LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY

215 North "D" Street, Suite 204, San Bernardino, CA 92415-0490
(909) 383-9900 • Fax (909) 383-9901
E-mail: lafco@lafco.sbcounty.gov
www.sbclafco.org

PROPOSAL NO.: LAFCO 3152

HEARING DATE: November 21, 2012

RESOLUTION NO. 3163

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY MAKING DETERMINATIONS ON LAFCO 3152 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE TWENTYNINE PALMS PUBLIC CEMETERY DISTRICT (sphere of influence reduction to a zero sphere).

On motion of Commissioner McCallon, duly seconded by Commissioner Bagley, 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 for San Bernardino County (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 May 16, 2012, with reconsideration called for August 15, 2012 and continued to November 21, 2012, at the time and place specified in the notice of public hearing and in any order or orders continuing the 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; and,

WHEREAS, at the May 16, 2012 hearing, this Commission certified that the sphere of influence update including sphere amendments is statutorily exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA) and such exemption

was adopted by this Commission on May 16, 2012. The Commission directed its Executive Officer to file a Notice of Exemption within five working days of its adoption; and,

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 the Twentynine Palms Public Cemetery District (hereafter shown as "Cemetery District" or the "District") as depicted on the map attached as Exhibit "A" to this resolution; and,

WHEREAS, the determinations required by Government Code Section 56430 and local Commission policy are included in the reports prepared and submitted to the Commission dated May 7, 2012 and November 14, 2012 and received and filed by the Commission on May 16, 2012 and November 14, 2012, 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:

Land Use

The study area includes the entire City of Twentynine Palms and unincorporated territory. For the entirety of the study area approximately 75% is designated Resource Conservation (comprising mostly of the BLM lands, the Marine Base, and the Joshua Tree National Park area) and 16% Rural Living. The remainder 9% of the total area is within the City of Twentynine Palms.

General Plan Land Use Districts (In Acres)
for the Twentynine Palms Cemetery District

Land Use	Boundary
City's Land Uses	37,364
County Land Use Designations	
Resource Conservation (RC)	312,767
Rural Living (RL)	6,672
RL-5	57,095
RL-10	970
Floodway (FW)	834
Rural Commercial (CR)	2
Service Commercial (CS)	34
Institutional (IN)	303
Total	**416,311**

Incorporated Portion of the Study Area

Within the City boundaries, approximately 43% is Rural Living, 32 % Single-Family Residential, 6% Open Space Residential, 3% Multi-Family Residential, 4% Commercial, 3% Industrial, 3% Public and Floodway, and 6% Military (portion of the City within the Marine Corps Air Ground Combat Center). For a complete breakdown of the land uses with the City, please refer to the City's service review section related to land use.

Within its entire boundary, roughly 21% of the land is privately owned and the remainder, 79%, is public, which are devoted primarily to resource protection and recreational use.

Land Ownership Breakdown (in Acres)
for Twentynine Palms Cemetery District

Ownership Type	Boundary
Private	86,168
Public Lands – Federal (BLM), State, & others	330,143
Total	**416,311**

It should be noted that the 79% public lands represent primarily Bureau of Land Management (BLM) lands along the eastern section of the District (mainly along Twentynine Palms Mountain and Humbug Mountain along the south, portion of Sheep Hole Mountain on the east, and Valley Mountains north of the City), the Marine Corps Air Ground Combat Center along the north, and the Joshua Tree National Park along the southwest, which are lands administered by the U.S. National Park Service.

Population Projections

In 2000, the population within the Cemetery District's boundaries was 25,528. Based on the 2010 Census, the current population for the area is 27,609. This represented an average annual growth rate of approximately 0.8 percent within the given period.

The Commission calculated the projected growth for the Cemetery District's boundaries utilizing a combination of the growth rates identified in the Regional Council of the Southern California Association of Governments (SCAG) Draft 2012 Regional Transportation Plan (RTP) Integrated Growth Forecast for the City of Twentynine Palms and the County's unincorporated area for the given periods, and the use of average annual growth rate (including a revision made by the Commission related to City's population and the assumption of a constant population within to the Marine Corps Base). By 2040, the population within the Cemetery District is estimated to reach 41,085. This represents a projected annual growth rate of approximately 1.3 percent between 2010 and 2040, which also represents a total population increase of 49 percent from 2010.

Population Projection 2010-2040
Within the Twentynine Palms Public Cemetery District

Census		Population Projection					
2000	2010	2015	2020	2025	2030	2035	2040
25,528	27,609	29,676	32,000	33,975	36,136	38,499	41,085

The population projections shown above may represent an unattainable growth trend based on the historic growth experienced in the region. In addition to the marginal growth experienced in the last 10 years, there are other circumstances in the region that tend to restrict growth (i.e. water quality issues, potential for development restrictions related to the use of septic systems, etc.). Based on these issues, actual growth is expected to be much lower than projected.

Build-out

The table below provides the potential build-out within the Cemetery District's territory. This build-out scenario takes into consideration the existing land use designations assigned for the area and the dwelling unit densities assigned for each residential land use (information does not take into consideration the housing units within the Marine Base).

Land Use Maximum Build-Out for the Twentynine Palms Public Cemetery District

Land Use	Acreage	Density (D.U. Per Acre)	Maximum Build-out (DU's)
County Area Residential Land Use			
Resource Conservation	312,767	0.025	7,819
RL-10 (Rural Living 10 acres)	970	0.1	97
RL-5 (Rural Living 5 acres)	57,095	0.2	11,419
RL (Rural Living 2.5 acres)	6,672	0.4	2,669
City Area Total Residential Land Use	31,446		45,965
(see the City of Twentynine Palms' service review for the City's land use breakdown)			
Cemetery District Total Residential	**408,950**		**67,969**

The population projections identified earlier indicates that the population within the Cemetery District's territory will be 41,085 by 2040. Based on the maximum residential build-out within the Cemetery District's territory, the projected maximum population is anticipated to reach 182,157 (at 2.68 persons per household based on the ratio for the County's Desert Region). Likewise, based on the projected population for 2040, it is anticipated that the number of households within the Cemetery District's territory will be 15,330 with a maximum potential build-out to reach approximately 67,969. These imply that the study area will reach 23 percent of its potential household and population capacity by 2040.

Population and Household Projection for the Twentynine Palms Public Cemetery District

	Projection 2040	Maximum Build-out	Ratio of 2040 Projection with Maximum Build-out
Population	41,085	182,157	0.23
Households	15,330	67,969	0.23

2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence:

Disadvantaged unincorporated communities are those communities that have an annual median household income that is less than 80 percent of the statewide annual median household income, which is under $46,285. Based on the Median Household Income taken from the 5-year 2006-2010 American Community Survey block group level data, the

communities of Joshua Tree, Twentynine Palms (unincorporated portion of the community) and Wonder Valley are all considered as disadvantaged unincorporated communities that are contiguous to the Cemetery District's sphere of influence. All of these are considered to be rural communities. For a cemetery district, this determination has little bearing upon the review of the services it provides, but is a required element for consideration.

The unincorporated community of Joshua Tree is adjacent to the Cemetery District's western sphere of influence. The community is characterized by an abundance of open space and natural resources. The community is also rural in nature with residential development primarily with a Rural Living (2.5-acre lots) land use designation. Located between the Town of Yucca Valley and the City of Twentynine Palms, Joshua Tree also serves as the entry point to the Joshua Tree National Park.

The unincorporated portion of the Twentynine Palms community is adjacent to the Cemetery District's northern sphere of influence. The community is comprised of sparse rural residential development with large lot residential development (primarily Rural Living, 5-acre lots).

The unincorporated community of Wonder Valley is adjacent to the Cemetery District's eastern sphere of influence. The community is also very rural in nature with large lot residential development (primarily Rural Living, 5-acre lots).

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

The cemetery facilities currently cover 30 acres, 20 of which are currently developed, and handles approximately 50 burials each year. The District provided a roster of each person buried at the cemetery to include name, birth date, death date, military service, and burial location.

It was identified to the Commission that the District operates without a master plan or any other adopted plans. It was also identified that the District's on-site well is not adequate for use and that the District utilizes retail water (potable drinking water) for irrigation. The District was asked to provide LAFCO a written description of the current situation for its water service including any background information available on the well. To this date, the District has not responded to the information requested by the Commission.

As of April 2012, the cemetery had 3,228 burials and 600 cremations, for a total of 3,828 internments. There are 720 unused plots and 693 unsold plots, for a total of 1,413 available spaces. According to the District, it handles approximately 50 burials a year. At this rate, the Commission determined that it would take 28 years for the District to reach its full capacity.

4. Financial ability of agencies to provide services:

Sources and Methodology

The District has provided LAFCO with the most recent audits completed (through FY 2010-11), and current budget information. LAFCO staff has also obtained financial data from California State Controller reports for special districts.

Follow-up from May 2012 LAFCO Staff Report

The May 2012 staff report identified that staff requested additional material from the District in order to provide for a proper review. These items and the follow-up response since May are as follows:

- *Please provide copies of the FY 2009-10 and FY 2010-11 financial statements.*

  District Response: The District has completed and provided copies of these audits.

- *Please provide copies of the three most recent adopted budgets.*

  District Response: The District has adopted a balanced budget for FY 2012-13 and has provided LAFCO with copies of the three most recent adopted budgets.

- *It was identified that the District utilizes a local bank for deposits and then transfers funds from the local bank to the County Treasury. It was also identified that payments are made from the County Treasury and not the local bank. However, LAFCO staff has been apprised of the District's bounced checks to Whitewater Rock and Supply. If processed by the County Treasury, the County Treasury would have issued the warrants only if adequate funds were present. Please explain any payment activity from the local bank account. LAFCO staff is also aware that the payment to Whitewater Rock and Supply came from the District's brokerage account. Please provide an outline of the brokerage account and its use for payment and/or receipt of revenues.*

  District Response: The District holds most of its Endowment Care funds in an investment account with Wells Fargo with the remainder held in the County Treasury. The Wells Fargo account splits into two categories: Principal and Interest. Therefore, the District is tracking its Endowment Care principal and interest. Since 2006, Endowment Care funds received are deposited into the County Treasury account. In 2011, the District chose to use funds from the Wells Fargo Endowment Interest Cash account to pay for major cemetery ground maintenance expenses.

Additionally, the District has two accounts with Pacific Western Bank. The first account is the petty cash account. As expenditures are made, receipts are accumulated and then forwarded to the County Treasurer for reimbursement. Upon receipt, the reimbursement checks are deposited back into the petty cash account. The District does this because it has experienced problems with the County issuing warrants in a timely manner.

The second account with Pacific Western Bank is a holding account. This account receives monies from payment of goods and services. Monthly, the District prepares checks and the appropriate documentation to forward the fund to the County Treasury for deposit into the appropriate fund. The District's policy is not to make any other disbursements from this account.

The District has recently revised its monthly Endowment Fund report and created a new report which shows the two Pacific Western accounts.

This remainder of this Determination is organized as follows:

- Section A outlines the general operations of the District.
- Section B includes independently audited financial summaries up to the most recently audited year, FY 2010-11.
- Section C discusses the District's budget and budgetary practices.
- Section D provides additional financial information.
- Section E is a summary and conclusion to the District's financial situation.

A. General Operations and Accounting

The government reports the following major governmental funds:

- The general fund labeled "General" is the government's primary operating fund. It accounts for all financial resources of the general government, except those required to be accounting for in another fund.

- The permanent fund labeled "Endowment Care" provides resources that are legally restricted to the extent that only earnings, but no principal, may be used for purposes that support the reporting government's programs.

- Fiduciary funds are used to account for assets held by the District as an agent or trustee for individuals, private organizations, other governments and/or other funds. The Pre-Need Burial Fund is a private-purpose trust fund which transfers funds from its earnings to the General fund to finance burial expenditures. Fiduciary fund financial statements are reported using the economic resources measurement focus and the accrual basis of accounting.

As required by law, the County Treasurer acts as the district treasurer. The District's funds are deposited into the County Treasury, and claims of the District are paid by County warrants.

Additionally, Public Cemetery District Law allows for a revolving fund to pay any authorized expenditures of the district and it allows special districts to get cash advances from the county treasurer so the districts can make change and pay small bills directly. The District has confirmed that in addition to the County Treasury, it operates with a local private bank account (Pacific Western Bank) for depositing cash and monies received until they are transferred to the County Treasury. However, the District's financial statements do not identify this depository directly. Lacking this identification and description of its activities, the public is unaware as to the full financial operations of the District.

B. Audited Financial Information (through FY 2010-11)

Long-Term Debt

The District does not have any long-term debt other than employee compensated absences, totaling $1,776 at June 30, 2011.

Net Assets

The figure below summarizes the District's net assets through FY 2010-11, where during this time net assets decreased overall by seven percent. However, it may seem that the Restricted assets (the principal of the Endowment fund) decreased by roughly 45%. Rather, the funds were re-classified with an increase in Unrestricted and a decrease in Restricted. The FY 2006-07 audit does not explain the reclassification, but Net Assets overall remains generally constant.

Statement of Net Assets							
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	5 yr Var
ASSETS							
Cash & cash equivalents	238,459	239,657	236,155	228,465	207,203	129,088	-46%
Investments	241,300	253,948	276,183	276,440	274,247	259,472	8%
Other current assets	12,363	14,741	17,767	12,743	19,205	11,786	-5%
Noncurrent assets	104,724	95,392	95,690	96,582	91,186	181,059	73%
Total assets	$ 596,846	$ 603,738	$ 625,795	$ 614,230	$ 591,841	$ 581,405	-3%
LIABILITIES							
Current liabilities	10,511	8,366	15,851	16,197	7,817	38,677	268%
Noncurrent liabilities	3,938	3,420	2,999	5,918	4,839	1,776	-55%
Total liabilities	$ 14,449	$ 11,786	$ 18,850	$ 22,115	$ 12,656	$ 40,453	180%
Total Net Assets *	$ 582,397	$ 591,952	$ 606,945	$ 592,115	$ 579,185	$ 540,952	-7%
Invested in capital assets	104,724	95,392	95,690	96,582	91,186	181,059	73%
Restricted	310,712	154,423	158,513	161,233	160,043	171,761	-45%
Unrestricted	166,961	342,137	352,742	334,300	327,956	188,132	13%
Total Net Assets	$ 582,397	$ 591,952	$ 606,945	$ 592,115	$ 579,185	$ 540,952	-7%

* Restricted cash and investments represent principal (corpus) that is legally restricted for perpetual maintenance of the District (Permanent fund – Endowment care).

General Fund

A trend of operating deficits is a key indicator of the financial health of an agency. The figure below shows the General Fund balance for the time period. The fund balance has decreased by 95% within five years with Total Revenues increasing by 30% and Total Expenditures increasing by 107%. Expenditures have exceeded revenues annually since 2005-06, resulting in an annual decline in fund balance. However, the Pre-Need Burial Fund receives revenues for burial expenditures and transfers funds to the General Fund for this purpose. Even with this Transfers In, for the past six audited years the gap between Fund Balance Beginning and Fund Balance Ending widens in a decreasing manner. Most pressing is the severe decrease from $125,796 to $8,211 in one year; the decrease is attributed to a capital outlay of $100,938. What this reveals is a lack of reserves to cushion necessary capital purchases. Moreover, any unexpected incidents could further challenge

the General Fund, prompt cost reductions, fee increases, or cause the General Fund to enter into negative territory and result in a running deficit.

Statement of Rev, Exp, & Changes in Fund Balance - General Fund							
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	5 yr Var
REVENUES							
Charges for services	30,496	24,892	14,052	17,325	19,533	19,868	-35%
Property taxes	94,481	128,195	142,703	152,238	136,931	145,332	54%
Other	20,635	15,830	39,834	30,904	40,554	24,808	20%
Total Revenue	$ 145,612	$ 168,917	$ 196,589	$ 200,467	$ 197,018	$ 190,008	30%
EXPENDITURES							
Salaries & Benefits	112,390	129,663	146,844	156,003	159,959	170,364	52%
Services & Supplies	31,530	37,691	45,854	33,727	35,078	50,256	59%
Other	22,092	21,847	35,214	38,996	28,388	122,267	453%
Total Expenditures	$ 166,012	$ 189,201	$ 227,912	$ 228,726	$ 223,425	$ 342,887	107%
Revenues less Expend.	(20,400)	(20,284)	(31,323)	(28,259)	(26,407)	(152,879)	649%
OTHER FINANCING							
Transfers In	23,221	18,666	15,366	9,996	17,142	35,294	52%
Fund Balance Begin	168,078	170,899	169,281	153,324	135,061	125,796	-25%
Fund Balance End	$ 170,899	$ 169,281	$ 153,324	$ 135,061	$ 125,796	$ 8,211	-95%

General Fund Liquidity

As a measure of the general fund's liquidity, it may be useful to compare both unassigned fund balance and total fund balance to total fund expenditures. At the end of FY 2010-11, unassigned fund balance of the general fund was $8,211, which is the same as total fund balance. Unassigned fund balance represents a paltry two percent of total general fund expenditures. Therefore, the liquidity of the general fund is practically non-existent.

GENERAL FUND LIQUIDITY						
General Fund (GF)	**2005-06**	**2006-07**	**2007-08**	**2008-09**	**2009-10**	**2010-11**
Total GF expenditures	$ 166,012	$ 189,201	$ 227,912	$ 228,726	$ 223,425	$ 342,887
Unassigned GF fund balance	$ 170,899	$ 169,281	$ 153,324	$ 135,061	$ 125,796	$ 8,211
(as a % of total expenditures)	103%	89%	67%	59%	56%	2%
Total fund GF balance	$ 170,899	$ 169,281	$ 153,324	$ 135,061	$ 125,796	$ 8,211
(as a % of total expenditures)	103%	89%	67%	59%	56%	2%
sources: Balance Sheet and Statement of Revenues, Expenditures, and Changes in Fund Balance						

Unassigned Fund Balance

The Government Finance Officers Association ("GFOA") currently recommends that governments establish a formal policy on the level of unrestricted fund balance that should be maintained in the general fund. The current GFOA policy is vague in stating that the "adequacy of unrestricted fund balance in the general fund should be assessed based upon a government's own specific circumstances." Though the existing GFOA policy is not specific, it recommends that regardless of size, general-purpose governments should maintain unrestricted fund balance in their general fund of "no less than two months of regular general fund operating revenues or expenditures." A general fund balance of a lesser level exposes the general fund to the risk of not being able to meet cash flow requirements, economic uncertainties, or other financial hardships.

As shown on the chart above, the District's unrestricted fund balance until 2009-10 was more than two months of regular general fund operating expenditures. Therefore, the District was above the threshold and met the requirements of the GFOA policy. However, the 2011-12 unrestricted balance of only $8,211 provides for only one week of expenditure activity. Further, the CSD has not established a formal policy on the level of unrestricted fund balance that should be maintained in the general fund.

Fiduciary Fund (Pre-need Burial Fund)

Fiduciary funds are used to account for assets held by the District as an agent or trustee for individuals, private organizations, other governments and/or other funds. The Pre-Need Burial Fund is a private-purpose trust fund which transfers funds from its earnings to the General fund to finance burial expenditures.

The District provided information tracking the Pre-Need Burial Fund. This fund experiences an annual increase and appears to be healthy. However, no explanation has been provided to explain changes over the period reviewed, such as how the 2008-09 net assets was divided between restricted and unrestricted. In addition, the transfers shown for this account match the amounts deposited in the general government account, no portion of these funds have been deposited into the endowment care.

Net Assets - Pre-Need Burial (Fiduciary Fund)							
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	5 yr Var
NET ASSETS							
Unrestricted	239,640	255,806	269,777	90,499	93,733	118,042	-51%
Restricted				190,522	192,276	198,812	
Total net assets	$ 239,640	$ 255,806	$ 269,777	$ 281,021	$ 286,009	$ 316,854	32%
ADDITIONS							
Contributions	14,031	23,691	16,545	13,357	15,885	28,893	106%
Interest	7,989	11,141	12,792	7,883	4,047	2,205	-72%
Total additions	$ 22,020	$ 34,832	$ 29,337	$ 21,240	$ 19,932	$ 31,098	41%
DEDUCTIONS							
Transfers out	$ 23,221	$ 18,666	$ 15,366	$ 9,996	$ 14,944	$ 253	-99%
NET ASSETS	$ 239,640	$ 255,806	$ 269,777	$ 281,021	$ 286,009	$ 316,854	32%

Endowment Care Fund

The permanent fund labeled "Endowment Care" provides resources that are legally restricted to the extent that only earnings, but no principal, may be used for purposes that support the reporting government's programs.

Throughout the service review process the District did not provide information demonstrating adequate tracking of the Endowment Care Fund. The figure below shows the fund balance of the Endowment Care fund for the same time period identified for the general government fund. In general, the same questions from the May staff report remain: Why did the principal amount decrease for two of the years shown? How did principal decrease in 2006-07 while overall fund balance increased? For FY 2010-11, how did principal decrease by $47,000 while fund balance overall decreased by $11,500? In addition, at a minimum, taking the information from the audits recently provided for revenues received during the period for deposit into the restricted Endowment Care Fund, the balance should be $165, 213, $4,517 more than shown. Since the Endowment Care Fund is impressed with the public trust, the reconciliation of this fund is of paramount concern to LAFCO. The Commission has included the condition that the District be required to conduct a forensic audit of this fund to assure the public's trust is maintained so that the perpetual operation of the facility can be assured.

Statement of Rev, Exp, & Changes in Fund Balance - Endowment Care Fund							
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	5 yr Var
REVENUES							
Charges for services	5,630	4,060	4,090	2,720	1,530	2,450	-56%
Interest & Investment	159	15,927	26,141	2,740	10,103	6,966	4281%
Total Revenue	$ 5,789	$ 19,987	$ 30,231	$ 5,460	$ 11,633	$ 9,416	63%
EXPENDITURES							
Total Expenditures	$ -	$ -	$ -	$ -	$ 10,981	$ -	
Revenues less Expend.	5,789	19,987	30,231	5,460	652	9,416	63%
OTHER FINANCING							
Transfers Out	$ -	$ -	$ -	$ -	$ -	$ 21,000	
Fund Balance Begin	304,923	310,712	330,699	360,930	366,390	367,042	20%
Fund Balance End	$ 310,712	$ 330,699	$ 360,930	$ 366,390	$ 367,042	$ 355,458	14%
Endowment Principal	$310,712	$154,423	$158,513	$161,223	$207,876	$160,696	-48%
* Information how the Endowment Principal decreased in 2006-07 and 2010-11 is unavailable							

Management Discussion in Audit

Accounting principles generally accepted in the United States require that the management's discussion and analysis and budgetary comparison information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial

statements, is required by the Governmental Accounting Standards Board. The District has elected to omit the Management Discussion and Analysis information for at least the past six audited years. Without an understanding of the context for the agency's operations, as the management discussion provides, it is difficult to assess the financial operations of an agency.

C. Budget and Practices

FY 2011-12 Budget

The May staff report identified the following as items as serious concern regarding the District's FY 2012-13 budget:

- The lack of an adopted budget by the District board of trustees.
- The lack of budgeted revenues for the year, representing 42% of expenditures.
- The small amount of reserves, representing 7% of expenditures. The budgeting literature recommends a minimum of 10% reserves for non-enterprise districts.
- The budget does not balance and is lopsided heavily towards expenditures with no identification of the source of funds to balance.
- The lack of a business-like adopted budget adhering to generally accepted budgeting standards.

Since the May report, the District board has adopted a revised and balanced budget. The materials show that an adequate reserve was not provided in FY 2010-11 (Audit data) but was re-established in FY 2011-12 (budget information). However, the documents identify a transfer in of $91,198 but the source of these funds is unknown. The District has been requested to provide identification of what accounts were tapped to provide for the $91,198 transferred in.

As for the $122,267 capital outlay identified in Fiscal Year 2010-11 questioned by LAFCO staff, the District provided an email description on November 13, 2012 that the District constructed four "niche" units and a memorial wall along with landscaping for $100,938.

Appropriation Limit (Gann Limit)

Article XIIIB of the State Constitution (the Gann Spending Limitation Initiative), mandates local government agencies receiving the proceeds of taxes to establish an appropriations limit. Without an appropriations limit, agencies are not authorized to expend the proceeds of taxes. Section 9 of this Article provides exemptions to the appropriations limit, such as Section 9(c) exempts the appropriations limit for special districts which existed on January 1, 1978 and which did not levy an ad valorem tax on property in excess of $0.125 (12 ½ cents) per $100 of assessed value for the 1977-78 fiscal year. According to the *County of San Bernardino 1977-78 Valuations/Tax Rates* publication, the tax rate for the District for FY 1977-1978 was $0.1271 per $100 of assessed value. Being over the $0.125 tax rate, the district does not qualify for an exemption from the requirement of an appropriations limit. Therefore, it must have an appropriations limit. Failure to provide for an appropriation limit calls into question the District's ability to expend the proceeds of taxes (general ad valorem share and special taxes).

Section 1.5 reads that the annual calculation of the appropriations limit for each entity of local government shall be reviewed as part of an annual financial audit. Further, Government Code Section 7910 expands upon the Gann Initiative and requires each local government to annually establish its appropriation limits by resolution. Since the District lacks the mandatory appropriation limit, the District's audits and budgets do not identify adherence to the above-mentioned audit and budget requirements and no verification of this requirement has taken place as required by State law and the Constitution.

The District has indicated that adoption of the FY 2012-13 appropriations limit is scheduled for the District's November 29 hearing.

D. Additional Financial Information

Tax sharing agreement (RDA)

In 1993 the RDA and the Cemetery District entered into an agreement for sharing of tax increment funds. For each fiscal year during and after the life of the Four Corners Redevelopment Plan, the Agency shall pay the District 100% of the District's tax increment share. With the demise of RDAs through implementation of ABx1-26, revenues to be distributed to the District have not been identified.

Post-Employment Benefits

Pension

Edward Jones carries the District's IRA retirement plan. Employees are eligible to participate in the plan at the end of the employee's probationary period. The plan is 100% immediately vested. Each employee contributes $27.78 in 24 equal payroll deductions. This amount, along with the District's contribution is forwarded to Edward Jones at the end of each month. Each employee receives a total annual contribution of $2,000 towards their IRA retirement plan.

Other Post-Employment Benefits

The financial statements do not identify if the employees or board members receive other post-employment benefits.

Filing Requirements

Health and Safety Code §9070(c) requires the board of trustees of cemetery districts to adopt a final budget and forward a copy of the final budget to the county auditor. According to records from the County Auditor, the last budget received was in July 2011 for FY 2011-12.

Government Code Section 26909 requires all districts to provide for regular audits; the Agency conducts annual audits and meets this requirement. Section 26909 also requires districts to file a copy of the audit with the county auditor within 12 months of the end of the fiscal year. According to records from the County Auditor, the last audit received was in May 2010 for FY 2008-09. The District should be directed to forward the mandatory documents to the County Auditor.

E. Conclusion to Financial Determination

In the General Fund, expenditures have exceeded revenues annually since 2005-06, resulting in an annual decline in fund balance. Most pressing is the severe decrease from $125,796 to $8,211 in one year; the decrease is attributed to a capital outlay of $100,938. However, in the following Fiscal Year, a transfer in of more than $90,000 resolved this concern but the source of the funds has not been provided. What this reveals is a continuing concern for the financial operations of this agency.

As for the Endowment Fund, throughout the service review process the District did not provide information demonstrating adequate tracking of the Endowment Care Fund and questions remain regarding its principal balance, the transfers out for operations, and the transfers in from the pre-need fund when necessary. Since the Endowment Care Fund is impressed with a public trust, the Commission recommends that the District conduct a forensic audit to determine what the restricted balance should be, what the interest available for use by the District is, and establish written policies for its operation.

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

Public Cemetery Law allows opportunities for a cemetery district to:

- Lease land acquired for future cemetery use to a public agency for recreational use (§9054 (b)).

- Dedicate real property or an interest in real property owned by the district to another public agency for use as roads or utility rights-of-way, including but not limited to water, sewer, drainage, gas or electricity transmission, or communications purposes (§ 9056(a)).

The District has not utilized these provisions and doing so could generate additional revenue.

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

The District is an independent special district governed by a five-member board of trustees appointed to four-year terms by the County Board of Supervisors. Below is the composition of the current board of trustees, their positions, and terms of office. The May staff report identified that the Board terms were not staggered in two-year increments (i.e. 2014 and 2016); one seat had a term expiration of 2013. The County Clerk of the Board is responsible for maintaining the records and coordinating the appointment process. LAFCO staff worked with the Clerk of the Board to comply with provisions of Public Cemetery District Law by staggering the terms in even years and that, "Any vacancy in the office of a member appointed to a board of trustees shall be filled *promptly*..."

On October 23, 2012 the County Board of Supervisors approved an item to establish a one-time transition term of three years for one seat which will result in an expiration of 2016 rather than 2017. The transition term for that seat will begin February 1, 2013, with an appointment sometime before. This establishes two classes of seats with a proper two-year stagger between them.

The current board composition, positions, and revised term expiration dates are shown below:

Board Member	Title	Term
Elizabeth Laferriere	Chairperson	Jan 2016
Sandra Gray	Trustee	Jan 2016
April Gibson	Trustee	Jan 2016
Omer Snodgrass	Trustee	Jan 2014
Jennifer McBain	Trustee	Jan 2014

Public Cemetery District Law requires three officers for a board of trustees: chairperson, vice-chairperson, and a secretary; however the secretary may be either a trustee or a district employee (§9028). The District has appointed its administrative assistant as the secretary. The information provided by the District does not identify that the board has appointed a vice-chairperson. The Commission recommends that the District appoint a board member as the vice-chairperson. Additionally, since the May staff report the District has replaced its lead staff.

Records show that community interest in board membership historically has been low. An option afforded in Public Cemetery District law is for the board to request through resolution that the County Board of Supervisors reduce board membership from five members to three members (§9020, §9025). In the Commission's view, limiting membership to three members for such a large geographical area would not promote any oversight efficiencies; a full membership of five members should be sought by the District and the County Board of Supervisors to promote adequate oversight of District affairs and community participation in an important service.

Alternatively, the County Board of Supervisors may appoint itself to be the board of trustees (§9026). Such an action would not require LAFCO approval as it would not be a change of organization, rather the District remains but the governing body would be different.

Regular Board of Directors Meetings are held on the last Thursday of each month at 6pm at the District headquarters located at 5350 Encelia Avenue in Twentynine Palms.

Government Structure Options

There are two types of government structure options:

1. Areas served by the agency outside its boundaries through "out-of-agency" service contracts;

2. Other potential government structure changes such as consolidations, reorganizations, dissolutions, etc.

Out of Agency Service Agreements:

There are no out-of-agency service agreements approved by LAFCO authorizing the District to provide service outside of its boundaries. Further the nature of its service does not lend to service outside of its boundaries. However, Public Cemetery District Law allows for cemetery districts to inter those that reside outside of a district's boundaries, subject to payment of a non-resident fee.

Government Structure Options:

The State has published advisory guidelines for LAFCOs to address all of the substantive issues required by law for conducting a service review ("Local Agency Formation Commission Municipal Service Review Guidelines", State of California Governor's Office of Planning and Research, August 2003) and the Commission has adopted these guidelines for its use in preparing its Service Reviews. The Guidelines address 49 factors in identifying an agency's government structure options. Themes among the factors include but are not limited to: more logical service boundaries, elimination of overlapping boundaries that cause service inefficiencies, economies of scale, opportunities to enhance capital improvement plans, and recommendations by a service provider.

In some cases, functional consolidation or integration can reduce costs so that services can be maintained and improved with fewer dollars. The following scenarios are not being presented as options for the Commission to consider for action as a part of this service review. Rather, a service review should address possible options, and the following are theoretical, yet possible, scenarios for the community to consider for the future. Movement towards these scenarios would include, but not be limited to, the requirement for preparation of a plan for service, fiscal impact analysis, and any other studies deemed necessary.

- Health and Safety Code Section 8125 authorizes cities to survey, lay out, and dedicate for burial purposes no more than five acres of public lands. The District operates more than five acres. If the City of Twentynine Palms were to succeed to the District's cemetery services, special legislation would need to occur. There is statutory precedent for such authorization; in 2008, AB 1932 authorized the City of Simi Valley to operate a cemetery on public lands containing five acres or more. Should the City desire to succeed to the District's services and facilities, special legislation would be required.

- The County Board of Supervisors may appoint itself to be the board of trustees (§9026). Such an action would not require LAFCO approval as it would not be a change of organization, rather the District remains but the governing body would be different.

- The County could submit an application to LAFCO to form a County Service Area for cemetery service to include dissolution of the two public cemetery districts within the County. In this scenario, the County would operate, and maintain the two current public cemeteries, as well as the cemeteries operated by other county service areas and zones. In 2003, the Legislature gave CSAs the same power to provide interment services that public cemetery districts have (SB 341). This would promote increased oversight of all public cemeteries within the unincorporated county as well as providing for economies of scale.

The Commission does not identify any potential governmental structure changes at this time for further discussion with the District and/or its constituents.

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

1. Present and Planned Uses:

Within the District's entire boundary, roughly 21% of the land is privately owned and the remainder, 79%, is public lands that represent primarily Bureau of Land Management (BLM) lands along the eastern section of the District, the Marine Corps Air Ground Combat Center along the north, and the Joshua Tree National Park along the southwest, which are lands administered by the U.S. National Park Service. Most of the lands are devoted primarily to resource protection and recreational use.

Within the District's boundary, approximately 75% is designated Resource Conservation (comprising mostly of the BLM lands, the Marine Base, and the Joshua Tree National Park area) and 16% Rural Living. The remainder 9% of the total area is within the City of Twentynine Palms. Of the 9% District territory that is within the City's boundaries, approximately 43% is Rural Living, 32 % Single-Family Residential, 6% Open Space Residential, 3% Multi-Family Residential, 4% Commercial, 3% Industrial, 3% Public and Floodway, and 6% Military (portion of the City within the Marine Corps Air Ground Combat Center).

The area being proposed for reduction from the District's current sphere of influence (Area 1) is designated as RC (Resource Conservation) and has no development potential since this is public land within the Joshua Tree National Park.

The areas being proposed to be added to the District's sphere of influence include lands that are designated primarily as RL-5 (Rural Living, 5-acre lots), RL (Rural Living, 2.5-acre lots), RL-10 (Rural Living 10-acre lots), RC (Resource Conservation), and some scattered commercial (Rural Commercial, Service Commercial) and institutional land uses.

2. Present and Probable Need for Public Facilities and Services

The cemetery facilities currently cover 30 acres, 20 of which are currently developed. Those residing outside of the District's boundaries are subject to a non-resident fee of $100 for the large garden, $195 for a cremation or infant burial, and $390 for an adult burial.

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

The 29 Palms Public Cemetery is located at 5350 Encelia Avenue in the City of Twentynine Palms, California. The District currently handles approximately 50 burials a year. As a Public Cemetery District, it provides burials for all qualifying district residents and their families. A non-resident fee is imposed for those who reside outside of the District's boundaries.

4. Social and Economic Communities of Interest:

Social and economic communities of interest include the City of Twentynine Palms, the Marine Corps Base, Joshua Tree National Park, Twentynine Palms Highway, and the Morongo Unified School District.

5. Additional Determinations

- As required by State Law notice of the reconsideration by the Commission was provided in the same manner as the original consideration through publication in a newspaper of general circulation, the *Hi-Desert Star* for the August 2012 hearing. 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 Policy #9 of the Project/Application Processing section of the LAFCO Policy and Procedure Manual, 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. In addition, on April 4, 2012, LAFCO staff met with the District and representatives to review the determinations and recommendations made within its draft report, to solicit comments on the determinations presented and to respond to any questions of the affected agencies.

- Comments from landowners/registered voters and any affected agency have been 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 Twentynine Palms Public Cemetery District shall be limited to the following:

FUNCTIONS	**SERVICES**
Cemetery	Interment, burials, selling plots, opening and closing of graves

WHEREAS, having reviewed and considered the findings as outlined above, the Commission determines to assign a zero sphere of influence for the Twentynine Palms Public Cemetery District, subject to the following conditions:

1. The District shall be required to conduct a forensic audit of its Endowment Care Fund to accurately account for the principal impressed with a public trust required to maintain the facilities in perpetuity;

2. For the next five years the District is required to provide the Commission annually with a copy of its adopted preliminary and final budget, its mid-year budget review, and copies of the audits presented to the District;

3. The District is required to provide the County Auditor with copies of all audits and current budgets and the State Controller with copies of all audits as required by law;

4. The District is required to adopt and implement an appropriation limit no later than May 1, 2013 and provide the board approved documentation to LAFCO; and

5. LAFCO staff is to directed to provide biannual updates to the Commission until the issues identified in the service review are resolved.

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 the territory shown on the map attached as Exhibit "A" as being within the sphere of influence of the Twentynine Palms Public Cemetery District; it being fully understood that establishment of such a 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 Twentynine Palms Public Cemetery 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 designation of the modified 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:**	**Bagley, Cox, Curatalo, McCallon Mitzelfelt**
NOES:	**COMMISSIONERS:**	**None**
ABSENT:	**COMMISSIONERS:**	**Rutherford, Williams**

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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 November 21, 2012.

DATED: November 21, 2012

LOCAL AGENCY FORMATION COMMISSION CO. OF SAN BERNARDINO

KATHLEEN ROLLINGS-McDONALD
Executive Officer

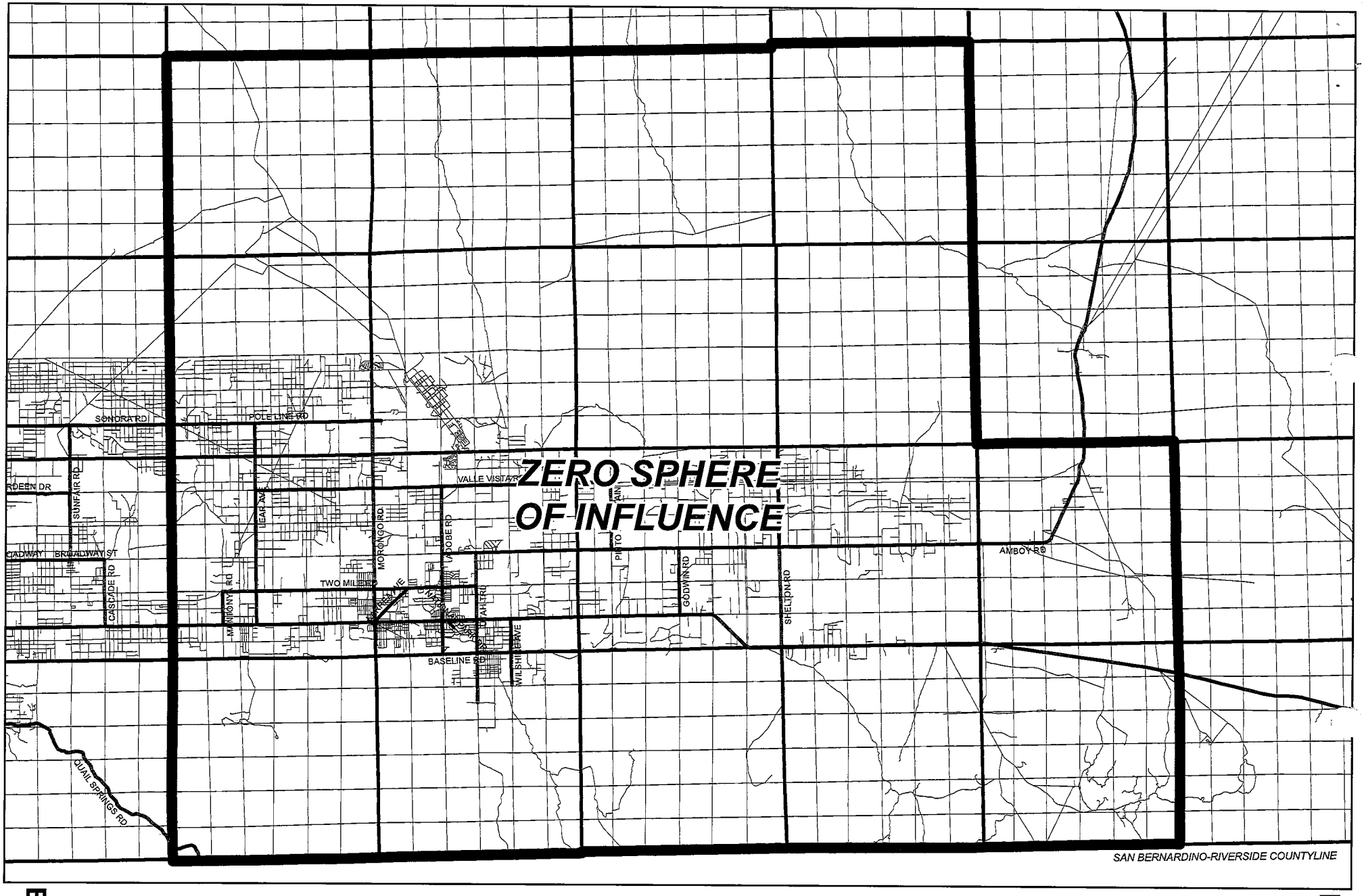

EXHIBIT A

LAFCO 3152 - SPHERE OF INFLUENCE UPDATE FOR THE TWENTYNINE PALMS PUBLIC CEMETERY DISTRICT*

Twentynine Palms Public Cemetery District

N W E S

* Zero sphere of influence designation for the Twentynine Palms Public Cemetery District

EXHIBIT A