



**CALAVERAS COUNTY BOARD OF SUPERVISORS AGENDA SUBMITTAL**

<b>ITEM TITLE</b> Discussion and approval of a “Will Serve and Annexation Agreement” among the County of Calaveras, the State Administrative Office of the Courts and the San Andreas Sanitary District under which the Sanitary District will provide wastewater services to the proposed Adult Detention Facility and Courthouse		<b>BOARD MEETING DATE</b> March 3, 2009	<b>AGENDA NUMBER</b>
<b>Dept:</b>	County Administrator’s Office	<b>Supervisorial District Number</b> <b>All</b>	
<b>Contact:</b>	Robert C. Lawton, CAO		
<b>Phone:</b>	754-6025		
<b>Published Notice Required?</b>		Yes: _____	No: <u>  X  </u>
<b>Public Hearing Required?</b>		Yes: _____	No: <u>  X  </u>

**DEPARTMENTAL RECOMMENDATION:**

The County Administrator’s Office recommends that the Board that the Board authorize the Chair to execute, on behalf of the County, the attached “Will-Serve and Annexation Agreement” among the County of Calaveras, the State Administrative Office of the Courts (AOC), and the San Andreas Sanitation District (SASD).

**SUMMARY:**

In order to maintain eligibility for grant funding for the new Courthouse and for the County’s new Jail, the County needs to secure a “Will-Serve Agreement” from SASD to demonstrate that adequate infrastructure will be available to provide necessary wastewater service for both projects. Also, since the proposed project site (north of the existing Government Center) is outside the service boundaries of SASD, the property needs to be formally annexed into the SASD service area.

The AOC, the County, and SASD have jointly negotiated a “Will-Serve and Annexation Agreement” to address both of these issues. Under the terms of this Agreement SASD agrees to take actions necessary for annexation and to provide future wastewater service for both the Jail and new Courthouse. In turn, the County and AOC have agreed to make various payments to SASD and to take various related actions as described in more detail below.

**FINANCING:**

It is anticipated that all costs (as specified in the attached Agreement) to ensure future wastewater service from SASD and to secure necessary property annexation into the District will be paid from Jail construction funds or by the AOC. No general fund contribution is anticipated.

## **DISCUSSION:**

County obligations include the following:

1. The County agrees to pay all costs associated with seeking and obtaining LAFCO approval of the annexation of the property into the District. The Agreement also requires the County to act as lead agency with regard to CEQA compliance relative to the annexation
2. The County agrees to pay a \$1,163,725.50 capacity charge that is required for construction of treatment plant upgrades and improvements to provide additional capacity. This charge is based on an increased flow rate of 24,850 gallons of wastewater per day from the new Jail.
3. The County agrees to pay \$780,000 for the design and construction of new effluent storage ponds and dispersal fields, including related equipment, piping, and controls. These facilities are needed to allow for the disposal of the additional effluent that will be generated from the new Jail.
4. The County agrees to pay \$75,000 into a fund that SASD will use for the purchase of "replacement disposal property". SASD Ordinances require all newly annexed properties to provide "replacement disposal property" as a condition of annexation. Required payment is in lieu of actually locating and purchasing property for this purpose.
5. The County agrees that specified pretreatment and flow-control facilities will be included in the Jail design and construction to prevent the discharge of unacceptable materials into the sewer system and to accommodate the limited capacity of the existing sewer line to the treatment plant. These facilities are described in more detail in Attachment "C" to the Agreement.
6. The County agrees that wastewater service for the existing jail will be disconnected after the inmate population has been transferred to the new Jail.
7. The County agrees to begin paying monthly service charges for the additional capacity beginning on May 1, 2012, or upon completion of the Jail, whichever occurs first.

SASD obligations include the following:

1. SASD will expand treatment facilities sufficient to treat an additional 24,850 gallons per day of wastewater as required to serve the new jail facility.
2. SASD will petition Calaveras County Local Agency Formation Commission (LAFCO) to annex the Property into the District and prepare necessary documentation for LAFCO approval.
3. SASD will develop and expand wastewater storage ponds and sprayfields as need to dispose of an addition 24,850 gallons per day of treated wastewater.
4. SASD will transfer, upon completion of the new Jail facility, the current capacity of 9,230 gallons per day from the existing jail to the new jail facility.

As provided for in Section 502(a), this Agreement is conditioned on the ability of SASD to comply with the plant's discharge permit requirements as established by the Central Valley Regional Water Quality Control Board. In order to establish compliance, SASD needs to construct various system upgrades and improvements at their existing treatment plant. SASD is proposing to increase monthly sewer service rates in order to fund this construction. This rate increase will be subject to a Prop 218 protest hearing currently scheduled for April 15th. If the proposed rate increase were to fail, SASD would be in violation of its discharge requirements and would, therefore, not be able to meet its obligations under the proposed Agreement. If this were to happen, all unexpended moneys paid by the County would be refunded.

**ALTERNATIVES:**

Your Board could choose to deny approval of the attached agreement. Staff does not recommend denial, as guaranteed access to wastewater services is a requisite for State funding of both the proposed new jail facility and the proposed new courthouse. Time constraints associated with the State funding process do not allow for the permitting and development of wastewater treatment facilities other than those maintained by SASD.

Your Board could direct staff to renegotiate all or part of the attached agreement, seeking amendment to its various terms. Staff does not recommend this course, as the agreement now before the Board is the result of extensive negotiations between County representative and SASD, as well as discussions among various state and County agencies involved with the project. Staff does not believe it likely that further negotiation would yield terms more favorable to the County.

**OTHER AGENCY INVOLVEMENT:**

County Counsel, the Sheriff's Department and the Administrative Office of the Counts all participated in preparation of the attached agreement and support its adoption.

**COUNTY ADMINSTRATOR'S SIGNATURE:**



\_\_\_\_\_  
Robert C. Lawton

February 26, 2009

Date

**ATTACHMENT A: Will Serve and Annexation Agreement with San Andreas Sanitary District (Pages 4 - 20)**

WILL SERVE AND ANNEXATION AGREEMENT  
BY AND BETWEEN  
THE SAN ANDREAS SANITARY DISTRICT  
THE JUDICIAL COUNCIL OF CALIFORNIA, ADMINISTRATIVE  
OFFICE OF THE COURTS, AND THE COUNTY OF CALAVERAS REGARDING THE  
NEW CALAVERAS COUNTY COURT HOUSE AND JAIL PROJECT PROPERTY

This Will Serve and Annexation Agreement (the "Agreement") is entered into by and between the SAN ANDREAS SANITARY DISTRICT (the "District"), the JUDICIAL COUNCIL OF CALIFORNIA, ADMINISTRATIVE OFFICE OF THE COURTS, ("AOC"), and CALAVERAS COUNTY ("County") on March 3, 2009. The District, AOC and County are from time to time hereinafter referred to in this Agreement individually as a "Party" and collectively as the "Parties."

**ARTICLE 1. RECITALS**

WHEREAS, the District provides sanitary sewer service within the District's boundaries; and

WHEREAS, the Superior Court of California, County of Calaveras (the "Court") occupies the court facility commonly know as the Legal Building together with a modular facility (collectively together the "Court Facility"), located at 891 Mountain Ranch Road, San Andreas, County of Calaveras, California. The Court Facility is located within the District's boundaries and is currently served by the District; and

WHEREAS, the County operates an existing jail ("Existing Jail") located at the County Government Center, 891 Mountain Ranch Road, San Andreas, County of Calaveras, California with a current sewer service permit from the District for 9,230 gallons per day ("gpd"); and

WHEREAS, the County proposes to construct a new County Jail facility (hereinafter "Jail Project"), adjacent to the existing County Government Center and still at 891 Mountain Ranch Road, San Andreas, County of Calaveras, State of California on property ("Property"), located outside the District's current boundaries; and

WHEREAS, the Jail Project will require an additional estimated 24,850 gpd of waste water treatment capacity from the District and a commitment letter ("will serve letter") from the District to proceed with the Jail Project; and

WHEREAS, the Property is also the project site of a proposed New Courthouse Facility ("Court Project") that will be constructed by the AOC; and

WHEREAS, the AOC cannot complete site acquisition of the Property without the Property being annexed into the District and sanitary sewer service available to the Property; and

WHEREAS, the Jail Project and Court Project will require sanitary sewer service; and

WHEREAS, the Court Project will require a minimum of 4,000 gpd of waste water treatment capacity from the District and a will serve letter from the District to proceed with the Court Project; and

WHEREAS, the District has arranged repurchasing 4,000 gpd from a current permit holder to provide service to the AOC, and

WHEREAS, the Jail Project will require an estimated total of 34,080 gpd of waste water treatment capacity from the District and a will serve letter from the District to proceed with the Jail Project; and

WHEREAS, the District's planned waster water treatment plant upgrades will create 24,850 gpd of capacity upon their completion to provide service to the County for the Jail Project, and

WHEREAS, upon completion of the Jail Project, the County will no longer be using the Existing Jail; and

WHEREAS, California law requires that properties served by a sanitary district be located within the sanitary district providing services; and

WHEREAS, the proposed Property must be annexed into the District in order to receive sanitary sewer service from the District; and

WHEREAS, California law requires that all annexed property must be contiguous to the District boundaries; and

WHEREAS, the County desires to annex the Property into the District; and

WHEREAS, the District can allow the transfer of the Existing Jail's 9,230 gpd of sewer capacity to the Jail Project upon its completion, and

WHEREAS, the County understands that it will be responsible for the costs associated with the annexation of the entire Property, as well as cost of construction of any infrastructure associated with sewer services for the Jail Project and Court Project (hereinafter collectively "Projects") as set forth in this Agreement;

WHEREAS, the service for the AOC is available now, the District can issue a permit for 4,000 gpd to the existing Court Facility and allow for the subsequent transfer of said permit to the Property when the Property is annexed into the District, and

WHEREAS, the AOC understands that Court will be responsible for the monthly sewer service charges for the 4,000 gpd at the rates set forth in the District's Ordinance No. 7; and

The Parties hereby agree as follows:

## **ARTICLE 2. GENERAL PROVISIONS**

Section 2.01: Introduction. This Agreement is for 1) the annexation of the Property, a legal description of which attached hereto as Attachment "A" and incorporated as though fully set forth herein; and 2) to provide the Jail Project and Court Project with sanitary sewer service.

Section 2.02: Effective Date. This Agreement shall become effective on the 3rd day of March, 2009 ("Agreement Effective Date").

## **ARTICLE 3. TERMS AND CONDITIONS FOR SEWER SERVICES TO THE AOC**

Section 3.01 Allocation of Capacity for the AOC. The District shall allocate 4,000 gpd ("AOC Capacity") of existing wastewater treatment plant capacity for the Court Project which shall be non-transferrable to third parties. The District agrees that the permit for the AOC Capacity, which shall be temporarily assigned to the existing Court Facility and is in excess of the Court Facility's existing waste water treatment capacity from the District. Subsequently said permit for the AOC Capacity may be transferred to any other State project site located within the District, including the Property upon the successful completion of the annexation of the Property into the District. The allocation of the AOC Capacity shall be conditioned upon the payment within 15 calendar days of the County's Board of Supervisors approval of the Agreement to the District of a charge for the Court Project in the total amount of One Hundred and Eighty-Seven Thousand, Three Hundred and Twenty Dollars (\$187,320.00), the amount the District has paid to repurchase the capacity from a third party. Failure to comply with this subsection shall render the Agreement null and void as to the AOC.

Section 3.02 District Services to the AOC. The District shall provide the AOC sanitary sewer service to the existing Court Facility pursuant to the permit for the AOC Capacity. In the alternative, the District will provide sanitary sewer service pursuant to the permit for the AOC Capacity to the Court Project on an alternative site located within the District or on the Property after annexation into the District, upon connection of the Court Project to the District's Public Sewer System, and the payment to the District by the AOC of the AOC Disposal Property Charge set forth in Article 4, Section 4.02(d) of this Agreement.

Section 3.03 Issuance of a Will-Serve Letter. Upon receipt of the payment set forth in Section 3.01, the District shall immediately execute and deliver to the AOC a will serve letter in substantially the form attached hereto as Attachment B.

Section 3.04 Monthly Sewer Service Charge. Commencing June 1, 2009, the Court, on behalf of the AOC shall be subject to and pay the monthly sewer service charge for the AOC Capacity as set forth in District Ordinance No. 7 (hereinafter "Ordinance"), Article IX.

## ARTICLE 4. ANNEXATION TERMS AND CONDITIONS

### Section 4.01: District Annexation Obligations.

(a) Annexation Process. Consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 *et seq*, also referred to as "LAFCO law") and this Agreement, District shall petition Calaveras County Local Agency Formation Commission (hereinafter "LAFCO") to annex the Property into the District. Because the AOC cannot complete site acquisition of the Property without its annexation into the District being finalized, the District and the County agree that they will proceed with the annexation of the Property in a diligent and expeditious manner.

(b) Annexation Documents. Within sixty (60) days following the Effective Date or as soon thereafter as a "Plan for the Provision of Services" (as that phrase is defined by LAFCO law) and all other materials required or requested by the LAFCO necessary to the Annexation can be prepared and completed by the District, the District shall adopt and submit a District "Resolution of Application" to LAFCO requesting the annexation of all of the Annexing Property into the District. The District shall submit an Application for Annexation, Resolution of Application, the Plan for the Provision of Services, and any other materials needed or requested by LAFCO in order to complete the Annexation. The Plan for Provision of Services shall be in accordance with the terms of this Agreement.

(c) Condition of Performance. Any and all District annexation actions and obligations, including, without limitation, the preparation of the Plan for the Provision of Services, adoption of the Resolution of Application, the continuing prosecution of the annexation request to LAFCO, and/or the completion of those actions required by LAFCO, in order to complete the annexation, shall be conditioned upon:

(1) Compliance by the County with the terms of this Agreement, including without limitation, the County Annexation Obligations in Section 4.02 of this Agreement.

(2) The County's completion of any environmental review required under the California Environmental Quality Act ("CEQA") acceptable by the District and LAFCO as part of the annexation process, as well as the County being the designated lead agency for CEQA purposes.

### Section 4.02: County Annexation Obligations

(a) Annexation Documentation. The County shall prepare the following documents in accordance with Article XII of the District's Ordinance and this Agreement. Said documents include, but are not limited to:

(1) A Petition for Annexation of the Property in accordance with Article XII, Section 12.40 of the Ordinance;

(2) Any environmental review documents acceptable to the District and LAFCO relating to LAFCO annexation of the Property and Projects which may be required under CEQA, which the County shall deliver to the District prior to the District's petition for annexation with LAFCO;

(b) Annexation Fees and Costs. The County shall pay all costs and fees necessary and actually incurred by the District in annexing the Property into the District (hereinafter collectively "Annexation Costs"), as required by this Agreement, by the Ordinance, and LAFCO, including, but not limited to:

(1) A processing fee of Five Hundred Dollars (\$500.00) in accordance with Article XII, Section 12.40 of the Ordinance, the amount of which shall be paid from the deposit set forth below in subsection 3;

(2) All fees required by LAFCO, the County of Calaveras, and the State Board of Equalization as part of the annexation process, the amount of which shall be paid from the deposit set forth below in subsection 3;

(3) Pursuant to Article XII, Section 12.50 of the Ordinance, the County shall be responsible for all District costs (hereinafter "Annexation Costs"), including, without limitation, attorney's fees, engineers fees, and environmental consultant's fees related to the annexation of the Property, preparation of the Application for Annexation and all supporting documents, and the submission of the necessary documents to the LAFCO, and preparation for and attendance at any and all LAFCO meetings regarding the Annexation. The County shall cause to be deposited Twenty Thousand Dollars (\$20,000.00) (hereinafter "Annexation Deposit") at the time the Petition for Annexation is submitted to the District to cover the Annexation Costs. The Annexation Deposit satisfies the District's requirement for the submission of an "Annexation Fee" under the District's Ordinance. Said deposit is not an estimation of the anticipated Annexation Costs of the District, but rather an accessible source of funds available to the District to pay for the Annexation Costs it incurs during the annexation process. The District shall be entitled to withdraw from the Annexation Deposit the Annexation Costs it incurs or has incurred. If during the annexation process the Annexation Deposit is exhausted, upon notice from the District, the County shall immediately make an additional deposit with the District of Five-Thousand dollars (\$5,000.00) to replenish the Annexation Deposit. Subsequent deposits of Five Thousand dollars (\$5,000.00) shall be made if any previous deposit is exhausted and the Annexation is not yet complete. Until the County has made any additional deposits into the Annexation Deposit, the District shall be entitled to cease any and all work on the annexation process. Upon completion of the annexation process, the District shall refund to the County any unused portion of the Annexation Deposit.

(4) The County understands that it is responsible for the actual costs incurred by the District associated with the Annexation as set forth in this Agreement, and that the actual costs of Annexation may exceed any projected costs given to the County. The County further represents that its obligations under this Article shall include any and all costs associated with the Court Project excluding the disposal property requirement for the Court Project as set forth in Article XII, Section 12.50(d) of the Ordinance.

(c) Taxes, Assessments, Fees, and Charges. Upon completion of Annexation, the Property shall be subject to all District taxes, assessments, fees and charges as allowed by state law.

(d) Disposal Property. In accordance with Article XII, Section 12.50(d) of the Ordinance, the County and AOC are required to provide the District with disposal property (hereafter “the Disposal Property”) for the dispersal of treated waste water and any easements necessary to carry out the purpose of the Projects separately. The District hereby agrees that payment of a disposal property charge (“Disposal Property Charge”) in the amount of Seven Thousand, Five Hundred Dollars (\$7,500.00) per acre of discharge property required for each project shall satisfy the Disposal Property requirement in the Ordinance. The AOC agrees to pay the District a Disposal Property Charge of Fifteen Thousand Dollars (\$15,000.00), representing 2 acres of discharge property for the Court Project, prior to any construction of the Court Project. The County agrees to pay the District a Disposal Property Charge of Seventy-Five Thousand Dollars (\$75,000.00), representing 10 acres of discharge property for the Jail Project prior to any construction of the Jail Project. The District shall deposit the Disposal Property Charges into a separate account to be used for the purpose of the District acquiring the right to discharge treated waste water on property in the future at its sole discretion.

(e) Indemnification. Pursuant to Article XII, Section 12.50(a) of the District’s Ordinance, to the extent allowable by law, the County shall defend, indemnify, and hold harmless District, its agents, officers, and employees from and against any and all claims, lawsuits, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney’s fees, arising out of, resulting from, or in connection with the annexation of the Property.

## **ARTICLE 5. TERMS AND CONDITIONS FOR SEWER SERVICES TO THE COUNTY**

Section 5.01: Condition of Annexation. Unless otherwise provided, the performance of any obligations of the Parties under this Article 5 of this Agreement is conditioned upon the annexation of the Property into the District within the time allowed herein (hereinafter “Condition of Annexation”). The District and County shall proceed diligently and expeditiously to complete the annexation before June 30, 2009. In the event that it appears that Annexation will not take place by the June 30, 2009, prior to expiration of said date the County may apply to the District for an extension of time to complete annexation. Such extension shall be for a period not to exceed forty-five (45) days, and District’s consent to such extension of time will not be unreasonably withheld, so long as the County can demonstrate that annexation has been diligently sought. In the event of the failure of the Condition of Annexation, this Article 5 of this Agreement shall become null and void and unenforceable.

### Section 5.02: District Sewer Service Obligations

(a) Allocation of Capacity for the County. The District shall conditionally allocate 24,850 (“Additional Capacity”) gallons per day (“gpd”) of wastewater treatment plant capacity

for the Jail Project, which shall be non-transferrable absent the written consent of the District which will not be unreasonably withheld.. The County acknowledges that the Additional Capacity will be generated upon the completion of the District's Waste Water Treatment plant Upgrades ("Upgrades"). The County further acknowledges that the construction of the Upgrades is conditioned on a successful sewer rate increase ("Rate Increase") which is the subject to a Proposition 218 rate increase protest hearing that will occur on April 15, 2009. Thus, the Additional Capacity is conditioned on the success of the Rate Increase and completion of the Upgrades. In accordance with Article IV, Section 4.2.3.2(b) of the Ordinance, the County shall pay the District a capacity charge ("Capacity Charge") for the Additional Capacity in the total amount of One Million, One Hundred and Sixty-Three Thousand, Seven Hundred and Twenty-Five Dollars and Fifty Cents (\$1,163,725.50) within 15 calendar days of the Effective Date of the Agreement. The Capacity Charge shall be fully refundable to the County prior to the approval of the District's Rate increase. Upon approval of the Rate Increase, the County's Capacity Charge shall be non-refundable . In the event either the County requests a refund of any amount of the Capacity Charge prior to the approval of the Rate Increase or in the event the Rate Increase is unsuccessful, this Agreement and any will serve letter issued to the County shall be null and void.

(b) District Services to the County. The District shall provide the County sanitary sewer service in accordance with the Plan for the Provision of Services after 1) the annexation of the Property to within the District, 2) the County completes the requisite system improvements as set forth herein and as described in the Plan for Provision of Services, 3) after completion of the Discharge Improvements set forth below, and 4) the payment of the County's Disposal Property Charge set forth in Article 4, Section 4.02(d) of this Agreement.

(c) Discharge Improvements. The District currently does not have available discharge capacity to handle the discharge of the treated waste water generated by the Additional Capacity. In order to increase the discharge capacity to serve the Additional Capacity, the District will construct discharge improvements ("Discharge Improvements") to its existing and available discharge facilities. Therefore, the District shall design and build the Discharge Improvements sufficient to discharge the Additional Capacity. Upon receipt of payment from the County as set forth Article 5, Section 5.03(a) of this Agreement, the District shall design and complete the installation of the Discharge Improvements prior to the completion of the Jail Project.

(d) Transfer of Capacity from Existing Jail Facilities. The County hereby represents that the Existing Jail will not be discharging any thing into the Public Sewer System after completion, transfer of the Existing Jail population, and occupancy of the Jail Project. The Existing Jail is permitted to discharge up to 9,230 gpd ("Existing Capacity") of waste water into the District's Public Sewer System. Upon the completion, transfer of the Existing Jail population, and occupancy of the Jail Project, the Existing Capacity shall be transferred from the Existing Jail to the Jail Project. The County agrees that upon completion, transfer of the Existing Jail population, and occupancy of the Jail Project, it shall cease the discharge of any and all waste water from the Existing Jail into the Public Sewer System. The County further agrees that upon the completion, transfer or the Existing Jail population, and occupancy of the Jail Project, the District shall be entitled to physically sever and cap the Private Sewer, as defined in

Article II, Section 2.320 of the Ordinance, from the Existing Jail to the Public Sewer System upon giving the County 24 hour notice.

(e) Will Serve Letter. Within 15 days of the District's receipt of the County's Capacity Charge and Discharge Improvements Charge, the District shall issue the County a commitment of sewer service letter ("Will Serve Letter") in a form acceptable to the District and the County for Additional Capacity for and transfer of the Existing Capacity to the Jail Project.

(f) Condition of Performance. Any and all District actions under this Article, including, without limitation, the design and construction of the Discharge Improvements, and providing of services set forth in Section 5.02 of this Agreement, shall be conditioned upon the County's performance of all of its obligations set forth in this Agreement, including, without limitations, those obligations specifically set forth in Section 5.03 of this Agreement.

#### Section 5.03: County's Responsibilities

(a) Discharge Improvements Charge. The County shall pay the District within 15 calendar days of the Effective Date of this Agreement the sum of Seven Hundred and Eighty Thousand Dollar (\$780,000.00) for the Discharge Improvements. Failure to comply with this subsection shall render Article 5 of this Agreement unenforceable, null and void.

(b) Property Sewer Improvements. Consistent with the Plan for the Provision of Services and this Agreement, County will construct the necessary improvements on the Property ("Property Improvements") in compliance with the District's Ordinance in order to connect the Jail Project and Court Project to the District's Public Sewer System. The Property Improvements shall consist of the improvements set forth in Attachment C or other improvements approved by the District and shall not be constructed until the design for the Property Improvements are approved by the District. Said Property Improvements shall pre-treat the Property waste water to ensure compliance with the District's Ordinance and shall include an on site storage facility sufficient to store waste water generated by the Jail Project when its discharge of waste water into the Public Sewer System is delayed as set forth in subsection (2) below. The Treatment System shall be subject to District approval prior to construction. The construction, operation and maintenance of the Property Improvements shall comply with the District's Ordinance as it now exists and future amendments thereto including, but not limited to, the following until or unless changed by District Ordinance:

(1) Preventing the waste water discharged from the Property into the Public Sewer System containing a biochemical oxygen demand ("BOD") levels greater than set forth in Attachment C.

(2) The County acknowledges that the District's Public Sewer System does not have the conveyance capacity to allow for unrestricted flows of the Additional Capacity. In order to accommodate the volume of discharge of the Additional Capacity and safeguard the Public Sewer System from exceeding its conveyance capacity without increasing the size of the Public Sewer System pipeline, the County shall install a flow measuring device in the manhole

of the Public Sewer System located down stream of the Property as selected by the District for the purpose of notifying the District and the Public Sewer System is at risk of over flowing and thus causing a public health emergency (“Emergency”) as set forth in Attachment C. In the event of an Emergency, the County agrees that it will immediately cease the discharge of all waste water from the Jail Project until the District notifies it that the Emergency is over. The County acknowledges that an Emergency could last for more than a day and thus will be responsible for the storage of the Jail Project’s waste water or conveyance of it by means other than the Public Sewer System pipeline to the District’s treatment plant. County acknowledges that the District’s Public Sewer System at different times of year are subject to surges due to excessive water infiltration. County further understands that during these periods the waste water discharge will be controlled and limited based on available capacity in the distribution system and that waste water stored during these periods shall be released during non-peak flow periods. The District agrees to accept the Jail Project’s waste water conveyed directly to the District’s treatment plant by means other than the Public Sewer System when an Emergency exists

(c) Consulting/Coordination and Inspection Deposit. The County shall pay all costs, fees, and expenses incurred by the District regarding the Jail Project through the completion of the Jail Project (“Expenses”). Upon annexation of the Property or the commencement of the design of the Property Improvements, whichever occurs first, the County shall immediately deposit with the District, the sum of Ten Thousand dollars (\$10,000.00) (hereinafter “Expenses Deposit”) for which the District shall be entitled to use for any and all Expenses it incurs other than the Annexation. If prior to the completion of the Jail Project the Expenses Deposit is exhausted, upon notice from the District, the County shall immediately make an additional deposit with the District an amount sufficient to replenish it to Ten Thousand Dollars (\$10,000). Upon completion of the Jail Project, the District shall refund any unused portion of the Expenses Deposit to the County.

(d) Connection Permit. Pursuant to Article IV of the Ordinance, upon payment of the Capacity Charge the District agrees to issuance of a connection permit to the County for the amount of 24,850 gpd of capacity to the Existing Jail since it is located within the District. Upon annexation of the Property and request by the County, the District shall transfer the connection permit for the Additional Capacity and the existing capacity to the Jail Project. Pursuant to Article IV, Section 4.8 of the Ordinance, the District agrees to waive the requirement that the County complete the physical connection of the Additional Capacity permit to the Public Sewer System within one year of issuance of a connection permit. The County agrees that it shall begin to pay the applicable monthly service charge for the Additional Capacity commencing May 1, 2012 or upon the completion of the Jail Project, which ever occurs first.

(e) Connection Fee. Any connection fee required for the Jail Project shall be paid for out of the Expenses Deposit required by Section 5.03(c). Any connection fee shall be in the amount determined by the District in accordance with Article IV, Section 4.2.3.1 of the Ordinance.

Section 5.04: Accounting of Deposited Funds by the County. The District shall provide an accounting to the County for all costs which the District has deducted from the Annexation Deposit and Expenses Deposit. The District agrees to provide to the County copies of all back-up materials justifying said deductions. The County shall have the right to audit all Annexation Deposit and Expenses Deposit deductions.

Section 5.05: Ownership and Maintenance of Improvements. The Discharge Improvements will be owned, maintained, and operated by the District. The County shall own and be required to maintain and operate the Property Improvements and the Private Sewer.

## **ARTICLE 6. MISCELLANEOUS**

Section 6.01: Amendments of Agreement. This Agreement may be amended, from time to time, only upon the mutual written consent of the Parties.

Section 6.02: Transfer and Assignment Rights. This Agreement and its terms and rights shall be transferable or assignable by the County only with the prior written approval of the District, which shall not be unreasonably withheld.

Section 6.03: Notices. Any notice or communication required hereunder between the Parties must be in writing (with original forwarded by regular U.S. mail) and may be given either personally, by facsimile transmission (with original forwarded by regular U.S. Mail) or by Federal Express or other similar courier promising overnight delivery or via e-mail. If personally delivered, a notice or communication shall be deemed to have been given and received when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by email, a notice or communication shall be deemed to have been given and received at the time the receiving party returns the email transmission stating that the email was received. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Such notices or communications shall be given to the parties at their addresses set forth below:

If to District to:

San Andreas Sanitary District  
Attn: Steve Schimp, District Manager  
P.O. Box 1630  
San Andreas, CA 95249  
Phone: (209) 754-3281  
Facsimile: (209) 754-0778

If to County to:

Calaveras County Board of Supervisors

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San Andreas, CA 95249  
Phone: (209) \_\_\_\_\_  
Facsimile: (209) \_\_\_\_\_

And  
Calaveras County Counsel  
891 Mountain Ranch Road  
San Andreas, CA 95249  
Phone: (209) 754-6314  
Facsimile: (209) 754-6316

If to AOC to:

Judicial Council of California  
Administrative Office of the Courts  
Office of Court Construction and  
Management  
Attn: Sr. Project Manager  
2860 Gateway Oaks Drive, Suite 400  
Sacramento, CA 95833-3509  
Telephone: (916) 643-8008,  
Facsimile: (916) 263-2342  
E-mail: Leland.roberts@jud.ca.gov

and

Judicial Council of California  
Administrative Office of the Courts  
Office of Court Construction and  
Management  
Attn: Director  
2860 Gateway Oaks Drive, Suite 400  
Sacramento, CA 95833  
Telephone: (916) 263-1493  
Facsimile: (916) 263-2342  
E-mail: lee.willoughby@jud.ca.gov

With a Courtesy Copy to:

Neumiller & Beardslee  
Attn: Daniel J. Schroeder  
P.O. Box 20  
Stockton, CA 95201-3020  
Phone: (209) 98-8200  
Facsimile: (209) 948-4910

Judicial Council of California  
Administrative Office of the Courts  
Office of the General Counsel  
Attn: Managing Attorney, Real Estate Unit  
455 Golden Gate Avenue  
San Francisco, CA 94102  
Telephone: (415) 865-4057  
Facsimile: (415) 865-8885  
E-mail: melvin.kennedy@jud.ca.gov

Section 6.04: Construction. All parties have been represented by counsel in the preparation of this Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to interpretation or enforcement hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain.

Section 6.05: Other Miscellaneous Terms. The singular includes the plural; the masculine gender includes the feminine; “shall” is mandatory, “may” is permissive.

Section 6.06: Severability. If any provision of this Agreement is held invalid, void, or unenforceable but the remainder of this Agreement can be enforced without failure of material consideration to any party, then such remaining provision of this Agreement shall not be affected and it shall remain in full force and effect, unless amended by mutual consent of the parties.

Section 6.07: Attorney Fees. In the event that legal action is necessary to enforce the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs, including any appeal.

Section 6.08: Further Assurances. Each party shall execute and deliver to the other party or parties all such other further instruments and documents and take all such further actions as may be reasonably necessary to carry out the Agreement and to provide and secure to the other party or parties, the full and complete enjoyment of its rights and privileges hereunder.

Section 6.9: Time. Time is of the essence of each and every provision hereof.

Section 6.10: Integration. This Agreement supersedes all previous agreements between the District on one hand and the County and AOC on the other regarding the Annexation and the Additional Capacity.

Section 6.11: No Third Party Beneficiaries. With the exception of the Parties and the Court, there are no third party beneficiaries to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Annexation Agreement as of the day and year first above written.

**“District”:**

SAN ANDREAS SANITARY DISTRICT

By: \_\_\_\_\_  
Steve Schimp  
General Manager  
San Andreas Sanitary District

**“County”:**

CALAVERAS COUNTY BOARD OF SUPERVISORS

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

**“AOC”:**

JUDICIAL COUNCIL OF CALIFORNIA

By: \_\_\_\_\_  
Grant Walker  
Senior Manager, Business Services

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Daniel J. Schroeder,  
Attorney for San Andreas Sanitary District

APPROVED AS TO FORM:  
Administrative Office of the Courts,  
Office of the General Counsel

By: \_\_\_\_\_  
Rachel Dragolovich  
Attorney

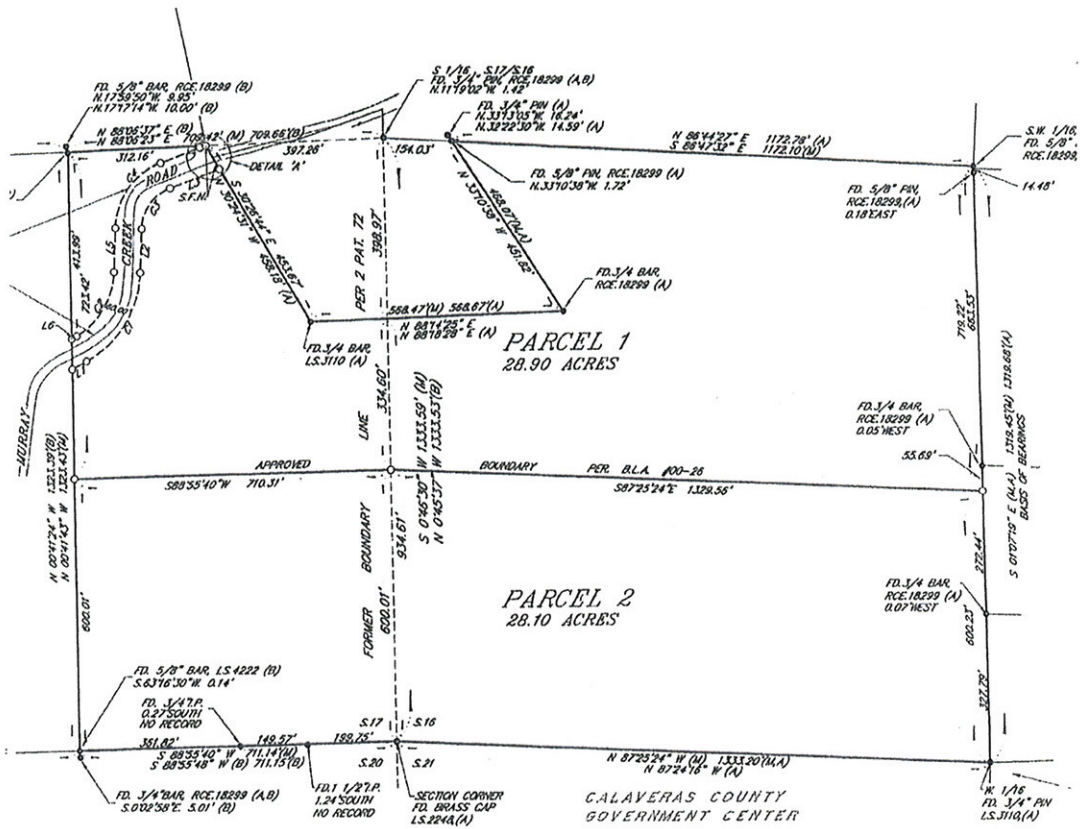
APPROVED AS TO FORM:

\_\_\_\_\_  
James Jones,  
County Counsel, Calaveras County

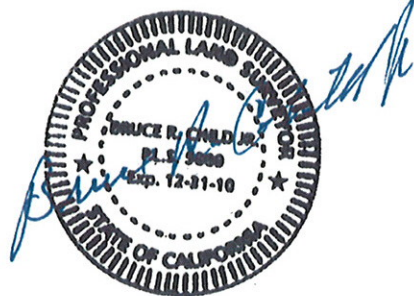
Attachment "A"  
 Legal Description of the Property  
**CALAVERAS COUNTY JUSTICE CENTER AND JAIL**  
 A.P.N.s 44-011-49, 50, 51 & 52

All those portions of the southwest quarter of the southwest quarter of Section 18, and the southeast quarter of the southeast quarter Section 17, in Township 4 North, Range 12 East, M.D.M., Calaveras County California, described as follows and illustrated below:

Parcels 1 and 2, as shown on that certain parcel map filed for record on September 7, 2000, in Book 10 of Parcel Maps, Page 61, Calaveras County Records.



NOT TO SCALE



Attachment "B"

AOC Will Serve Letter

Judicial Council of California  
Administrative Office of the Courts  
Office of Court Construction and Management  
Attn: Sr. Project Manager  
2860 Gateway Oaks Drive, Suite 400  
Sacramento, CA 95833-3509

Re: Will Serve Letter for Court Project located within Calaveras County

This letter shall serve as confirmation that the San Andreas Sanitary District ("District") has committed to provide 4,000 gallons per day ("gpd") of waste water treatment and disposal capacity for the proposed New Courthouse Facility to be located within Calaveras County ("Court Project"). The District's current wastewater treatment system consists of a Wastewater Treatment Plant, Storage Basin, Disposal Field and Distribution System as identified in the Wastewater Treatment Plan Improvement Project prepared by Eco-Logic dated December 2007. District's wastewater treatment and disposal capacity has the capacity to serve the 4,000 gpd which will be generated by the Court Project ("Capacity") and that the District is currently obligated to serve the Court Project upon its completion.

This letter shall further confirm that the District agrees that the permit for the Capacity, shall be temporarily assigned to the existing Court Facility at 891 Mountain Ranch Road, San Andreas, County of Calaveras, California, in excess of the Court Facility's existing waste water treatment capacity from the District, and may be transferred to the Court Project located on an alternative site located within the District boundaries or upon the completion of the annexation of the Property into the District.

Steve Schimp, District General Manager

## Attachment “C”

### Property Improvements

The County shall design, construct, maintain and operate a pretreatment system (“system”) for the Jail Project on the Property to insure that public health and safety is protected. The system shall be designed and constructed with approval by the District. The County shall also monitor the flow discharged from the system into the Public Sewer System and install appropriate emergency safeguards into the system to ensure that untreated wastewater is not spilled from the District’s Public Sewer System. In addition the County shall not discharge any septic waste into the Public Sewer System. Prior to construction, the County shall submit to the District for approval the plans for the system.

The following is a list of the requirements for the system for the County’s Jail Project:

1. The disposal of rags into the sewer system is prohibited. To insure that the rags are removed a mechanically screened bar with ½ inch bar spacing will have to be installed. A bypass with a manually cleaned bar rack also with ½ inch bar spacing will have to be constructed. Two manually operated slide gates will be installed in the lines. This will allow the necessary maintenance to be performed on the mechanically cleaned bar screen. Screenings will be disposed of properly by the County.
2. Grit removal consisting of a horizontal grit chamber with a minimum settling velocity of 1 foot per second where needed to prevent grit or other debris from entering the District System. Grit will be properly disposed of by the County.
3. The kitchen will be required to install a properly sized grease interceptor. The grease interceptor for the kitchen shall be properly sized and installed in the appropriate location for the anticipated use. The County will be required to clean the grease interceptor on a regular basis..
4. An equalization tank with a diffused air system consisting of swing arm diffusers and blowers to mitigate any surcharging of the District’s Public Sewer System potentially causing an overflow will be required. In addition the aeration equipment will insure that the wastewater doesn’t turn septic. A minimum of a 15,000 gallon tank shall be installed by the County to hold the wastewater until either the sewer system is able to accept it or the County has the tank pumped. The aeration system shall be capable of delivering 30 scfm of air. The diffusers shall be spaced according to the manufacturer’s specifications and a water depth of at least 8 feet be used.
5. An electric actuated eccentric plug shall be used to control the discharge of the wastewater into the Public Sewer System. The operation of the plug valve will be remotely controlled using a SCADA system that is tied into the District’s operations building. In the event that there is a potential for a sewer spill in the Public Sewer System, the valve will be automatically closed and an alarm sent out through SCADA.

6. A 2 inch Parshall Flume shall be installed to measure the flow from the Jail. A 4-20 mA signal will transmit the flow rate to the District via a SCADA system.
7. The SCADA system will consist of an Allen Bradley PLC and a radio. The Allen Bradley PLC will be programmed to allow the District to monitor the flow rates and shut the discharge valve in case of a potential sewer spill in the District's Public Sewer System.
8. The maximum discharge for BOD<sub>5</sub> will be 218 mg/l, The maximum Total suspended solids (TSS) will be 218 mg/l, the maximum Total Kjeldahl Nitrogen (TKN) will be 43 mg/l.
9. The District will have access to the system facilities at all times.
10. The design, operation and maintenance of the system shall be in compliance with District Ordinance # 7 and all subsequent amendments thereto.