



**NOTICE OF PROPOSAL**  
**PRELIMINARY STAFF REPORT**

**Title of Proposal:** “Fallbrook PUD Latent Powers Activation – Park and Recreation et al.” | Proposed Activation of the Fallbrook PUD’s Latent Powers for Park and Recreation; Roads, Streets, and Highways; and Street Lighting Functions

**Reference No.:** LP(a)19-27

**Affected APNs:** District-wide, or approximately 28,160 acres

**Date Received:** November 26, 2019

**Applicant:** Fallbrook PUD, by Resolution

**Subject Agency:** Fallbrook PUD

**Sphere Amendment:** No

**Project Manager:** Robert Barry | [robert.barry@sdcounty.ca.gov](mailto:robert.barry@sdcounty.ca.gov)

**I. Proposal Request**

The San Diego Local Agency Formation Commission (LAFCO) has received a resolution of application from the Fallbrook Public Utility District (PUD) requesting approval for activation of the District’s latent powers for Park and Recreation; Roads, Streets, and Highways; and Street Lighting functions, with specified classes. The affected territory for the proposed latent powers activation would include all the present jurisdictional boundary for the Fallbrook PUD, or approximately 28,160 acres. The affected territory is entirely unincorporated and within the Fallbrook Community Planning Area in northern San Diego County. The affected territory is generally located north of the City of Oceanside, east of Camp Pendleton, south of the Riverside County border, and west of the I-15. A proposal vicinity map and copy of the key proposal materials are attached.

**II. Proposal Purpose**

The purpose of the proposal is to activate the Fallbrook PUD’s latent powers for exercise of the following functions with specified classes: parks and recreation (development/maintenance); roads, streets and highways (improvement/maintenance); and street lighting. Activation of the specified latent powers would authorize the Fallbrook PUD to exercise the designated functions and provide the associated service classifications within its existing jurisdictional service area and sphere of influence. The Fallbrook PUD has submitted a resolution of application, provided a plan for services, and has determined the proposal is either not subject to the California Environmental Quality Act (CEQA) or is categorically exempt from environmental review per State CEQA Guidelines.

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**Mary Casillas Salas**  
 City of Chula Vista

**Bill Wells**  
 City of El Cajon

**Paul McNamara, Alternate**  
 City of Escondido

**Mark Kersey**  
 City of San Diego

**Chris Cate, Alternate**  
 City of San Diego

**Jo MacKenzie**  
 Vista Irrigation

**Barry Willis**  
 Alpine Fire Protection

**Erin Lump, Alternate**  
 Rincon del Diablo MWD

**Andy Vanderlaan, Vice Chair**  
 General Public

**Harry Mathis, Alternate**  
 General Public

### III. LAFCO Considerations

An initial review of the proposal identifies the following pertinent item(s) germane to LAFCO staff’s review and ahead of the Commission’s deliberations:

#### Latent Powers Activation Timing -

The timing of the proposed latent powers activation serves as the primary focus of the analysis given the affected territory is entirely located within the existing sphere of influence and jurisdictional boundary of the Fallbrook PUD. This analysis is prefaced on addressing the factors required for Commission consideration of proposed jurisdictional changes and enumerated under Government Code 56668. The majority of the prescribed review factors for the proposed latent powers activation will focus on the service and financial capacities of the subject agency, Fallbrook PUD.

### IV. Proposal Referrals

This proposal notice and preliminary staff report is being provided to all of the following agencies:

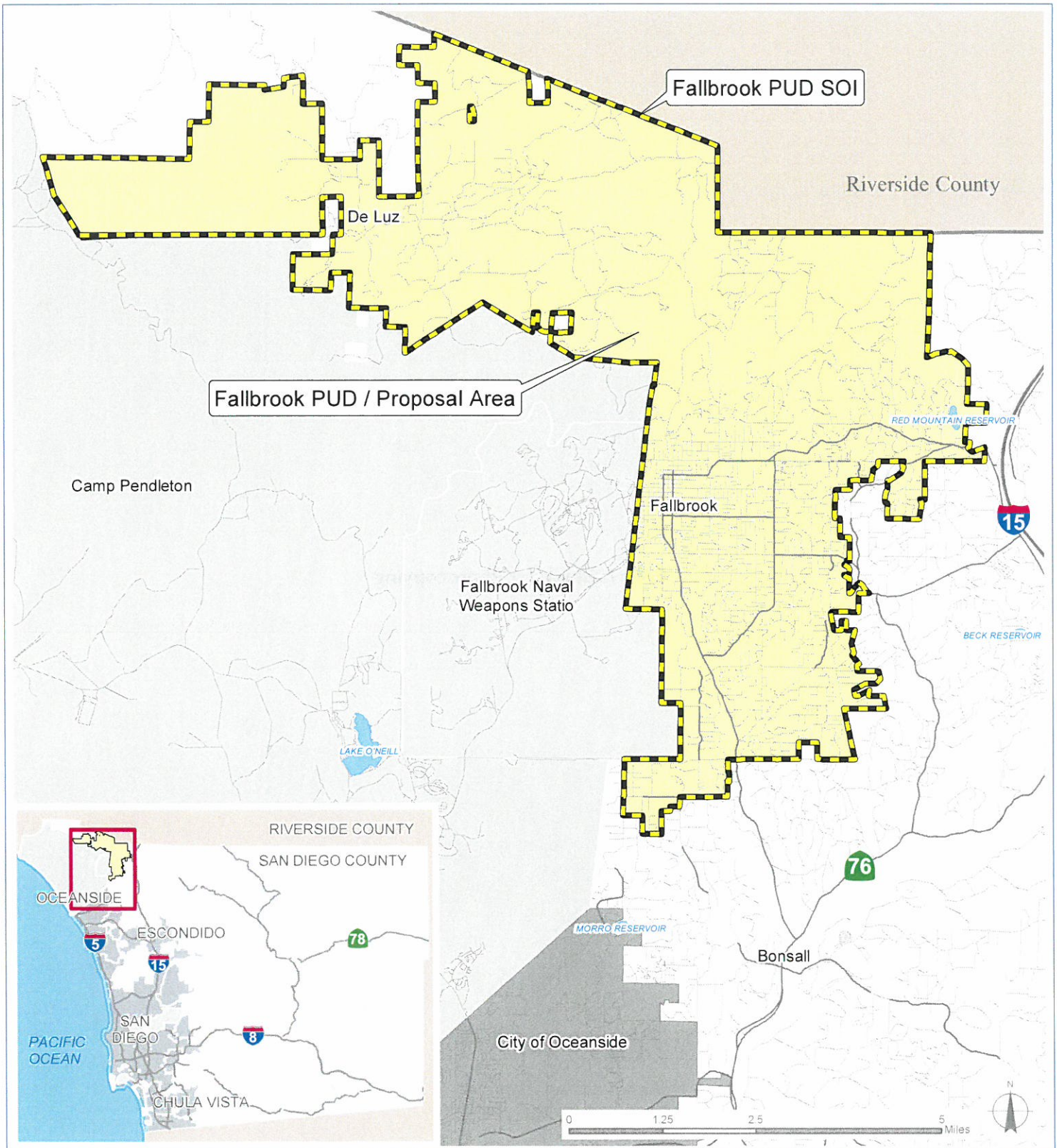
- County of San Diego | County Service Area No. 81 (Fallbrook Local Parks); County Service Area No. 135 (Regional Communications); Department of Planning and Development Services; Auditor/PTS; Assessor/Mapping; San Diego County Flood Control District; San Diego County Street Lighting District; District 5, Office of Supervisor Desmond
- Fire Protection | North County Fire Protection District; San Diego County Fire Authority
- Water District | San Diego County Water Authority; Metropolitan Water District of SC
- Other Agencies | Fallbrook Union Elementary School District; Fallbrook Union High School District; Palomar Community College District; Fallbrook Regional Healthcare District; Mission Resource Conservation District; Fallbrook Community Planning Group

### V. Review and Comment

All interested agencies and related stakeholders are invited to review and submit comments on the proposal – including any requested terms – by **Friday, February 21, 2020**. Comments should be directed to LAFCO Chief Analyst Robert Barry at [robert.barry@sdcounty.ca.gov](mailto:robert.barry@sdcounty.ca.gov).

#### Attachments:

- 1) Proposed Latent Powers Activation Area Vicinity Map
- 2) Proposal Materials – Resolution of Application, Plan for Services



LP(a)19-27

**PROPOSED "FALLBROOK PUD LATENT POWERS ACTIVATION - PARK AND RECREATION ET AL." | ACTIVATION OF THE FALLBROOK PUD'S LATENT POWERS FOR PARK AND RECREATION; ROADS, STREETS, AND HIGHWAYS; AND STREET LIGHTING FUNCTIONS**

- Fallbrook PUD / Proposal Area
- Fallbrook PUD SOI

SOI = Sphere of Influence



**San Diego County**  
**Local Agency Formation Commission**  
 Regional Service Planning | Subdivision of the State of California

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**RESOLUTION NO. 4983**

**A RESOLUTION OF APPLICATION BY THE FALLBROOK PUBLIC UTILITY DISTRICT REQUESTING THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION APPROVE ACTIVATION OF THE POWER TO EXERCISE PARKS AND RECREATION, STREET LIGHTING, AND ROADS AND STREETS FUNCTIONS WITHIN ITS BOUNDARIES AS MORE PARTICULARLY DESCRIBED HEREIN AND FINDING THAT THE ACTION IS NOT A "PROJECT" UNDER CEQA OR IS, ALTERNATIVELY, EXEMPT FROM CEQA**

**WHEREAS**, the Fallbrook Public Utility District ("FPUD") is a Public Utility District organized under the Public Utility District Act, (Public Utility Code § 15500 et seq.), authorized to provide water, wastewater, and reclaimed water services, within all or part of its boundaries; and

**WHEREAS**, the Board of Directors of FPUD desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code for the activation of the power to exercise parks and recreation, street lighting, and roads and streets functions within its boundaries as more particularly described herein; and

**WHEREAS**, the Board of Directors of FPUD specifically requests that the San Diego Local Agency Formation Commission (LAFCO) approve activation of the District's power to exercise parks and recreation, street lighting, and roads and streets functions within its boundaries, specifically with regard to the services set forth in Public Utilities Code section 16463, as follows: public parks, public playgrounds, public recreation buildings, buildings used for a public purpose, street lighting systems and works to provide for the drainage of roads, streets, and public places, including but not limited to, curbs, gutters, sidewalks, and pavement of streets ("Public Park and Recreation Facilities/ Street Lighting and Road Improvements Powers" or "Activated Powers"); and

**WHEREAS**, the reason for the proposed activation of powers is to permit FPUD to exercise the Activated Powers in a manner that supplements and not replaces services provided by the County within the area; and

**WHEREAS**, FPUD proposes to exercise and fund the Activated Powers as more particularly described in the draft Plan for Services attached hereto as Exhibit "A," and by this reference incorporated herein; and

**WHEREAS**, a map of the external boundary of FPUD is attached hereto as Exhibit "B," and by this reference incorporated herein; and

**WHEREAS**, this proposal is consistent with the sphere of influence of the FPUD;  
and

**WHEREAS**, the approval of the power to exercise the Activated Powers is not a project within the meaning of CEQA because it does not have the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change to the environment. (Pub. Res. Code § 21065; CEQA Guidelines § 15378(a). The activation of powers itself will not change any existing land use or result in construction of new parks or buildings. Rather, the activation will involve re-allocation of FPUD's existing property tax revenue to support and enhance existing parks and recreation services, street lighting services, and street and road drainage services that are currently provided by other entities. Further, the activation of powers does not authorize any construction or development of land. If a construction or development project is proposed in the future, the proposed construction or development would be subject to environmental review as appropriate at that time; and

**WHEREAS**, even if the approval of the power to exercise the Activated Powers is considered a "project" within CEQA's meaning, it is exempt under the Class 1 exemption for existing facilities (CEQA Guidelines § 15301) as the activation would provide a stable source of funding for maintenance and/or minor alterations of existing parks, playgrounds, recreation or other public buildings, street lighting, curbs, gutters, sidewalk and street pavement. The maintenance and/or minor alterations will not expand, or will result in only negligible expansion of, the existing use of the parks, playgrounds, recreation or other public buildings, street lighting, curbs, gutters, sidewalk and street pavement. There is no evidence that the activation involves any unusual circumstances that might cause a significant effect on the environment. (CEQA Guidelines § 15300.2(c).); and

**WHEREAS**, even if the approval of the power to exercise the Activated Powers is considered a "project" within CEQA's meaning, it is exempt under the Class 20 exemption for changes in the organization of local agencies. (CEQA Guidelines § 15320.) Under section 15320, changes in the organization of a local governmental agency are exempt if the changes do not modify the geographical area in which previously existing powers are exercised. This exemption applies because activation of latent powers is a "change of organization" under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and because the activation does not change the District's geographical area or the geographical area within which the District exercises its powers. This exemption also applies because the County of San Diego already exercises these powers within the District's boundaries and as such, there is no

expansion of powers. Finally, the exemption applies because the proposed activation simply seeks authorization from LAFCO to activate powers that the District already possesses under the Public Utility District Act. There is no evidence that the activation involves any unusual circumstances that might cause a significant effect on the environment. (CEQA Guidelines § 15300.2(c).); and

**WHEREAS**, even if the approval of the power to exercise the Activated Powers is considered a “project,” it is also exempt under the “common sense” exemption because it can be seen with certainty that there is no possibility that activation may have a significant effect on the environment. (CEQA Guidelines § 15061(b)(3).) The activation will leverage existing administrative and procurement resources to help better execute projects to support community facilities and public projects within the scope of the activated powers. There is no possibility that activation—which will simply support and enhance existing services—could have a significant impact on the environment. Further, the activation of powers itself does not authorize any construction or development of land. If a construction or development project is proposed in the future, the construction or development would be subject to environmental review as appropriate at that time. Because the site and project-specific details of any potential future construction or development project are unknown at this time, impacts of such potential future development are speculative; and

**WHEREAS**, the Board of Directors has considered all written and/or oral comments or testimony made by any affected local agency, affected county or any interested person submitted prior to or at the public hearing scheduled and held on November 8, 2019, the notice for which was published pursuant to Government Code sections 56153 and 56154.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Directors of the Fallbrook Public Utility District as follows:

1. **Recitals.** The forgoing recitals are true and correct and are incorporated herein and are made an operative part of this Resolution of Application.
2. **Public Hearing.** As the decision-making body for the Fallbrook Public Utility District, the Board of Directors has considered all written and/or oral comments or testimony made by any affected local agency, affected county, or any interested person submitted prior to or at the public hearing scheduled and held on November 8, 2019 on the Resolution of Application. Notice of the public hearing was published pursuant to the requirements of Government Code sections 56153 and 56154 as required by Government Code section 56824.14.
3. **CEQA Compliance.** For all the reasons set forth in the above Recitals, and based upon all of the substantial evidence in the record as a whole, the Board of

Directors of the Fallbrook Public Utility District finds that the approval of the power to exercise the Activated Powers: (1) is not a "project" subject to environmental review under CEQA pursuant to Public Resources Code § 21065 and State CEQA Guidelines § 15378 (a); (2) alternatively, is exempt from CEQA under the Class 1 exemption for existing facilities (CEQA Guidelines § 15301); (3) alternatively, is exempt from CEQA under the Class 20 exemption as a "change in organization" (State CEQA Guidelines § 15320); (4) alternatively, is exempt from CEQA under the "common sense" exemption because it can be seen with certainty that there is no possibility that activation may have a significant effect on the environment. (CEQA Guidelines § 15061(b)(3).); and (5) none of the exceptions to the application of these exemption exist under State CEQA Guidelines § 15300.2.

- a. The Board of Directors hereby directs that all documents and other materials constituting the record of proceedings related to this Resolution of Application for approval of the power to exercise the Activated Powers, be maintained by the General Manager of the Fallbrook Public Utility District, or his designee, on file at the Fallbrook Public Utility District 990 East Mission Road, Fallbrook, CA 92028.
  - b. The Board of Directors directs Staff to file a Notice of Exemption with the County Clerk for the County of San Diego.
4. **Adoption.** This Resolution of Application is hereby adopted and approved by the Board of Directors of the Fallbrook Public Utility District and San Diego LAFCO is hereby requested to initiate proceedings as authorized and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 for the activation of the FPUD's power to exercise parks and recreation, street lighting, and roads and streets functions within its boundaries, specifically with regard to the Activated Powers described herein.
  5. **Plan for Services.** The Board of Directors directs staff to finalize the draft Plan for Services attached hereto as Exhibit "A."
  6. **Submission of Resolution of Application and other Application Materials.** The Board of Directors further authorizes and directs the Fallbrook General Manager to file a certified copy of this Resolution of Application together with the required LAFCO application, finalized Plan for Services, FPUD map and other documents with the Executive Officer of the San Diego Local Agency Formation Commission.



7. **Effective Date.** This Resolution shall take effect immediately upon adoption by the Board of Directors of the Fallbrook Public Utility District.

**PASSED AND ADOPTED** by the Board of Directors of the Fallbrook Public Utility District at a special meeting of the Board held on the 8th day of November, 2019, by the following vote:

AYES: Directors Baxter, DeMeo, McDougal, and Wolk  
NOES: None  
ABSTAIN: None  
ABSENT: Director Endter

  
\_\_\_\_\_  
President, Board of Directors

ATTEST:

  
\_\_\_\_\_  
Secretary Board of Directors

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**Fallbrook Public Utility District**  
**Plan for Providing**  
**Activated Powers Services**  
**Prepared by FPUD Staff**  
**July 29, 2019**

## Background of District

### History

Fallbrook is an unincorporated community in San Diego County. The first permanent recorded settlement in Fallbrook was in 1869, in the east area of the District, which later became Live Oak County Park. While agriculture has always played a major role in the community, the first plantings were olives and citrus. These crops were replaced in the 1920's by avocados and it wasn't long before Fallbrook became generally recognized as the "Avocado Capital of the World."

Fallbrook Public Utility District (District) was formed on June 5, 1922 to serve water from local area wells along the San Luis Rey River. Soon after it was established, the District began to grow. Annexations into the District have expanded the service area from 500 acres to 28,000 acres (44 square miles). To meet the growing demand for water, additional ground water supplies were developed along both the San Luis Rey and Santa Margarita rivers.

The District became a member of the San Diego County Water Authority (SDCWA) at SDCWA's formation on June 9, 1944, and thus was eligible to receive a portion of Colorado River water that would be diverted by the Metropolitan Water District of Southern California (MWD). When Colorado River water became available in 1948, consumption within the District gradually increased to approximately 10,000 acre-feet per year by 1959. Then in 1978, MWD augmented its supply system with water from the California State Water Project and began delivering water from both systems to San Diego County. Today, the SDCWA provides virtually all of the District's potable water through direct connections to MWD pipelines in Southwest Riverside County.

### Governance and Organizational Structure

The District's Board is made up of five community members who serve overlapping four-year terms. In March 2016, the Board unanimously approved a resolution to change the method of electing board members to "election by district" and approved a map identifying five territorial units within the District. Each director, therefore, is elected by the registered voters of the sub-district in which he or she resides within the District's service area. To run for office, a candidate must live in the area he or she is running to represent, must be at least eighteen years of age, a citizen of the State of California, and a registered voter in the County of San Diego. Prior to 2016, directors would win a seat on the board by being the top vote-getters, regardless of where they lived within the District.

### Current Board of Directors:

**District #1 – Dave Baxter**

**District #2 - Ken Endter**

**District #3 - Jennifer DeMeo, Vice-President**

**District #4 - Don McDougal, President**

**District #5 - Charley Wolk**

### Service Area and Local Economy

San Diego County is the second-most populous county in the state and the fifth-most populous in the United States. The District is located in the north-east region of the county and is rural in character. The District is bordered to the west by the Naval Weapons Station and U.S. Marine Corps Base Camp Pendleton, making the District's service area a bedroom community for Camp Pendleton's active military and civilian-service workers. The service area's 2017 population is estimated to be 34,330 with 11,418 households. Fallbrook's population has remained relatively unchanged over the past several years.

The median household income in Fallbrook was \$60,510, which is less than the state median of \$67,739 and slightly higher than the national average of \$59,039. San Diego County's unemployment rate is 3.7%, which is lower than the State's 4.3%.

The San Diego Association of Governments (SANDAG) projects that the County's population will approach 4.4 million residents in 2050, up from 3.3 million in 2016. The District's 2050 housing density is expected to increase slightly as housing demands increase. Employment is also expected to slightly increase by 2050.

### Enumeration and Description of the Services to be Provided

The District seeks approval to exercise parks and recreation, street lighting, and roads and streets functions within its boundaries, specifically with regard to the services set forth in Public Utilities Code section 16463, as follows: public parks, public playgrounds, public recreation buildings, buildings used for a public purpose, street lighting systems and works to provide for the drainage of roads, streets, and public places, including but not limited to, curbs, gutters, sidewalks, and pavement of streets ("Public Park and Recreation Facilities/ Street Lighting and Road Improvements Powers" or "Activated Powers") within the boundaries of the district. This request is based on a request from local non-profit groups that are currently providing these services. The intent is, that if approved by LAFCO, the District would exercise its Activated Powers as a supplement to and not replacement to services provided by the County within the area.

The existing service providers for many of the parks and recreation services are through non-profit entities, such as the Fallbrook Village Association, Save our Forest, Fallbrook Beautification Alliance, Live Oak Park Coalition, The Fallbrook Trails Council and the Fallbrook Land Conservancy. These funds would help support and enhance these efforts. County Service Area (CSA) 81 also provides park and recreation services to County owned facilities within the proposed area. If approved the District would be authorized to provide additional Public Park and Recreation Facilities/ Street Lighting and Road Improvements in addition to what is currently provided through CSA 81.

A summary of potential projects, identified by the community groups, is summarized below:

Installation and maintenance of trees, planters, lighting and benches in public spaces. Improvements to preserves, pocket parks, and community areas. Creation and/or expansion of parks and preserves, including but not limited to: The Railroad Heritage Park, a skate park, and an agriculture park. Ongoing maintenance for the abovementioned parks and preserves, as well as other projects identified by the community.

### Level and range of services to be provided

The total amount of support provided by the District for additional Activated Powers services will be based on the available funding and a priority list of projects identified. The priority list of projects will be developed by a volunteer committee appointed by the District Governing Board. The Activated Powers volunteer committee will recommend a list of projects and anticipated costs to the District Board for approval. A summary of the proposed organization of the oversight committee and a draft of potential policy and procedures to be adopted by the FPUD Board for this oversight committee are included in Exhibit A.

The types of projects and services to be provided are summarized above.

#### An indication of when services can feasible be extended

Since this request does not require any reorganization or additional staffing it is anticipated the services can be initiated with 3-4 months after LAFCO approves the Activated Powers. From a financial accounting and budget control perspective, it is preferred to initiate services at the start of the Fiscal Year (July 1), so that the new additional Activated Powers fund can be initiated as part of the District budget adoption process.

#### Required Improvements or Upgrades of Facilities

It is not anticipated that the District will require additional property or facilities to exercise the Activated Powers.

#### Total Estimated cost to provide services

The initial allocation of funds is based on a proposed reallocation of existing property tax revenues from the water enterprise, of an amount equivalent to \$5 per meter per month for a total of \$546,420 (approximately 60% of the District-Wide Property Tax Revenues). The District will only provide funding and services for additional Activated Powers services within the allocated funding amount. If funding is fully allocated, no additional projects related to the Activated Powers will be undertaken until further revenue is collected. If the amount allocated is not spent in a given fiscal year, it will remain in the Activated Powers enterprise fund for subsequent use.

#### Existing Service Providers

##### Governmental

County of San Diego: The County currently provides park and recreation services in the district 44 square mile service area. It also collects additional funds through CSA 81 to provide services at county owned facilities. The county owned facilities in the service area include:

- Santa Margarita Preserve: 221 acres
- Fallbrook Community Center: Playfields and meeting areas
- Don Dussault County Park: 0.75 acre playground

- Clemmens Lane Park: Playfields and picnic area

Wildlands Conservancy: Owns and manages the 1380 acre Santa Margarita River Preserve that provides recreation opportunities for hiking, horseback riding and mountain biking.

Fallbrook Land Conservancy: Owns and manages multiple preserves in the District service area that are open to the public for recreation. Owns and manages a historic building, meeting space & sculpture garden available for public use.

Fallbrook Sports Association: Manages sports programs at Ingold Sports Park on County airport property through an agreement with the County.

Fallbrook Village Association: Owns and manages Jackie Heyneman Park, Vince Ross square and the Railroad Heritage Park.

Fallbrook Beautification Alliance: Keep Fallbrook litter free program, Graffiti abatement, Flower pots on Main Ave., Mission Medians and shared responsibility for Welcome Home Military Flag

Save our Forest: Installation and stewardship of community trees and benches, stewardship of Pico Promenade, environmental education program for elementary schools in the District service area, and shared responsibility for Welcome Home Military Flag.

Fallbrook Art Association: Art in Public Places

#### Latent Powers Proposal

The request will include the activation of the additional Public Park and Recreation Facilities/ Street Lighting and Road Improvements functions specifically with regard to the services set forth in Public Utilities Code Section 16463, as follows: public parks, public playgrounds, public recreation buildings, buildings used for a public purpose, street lighting systems and works to provide for the drainage of roads, streets, and public places, including but not limited to, curbs, gutters, sidewalks, and pavement of streets. There is no requested change to any other existing service being provided by the District.

#### Plan for Financing the establishment of a new of different service function

The proposed Activated Powers related to the Parks and Recreation function would largely be provided through existing nonprofit entities providing public parks and recreation services (public parks, public playgrounds, public recreation buildings, buildings used for a public purpose, The District currently projects to collect a total of \$1,918,296 of property tax revenue, some of which (a projected \$912,422) comes from property tax on parcels in the entire District ("District-Wide Property Tax Revenues"), The District currently allocates the District-Wide Property Tax Revenues to the water enterprise as described in more detail below. The District also collects additional property tax for parcels within the sewer service area, which is collected from properties within only a portion of the District boundary (Improvement District "S"). To support the Activated Powers, the District proposes to allocate 60% of the projected District-Wide Property Tax Revenues (a projected \$546,420) to fund a new Activated Powers enterprise fund. As stated above, the District currently allocates the District-Wide Property Tax Revenues to the District's water enterprise—using the funds to pay a portion of the District cash funded

(PAYGO) water capital improvement program which funds water infrastructure replacement and rehabilitation. The PAYGO CIP program is budgeted to be between \$3 - \$5 million per year. The reallocation of the District-Wide Property Tax Revenues would require the District to charge additional fees to maintain the currently targeted fund balances for its water enterprise and offset the loss in PAYGO CIP revenues. Any additional fees charged by the District will need to be part of a separate rate setting process that must comply with Proposition 218 requirements.

Alternatives for establishing new or different functions or classes of services.

The coalition of community groups involved in this effort evaluated a number of alternatives before requesting that the District submit a request for expansion of services:

1. Establishment of a landscape and lighting District under the County: This alternative was explored in detail with the county, but it was determined by the coalition of groups that a preference for local control of the funds was preferred. The county had also initially indicated a need for a substantial overhead cost to establish the new funding mechanism, which would reduce the amount of funds available to invest back in the community.
2. Establishment of a new parcel tax. Due to the time and expense to establish a new parcel tax, the coalition identified the utilization of existing property tax revenue as a preferred alternative.