by first class mail or personal delivery to the Party entitled thereto at its address set forth below, by overnight mail, as a “.pdf” attachment to electronic mail, or by telecopy or other form of telecommunication, confirmed by telephone at its number set forth below. Notice shall be effective either (i) upon transmission by telecopy, electronic mail or other form of telecommunication, (ii) 48 hours after deposit in the United States mail, postage prepaid, (iii) in the case of overnight mail, upon delivery to the addressed destination, or (iv) in the case of personal delivery to any person, upon actual receipt. Each Party may, by written notice to the other Party, from time to time modify the address or number to which communications are to be given under this Agreement:

If to the City: City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, CA 92675
Attention: City Manager
Telephone: (949) 443-6315
E-mail: bsiegel@sanjuancapistrano.org

If to SMWD: Santa Margarita Water District
26111 Antonio Parkway
Rancho Santa Margarita, CA 92688
Attention: General Manager
Telephone: (949) 459-6590
E-mail: danf@smwd.com

6.12 Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid or void, each of the remainder of the provisions shall continue in full force and effect, unless the rights and interests of a Party under a provision have been materially altered or abridged by such invalidation or voiding.

EXHIBIT E

6.13 Successors. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the Parties to this Agreement have caused the same to be executed by each of their duly authorized officers as follows:

CITY OF SAN JUAN CAPISTRANO

ATTEST:

By: _____
Troy A. Bourne
Mayor

Maria Morris
City Clerk

APPROVED AS TO FORM:

Stephanie Osler Hastings
Special Counsel

SANTA MARGARITA WATER DISTRICT

ATTEST:

By: Charles T. Gibson
Charles T. Gibson
President of Board of Directors

Kelly Radvansky
Kelly Radvansky
Board Secretary

APPROVED AS TO FORM:

Edward Casey
Special Counsel

**AGREEMENT
FOR THE EXERCISE OF CITY APPURTENANT WATER RIGHTS**

This Agreement for the Exercise of Appurtenant Water Rights dated as of _____, 2021 (“**Agreement**”) is entered into by the City of San Juan Capistrano (“**City**”) and Santa Margarita Water District (“**SMWD**”). The City and SMWD may be referred to herein in the singular as “**Party**” and collectively as “**Parties**.”

RECITALS

- A.** The City is a general law city created and existing under the California Constitution and the laws of the State of California.
- B.** SMWD is a water district created and existing under the California Water District Law (California Water Code Section 34000 et seq.).
- C.** The City and SMWD entered into that certain Annexation Agreement dated as of January 21, 2020 (“**Annexation Agreement**”). Pursuant to the Annexation Agreement, the City and SMWD agreed to, among other things, negotiate in good faith and enter into a “Water Rights Transfer Agreement” with respect to the City’s water rights and the SMWD’s provision of water service to the City and its existing and future customers.
- D.** Concurrent with the execution of this Agreement, the Parties are executing the Master Water Rights Transfer Agreement (“**Master Agreement**”). A copy of the Master Agreement is attached hereto as **Exhibit A**.
- E.** Among other lands, the City owns the parcels currently identified as Assessor’s Parcel Number (“**APN**”)s 650-023-08 and 650-023-09 (commonly referred to as the “**Christmas Tree Farm**”) and APN 125-172-24, 125-172-25, 125-172-26, and 125-172-27 (collectively, commonly referred to as the “**Eastern Open Space**”), each of which is more particularly described in **Exhibit B** hereto (collectively, the “**Designated City Lands**”).
- F.** By reason of the City’s ownership of the Designated City Lands and the location of each of the Designated City Lands, the City claims to hold certain water rights appurtenant to each of the Designated City Lands (whether riparian, overlying or otherwise) to extract water from the San Juan Creek and its underflow and the Arroyo Trabuco Creek and its underflow, which creeks are within the San Juan Valley Groundwater Basin, Department of Water Resources Basin No. 9-001 (the “**San Juan Basin**”) for reasonable and beneficial uses upon each of the Designated City Lands. The claimed water rights described in this Recital F shall be collectively referred to as the “City’s Appurtenant Rights.”
- G.** In accordance with the Annexation Agreement, the Parties desire to provide for the exercise of the City’s Appurtenant Rights for the benefit of the Designated City Lands. Additionally, the City, without transferring any of the City’s Appurtenant Rights, desires to designate and empower SMWD to act as the City’s agent and trustee with respect to the City’s Appurtenant Rights for the benefit of the Designated City Lands, and SMWD desires to accept such designation on the terms and conditions set forth in this Agreement.

TERMS OF THE AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Recitals.** The Parties acknowledge that the above recitals preceding this paragraph 1 are true and correct, and are incorporated herein as material parts of this Agreement.

2. **Master Agreement.** Sections 1, 2, 3, 4, 5 and 6 of the Master Agreement are incorporated as if set forth in full herein.

3. **Agreement Limited to Designated City Lands and Non-Domestic Uses**

3.1 The production or delivery of water pursuant to the City's Appurtenant Water Rights as provided in this Agreement, whether by the City or SMWD acting as the City's agent, shall be limited to (a) the Designated City Lands and (b) the following reasonable and beneficial non-potable uses of said lands (i) irrigation, recreation, grazing, livestock and other animal use, and (ii) any other use allowed as of right under the City's existing zoning laws applicable to said lands (collectively "**Non-Domestic Use(s)**").

3.2 The City agrees not to exercise any water rights appurtenant to any lands owned by the City that are not the Designated City Lands and the City acknowledges and agrees that SMWD has no obligation to deliver water pursuant to this Agreement to any lands owned by the City that are not the Designated City Lands, now or in the future.

3.3 The production or delivery of water pursuant to the City's Appurtenant Water Rights for Non-Domestic Uses as provided in this Agreement shall not be subject to SMWD's customer rates and charges.

3.4 Nothing in this Agreement shall affect, impair or otherwise modify SMWD's delivery of domestic, potable water service to any lands owned by the City, including the Designated City Lands, and such potable water service shall be charged at SMWD's customer rates and charges.

4. **Eastern Open Space**

4.1 **Designation of SMWD as City's Agent.** The City designates SMWD as its exclusive agent and trustee for the exercise of the City's Appurtenant Rights associated with the Eastern Open Space, and SMWD accepts such designation for the benefit of the City. The City shall not: (a) designate any other person, entity or governmental body as an agent to exercise any or all of the City's Appurtenant Rights associated with the Eastern Open Space, or (b) exercise, on its behalf or any of its lessees or licensees, any or all of the City's Appurtenant Rights associated with the Eastern Open Space. This designation shall not waive, transfer, sever, diminish, lessen, modify or surrender the City's Appurtenant Rights, and nothing in this Agreement shall be construed as appropriating or dedicating the City's Appurtenant Rights, or any water produced pursuant to such rights, to public use.

EXHIBIT F

4.2 Delivery of Water to Eastern Open Space. Acting as the City's agent, SMWD shall deliver water produced from the San Juan Basin pursuant to the City's Appurtenant Rights to the Eastern Open Space in an amount sufficient to serve the Non-Domestic Uses on such land, whatever they may be, now and in the future, and of a quality that both meets all applicable federal, state and local laws and regulations and is suitable for the Non-Domestic Uses on such lands. Notwithstanding the foregoing, as a result of certain limitations imposed on the City's Appurtenant Water Rights associated with the Eastern Open Space pursuant to Water Agreement dated January 20, 2010 between Rancho Mission Viejo, LLC and the City (the "**RMV Agreement**"), SMWD shall have no obligation to deliver more than 300 gallons per minute to Parcel 7 and Parcel 8 of the Eastern Open Space, as those parcels are defined in the RMV Agreement.

4.3 Source of Supply. SMWD shall determine, in its sole discretion, the manner in which it delivers water to the Eastern Open Space pursuant to the City's Appurtenant Rights, including but not limited to producing water from (a) the well described in the Agreement Regarding Assignment and Assumption of Cotton Settlement Agreement, Mutual Release, And Well Sharing Agreement, (b) a new well installed on or adjacent to the Easter Open Space, or (c) an exchange of water from any other source of supply, including but not limited to recycled water, treated groundwater or imported water.

4.4 Payment. SMWD shall charge, and the City shall pay, an amount per acre-foot for water delivered to the Eastern Open Space at a rate determined by the formula provided in **Exhibit C** hereto.

5. Christmas Tree Farm

5.1 SMWD acknowledges and agrees that the City, or its licensee or lessee, currently produces water from the San Juan Basin pursuant to the City's Appurtenant Rights from an existing water well located on the Christmas Tree Farm (the "**Tree Farm Well**") for the sole and exclusive benefit of the Christmas Tree Farm and that the City may continue to do so in accordance with terms and limitations in this Agreement. The City, or any licensee or lessee of the Christmas Tree Farm, shall own, operate and maintain the Tree Farm Well at its own expense. In the event the existing Tree Farm Well becomes inoperable or otherwise incapable of producing sufficient water for the Non-Domestic Needs of the Christmas Tree Farm, the City, or any authorized licensees and lessees of the Christmas Tree Farm, shall have the right to replace said well at its own expense. SMWD shall have no obligation to pay for any operating, maintenance, repair, replacement or decommissioning costs for the Tree Farm Well.

5.2 If the City elects to abandon the Tree Farm Well and not produce water pursuant to the City's Appurtenant Rights for use on the Christmas Tree Farm, then the City may request that SMWD deliver water to the Christmas Tree Farm for the City's use or the use by an authorized license and lessee of the Christmas Tree Farm. SMWD shall deliver and charge the City for such water in accordance with SMWD's rules and regulations for the delivery of the same class of water to residents of the City.

5.3 If the City, or any authorized license and lessee of the Christmas Tree Farm, elects to use that property for a purpose other than as a Christmas tree farm, then the provisions in Section 4 of this Agreement shall apply to such new use.

EXHIBIT F

6. **Reporting.** Acting as the City's agent, annually or on such frequency as may otherwise be required by law, SMWD shall prepare and submit Statements of Diversion and Use pursuant to Water Code section 5101 to the State Water Resources Control Board ("**State Water Board**") documenting SMWD's production of water from the San Juan Basin pursuant to the City's Appurtenant Rights as provided in this Agreement in a manner substantially consistent with the form attached hereto as **Exhibit D**. SMWD shall provide copies of all reports filed with the State Water Board described in this Section 6 to the City within seven (7) calendar days after filing said reports with the State Water Board. If SMWD serves recycled water to any of the Designated City Lands in lieu of water produced from the San Juan Basin, then SMWD shall file with the State Water Board the report required by California Water Code Section 1005.1. For as long as the City, or its successor, continues to own and operate the Tree Farm Well or any replacement well on the Christmas Tree Farm, the City shall annually provide to SMWD, not less than thirty (30) days prior to the deadline for filing Statements of Diversion and Use with the State Water Board, the metered water use records for the Tree Farm Well and any replacement well on the Christmas Tree Farm.

7. **Use of Designated City Lands By Others.** SMWD acknowledges that some or all of the Designated City Lands are leased to, or otherwise permitted to be used by, persons or entities not party to this Agreement and SMWD further acknowledges and agrees that water produced and/or delivered pursuant to the City's Appurtenant Rights pursuant to this Agreement may be used by and for the benefit of persons or entities not party to this Agreement. The City agrees not to lease, or otherwise permit the use of, the Designated City Lands in a manner that is not consistent with this Agreement. No provision in this Section 7 shall contravene the provisions in Section 6.9 of the Master Agreement (No Third Party Beneficiary), and Section 6.9 of the Master Agreement shall control if any inconsistency arises in applying this Agreement. Further, nothing in this Agreement modifies, or shall be deemed to modify, any separate agreement between the City and any licensee or lessee of the Christmas Tree Farm or the Eastern Open Space.

8. **Binding on Successors.** This Agreement shall inure to the benefit of and be binding on assigns and successors-in-interest of the City and of SMWD, and is intended to constitute a covenant and servitude running with and upon each of the City Designated Lands. Upon the City's transfer of title to the Designated City Lands, the City shall provide SMWD with written notice twenty (20) calendar days prior to any such transfer. The City shall also provide a copy of this Agreement to the prospective purchaser of said land prior to the consummation of the transfer.

9. **Recordation of Agreement.** Within three (3) business days after the Annexation Effective Date, the Memorandum of Agreement attached hereto as **Exhibit E** shall be recorded in the Official Records of Orange County, California as to each of the City Designated Lands.

10. **SMWD's Water Rights.** Nothing in this Agreement or any action by SMWD taken pursuant to this Agreement shall affect, impair or otherwise modify SMWD's water rights, whether riparian, appropriative, prescriptive, overlying or by permit, whether existing as of the Annexation Effective Date or hereinafter acquired.

11. **Costs of Defense in an Adjudication.** If any person, agency or entity files or commences a legal or administrative action seeking an adjudication of rights to extract or produce water from

EXHIBIT F

any portion of the San Juan Basin (an “**Adjudication**”) and such Adjudication involves, affects or potentially impairs the City’s Appurtenant Rights, then the City shall be solely responsible for paying for the costs to defend the City’s Appurtenant Rights in said Adjudication, including but not limited to attorneys’ fees and costs, and SMWD shall have no responsibility or obligation to pay for those costs.

[Remainder of page intentionally left blank. Signatures follow.]

IN WITNESS WHEREOF, the Parties to this Agreement have caused the same to be executed by each of their duly authorized officers as follows:

CITY OF SAN JUAN CAPISTRANO

ATTEST:

By: _____
Troy A. Bourne
Mayor

Maria Morris
City Clerk

APPROVED AS TO FORM:

Stephanie Osler Hastings
Special Counsel

**SANTA MARGARITA WATER
DISTRICT**

ATTEST:

By: Charles T. Gibson
Charles T. Gibson
President of Board of Directors

Kelly Radvansky
Board Secretary

APPROVED AS TO FORM:

Edward Casey
Special Counsel

EXHIBITS:

- A. Master Water Rights Transfer Agreement
- B. Designated Lands
- C. Payment Schedule
- D. Form of Statement of Diversion and Use
- E. Memorandum of Agreement

**AGREEMENT
REGARDING WATER RIGHTS DEDICATED TO PUBLIC USE**

This Agreement Regarding Water Rights Dedicated to Public Use dated as of _____, 2021 (“**Agreement**”) is entered into by the City of San Juan Capistrano (“**City**”) and Santa Margarita Water District (“**SMWD**”). (The City and SMWD may be referred to herein in the singular as “**Party**” and collectively as “**Parties**.”)

RECITALS

- A.** The City is a general law city created and existing under the California Constitution and the laws of the State of California.
- B.** SMWD is a water district created and existing under the California Water District Law (California Water Code Section 34000 et seq.).
- C.** The City and SMWD entered into that certain Annexation Agreement dated as of January 21, 2020 (“**Annexation Agreement**”). Pursuant to the Annexation Agreement, the City and SMWD agreed to, among other things, negotiate in good faith and enter into a “Water Rights Transfer Agreement” with respect to the City’s water rights and the SMWD’s provision of water service to the City and its existing and future customers within the Territories, as that term is defined in the Annexation Agreement (“**City Customers**”).
- D.** Concurrent with the execution of this Agreement, the Parties are executing the Master Water Rights Transfer Agreement (“**Master Agreement**”). A copy of the Master Agreement is attached hereto as **Exhibit A**.
- E.** The City produces water from the San Juan Creek and its underflow and the Arroyo Trabuco Creek and its underflow, which creeks are within the San Juan Valley Groundwater Basin, Department of Water Resources Basin No. 9-001 (the “**San Juan Basin**”) pursuant to numerous water rights dedicated to the public use.
- F.** The City claims the right to extract water from the San Juan Basin as a result of the City’s predecessors’ diversion of water for the reasonable and beneficial uses of the inhabitants of the community since at least 1776, the date of the founding of the Mission of San Juan Capistrano (“**Pueblo Right**”). In the alternative, the City claims an appropriative right to extract water from the San Juan Basin and that it commenced the exercise of that water prior to 1914 (the “**Pre-1914 Appropriative Right**”).
- G.** To preserve, protect and confirm the City’s claimed Pueblo Right and Pre-1914 Appropriative Right, the City filed an Application to Appropriate Water by Permit, as amended April 14, 1998, with the State Water Board, which application was assigned Application No. 030696 (“**Application No. 30696**”) and which is presently pending before the State Water Board. A true and correct copy of the Application No. 30696 is attached hereto as **Exhibit B**.

- H.** Additionally, the City claims the right to extract water from the San Juan Basin pursuant to the Project Implementation Agreement, San Juan Basin Desalter Project, between the City and the San Juan Basin Authority, dated October 15, 2002 (“**2002 Project Implementation Agreement**”), whereby, among other things, the City obtained an allocated interest in the San Juan Basin Authority’s Desalter Project’s water rights in the amount of 5,800 acre-feet per year, which water rights are established by Permit No. 21074 (“**Allocated Interest in Permit No. 21074**”). A true and correct copy of the 2002 Project Implementation Agreements is attached hereto as **Exhibit C**. A true and correct copy of Permit No. 21074 is attached hereto as **Exhibit D**.
- I.** Additionally, the City claims the right to extract water from the San Juan Basin pursuant to certain water rights, whether appropriative, riparian, overlying, prescriptive or otherwise, that have been dedicated to it, or one of its predecessors, by various landowners pursuant to the recordation of final tract maps, parcel maps and development agreements (collectively, “**Dedicated Water Rights**”).
- J.** The City’s Pueblo Right, Pre-1914 Appropriative Right, Allocated Interest in Permit No. 21074 and Dedicated Water Rights are collectively referred to as the “**City’s Water Rights**.”
- K.** Concurrent with the execution of this Agreement, in accordance with the Annexation Agreement, the Parties and the San Juan Basin Authority are executing the Assignment, Assumption and Amendment Agreement Regarding Desalter Project Agreements (“**Assignment of Desalter Project Agreements**”), a true and correct copy of which, excluding exhibits thereto, is attached hereto and incorporated herein by this reference as **Exhibit E**. Among other things, the Assignment of Desalter Project Agreements assigns all of the City’s rights, title, interest, duties and obligations in and to the 2002 Project Implementation Agreement, including the City’s Allocated Interest in Permit No. 21074, to SMWD for the benefit of the City and the City Customers, and SMWD assumes all of the City’s rights, title, interest, duties and obligations in and to the 2002 Project Implementation Agreement, including the City’s Allocated Interest in Permit No. 21074, for the purpose of providing water service to the City and the City Customers.
- L.** In accordance with the Annexation Agreement, the City hereby wishes to designate SMWD as the City’s agent for purposes of exercising the City’s Pueblo Right and to transfer the Pre-1914 Appropriative Right and Dedicated Water Rights to SMWD, and SMWD wishes to accept such agency and transfers, as provided herein. Further, the Parties wish to set forth the terms and conditions for SMWD’s use of the City’s Water Rights for the benefit of the City and the City Customers for the purpose of providing water service to the City and the City Customers, as provided herein.

TERMS OF THE AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Recitals.** The Parties acknowledge that the above recitals preceding this paragraph 1 are true and correct, and are incorporated herein as material parts of this Agreement.

2. **Master Agreement.** Sections 1, 2, 3, 4, 5 and 6 of the Master Agreement are incorporated as if set forth in full herein.

3. **Grant of Agency for Exercise of Pueblo Right**

3.1 Grant of Agency. As of the Annexation Effective Date, the City hereby designates SMWD as its exclusive agent and trustee for the exercise of the Pueblo Right, including but not limited to the extraction, diversion, storage, treatment, blending and distribution of the waters of the San Juan Basin, and SMWD accepts such designation and shall exercise said Pueblo Right for the purpose of providing water service to the City and the City Customers subject to the provisions in Section 7 of this Agreement, provided that the City retains all right, title and interest in and to the Pueblo Right, and nothing in this Agreement is intended to be interpreted to the contrary. This designation shall not, and shall not be deemed or construed to, waive, transfer, sever, diminish, lessen, modify or surrender the City's Pueblo Rights. The City shall not: (a) designate any other person, entity or governmental body as an agent to exercise the Pueblo Right, or (b) exercise, on its behalf or on behalf of any of the City Customers, the Pueblo Right. This Agreement shall be deemed to constitute a covenant by the City not to exercise the Pueblo Right, which covenant shall expire only upon (a) the City taking over the prosecution of Application No. 30696 in the manner provided in Section 5.2 of this Agreement, (b) the City filing and assuming responsibility for the litigation described in Section 5.3 of this Agreement, or (c) the City assuming responsibility for defending the Pueblo Rights in an Adjudication described in Section 8 of this Agreement.

3.2 Reporting. Acting as the City's agent, annually, or on such frequency as may otherwise be required by law, SMWD shall prepare and submit Statements of Diversion and Use pursuant to Water Code section 5101 to the State Water Board documenting SMWD's production of water from the San Juan Basin pursuant to the City's Pueblo Right in a manner substantially consistent with the form attached hereto as **Exhibit F**. SMWD shall provide copies of all reports filed with the State Water Board described in this Section 3.2 to the City within seven (7) calendar days after filing said reports with the State Water Board.

3.3 Judicial Determination. Upon a final determination by any court of competent jurisdiction that the manner or method of authorizing SMWD to exercise the City's Pueblo Right provided in this Agreement is not the proper manner or method of such authorization or otherwise is not permitted by law, the grant of agency provided by Section 3.1 shall be null and void and of no effect whatsoever. In such event, the City and SMWD shall cooperate to amend this Agreement, to effectuate the parties' intent, consistent with such judicial determination.

4. **Assignment of Pre-1914 Appropriative Rights.** The City hereby assigns, transfers, and conveys to SMWD, without recourse and without representation or warranty of any kind, all of the City's Pre-1914 Appropriative Rights, and SMWD does hereby accept such assignment without recourse and without representation or warranty of any kind.

5. **Application No. 30696**

5.1 **Notice to State Water Board.** Within three (3) business days after the Annexation Effective Date, the Parties shall sign the Notice to State Water Board attached hereto as **Exhibit G** and submit that document to the State Water Board. The Parties acknowledge that the purpose of the Notice to State Water Board is to inform the State Water Board that (a) the water rights described in Section 10 of Application No. 30696 do not include the claimed right to return flow from imported water, but does include the Pre-1914 Appropriative Right, and (b) since SMWD has been designated as the City's exclusive agent and trustee for the exercise of the Pueblo Right and the City's Pre-1914 Appropriative Right has been assigned by the City to SMWD, SMWD is now a co-applicant on Application No. 30696.

5.2 **Prosecution of Application No. 30696.** Subject only to reasonable consultation with the City, SMWD shall exercise sole control over the prosecution of Application No. 30696. So long as SMWD is a co-applicant on Application No. 30696, SMWD shall pay all costs associated with the prosecution of Application No. 30696. Pursuant to the discretion described in this Section 5.2, SMWD may withdraw Application No. 30696; provided that SMWD's withdrawal shall expressly declare that its withdrawal shall not affect, impair or otherwise modify the Pueblo Right, Pre-1914 Appropriative Right or any of the City's Water Rights. Further, SMWD's withdrawal shall not, and shall not be deemed or construed to, affect, impair or otherwise modify the City's Water Rights individually or collectively. If SMWD decides to withdraw Application No. 30696, SMWD shall provide the City with notice of its intent to withdraw Application No. 30696 twenty (20) business days prior to submitting a notice of withdrawal to the State Water Board. Prior to the expiration of that twenty-day notice period, the City may exercise the right to take over the prosecution of Application No. 30696 as it applies only to the City's Pueblo Rights. If the City exercises that right to take over the prosecution of Application No. 30696, it shall provide written notice to SMWD prior to the expiration of the twenty-day period. After providing that notice to SMWD, the City shall be solely responsible for the cost of prosecuting Application No. 30696.

5.3 **State Water Board Decision.** If the State Water Board issues any adverse decision on Application No. 30696, SMWD shall not be obligated to commence any judicial proceeding challenging the State Water Board's decision. If the State Water Board issues an adverse decision as to the existence of the City's Pueblo Right, the City may commence a judicial proceeding challenging that decision; provided that SMWD shall not be responsible for any attorney's fees or other costs associated with such a judicial proceeding. Notwithstanding the foregoing, SMWD shall cooperate with the City's action challenging the State Water Board's adverse decision and further shall provide any information or other documentation related to SMWD's exercise of the Pueblo Right.

6. **Assignment of Dedicated Rights.** The City hereby assigns, transfers, and conveys to SMWD, without recourse and without representation or warranty of any kind, all of the City's rights, title, and interest in, to, and under the Dedicated Water Rights, and SMWD does hereby accept such assignment without recourse and without representation or warranty of any kind. Within three (3) business days of the Effective Date, the City shall execute the Quitclaim Deed in the form attached hereto as **Exhibit H**. SMWD may, in its discretion, cause the Quitclaim Deed to be recorded.

7. **SMWD's Obligations and Discretion.** SMWD shall exercise reasonable efforts to protect, exercise and maintain each and all of the City's Water Rights for the benefit of the City and the City Customers for the purpose of providing water service to the City and the City Customers in the manner expressly provided for, and as exclusively determined by this Agreement, the Annexation Agreement, the Master Agreement and the Assignment of Desalter Project Agreements. Subject only to the terms and conditions set forth in the agreements referenced in the preceding sentence, SMWD shall have sole discretion as to how and whether to exercise each and all of the City's Water Rights, individually and collectively. Nothing in this Agreement shall prohibit SMWD from commingling, conjunctively managing or exchanging water produced pursuant to the City's Water Rights with other water supply sources that may be available to SMWD and serving water from such other water sources to the City and the City Customers. Nothing in this Agreement shall prohibit SMWD from maximizing the beneficial use of the City's Water Rights, individually and collectively, for the benefit of all of SMWD's customers to the extent not required to serve water to the City and the City Customers. Nothing in this Agreement constitutes an admission or agreement by either party as to the existence, validity, extent or quantity of the City's Water Rights.

8. **Additional Indemnification.** In addition to the indemnification provided in Section 5 of the Master Agreement, which is incorporated herein, SMWD agrees to provide the additional indemnification set forth in this Section 8. Except as expressly provided in Sections 5.2 and 5.3 of this Agreement, SMWD shall defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless the City from and against all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, damages and expenses (of any nature whatsoever, in law or equity, known or unknown, foreseen or unforeseen, contingent or non-contingent), in any way related to or in any way arising out of or in connection with the City's Water Rights, individually and collectively, unless such obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses both: (i) arose prior to the Annexation Effective Date, and (ii) are covered under the City's risk pool insurance. SMWD shall also defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless City officials, employees and agents for any matter within the scope of the indemnification under this Section 8, to the same extent, and subject to the same limitations, that apply to the City's obligations to defend, indemnify and hold harmless such City officials, employees and agents under California law or applicable City contract with those officials, employees or agents. SMWD shall not seek reimbursement or contribution from the City for any costs, expenses or damages for, or related to, matters within the scope of the indemnification under this Section 8. The indemnifications provided in this Section 8 shall not obligate SMWD to defend the City with respect to the City's Pueblo Right in any legal

or administrative action that any person, agency or entity may file or commence that seeks an adjudication of rights to extract or produce water from any portion of the San Juan Basin (an “Adjudication”) and such Adjudication challenges the City’s Pueblo Right if SMWD provides twenty-day written notice to the City that SMWD is withdrawing as agent for the exercise of the City’s Pueblo Right. Upon expiration of the twenty-day period referenced in the preceding sentence, the City shall be solely responsible for paying for the costs to defend the City’s Pueblo Rights, including but not limited to attorneys’ fees and costs, and SMWD shall have no responsibility or obligation to pay for those costs.

9. SMWD’s Water Rights. Nothing in this Agreement or any action by SMWD taken pursuant to this Agreement shall affect, impair or otherwise modify SMWD’s water rights, whether riparian, appropriative, prescriptive, overlying or by permit, whether existing as of the Annexation Effective Date or hereinafter acquired.

[Remainder of page intentionally left blank. Signatures follow.]

IN WITNESS WHEREOF, the Parties to this Agreement have caused the same to be executed by each of their duly authorized officers as follows:

CITY OF SAN JUAN CAPISTRANO

ATTEST:

By: _____
Troy A. Bourne
Mayor

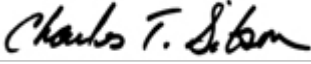
Maria Morris
City Clerk

APPROVED AS TO FORM:

Stephanie Osler Hastings
Special Counsel

**SANTA MARGARITA WATER
DISTRICT**

ATTEST:

By:  _____
Charles T. Gibson
President of Board of Directors

Kelly Radvansky
Board Secretary

APPROVED AS TO FORM:

Edward Casey
Special Counsel

EXHIBITS

- A. Master Water Rights Transfer Agreement
- B. Application No. 30696
- C. Desalter Project Agreements
- D. Permit No. 21074
- E. Assignment, Assumption and Amendment Agreement Regarding Desalter Project Agreements
- F. Form of Statement of Diversion and Use
- G. Notice to State Water Board re Application No. 30696
- H. Form of Quit Claim Deed

**AGREEMENT
REGARDING ASSIGNMENT AND ASSUMPTION OF
SAN JUAN HILLS SETTLEMENT AGREEMENT**

This Agreement Regarding Assignment and Assumption of San Juan Hills Settlement Agreement dated as of _____, 2021 (the “**Agreement**”) is entered into by the City of San Juan Capistrano (“**City**”) and Santa Margarita Water District (“**SMWD**”). The City and SMWD may be referred to herein in the singular as “**Party**” and collectively as “**Parties**.”

RECITALS

- A.** The City is a general law city created and existing under the California Constitution and the laws of the State of California.
- B.** SMWD is a water district created and existing under the California Water District Law (California Water Code Section 34000 et seq.).
- C.** The City and SMWD entered into that certain Annexation Agreement dated as of January 21, 2020 (“**Annexation Agreement**”). Pursuant to the Annexation Agreement, the City and SMWD agreed to, among other things, negotiate in good faith and enter into a “**Water Rights Transfer Agreement**” with respect to the City’s water rights and the SMWD’s provision of water service to the City and its existing and future customers.
- D.** On or about April 8, 2016, the City and San Juan Hills Golf Course, LP (“**San Juan Hills**”) entered into a settlement agreement (the “**Partial Settlement Agreement**”) partially resolving litigation pending in the Orange County Superior Court (Case No. 30-2014-00742347-CU-CO-CXC) (the “**Action**”) between San Juan Hills, the City and the San Juan Basin Authority (“**Authority**”).
- E.** On or about August 11, 2016, San Juan Hills, the City and the Authority entered into a Settlement Agreement Addendum fully resolving the Action and all claims alleged therein (the “**Addendum**”).
- F.** On March 15, 2017, the City and San Juan Hills entered into the Amendment to Addendum (“**Amendment to Addendum**”).
- G.** The Partial Settlement Agreement, Addendum and Amendment to Addendum are collectively referred to herein as the “**San Juan Hills Settlement Agreement**.” A copy of the San Juan Hills Settlement Agreement is attached hereto as **Exhibit A**.
- H.** Pursuant to the San Juan Hills Settlement Agreement, the Action, including the Complaint filed by San Juan Hills and the Cross-Complaint filed by the City, was dismissed with prejudice.

- I. In accordance with the Annexation Agreement, the Parties desire to enter into this Agreement to effectuate the City's assignment of its rights and obligations under the San Juan Hills Settlement Agreement to SMWD, SMWD's assumption of all such obligations, and that the City be released from all such obligations.
- J. Concurrently with this Agreement, the City and SMWD are executing the Master Water Rights Transfer Agreement ("**Master Agreement**"). A copy of the Master Agreement is attached hereto as **Exhibit B**.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

- 1. **Recitals**. The Parties acknowledge that the above recitals preceding this paragraph 1 are true and correct, and are incorporated herein as material parts of this Agreement.
- 2. **Master Agreement**. Sections 1, 2, 3, 4, 5 and 6 of the Master Agreement are incorporated as if set forth in full herein.
- 3. **City Assignment**. The City does hereby assign, transfer, and convey to SMWD, without recourse and without representation or warranty of any kind, all of the City's rights, title, and interest in, to, and under the San Juan Hills Settlement Agreement, along with all liabilities and obligations of the City arising from or under the San Juan Hills Settlement Agreement.
- 4. **SMWD Assumption**. SMWD does hereby accept such assignment without recourse and without representation or warranty of any kind, and assumes all of the City's liabilities and obligations arising from or under the San Juan Hills Settlement Agreement, including any and all obligations to make payments, indemnifications or reimbursements thereunder, and agrees to be bound by and to keep, perform and observe the terms, covenants and conditions of the City under the San Juan Hills Settlement Agreement. SMWD agrees to be bound by the San Juan Hills Settlement Agreement to the same extent as if it had been an original party to it and accepts and agrees to perform all of the City's obligations therein.
- 5. **Additional Indemnification**. In addition to the indemnification provided in Section 5 of the Master Agreement, which is incorporated herein by Section 2 above, SMWD agrees to provide the additional indemnification set forth in this Section 5. SMWD shall defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless the City from and against all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, damages and expenses (of any nature whatsoever, in law or equity, known or unknown, foreseen or unforeseen, contingent or non-contingent), in any way related to or in any way arising out of or in connection with the San Juan Hills Settlement Agreement, unless such obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses both: (i) arose prior to the Annexation Effective Date, and (ii) are covered under the City's risk pool insurance. SMWD shall also defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless City officials,

EXHIBIT H

employees and agents for any matter within the scope of the indemnification under this Section 5, to the same extent, and subject to the same limitations, that apply to the City's obligations to defend, indemnify and hold harmless such City officials, employees and agents under California law or applicable City contract with those officials, employees or agents. SMWD shall not seek reimbursement or contribution from the City for any costs, expenses or damages for, or related to, matters within the scope of the indemnification under this Section 5.

6. Notice to San Juan Hills and the Authority. Within 7 (seven) calendar days after the Annexation Effective Date, SMWD and the City shall jointly cause the letter attached as **Exhibit C** to this Agreement to be delivered to San Juan Hills and the Authority.

[Remainder of page intentionally left blank. Signatures follow.]

EXHIBIT H

IN WITNESS WHEREOF, the Parties to this Agreement have caused the same to be executed by each of their duly authorized officers as follows:

CITY OF SAN JUAN CAPISTRANO

ATTEST:

By: _____
Troy A. Bourne
Mayor

Maria Morris
City Clerk

APPROVED AS TO FORM:

Stephanie Osler Hastings
Special Counsel

SANTA MARGARITA WATER DISTRICT

ATTEST:

By: Charles T. Gibson
Charles T. Gibson
President of Board of Directors

Kelly Radvansky
Board Secretary

APPROVED AS TO FORM:

Edward Casey
Special Counsel

EXHIBITS:

- A. San Juan Hills Settlement Agreement
- B. Master Agreement
- C. Letter to San Juan Hills Golf Club, LLP and San Juan Basin Authority

**AGREEMENT
REGARDING ASSIGNMENT AND ASSUMPTION OF
COTTON SETTLEMENT, MUTUAL RELEASE AND
WELL SHARING AGREEMENT**

This Agreement Regarding Assignment and Assumption of Cotton Settlement Agreement, Mutual Release, And Well Sharing Agreement dated as of _____, 2021 (the “**Agreement**”) is entered into by the City of San Juan Capistrano (“**City**”) and Santa Margarita Water District (“**SMWD**”). The City and SMWD may be referred to herein in the singular as “**Party**” and collectively as “**Parties**.”

RECITALS

- A.** The City is a general law city created and existing under the California Constitution and the laws of the State of California.
- B.** SMWD is a water district created and existing under the California Water District Law (California Water Code Section 34000 et seq.).
- C.** The City and SMWD entered into that certain Annexation Agreement dated as of January 21, 2020 (“**Annexation Agreement**”). Pursuant to the Annexation Agreement, the City and SMWD agreed to, among other things, negotiate in good faith and enter into a “**Water Rights Transfer Agreement**” with respect to the City’s water rights and the SMWD’s provision of water service to the City and its existing and future customers.
- D.** Pursuant to that certain deed dated April 25, 2014 and recorded as instrument number 201400 0159435 in the Official Records of Orange County, California, Jeffrey and Shannon Cotton (the “**Cottons**”) own real property located at 28801 San Juan Creek Road, San Juan Capistrano, California 92675 (the “**Cotton Property**”), as further described in **Exhibit “A”** hereto.
- E.** On or about September 27, 2016, the City and the Cottons entered into the Settlement, Mutual Release and Well Sharing Agreement, which fully resolved litigation pending in the Orange County Superior Court (Case No. 30-2015-00778655-CU-BC-JC) between the Cottons and the City (the “**2016 Agreement**”). On or about October 31, 2017, the City and the Cottons entered into an Addendum to the Cotton Agreement (the “**Cotton Addendum**”). For purposes of this Agreement, the 2016 Agreement and the Cotton Addendum shall collectively be referred to as the “**Cotton Agreement**.” The Cotton Agreement is attached hereto as **Exhibit “B.”**
- F.** Among other things, the Cotton Agreement provide for the City’s shared use of the “**Blenheim Well**” and “**Blenheim Water Delivery System**,” which well and water delivery system are owned and operated by the Cottons and located on the Cotton’s property.

- G. In accordance with the Annexation Agreement, the Parties desire to enter into this Agreement to effectuate the City's assignment of its rights and obligations under the Cotton Agreement to SMWD, SMWD's assumption of all such rights and obligations.
- H. Concurrently with this Agreement, the City and SMWD are executing the Master Water Rights Transfer Agreement ("**Master Agreement**"). A copy of the Master Agreement is attached hereto as **Exhibit C**.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Recitals**. The Parties acknowledge that the above recitals preceding this paragraph 1 are true and correct, and are incorporated herein as material parts of this Agreement.
2. **Master Agreement**. Sections 1, 2, 3, 4, 5 and 6 of the Master Agreement are incorporated as if set forth in full herein.
3. **City Assignment**. The City does hereby assign, transfer, and convey to SMWD, without recourse and without representation or warranty of any kind, all of the City's rights, title, and interest in, to, and under the Cotton Agreement, along with all liabilities and obligations of the City arising from or under the Cotton Agreement.
4. **SMWD Assumption**. SMWD does hereby accept such assignment without recourse and without representation or warranty of any kind, and assumes all of the City's liabilities and obligations arising from or under the Cotton Agreement, including any and all obligations to make payments, indemnifications or reimbursements thereunder, and agrees to be bound by and to keep, perform and observe the terms, covenants and conditions of the City under the Cotton Agreement. SMWD agrees to be bound by the Cotton Agreement to the same extent as if it had been an original party to it and accepts and agrees to perform all of the City's obligations therein.
5. **Additional Indemnification**. In addition to the indemnification provided in Section 5 of the Master Agreement, which is incorporated herein by Section 2 above, SMWD agrees to provide the additional indemnification set forth in this Section 5. SMWD shall defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless the City from and against all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, damages and expenses (of any nature whatsoever, in law or equity, known or unknown, foreseen or unforeseen, contingent or non-contingent), in any way related to or in any way arising out of or in connection with the Cotton Agreement, unless such obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses both: (i) arose prior to the Annexation Effective Date, and (ii) are covered under the City's risk pool insurance. SMWD shall also defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless City officials, employees and agents for any matter within the scope of the indemnification under this Section 5, to the same extent, and subject to the same limitations, that apply to the City's obligations to defend, indemnify and hold

EXHIBIT I

harmless such City officials, employees and agents under California law or applicable City contract with those officials, employees or agents. SMWD shall not seek reimbursement or contribution from the City for any costs, expenses or damages for, or related to, matters within the scope of the indemnification under this Section 5.

6. Notice to the Cottons. Within 7 (seven) calendar days after the Annexation Effective Date, SMWD and the City shall jointly cause the letter attached as **Exhibit D** to this Agreement to be delivered to the Cottons.

[Remainder of page intentionally left blank. Signatures follow.]

IN WITNESS WHEREOF, the Parties to this Agreement have caused the same to be executed by each of their duly authorized officers as follows:

CITY OF SAN JUAN CAPISTRANO

ATTEST:

By: _____
Troy A. Bourne
Mayor

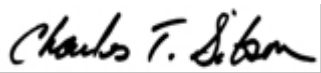
Maria Morris
City Clerk

APPROVED AS TO FORM:

Stephanie Osler Hastings
Special Counsel

SANTA MARGARITA WATER DISTRICT

ATTEST:

By:  _____
Charles T. Gibson
President of Board of Directors

Kelly Radvansky
Board Secretary

APPROVED AS TO FORM:

Edward Casey
Special Counsel

EXHIBITS:

- A. Cotton Property
- B. Cotton Agreement
- C. Master Agreement
- D. Joint City and SMWD Letter to Cottons

**RECYCLED WATER PURCHASE AGREEMENT
BETWEEN THE CITY OF SAN JUAN CAPISTRANO
AND MOULTON NIGUEL WATER DISTRICT THROUGH RECYCLED
WATER FACILITIES LOCATED AT THE INTERSECTION OF VIA
ESCOLAR AND RANCHO VIEJO ROAD**

This Recycled Water Purchase Agreement is made and entered into this 15th day of November, 2005, by and between the City of San Juan Capistrano, (hereinafter referred to as CITY), and Moulton Niguel Water District (hereinafter referred to as MNWD), a California water district.

RECITALS

A. MNWD has a recycled water system and CITY is in the process of developing a recycled water system.

B. CITY wishes to obtain recycled water as a temporary source of recycled water supply for certain areas within its boundaries by purchasing recycled water from MNWD, to be delivered through a combination of recycled water facilities and improvements within MNWD and CITY boundaries. CITY plans to curtail the purchase of recycled water from MNWD upon development of a recycled water treatment facility at the J.B. Latham Wastewater Treatment Plant.

C. CITY intends to use the recycled water to meet the terms of its Local Resource Program (LRP) Agreement with Metropolitan Water District of Southern California (MET). The use of recycled water from MNWD is allowed by the terms of the LRP Agreement. The additional recycled water capacity to be provided by MNWD is not covered by a current or expired MET grant program.

D. The recycled water purchased by CITY from MNWD shall be measured and controlled through a Recycled Water Metering Station (RWMS) owned, operated, and maintained by MNWD.

E. MNWD currently has the capability to provide recycled water to accommodate, on an interruptible basis, CITY's anticipated recycled water demands under the arrangement proposed herein, subject to MNWD's first priority needs for such recycled water supply.

F. The MNWD Board of Directors deems such an arrangement to be in the best interests of MNWD.

G. The City of San Juan Capistrano City Council deems such an arrangement also to be in the best interests of CITY.

NOW THEREFORE in consideration of the mutual covenants and conditions herein contained, the parties hereby agree as follows:

AGREEMENT

1. Recycled Water Supply. Subject to the terms and conditions of this Agreement, MNWD agrees to provide recycled water to CITY using a combination of MNWD recycled water facilities and CITY recycled water facilities constructed in association with CITY improvements within MNWD and CITY boundaries.

2. Location of the Connection and Meter. The connection and meter between MNWD's recycled water system ("MNWD Recycled water System") and the CITY recycled water system ("CITY Recycled water System") to convey recycled water sold to CITY by MNWD shall be near the intersection of Via Escolar and Rancho Viejo Road. The general location of the point of connection is depicted on Exhibit "A". The final, specific location, plans, and specifications shall be approved by the Director of Engineering of MNWD prior to any construction.

3. Design, Construction, Ownership, and Maintenance. CITY agrees to design and construct the pipeline from the MNWD Recycled Water System, to the Recycled water Metering Station (RWMS), and from the RWMS to the CITY Recycled Water System. CITY agrees to construct the pipeline from the MNWD Recycled Water System to the RWMS, and the RWMS within the public right-of-way per the standards of MNWD. MNWD agrees to accept ownership, and the responsibility for the maintenance and operation of the RWMS, and the pipeline from the MNWD Recycled Water System to the RWMS. CITY agrees to accept ownership, and the responsibility for the maintenance and operation of the pipeline from the RWMS to the CITY Recycled Water System.

4. Compliance with Rules and Regulations. CITY agrees to comply with and abide by all rules and regulations of MNWD and those imposed by any governmental authority or public agency relating to the herein described facilities and the MNWD Recycled Water System.

5. Recycled Water Cost. Subject to the terms and conditions of this Agreement, MNWD will sell recycled water to CITY to serve areas within CITY boundaries at MNWD's prevailing retail rate for recycled water users. The MNWD prevailing retail rate may be adjusted from time to time by MNWD in its sole discretion to reflect increased costs.

6. Recycled Water Flow Rate. CITY will develop and operate its system such that the flow rate through the RWMS does not exceed 1,200 gallons per minute.

7. LRP Grant Credit. MNWD agrees that it will not claim credit for the recycled water sold to CITY under the MET LRP, LPP, or any other MET recycled water grant or credit programs.

8. Interruptible Recycled Water Supply. The parties acknowledge and agree that MNWD's sale of recycled water to CITY is subject to interruption at any time, and for any length of time, in the event MNWD determines in its sole discretion that MNWD requires the recycled water for its own needs. CITY waives and releases all claims and recourse against MNWD, including the right of contribution for loss or damage of persons or property, arising out of or in any way connected with the interruption of the recycled water supply to CITY under this Agreement and with the matters CITY is obligated to indemnify MNWD from and/or against as set forth in Section 9 below.

9. Indemnity. Subject to the qualification as to MNWD's obligation described in Section 8 above, each party hereby agrees to mutually indemnify and hold the other party harmless from any and all claims, demands, causes of action, damages, costs and expenses, including attorneys fees, property damage, bodily injuries, personal injury, losses or liabilities, in law or in equity, of every kind and nature to the extent that the same are the result of an error, omission or negligent act of the indemnifying party, its officers or employees, or any other person acting pursuant to its control in performing under this Agreement.

10. Attorney's Fees. If either party hereto commences any action to enforce any provision of this Agreement, the prevailing party shall be entitled to receive from the other party, in addition to damages, equitable or other relief, all costs and expenses incurred, including reasonable attorney's fees.

11. Successors. This Agreement will be binding upon and inure to the benefit of the parties' successors hereto.

12. Waiver. The failure of either party to insist on compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of such terms, covenants, or conditions of this Agreement by the other party, nor shall any waiver or relinquishment of any right or power conferred by this Agreement at any other time, or times, by a party be deemed a waiver or relinquishment of that right or power for all or any other times.

13. Severability. If any part of this Agreement is held to be illegal or unenforceable or void for any reason by a court of competent jurisdiction, the validity of enforceability of this Agreement as a whole shall not be affected and the remainder and all other provisions of this Agreement shall be given effect to the maximum extent permissible by law.

14. Entire Agreement. This Agreement supersedes any and all agreements between the parties with respect to the subject matter herein, and contains the entire agreement between the parties with respect to those matters.

15. Amendment. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in a writing signed by both parties.

16. Notice. Any notice required or permitted to be given hereunder shall be deemed to have been validly given or made only if in writing and when received by the party to whom it is directed by personal service, hand delivery, or United States Mail as follows:

If to MNWD: Mr. Carlo Habash, Director of Engineering
 Moulton Niguel Water District
 27500 La Paz Road
 Laguna Niguel, CA 92677

If to CITY: Ms. Amy Amirani, Public Works Director
 City of San Juan Capistrano
 32400 Paseo Adelanto
 San Juan Capistrano, CA 92675

Either party may change its address above at any time by written notice to the other.

17. Recitals/Exhibits: Counterparts. The parties acknowledge and agree the Recitals are true and correct and are incorporated in this Agreement. The Exhibits referenced in this Agreement and attached to this Agreement are incorporated herein. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed.

CITY OF SAN JUAN CAPISTRANO

Date: November 15, 2005

By: Wyatt Hart
Wyatt Hart, Mayor

ATTEST:

Margaret R. Monahan
Margaret R. Monahan, City Clerk

APPROVED AS TO FORM:

John R. Shaw
John R. Shaw, City Attorney

MOULTON NIGUEL WATER DISTRICT

Date: Nov 21, 2005

By: John V. Foley
John V. Foley, General Manager

By: Leslie Gray
Leslie Gray, Secretary

Recycled Water Connection From Moulton Niguel Water District to The City of San Juan Capistrano at Via Escolar and Rancho Viejo Road

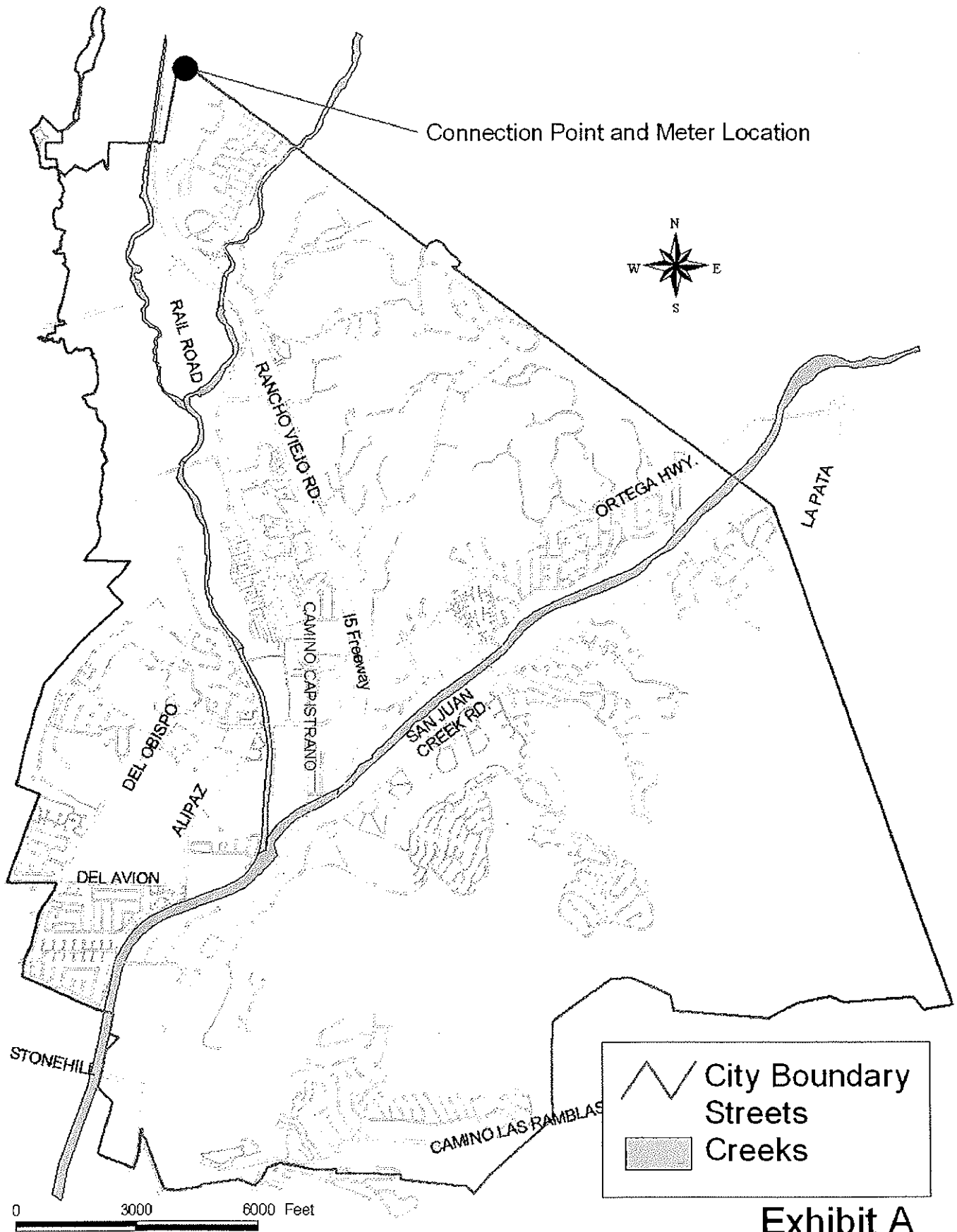


Exhibit A

DRAFT 11/18/20

**AMENDED AND RESTATED PROJECT IMPLEMENTATION AGREEMENT
SAN JUAN BASIN DESALTER PROJECT**

THIS AMENDED AND RESTATED PROJECT IMPLEMENTATION AGREEMENT for the SAN JUAN DEALTER PROJECT (“AGREEMENT”) is made this ____ day of December __, 2020, by and among the San Juan Basin Authority, a joint powers authority duly organized and existing under and by virtue of the laws of the State of California (the “SJBA”) and the Santa Margarita Water District, a California Water District duly organized and existing under Division 13 of the Water Code of the State of California (“SMWD”), and agreed to and accepted by the SJBA and SMWD are sometimes hereinafter referred to individually or collectively as “the PARTY” or “the PARTIES.”

RECITALS

A. On November 22, 1971, the SJBA was formed pursuant to Article I, Chapter 5, Division 7, Title 1 of Government Code of the State of California (Government Code 6500 et seq.) and established for the purpose of jointly funding certain water system facilities and water conservation projects necessary to conserve and make water resources available to the areas within the San Juan Creek Watershed serviced by the members of the SJBA.

B. On February 5, 1991, SJBA, Capistrano Valley Water District (“CVWD”), Moulton Niguel Water District (“MNWD”), SMWD and Trabuco Canyon Water District entered into the San Juan Basin Projects Agreement (the “1991 Agreement”) for purposes including the development, conservation and management of imported water conjunctively with water produced locally.

C. Pursuant to the 1991 Agreement, the CVWD, MNWD, SMWD, and the Trabuco Canyon Water District established several Project Committees to study and implement a water management

and use program within the San Juan Creek Basin and tributaries (the “Basin”). The SJBA made a study of the feasibility of extracting water from the Basin, treating that water to improve its quality as appropriate, and supplying the resulting water to the then current members of the SJBA (i.e. CVWD, MNWD, SMWD, and Trabuco Canyon Water District) and other water users (the “San Juan Basin Ground Water Management and Facility Plan”, as revised). The SJBA then proceeded with a groundwater recovery project based upon this study and subsequent hydrologic, environmental and other work.

D. On November 21, 1995, SJBA, CVWD and City entered into the San Juan Basin Authority – Capistrano Valley Water District and City of San Juan Capistrano Agreement, which was thereafter amended on March 1, 1998 by the San Juan Basin Authority – Capistrano Valley Water District and City of San Juan Capistrano Amendment to Agreement. The November 21, 1995 agreement and March 1, 1998 amendment to agreement are hereinafter collectively referred to as the “1995 Agreement.” The purpose of the 1995 Agreement was to clarify the agreement between those parties with respect to the extraction of water from the San Juan Basin for CVWD and the City relative to SJBA’s extraction of water from the Basin for the project specified in that agreement.

E. On October 27, 1998, SJBA, CVWD and SMWD (collectively, the “Participating Members” for reference purposes only to this Recital and Recital “F”, herein)¹ entered into a Memorandum of Understanding (the “1998 MOU”), which provides among other items, that prior to commencing construction of the project specified in the MOU, the Participating Members allocated interest in the specified project’s water rights and water supplies will be

¹ MNWD is referenced in the 1998 MOU, but the 1998 MOU is not signed by MNWD. Investigation into the matter revealed that MNWD’s Board of Directors never approved the 1998 MOU. As a result, it is the

established by a project implementation agreement among the Participating Members and SJBA.

F. On October 15, 2002, SJBA, CVWD and SMWD entered into the Project Implementation Agreement San Juan Basin Desalter Project (“the 2002 Agreement”), the purpose of which Agreement was to i) comply with Section 7(a) of the 1991 Agreement, which requires a Project Lease Agreement whenever construction of a project is funded by a bond issue; ii) to comply with Section 7 of the 1998 MOU, which requires each Participating Member’s allocated interest in the Project’s water rights and water supplies to be established by a project implementation agreement among the Participating Members and SJBA; and, iii) to address provisions in the 1991 Agreement, 1995 Agreement and the 1998 MOU which are or may be affected by this Agreement.

G. On September 3, 2002, the City approved a services contract with ECO Resources, Inc. to design, build, and operate Phase I (the only phase) of the San Juan Basin Authority Groundwater Recover Project (the “Desalter Project”). Effective October 31, 2008, that services contract was terminated and operation of the Desalter Project was transferred to the City. The termination and transfer are described in a settlement agreement between the City and ECO Resources, dated November 15, 2008. The Desalter Project was designed to extract approximately 5,800 acre-feet of water annually to enable the production of approximately 4,800 acre-feet of potable water annually, all of which was delivered to CVWD’s and/or City’s potable water delivery system for use within CVWD’s and/or the City’s service area.

H. On September 2, 1998, the Orange County Local Agency Formation Commission (“OCLAFCO”) adopted Resolution R096-15, whereby approving the merger of CVWD and the

position of the Parties hereto that MNWD is not a party to the 1998 MOU.

City and ordering the City to be the successor to the CVWD.

I. In 2015, the City began to evaluate options to re-organize the City’s potable water system and recycled water system and wastewater system (the “Utilities Systems”). Based on such evaluation, in August 2016, the City submitted an application to OCLAFCO pursuant to Government Code section 56430 for a Municipal Service Review, to assess the potential transfer of the operation and facilities of the Utilities Systems to another public agency.

J. On August 20, 2019 and August 23, 2019, the City Council of the City and the Board of Directors of SMWD, respectively, approved a memorandum of understanding that sets forth the intent of the two agencies to provide for transfer of the City’s Utility Systems to the SMWD.

K. On October 1, 2019, the City provided notice of its intent to withdraw from the SJBA effective upon the date on which ownership of the City’s Utility Systems transfer to SMWD.

L. On January 21, 2020, the City and SMWD entered into an Annexation Agreement (the “Annexation Agreement”) whereby the City’s Utilities Systems would be transferred to SMWD. On _____, SMWD submitted to OCLAFCO an application and plan for services for a sphere of influence amendment and annexation (“LAFCO Application”).

M. On _____ OCLAFCO approved the LAFCO Application by Order No. _____ (“LAFCO Order”). The LAFCO Order [**DESCRIPTION TO REFLECT LAFCO ORDER LANGUAGE FOR SMWD TAKING OVER CITY’S UTILITY SYSTEMS.**]

N. Pursuant to the Assignment, Assumption and Amendment Agreement Regarding Desalter Project Agreements dated December __, 2020, the City and SMWD effectuated an assignment of the City’s rights and obligations under the 2002 Project Implementation Agreement, including

but not limited to the City's allocated interest in Permit 21074 (as defined in section 4(a) below), and the 1991 Agreement, 1995 Agreement and 1998 MOU, to SMWD.

O. As of the date of the LAFCO Order, the current members of the SJBA were SMWD, MNWD, the City, and South Coast Water District ("SCWD") (collectively referred to hereafter as the "Members"). Upon the City's withdrawal from the SJBA and the effective date of this Agreement, the members of the SJBA are SMWD, MNWD, and South Coast Water District ("SCWD").

P. In light of the City's assignment of the Desalter Project Agreements to SMWD, withdrawal from the SJBA and transfer of the City's Utility Systems to SMWD, the Parties desire to amend and restate, via this Agreement, the 1995 Agreement, the 1998 MOU, and the 2002 Agreement.

NOW THEREFORE, the Parties agree as follows:

AGREEMENT

- 1. RECITALS.** The Parties acknowledge that the above recitals (paragraphs A — P) preceding this paragraph 1 are true and correct, and are incorporated herein as material parts of this Agreement.
- 2. EFFECTIVE DATE.** This Agreement shall become effective on the Annexation Effective Date.
- 3. DESALTER PROJECT LEASE AGREEMENTS.** Attached hereto collectively as Exhibit "A" and incorporated by reference herein, are: (1) Amended and Restated Lease Agreement by and between City of San Juan Capistrano, as Lessee, and San Juan Basin

Authority, as Lessor, dated as of November 1, 2014; (2) Assignment, Assumption and Amendment Agreement by and among Santa Margarita Water District, as Assignee and City of San Juan Capistrano, as Assignor, and San Juan Basin Authority, and The Bank of New York Mellon Trust Company, N.A. dated as of _____; (3) Property Lease by and between City of San Juan Capistrano, as Lessor, and the San Juan Basin Authority, as Lessee, dated as of December 1, 2002; (4) Assignment, Assumption and Amendment Agreement by and among Santa Margarita Water District, as Assignee and City of San Juan Capistrano, as Assignor, and San Juan Basin Authority, dated as of _____; and (5) Trust Agreement Relating to the San Juan Basin Authority Lease Revenue Bonds (Ground Water Recovery Project) Issue of 2014. The foregoing documents are collectively referred to as the “Desalter Project’s Leases and Trust Agreement.” The Parties agree that the Desalter Project’s Leases and Trust Agreement satisfy the requirements of Section 7(a) of the 1991 Agreement.²

4. SMWD’S ALLOCATED INTEREST IN DESALTER PROJECT.

(a) SMWD’s allocated interest in the Desalter Project’s water rights and water supplies, which water rights are established by Amended Permit for Diversion and Use of Water No. 21074 (“Permit 21074”) issued for the Project by the State Water Resources Control Board (“State Water Board”), shall be in the amount of 5,800 acre-feet per year. SMWD’s allocation of 5,800 acre-feet is a per year allocation, SMWD’s allocation will not be credited or increased with any amounts of the allocation unused in previous years. SJBA and its member agencies, shall not have any obligation to provide SMWD with substitute water if SMWD is unable to extract or is

² For ease of reference only, Section 7(a) of the 1991 Agreement states, “Members Obligation To Enter Project Lease Agreements. Whenever construction of project facilities for an authorized project shall be funded by a bond issue, each Member shall enter a Project Lease Agreement, which shall be substantially in the form of Attachment No. 4, attached hereto and incorporated herein by reference. Each Member further agrees to make all payments required by the Project Lease Agreement.”

otherwise prevented from extracting the allocated 5,800 acre-feet in any particular year. A portion of the Desalter Project water may be delivered from time-to-time to SJBA's other member agencies on terms mutually agreeable to SMWD, SJBA and SJBA's participating member agencies. For purposes of this Agreement, "extraction" or "extract" shall include diversion of surface or subsurface water from the Basin by any method; and "year" shall mean October 1 — September 30.

(b) Condition No. 7 of Permit 21074 states, in relevant part, "Allocation of the available water resources under this permit and any permits issued pursuant to Application 30337 of South Coast Water District and 30696 of Capistrano Valley Water District, et al. are governed by private agreements among the respective parties dated November 21, 1995 [referred to herein as the 1995 Agreement] and March 1, 1998 [referred to herein as the 1998 MOU], and by their joint letter dated March 13, 1998." The Parties acknowledge and agree that this Agreement is intended to comply with Condition No. 7 of Permit 21074 and that, other than substituting SMWD for the City/CVWD, this Agreement does not change the previously agreed to allocation of the water resources.

(c) This Agreement does not supersede, establish or confirm the existence of or priority of, or in any way impact water rights that may exist separate and apart from this Agreement and Permit 21074 that SMWD might claim to have received from the City as a result of said agreements and the Annexation.

(d) The Parties further acknowledge and agree that this Agreement has no impact or effect on any water rights that the Members may claim to have separate and apart from Permit 21074 and that this Agreement does not waive or prevent any of the Members from bringing an

action against other Members or third parties or participating in any action involving water rights in San Juan Creek, whether such action is administrative or legal, asserting impairment of any claimed water right. Nor shall anything in this agreement act as a waiver or otherwise prevent any Member from challenging compliance with Permit 21074 as related to groundwater extracted by or on behalf of the San Juan Basin Authority, the City of San Juan Capistrano or the Santa Margarita Water District regardless of the location of the Authority's extraction wells in or along the subterranean stream underlying San Juan Creek.

5. DECISIONS AND APPROVALS. The Parties agree that, since SMWD is the only SJBA member participating in the Desalter Project, major decisions and approvals concerning the Desalter Project, including construction, operation, maintenance and repair shall be made by SMWD in consultation with SJBA. Such decisions and approvals shall not materially impair the rights of SJBA in any subsequent expansion of the Desalter Project, nor cause SBJA to be in non-compliance with the provisions of Permit 21074 issued by the State Water Resources Control Board. SMWD will be a member of the SJBA Coordinating Committee established by the 1998 MWD Agreement. The subsidy described in the 1998 MWD Agreement shall be irrevocably committed to the Desalter Project and SJBA will not exercise its right to terminate the 1998 MWD Agreement without the prior written consent of SMWD. Notwithstanding the foregoing, neither SJBA nor its member agencies have any obligation to ensure any level of extraction from the Desalter Project pursuant to this Agreement.

6. OPERATION OF PROJECT FACILITIES.

(a) SMWD will operate the Desalter Project as the contracted operator of SJBA during the Lease Term described in the Desalter Project's Leases and Trust Agreement and Operating Lease Agreement, dated as of December 1, 2002, and First Amendment to Operating

Lease Agreement, effective on or about September 10, 2013 (collectively the “Operating Lease”). SMWD’s contracted operation of the Desalter Project shall include the right to make alterations or improvements or attach fixtures or structures to the Desalter Project in consultation with SJBA if said alterations, improvements, fixtures and structures are necessary or reasonably beneficial for the use of the Desalter Project and are consistent with sound engineering and construction practices, where SMWD would be solely responsible for the cost and risk of the same.

(b) SMWD will duly observe and comply with all applicable laws and regulations, whether Federal, State or local, and whether existing as of the Effective Date of this Agreement or as may be enacted in the future pertaining to: (1) the maintenance, repair, and operation of the wells and related facilities by SMWD, including wells and related facilities referenced on Exhibit A; (2) the control, carriage, handling, use, disposal, or distribution of water extracted by SMWD; and (3) SMWD’s maintenance, repair, and operation of the Desalter Project. SMWD shall be solely responsible for all costs and shall bear all responsibility for complying with applicable laws as required by this section.

(c) SJBA and SMWD will comply with all conditions of approval and mitigation measures required by Permit 21074. The SJBA shall consult SMWD with respect to those actions or inactions that SJBA believes are necessary to comply with the requirements of Permit 21074. Notwithstanding the consultation requirement in the immediately preceding sentence, the Parties acknowledge and agree that the SJBA shall have sole discretion to determine what actions or inactions are necessary to comply with Permit 21074.

(d) SMWD will comply with all conditions of the APM. The Parties acknowledge and agree that the APM is subject to amendment and revision at any time in response to the Basin's current hydrological condition.

7. RESPONSIBILITY FOR WELL FACILITIES. SMWD shall be responsible for maintaining, repairing, replacing and operating all of the wells referenced on Exhibit "B", related facilities, and all replacement wells and related facilities, such that they are in good condition, and for keeping records thereof. SMWD will be solely responsible for and would bear the cost of keeping records for these wells, including complying with requirements for regulatory reports, including to the State Water Resources Control Board, the Department of Water Resources, and the San Diego Regional Water Quality Control Board. Any responsibility or cost for these records that is indirectly born by SJBA, as determined by SJBA, will be paid by SMWD and will not be the responsibility of SJBA or its member agencies.

8. RESPONSIBILITIES FOR DELIVERY AND DISTRIBUTION OF WATER.

Neither the SJBA, MNWD, SCWD, nor any of their officers, agents or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water extracted by SMWD; nor for claims or damages of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of any such water beyond said point of delivery; and SMWD hereby agrees to jointly and severally defend, indemnify and hold harmless the Authority, the other Members and their officers, agents, and employees, from any such damages or claims of damages.

9. MUTUAL INDEMNIFICATION.

(a) SMWD shall defend, indemnify, and hold harmless SJBA, SJBA's member agencies, their respective elected and appointed officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury, to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency arising out of or incident to the performance of this Agreement and resulting from the negligence or wrongful act of SMWD's elected and appointed officials, officers, agents, employees or invitees including, without limitation, any such claims, disputes, controversies or injury to property or persons arising from or in connection with: (1) the maintenance, repair, and operation of the wells and related facilities by SMWD, including wells and related facilities referenced on Exhibit A; (2) the control, carriage, handling, use, disposal, or distribution of water extracted by SMWD; (3) SMWD's maintenance, repair, and operation of the Desalter Project, and (4) any obligations arising under the Desalter Project's Leases and Trust Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of SJBA, SJBA's member agencies, their respective elected officials, officers, employees, and/or agents for all legal expenses and costs incurred by each of them.

(b) SJBA shall defend, indemnify, and hold harmless SMWD, its elected officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury, to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency, arising out of or incident to the performance of this Agreement

and resulting from the negligence or wrongful act of SJBA, their respective elected and appointed officials, officers, agents, employees or invitees. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of SMWD, its elected officials, officers, employees, and/or agents for all legal expenses and costs incurred by each of them. SMWD acknowledges that neither MNWD nor SCWD have any obligation as members of the SJBA to contribute to the payment for any liability of the SJBA related to the Desalter Project except as for contractual obligations arising under the Joint Powers Agreement.

10. EFFECT OF INCONSISTENT PROVISIONS. This Agreement comprises the entire understanding of the Parties concerning the issues herein described, and supersedes all previous oral and written agreements, negotiations, communications, representations and commitments. To the extent the terms of this Agreement are inconsistent with the Desalter Project's Leases and Trust Agreement the terms of the Desalter Project's Leases and Trust Agreement shall prevail so long as the bonds issued under the Trust Agreement Relating to the San Juan Basin Authority Lease Revenue Bonds (Ground Water Recovery Project) Issue of 2014 remain outstanding; provided however, that such Desalter Project's Leases and Trust Agreement shall not result in the imposition of any financial liabilities on SJBA or its member agencies other than SMWD.

11. THE PARTIES' TERMINATION OF PREVIOUS AGREEMENTS. The Parties intend for this Agreement to amend, restate, and replace in their entirety the 1995 Agreement, 1998 MOU, and 2002 Agreement. Upon the Effective Date of this Agreement this Agreement shall supersede and replace the 1995 Agreement, 1998 MOU, and 2002 Agreement and the 1995 Agreement, 1998 MOU, and 2002 Agreement are terminated by mutual consent of the Parties and shall have no further force or effect.

12. NOTICES. All notices, demands, requests, consents, or other communications permitted or required by this Agreement shall be personally delivered, sent by registered or certified mail, postage prepaid, return-receipt requested, or by facsimile, addressed to the respective Parties as follows:

TO SJBA:	San Juan Basin Authority 26111 Antonio Parkway Rancho Santa Margarita, California 92688 Attention: Administrator Phone: Fax:
TO SMWD:	Santa Margarita Water District 26111 Antonio Parkway Rancho Santa Margarita, California 92688 Attention: General Manager Phone: Fax:

13. AUTHORITY. Each of the individuals executing this Agreement verifies that each of them has the authority to enter into this Agreement, that the necessary resolutions or other consents have been passed or obtained, and that this Agreement shall be binding on the Party for whom each of them is signing.

14. TIME IS OF THE ESSENCE. Time is of the essence of all provisions of this Agreement where time is a factor.

15. GOVERNING LAW AND VENUE. The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the laws of the State of California. Venue for any action brought to enforce or interpret this Agreement shall be brought in the appropriate federal or state court in or nearest to the South Orange County Judicial District, County of Orange.

16. AMENDMENT. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the Parties or their respective successors in interest. No right or remedy will be waived unless the waiver is in writing and signed by the Party claimed to have made the waiver. One waiver will not be interpreted as a continuing waiver.

17. BINDING NATURE OF AGREEMENT. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective officers, governing bodies, contractors, agents, employees, successors and assigns.

18. LITIGATION. In the event that the LAFCO Order is declared by any court of competent jurisdiction in a final order or judgment to be invalid or illegal, or the entirety of this Agreement is declared by a court of competent jurisdiction in a final order or judgment to be invalid or illegal, then the Parties to this Agreement shall cooperate with each other to cure the defect identified in said order or judgment and reinstate this Agreement. In the event that only a portion of this Agreement is declared by any court of competent jurisdiction in a final order or judgment to be invalid, illegal, or unenforceable, such portion shall be severed from the Agreement, and the remaining parts hereof shall remain in full force and effect as fully as though such invalid, illegal, or unenforceable portion had never been part of the Agreement, provided that the Parties to this Agreement determine that the remaining Agreement can be reasonably and equitably enforced, which determination shall not be unreasonably withheld.

19. BREACH AND CURE.

(a) Any Party to this Agreement may declare a breach hereof by serving written notice describing the nature of the breach to all Parties. The Party alleged to have breached the

Agreement shall be afforded a reasonable period, not less than thirty (30) days from service of the notice of breach to take whatever steps are necessary to cure the breach.

(b) All disputes arising out of or in connection with the interpretation or enforcement of this Agreement shall be submitted to mediation prior to the commencement of court proceedings at the request of any Party, by a retired judge from the panel of the Judicial Arbitration and Mediation Services, Inc. (“JAMS”), with experience in the area of California water law. This provision shall be specifically enforceable. If the Parties to the dispute fail to agree upon a member of the JAMS panel, any Party may apply to the Presiding Judge of the Orange County Superior Court for appointment of a panel member consistent with provision to resolve the dispute. Upon completion of the mediation process described herein, any Party may pursue all remedies otherwise provided them by law, including the remedy of specific performance.

(c) In the event any legal action or proceeding is commenced to interpret or enforce the terms of, or obligations arising out of, this Agreement, or to recover damages for the breach of this Agreement, the Party prevailing in any such action or proceeding shall be entitled to recover from the non-prevailing Party all reasonable attorney fees and expenses incurred by such prevailing Party.

20. COOPERATION. The Parties agree to execute such other and further documents, assignments and instruments and to take such other actions as are or may become necessary or convenient to carry out this Agreement. The Parties agree to cooperate and do all acts as may be reasonably required to implement the Desalter Project including SJBA’s financing and SMWD’s operation and maintenance of the Desalter Project.

21. **SECTION HEADINGS.** All section headings are for convenience only and in no way define or limit the scope or interpretation of this Agreement.

22. **INTERPRETATION.** Each of the Parties acknowledges that it has reviewed this Agreement and has consulted legal counsel, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments hereto.

23. **ASSIGNMENT.** Except as provided in paragraph 18 of this Agreement, no assignment or transfer of this Agreement or any part hereof, rights hereunder, or interest herein shall be valid unless and until it is approved by all Parties to this agreement in writing.

24. **NO THIRD PARTY BENEFICIARIES.** There are no intended third party beneficiaries of any right or obligation assumed by the Parties under this Agreement.

25. **COMMENCEMENT AND TERMINATION OF AGREEMENT.** The term of this Agreement shall commence upon the Annexation Effective Date and shall continue until this Agreement is terminated by mutual agreement of the Parties.

26. **NOTIFICATION OF AMENDMENT AND TERMINATION OF AGREEMENT.**

The Parties shall provide notice to the Chief Executive Officer of the Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, CA 90054 - 0153, upon any amendment or termination of this Agreement.

IN WITNESS WHEREOF, the Parties to this Agreement have caused the same to be executed by each of their duly authorized officers as follows:

SAN JUAN BASIN AUTHORITY, a Joint Powers Authority

By: _____
Its: _____
Date: _____

ATTEST:

San Juan Basin Authority Secretary

APPROVED AS TO FORM:

Stradling Yocca Carlson & Rauth
San Juan Basin Authority Counsel

SANTA MARGARITA WATER DISTRICT

By: _____
Its: _____
Date: _____

ATTEST:

Santa Margarita Water District Secretary

APPROVED AS TO FORM:

Santa Margarita Water District Counsel

**ASSIGNMENT, ASSUMPTION AND AMENDMENT AGREEMENT
REGARDING DESALTER PROJECT AGREEMENTS**

This Assignment, Assumption and Amendment Agreement Regarding Desalter Project Agreements, dated as of _____, 2021 (“**Agreement**”), is entered into by and among SANTA MARGARITA WATER DISTRICT, a California Water District duly organized and existing under Division 13 of the Water Code of the State of California (“**SMWD**”) and the CITY OF SAN JUAN CAPISTRANO, a municipality duly organized and existing under and by virtue of the laws of the State of California (“**City**”). (The SMWD and the City shall be collectively referred to herein as the “Parties”).

RECITALS

A. On November 22, 1971, the San Juan Basin Authority (“**SJBA**”) was formed pursuant to Article I, Chapter 5, Division 7, Title 1 of Government Code of the State of California (Government Code 6500 et seq.) and established for the purpose of jointly funding certain water system facilities and water conservation projects necessary to conserve and make water resources available to the areas within the San Juan Creek Watershed serviced by the members of the SJBA.

B. On February 5, 1991, SJBA, Capistrano Valley Water District (“**CVWD**”), Moulton Niguel Water District (“**MNWD**”), SMWD and Trabuco Canyon Water District entered into the San Juan Basin Projects Agreement (the “**1991 Agreement**”) for purposes including the development, conservation and management of imported water conjunctively with water produced locally. A true and correct copy of the 1991 Agreement is attached hereto as **Exhibit A**.

C. On November 21, 1995, SJBA, CVWD and City entered into the San Juan Basin Authority – Capistrano Valley Water District and City of San Juan Capistrano Agreement, which was thereafter amended on March 1, 1998 by the San Juan Basin Authority – Capistrano Valley Water District and City of San Juan Capistrano Amendment to Agreement. The November 21, 1995 agreement and March 1, 1998 amendment to agreement are hereinafter collectively referred to as the “**1995 Agreement**.” The purpose of the 1995 Agreement was to clarify the agreement between those parties with respect to the extraction of water from the San Juan Basin for CVWD and the City relative to SJBA’s extraction of water from the Basin for the project specified in that agreement. A true and correct copy of the 1995 Agreement is attached hereto as **Exhibit B**.

D. On October 27, 1998, SJBA, CVWD and SMWD entered into a Memorandum of Understanding (the “**1998 MOU**”), which, among other items, provides that prior to commencing construction of the project specified in the MOU, the participating members allocated interest in the specified project’s water rights and water supplies will be established by a project implementation agreement among the participating members and SJBA. A true and correct copy of the 1998 MOU is attached hereto as **Exhibit C**.

E. On October 15, 2002, SJBA, CVWD and SMWD entered into the Project Implementation Agreement San Juan Basin Desalter Project (“the **2002 Project Implementation Agreement**”), whereby the City obtained an allocated interest in the San Juan Basin Authority’s Groundwater Recovery Project (“**Desalter Project**”)’s water rights in the amount of 5,800 acre-feet per year, which water rights are established by Permit No. 21074 (“**Allocated Interest in Permit No. 21074**”). The purpose of the 2002 Project Implementation Agreement is to i) comply with Section 7(a) of the 1991 Agreement, which requires a Project Lease Agreement whenever

EXHIBIT L

construction of a project is funded by a bond issue; ii) to comply with Section 7 of the 1998 MOU, which requires each participating member's allocated interest in the Desalter Project's water rights and water supplies to be established by a project implementation agreement among the participating members and SJBA; and, iii) to address provisions in the 1991 Agreement, 1995 Agreement and the 1998 MOU. A true and correct copy of the 2002 Project Implementation Agreement is attached hereto as **Exhibit D**.

F. The Desalter Project was designed to extract approximately 5,800 acre-feet of water annually to enable the production of approximately 4,800 acre-feet of potable water annually, all of which is delivered to CVWD's and/or City's potable water delivery system for use within CVWD's and/or the City's service area.

G. On September 2, 1998, the Orange County Local Agency Formation Commission ("OCLAFCO") adopted Resolution R096-15, whereby approving the merger of CVWD and the City and ordering the City to be the successor to the CVWD.

H. On August 20, 2019 and August 23, 2019, the City Council of the City and the Board of Directors of SMWD, respectively, approved a memorandum of understanding that sets forth the intent of the two agencies to provide for transfer of the City's water system and recycled water system and wastewater system (the "**Utilities Systems**") to the SMWD.

I. On October 1, 2019, the City provided notice of its intent to withdraw from the SJBA effective upon the date on which ownership of the City's Utility Systems transfer to SMWD .

J. On January 21, 2020, the City and SMWD entered into an Annexation Agreement (the "Annexation Agreement") whereby the City's Utilities Systems would be transferred to SMWD. Pursuant to the Annexation Agreement, the City and SMWD agreed to, among other things, negotiate in good faith and enter into a "Water Rights Transfer Agreement" with respect to the City's water rights and the SMWD's provision of water service to the City and its existing and future customers within the Territories, as that term is defined by the Annexation Agreement ("**City Customers**").

K. Concurrent with the Parties' execution of this Agreement, the Parties are executing the Master Water Rights Transfer Agreement ("**Master Agreement**") and the Agreement Regarding Water Rights Dedicated to Public Use. A true and correct copy of the Master Agreement is attached hereto as **Exhibit E**. A true and correct copy of the Agreement Regarding Water Rights Dedicated to Public Use is attached hereto as **Exhibit F**.

L. In accordance with the Annexation Agreement, the City and SMWD desire to enter into this Agreement to effectuate the City's assignment of its rights and obligations under the 2002 Project Implementation Agreement, including but not limited to the City's Allocated Interest in Permit 21074, the 1991 Agreement, the 1995 Agreement and the 1998 MOU to SMWD, and SMWD's assumption of all such rights and obligations.

TERMS OF THE AGREEMENT

1. **Recitals.** The Parties acknowledge that the above recitals preceding this paragraph 1 are true and correct, and are incorporated herein as material parts of this Agreement.
2. **Master Agreement.** Sections 1, 2, 3, 4, 5 and 6 of the Master Agreement are incorporated as if set forth in full herein.
3. **Assignment and Assumption of 2002 Project Implementation Agreement, 1998 MOU, 1995 Agreement and 1991 Agreement**

3.1 Effective as of the Annexation Effective Date, the City, for good and valuable consideration in hand received, does hereby unconditionally assign and transfer to SMWD without recourse, all of its rights, title, interest, duties and obligations in and to the 2002 Project Implementation Agreement, the 1998 MOU, the 1995 Agreement and the 1991 Agreement for the benefit of the City and the City Customers for the purpose of SMWD providing water service to the City and the City Customers in the manner exclusively provided in, and determined by, this Agreement, the Annexation Agreement, the Master Agreement and the Agreement Regarding Water Rights Dedicated to Public Use, and SMWD's assumes all of the City's rights, title, interest, duties and obligations in and to the 2002 Project Implementation Agreement, the 1998 MOU, the 1995 Agreement and the 1991 Agreement for the purpose of SMWD providing water service to the City and the City Customers in the manner provided in this Agreement, the Annexation Agreement, the Master Agreement and the Agreement Regarding Water Rights Dedicated to Public Use.

3.2 Within three (3) business days after the Annexation Effective Date, the City shall sign and file the document attached hereto as **Exhibit G** with the State Water Resources Control Board, with copies to SMWD and SJBA.

4. Amendment of 2002 Project Implementation Agreement

4.1 The term "City," defined in the Project Implementation Agreement to mean the "City of San Juan Capistrano, a municipal corporation, duly organized and existing under and by virtue of the laws of the laws of the State" is hereby amended as follows:

““City” means Santa Margarita Water District, a California Water District duly organized and existing under Division 13 of the Water Code of the State of California.”

4.2 The term "CVWD," defined in the Project Implementation Agreement to mean "the Capistrano Valley Water District, a county water district" is hereby amended as follows:

““CVWD” means Santa Margarita Water District, a California Water District duly organized and existing under Division 13 of the Water Code of the State of California.”

4.3 The notice address for CVWD set forth in Section 9 of the 2002 Project Implementation Agreement is hereby amended as follows:

“Santa Margarita Water District
26111 Antonio Parkway

Rancho Santa Margarita, California 92688
Attention: General Manager”

5. Additional Indemnification. In addition to the indemnification provided in Section 5 of the Master Agreement, which is incorporated herein by Section 1 above, SMWD agrees to provide the additional indemnification set forth in this Section 5. SMWD shall defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless the City from and against all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, damages and expenses (of any nature whatsoever, in law or equity, known or unknown, foreseen or unforeseen, contingent or non-contingent), in any way related to or in any way arising out of or in connection with the 1991 Agreement, the 1995 Agreement, the 1998 MOU or the 2002 Project Implementation Agreement, unless such obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses both: (i) arose prior to the Annexation Effective Date, and (ii) are covered under the City’s risk pool insurance. SMWD shall also defend, with counsel approved by the City, which approval shall not be unreasonably withheld, indemnify and hold harmless City officials, employees and agents for any matter within the scope of the indemnification under this Section 5, to the same extent, and subject to the same limitations, that apply to the City’s obligations to defend, indemnify and hold harmless such City officials, employees and agents under California law or applicable City contract with those officials, employees or agents. SMWD shall not seek reimbursement or contribution from the City for any costs, expenses or damages for, or related to, matters within the scope of the indemnification under this Section 5.

[Remainder of page intentionally left blank. Signatures follow.]

EXHIBIT L

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their officers thereunto duly authorized as of the day and year first written above.

CITY OF SAN JUAN CAPISTRANO

ATTEST:

By: _____
Troy A. Bourne
Mayor

Maria Morris
City Clerk

APPROVED AS TO FORM:

Stephanie Osler Hastings
Special Counsel

SANTA MARGARITA WATER DISTRICT

ATTEST:

By: Charles T. Gibson
Charles T. Gibson
President of Board of Directors

Kelly Radvansky
Kelly Radvansky
Board Secretary

APPROVED AS TO FORM:

Edward Casey
Special Counsel

The San Juan Basin Authority hereby signs this Agreement to consent to the City's assignment of the 2002 Project Implementation Agreement, the 1998 MOU, the 1995 Agreement and the 1991 Agreement to SMWD as provided herein and to the amendments to the 2002 Project Implementation Agreement, set forth in Section 4 of this Agreement. The San Juan Basin Authority acknowledges that it will enter into an agreement after the Annexation Effective Date that amends the 2002 Project Implementation Agreement in the manner described in Section 4 of this Agreement.

SAN JUAN BASIN AUTHORITY

ATTEST:

By: _____
President of Board of Directors

Board Secretary

APPROVED AS TO FORM:

EXHIBITS

- A. 1991 Agreement
- B. 1995 Agreement
- C. 1998 MOU
- D. 2002 Project Implementation Agreement
- E. Master Agreement
- F. Agreement Regarding Water Rights Dedicated to Public Use
- G. Letter from SMWD and the City to the State Water Resources Control Board

**SOUTH ORANGE COUNTY WASTEWATER AUTHORITY
ASSIGNMENT AND ASSUMPTION AGREEMENT**

This Assignment and Assumption Agreement, dated as of _____, 2020 (this “Agreement”), is entered into by and among SANTA MARGARITA WATER DISTRICT, a California Water District duly organized and existing under Division 13 of the Water Code of the State of California (the “Assignee” or “SMWD”), and the CITY OF SAN JUAN CAPISTRANO, a municipality duly organized and existing under and by virtue of the laws of the State of California (the “Assignor” or “City”). Assignor and Assignee are, together referred to in this Agreement as the “Parties” and, individually, as a “Party.”

RECITALS

A. The Parties entered into an Annexation Agreement on January 21, 2020 (the “Annexation Agreement”) wherein City agreed to transfer its potable water system and recycled water system and its wastewater system (collectively the “Utilities System”) to SMWD in accordance with the terms of the Annexation Agreement and upon approval of and consistent with any terms and conditions established by the Orange County Local Agency Formation Commission (“LAFCO”).

B. City and SMWD are member agencies of the South Orange County Wastewater Authority, a California joint powers authority (“SOCWA”).

C. SOCWA was formed pursuant to a Joint Powers Agency Agreement entered into on July 1, 2001, which brought together former joint powers agencies known as South East Regional Reclamation Authority (“SERRA”) formed March 9, 1970, Aliso Reclamation Authority (“AWMA”) formed March 1, 1972, and South Orange County Reclamation Authority (“SOCRA”) formed November 29, 1994. The formation of SOCWA terminated the existence of SERRA, AWMA, and SOCRA and provided that certain underlying agreements for the construction and operation of facilities (“Project Committee Agreements”) continued as to terms, conditions, and obligations of the parties for facilities of SERRA, AWMA and SOCRA that transferred to SOCWA under its July 1, 2001 JPA Agreement.

D. SOCWA consolidated interests in Project Committee Agreement into one legal entity with ownership of various wastewater treatment and reclamation facilities and responsibility for operations, maintenance, administration and capital improvements for such facilities. Each participating member agency or party in SOCWA was recognized to hold allocated shares of capacity, with attendant rights and obligations under the Project Committee Agreements.

E. As member agencies of SOCWA, the Parties are participants in certain Project Committee Agreements more particularly described in Exhibit “A” to this Agreement (the “Project Agreements”) which establish capacity rights and obligations for specific wastewater facilities, interests in certain operational permits, among other rights and obligations related to specific projects.

The Project Agreements may be assigned to members which are participating in such Project Agreements. The City and SMWD are both participants in all of the City Project

Agreements, and the City desires to assign all of its right, title, interests, duties responsibilities and obligation in its Project Agreements to SMWD and SMWD desires to accept such assignment to effectuate the annexation of the City's Utilities System to SMWD.

F. Upon the approval of the Annexation by LAFCO, SMWD shall assume the Project Agreements which assignment and assumption shall be effective upon the effective date of the LAFCO Order (the "Effective Date") authorizing the annexation of the City Utility System to SMWD.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

SECTION 1. Recitals.

The recitals above are hereby incorporated in and made a part of this Agreement.

SECTION 2. Assignment and Acceptance.

As of the Effective Date, the Assignor, for good and valuable consideration in hand received, does hereby unconditionally assign and transfer to the Assignee without recourse, all of its rights, title, interest, duties and obligations in and to the Project Agreements and the Assignee accepts all of the Assignor's rights, title, interest, duties and obligations in and to the Project Agreements.

The Parties further acknowledge that the intent of this Agreement is to transfer to Assignee any and all rights, interests, duties and obligations in and to any property rights or interests currently held by Assignor as it relates to participation in any SOCWA project committees.

SECTION 3. Representations and Warranties.

The Parties represent and warrant that: (i) the execution, delivery and performance of this Agreement have been duly authorized by such party by all necessary action; (ii) this Agreement, assuming due execution by the other parties thereto, constitutes a valid, binding and enforceable obligation of such party, except as enforcement may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights, by equitable principles, by the exercise of judicial discretion in appropriate cases and by the limitations on remedies against public agencies in the State of California; (iii) to the best of such party's knowledge after due inquiry, this Agreement does not violate any law, regulation or order binding on such party; (iv) no consent or authorization of any third party is required in connection with the execution, delivery or performance by such party of this Agreement or, alternatively, all such consents and authorizations have been given; and (v) such party has the power to carry out the obligations imposed on such party by this Agreement.

The Parties represent and warrant that there is no claim, action or proceeding pending and notice of which has been received by such party, or to the knowledge of such party, threatened against such party before any court, arbitrator or governmental agency or regulatory or administrative agency or commission challenging the validity, enforceability or legality of this Agreement.

SECTION 4. Assumption Post-Transfer Liabilities.

From and after the Effective Date, Assignee shall be responsible for all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, damages and expenses (of any nature whatsoever, in law or equity, known or unknown, foreseen or unforeseen, contingent or non-contingent), in any way related to or in any way arising out of or in connection with the Project Agreements, unless such obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses both: (i) arose prior to the Effective Date, and (ii) are covered under Assignor's risk pool insurance (hereinafter "Post-Transfer Liabilities"). Assignee further agrees that from and after the Effective Date, Assignee shall pay Assignor's applicable share of administrative costs and expenses associated with Assignor's membership in SOCWA.

The intent of the foregoing is for Assignee to assume responsibility for all Post-Transfer Liabilities and not expand any liability of Assignee that would not have been the Assignor's liability during its participation in the Project Agreements.

SECTION 5. Indemnification.

From and after the Effective Date, Assignee shall defend, with counsel approved by Assignor, indemnify and hold harmless the Assignor from and against (i) all Post-Transfer Liabilities; or (ii) any action or proceeding to attack, review, set aside, enjoin, void or annul this Agreement. Assignee shall also defend, with counsel approved by Assignor, indemnify and hold harmless Assignor's officials, employees and agents for any matter within the scope of the indemnification under this Section 5, to the same extent, and subject to the same limitations, that apply to the Assignor's obligations to defend, indemnify and hold harmless such Assignor officials, employees and agents under California law or applicable Assignor contract with those officials, employees or agents. Assignee shall not seek reimbursement or contribution from the Assignor for any cost, expenses or damages for, or related to, matter within the scope of the indemnification under this Section 5.

SECTION 6. Governing Law and Venue.

The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the laws of the State of California. Venue for any action brought to enforce or interpret this Agreement shall be brought in the appropriate federal or state court in or nearest to the South Orange County Judicial District, County of Orange.

SECTION 7. Cooperation.

The Parties agree to execute such other and further documents, assignments and instruments and to take such other actions as are or may become necessary or convenient to carry out this Agreement.

SECTION 8. Authority.

Each of the individuals executing this Agreement verifies that each of them has the authority to enter into this Agreement, that the necessary resolutions or other consents have been passed or obtained, and that this Agreement shall be binding on the party for whom each of them is signing.

SECTION 9. Partial Invalidity.

If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of any Party shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The Parties hereby declare that they would have executed this Agreement, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

SECTION 10. Counterparts.

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first written above.

SANTA MARGARITA WATER DISTRICT, a
California Water District

By: _____

Its: _____

Date: _____

ATTEST:

Santa Margarita Water District Secretary

APPROVED AS TO FORM:

Sloan Sakai Yeung & Wong LLP,
Santa Margarita Water District Special Counsel

CITY OF SAN JUAN CAPISTRANO, a
municipality

By: _____

Its: _____

Date: _____

ATTEST:

City of San Juan Capistrano Secretary

APPROVED AS TO FORM:

,
City of San Juan Capistrano Counsel

DRAFT

EXHIBIT “A”
PROJECT AGREEMENTS

Project Committee 8: Pretreatment Program

Project Committee 2: JB Latham Treatment Plant

Project Committee 250: Regional Waste Discharge Permit

1. That certain Agreement for Acquisition, Use, Operation, Maintenance and Expansion of Sewage Treatment Plant of City San Juan Capistrano By South East Regional Reclamation Authority for and on Behalf of Project Committee No. 2, dated June 28, 1973, (“PC 2 Agreement”), as amended by that certain Amendment No. 1, dated May 18, 1998, as further amended by that certain Amendment No. 2 dated June 29, 2000, and as supplemented by Addendum 1 to Amendment No. 2 dated October 5, 2006, Addendum 2 to Amendment No. 2 dated May 3, 2007, and Addendum 3 to Amendment No. 2 dated August, 2008.
2. That certain Agreement for Acquisition of Capacity, Construction, Use, Operation, and Maintenance of Outfall Facilities for South East Regional Reclamation Authority for and on Behalf of Project Committee No. 5 dated August 18, 1977, as supplemented by that certain Addendum dated November 10, 1977, and as amended by that certain Amendment No. 1 dated March 10, 1988, as further amended by that certain Amendment No. 2 dated March 14, 1991.
3. That certain Memorandum of Understanding between the South East Regional Reclamation Authority Acting on behalf of Project Committee No. 5 and all Member Agencies relative to the compliance of Capistrano Beach Sanitary District with the Discharge Requirements contained in Amendment No. 1 to Agreement for Acquisition of Capacity, Construction Use, Operation and Maintenance of Outfall Facilities for South East Regional Reclamation Authority dated March 10, 1988, as amended June 13, 1991.
4. That certain Agreement for Application for Waiver of Ocean Discharge Requirements for the South East Regional Reclamation Authority and on Behalf of Project Committee No. 17, dated September 7, 1982.
5. That certain Agreement for Application for Waiver of Ocean Discharge Requirements for the South East Regional Reclamation Authority and on Behalf of Project Committee No. 17,

dated October 13, 1983, as amended by that certain Amendment No. 1 dated August 8, 1985, as further amended by that certain Amendment No. 2 dated October 10, 1985.

6. That certain Agreement for Funding of Management of the South East Regional Reclamation Authority Project Committee No. 15, dated November 10, 1982.
7. That certain Agreement for Design, Construction, Use, Operation and Maintenance of Solids Handling and Cogeneration Facilities at the J.B. Latham Regional Wastewater Treatment Plant for and on Behalf of South East Regional Reclamation Authority for and on Behalf of Project Committee No. 16 dated November 10, 1982.
8. That certain Agreement for the Preparation of a Master Plan for the South East Regional Reclamation Authority for and on Behalf of Project Committee No. 12 dated April 14, 1983.
9. That certain Agreement Between South East Regional Reclamation Authority on Behalf of Project Committee No. 19 and Participating Member Agencies of Project Committee No. 19 Relative to Expansion of J.B. Latham Regional Treatment Plant dated November 9, 1983.
10. That certain Agreement regarding Project Committee Nos. 2, 7 and 7-A of the South East Regional Reclamation Authority Relative to Verification of Liquid Treatment and Solids Handling Capacity at the Jay B. Latham Regional Wastewater Treatment Plant dated November 8, 1984.

COPY

WATER SERVICES AGREEMENT

This Water Service Agreement for extraterritorial water service is made and entered into this 2nd day of May, 2000 pursuant to California Government Code Section 56133, by and between the C'ty of San Juan Capistrano, a California general law city (hereinafter referred to as "San Juan"), and South Coast Water District (hereinafter referred to as "SCWD").

RECITALS

WHEREAS, pursuant to the terms and conditions of Reorganization No. 96-15 of the Local Agency Formation Commission of Orange County (LAFCO), the parties have entered into this Water Service Agreement ("Agreement"); and

WHEREAS, pursuant to Reorganization No. 96-15 Capistrano Valley Water District ("CVWD") was merged with San Juan, with San Juan assuming all responsibility for the control, operation and maintenance of the CVWD water system; and

WHEREAS, a portion of CVWD depicted in Exhibit "A" hereto (the "Subject Area") lies outside the boundaries of San Juan but within the boundaries of SCWD; and

WHEREAS, SCWD currently does not provide water service to its residents, and following the merger, San Juan will be capable of providing water service to the Subject Area; and

WHEREAS, pursuant to Government Code Section 56133, through a contractual agreement with SCWD, San Juan is empowered to sell water outside its boundaries; and

WHEREAS, although SCWD has the authority to provide retail sales of water within the Subject Area, because the portion of the CVWD system serving the Subject Area is integrated into the remainder of the system, the parties believe that San Juan can provide water service more efficiently to the Subject Area following the merger; and

WHEREAS, because the residents and property owners in the Subject Area will no longer have representation on the governing board of the Capistrano Valley Water District, the parties desire by this agreement to provide for the sale of water from San Juan to the Subject area on the terms set forth herein.

NOW THEREFORE in consideration of the mutual covenants and conditions herein contained, the parties hereby agree as follows:

1. Subject to the terms and conditions of the Agreement, San Juan agrees to sell, furnish and deliver water to the Subject Area.

2. All rules and regulations for water services and all rates for water connections or water service adopted by CVWD applicable to the Subject Area prior to the merger shall be and remain in effect after the date of the merger until modified, repealed or superseded by action of San Juan or a successor agency. San Juan may exert all legal rights provided by California law to obtain and secure payment for water so furnished.

3. All bills or statements rendered by or on behalf of CVWD for the Subject Area shall continue to be a debt or obligation of the person or property against whom levied, assessed or rendered, unless relieved by San Juan following the effective date of the merger.

4. San Juan shall provide to the Subject Area the equivalent level of service it provides to customers within other areas of its service area boundaries.

5. San Juan's rates and charges for water connections and water service in the Subject Area shall be consistent with rates and charges throughout the remainder of the San Juan water service area.

6. San Juan shall commit and dedicate the amount of resources necessary to maintain, operate, and replace the pipelines and transmission facilities serving the Subject area at the same level it maintains, operates, and replaces the remainder of the CVWD water system.

7. Any and all past, present and future revenues from property taxes received by CVWD from the Subject Area, including CVWD's share of the one (1) percent general tax levy and taxed levied in connection with general obligation bonds, shall be received by and credited to San Juan. San Juan and SCWD agree to enter into a property tax exchange agreement to facilitate this tax transfer prior to June 1, 1999. San Juan shall use this revenue solely for the purpose of funding debt services operations, maintenance and improvements to the San Juan water system.

8. The Parties shall meet annually to review and discuss operational issues with respect to the Subject Area.

9. SCWD may terminate this Agreement at any time by Resolution adopted by its Board of Directors and notification to San Juan of SCWD's intent to assume responsibility for physically providing water service to the Subject Area. Upon receipt of such notice, San Juan agrees to enter into negotiations with SCWD to transfer the facilities necessary to SCWD to provide service to the Subject Area. San Juan and

SCWD understand that until SCWD is able to determine which facilities would be needed to provide service to the Subject Area, the exact facilities to be acquired by SCWD are unknown. The parties agree that although the exact facilities to be acquired by SCWD are unknown, the following general principles shall be used in negotiating facilities to be transferred:

a. Local water distribution mains, valves, fire hydrants, water meters, water services and other appurtenances within the Service Area, excluding those pipelines and facilities on the attached map which are necessary to provide a looped grid to the remainder of the CVWD water system, shall be quitclaimed to SCWD.

b. Capacities in regional facilities now used to serve the Service Area may be acquired by SCWD based on the percentage of debt service paid by the Service Area for these facilities. If acquired by SCWD, SCWD shall pay any remaining debt service and the proportional costs of operations, maintenance, and replacement costs.

c. Capacities in CVWD reservoirs, booster stations, transmission mains and pressure regulating stations now serving the Service Area may be acquired by SCWD based on the percentage of debt service paid by the Service Area for these facilities. If acquired by SCWD, SCWD shall pay any remaining debt service and the proportional costs of operations, maintenance, and replacement costs.

d. San Juan will sell water to SCWD to serve the Service Area at San Juan's cost of purchased water plus reasonable costs of administration and wheeling the water through San Juan's system.

e. SCWD shall pay the costs of all connections and separations between the San Juan and SCWD water systems, including any required metering facilities.

10. Each party hereby agrees to mutually indemnify and hold the other party harmless from any and all claims, demands, causes of action, damages, costs and expenses, including attorneys fees, property damage, bodily injuries, personal injury, losses or liabilities, in law or in equity, of every kind and nature to the extent that the same are the result of an error, omission or negligent act of the indemnifying party, its officers or employees, or any other person acting pursuant to its control in performing under this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed.

Dated: 5/2/00

APPROVED AS TO FORM

CITY ATTORNEY

Attest

City Clerk

Dated: 2/24/00

CITY OF SAN JUAN CAPISTRANO

By:

Its: Collene Campbell, Mayor

SOUTH COAST WATER DISTRICT

By:

Its: President

AGREEMENT FOR WATER SERVICES
AMONG SANTA MARGARITA WATER DISTRICT, SOUTH COAST WATER
DISTRICT, AND THE CITY OF SAN JUAN CAPISTRANO

This Agreement for Water Services ("Agreement") is entered into and effective this ____ day of ____ 2021 by and among Santa Margarita Water District ("SMWD"), and South Coast Water District ("SCWD"), and the City of San Juan Capistrano ("City"). SMWD, SCWD and the City are sometimes referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

- A. SMWD is a California water district organized under Division 13 (commencing with Section 34000) of the California Water Code.
- B. SCWD is a county water district organized under Division 12 (commencing with Section 30000) of the California Water Code.
- C. The City is a municipality duly organized and existing under and by virtue of the laws of the State of California.
- D. Pursuant to the terms and conditions of Reorganization No. 96-15 of the Orange County Local Agency Formation Commission ("LAFCO"), the City and SCWD entered into a Water Services Agreement dated May 2, 2000 ("2000 Water Services Agreement") (attached and incorporated herein as Exhibit "A"). The 2000 Water Services Agreement authorizes the City to provide water service to customers in a portion of the SCWD jurisdictional boundaries within a portion of the City of Dana Point ("Subject Area") (a description of the Subject Area and map of the same are attached and incorporated herein as Exhibits "B" and "C", respectively).
- E. The 2000 Water Services Agreement explains that Capistrano Valley Water District ("CVWD") was merged with the City, with the City assuming all responsibility for the control, operation and maintenance of the CVWD water system. A portion of CVWD was outside the jurisdictional boundaries of the City but within the boundaries of SCWD. At that time, the City was capable of providing water service to the Subject Area. Thus, the City and SCWD entered into the 2000 Water Services Agreement through which the City agreed to provide water service, maintain, operate and replace facilities, and collect revenue and receive the applicable share of the one percent (1%) general tax levy for the Subject Area.
- F. The 2000 Water Services Agreement provides that SCWD may terminate that agreement at any time by Resolution adopted by its Board of Directors, and notification to the City of SCWD's intent to assume responsibility for physically providing water service to the Subject Area. Upon receipt of such notice, the City would enter into negotiations with SCWD to transfer to SCWD the facilities necessary for SCWD to provide service in the Subject Area ("Facilities") (a description of the Facilities is attached and incorporated herein as Exhibit "D").

- G. The City and SMWD entered into an Annexation Agreement, dated January 21, 2020 ("Annexation Agreement"), in which the City agreed to transfer its potable water system and recycled water system (collectively the "Water System") and its wastewater system, to SMWD in accordance with the terms of the Annexation Agreement and upon approval of and consistent with any terms and conditions established by LAFCO. The Subject Area is not part of the Water System.
- H. The Annexation Agreement references the 2000 Water Services Agreement and states that SMWD will engage SCWD in discussions regarding disposition of that agreement prior to the effective date of SMWD's annexation of the City's service area for its Water System and wastewater system, where SMWD will not enter into any agreement regarding that disposition without the City's written consent. The term "Annexation Effective Date", per the Annexation Agreement and as used herein, means the following (with all capitalized terms having the meanings set forth in the Annexation Agreement): "the date to be agreed upon in writing by the Parties subject to the terms of the LAFCO Approval, as the date on which the Utilities Systems will be transferred by the City to SMWD to consummate the Annexation"; provided that "the Annexation Effective Date shall be no earlier than 60 days after the issuance of the LAFCO Certificate of Completion (which is the expiration of the period to challenge the LAFCO Approval under California Civil Code of Procedure Section 860 et seq.); provided, if a legal challenge to this Agreement or the LAFCO Approval has been filed on a timely basis, then unless otherwise required by law, the Annexation Effective Date shall take place after the final resolution of the legal challenge(s) in a manner that results in this Agreement and Annexation remaining valid and enforceable with terms consistent with this Agreement and the Collateral Agreements and Documents."
- I. The Parties desire to enter into this Agreement to provide for, following the Annexation Effective Date, (i) termination of the 2000 Water Services Agreement; (ii) transition of responsibility for the water service, and for operation and maintenance of the Facilities, in the Subject Area from the City to SCWD; (iii) implementation of the County's transfer of the allocation of revenue and SCWD's receipt of the applicable share of the one percent (1%) general tax levy for the Subject Area; (iv) transfer of the Facilities from the City to SCWD; and (v) provision of water delivery by SMWD for SCWD to provide water service in the Subject Area.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

1. **Recitals.** The Parties acknowledge that the above recitals are true and correct and are incorporated herein as material parts of this Agreement.
2. **Termination of 2000 Water Services Agreement and Transfer of Facilities to SCWD.** The City and SCWD agree that the 2000 Water Services Agreement shall terminate effective on the Annexation Effective Date. The City agrees to transfer all

of its right, title, and interest to the Facilities to SCWD, in their as-is condition, effective on the Annexation Effective Date, from which date SCWD will control the Facilities for all purposes. Consistent with the Annexation Agreement, SMWD, after the Annexation Effective Date, shall be solely responsible for any unfunded pension liability and any ongoing debt service associated with the Facilities within the Subject Area, and SCWD accepts no responsibility for the same in connection with this Agreement. The City shall cooperate with all reasonable requests by SCWD or SMWD to implement the terms, or to effectuate the intent, of this section, including the execution of documents or instruments that are reasonably required for such purposes.

3. Provision of Water Services and Operation and Maintenance of Water System by SCWD. As of the Annexation Effective Date, SCWD will provide water distribution and operation and maintenance services (collectively, "Services") to the Subject Area, distributing water provided by SMWD per Section 4. Services include distribution of water, and monitoring, operation, and maintenance of the Facilities, as well as response to customer service requests. SCWD will commit the resources necessary to provide the Services in the Subject Area at the equivalent level of service it provides to other SCWD customers.

4. Provision of Water Delivery by SMWD. As of the Annexation Effective Date, SMWD will provide retail water to SCWD for service to the Subject Area at SMWD's cost of purchased wholesale water plus reasonable costs of administration and wheeling the water through SMWD's water distribution system, charging SCWD no more than \$1600 per acre-foot for the first year, with the same percentage increase as the increase of Metropolitan Water District rate for wholesale water, which price is based on the cost of water from Metropolitan Water District at the Tier 1 rate for treated water. The map in Exhibit "E" includes a line ("Demarcation Line") marking the boundary at which SMWD would supply water and where SCWD would begin to provide Services. SMWD will provide the same level of water service to the Subject Area at the Demarcation Line as SMWD provides to all SMWD customers. SCWD will have no responsibility for water quality or disruption in supply prior to delivery of the water to the Subject Area at the Demarcation Line. SCWD will determine the amount of water supplied by SMWD for SCWD's provision of water services in the Subject Area through data obtained from the Subject Area monthly meter readings.

5. Monthly Billing Revenue to SCWD. The Parties agree to cooperate to transition to SCWD responsibility for meter reading and monthly billing for water services to customers in the Subject Area, where SCWD will assume responsibility for the same as soon as practical, but no later than 6 months from the Annexation Effective Date. All rates, fees and charges paid by customers for water service in the Subject Area shall be collected and received by SCWD. The Parties will cooperate to notify customers in the Subject Area regarding the change in water service provider.

6. Tax Revenue to SCWD. On and after the Annexation Effective Date, all revenue from the share of the one percent (1%) general tax levy previously associated with the Capistrano Valley Water District and derived from the Subject Area under the

2000 Water Services Agreement, shall be received by and credited to and belongs to SCWD for SCWD's use.

7. **Rules, Regulations and Rates for Water Service.** As of the Annexation Effective Date, all SCWD rules, regulations and rates for water service shall apply to the Subject Area. SCWD completed a study of rates and terms ("Rate Study") necessary to add the Subject Area to SCWD for all water services, including meter reading, billing, water distribution, and water system operations and maintenance. As part of the Rate Study, SCWD considered rates needed to cover monthly and fixed costs, taxes and billing costs, and costs for repairs and/or replacement of the water distribution system, including mains, valves and hydrants, in the Subject Area.

8. **Independent Contractor.** The Parties understand and agree that SCWD is, and shall be, acting at all times as an independent contractor herein, and not as an employee of SMWD or the City.

9. **Annual Meeting.** SCWD and SMWD shall meet once a year, or more frequently if requested by either Party, to review and discuss operational issues with respect to Services in the Subject Area.

GENERAL PROVISIONS

10. **Assumption of Obligations and Liabilities.**

(a) From and after the Annexation Effective Date, SMWD shall be responsible for all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, damages and expenses (of any nature whatsoever, in law or equity, known or unknown, foreseen or unforeseen, contingent or non-contingent), in any way related to or in any way arising out of or in connection with the Facilities or the provision of water services or connections to customers in the Subject Area, unless such obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses: (i) arose during the City's operation of the Facilities or the City's provision of water services to customers in the Subject Area prior to the Annexation Effective Date and are covered by the City's risk pool insurance; or (ii) are SCWD's obligations under section 10 of the 2000 Water Services Agreement ("Subject Area Post Transfer Liabilities").

(b) SCWD's obligations under Section 10 of the 2000 Water Services Agreement shall remain the obligations of SCWD under this Agreement.

(c) The City shall be responsible for all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses provided that they both: (i) arose during the City's operation of the Facilities or the City's provision of water services to customers in the Subject Area prior to the Annexation Effective Date, and (ii) are covered under the City's risk pool insurance. The City agrees to take all reasonable efforts to exhaust any and all available coverage from the City's risk pool insurance authority as it relates thereto.

11. Indemnification.

(a) From and after the Annexation Effective Date, SMWD shall defend, with counsel approved by the City, indemnify and hold harmless the City, including its officers, directors, employees, consultants, representatives or agents, from and against all (i) Subject Area Post Transfer Liabilities; (ii) any action or proceeding to attack, review, set aside, enjoin, void or annul this Agreement or any provision hereof; and (iii) all obligations, claims, demands, actions, causes of action, liabilities, losses, costs, and damages or expenses that are the result of an error, omission or negligent act of SMWD, its officers, directors, employees, consultants, representatives, or agents, or any other person acting pursuant to its control arising out of performance of this Agreement.

(b) SCWD agrees to indemnify and hold harmless SMWD and the City, including their officers, directors, employees, consultants, representatives or agents, from any and all claims, demands, causes of action, damages, costs and expenses, including attorneys' fees, property damage, bodily injury, personal injury, losses or liabilities, in law or in equity, of every kind and nature to the extent that the same are the result of an error, omission or negligent act of SCWD, its officers, directors, employees, consultants, representatives, or agents, or any other person acting pursuant to its control arising out of performance of this Agreement or the 2000 Water Services Agreement.

(c) SMWD agrees to indemnify and hold harmless SCWD, including its officers, directors, employees, consultants, representatives or agents, from any and all claims, demands, causes of action, damages, costs and expenses, including attorneys' fees, property damage, bodily injury, personal injury, losses or liabilities, in law or in equity, of every kind and nature to the extent that the same are the result of an error, omission or negligent act of SMWD, its officers, directors, employees, consultants, representatives, or agents, or any other person acting pursuant to its control arising out of performance of this Agreement.

(d) Each indemnitor shall carry Commercial General Liability Insurance of at least \$2,000,000 per occurrence or claim for bodily injury, personal injury, and property damage, and \$4,000,000 policy aggregate total bodily injury, personal injury, and property damage. Each Commercial General Liability Insurance policy shall identify each other Party as additional insured, or be endorsed to identify each other Party as additional insured, with respect to liability arising out of performance of this Agreement. Each indemnitor shall submit to each other Party Certificates of Insurance showing these policy limits and the additional insured endorsements. Coverage for additional insureds shall not be limited to vicarious liability. Defense costs must be paid in addition to limits.

12. Notice. Any notice, request, demand or other communication under this Agreement shall be given by United States first class mail, postage prepaid, to the Party entitled thereto at its mailing address set forth below, and/or by electronic mail (e-mail) to the e-mail address set forth below. Each Party may, by written notice to the other Parties, from time to time modify the mailing address or e-mail to which communications are to be given under this Agreement.

To SMWD: Santa Margarita Water District
Attention: General Manager
26111 Antonio Parkway
Rancho Santa Margarita, California 92688
danf@smwd.com

To SCWD: South Coast Water District
Attention: General Manager
31592 West Street
Laguna Beach, California 92651
rshintaku@scwd.org

To City: City of San Juan Capistrano
Attention: City Manager
32400 Paseo Adelanto
San Juan Capistrano, CA 92675
bsiegel@sanjuancapistrano.org

13. **Dispute Resolution.** If any dispute shall arise with respect to this Agreement and is not otherwise resolved by the Parties hereto, then such dispute shall be determined by a general judicial reference pursuant to California Code of Civil Procedure Sections 638 et seq. in the County of Orange, before one general referee. This is a waiver of any right that may exist to a jury trial.

The Parties shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. The referee shall be a retired judge who has served in either the California Superior Court or Federal Court in Orange County, California, with substantial experience in the type of matter in dispute and without any relationship to either Party, unless the Parties agree otherwise.

Each Party shall bear its own attorneys' fees and costs incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of the stenographic record, shall be advanced equally by the Parties. However, the referee shall have the power to reallocate such fees and costs among the Parties in the referee's final ruling, including pursuant to Section 13 of this Agreement.

14. **Attorneys' Fees and Costs.** In the event that any Party or Parties brings an action relating to or arising from this Agreement, the prevailing Party or Parties in such action shall be entitled to recover from the other Party or Parties its reasonable legal costs (which shall include all reasonable costs and expenses such Party or Parties incurs in any legal proceeding, or other matter for which such Party or Parties is entitled to be reimbursed for its legal costs, including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses) which may be

determined by the decisionmaker in the same action or in a separate action brought for that purpose.

15. **Successors and Assigns.** The terms, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

16. **Unavoidable Delays and Defaults:** Any Party to this Agreement will be excused for any delays or defaults by that Party in the performance of this Agreement that are unavoidably caused by any of the following: an act of another Party; an act of any agent of another Party; an act of any governmental authority; an act of any public enemy; an act of God; the elements; war; war defense conditions; riots; litigation; strikes; walkouts; or any other causes beyond that Party's control.

17. **Applicable Law.** The validity, performance and construction of this Agreement shall be governed by the laws of the State of California. Venue shall be in a court of competent jurisdiction located in Orange County, California.

18. **Amendments.** Any and all amendments or modifications to this Agreement shall be in writing and signed by the Parties to this Agreement.

19. **Severability.** If any provision of this Agreement shall be adjudged invalid by any court, the remaining provisions of this Agreement shall remain valid and enforced to the full extent permitted by law.

20. **Agreement Negotiated.** The text of this Agreement is the product of negotiation among the Parties, each of whom had the opportunity to have it reviewed by counsel of their choice and is not to be construed as having been prepared by one Party or the other.

21. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties hereto with respect to any matter mentioned herein. No prior agreement or understanding with respect to any such matter shall be effective.

22. **Counterparts.** This Agreement may be executed in counterparts (signatures may be by facsimile or electronic mail), each of which is hereby declared to be an original. All, however, shall constitute but one and the same Agreement.

23. **No Third-Party Beneficiary.** This Agreement is not intended nor shall it be construed to create any third-party beneficiary rights in any person or entity other than the Parties. Nothing in this Agreement, expressed or implied, is intended to give any person other than the Parties any right, remedy or claim under or by reason of this Agreement.

24. **Collateral Agreement.** Without limiting the definition or application of the term "Collateral Agreements and Documents" in the Annexation Agreement, the City and SMWD acknowledge and agree that this Agreement is a Collateral Agreement within the definition of that term for the purposes of the Annexation Agreement.

IN WITNESS WHEREOF, this Agreement has been executed in the name of SMWD, SCWD, and the City, by their respective officers thereunto duly authorized, as of the date and year first above written.

SANTA MARGARITA WATER DISTRICT

Daniel Ferons, General Manager

Approved as to form:

Osman I. Mufti, Sloan Sakai Yeung & Wong LLP
SMWD Special Counsel

SOUTH COAST WATER DISTRICT

Rick Shintaku, General Manager

Approved as to form:

Arthur G. Kidman, Kidman Gagen Law LLP
SCWD General Counsel

CITY OF SAN JUAN CAPISTRANO

Ben Siegel, City Manager

Approved as to form:

Kevin Ennis, Richards, Watson & Gershon, A Professional Corporation
City Special Counsel

Exhibits:

- A** "Water Services Agreement" dated May 2, 2000.
- B** Description of Subject Area
- C** Map of the Subject Area
- D** Description of the Facilities
- E** Map of Demarcation Line

DRAFT

EXHIBIT “A”

2000 WATER SERVICES AGREEMENT

[See attached Water Services Agreement]

WATER SERVICES AGREEMENT

This Water Service Agreement for extraterritorial water service is made and entered into this 2nd day of May, 2000 pursuant to California Government Code Section 56133, by and between the City of San Juan Capistrano, a California general law city (hereinafter referred to as "San Juan"), and South Coast Water District (hereinafter referred to as "SCWD").

RECITALS

WHEREAS, pursuant to the terms and conditions of Reorganization No. 96-15 of the Local Agency Formation Commission of Orange County (LAFCO), the parties have entered into this Water Service Agreement ("Agreement"); and

WHEREAS, pursuant to Reorganization No. 96-15 Capistrano Valley Water District ("CVWD") was merged with San Juan, with San Juan assuming all responsibility for the control, operation and maintenance of the CVWD water system; and

WHEREAS, a portion of CVWD depicted in Exhibit "A" hereto (the "Subject Area") lies outside the boundaries of San Juan but within the boundaries of SCWD; and

WHEREAS, SCWD currently does not provide water service to its residents, and following the merger, San Juan will be capable of providing water service to the Subject Area; and

WHEREAS, pursuant to Government Code Section 56133, through a contractual agreement with SCWD, San Juan is empowered to sell water outside its boundaries; and

WHEREAS, although SCWD has the authority to provide retail sales of water within the Subject Area, because the portion of the CVWD system serving the Subject Area is integrated into the remainder of the system, the parties believe that San Juan can provide water service more efficiently to the Subject Area following the merger; and

WHEREAS, because the residents and property owners in the Subject Area will no longer have representation on the governing board of the Capistrano Valley Water District, the parties desire by this agreement to provide for the sale of water from San Juan to the Subject area on the terms set forth herein.

NOW THEREFORE in consideration of the mutual covenants and conditions herein contained, the parties hereby agree as follows:

1. Subject to the terms and conditions of the Agreement, San Juan agrees to sell, furnish and deliver water to the Subject Area.
2. All rules and regulations for water services and all rates for water connections or water service adopted by CVWD applicable to the Subject Area prior to the merger shall be and remain in effect after the date of the merger until modified, repealed or superseded by action of San Juan or a successor agency. San Juan may exert all legal rights provided by California law to obtain and secure payment for water so furnished.
3. All bills or statements rendered by or on behalf of CVWD for the Subject Area shall continue to be a debt or obligation of the person or property against whom levied, assessed or rendered, unless relieved by San Juan following the effective date of the merger.

4. San Juan shall provide to the Subject Area the equivalent level of service it provides to customers within other areas of its service area boundaries.

5. San Juan's rates and charges for water connections and water service in the Subject Area shall be consistent with rates and charges throughout the remainder of the San Juan water service area.

6. San Juan shall commit and dedicate the amount of resources necessary to maintain, operate, and replace the pipelines and transmission facilities serving the Subject area at the same level it maintains, operates, and replaces the remainder of the CVWD water system.

7. Any and all past, present and future revenues from property taxes received by CVWD from the Subject Area, including CVWD's share of the one (1) percent general tax levy and taxed levied in connection with general obligation bonds, shall be received by and credited to San Juan. San Juan and SCWD agree to enter into a property tax exchange agreement to facilitate this tax transfer prior to June 1, 1999. San Juan shall use this revenue solely for the purpose of funding debt services operations, maintenance and improvements to the San Juan water system.

8. The Parties shall meet annually to review and discuss operational issues with respect to the Subject Area.

9. SCWD may terminate this Agreement at any time by Resolution adopted by its Board of Directors and notification to San Juan of SCWD's intent to assume responsibility for physically providing water service to the Subject Area. Upon receipt of such notice, San Juan agrees to enter into negotiations with SCWD to transfer the facilities necessary to SCWD to provide service to the Subject Area. San Juan and

SCWD understand that until SCWD is able to determine which facilities would be needed to provide service to the Subject Area, the exact facilities to be acquired by SCWD are unknown. The parties agree that although the exact facilities to be acquired by SCWD are unknown, the following general principles shall be used in negotiating facilities to be transferred:

a. Local water distribution mains, valves, fire hydrants, water meters, water services and other appurtenances within the Service Area, excluding those pipelines and facilities on the attached map which are necessary to provide a looped grid to the remainder of the CVWD water system, shall be quitclaimed to SCWD.

b. Capacities in regional facilities now used to serve the Service Area may be acquired by SCWD based on the percentage of debt service paid by the Service Area for these facilities. If acquired by SCWD, SCWD shall pay any remaining debt service and the proportional costs of operations, maintenance, and replacement costs.

c. Capacities in CVWD reservoirs, booster stations, transmission mains and pressure regulating stations now serving the Service Area may be acquired by SCWD based on the percentage of debt service paid by the Service Area for these facilities. If acquired by SCWD, SCWD shall pay any remaining debt service and the proportional costs of operations, maintenance, and replacement costs.

d. San Juan will sell water to SCWD to serve the Service Area at San Juan's cost of purchased water plus reasonable costs of administration and wheeling the water through San Juan's system.

e. SCWD shall pay the costs of all connections and separations between the San Juan and SCWD water systems, including any required metering facilities.

10. Each party hereby agrees to mutually indemnify and hold the other party harmless from any and all claims, demands, causes of action, damages, costs and expenses, including attorneys fees, property damage, bodily injuries, personal injury, losses or liabilities, in law or in equity, of every kind and nature to the extent that the same are the result of an error, omission or negligent act of the indemnifying party, its officers or employees, or any other person acting pursuant to its control in performing under this Agreement.


IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed.

Dated: 5/2/00

APPROVED AS TO FORM


CITY ATTORNEY

Attest


City Clerk

Dated: 2/24/00

CITY OF SAN JUAN CAPISTRANO

By: 

Its: Collene Campbell, Mayor

SOUTH COAST WATER DISTRICT

By: 

Its: President

Exhibit A



EXHIBIT “B”

DESCRIPTION OF SUBJECT AREA

SCWD agrees to provide Services within the Subject Area which is defined as the area within Tract Nos. 13736, 15924, 8298, and Parcel Nos. 236/5-6, 64/20, 9/33, and 119/4, which is depicted in the map in Exhibit “C”. The Subject Area consists of 989 parcels, with 1024 total water service connections, including 981 residential water connections, 23 commercial water connections, 17 water connections for irrigation purposes, and 3 water connections for fire service.

EXHIBIT “C”

MAP OF SUBJECT AREA

[see attached map]

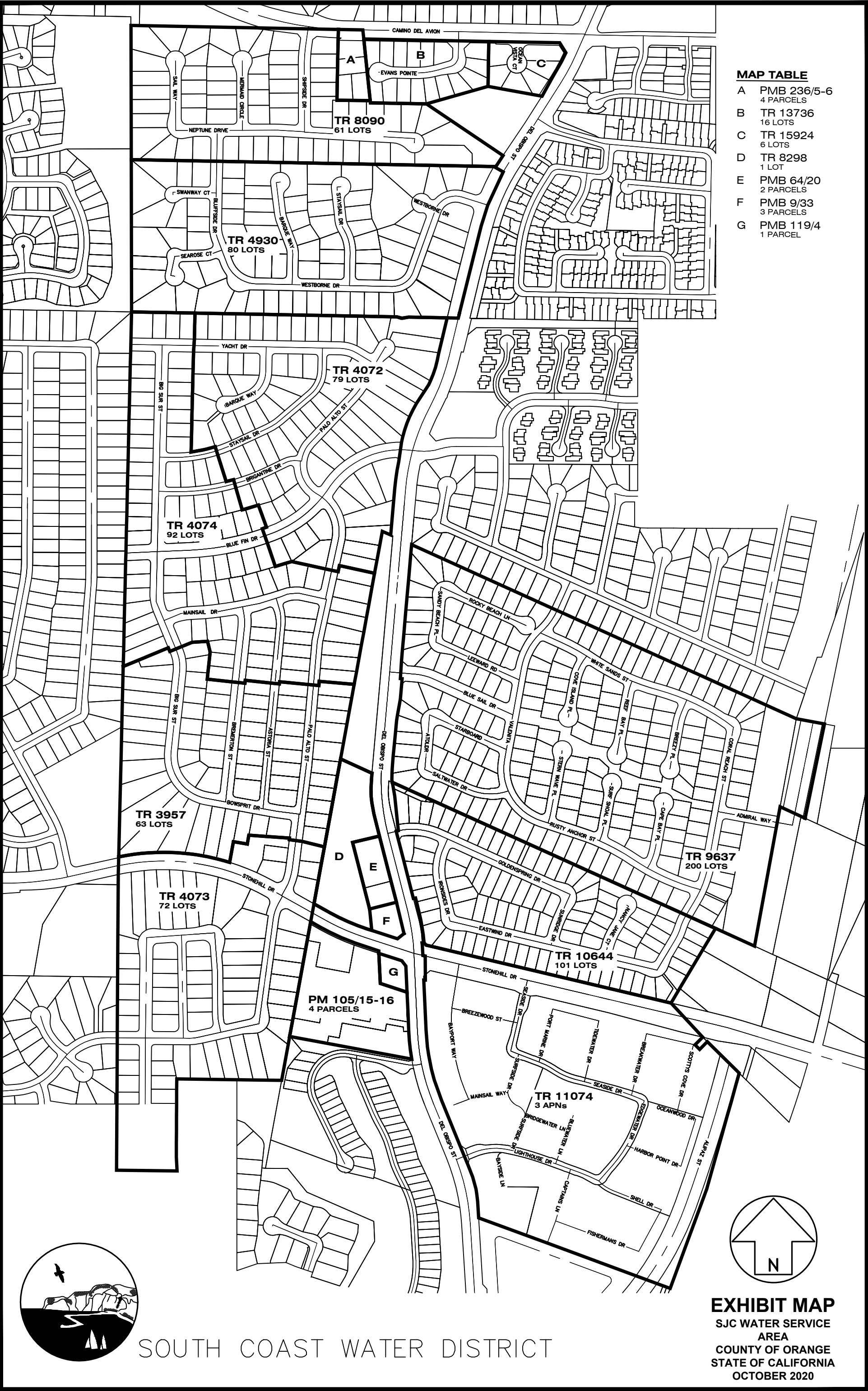


EXHIBIT “D”

DESCRIPTION OF THE FACILITIES

SCWD agrees to accept the Facilities described in the Agreement and as follows: The Facilities are the local water distribution mains, valves, fire hydrants, water meters, water services, and other appurtenances within the Subject Area necessary for SCWD to provide Services within the same. The Facilities are more specifically identified in Exhibit E showing a map of the Demarcation Line.






EXHIBIT “E”

MAPS OF DEMARCATION LINE

[see attached maps]



Legend

-  Limit_Valves
-  dwSystemValve
-  SCWD Service Areas
-  dwMain
-  Parcels



SCWD Limit Valve

SCWD Limit Valve

Area 1

Area 2

SCWD Limit Valves

Legend

- Limit_Valves
- dwSystemValve
- SCWD Service Areas
- dwMain
- Parcels

SCWD limit valve #44 & 62



SCWD limit valve #44 & 62

Area 3

SCWD limit valve #69
and piping to valve #108.

Area 4








Area 4


SCWD limit valve #69
and piping to valve #108.

JTM (JRWSS)
Connection Point

WIP (SCWD)
Connection Point

Legend

-  Limit_Valves
-  dwSystemValve
-  SCWD Service Areas
-  dwMain
-  Parcels





SCWD limit valve #69
and piping to valve #108.

JTM (JRWSS)
Connection Point

Area 5

Area 6

SCWD Limit Valves

SCWD Limit Valves

Legend

- Limit_Valves
- dwSystemValve
- SCWD Service Areas
- dwMain
- Parcels



JTM (JRWSS)
Connection Point






Area 5

Area 6

SCWD Limit Valves

SCWD Limit Valves

Legend

-  Limit_Valves
-  dwSystemValve
-  SCWD Service Areas
-  dwMain
-  Parcels

SCWD limit valve # 108.

108



Add SCWD Limit Valves

SCWD limit valve # 108,

SCWD limit valve # 2

Area 7

Legend

- Limit_Valves
- dwSystemValve
- SCWD Service Areas
- dwMain
- Parcels



County of Orange

County Executive Office

June 14, 2021

Rick Shintaku
General Manager
South Coast Water District
31592 West Street
Laguna Beach, CA 92651

Re: South Coast Water District's Receipt of Property Taxes

Dear Mr. Shintaku:

In 1998, Capistrano Valley Water District ("CVWD") was dissolved. As a result, CVWD transferred property taxes it received from the City of Dana Point to South Coast Water District ("SCWD") which took over service responsibility for those areas in Dana Point that were served by CVWD. SCWD, in turn, entered into an out of area service agreement with the City of San Juan Capistrano ("City") whereby SCWD would pay the City the property taxes it collected from Dana Point to the City, and the City would provide water service to the areas of Dana Point previously served by CVWD.

During the County of Orange's ("County") recent review of Santa Margarita Water District's ("SMWD") Annexation of the City's Water and Wastewater Utilities (DA 20-01), we noticed that taxes apportioned to "San Juan Capistrano City - CVWD RO 96-15" in the City of Dana Point were being allocated by the County directly to the City. Going forward, the County will provide these amounts for service directly to SCWD, pursuant to Paragraph 1(e) of County Resolution 98-114 (Attached). Therefore, SCWD will need to manually make any payments required under its agreements, e.g., its out of service or annexation agreements and any future service agreement SCWD makes with SMWD, rather than relying on the County to make any such payments.

Please let us know if you have any questions.

Sincerely,

Frank Kim
County Executive Officer

Enclosure: County of Orange Resolution 98-114

CC: Ben Siegel, City Manager, San Juan Capistrano; Ken Al-Imam, CFO, San Juan Capistrano;
Daniel Ferons, General Manager, Santa Margarita Water District

R307804.22

04-10-20

EXHIBIT "A"
SANTA MARGARITA WATER DISTRICT
ANNEXATION OF THE CITY OF SAN JUAN CAPISTRANO WATER
WASTEWATER UTILITIES (DA20-01)
ID No. 9

That portion of Fractional Sections 23, 25, 26, and Sections 35, 36 in Township 7 South, Range 8 West, San Bernardino Meridian; together with Fractional Sections 30, 31, and 32 in Township 7 South, Range 7 West, San Bernardino Meridian; together with Fractional Sections 1, 2, 11, 12, 13, and 14 in Township 8 South, Range 8 West, San Bernardino Meridian; and together with Fractional Sections 4, 5, 6, 7, 9, 16, 17, 18, and Section 8 in Township 8 South, Range 7 West, San Bernardino Meridian, as shown on the Record of Survey of San Juan Capistrano filed in Book 2, Pages 31 through 37 of Records of Survey, in the office of the County Recorder of the County of Orange, State of California; together with The Townsite of San Juan Capistrano, as shown in Book 3, Pages 120 and 121 of Miscellaneous Records of Los Angeles County, in the office of the County Recorder of the County of Los Angeles, State of California; together with Fractional Sections 13 and 23, and Section 24 in Township 8 South, Range 8 West and Fractional Sections 16, 17, 18, and 19 in Township 8 South, Range 7 West of Rancho Boca La Playa as said Sections are shown on Book 4, Pages 188 and 199 of Patents, in the District Land Office.

Commencing at the published coordinate value for the Continuous Global Positioning Station (CGPS) "SBCC", North 2147751.75 and East 6131651.74, being part of the California Spatial Reference Network (CSRN) per records on file in the office of the Orange County Surveyor for the County of Orange Horizontal Control Network:

Thence, South 36°24'51.2" East, 18,174.64 feet to the POINT OF BEGINNING, being the Southeasterly terminus of that certain course in the Northeasterly boundary of Reorganization No. 61 (Annexation of the LACOUAGUE RANCH to the City of San Juan Capistrano), as approved by the Orange County Surveyor's Office on May 19, 1982, as shown on map sheet as having a bearing and distance of "N 53°44'07" W 1285.00 feet" +/- as shown on map sheet, on said Reorganization, said point also described as "Rancho Mission Viejo Corner No. 3" as shown on the Record of Survey filed in Book 9, Pages 15 and 22, inclusive, of Records of Survey, in the office of the County Recorder of said Orange County.

Course 1: Southeasterly along the Northeasterly line of said Reorganization No. 61 to an angle point in the Incorporation of the City of San Juan Capistrano, as adopted by the Board of Supervisors of said County of Orange, certified on April 19, 1961 as Resolution No. 61-385, said point being an intersection of the Southeasterly line of said

Reorganization No. 61 and the Southwesterly line of Rancho Mission Viejo, as shown on said Record of Survey;

Course 2: Southeasterly, Westerly, and Southwesterly along said Incorporation of the City of San Juan Capistrano to the Northeasterly corner of Annexation No. 24, Tentative Tract No. 8495 to the City of San Clemente (Transfer of Territory from the City of San Juan Capistrano);

Course 3: Westerly along the Northerly line of said Annexation No. 24 to an angle point in said Incorporation of the City of San Juan Capistrano, said point being the intersection of the land described in Book 7385, Page 355 of Deeds and the Southerly line of said Incorporation of the City of San Juan Capistrano;

Course 4: Westerly along the Southerly line of said Incorporation of the City of San Juan Capistrano to the Southeasterly corner of San Clemente Annexation No. 9 and De-Annexation No. 1, as certified by the City of San Juan Capistrano on November 13, 1962 as Resolution No. 62-11-13-2;

Course 5: Northerly, Westerly, and Southwesterly along the Northerly line of said City of San Clemente Annexation No. 9 to the most Northeasterly corner of said De-Annexation No. 1;

Course 6: Southwesterly along the Southeasterly line of said City of San Clemente De-Annexation No. 1 to the most Northeasterly corner of the Via California Annexation to the City of San Juan Capistrano as certified by the California Secretary of State on August 27, 1965 as Ordinance No. 105;

Course 7: Southwesterly and Westerly along the Southeasterly and Southerly line of said Via California Annexation to the intersection of the Westerly line of said Via California Annexation and said Incorporation of the City of San Juan Capistrano;

Course 8: Westerly and Northwesterly along said Southeasterly line of said Incorporation of the City of San Juan Capistrano to the most Northeasterly corner of the Great Western Annexation to San Juan Capistrano, as approved by the Orange County Surveyor's Office on June 25, 1986;

Course 9: Southerly, Northwesterly and Northeasterly along the Easterly, Southwesterly and Northwesterly lines of said Great Western Annexation to the intersection of said Northwesterly line of said Great Western Annexation and the Westerly line of said Incorporation of the City of San Juan Capistrano;

Course 10: Northeasterly along said Westerly line of said Incorporation of the City of San Juan Capistrano to the most Southerly corner of the Southside Annexation (Amended) to City of San Juan Capistrano, as approved by the Orange County's Surveyor Office on October 27, 1987;

Course 11: Northwesterly and Northerly along the Southwesterly and Westerly line of said Southside Annexation to the most Southeasterly corner of the C. Michael – Iwata Annexation to the City of San Juan Capistrano, as certified by the California Secretary of State on May 14, 1973 as Ordinance No. 220;

Course 12: Northwesterly and Northerly along the Southwesterly and Westerly lines of said C. Michael – Iwata Annexation to a point on the Southerly line of the Camino Del Avion Annexation to the City of San Juan Capistrano, California, as certified by the California Secretary of State on August 10, 1964 as Ordinance No. 93;

Course 13: Westerly and Northeasterly line along said Southerly line and the Northwesterly line of said Camino Del Avion Annexation to the Southeasterly corner of Parcel 2 of the Westside Annexation (Amended) to the City of San Juan Capistrano as approved by the Orange County's Surveyor Office on October 27, 1987;

Course 14: Westerly and Northeasterly along the Southerly and Northwesterly lines of said Parcel 2 of said Westside Annexation to the Southwesterly corner of the Raney Annexation to the City of San Juan Capistrano, as certified by the California Secretary of State, on August 20, 1973 as Resolution No. 73-8-6-5;

Course 15: Northeasterly along the Northwesterly line of said Raney Annexation to a point on the Westerly line of said Incorporation to the City of San Juan Capistrano;

Course 16: Northwesterly along said Westerly line of said Incorporation to the City of San Juan Capistrano to the Southeasterly corner of the Annexation of Tract No. 10593 (Recorded) to the City of San Juan Capistrano, as approved by the Orange County Surveyor's Office on January 21, 1981;

Course 17: Northwesterly and Northeasterly along the Southwesterly and Northwesterly lines of said Annexation of Tract No. 10593 to the most Southerly corner of the Wish/Camero Annexation to the City of San Juan Capistrano, as approved by the Orange County Surveyor's Office on February 21, 1981;

Course 18: Northwesterly, Northeasterly, and Easterly along the Southwesterly, Northwesterly, and Northerly lines of said Wish/Camero Annexation to the Westerly line of said Fractional Section 1, Township 8 South, Range 8 West, San Bernardino Meridian, as shown on the Record of Survey filed in Book 53, Pages 17 through 18, in Records of Survey, in the office of the County Recorder of the County of Orange;

Course 19: Northerly, Westerly, Northerly, Easterly, Northerly, and Easterly along the Westerly lines of Fractional Section 1, Township 8 South, Range 8 West and Section 36 Township 7 South, Range 8 West, San Bernardino Meridian, the Southerly line of Fractional Section 26, Township 7 South, Range 8 West, the Westerly line of the East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of said Fractional Section 26, the Westerly line of the Southeast $\frac{1}{4}$ of

the Northeast $\frac{1}{4}$ of said Fractional Section 26, the Northerly line of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Fractional Section 26, the Easterly line of said Fractional Section 26, and the Northerly line of Fractional Section 25, Township 7 South, Range 8 West, as shown on said Record of Survey, to the most Northerly corner of the Coast Bible Church Annexation to the City of San Juan Capistrano, as approved by the Orange County Surveyor's Office on October 15, 1981;

Course 20: Southeasterly along the Northeasterly line of said Coast Bible Church Annexation to the most Northerly corner of the Mansell, Lashbrook and Mogan Annexation to the City of San Juan Capistrano, as approved by the Orange County Surveyor's Office on October 10, 1978;

Course 21: Southeasterly along the Northeasterly line of said Mansell, Lashbrook and Mogan Annexation to the most Northerly corner of the Rosenbaum Annexation Number 2 to the City of San Juan Capistrano, as certified by the California Secretary of State on August 27, 1971 as Ordinance No. 181;

Course 22: Southeasterly along the Northeasterly line of said Rosenbaum Annexation Number 2 to the most Northeasterly corner of the Rosenbaum Annexation to the City of San Juan Capistrano, as certified by the California Secretary of State on January 28, 1965 as Ordinance No. 103;

Course 23: Southeasterly along the Northeasterly line of said Rosenbaum Annexation to the most Northerly corner of the Mission Hills Ranch Annexation to the City of San Juan Capistrano, as certified by the California Secretary of State on January 16, 1967 as Resolution No. 66-12-19-3;

Course 24: Southeasterly along the Northeasterly line of said Mission Hills Ranch Annexation to an angle point in said Incorporation to the City of San Juan Capistrano, said point being the intersection of the Southerly line of said Mission Hills Ranch Annexation and said Incorporation of the City of San Juan Capistrano;

Course 25: Southeasterly along said Northeasterly line of the Incorporation of the City of San Juan Capistrano to the most Northerly corner of said Reorganization No. 61;

Course 26: Southeasterly along the Northeasterly line of said Reorganization No. 61 to the point of beginning.

Containing an area of 8,730 acres, more or less.

As shown on Exhibit B attached hereto and by this reference made a part hereof.

Subject to covenants, conditions, reservations, restrictions, right-of-way and easements, if any, of record.

Prepared by me or under my direct supervision:


4/10/2020
RUSSELL H. HANSON, PLS 8873





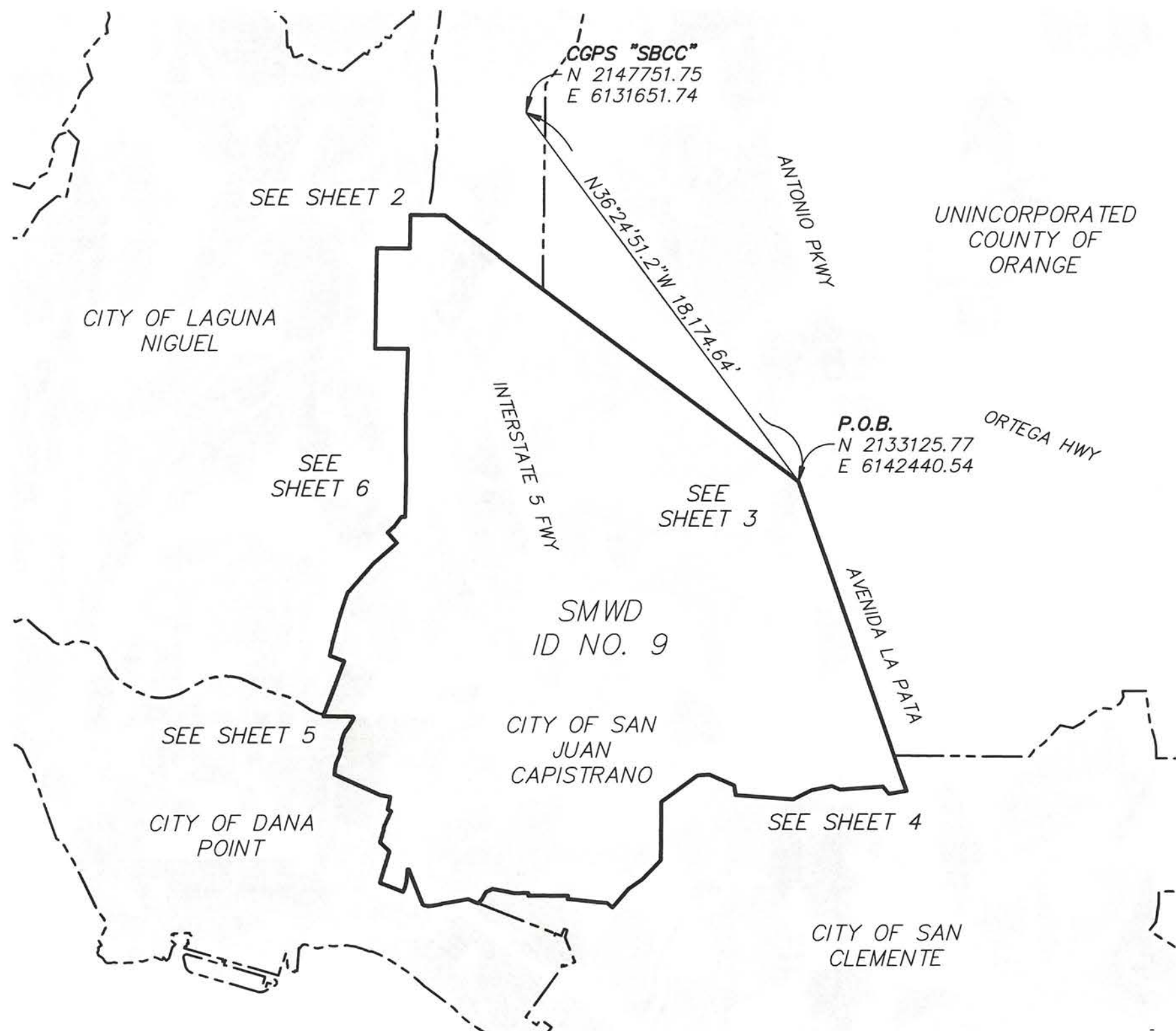
This description and map of proposed annexation does meet the approval of the Orange County Surveyor's Office.

Dated this 21st day of APRIL, 2020
Kevin R. Hill, County Surveyor
L.S. 6617


By: Lily M. N. Sandberg, Deputy County Surveyor
P.L.S. 8402



RECORD OF SURVEY OF SAN JUAN CAPISTRANO RECORDED IN BOOK 2, PAGES
31 THROUGH 37 OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY
RECORDER OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA



HUITT-ZOLLARS
Huitt-Zollars, Inc.
2603 Main Street, Suite 400, Irvine 92614
(949) 988-5815

LEGEND:

— PROPOSED ANNEXATION BOUNDARY
- - - EXISTING CITY BOUNDARY
XXX-XXX-XX ASSESSOR PARCEL NUMBER

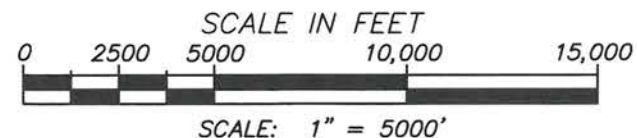


EXHIBIT "B"

SANTA MARGARITA WATER DISTRICT
ANNEXATION OF THE CITY OF SAN JUAN CAPISTRANO
WATER WASTEWATER UTILITIES (DA20-01)
ID No. 9

NOTE:

THIS ANNEXATION IS COMPRISED OF 1 AREA WHICH
COLLECTIVELY CONTAINS 8,730 ACRES +/-

COORDINATES SHOWN ARE BASED ON THE CALIFORNIA
COORDINATE SYSTEM (CCS83), ZONE VI, 1983 NAD
(2017.5 EPOCH OCS GPS ADJUSTMENT).

PREPARED BY ME OR UNDER MY DIRECT SUPERVISION:

Russell H. Hanson

RUSSELL H. HANSON
P.L.S. 8873

04/10/2020

Russell H. Hanson



THIS DESCRIPTION AND MAP OF PROPOSED ANNEXATION
DOES MEET THE APPROVAL OF THE ORANGE COUNTY
SURVEYOR'S OFFICE.

DATED THIS 21st DAY OF APRIL, 2020

KEVIN R. HILL, COUNTY SURVEYOR
L.S. 6617

Lily M. N. Sandberg

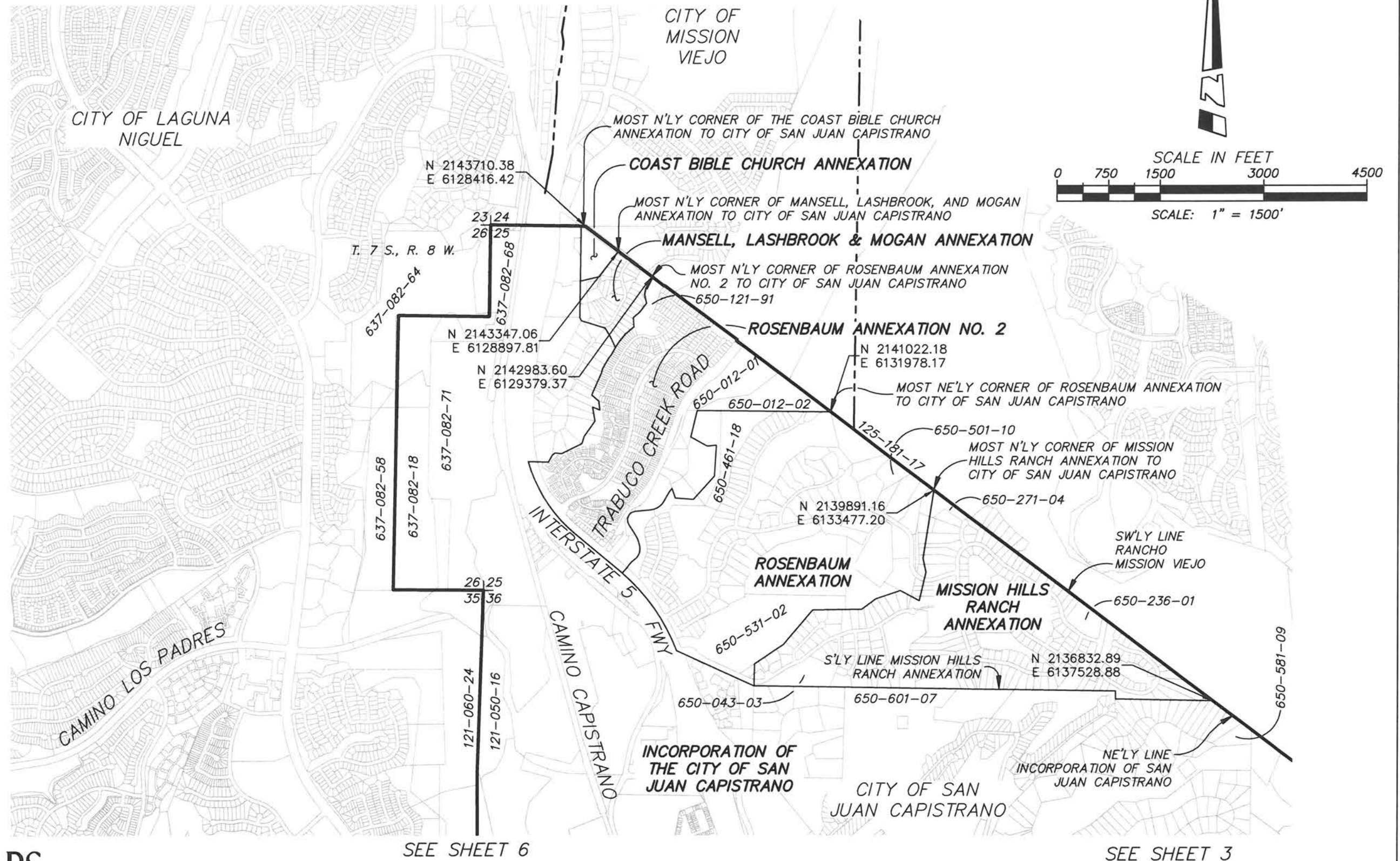
BY: LILY M. N. SANDBERG, DEPUTY COUNTY SURVEYOR
P.L.S. 8402



NOTE:

SEE SHEET 1 FOR LEGEND AND AREA SUMMARY.

EXHIBIT "B"

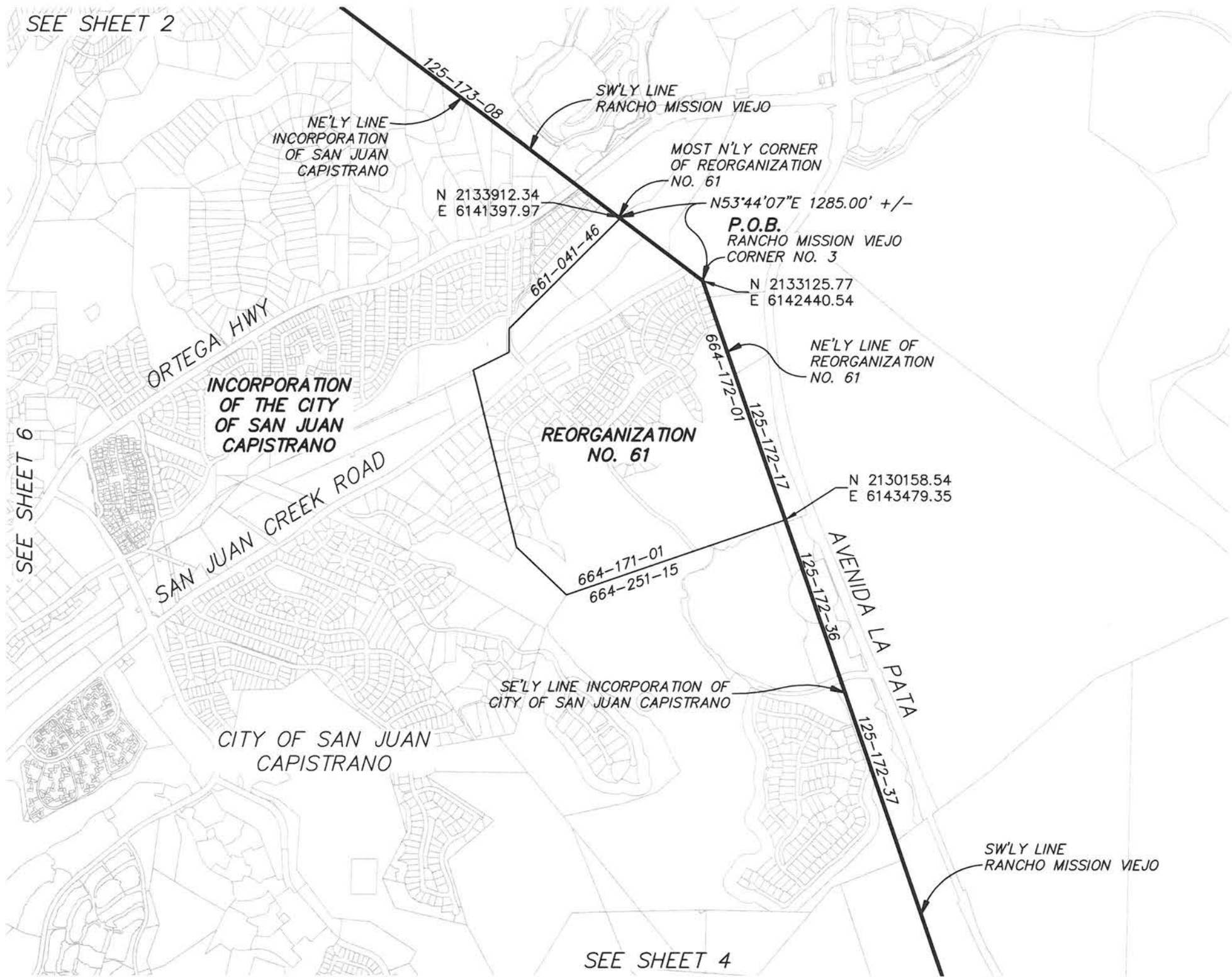


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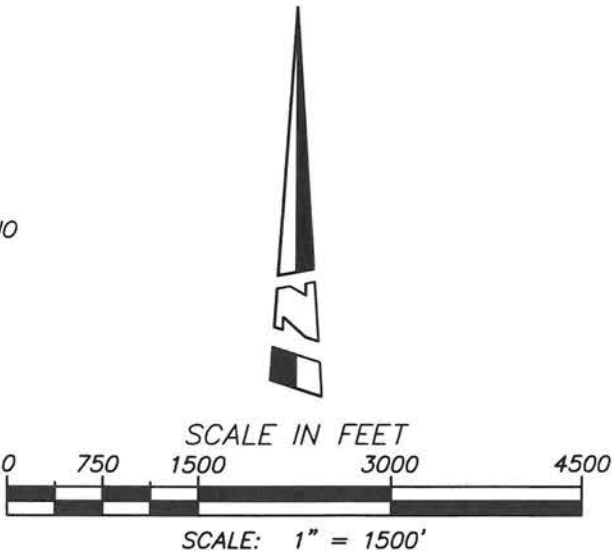
NOTE:

SEE SHEET 1 FOR LEGEND AND AREA SUMMARY.

EXHIBIT "B"



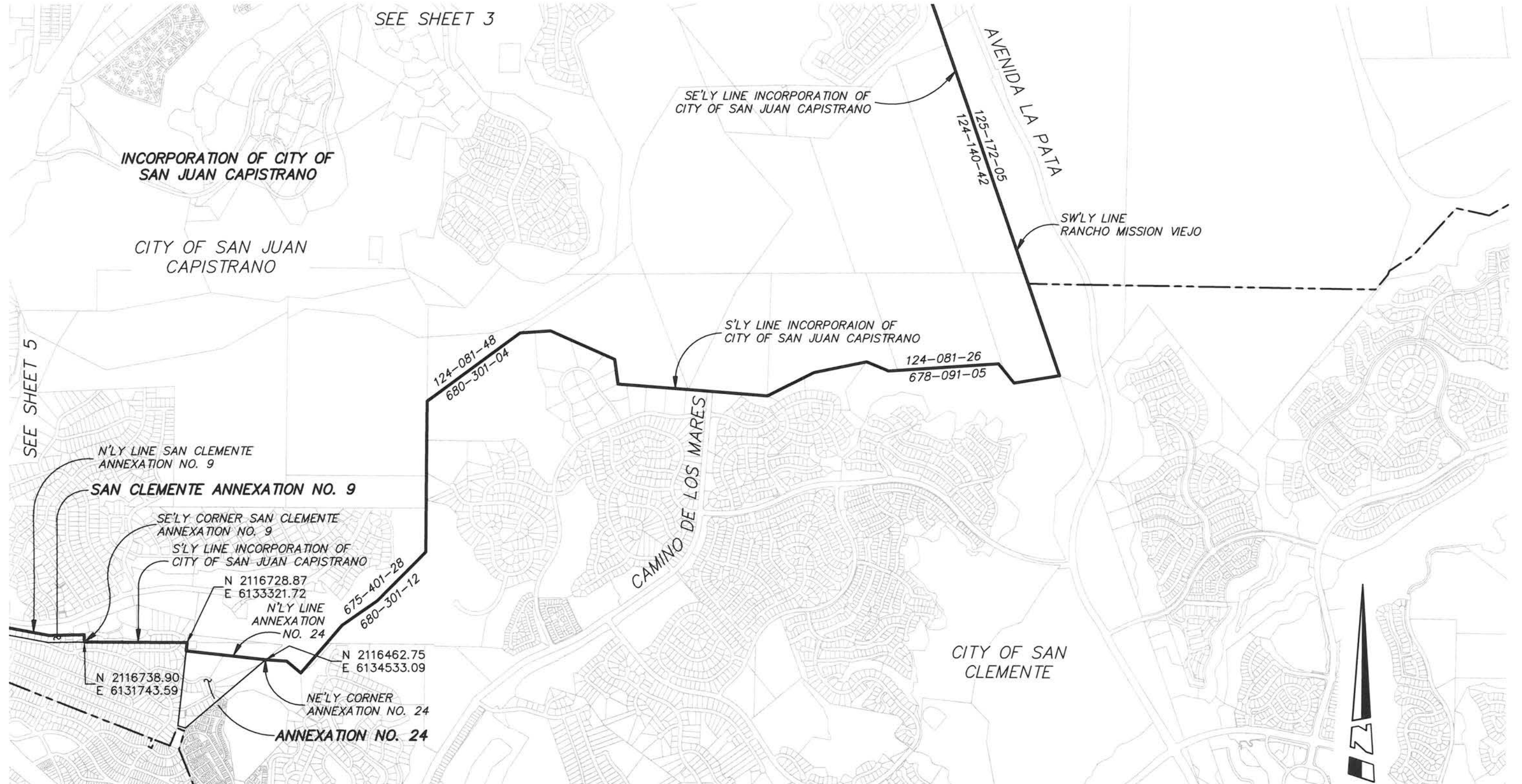
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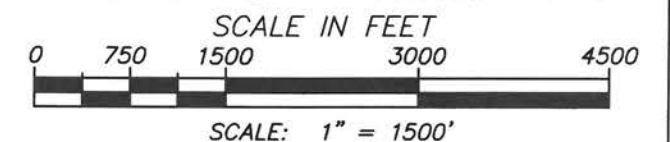
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EXHIBIT "B"



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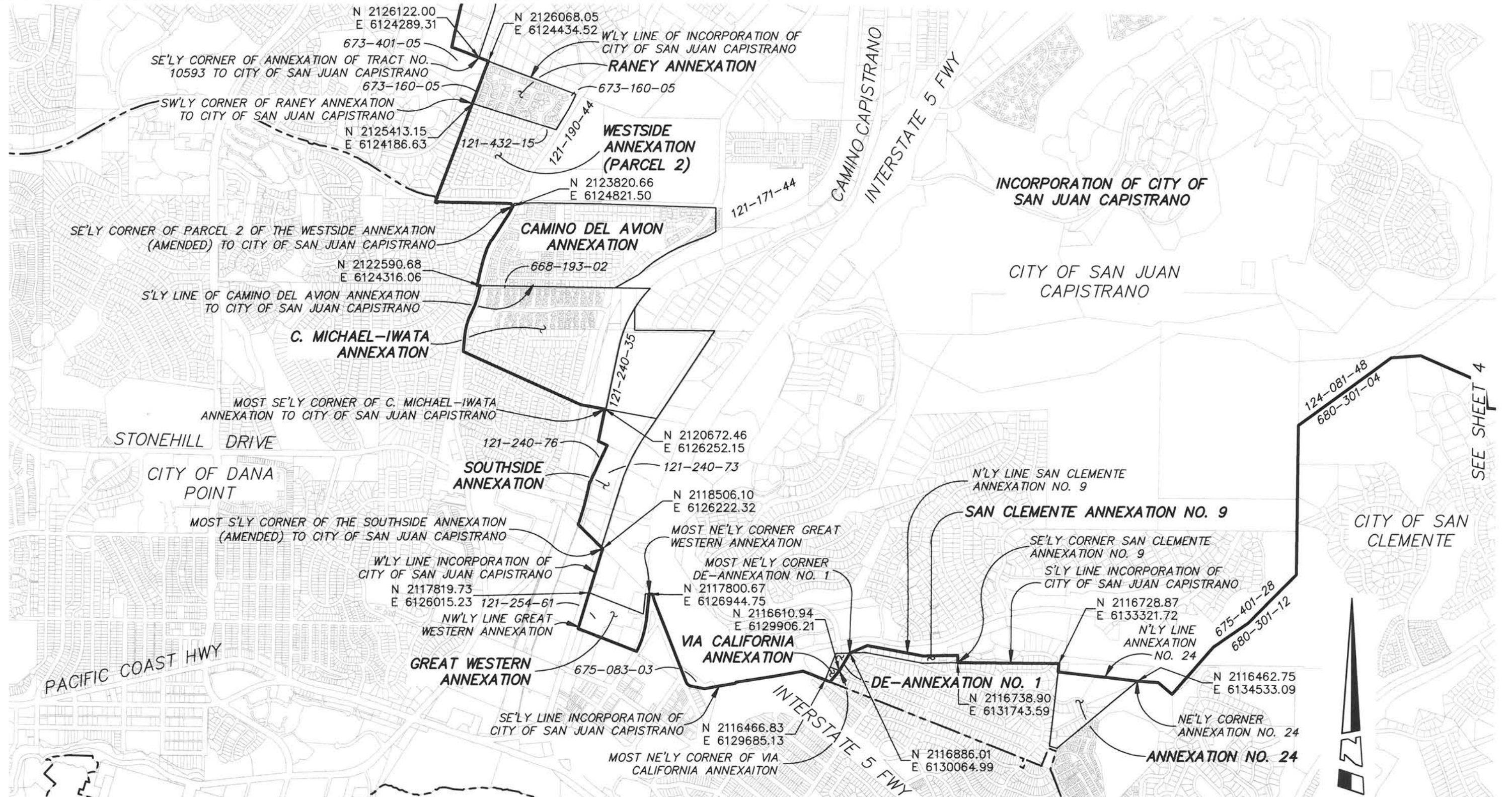


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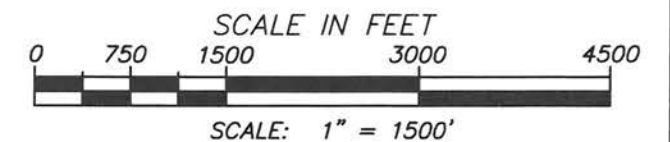
SEE SHEET 1 FOR LEGEND AND AREA SUMMARY.

EXHIBIT "B"

SEE SHEET 6

**HUITT-ZOLLARS**

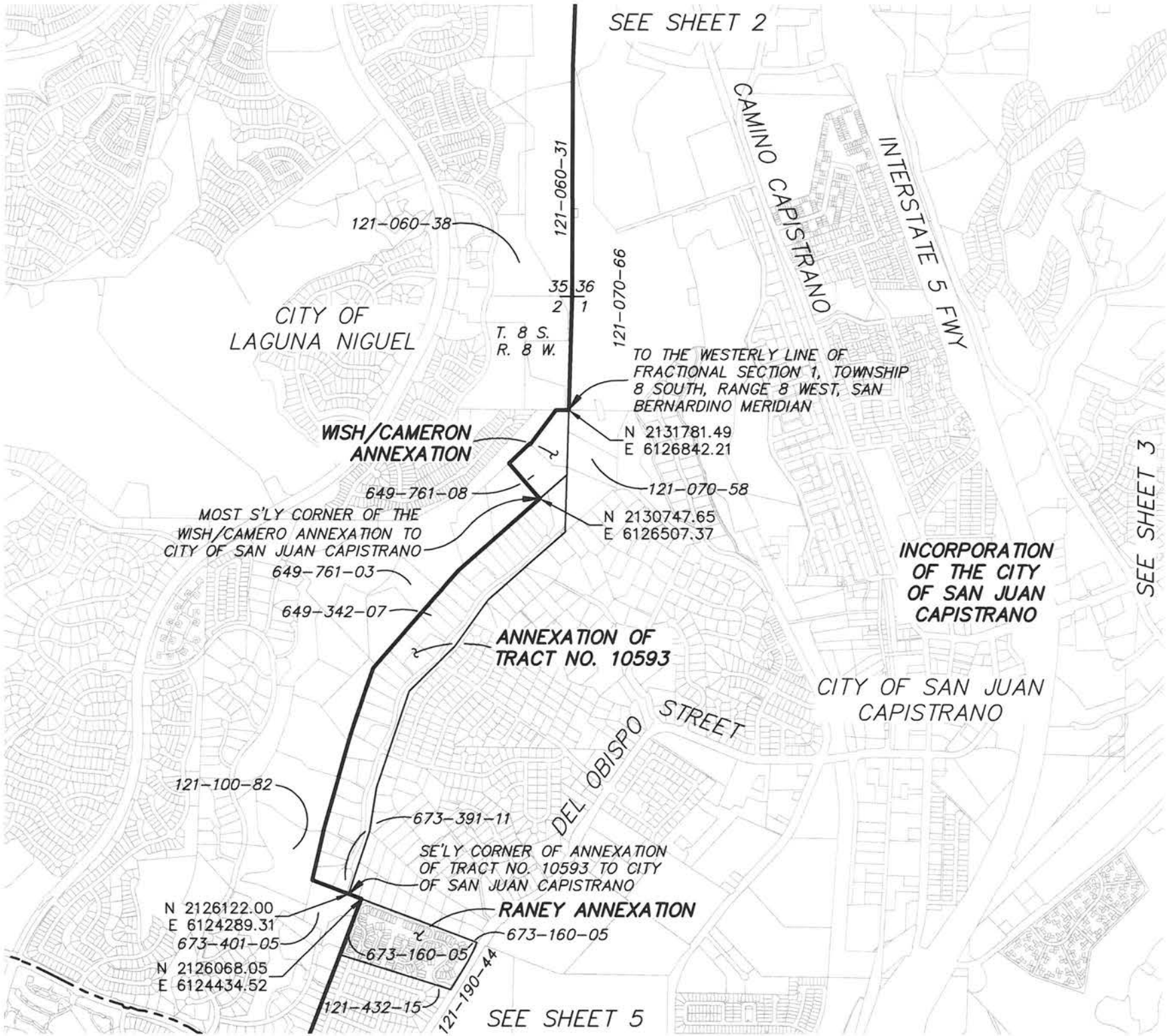
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NOTE:

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EXHIBIT "B"



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