

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

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PROPOSAL NO.: LAFCO 3142

HEARING DATE: February 17, 2010

RESOLUTION NO. 3086

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3142 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE YUCCA VALLEY AIRPORT DISTRICT (sphere reduction to a zero sphere of influence).

On motion of Commissioner ____, duly seconded by Commissioner ____, and carried, the Local Agency Formation Commission adopts the following resolution:

WHEREAS, a service review mandated by Government Code 56430 and a sphere of influence update mandated by Government Code Section 56425 have been conducted by the Local Agency Formation Commission of the County of San Bernardino (hereinafter referred to as “the Commission”) in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 *et seq.*); and

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

WHEREAS, a public hearing by this Commission was called for February 17, 2010 at the time and place specified in the notice of public hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written protests; the Commission considered all plans and proposed changes of organization, objections and evidence which were made, presented, or filed; it received evidence as to whether the territory is inhabited or uninhabited, improved or unimproved; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the application, in evidence presented at the hearing;

WHEREAS, a statutory exemption has been issued pursuant to the provisions of the California Environmental Quality Act (CEQA) indicating that this service review and sphere of influence update are statutorily exempt from CEQA and such exemption was adopted by this Commission on February 17,

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2010. The Executive Officer was directed to file a Notice of Exemption within five working days of its adoption;

WHEREAS, based on presently existing evidence, facts, and circumstances filed with the Local Agency Formation Commission and considered by this Commission, it is determined that the sphere of influence shall be reduced to a zero sphere of influence for Yucca Valley Airport District (hereafter shown as the District) as depicted on the map attached hereto as Exhibit "A"; and,

WHEREAS, the determinations required by Government Code Section 56430 and local Commission policy are included in the report prepared and submitted to the Commission dated February 10, 2010 and received and filed by the Commission on February 17, 2010, a complete copy of which is on file in the LAFCO office. The determinations of the Commission are:

1. Growth and population projections for the affected area:

The estimated population within the District is roughly 70 to 75 persons. As of November 2008, there were 32 registered voters within the District. The District is entirely located within the Town of Yucca Valley boundaries and includes the airport property, surrounding housing, and several industrial and commercial buildings on approximately 33 acres. According to data from the County Assessor, there are no vacant properties with residential land use designations, so growth within the district will be minimal. The majority of the land has been assigned residential zoning with some commercial and industrial. Most of the airport is within the FEMA Zone A 100-year flood plain, and a small portion is within the FEMA Zone B 500-year flood plain.

In February 2005, the Town approved and adopted the Airport Influence Area (also known as Airport Referral Area) which is an area in which current or future airport related noise, over flight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses determined by the Town Council. In the same month, the Town granted an Avigation and Noise Easement to the District which shall be recorded against those parcels of property within the Avigation Easement Area.

2. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies:

Lease Agreement

The land and most of the facilities of the Yucca Valley Airport (airport) are privately owned by the Yucca Valley Airport, Inc. Through a lease with the Yucca Valley Airport, Inc. the District administers and operates the airport. The lease was originally entered into in 1986 with an expiration year of 2011. The fourth amendment, signed in 2005, is through 2040. The terms of the lease include monthly rental payments from the District in the amount of \$500, the requirement to pay the property taxes on the property, and that the District can apply for and receive loans or grants from governmental agencies for improvement of the airport.

Airport Location and Layout

The airport is a public use airport that is situated on 35 acres in a natural dry wash, northeast of the intersection of Highways 62 (Twentynine Palms Highway) and 247 (Old Woman Springs Road). The airport layout is affected by its surroundings: rising terrain to the north and south with homes with attached and unattached hangars constructed along the south property line for

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the convenience of residents with airport based aircraft, Highway 247 on the west, and the northeast to southwest orientation of the dry wash. Within the airport grounds is a five foot deep drainage feature, the Yucca Wash, which is parallel to and roughly 70 feet north of the runway centerline. The San Bernardino Flood Control District has an easement for the drainage.

Facilities include a single 4,363-foot long by 60-foot wide runway with take-offs to the northeast, 30 aircraft tie-down spaces (25 aircraft tie-down spaces in the mid-field area and five transient spaces) and four T-hangars. The airport does not have fuel availability or a control tower. District representatives state that flyers tend to purchase fuel at the Big Bear airport roughly 65 miles away. The runway is over 20 years old, and the District, through volunteers, seals cracks in the runways when needed. Slurry seal of the runway is needed, but such an improvement is estimated to cost roughly \$800,000.

Regionally, the airport is situated in a central location in the Morongo Basin. A 2001 "Airport Feasibility Study" study prepared for the County to determine the best location for a regional general aviation airport determined that the Yucca Valley Airport appears to be the optimum available site to serve the Yucca Valley/Joshua Tree region even with its restrictions. There is no known action or follow-up taken regarding the study by the County.

Airport Operations

The aircraft operating at the airport consist of small single and twin engine aircraft used primarily for recreational purposes. Data on aircraft operations (take-off and landing) is limited since there is no control tower to record such data or on-site personnel for the District. According to the "Airport Feasibility Study", in 1999 there were an estimated 12,500 annual aircraft operations at the airport. About 24% were estimated to be local operations and 76% were estimated to be itinerant operations (take off at one airport and land at another). The "Airport Feasibility Study" estimates that in 2007 the activity at the airport increased to 14,500 operations with a projected one percent growth through 2020.

The Emergency Preparedness and Health Services Element of the Town General Plan states that in the event of a disaster, the airport may play a key role in transporting people, equipment, or supplies in and out of the area. During emergencies, the airport has been utilized by Department of the Interior – National Park Service, U.S. Marine Corps, California Department of Forestry and Fire Protection, California Highway Patrol, County Fire, and County Sheriff.

Airport Classifications

The airport is currently classified as a Community Airport in the California Aviation System Plan (CASP), prepared in 2000 by the State of California, Aeronautics Program, Caltrans. Caltrans defines Community Airports as airports that provide access to other regions and states, located near small flying communities or in remote locations, accommodate predominantly single engine aircraft, provide basic or limited services, and can be used for local emergencies. The airport has been assigned as a "B1" facility, which means the airport is capable of serving aircraft with an approach speed of less than 121 knots (139 mph) and a wing span of less than 49 feet.

Until 1995, the airport was classified in the National Plan of Integrated Airport Systems (NPIAS) as a Basic Utility airport which accommodates most single-engine and many of the small twin-

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engine aircraft. The "Airport Feasibility Study" references a 1996 letter from the FAA as reasoning for the Airport's removal from the list:

"Runway and separation standards, safety area standards, and runway protection zone standards cannot be met within the existing airport boundaries and adjacent property constraints. For example, the adjacent drainage wash, with the top of slope less than 40 feet from the runway edge, does not allow for a standard runway safety area meeting FAA standards."

Because the airport has not been included in the FAA's NPIAS since 1995, it has not been eligible to receive FAA Airport Improvement Program grants. A primary goal of the District is to be placed back on the FAA's NPIAS listing to be eligible for FAA grants.

Airport Improvement

The airport has long-term plans for two projects. The first is expansion of the runway and the second is improvement of airport facilities.

Runway Expansion

Expansion of the airport is restricted by surrounding development and terrain, flood control channels on the east, and Highway 247 on the west. It is not possible to extend the current runway to the west due to Highway 247 or to the east due to the terrain. However, it would be possible to extend the runway length up to 4,500 feet and realign the runway by bridging or relocating the San Bernardino Flood Control easement to the east. In June 2008 the District purchased property northeast of the end of the runway to accommodate the runway expansion and realignment. This expansion option would accommodate 95% of the small aircraft fleet and their operations requirements.

The District has identified that this project will be part of a larger project that requires coordination between the District, Caltrans, County Flood Control District, and the Town of Yucca Valley. Caltrans is involved because it wishes to realign and re-grade the section of Highway 247 which borders the airport and crosses over the flood control channel. According to the District, the Town and Caltrans are coordinating the project and plans are not yet available. Given the current economic conditions, this project may be a few years away at least.

Infield Airport Development Project

The District commissioned a report in 2007 to evaluate the range of alternatives for the construction of aircraft hangars, aircraft tie-downs, self-serve fueling station, and additional apron area pavement on 7.4 acres of underutilized land at the airport. The chosen alternative (Alternative 4B) has been approved by the Aeronautical Division of Caltrans and has an estimated cost of \$1.7 million and is summarized as follows:

- 12,474 square foot ten bay nested t-hangar
- 10,080 square foot six bay nested t-hangar
- 22 aircraft tie-downs
- 1 self-serve aircraft fueling station
- 151,400 square feet of additional paved apron area

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The District has identified that it has currently put the Infield Airport Development Project on hold for two reasons. First, the District in 2008 and 2009 was in the process of acquiring funding through the State. However, due to the State's financial situation, funds are not available for this and similar airport projects. State funding was anticipated to be the primary source of funding for this project. Second, the District is currently assessing the feasibility of the formation of an assessment district (subject to two-thirds voter approval). The District has provided information that it is moving forward with this option and is committed to its formation.

3. Financial ability of agencies to provide services:

The District operates with minimal revenues that are limited to three sources.

1. Annual receipt of \$10,000 from Caltrans. Caltrans provides an annual \$10,000 grant to all eligible airports through its Aeronautics Program.
2. Charges from tie-down fees and access fees. The fee is a flat monthly fee for parking and access: \$55 access fee per parcel per pilot, \$60 for single engine and \$75 for twin engine and \$85 for port-a-port hangars. The District last increased its fees in November 2008, and there are no immediate plans to increase the fees. In FY 2007-08, the District received \$22,775 in revenues classified as Airport Services.
3. Donations.

The only stable revenue source is the annual Caltrans grant. Should this grant program discontinue, the total revenues would decrease by roughly 30% and further challenge the District. The District is currently assessing the feasibility of forming an assessment district (subject to two-thirds voter approval). The Yucca Valley Wal-Mart is within the boundaries of the District and is anticipated to be included in the assessment proposal.

In FY 2007-08, the Total Operating Expenses were \$23,503. The District has no employees, so there are no salary and benefit expenses. The largest expenditure items were rent (\$6,000), insurance (\$4,900), property tax (\$3,900), and maintenance (\$3,800). The remainder of the funds received goes towards maintenance costs and other professional services, when applicable.

Given the minimal amount of revenues received each year, funds are insufficient to warrant reserves.

Embezzlement Issue

The following summary is taken from the FY 2007-08 audit outlining the ongoing criminal liability regarding embezzlement of grant funds from the District:

"In 2004, the District's former airport manager applied for a California Governor's Office of Emergency Services grant under the pretext of repairing the airport's runway which had become damaged by flooding in the previous year. The grant was approved in the amount of \$1,293,996 and a check was issued to the District and received by the manager in early 2006. This act was done without the knowledge of the District's Board of Directors. Subsequently, the manager deposited the funds into a bank account unknown to the Board and proceeded to expropriate \$1,030,490 during fiscal year 2006

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and an additional \$80,000 during fiscal year 2007, of the funds earmarked for capital improvements. The Manager has been charged with seven counts of grand theft by embezzlement by the San Bernardino County District Attorney's Office. The District feels that they will be able to collect the cash expropriated.”

The FY 2006-07 and FY 2007-08 audits identify that the District has incurred a liability as a result of the embezzlement. Although the case concluded with a conviction of the former general manager in February 2009, it is the understanding of the District and LAFCO that the liability will remain until the Court relieves the District of the liability, dependent upon the Court's satisfactory recovery of the embezzled amount or assets of the former district manager. The recovered amounts are to be paid to the State with a corresponding reduction of the District's liability. It is the understanding of LAFCO that the State is the primary victim and the District is a secondary victim. Due to this act, the District has lost the opportunity to receive grant funding to fix and improve the airport runway.

4. Status of, and opportunities for, shared facilities:

The District does not share any facilities with other agencies. However, during emergencies, the airport has been utilized by Department of the Interior – National Park Service, U.S. Marine Corps, California Department of Forestry and Fire Protection, California Highway Patrol, County Fire, and County Sheriff.

5. Accountability for community service needs, including governmental structure and operational efficiencies:

Local Government Structure and Community Service Needs

The District is an independent special district governed by a five-member board of directors. Members are voted by the electorate or are appointed in-lieu of election by the County Board of Supervisors to four-year staggered terms. The board members do not receive stipends or benefits. Below is the current composition of the board, their positions, and terms of office:

Board Member	Title	Term
Christopher Hutchins	President	2009*
Robert Dunn	Vice-President	2009*
Timothy Lewis	Treasurer	2011
Robert Miehley	Director	2009*
Robert Young	Director	2011
*expired.		

Meetings are held on the second Wednesday of the month. Meeting notices are posted at the Airport and Town of Yucca Valley Town Center. The District also provides notice to local radio and the local newspaper.

The District has no employees and utilizes volunteers for maintenance. However, Public Utilities Code Section 22437 requires the appointment of a general manager, secretary, district counsel, and auditor that are independent of the board of directors to implement the policies of the board and coordinate maintenance and operations. Due to the lack of revenue, the District does not have the means to comply with this requirement.

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Government Structure Options

While the discussion of some government structure options may be theoretical, a service review should address possible options, especially in light of the District's financial challenges.

- Expansion of the District's boundaries. The airport itself is constrained by geography, but the District could annex additional territory. If the registered voters, landowners, or the District desire to expand the District's sphere and boundaries, an application would need to be submitted to LAFCO along with a Plan for Services showing the benefits that the additional territory would receive from the District. Additionally, should the District successfully create an assessment district, annexation of additional territory would increase the number of assessed parcels upon a showing of benefit.
- Dissolution of the District with the airport operated as an enterprise fund by the County's Department of Airports. The County has an established system of airports and the inclusion of an additional airport into the system would provide economies of scale in the future for maintenance and operation of the airports. These airports could benefit from shared revenue if consolidation were to occur. However, the County could not succeed to the airport property since the District does not own the airport. This issue makes this option not feasible.
- Dissolution of the District with the formation of a homeowner's association. Administration and operation of the airport could continue through a homeowner's association (HOA), as was done prior to the District's formation. LAFCO does not have purview over the formation or operation of HOA's but this option warrants discussion. Currently, operation as a public agency requires an election for the levy of an assessment, as is contemplated by the District. Governance through a HOA would remove the requirement for an assessment election and funds could be raised through dues instead of an assessment on property. Further, since the airport is privately owned and leased to the District, the airport would remain upon the District's dissolution and there would be no requirement for a successor public agency to succeed to the District's operations.
- Dissolution of the District with the Town of Yucca Valley as the successor agency. In this option, the Town would be responsible for the District's operations and would succeed to the lease contract with the Yucca Valley Airport Corporation. The Town has not expressed interest in this option since its incorporation in 1991. As with the County option, the Town could not succeed to the airport property since the District does not own the airport. This issue makes this option not feasible.
- The District could become a subsidiary district of the Town. In this scenario, the District would remain a separate legal entity with the Town Council acting as the ex-officio board of directors. All funds and assets would remain in the name of the District. This option raises questions regarding risk and liability on the part of the Town. Neither the Town nor the District have expressed interest in this option.
- Condition of Approval for District Formation. Among the conditions of approval for the formation of the District were that upon formation, the District proceed immediately to formulate its plans for the acquisition and improvement of the airport, apply to the FAA for all available funding, and establish an assessment proceeding to fund whatever portion is not funded by the FAA grant program. Additionally, it was understood that if the District board could not acquire the airport and complete the necessary improvements within three years

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from the date of its formation, the District would submit an application for dissolution to LAFCO.

In the view of the Commission, it is presumed that the District's long-term lease of the airport meets the ownership condition in the same manner as the requirements of Caltrans (Caltrans considers long-term leases the same as ownership for grant issuance). However, the District has been removed from the FAA's listing, which makes it ineligible to receive FAA funding, and has not established an assessment proceeding. A main goal of the District is to be placed back on the list, which would make it eligible for FAA grants. The District has provided information that it is moving forward with researching the assessment district option and is committed to its formation. The District has indicated that at the recommendation of their attorney, consideration of these financing methods will be on hold until the embezzlement case is settled.

- Maintenance of the status quo. Given the nature of the airport and the reason for its boundaries being drawn to include only the surrounding interests of the airport, it meets the needs of those within its boundaries and those who use the airport. Further, the District has provided letters of support from other government agencies that utilize the airport. The letters span the years 2002 to 2006 from: Department of Forestry, Department of the Interior – National Park Service, and U.S. Marine Corps. Copies of the letters are on-file at the LAFCO staff office.

WHEREAS, the following determinations are made in conformance with Government Code Section 56425 and local Commission policy:

1. Present and Planned Uses:

At the airport, the present and planned uses are the airport runway and facilities. For the remainder of the District, the properties are generally owned by those who own airplanes or own airport related businesses. The boundaries of the District were drawn as to include only those properties directly benefiting by the airport. However, businesses have been developed within the District which includes a Wal-Mart. There are no agricultural lands.

The District is entirely located within the Town of Yucca Valley boundaries and includes the airport property, surrounding housing, and several industrial and commercial buildings on approximately 33 acres. The majority of the land has been assigned zoning designations of residential with some commercial and industrial. Most of the airport is within the FEMA Zone A 100-year flood plain. A small portion is within the FEMA Zone B 500-year flood plain.

2. Present and Probable Need for Public Facilities and Services:

The present and probable need for the airport is satisfied through private ownership of the airport and most of its facilities. Services are provided through the long-term lease of the facilities to the District.

In a 2001 "Airport Feasibility Study" study prepared for the County to determine the best location for a regional general aviation airport, the study determined that the Yucca Valley Airport appears to be the optimum available site to serve the Yucca Valley/Joshua Tree region even with its restrictions. There is no known action or follow-up taken regarding the study by the County.

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3. Present Capacity of Public Facilities and Adequacy of Public Services

The adequacy of the airport meets the basic needs of those within the District and those who use the airport. In addition, the military, County Fire, Cal Fire, and the County Sheriff utilize the airport during emergencies.

Facilities include a single 4,363-foot long by 60-foot wide runway with take-offs to the northeast, 30 aircraft tie-down spaces (25 aircraft tie-down spaces in the mid-field area and five transient spaces) and four T-hangars. The airport does not have fueling availability or a control tower. District representatives state that flyers tend to purchase fuel at the Big Bear airport roughly 65 miles away. The runway is over 20 years old, and the District, through volunteers, seals cracks in the runways when needed. Slurry seal of the runway is needed, but such an improvement is estimated to cost roughly \$800,000.

4. Social and Economic Communities of Interest:

Social and economic communities of interest include the Town of Yucca Valley (the District is wholly within the Town's boundaries), the properties and businesses that utilize the airport, and the Wal-Mart located within the District. As a regional facility, it serves the larger Yucca Valley community and portion of the Morongo Basin.

5. Additional Determinations

- As required by State Law notice of the hearing was provided through publication in a newspaper of general circulation, the *Hi-Desert Star*. Individual notice was not provided as allowed under Government Code Section 56157 as such mailing would include more than 1,000 individual notices. As outlined in Commission Policy #27, in-lieu of individual notice the notice of hearing publication was provided through an eighth page legal ad.
- As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.
- Comments from landowners/registered voters and any affected agency will need to be reviewed and considered by the Commission in making its determinations.

WHEREAS, pursuant to the provisions of Government Code Section 56425(i) the range of services provided by the Yucca Valley Airport District shall be limited to the following:

DISTRICT	FUNCTIONS	SERVICES
Yucca Valley Airport District	Airport	Operations and Maintenance

WHEREAS, having reviewed and considered the findings as outlined above, the Commission determines to assign a zero sphere of influence for the Yucca Valley Airport District;

NOW, THEREFORE, BE IT RESOLVED by the Local Agency Formation Commission of the County of San Bernardino, State of California, that this Commission shall consider that the Yucca Valley Airport District has a zero sphere of influence; it being fully understood that establishment of such a

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sphere of influence is a policy declaration of this Commission based on existing facts and circumstances which, although not readily changed, may be subject to review and change in the event a future significant change of circumstances so warrants;

BE IT FURTHER RESOLVED that the Local Agency Formation Commission of the County of San Bernardino, State of California, does hereby determine that the Yucca Valley Airport District shall indemnify, defend, and hold harmless the Local Agency Formation Commission of the County of San Bernardino from any legal expense, legal action, or judgment arising out of the Commission's affirmation of the sphere of influence, including any reimbursement of legal fees and costs incurred by the Commission.

THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission of the County of San Bernardino by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

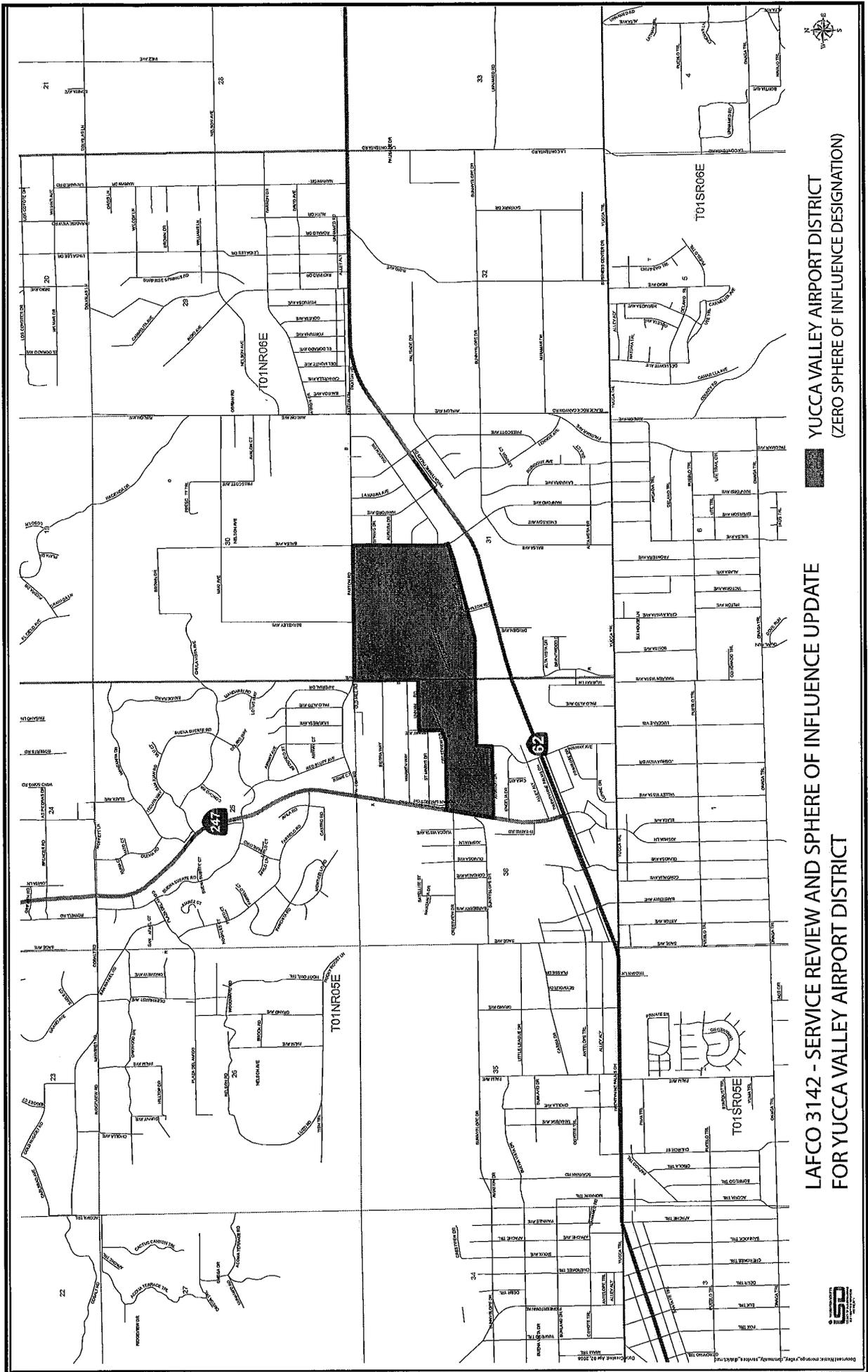
ABSENT: COMMISSIONERS:

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, **KATHLEEN ROLLINGS-McDONALD**, Executive Officer of the Local Agency Formation Commission of the County of San Bernardino, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission, by vote of the members present, as the same appears in the Official Minutes of said Commission at its meeting of February 17, 2010

DATED:

KATHLEEN ROLLINGS-McDONALD
Executive Officer



YUCCA VALLEY AIRPORT DISTRICT
(ZERO SPHERE OF INFLUENCE DESIGNATION)

LAFCO 3142 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE
FOR YUCCA VALLEY AIRPORT DISTRICT

