



Local Agency Formation Commission of Napa County
Subdivision of the State of California

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 8b (Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer

MEETING DATE: May 4, 2020

SUBJECT: Request for a Waiver of Fees for the Proposed Silver Trail No. 10 Annexation to the Napa Sanitation District

RECOMMENDATION

It is recommended the Commission deny the request for a fee waiver given the request is not explicitly consistent with the Commission's stated examples of appropriate fee waivers.

BACKGROUND AND SUMMARY

The Commission's *Schedule of Fees and Deposits* ("fee schedule"), included as Attachment One, is a policy document that sets fees and deposits for applicants to ensure the Commission has adequate revenues to fulfill its regulatory and planning duties.

Paragraph 13 of the fee schedule states in part: "Applicants may request the Commission reduce or waive a fee. All requests must be made in writing and cite specific factors justifying the reduction or waiver and will be considered by the Commission relative to public interest and agency mission. Examples of appropriate requests include, but are not limited to, addressing public health or safety threats, affordable housing development, and community serving projects."

The landowners of 1530 Silver Trail recently submitted an application for annexation of approximately 0.5 acres of territory to the Napa Sanitation District (NSD). The official title for the proposed annexation is *Silver Trail No. 10 Annexation to the Napa Sanitation District*. The affected territory is located within the unincorporated Silverado community. A vicinity map showing the affected territory is included as Attachment Two.

Existing land uses within the affected territory are limited to a single-family residence and a detached storage shed. The purpose of annexation is to eliminate the existing private septic system serving the single-family residence and facilitate connection to NSD's public sewer infrastructure. Based on the size of the parcel, annexation to NSD could not facilitate further development of the affected territory. The submitted application is not officially complete for filing given it is currently undergoing review by all affected agencies pursuant to California Government Code Section 56658(b).

Kenneth Leary, Chair
Councilmember, City of American Canyon

Margie Mohler, Commissioner
Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Vice Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Gregory Rodeno, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

As part of the submitted application materials, the landowners also submitted a letter, included as Attachment Three, requesting the Commission waive or reduce its two proposal processing fees associated with annexations. These fees include \$4,680 for the initial proposal fee and \$156 for the Geographic Information Systems (GIS) update fee. The letter states the annexation process is at least partially redundant and also duplicative of costs and services. It is inferred from the letter that the annexation process and costs are considered by the applicant to be inefficient and at least partially unnecessary. The letter also states the applicant is a recognized disabled veteran, which has been verified by staff. The applicant lives on a fixed income and raised concerns about the unpredictable and unprecedented challenges caused by the COVID-19 pandemic. Finally, the letter indicates the proposed annexation contributes to the community interest of Napa County by integrating the existing residence into NSD's public sewer infrastructure.

Staff recommends the Commission deny the request for a waiver or reduction of the proposal processing fees given the request is not explicitly consistent with the stated examples of appropriate fee waivers as cited in Paragraph 13 of the adopted fee schedule. Further, the Commission's budget is challenged by a structural deficit as well as the response to COVID-19 as further described in item 7a on today's agenda. However, the Commission has the authority to make special considerations and has the authority to determine a fee waiver or reduction relative to public interest. The applicant requests special consideration due to military service and resulting total disability. In addition, the proposed annexation will arguably benefit the community by transitioning a single-family residence from an existing private septic system that is prone to failure, which poses a potential threat to public health and safety, to NSD's public sewer infrastructure. With this in mind, staff recommends the Commission discuss the merits of the applicant's request and consider approving a fee waiver or reduction.

Staff identified three baseline alternatives for the Commission's consideration as summarized below.

Alternative Action One (Recommended)

Deny the request for a waiver of the Commission's two proposal processing fees.

Alternative Action Two

Adopt the draft resolution, included as Attachment Four, waiving the Commission's two proposal processing fees.

Alternative Action Three

Adopt a revised resolution reducing the Commission's two proposal processing fees by a specific amount.

ATTACHMENTS

- 1) Schedule of Fees and Deposits
- 2) Vicinity Map
- 3) Letter from Applicant Requesting a Fee Waiver
- 4) Draft Resolution Approving Fee Waiver Request



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Schedule of Fees and Deposits

Effective Date: January 1, 2020

These are the policies of the Local Agency Formation Commission (LAFCO) of Napa County with respect to setting fees and deposits in fulfilling the agency's regulatory and planning duties prescribed under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

1. This schedule shall be administered in accordance with the provisions of California Government Code Section 56383.
2. This schedule includes both "fixed" and "at-cost" fees. Fixed fees represent reasonable cost estimates for processing routine proposals and based on a number of predetermined staff hours. At-cost fees apply to less routine proposals and based on the number of actual staff hours.
3. Proposals submitted to the Commission shall be accompanied by a non-refundable initial fee as detailed in this schedule. All deposit amounts tied to at-cost proposals shall be determined by the Executive Officer. The Executive Officer shall provide a written accounting of all staff time and related expenses billed against the deposit. If the cost in processing a proposal begins to approach or exceed the deposited amount, the Executive Officer shall request additional monies from the applicant.
4. All initial fees shall be submitted in check and made payable to the "Local Agency Formation Commission of Napa County."
5. Proposals will not be deemed complete until the initial fee has been collected by the Executive Officer as detailed in this schedule.
6. Applicants are responsible for any fees or charges incurred by the Commission and or required by other governmental agencies in the course of the processing of a proposal.
7. Additional staff time shall be charged to the applicant at an hourly rate of \$156.
8. Applicants are responsible for any extraordinary administrative costs as determined by the Executive Officer and detailed for the applicant in a written statement.
9. Additional staff time and administrative costs shall not be charged for city annexation proposals involving one or more entire unincorporated island subject to California Government Code Section 56375.3.

10. If the processing of a proposal requires the Commission contract with another agency firm, or individual for services beyond the normal scope of staff work, such as the drafting of an Environmental Impact Report or Comprehensive Fiscal Analysis, the applicant shall be responsible for all costs associated with that contract. The applicant will provide the Commission with a deposit sufficient to cover the cost of the contract.
11. The Executive Officer may stop work on any proposal until the applicant submits a requested deposit.
12. Upon completion of an at-cost proposal, the Executive Officer shall issue to the applicant a statement detailing all billable expenditures from a deposit. The Executive Officer shall refund the applicant for any remaining monies remaining from the deposit less one-half hour of staff time to process the return as provided in this schedule
13. Applicants may request the Commission reduce or waive a fee. All requests must be made in writing and cite specific factors justifying the reduction or waiver and will be considered by the Commission relative to public interest and agency mission. Examples of appropriate requests include, but are not limited to, addressing public health or safety threats, affordable housing development, and community serving projects. Requests by landowners or registered voters shall be considered by the Commission at the next regular meeting. Requests by local agencies may be considered at the time the application is presented to the Commission for action.
14. With respect to instances where the Commission approves an outside service agreement under California Government Code Section 56133, the fee for a subsequent change of organization or reorganization involving the affected territory will be reduced by one-half if filed within one calendar year.
15. Requests for research on any particular subject will be provided at no cost for the first two hours. This includes, but is not limited to, archival retrieval, identifying properties relative to agency boundaries, and discussing potential proposals. Any additional research time will be billed at the hourly rate provided in this schedule.
16. The Commission shall annually review this schedule to help maintain an appropriate level of cost-recovery.

INITIAL PROPOSAL FEES

These fees must be submitted to the Commission as part of the proposal filing; proposal will be deemed incomplete without the designated payment. Any fees designated at-cost will require a deposit as determined by the Executive Officer.

Change of Organization or Reorganization: Annexations and Detachments

• Proposals Exempt from California Environmental Quality Act	
100% Consent from Landowners and Agencies where the Commission is Responsible or Lead Agency	\$4,680 (30 hours)
Without 100% Consent from Landowners and Agencies where the Commission is Responsible or Lead Agency	\$6,240 (40 hours)
• Proposals Not Exempt from California Environmental Quality Act / Negative Declaration	
100% Consent from Landowners and Agencies where the Commission is Responsible Agency	\$5,460 (35 hours)
100% Consent from Landowners and Agencies where the Commission is Lead Agency	\$7,800 (50 hours)
Without 100% Consent from Landowners and Agencies where the Commission is Responsible Agency	\$7,020 (45 hours)
Without 100% Consent from Landowners and Agencies where the Commission is Lead Agency	\$9,360 (60 hours)
• Proposals Not Exempt from California Environmental Quality / Environmental Impact Report	
100% Consent from Landowners and Agencies where the Commission is Responsible Agency	\$6,240 (40 hours)
100% Consent from Landowners and Agencies where the Commission is Lead Agency	\$7,800 (50 hours) plus consultant contract
Without 100% Consent from Landowners and Agencies where the Commission is Responsible Agency	\$7,800 (50 hours)
Without 100% Consent from Landowners and Agencies where the Commission is Lead Agency	\$9,360 (60 hours) plus consultant contract

* Annexation or detachment proposals involving boundary changes for two or more agencies qualify as reorganizations will be charged an additional fee of \$780 (5 hours). Annexation proposals involving cities that require concurrent detachment from County Service Area No. 4 will only incur an additional fee of \$156 (one hour).

* City annexations involving entire unincorporated islands and subject to expedited proceedings under Government Code Section 56375.3 shall not be charged a fee by the Commission.

Change of Organization or Reorganization: Other

• City Incorporations and Disincorporations	at-cost
• Special District Formations, Consolidations, Mergers and Dissolutions	at-cost
• Special District Requests to Activate or Deactivate Powers	at-cost

Other Service Requests

• New or Extended Outside Service Request	\$3,120 (20 hours)
• Request for Reconsideration	\$3,120 (20 hours)
• Request for Time Extension to Complete Proceedings	\$780 (5 hours)
• Municipal Service Reviews	at-cost
• Sphere of Influence Establishment/Amendment	at-cost

Miscellaneous

• Special Meeting	\$1,200
• Alternate Legal Counsel	at-cost

OTHER PROPOSAL FEES

These fees generally apply to proposals that have been approved by the Commission and are not required at the time of filing. An exception involves the fee for registered voter lists, which may be required before the Commission takes action on an application if the underlying activity is subject to protest proceedings. Other fees in this section apply to service requests that are not tied to a specific proposal, such as research and photocopying.

Fees Made Payable to the County of Napa

• Assessor's Mapping Service	\$162
• County Surveyor's Review	\$253.09
• Elections' Registered Voter List	\$75 hourly
• Clerk-Recorder's Environmental Filing Fee	\$50
• Clerk-Recorder's Environmental Document Fee	
.....Environmental Impact Report	\$3,343.25
.....Mitigated Negative Declaration	\$2,406.75
.....Negative Declaration	\$2,406.75

Fees Made Payable to LAFCO

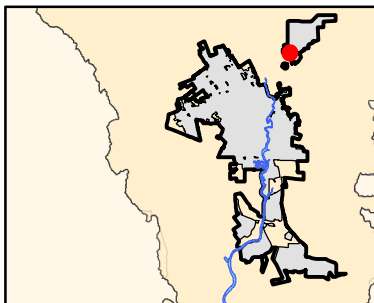
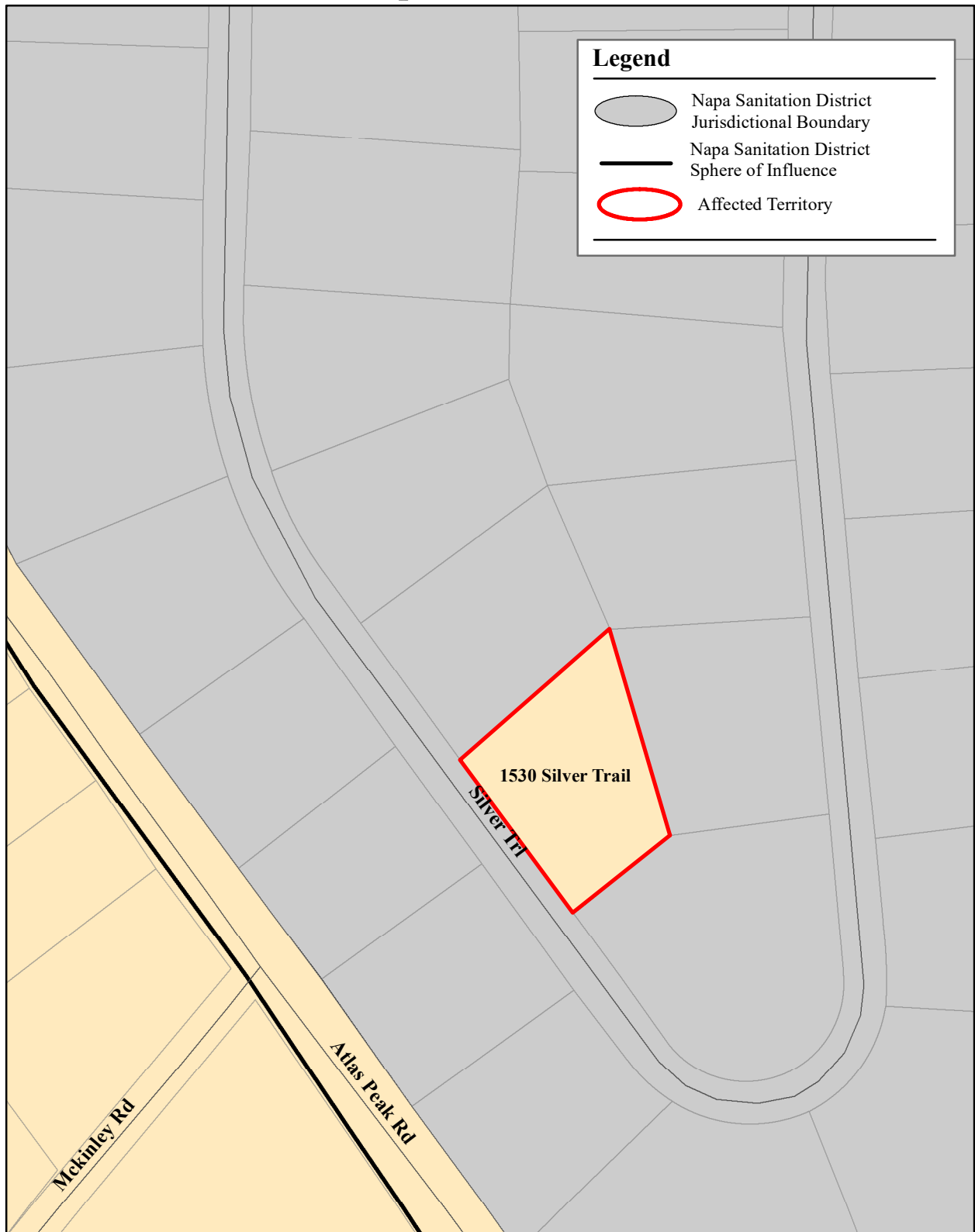
• Geographic Information System Update	\$156
• Photocopying	\$0.10 (black) / \$0.40 (color)
• Mailing	at-cost
• Audio Recording of Meeting	at-cost
• Research/Archive Retrieval	\$156 hourly

Fees Made Payable to the State Board of Equalization to Record Boundary Changes

Acre	Fee	Acre	Fee
0.00-0.99	\$300	51.00-100.99	\$1,500
1.00-5.99	\$350	101.00-500.99	\$2,000
6.00-10.99	\$500	501.00-1,000.99	\$2,500
11.00-20.99	\$800	1,001.00-2,000.99	\$3,000
21.00-50.99	\$1,200	2,001.00+	\$3,500

Silver Trail No. 10 Annexation to the Napa Sanitation District

Attachment Two



0 0.0075 0.015 0.03 Miles

Prepared by Staff
May 4, 2020



LAFCO of Napa County
1030 Seminary Street, Suite B
Napa, California 94559
www.napa.lafco.ca.gov

April 15, 2020

Mr. Brendon Freeman, Executive Officer
Local Agency Formation Commission (LAFCO) of Napa County
1030 Seminary Street, Suite B
Napa, California 94559

RE: Napa Sanitation District (NSD) Annexation Application

Dear Mr. Freeman:

Please find enclosed our NSD Annexation Application with required fee checks.

We request that the LAFCO of Napa County (“LAFCO” or the “Commission”) exempt or minimize our annexation application review and approval process for our property’s lateral sewer connection to the Napa Sanitation District (NSD) due to unique circumstances. It is also requested herein that the fee(s) or charge(s) for the LAFCO and NSD annexation process be waived or curtailed where feasible. The reasons for these requests are as follows:

LAFCO’s Records of Annexation

Our property is located at 1530 Silver Trail, Napa, CA 94558. It is one of 35 Silverado Country Club Estates subdivision (“subdivision”) residential homes, which was incorporated into the Silverado Community Services District (the “District”) in 1991.

Since its formation in 1963 LAFCO of the Napa County has exercised its “sphere of influence” determinations of the Napa County as mandated under the California Government Code §56000 et seq. “LAFCOs have been required to determine spheres for cities and special districts since 1972.” (Cf. Reference: “Final Report of LAFCO 2007 Review” or “2007 Review Report,” page 2, fn. 1) As a result, after the District was formed in January, 1976:

SCSD’s [the District’s] sphere was adopted by LAFCO in 1976. The sphere was designated to be coterminous with SCSD’s [the District’s] jurisdictional boundary. In 1990, LAFCO amended SCSD’s [the District’s] sphere as part of a concurrent annexation proposal to add approximately 28 acres consisting of 35 single-family residences located along Silver Trail. No other changes to the sphere have been made since its adoption. A map depicting SCSD’s [the District’s] sphere and jurisdictional boundary is provided as Attachment A. (*Ibid.*, page 4)(Emphases added.)

LAFCO further analyzed in its 2007 Review Report:

SCSD’s [the District’s] existing sphere designates an appropriate service area for the District in a manner that provides for the present and future needs of its constituents and is consistent with the land use policies of the County of Napa. The existing sphere is responsive to the current and planned service capacities and facilities of SCSD [the District]. SCSD has not planned or indicated an interest in amending its sphere to facilitate future annexations to the District. Lands located within SCSD’s existing sphere share common economic and social interdependencies that are distinct from areas outside the sphere.

(*Ibid.*, page 5)(Emphases added.)

In conclusion, it was recommended that “the Commission [LAFCO] affirm SCSD’s [the District’s] existing sphere” with the supporting statements to the effect that the District have met all the requirements of G.C. [Government Code] §56425(e). In particular, LAFCO noted that the “[c]onstituents of the District (SCSD) have confirmed their desire for these public services by approving a special assessment,” thus fully funding the public services provided by the District at no cost to the County.

The public services provided by the District have consisted of street lighting, street sweeping, landscape maintenance, and limited weed abatement services within the area. (*Ibid.*, page 6, Item 2 of “Recommendation.”)

Lateral connection to the sewer system on Silver Trail residences has been left to each parcel owner, accomplished in groups or individually before and after 1991. LAFCO adopted the District’s sphere in 1976 and made no change to its scope when 35 residences of Silver Trail were incorporated into the District in 1991. All sewer annexations in the interim appear to have been customarily made a part of the District’s sphere as they were applied and approved. LAFCO further recommended that the District’s “existing sphere” be affirmed in 2007. No change has been proposed or made then or to date and the District’s sphere (including 35 Silver Trail properties) has remained the same as was 1967, coterminous with its jurisdictional boundary, despite the additional public service function of sewer annexation incorporated in the District’s sphere from time to time by custom and practice.

Particulars and dimensions of the 35 Silver Trail residences incorporated into the District in 1991 were recorded prior in the final amended map of the subdivision (6 RM 67), which also serves as property tax assessment bases of the County. All but one (i.e. our residence at 1530) Silver Trail parcels have been laterally connected to the NSD sewer system over these years. I.e., 34 similar annexation reviews have already been approved to date. Although each real property may be deemed as unique, as far as the lateral sewer connection is concerned, the subdivision does not appear to present any geographical or geological challenges on its flat terrain. Only one NSD sewer line serves the entire Silver Trail, with similar connection to one another.

Our property at 1530 Silver Trail is the very last piece of a jigsaw map of the subdivision, clearly demarcated and immutably dimensioned as a parcel. The Silver Trail properties’ zoning, sizes, dimensions, orientations, topography have been specifically established and recorded at the subdivisions’ formation and individual owners connected to NSD over the span of 29 years since its District incorporation, or 53 years since the initial determination of the District’s sphere of influence by LAFCO.

In sum, for nearly a generation (or half a century depending on a perspective) the sphere of our property at 1530 Silver Trail has been conjoined with the District’s, annexation of which has been decided, reviewed, and affirmed by LAFCO between 1967 and 2020. At least 34 times during this period, the sewer service connection to NSD of Silver Trail property owners have been reviewed and approved for the “common economic and social interdependencies that are distinct from areas outside the sphere.” These facts present a unique circumstance where LAFCO’s annexation review process is not only at least partially redundant, but also duplicative of costs and services, akin to waste. It goes without saying that governmental functions be accomplished as efficiently as possible and practicable. Exempting or minimizing the LAFCO review for 1530 Silver Trail avoids inefficiency inherent in repeat processes, while fully

accomplishing LAFCO's mission through historical achievements concerning the District's sphere, at the same time encompassing the District's custom, practice, and community interest.

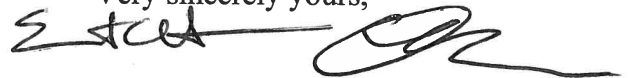
Waiver of Fees for a Veteran with 100% V.A. Disability Rating

Both the State of California and the Napa County have recognized various locally prescribed benefits in the forms of fee or tax relief for disabled veterans who have served on active duty and incurred service-connected injuries. Some benefits are limited to the 100%-rated veterans only. Ernest C. Hanes, one of the undersigned property owners of the subject property, is a veteran of the Vietnam War who has incurred multiple service-connected injuries while on active duty in the United States Marine Corps, the Navy, and the Air Force. As a result, he has been rated at 100% disability (in fact more than 100% in totality) by the United States Veterans Administration (V.A.) after an exhaustive examination and verification. Now retired from the United States Air Force after 27 years of service, Ernest and his wife are confronted with the constraints of living with disability on fixed income, not to mention the unpredictable and unprecedented challenges caused by the COVID-19 pandemic at present and in the future. The significant costs, charges, and fees associated with the LAFCO and NSD applications pose a major setback and cast a cloud on the sustainability of our future. Your consideration to waive or curtail the fees wherever possible would greatly assist our applications and be much appreciated. We believe that the 100% V.A. rating provides a unique condition where such consideration is not only consistent with the defense objectives of the nation, but also helps equalize shared costs for the needs of the nation in their true, practical meaning. (Note: For your information, Ernest's 100% rating determination letter is enclosed. We request however that this letter be treated as private and confidential.)

Our overriding interest in our applications, nonetheless, is to contribute to the community interest of not only the District, but also of the Napa County, to help create a better environment by becoming integrated into the scientifically managed infrastructure. We believe that our property's connection to the NSD system also benefits the District and the County as a whole and we proceed with our applications toward that end.

Your consideration and prompt action on our requests will be much appreciated. Please mail, email or call us as shown below for any questions. Thank you very much.

Very sincerely yours,



Ernest & Okhoo Hanes, home owners
1530 Silver Trail, Napa, CA 94558

Reference: The Final Report of April 2007 on "Silverado Community Services District Sphere of Influence Review" by Local Agency Formation Commission of Napa County.

- Enclosures: 1. Completed Application with required checks; and
2. V.A. 100% Disability Rating Letter.

P.S. Telephone Nos. & Email addresses of the Property Owners at 1530 Silver Trail:
707-337-2246; ernesthanes502@yahoo.com (Ernest Hanes)
707-815-0681; hanesok17@gmail.com (Okhoo Hanes)

RESOLUTION NO. _____

**RESOLUTION OF
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
APPROVING A REQUEST FOR A WAIVER OF FEES FOR THE PROPOSED
SILVER TRAIL NO. 10 ANNEXATION TO THE NAPA SANITATION DISTRICT**

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.) authorizes the Local Agency Formation Commission of Napa County (hereinafter referred to as “Commission”) to adopt a fee schedule; and

WHEREAS, the Commission established and adopted by resolution a “Schedule of Fees and Deposits” on December 1, 2001, in a manner provided by law; and

WHEREAS, the Commission Schedule of Fees and Deposits provides that the applicants may request the Commission reduce or waive fees and provides that the Commission may reduce or waive fees based on the public interest and agency mission; and

WHEREAS, the Commission received a written request from the landowner of 1530 Silver Trail (hereinafter “applicant”) for a waiver of the Commission’s proposal processing fees for the proposed Silver Trail No. 10 Annexation to the Napa Sanitation District; and

WHEREAS, at its May 4, 2020, meeting, the Commission considered the request from the applicant for a waiver of the Commission’s proposal processing fees for the aforementioned proposed annexation.

NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation Commission of Napa County hereby approves the request from the applicant for a waiver of the Commission’s proposal processing fees for the aforementioned proposed annexation.

This Resolution shall take effect immediately.

The foregoing resolution was duly and regularly adopted by the Local Agency Formation Commission of Napa County at a meeting held on May 4, 2020, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

ABSTAIN: Commissioners _____

 Kenneth Leary
 Commission Chair

ATTEST: _____
 Brendon Freeman
 Executive Officer

Recorded by: Kathy Mabry
 Commission Secretary

DRAFT