

AGENDA

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

**SAN BERNARDINO CITY COUNCIL CHAMBERS
300 NORTH D STREET, FIRST FLOOR, SAN BERNARDINO**

REGULAR MEETING OF DECEMBER 16, 2015

9:00 A.M. – CALL TO ORDER – FLAG SALUTE

ANNOUNCEMENT: Anyone present at the hearing who is involved with any of the changes of organization to be considered and who has made a contribution of more than \$250 in the past twelve (12) months to any member of the Commission will be asked to state for the record the Commission member to whom the contribution has been made and the matter of consideration with which they are involved.

CONSENT ITEMS:

The following consent items are expected to be routine and non-controversial and will be acted upon by the Commission at one time without discussion, unless a request has been received prior to the hearing to discuss the matter.

1. Approval of Minutes for Regular Meeting of November 18, 2015
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Month of November 2015 and Note Cash Receipts
4. Consideration of: (1) CEQA Statutory Exemption for LAFCO SC#402; and (2) LAFCO SC#402 – City of San Bernardino Irrevocable Agreement to Annex for Sewer Service (APN: 0268-291-09 Muscoy)
5. Consideration of Fee Reduction Request by the City of Needles/San Bernardino County Fire Protection District for its Reorganization Proposal to Annex the City of Needles Territory to the San Bernardino County Fire Protection District

PUBLIC HEARING ITEMS:

6. Consent Items Deferred for Discussion

DISCUSSION ITEMS:

7. ***CONTINUED FROM THE NOVEMBER 18, 2015 HEARING*** - Presentation Required Pursuant to Policy and Procedure Manual Section IV- Application Processing, Chapter 1 – Proposals, Policy 11 –Island Annexation Pursuant to Government Code Section 56375.3 -- Proposed Annexation to the City of Rialto and West Valley Water District of the Lytle Creek Ranch Specific Plan Anticipating the Development of more than 500 Units

8. **WORKSHOP:**
Outline of Issues Related to Commission Consideration of LAFCO 3197/3198 – City of San Bernardino Fire Reorganization with the San Bernardino County Fire Protection District and LAFCO 3199/3200 Twentynine Palms Fire Reorganization with the San Bernardino County Fire Protection District

INFORMATION ITEMS:

9. Legislative Update Report
10. Executive Officer's Report
11. Commissioner Comments
(This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken on off-agenda items unless authorized by law.)
12. Comments from the Public
(By Commission policy, the public comment period is limited to five minutes per person for comments related to items under the jurisdiction of LAFCO.)

The Commission may adjourn for lunch from 12:00 to 1:30 p.m. The Commission may take action on any item listed in this Agenda whether or not it is listed For Action. In its deliberations, the Commission may make appropriate changes incidental to the above-listed proposals.

Materials related to an item on this Agenda submitted to the Commission or prepared after distribution of the agenda packet will be available for public inspection in the LAFCO office at 215 N. D St., Suite 204, San Bernardino, during normal business hours, on the LAFCO website at www.sbclafco.org, and at the hearing.

Current law and Commission policy require the publishing of staff reports prior to the public hearing. These reports contain technical findings, comments, and recommendations of staff. The staff recommendation may be accepted or rejected by the Commission after its own analysis and consideration of public testimony.

IF YOU CHALLENGE ANY DECISION REGARDING ANY OF THE ABOVE PROPOSALS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED DURING THE PUBLIC TESTIMONY PERIOD REGARDING THAT PROPOSAL OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE LOCAL AGENCY FORMATION COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.

The Political Reform Act requires the disclosure of expenditures for political purposes related to a change of organization or reorganization proposal which has been submitted to the Commission, and contributions in support of or in opposition to such measures, shall be disclosed and reported to the same extent and subject to the same requirements as provided for local initiative measures presented to the electorate (Government Code Section 56700.1). Questions regarding this should be directed to the Fair Political Practices Commission at www.fppc.ca.gov or at 1-866-ASK-FPPC (1-866-275-3772).

A person with a disability may contact the LAFCO office at (909) 388-0480 at least 72-hours before the scheduled meeting to request receipt of an agenda in an alternative format or to request disability-related accommodations, including auxiliary aids or services, in order to participate in the public meeting. Later requests will be accommodated to the extent feasible.

Prepared 11/19/2015

**DRAFT - ACTION MINUTES OF THE - DRAFT
LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2015**

REGULAR MEETING

9:00 A.M.

NOVEMBER 18, 2015

PRESENT:

COMMISSIONERS:	Jim Bagley	Larry McCallon
	Kimberly Cox, Vice-Chair	James Ramos
	James Curatalo, Chair	Acquanetta Warren, Alternate
	Steve Farrell, Alternate	Diane Williams

STAFF:

Kathleen Rollings-McDonald, Executive Officer
Clark Alsop, LAFCO Legal Counsel
Michael Tuerpe, Project Manager
Rebecca Lowery, Clerk to the Commission
Bob Aldrich, LAFCO Consultant

ABSENT:

COMMISSIONERS:	Robert Lovingood	Sunil Sethi, Alternate
	Janice Rutherford, Alternate	

9:05 A.M. – CALL TO ORDER – FLAG SALUTE

Chairman Curatalo calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Chairman Curatalo requests those present who are involved with any of the changes of organization to be considered today by the Commission and, have made a contribution of more than \$250 within the past twelve months to any member of the Commission, to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

CONSENT ITEMS – APPROVE STAFF RECOMMENDATION:

The following consent items are expected to be routine and non-controversial and will be acted upon by the Commission at one time without discussion, unless a request has been received prior to the hearing to discuss the matter.

1. Approval of Minutes for Regular Meeting of October 21, 2015
2. Approval of Executive Officer's Expense Report

3. Ratify Payments as Reconciled for Month of October 2015 and Note Cash Receipts
4. Consideration of: (1) CEQA Statutory Exemption for LAFCO 3191; and (2) LAFCO 3191 – Reorganization to include Annexations to the City of Rialto and West Valley Water District and Detachments from San Bernardino County Fire Protection District and its Valley Service Zone, and County Service Area 70 (Boral Roofing)

LAFCO considered the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer's amended expense report, ratification of payments as reconciled for the month of October, and LAFCO 3191. Copies of each report are on file in the LAFCO office and are made part of the record by their reference herein.

Executive Officer Kathleen Rollings-McDonald says that an amended expense report has been provided to the Commission.

Chairman Curatalo calls for requests for deferral from Commissioners or staff; there are none.

Commissioner McCallon moves approval of the consent calendar, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos.

PUBLIC HEARING ITEMS:

ITEM 5. CONSENT ITEMS DEFERRED FOR DISCUSSION

No items deferred for discussion.

ITEM 6. CONSIDERATION OF REQUEST FOR EXEMPTION FROM GOVERNMENT CODE SECTION 56133 FOR LAFCO SC#401 – OUTSIDE SERVICE AGREEMENT FOR POTABLE WATER SERVICE BETWEEN THE CITY OF BIG BEAR LAKE'S DEPARTMENT OF WATER AND POWER AND COUNTY SERVICE AREA 53 ZONE C

Commissioner Curatalo opens the public hearing for LAFCO SC#401.

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO SC#401, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Notice of the Commission's consideration of this application was published in a newspaper of general circulation within the area, *The Grizzly*, through an 1/8th page legal ad in-lieu of individual notice as authorized by statute.

Executive Officer Kathleen Rollings-McDonald reviews Government Code Section 56133 that requires that contracts between two or more public agencies require Commission review. She states that the legislature amended these provisions to allow for instances where an exemption may be appropriate. She states that on October 6, 2015, the City of Big Bear Lake Department of Water and Power (hereafter "DWP") submitted its request that the Commission determine that the proposed Water Services Agreement between DWP and County Service Area 53 Zone C

(hereafter CSA 53 C or the "District") is exempt from the provisions of Government Code Section 56133, as authorized by Subsection (e), from the Moon Camp development project. She states that the Moon Camp project proposes the development of 50 residential units and 7 lettered lots on 62 acres of land along the north shore of Big Bear Lake, a part of the larger Fawnskin community.

Ms. McDonald states that over the last fourteen or so years, LAFCO staff has commented on the EIR and the several recirculated EIRs for the Moon Camp project, and that in all of these environmental documents, the question of water service provision for the project has included a discussion of service delivery through the DWP. She states that the exemption determination is required to move forward with the completion of this agreement since the territory of the Moon Camp project is not within the sphere of influence of the City of Big Bear Lake, and that after reviewing the materials presented for SC#401, it is the staff's position that the findings identified in Subsection (e) of Section 56133 are applicable; therefore, the agreement between the DWP and CSA 53C should be exempted from further LAFCO review. Ms. McDonald reviews the findings as noted in the staff report and asks that the Commission determine that LAFCO SC#401 complies with the exemption criteria listed within Government Code Section 56133 Subsection (e) and, therefore, does not require Commission approval to proceed.

Commissioner Farrell asks why the contract does not include those areas that use well water. Ms. McDonald states that staff has been requested solely to review the development project, and the ability to address those well water users presents a different service scenario. In addition, no interest to be included has been expressed by the home owners.

Chairman Curatalo calls for comments. There being none, closes the public hearing.

Commissioner Bagley moves approval of staff recommendations for LAFCO SC#401, second by Commissioner Cox. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos.

ITEM 7. CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION PREPARED BY COUNTY OF SAN BERNARDINO FOR PLANNED DEVELOPMENT, GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE FROM SINGLE RESIDENTIAL 20,000 SQ. FT. MINIMUM TO SPECIAL DEVELOPMENT-PLANNED RESIDENTIAL DEVELOPMENT, AND TENTATIVE TRACT 18902 TO CREATE 36 LOTS ON 6.86 ACRES, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#400; AND (2) LAFCO SC#400 – CITY OF CHINO IRREVOCABLE AGREEMENT TO ANNEX FOR WATER AND SEWER SERVICE (TENTATIVE TRACT 18902 -- APNS 1016-521-03, -04, AND -05)

Commissioner Curatalo opens the public hearing for LAFCO SC#400.

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO SC#400, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Notice of the Commission's consideration of this application was published in a newspaper of general circulation within the area, *The Inland Valley Daily Bulletin*, along with individual notice to landowners and registered voters surrounding the site.

Ms. McDonald states that the City of Chino has submitted a request for approval of an irrevocable agreement to annex that outlines the terms by which it will extend water and sewer service. She states that the property owner/developer has processed a Planned Development and Tentative Tract (TT18902) on 6.86 acres, which was approved by the County Board of Supervisors on November 4, 2014. She states that for the project to record the final tract map, the property owner/developer requires the completion of the contract process for the receipt of water and sewer service.

Ms. McDonald states that the City has indicated that while the service contract area is contiguous to City boundaries, its annexation at this time would not provide for a logical and efficient boundary for delivery of the full-range of City services. Therefore, the City has agreed to the processing of the out-of-agency service contract for water and sewer service to allow for the development of the 36-lot subdivision. She states that the plan for service in the City's application indicates that an existing 8-inch water main and an 18-inch sewer main front the property on Pipeline Avenue, and that water and sewer service will be provided through respective main lines and laterals to these facilities to be constructed by the owner; she reviews the construction costs.

Ms. McDonald states that staff has reviewed this request for authorization to provide water and sewer service from the City of Chino outside of its corporate boundaries against the criteria established by Commission policy and Government Code Section 56133, and that staff supports the City's request for authorization to provide service since its facilities are adjacent to the anticipated development. She reviews the project's determinations and states that LAFCO's Environmental Consultant, Tom Dodson and Associates, have indicated that the County's Initial Study and Negative Declaration are adequate for the Commission's use as a CEQA responsible agency. Ms. McDonald requests that the Commission approve staff recommendations as outlined in the staff report.

Chairman Curatalo calls for comments. There being none, closes the public hearing.

Commissioner McCallon moves approval of staff recommendations for LAFCO SC#400, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos.

DISCUSSION ITEMS:

ITEM 8. PRESENTATION REQUIRED PURSUANT TO POLICY AND PROCEDURE MANUAL SECTION IV- APPLICATION PROCESSING, CHAPTER 1 – PROPOSALS, POLICY 11 –ISLAND ANNEXATION PURSUANT TO GOVERNMENT CODE SECTION 56375.3 -- PROPOSED ANNEXATION TO THE CITY OF RIALTO AND WEST VALLEY WATER DISTRICT OF THE LYTLE CREEK RANCH SPECIFIC PLAN ANTICIPATING THE DEVELOPMENT OF MORE THAN 500 UNITS

(It is noted that Commissioner Ramos arrives at the dais at 9:24 a.m.)

Executive Officer Kathleen Rollings-McDonald presents the staff report for the Application

Processing Policy related to Island Annexations, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

Ms. McDonald states that in September 2011, the Commission modified its Island Annexation Policy removing the requirement for a City to initiate the annexation of its islands meeting the statutory definitions in Government Code Section 56375.3 when considering a major development application. This amendment was based upon two changes in circumstances: (1) the passage of SB 89 by the legislature removing the discretionary Motor Vehicle In-lieu fee on a per capita basis from newly incorporated cities and inhabited annexations made the determination of sustainability for service delivery questionable; and (2) the continuing desire of the Commission to look at these issues on a case-by-case basis. She states that part of the language of the policy requires that LAFCO staff shall, within 90-days of submission, place an item on the Commission's discussion calendar to review that City's unincorporated island areas which meet the criteria identified in Government Code Section 56375.3. She states that in September 2015, the City of Rialto submitted an application for annexation of two portions of the adopted Lytle Creek Rancho Specific Plan, and that the annexation proposal includes the anticipated development of 3,187 residential units and 235,645 square feet of commercial development. She states that there are five individual island areas which meet the criteria in Government Code Section 56375.3 of less than 150 acres, substantially or totally surrounded, etc., and in close proximity to the project. The islands and are shown in the staff report. Specifically excluded from that discussion is the area commonly known as El Rancho Verde as it is 212 acres in size.

Ms. McDonald says that staff was unable to gather the financial data and review the matter with the affected agencies in order to address the policy criteria at the November hearing. Therefore staff is requesting that the Commission continue this item to the December 16th hearing.

Chairman Curatalo calls for comments from the public, there are none.

Commissioner McCallon moves to approve staff recommendations, second by Commissioner Ramos. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: Lovingood

INFORMATION ITEMS:

ITEM 9 LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald provides an oral legislative report update and states that there is little activity since the new legislative year has not begun, and that she participated in a CALAFCO University course that discussed the implications of SB 88 regarding water. From these discussions, the legislative theme for the upcoming session remains the same. Issues regarding water conservation and drinkable water continue to be at the forefront. She states that CALAFCO continues to work with the state on the water issues, and that she will continue to monitor and keep the Commission apprised of information as it becomes available.

Ms. McDonald states that she will be attending the CALAFCO Legislative Committee Meeting in Sacramento on December 11. Chairman Curatalo states that CALAFCO is preparing for the upcoming year with planning for the new legislature, and that there are a large number of bills for

the CALAFCO Executive Director to track and that the CALAFCO Executive Director is doing a fine job. Ms. McDonald states that the San Bernardino County legislative contingency is a remarkable group and that next year will be a busy time.

ITEM 10 EXECUTIVE OFFICER'S ORAL REPORT:

Executive Officer Kathleen Rollings-McDonald states it will be necessary to conduct a Commission hearing in the month of December in a workshop session to provide an overview of two large projects involving the county fire protection district and the City of San Bernardino and Twenty-nine Palms Water District. She states that staff has received an application from the Wrightwood community for the formation of a CSD. That proposal crosses county lines, and staff will be working with Los Angeles LAFCO on it.

Ms. McDonald states that next year will be a busy year for staff as they are anticipating receiving a number of applications. She states that three of the commissioners have terms that are expiring in 2016; Commissioners Cox, Williams and Sethi. Their terms terminate the first week in May, and that the selection process for those seats will be started early next year.

Commissioner Cox asks which services are being requested by the Wrightwood CSD Formation. Ms. McDonald states that they are requesting streelighting, park and recreation and solid waste.

Commissioner Bagley asks if staff is receiving the documents they need for the fire reorganizations. Ms. McDonald states that documents are being submitted by the agencies. She further states that as each document comes in, more questions develop, and many unique issues are revealed and need to be resolved.

Commissioner Bagley states that the City of Twentynine Palms is having a special meeting to address their role in the fire reorganization process. Ms. McDonald says that the City of Twentynine Palms is obligated to provide fire service and if the water district can no longer provide fire service, the City would be obligated. Commissioner Bagley expresses his concerns that the information that staff needs may not be received in a timely manner. Ms. McDonald states that the entities involved are obligated by statute to provide the information to LAFCO.

ITEM 11 COMMISSIONER COMMENTS

Commissioner Cox wishes everyone a Happy Thanksgiving.

ITEM 12 COMMENTS FROM THE PUBLIC

No comments.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION THE HEARING IS ADJOURNED AT 9:40 A.M.

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman

DRAFT

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

DATE: DECEMBER 8, 2015



FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: AGENDA ITEM #2 – APPROVAL OF EXECUTIVE OFFICER’S
EXPENSE REPORT**

RECOMMENDATION:

Approve the Executive Officer’s Expense Report for Procurement Card Purchases and expense claim for November 2015 as presented.

BACKGROUND INFORMATION:

The Commission participates in the County of San Bernardino’s Procurement Card Program to supply the Executive Officer a credit card to provide for payment of routine official costs of Commission activities as authorized by LAFCO Policy and Procedure Manual Section II – Accounting and Financial Policies #3(H). Staff has prepared an itemized report of purchases that covers the billing period of October 23, 2015 through November 22, 2015.

It is recommended that the Commission approve the Executive Officer’s expense report as shown on the attachments.

KRM/rcl

Attachments



COUNTY OF SAN BERNARDINO
PROCUREMENT CARD PROGRAM

Page 1 of 1

MONTHLY PROCUREMENT CARD PURCHASE REPORT

Card Number [REDACTED]	Cardholder Kathleen Rollings-McDonald	Billing Period 10/23/15 to 11/22/15
----------------------------------	---	---

Date	Vendor Name	Receipt/ Invoice No.	Item Description	Purpose	\$ Amount	Reconciled (R) Disputed (D)	Sales Tax Included on invoice (Yes or No)
10-28	Verizon	1	Payment	Phone line for alarm and fax	52.43	R	N
10-28	Thomas West	2	Monthly Payment	Law Library Updates	178.42	R	N
10-28	Southwest Airlines	3	Air Fare – Rollings-McDonald	CALAFCO University	303.96	R	Y
10-28-	Advanced Copy Systems	4	Monthly Payment	Sharp Photo Copier	486.09	R	Y
10-30	U-Haul Storage	5	Truck Rental – gas charge	Move discarded office furniture to County Surplus	2.56	R	N
10-30-	U-Haul Storage	6	Truck Rental Charge	Move discarded office furniture to County Surplus	40.97	R	Y
11-02	Storetrieve	7	Monthly Payment	Records Storage and Maintenance	49.03	R	N
11-02	TLF City Florist	8	Flowers Arrangement	For Hospitalized Staff Member	64.60	R	N
11-10	Sitoe Long Island	9	Cab Fare – Rollings McDonald	CALAFCO University	37.50	R	N
11-11	Hyatt Hotels Sacramento	10	Dinner – Rollings-McDonald	CALAFCO University	22.03	R	N
11-12	Hyatt Hotels Sacramento	11	Hotel – Rollings-McDonald	CALAFCO University	234.44	R	Y

The undersigned, under penalty of perjury, states the above information to be true and correct. If an unauthorized purchase has been made, the undersigned authorizes the County Auditor/Controller-Recorder to withhold the appropriate amount from their payroll check after 15 days from the receipt of the cardholder's Statement of Account.

Cardholder (Print & Sign) Kathleen Rollings-McDonald 	Date 12/8/15
--	------------------------

Approving Official (Print & Sign) James Curatalo, Chairman	Date 12/16/15
--	-------------------------

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

215 North "D" Street, Suite 204, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 885-8170
E-mail: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE : DECEMBER 8, 2015

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: AGENDA ITEM #3 - RATIFY PAYMENTS AS RECONCILED FOR
MONTH OF NOVEMBER 2015 AND NOTE REVENUE RECEIPTS**

RECOMMENDATION:

Ratify payments as reconciled for the month of November 2015 and note revenue receipts for the same period.

BACKGROUND INFORMATION:

Staff has prepared a reconciliation of warrants issued for payments to various vendors, internal transfers for payments to County Departments, cash receipts and internal transfers for payments of deposits or other charges that cover the period of November 1, 2015 through November 30, 2015.

Staff is recommending that the Commission ratify the payments for November 2015 outlined on the attached listings and note the revenues received.



KRM/rci

Attachment

MONTHLY RECONCILIATION OF PAYMENTS

MONTH OF NOVEMBER 2015 PAYMENTS PROCESSED					
VOUCHER DOCUMENT ID	ACCOUNT	NAME	WARRANT NUMBER	WARRANT DATE	AMOUNT
PV8908457	2400	BEST BEST & KRIEGER	3262128	11/09/15	\$ 1,440.00
PV8908458		VOID			
PV8908459		ALL READY PROCESSED			
PV8908460	2424	TOM DODSON & ASSOCIATES	3262230	11/09/15	\$ 255.00
PV8908461		ALL READY PROCESSED			
PV8908462	2075	CALIFORNIA SPECIAL DIST ASSN	8743507	11/09/15	\$ 1,156.00
PV8908463	2445/2940	JIM BAGLEY	8743554	11/09/15	\$ 303.40
PV8908464	2445/2940	KIMBERLY COX	8743557	11/09/15	\$ 262.10
PV8908465	2445/2940	JAMES V CURATALO	8743552	11/09/15	\$ 525.65
PV8908466	2445/2940	STEVEN FARRELL	8743642	11/09/15	\$ 218.98
PV890846701	2445	ROBERT A LOVINGOOD	8742656	11/05/15	\$ 200.00
PV890846702	2445	JAMES C RAMOS	8742627	11/05/15	\$ 200.00
PV890846703	2445	LARRY MCCALLON	8742632	11/05/15	\$ 200.00
PV8908468	2445/2940	ACQUANETTA WARREN	8743483	11/09/15	\$ 218.40
PV8908469	2445/2940	DIANE WILLIAMS	8743525	11/09/15	\$ 229.90
PV8908470	2445	ROBERT J ALDRICH	3262562	11/12/15	\$ 3,600.00
TOTAL					\$ 8,809.43
MONTH OF NOVEMBER 2015 INTERNAL TRANSFERS PROCESSED					
JVIB 04102037D	2037	OCTOBER 2015 PHONE		11/10/2015	\$ 213.01
JVCS 20151103041	5012	STAPLES SUPPLIES		11/3/2015	\$ 105.96
JVATXRT06915	2308	CAL-CARD PAYMENT		11/9/2015	\$ 1,328.67
JVPURRT06879	2310	1ST CLASS PRESORT- MAIL		11/9/2015	\$ 313.03
JVPURRT06891	2310	INTER-OFFICE MAIL		11/9/2015	\$ 176.40
JVPURRT06894	2310	PACKAGING - MAIL		11/9/2015	\$ 166.27
JVPURRT06897	2310	PRESORT FLATS - MAIL		11/9/2015	\$ 182.16
JVPURRT06899	2310	PACKAGING - MAIL		11/10/2015	\$ 6.46
JVIB 04102410AB	2410	OCT 2015 DATA PROCESSING		11/10/2015	\$ 2.04
JVIB 04102410AF	2410	OCT 2015 DATA PROCESSING		11/10/2015	\$ 166.12
JVIB 04102410AK	2410	OCT 2015 DATA PROCESSING		11/10/2015	\$ 0.14
JVIB 04102410E	2410	OCT 2015 DATA PROCESSING		11/10/2015	\$ 48.40
JVIB 04102410P	2410	OCT 2015 DATA PROCESSING		11/10/2015	\$ 151.94
JVIB 04102410T	2410	OCT 2015 DATA PROCESSING		11/10/2015	\$ 59.17
JVIB 04102410X	2410	OCT 2015 DATA PROCESSING		11/10/2015	\$ 168.14
JVIB 04102420J	2420	OCTOBER 2015 ISD OTHER IT SERVICES		11/10/2015	\$ 58.44
JVIB 04102421F	2421	OCTOBER 2015 ISD DIRECT		11/10/2015	\$ 818.01
JVEDFRT07723	2424	NOD FOR LAFCO SC# 400		11/25/2015	\$ 50.00
JVEDFRT07723	2424	NOE FOR LAFCO 3191		11/25/2015	\$ 50.00
JV890RT06373	2445	ROV FEES FOR LAFCO 3197/3198, INV. 2370		11/4/2015	\$ 358.75
JV890RT06373	2445	ROV FEES FOR LAFCO 3200, INV. 2371		11/4/2015	\$ 179.37
TOTAL					\$ 4,602.48

MONTHLY RECONCILIATION OF PAYMENTS

MONTH OF NOVEMBER 2015 CASH RECEIPTS					
DEPOSIT DOCUMENT ID	ACCOUNT	DESCRIPTION		DEPOSIT DATE	AMOUNT
CR890A05944	9545	INDIVIDUAL NOTICE		11/16/2015	\$ 1,000.00
	9555	LEGAL		11/16/2015	\$ 1,150.00
	9655	GIMS FEES		11/16/2015	\$ 2,000.00
	9660	ENVIRONMENTAL		11/16/2015	\$ 750.00
	9800	LAFCO FEES		11/16/2015	\$ 15,000.00
TOTAL					\$ 19,900.00
MONTH OF NOVEMBER 2015 INTERNAL TRANSFERS RECEIVED					
TRANSFER DOCUMENT ID	ACCOUNT	NAME		TRANSFER DATE	AMOUNT
		NONE			
TOTAL					\$ -
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  REBECCA LOWERY, Clerk to the Commission </div> <div style="text-align: right;"> 12/8/2015 DATE </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 20px;"> <div style="text-align: center;">  RECONCILIATION APPROVED BY: KATHLEEN ROLLINGS-McDONALD, Executive Officer </div> <div style="text-align: right;"> 12/8/2015 DATE </div> </div>					

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 885-8170
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: DECEMBER 9, 2015

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
MICHAEL TUERPE, Project Manager

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #4: LAFCO SC #402 – City of San Bernardino
Irrevocable Agreement to Annex for Sewer Service (APN 0268-291-09)

INITIATED BY:

City of San Bernardino, on behalf of property owner/developer

RECOMMENDATION:

Staff recommends that the Commission approve LAFCO SC#402 by taking the following actions:

1. Certify that LAFCO SC #402 is statutorily exempt from environmental review and direct the Executive Officer to file the Notice of Exemption within five (5) days;
2. Approve SC #402 authorizing the City of San Bernardino to extend sewer service outside its boundaries to Tentative Parcel Map 17356, approved by the County to subdivide one acre (Assessor Parcel Number 0268-291-09) into three parcels.
3. Adopt LAFCO Resolution #3209 setting forth the Commission's determinations and approval of the agreement for services outside the City of San Bernardino's boundaries.

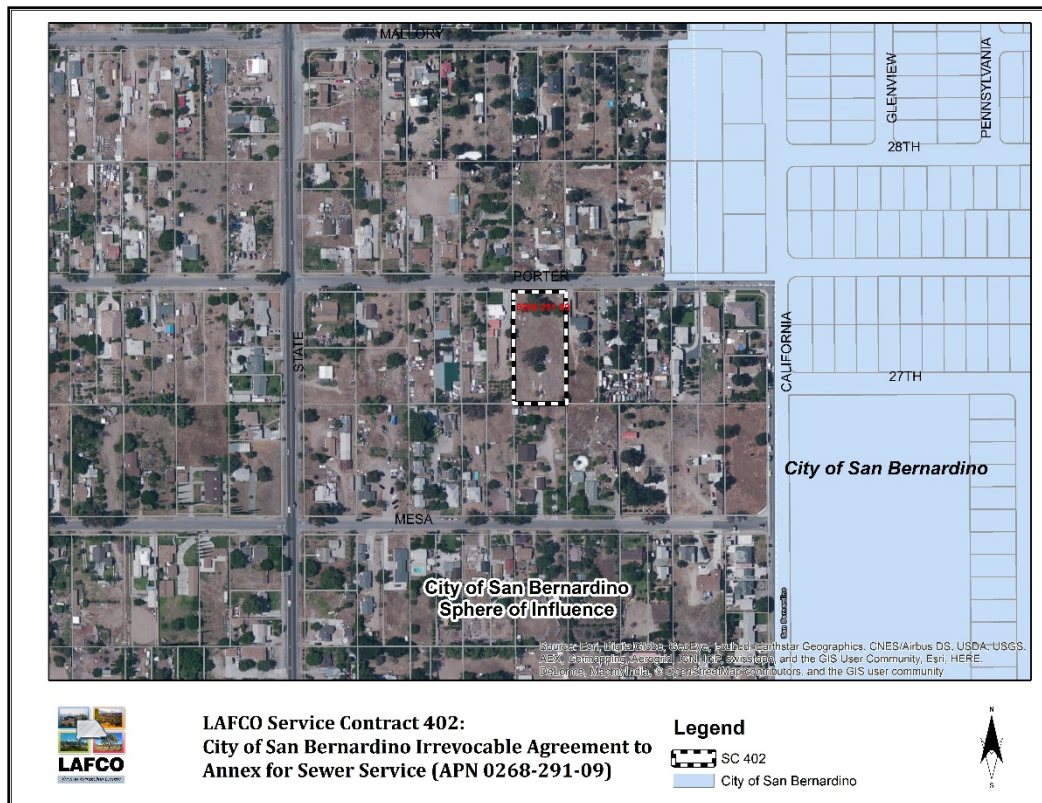
BACKGROUND:

The County has approved Tentative Parcel Map (TPM) 17356 which would subdivide one gross acre into three parcels. The County's Land Use Services Department conditionally approved TPM 17356 subject to completion of the Conditions of Approval, which require connection to the City of San Bernardino's sewer facilities (Condition #39).

The City of San Bernardino, on behalf of the property owner/developer, has requested that the Commission review and approve the extension of service pursuant to the provisions of Government Code Section 56133. The City has submitted a request for approval of an irrevocable agreement to annex that outlines the terms by which it will extend sewer service outside of its boundaries. The agreement relates to one acre which will be split into three parcels (currently Assessor Parcel Number 0268-291-09), located on the south side of Porter Street between California Avenue and State Street in the community of Muscoy within the City's western sphere of influence. If approved, the service extension would provide sewer service and allow three single-family-residences to be constructed on a lot that is currently vacant. These facilities would be connected to the City's regional wastewater collection system and the regional treatment system operated by the City Municipal Water Department.

The City's application to LAFCO, and the landowner's application to the City, identifies that the service extension is for a single-family-residence on one parcel. LAFCO staff has clarified with the City and the landowner that the request to the Commission is for the City to extend sewer service outside its boundaries to Tentative Parcel Map 17356, approved by the County to subdivide one acre (APN 0268-291-09) into three parcels (three total connections).

The map below, which is included as a part of Attachment #1, depicts the location of the site. As shown below, the property is not contiguous to the City's boundaries. The City has indicated that annexation of this property could occur, but would require several adjacent properties to be included to provide for a logical and efficient boundary for delivery of the full-range of City services. Therefore, the City has agreed to the processing of the out-of-agency service contract for sewer service to allow for the development of three single-family-residences.



PLAN FOR SERVICE:

The City's application (included as Attachment #2) indicates that the City has an existing 24-inch sewer interceptor main along Porter Street directly adjacent to the property. The City's Sewer Policy does not allow a direct connection to an interceptor main, thus a parallel line will need to be installed with appropriate manholes connecting to the interceptor main. The property owner will be responsible for all costs associated with the service extension and connection to the project site. A copy of the County's Conditions of Approval are included as Attachment #3 to this report.

Pursuant to the Commission's application requirements for service contracts, information has been provided regarding all financial obligations for the extension of service outside the agency's boundaries. The City has identified that it does not charge a premium rate for out-of-agency sewer service. The City has indicated that the following amounts are required from the property owner prior to connection to the City's sewer facilities:

SUMMARY OF FEES & OTHER CHARGES
(Updating the City's Application per City Staff)

Fees	Cost	Total
Sewer Capacity: Residential	\$3,500.00 per connection	\$10,500.00
Sewer Connection (Permit)	\$335.02 per 3,000 sq ft	\$4,864.50
Inspection	\$29.18	\$29.18
Total		\$15,393.68

ENVIRONMENTAL DETERMINATION:

As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson from Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the review of LAFCO SC #402 is statutorily exempt from the California Environmental Quality Act (CEQA) under the General Rule Statutory Exemption. This recommendation is based on the finding that the Commission's approval of the out-of-agency service extension request does not have the potential to significantly alter the existing physical environment; and therefore, the proposal is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061(b)(3).

CONCLUSION:

The development of TPM 17356 requires that it receive sewer service from the City of San Bernardino. In order for the project to proceed, the developer must show proof of ability to connect to the City's sewer infrastructure - which is the Commission's authorization for the extension of services.

LAFCO staff has reviewed this request for the provision of sewer service by the City outside its corporate boundaries against the criteria established by Commission policy and Government Code Section 56133. The area to be served is within the sphere of influence assigned the City and is anticipated to become a part of the City sometime in the future. The development of the project site requires that it receive sewer service, which is only available from the City of San Bernardino. Staff supports the City's request for authorization to provide sewer service to the proposed project since its facilities are adjacent to the anticipated development, and there is no other existing entity available to provide this service within the area.

FINDINGS:

1. The project area, which includes one parcel—Assessor Parcel Number (APN) 0268-291-09—is within the sphere of influence assigned the City of San Bernardino and is anticipated to become a part of that City sometime in the future. The requirement to

receive sewer service from the City is a condition of approval placed upon the project by the County Land Use Services Department. Therefore, approval of the City's request for authorization to provide sewer service is necessary to satisfy this condition of approval allowing the project to proceed. The project will receive water service from the Muscoy Mutual Water Company.

2. The application requests authorization for the City of San Bernardino to provide sewer service as outlined in the Irrevocable Agreement to Annex for APN 0268-291-09 generally located on the south side of Porter Street between California Avenue and State Street in the community of Muscoy within the City of San Bernardino's western sphere of influence. The City has indicated that annexation of this property could occur, but would require several adjacent properties to be included to provide for a logical and efficient boundary for delivery of the full-range of City services. The City has agreed to the processing of the out-of-agency service contract for sewer service to allow for the development of three single-family-residences. Therefore, this contract will remain in force in perpetuity or until such time as the area is annexed when a more comprehensive annexation can be identified and processed. Approval of this application will allow the property owner/developer and the City of San Bernardino to proceed in finalizing the contract for the extension of this service.

The fees charged this project by the City of San Bernardino for the extension of sewer service to the parcel are estimated at \$15,393.68. Payment of these fees is required prior to connection to the City's sewer facilities. In addition, the property owner shall bear all costs to complete improvements needed to extend the sewer service to the parcel. The City has identified that it does not charge a premium rate for out-of-agency sewer service.

3. As required by State Law, notice of the Commission's consideration was provided through publication in a newspaper of general circulation, *The Sun*. Individual notice was provided to registered voters (zero within the project area and 145 surrounding) and landowners (the landowner/developer within and 96 surrounding) as required by Government Code Section 56157 as well as affected and interested agencies, County departments, and those agencies and individual requesting mailed notice. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determination.
4. As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the service contract submitted by City of San Bernardino and recommends that this application is statutorily exempt from environmental review. A copy of Mr. Dodson's response is included as Attachment #4 to this report.

KRM/MT

Attachments:

1. Vicinity Map and Map of the Contract Area
2. City of San Bernardino's Application and Contract
3. County Conditions of Approval for Tentative Parcel Map 17356
4. Tom Dodson and Associates Response, the County's Environmental Documents for the Conditional Use Permit
5. Draft Resolution #3209



Vicinity Map and Map of the Contract Area

Attachment 1

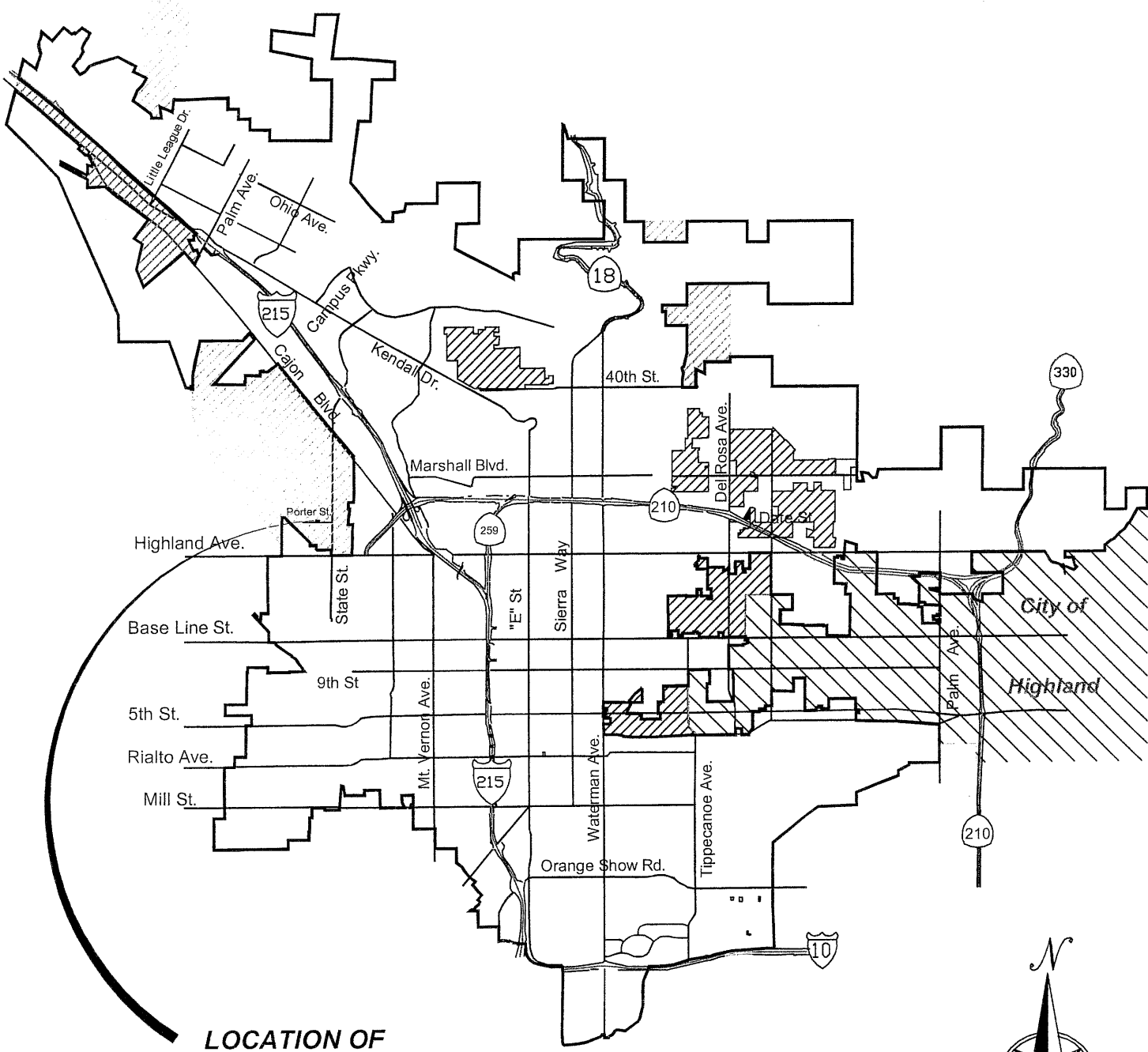


**LAFCO Service Contract 402:
City of San Bernardino Irrevocable Agreement to
Annex for Sewer Service (APN 0268-291-09)**

Legend

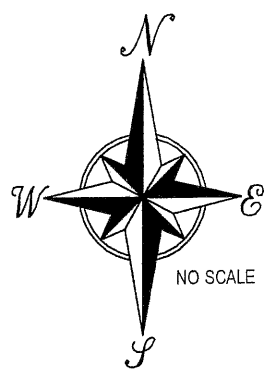
-  SC 402
-  City of San Bernardino






**LOCATION OF
PROPERTY REQUESTING
SERVICES**

VICINITY MAP



CITY OF SAN BERNARDINO
PUBLIC WORKS DEPARTMENT
REAL PROPERTY SECTION

Request for Outside City Services for
property located at 1959 Porter Street.
APN: 0268-291-09

 indicates un-incorporated areas within City's
Sphere of Influence

Created by: Ryan Sandoval

Date: 08/13/2015

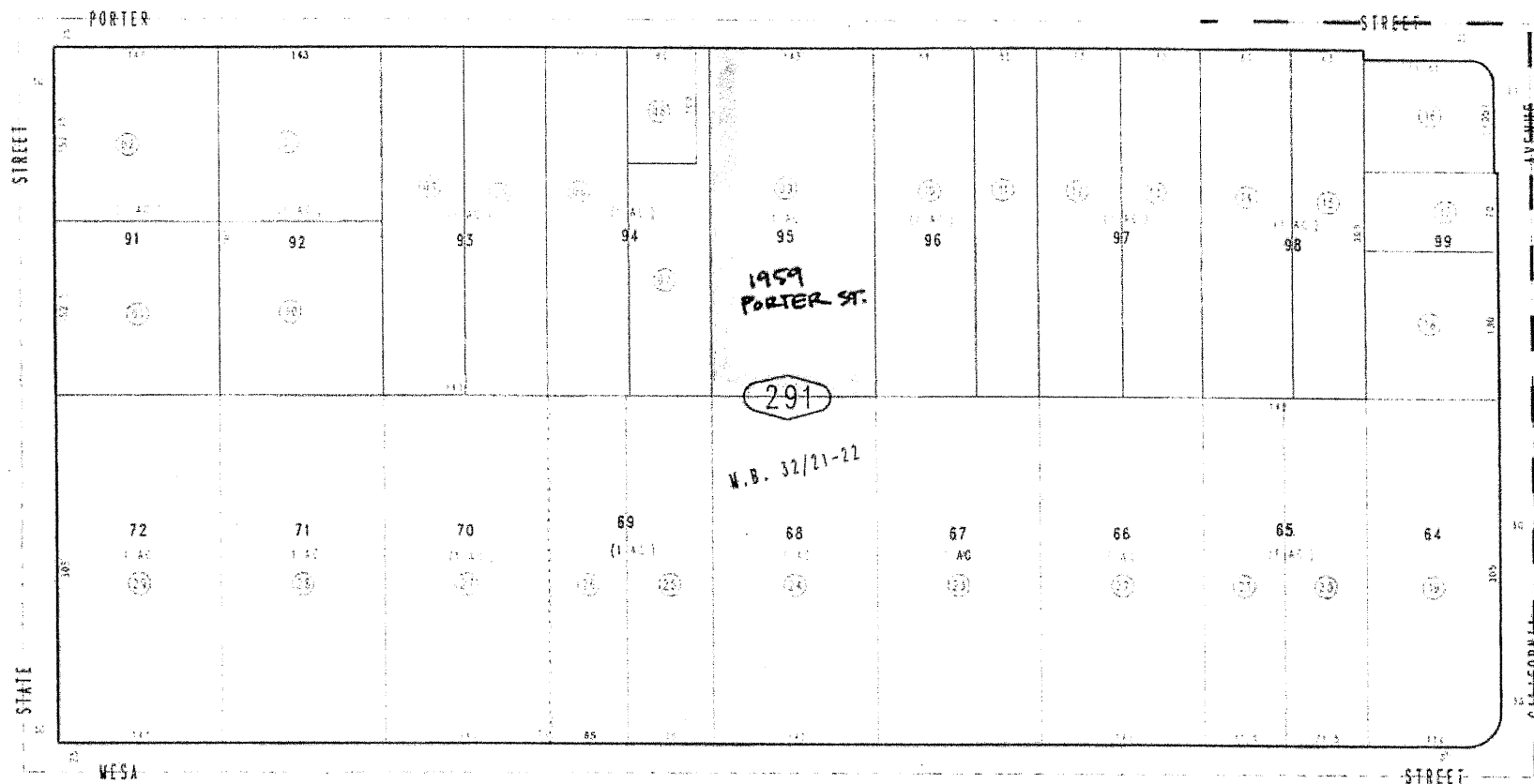
THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY

Ptn. Tract No. 2243
M.B. 32/21-22

San Bernardino Unified 0268-29
Tax Rate Area
107156



28



27

30

38

LAFCO SC #

402

= PROPERTY REQUESTING
SEWER SERVICE

August 2004

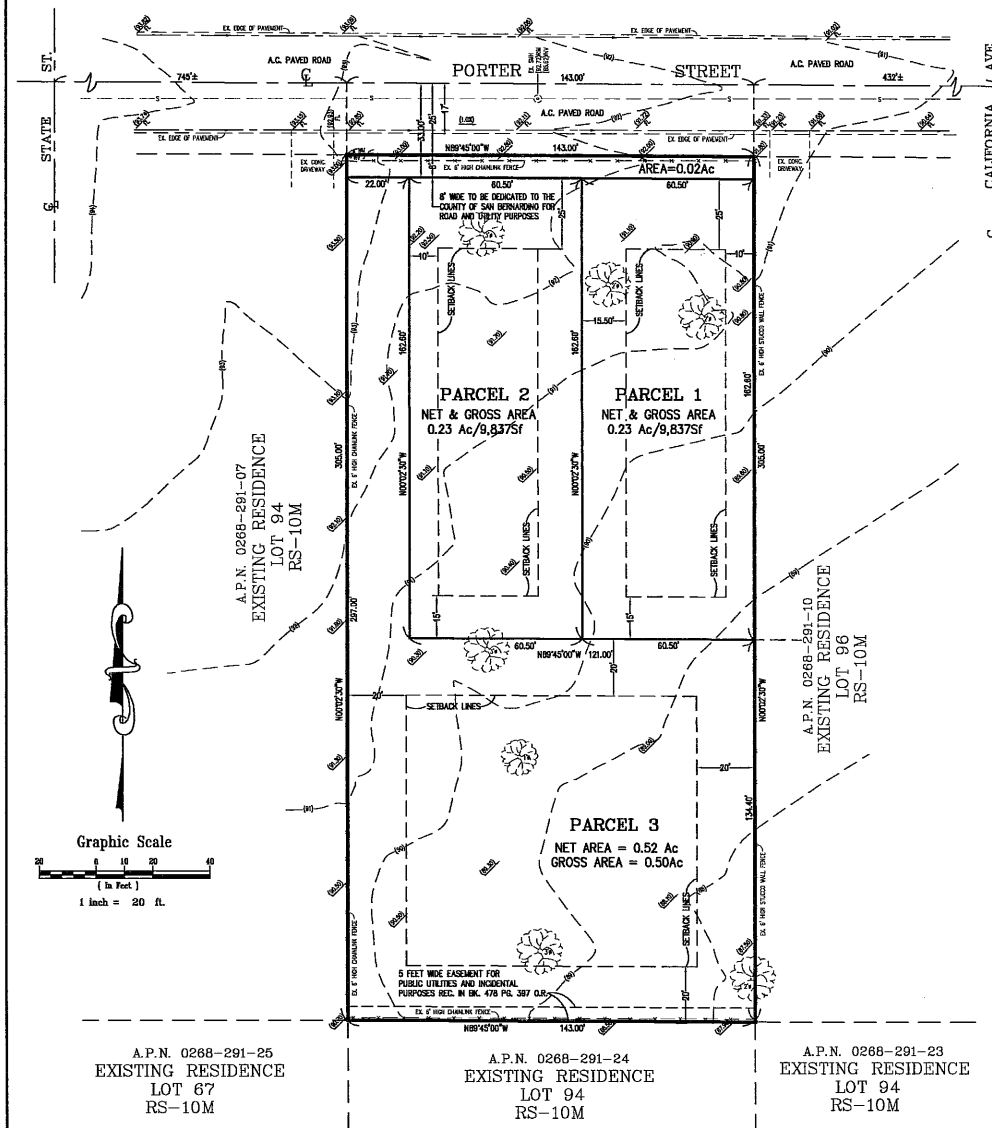
Ptn. SE 1/4, Sec. 30
T.1N., R.4W.

Assessor's Map
Book 0268 Page 29
San Bernardino County

REVISED
03/24/08 KC
10/22/08 GL
01/07/10 LH

TENTATIVE PARCEL MAP 17356

OFFICIAL USE ONLY



LEGAL DESCRIPTION

IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA.
LOT 95 OF TRACT MAP NO. 2243, COUNTY OF SAN BERNARDINO, STATE OF
CALIFORNIA RECORDED IN BOOK 32 OF MAPS, PAGES 21 AND 22 IN THE
OFFICE OF THE SAN BERNARDINO COUNTY RECORDER.

SITE ADDRESS

1959 PORTER STREET
SAN BERNARDINO, CALIFORNIA

TOPOGRAPHY SOURCE

THE TOPOGRAPHY SHOWN HEREON IS AN ACTUAL FIELD SURVEY
PERFORMED UNDER THE SUPERVISION OF J. E. GUZMAN, A
REGISTERED CIVIL ENGINEER, LICENSED IN THE STATE OF CALIFORNIA
ON FEBRUARY 4th, 2014.

GENERAL NOTES

GROSS ACREAGE	1.00 ACRES
NET ACREAGE	0.97 ACRES
EX. ZONING	RS-10M
PROPOSED ZONING	RS-10M
SPECIFIC PLAN	NONE
COMMUNITY PLAN	NONE
APN NUMBER	0288-291-09
TOWNSHIP & RANGE	SEC. 30, T1N, R4W
PROPOSED USE	RESIDENTIAL
NUMBER OF PARCELS	3
NUMBER OF LETTERED LOTS	1
LENGTH OF STREET FRONTAGE	PORTER ST. 143.00'
FLOOD ZONING	X-COM. # 060270
	PANEL #7940F 3/18/96
ACCESS EASEMENT	NONE
WATER FLOW	SOUTH EAST
PRELIMINARY GRADING	CUT AND FILL
TREES/PLANTS	NONE REGULATED

UTILITY PURVEYORS

WATER

MUSCOY MUTUAL COMPANY
2167 DARBY STREET
SAN BERNARDINO, CA. 92407
PHONE (909) 887-2984

ELECTRIC

SOUTHERN CALIFORNIA EDISON
P. O. BOX 788
PALMDALE, CA. 92376
PHONE (909) 875-6420

SEWER

CITY OF SAN BERNARDINO
300 N. D. STREET, 3rd FLOOR
SAN BERNARDINO, CA. 92418
PHONE (909) 384-5111

TELEPHONE

PACIFIC TELEPHONE COMPANY
3939 E. CORONADO
ANAHEIM, CA. 92807
PHONE (714) 688-5509

GAS

SOUTHERN CALIFORNIA GAS CO.
1231 VALLEY BOULEVARD
FONTANA, CA. 92335
PHONE (909) 428-8407

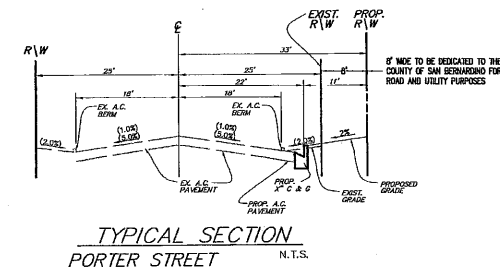
EASEMENTS

5 PER PRELIMINARY TITLE REPORT DATED
6 FEBRUARY 7, 2014.

ITEM 5--AN EASEMENT FOR POLE LINES AND INCIDENTAL PURPOSES
RECORDED IN AN INSTRUMENT IN BK 226, PAGE 74 O.R.
CANNOT BE LOCATED FROM RECORD

ITEM 6--AN EASEMENT FOR POLE LINES AND INCIDENTAL PURPOSES
RECORDED IN AN INSTRUMENT IN BK 285, PAGE 84 O.R.
CANNOT BE LOCATED FROM RECORD

ITEM 7--AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES
RECORDED ON 3/29/1928 IN BK 478, PG 387 O.R.
AFFECTS THE REAR 5 FEET.



	MALLORY		STREET	
		STATE	STREET	
MACY STREET	W. PORTER		STREET	V. PORTER STREET
		STATE	STREET	
	MESA		STREET	
N.		N.		N. CALIFORNIA ST.
	W. ADAMS		STREET	

VICINITY MAP
NOT TO SCALE
THOMAS QUIDE, SAN BERNARDINO & RIVERSIDE COUNTY, PAGE 576 C3

PREPARED FOR

CARLOS MEDRANO
16186 WALNUT STREET
FONTANA, CA. 92336
PHONE: (609) 857-6810

PROPERTY OWNER

MARTHA A. MEDRANO
16186 WALNUT STREET
FONTANA, CA. 92336
PHONE (909) 857-6810

A.P.N. NUMBER

0268-291-09

PREPARED BY

SP's TECHNICAL SERVICES
1391 WINDEMERE LANE
TUSTIN, CA. 92780
PHONE (714) 931-0912
EMAIL: f1j1961@gmail.com

PLANS PREPARED UNDER THE RESPONSIBLE CHARGE OF:

J. E. GUZMAN R.C.E. 27906 EXP. 03-31-2016

DATE PREPARED

FEBRUARY 6th, 2014

REVISION DATE

OCTOBER 21, 2014

TENTATIVE PARCEL MAP 17356

City of San Bernardino's Application and Contract

Attachment 2

RECEIVED
NOV 09 2015

LAFCO SC # 402
(FOR LAFCO USE ONLY)

LAFCO
San Bernardino County

**SAN BERNARDINO LAFCO
APPLICATION FOR
EXTENSION OF SERVICE BY CONTRACT**

(A certified copy of the City Council/District Board of Directors resolution or a letter from the City Manager/General Manager requesting approval for an out-of-agency service agreement must be submitted together with this application form.)

AGENCY TO EXTEND SERVICE:

AGENCY NAME: City of San Bernardino
CONTACT PERSON: Patrick Yuan
ADDRESS: 300 N. "D" Street,
San Bernardino, CA 92418
(909) 384-5226
PHONE: Yuan_Pa@sbcity.org
EMAIL:

CONTRACTING PARTY:

NAME OF
PROPERTY OWNER: Martha A. Medrano
CONTACT PERSON: Richard Ortiz
MAILING ADDRESS: PO Box 2604 Fontana, CA
92334
(909) 239-8067
PHONE: rortiz@studio-roca.com
EMAIL:
ADDRESS OF PROPERTY
PROPOSED FOR CONTRACT: 1959 Porter Street
San bernardino, CA 92407
CONTRACT NUMBER/IDENTIFICATION: 2015-01
PARCEL NUMBER(S): 0268-291-09-0000
ACREAGE: Approximately 1.0 Acre - 43,560 sq. ft.

*Extension of Service by Contract
Application Form*

(FOR LAFCO USE ONLY)

The following questions are designed to obtain information related to the proposed agreement/contract to allow the Commission and staff to adequately assess the proposed service extension. You may include any additional information which you believe is pertinent. Please use additional sheets where necessary.

1. (a) List the type or types of service(s) to be provided by this agreement/contract.

Sanitary Sewer

- (b) Are any of the services identified above "new" services to be offered by the agency? ☐ YES ☒ NO. If yes, please provide explanation on how the agency is able to provide the service.

The City presently offers City sewer to City residents and to those outside the city within its sphere of influence by previous agreement.

2. Is the property to be served within the agency's sphere of influence? ☒ YES ☐ NO

3. Please provide a description of the service agreement/contract.

Property is noncontiguous to City boundaries. Annexation of this property could occur, but would require several adjacent properties to be included that would make the larger area contiguous to City boundaries. Property owner will be required to execute a written irrevocable agreement to annex.

4. (a) Is annexation of the territory by your agency anticipated at some point in the future? ☐ YES ☒ NO. If yes, please provide a projected timeframe when it anticipates filing an application for annexation of territory that would include the area to be served. If no, please provide an explanation as to why a jurisdictional change is not possible at this time.

There are no immediate plans for annexation.

*Extension of Service by Contract
Application Form*

(FOR LAFCO USE ONLY)

- (b) Is the property to be served contiguous to the agency's boundary?
☐ YES ☒ NO. If yes, please provide explanation on why annexation to the agency is not being contemplated.

Property is noncontiguous to City boundaries. Annexation of this property could occur,
but would require several adjacent properties to be included that would make the larger area
contiguous to City boundaries. Property owner will be required to execute a written irrevocable agreement to annex.

5. Is the service agreement/contract outside the Agency's sphere of influence in response to a threat to the public health and safety of the existing residents as defined by Government Code Section 56133(c)?
☐ YES ☒ NO. If yes, please provide documentation regarding the circumstance (i.e. letter from Environmental Health Services or the Regional Water Quality Control Board).

6. (a) What is the existing use of the property?

Vacant Lot

- (b) Is a change in use proposed for the property? ☒ YES ☐ NO. If yes, please provide a description of the land use change.

The owner is proposing to build a 4 bedroom single family residence

7. If the service agreement/contract is for development purposes, please provide a complete description of the project to be served and its approval status.

The owner is proposing to build a 4 bedroom single family residence.

Extension of Service by Contract
Application Form

(FOR LAFCO USE ONLY)

8. Are there any land use entitlements/permits involved in the agreement/contract?
☐ YES ☒ NO. If yes, please provide documentation for this entitlement including the conditions of approval and environmental assessment that are being processed together with the project. Please check and attach copies of those documents that apply:

Tentative Tract Map / Parcel Map	<input type="checkbox"/>
Permit (Conditional Use Permit, General Plan Amendment, etc.)	<input type="checkbox"/>
Conditions of Approval	<input type="checkbox"/>
Negative Declaration (Initial Study)	<input type="checkbox"/>
Notice of Determination (NOD)/Notice of Exemption (NOE)	<input type="checkbox"/>
Department of Fish and Game (DFG) Receipt	<input type="checkbox"/>
Others (please identify below)	<input type="checkbox"/>

N/A

9. Has the agency proposing to extend service conducted any CEQA review for this contract? ☐ YES ☒ NO. If yes, please provide a copy of the agency's environmental assessment including a copy of the filed NOD/NOE and a copy of the DFG Receipt.

10. Plan for Service:

- (a) Please provide a detailed description of how services are to be extended to the property. The response should include, but not be limited to, a description of: 1) capacity of existing infrastructure, 2) type of infrastructure to be extended or added to serve the area, 3) location of existing infrastructure in relation to the area to be served, 4) distance of infrastructure to be extended to serve the area, and 5) other permits required to move forward with the service extension.

The City of San Bernardino presently has a 24 " sewer main along Porter Street directly adjacent to this property. The City's Sewer Policy does not allow a direct connectoin to a large interceptor sewer main and a parallel line will need to be installed with appropriate manholes connecting to the interceptor sewer main.

Owner is to pay costs.

Extension of Service by Contract
Application Form

(FOR LAFCO USE ONLY)

- (b) Please provide a detailed description of the overall cost to serve the property. The response should include the costs to provide the service (i.e. fees, connection charges, etc.) and also the costs of all improvements necessary to serve the area (i.e. material/equipment costs, construction/installation costs, etc.).

<i>Description of Fees/Charges</i>	<i>Cost</i>	<i>Total</i>
Sewer Capacity Fee: Residential	\$3,500.00	\$3,500.00
Sewer Connection Fee (Permit)	\$335.02 per 3,000 sq. ft.	\$4864.50
Inspection Fee	\$29.18	\$29.18
Total Costs		\$8393.68

- (c) Please identify any unique costs related to the service agreement such as premium outside City/District rates or additional 3rd-party user fees and charges (i.e. fees/charges attributable to other agencies).

N/A

Extension of Service by Contract
Application Form

(FOR LAFCO USE ONLY)

- (d) If financing is to occur, please provide any special financial arrangement between the agency and the property owner, including a discussion of any later repayment or reimbursement (If available, a copy of the agreement for repayment/reimbursement is to be provided).

N/A

- 11 Does the City/District have any policies related to extending service(s) outside its boundary? ☒ YES ☐ NO. If yes, has a copy been provided to LAFCO?
☒ YES ☐ NO. If not, please include a copy of the policy or policies (i.e. resolution, municipal code section, etc.) as part of the application.

CERTIFICATION

As a part of this application, the City/Town of San Bernardino, or the _____ District/Agency agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it.

This indemnification obligation shall include, but not be limited to, damages, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

The agency signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

*Extension of Service by Contract
Application Form*

(FOR LAFCO USE ONLY)

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this evaluation of service extension to the best of my ability, and that the facts, statement and information presented herein are true and correct to the best of my knowledge and belief.

SIGNED



NAME:

Emilio M. Murga

POSITION TITLE:

Interim City Engineer

DATE:

11/4/15

REQUIRED EXHIBITS TO THIS APPLICATION:

1. Copy of the agreement/contract.
2. Map(s) showing the property to be served, existing agency boundary, the location of the existing infrastructure, and the proposed location of the infrastructure to be extended.
3. Certified Plan for Service (if submitted as a separate document) including financing arrangements for service.

Please forward the completed form and related information to:

Local Agency Formation Commission for San Bernardino County
215 North D Street, Suite 204
San Bernardino, CA 92415-0490
PHONE: (909) 388-0480 • FAX: (909) 885-8170

**CITY OF SAN BERNARDINO
Public Works Department**

**Extension of City Services by Contract
Plan for Providing Service**

1. Contract / Agreement Reference: Irrevocable Agreement to Annex No. 2015-01
2. Property Owner: Martha A. Medrano
3. Property Address: 1959 Porter Street, San Bernardino, CA 92407
4. Service to be provided: Connection to Sewer System
5. Service to be provided as follows: Property owner will apply for sewer connection services through the normal permit process now in effect by the City for this facility use. All applicable fees will be paid for by the applicant as follows:

SEWER FEES

Sewer Capacity Fee: Residential = \$3,500.00
(to be calculated by the City Water Department)

Sewer Connection Fee (Permit): \$335.02 per 3,000 sq. ft. or fraction thereof

Inspection Fee = \$29.18

Note: All improvements including the construction of laterals are the responsibility of the property owner. All LAFCO fees are the responsibility of the property owner as well.

LAFCO SC# 402

ATTACHMENT "A-1"

Irrevocable Agreement to Annex. No. 2015-01

[See attached]

IRREVOCABLE AGREEMENT TO ANNEXNo. 2015-01

THIS AGREEMENT, entered into this 21st day of September, 2015; by and between **MARTHA A. MEDRANO**, an unmarried woman, hereinafter referred to as "OWNER," and the **CITY OF SAN BERNARDINO**, a municipal corporation, hereafter referred to as "CITY."

WITNESSETH:

WHEREAS, OWNER holds title to the unincorporated parcel(s), located at 1959 Porter Street, San Bernardino, California, 92407, and parcel is more fully described in Exhibit "A" attached hereto and made a part hereof.

Assessor's Parcel Number(s) 0268-291-09-0000; and

WHEREAS, said parcel is within the Sphere of Influence of CITY; and

WHEREAS, OWNER desires to obtain sewer service for said parcel; and

WHEREAS, sewer service could be provided to said parcel by connecting to the CITY'S sewage system; and

WHEREAS, CITY'S sewage system and wastewater treatment plant have sufficient capacity to convey and treat the sewage generated by said parcel; and

WHEREAS, CITY is willing to allow connection of said unincorporated parcels to its sewage system, due to the expectation that said parcel will be annexed to the City of San Bernardino at some future date, due to the fact that the parcel is within CITY'S Sphere of Influence.

WHEREAS, the covenants and conditions set forth herein shall create an equitable servitude upon the parcel, and shall be fully binding upon OWNERS' heirs, successors and assigns.

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1: OWNER Agrees -

- a. To grant irrevocable consent to annex to the City of San Bernardino at such time as the annexation may be properly approved through appropriate legal proceedings, and owner does further agree to provide all reasonable cooperation and assistance to the CITY in the annexation proceedings. Said cooperation is contemplated to include signing any applications of consent prepared by the CITY, and submitting any evidence reasonably within the control of OWNER to the various hearings required for the annexation. Said cooperation does not include, however, any obligation on behalf of OWNER to institute any litigation or judicial proceeding whatsoever to force the annexation to the City of San Bernardino.
- b. To pay such annexation fees and costs and other municipal charges as would ordinarily be charged in the annexation of property to the CITY. Said fees shall be payable when the same becomes due and payable.
- c. To pay all fees and charges and make all deposits required by the CITY for connection to and use of CITY'S sewer, and further agrees to be bound by all CITY ordinances, rules and regulations respecting the sewage system.
- d. To acknowledge that execution of this Irrevocable Agreement to Annex is on behalf of all future heirs, successors and assigns; and that said Agreement shall be irrevocable without written consent of CITY.
- e. To comply with Chapter 13.32, of the San Bernardino Municipal Code relating to discharge of materials into CITY's sewage system.
- f. Allow CITY to make application on behalf of the Owner to the Local Agency Formation Commission (LAFCO), and pay all application fees necessary for approval to connect to CITY's sewage system, pursuant to Section 56133 of the Government Code.
- g. To execute a standard form Agreement (Sewer Connection and Service) with CITY stipulating the terms and conditions under which the connection shall be made and maintained.

SECTION 2: CITY Agrees -

- a. To allow OWNERS' parcel, described herein before, to connect to the City of San Bernardino's sewage system, subject to payment of all applicable fees and permits.

IRREVOCABLE AGREEMENT TO ANNEX NO. 2015-01

LAFCO SC# 402

SECTION 3: Be it mutually agreed, as follows:

- a. City Clerk for CITY shall record this agreement with the County Recorder.
- b. The benefit to the subject parcel will inure to the benefit of subsequent owners, their heirs, successors, and assigns, and the agreements, conditions, and covenants contained herein shall be binding upon them and upon the land.
- c. The approval granted to connect said parcel to City's Sewage is contingent upon OWNERS securing approval from the Local Agency Formation Commission.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their respective officials' thereunto duly authorized.

MARTHA A. MEDRANO


By: 

CITY OF SAN BERNARDINO

By: 

Allen Parker, City Manager

ATTEST:


Georgeanna Hanna, City Clerk

Approved as to form:
GARY D. SAENZ, City Attorney

By: 

IRREVOCABLE AGREEMENT TO ANNEX NO. 2015-01

LAFCO SC# 402

EXHIBIT "A"
LEGAL DESCRIPTION

Lot 95, Tract No. 2243, as per plat recorded in Book 32, Pages 21 and 22, in the office of the County Recorder of San Bernardino County, State of California.

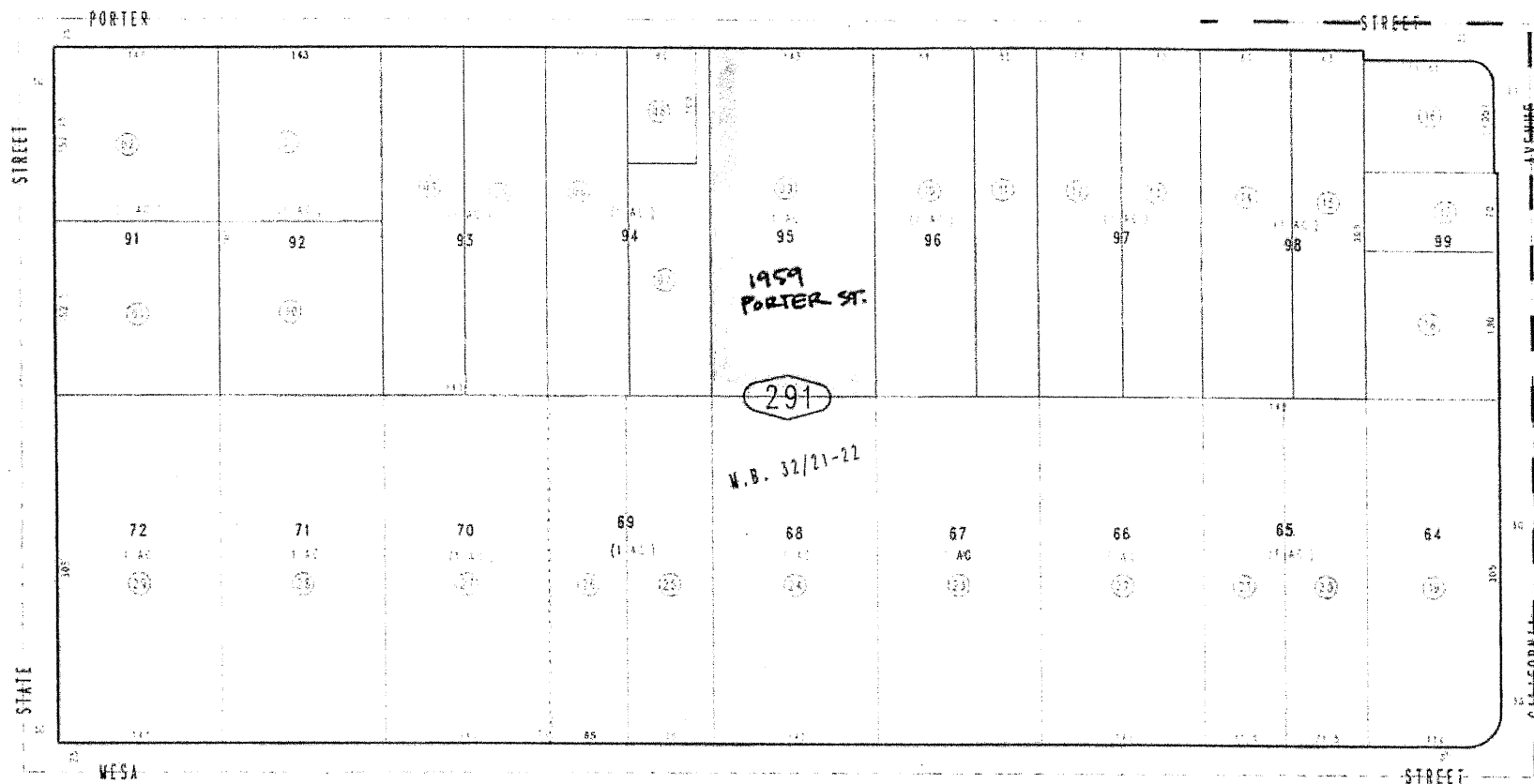
THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY

Ptn. Tract No. 2243
M.B. 32/21-22

San Bernardino Unified 0268-29
Tax Rate Area
107156



28



30

38

LAFCO SC # 402

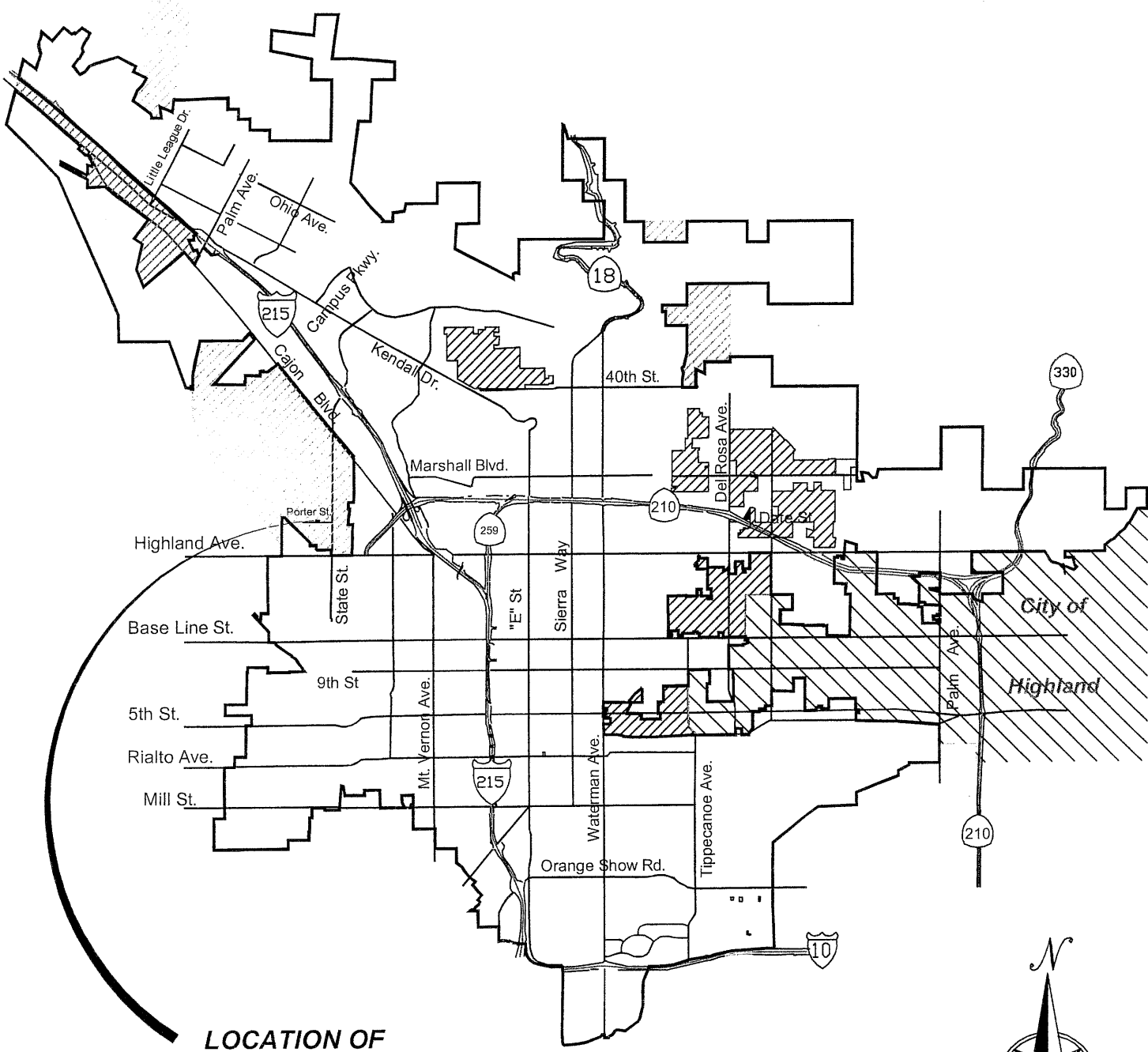
= PROPERTY REQUESTING
SEWER SERVICE

August 2004

Ptn. SE 1/4, Sec. 30
T.1N., R.4W.

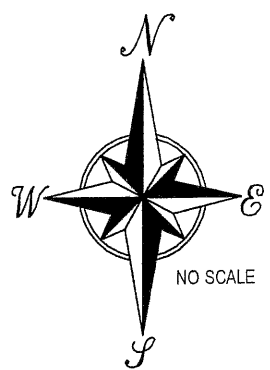
Assessor's Map
Book 0268 Page 29
San Bernardino County

REVISED
03/24/08 KC
10/22/08 GL
01/07/10 LH




**LOCATION OF
PROPERTY REQUESTING
SERVICES**

VICINITY MAP



CITY OF SAN BERNARDINO
PUBLIC WORKS DEPARTMENT
REAL PROPERTY SECTION

Request for Outside City Services for
property located at 1959 Porter Street.
APN: 0268-291-09

 indicates un-incorporated areas within City's
Sphere of Influence

Created by: Ryan Sandoval

Date: 08/13/2015

APPLICATION FOR SEWER SERVICES
OUTSIDE OF CITY BOUNDARIES

LAFCO SC #

402

To: City of San Bernardino
Development Services Department, Real Property Section
300 N. "D" Street - 3rd Floor, San Bernardino, CA 92418
(909) 384-5111

This application is hereby submitted to the City of San Bernardino, to initiate proceedings for the connection to the City Sewer System from my property, which is located outside the boundaries of the City of San Bernardino pursuant to established City policies, a copy of which I have received and read, and Government Code Section 56133. I understand that a \$1,300.00 **non-refundable** processing fee is due at the time this application is submitted. I further understand that prior to the City submitting an application to the Local Agency Formation Commission (LAFCO), I will be required to deposit any applicable LAFCO fees with the City (or to be paid directly to LAFCO). Additional LAFCO fees may be due at the conclusion of the proceedings, which I will be required to pay. I may request a waiver of these fees from LAFCO, based upon an immediate health and safety issue. In the event that the waiver of all or a portion of the LAFCO fees is granted by LAFCO, the waived amount will be refunded. I also understand that I will be required to execute an "Irrevocable Agreement to Annex" in the event that my property may be subject to Annexation into the City of San Bernardino at some future time, if this application is approved. I further understand that sewer capacity and hook-up fees to the City will be due prior to permit processing. *This application is being submitted with the understanding that approval is not guaranteed.*

Please submit this application with proof of ownership (Copy of Deed, Title Policy, etc.) along with processing fee of \$1,300.00 and plat map showing location of property.

Property Owner(s): MARTHA MEDRANO

Mailing Address: P.O. BOX 2604 FONTANA CA 92334

Property Address: 1959 PORTER ST, SB CA 92407

Assessor's Parcel No(s): 0268-291-09-0-0000 Tel. No.: 909 239 8061
rortiz@studio-roca.com

☐ Existing Development:

☐ New Development:

☐ Residential (Single Family). No. Bedrooms: _____

☒ Residential (Single Family) No. Bedrooms 3+4

☐ Residential (multi family). Describe: _____

☐ Residential (multi-family). Describe: _____

☐ Commercial/Industrial. Describe: _____

☐ Commercial/Industrial. Describe: _____

Note: For new development and/or additions, please provide a copy of the site-plan along with a copy of development permit application, if any, filed with the County of San Bernardino.

Additional Comments: _____

☐ I request a waiver of LAFCO fees based upon the following health and safety urgency:

Date: 7-7-15

Signature(s): Martha Medrano

FOR CITY USE ONLY

Received on: 7/8/15 by: Reed Receipt No.: R15004108

Nearest sewer main: 24" Porter St.

CITY FEES:

Filing: \$ 1,300.00

Comments: _____

Capacity: _____

Connection: _____

Inspection: _____

Monthly Rate \$ _____

TOTAL: \$ _____

1201A-24

**County Conditions of Approval for
Tentative Parcel Map 17356**

Attachment 3

LAND USE SERVICES DEPARTMENT

BUILDING & SAFETY • CODE ENFORCEMENT • FIRE HAZARD ABATEMENT
LAND DEVELOPMENT • PLANNING



COUNTY OF SAN BERNARDINO

- 385 N. Arrowhead Avenue, First Floor • San Bernardino, CA 92415-0187
(909) 387-8311 Fax (909) 387-3249
- 15900 Smoke Tree Street, First Floor • Hesperia, CA 92345
(760) 995-8140 Fax (760) 995-8167

TOM HUDSON
Director

LAFCO SC # 402

June 3, 2014

Effective Date: June 13, 2014
Expiration Date: June 13, 2017

Martha Medrano
16186 Walnut Street
Fontana, CA 92336

SP's Technical Services
1391 Windemere Lane
Tustin, CA 92780
Attn: Sat Pal

RE: TENTATIVE PARCEL MAP 17356; MARTHA MEDRANO; APN: 0268-291-09; PROJECT NO.: P200600588

Dear Ms. Medrano:

The Planning Division conditionally approved your Tentative Parcel Map application, subject to completion of the requirements identified in the attached Conditions of Approval. You are required to complete the conditions listed under "Prior to Recordation" in order to record Parcel Map 17356. Such condition compliance is coordinated through the County Surveyor.

In accordance with the San Bernardino County Development Code, all requirements specified on the enclosed pages shall be met within 36 months of the date of this letter or the approval is void. One extension of time, not to exceed 36 months, may be granted upon written application and payment of the required fee to this office not less than 30 days prior to the date of expiration.

Any person may appeal this decision by filing an Appeal in writing to the Planning Commission within 10 calendar days from the date of this letter. This appeal must be made on forms available from our office or online at <http://cms.sbcounty.gov/lus> and accompanied by the appropriate filing fee.

If you have questions or need additional information, please contact me at 760.995.8152 or Heidi.Duron@lus.sbcounty.gov.

Sincerely,

Heidi Duron, Supervising Planner

Enclosures: Conditions of Approval
Stamped Conditionally Approved Tentative Parcel Map

cc: LUSD – Building & Safety Division
County Fire – Community Safety Division
Public Health – Environmental Health
Services

LUSD – Land Development Division, Road Section
LUSD – Land Development Division, Drainage
Section
Public Works – Surveyor Division

HD/cks

Board of Supervisors:

GREGORY C. NEVEAUX
Chief Executive Officer

ROBERT A. LOVINGOOD, First District
JANIE RUTHERFORD, Chair, Second District
JOSIE GONZALES, Fifth District
JAMES RAMOS, Third District
GARY C. GOTT, Vice Chair, Fourth District

CONDITIONS OF APPROVAL**Tentative Parcel Map 17356****Ana Medrano****GENERAL REQUIREMENTS***Conditions of Operation and Procedures***LAND USE SERVICES/ Planning Division (760) 995-8140**

1. **Project Approval Description.** Tentative Parcel Map (TPM) 17356 is approved to be recorded and constructed in compliance with the conditions of approval, the approved stamped tentative map as designed, the required Composite Development Plan (CDP) and any Covenants, Conditions and Restrictions (C,C & R's) required by this approval. This approval includes the requirements of any approved displays (e.g. slope analysis, landscape plans) and/or approved reports (e.g. traffic study, biological assessment). TPM 17356 is approved to subdivide 1 gross acre into 3 parcels.
APN: 0268-291-09; Project Number P200600588.
2. **Project Location.** The project site is located on the south side of Porter Street, approximately 400' west of California Street. The project site is in the unincorporated community of Muscoy and in the Fifth Supervisorial District.
3. **Zoning Standards/RS.** The project site is located in the General Plan Valley Region, and in the Single Residential (RS) General Plan/Zoning District. Among the Valley Region RS development standards that apply are:
 - a) Maximum Density: 4 units per acre
 - b) Minimum Lot Area: 7,200 square feet
 - c) Minimum Width: 60 ft.; Lots 1 ac. + is 150 ft.
 - d) Minimum Depth: 100 ft.; Lots 1 ac. + is 150 ft.
 - e) Maximum Width to Depth Ratio: 1:3
 - f) Minimum Yards/Building Setbacks Lines (BSL) are:
 - Front – 25 ft.; Side Street – 15 ft. (Local) and 25 ft (Collector +)
 - Interior Side – 10 ft. one side and 5 ft other
 - Rear – 15 ft.
 - g) Maximum building height shall be 35 ft.
 - h) Maximum lot coverage (impervious) shall be 40% of net lot area

Additional Residential Development Standards are listed in SBCC §82.04.060.

Expiration Date: June 13, 2017

4. Expiration/TPM. This conditional approval of the Tentative Parcel Map shall become null and void unless all conditions have been completed and the Parcel Map has been deemed complete by the County Surveyor for purposes of recordation within thirty-six (36) months following the approval effective date, unless an extension of time is granted.
PLEASE NOTE: This will be the ONLY notice given of the approval expiration date. The "developer" is responsible for initiation of any extension request
5. Extension of Time/TPM. Where circumstances cause delays, which do not permit compliance with the required recordation time limit, the applicant may submit for review and approval an application requesting an extension of time. County Planning may grant such requests for extensions of time, each for a period not to exceed an additional twelve (12) months in compliance with the State Map Act Section 66452.6. An Extension of Time may be granted upon a successful review of an Extension of Time application, which includes a justification of the delay in recordation, a plan of action for completion and submittal of the appropriate fee, not less than 30 days prior to the expiration date. The granting of an extension request is a discretionary action that may be subject to additional or revised conditions of approval.
6. Revisions. Any proposed change to the approved Tentative Parcel map and/or the conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Planning for review and approval.
7. Indemnification. In compliance with SBCC §81.01.070, the "developer" shall agree, to defend, indemnify, and hold harmless the County or its "indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval.

Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the "developer" of any claim, action, or proceeding and that the County cooperates fully in the defense. The "developer" shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action.

Expiration Date: June 13, 2017

The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the "developer" of their obligations under this condition to reimburse the County or its indemnitees for all such expenses.

This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer's indemnification obligation applies to the indemnitees' "passive" negligence but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

8. Project Account. The Job Costing System (JCS) account number is P200600588. This is an actual cost project with a deposit account to which hourly charges are assessed. The developer shall therefore file a condition compliance application at the time the Condition Compliance Review is initiated. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.
9. Development Impact Fees. Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.
10. Condition Compliance. Condition compliance confirmation for purposes of Parcel Map recordation will be coordinated by the County Surveyor.
11. Additional Permits. The property owner, developer, and land use operator are all responsible to ascertain and comply with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies as are applicable to the development and operation of the approved land use and project site. These include:
 - a) FEDERAL: NONE
 - b) STATE: Regional Water Quality Control Board, South Coast Air Quality Management District
 - c) COUNTY: Land Use Services-Building and Safety, Land Development, County Fire; Land Use Services-Environmental Health Services, Public Works-Surveyor, AND
 - d) LOCAL: Muscoy Mutual Water Company.

LAND USE SERVICES/Land Development Division – Drainage Section (909) 387-8311

12. Tributary Drainage. Adequate provisions should be made to intercept and conduct the tributary off site - on site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.

Expiration Date: June 13, 2017

13. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
14. Additional Drainage Improvements. In addition to drainage requirements stated herein, other "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

LAND USE SERVICES/Land Development Division – Roads Section (909) 387-8311

15. Road Standards. All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans.

COUNTY FIRE DEPARTMENT/ Community Safety Division (909) 386-8645

16. Fire Jurisdiction. The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein ("Fire Department"). Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.

PRIOR TO RECORDATION OF THE PARCEL MAP

The Following Shall Be Completed

LAND USE SERVICES/ Planning Division (760) 995-8140

17. Composite Development Plan (CDP). A Composite Development Plan (CDP) is required to be prepared complying with the County Development Code Section 87.03.110. The CDP shall be submitted to the County Surveyor, who will then circulate the CDP for review and approval by all County agencies requiring CDP notes. Once approved the CDP is permanently filed with County Building & Safety and when developed each parcel shall comply with these requirements.

CDP/Planning Delineations. The "Building Envelope" for each parcel shall be shown by delineating the following minimum Building Setbacks Lines (BSL's):

- Front yard setback: 25 feet minimum
- Rear yard setback: 15 feet minimum
- Side yard setback: 10 feet minimum on one side/5 feet on the other

Expiration Date: June 13, 2017

CDP/Planning Notes. The following notes shall be noted verbatim on the CDP:

- a) Utilities. All new and existing utility lines shall be placed underground.
- b) Professional Reports. The CDP shall also include a list of the required professional reports for this project including the title, issuance date, author's names and the location where these reports are kept.

LAND USE SERVICES/ Building and Safety Division (760) 995-8140

- 18. CDP/B&S Delineations. County Building and Safety (B&S) in coordination with the Land Development Division requires the following to be delineated or noted on the Composite Development Plan (CDP), and that the delineations and notes be confirmed and approved, prior to recordation of the Parcel Map:

Easements. All easements shall be shown. Drainage easements/drainage courses shall be shown with the required building setbacks.

LAND USE SERVICES/Land Development Division – Drainage Section (909) 387-8311

- 19. Drainage Facility Design. A Registered Civil Engineer shall investigate and design adequate drainage facilities to intercept and conduct the off-site and on-site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$520 deposit for drainage review will be collected upon submittal to the Land Development Division.
- 20. Topo Map. A topographic map shall be provided to facilitate the design and review of necessary drainage facilities.
- 21. Grading Plans. Grading plans shall be submitted for review and approval obtained. A \$520 deposit for grading plan review will be collected upon submittal to the Land Development Division.
- 22. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
- 23. Permit. A permit, or authorized clearance, shall be obtained from the Land Development Division prior to issuance of a grading permit by County Building and Safety.
- 24. WQMP. A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A \$2,500 deposit for WQMP review will be collected upon submittal to the Land Development Division. Copies of the WQMP guidance and template can be found at:

Expiration Date: June 13, 2017

(<http://www.sbcounty.gov/dpw/land/npdes.asp>)

25. CDP/LDD - Drainage. A Composite Development Plan (CDP) is required and the following shall be delineated or noted on the CDP with confirmation and approval obtained from the LDD, prior to recordation of the Final Map (Statements in quotations shall be verbatim):

NOTES. The following notes shall be placed on the CDP:

"Land Use Services Department / Land Development Division – Drainage Section (909) 387-8311"

"Natural Drainage. Natural Drainage Course(s) and/or Easement(s) shall not be occupied or obstructed, unless specific approval is given by Land Use Services - Land Development Division/Drainage Section for each lot/parcel."

"Grading Plans. Grading plans shall be submitted to Land Use Services - Land Development Division for review and approval obtained prior to issuance of grading permits for each parcel. Submit necessary fees per the latest fee schedule for review, inspection and approval."

"Additional Drainage Improvements. At the time each lot/parcel is developed, a California Registered Civil Engineer (RCE) shall prepare/design complete drainage improvement plans and profiles. After these are submitted for review and approval additional "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time."

"Drainage and WQMP Improvements. Prior to issuance of Building Permit, all required drainage and WQMP improvements shall be completed by the applicant, inspected and approved by County Public Works. Submit necessary fees per the latest fee schedule for review, inspection and approval."

"WQMP Operations and Maintenance. Operation and maintenance (O&M) requirements for all Source Control, Site Design, and Treatment Control BMPs shall be identified within the Water Quality Management Plan (WQMP). All maintenance or replacement of BMPs proposed as part of the WQMP are the sole responsibility of the Owner in accordance with the terms of the WQMP Agreement."

"WQMP Final File. Prior to Occupancy, an electronic file of the final and approved WQMP shall be submitted to the Land Development Division, Drainage Section."

Expiration Date: June 13, 2017

LAND USE SERVICES/Land Development Division – Roads Section (909) 387-8311

26. Road Dedication/Improvement. The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications, plans and permits for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. These shall be submitted to the Land Use Services Department, located at 385 N. Arrowhead Ave, San Bernardino CA 92415-0187. Phone: (909) 387-8311.

Porter Street (Collector – 66')

- Road Dedication. A 8 foot grant of easement is required to provide a half-width right-of-way of 33'.
 - Street Improvements. Design A.C. dike with match up paving 22 feet from centerline.
 - Driveway Approach. Design driveway approach per San Bernardino County Standard 128, and located per Standard 130.
27. Road Design. Road sections shall be designed to Valley Road Standards of San Bernardino County, and to the policies and requirements of the County Department of Public Works and in accordance with the Master Plan of Highways.
28. Improvement Securities. All required public road, drainage, WQMP, and utility improvements for subdivisions shall be bonded in accordance with County Development code unless constructed and approved prior to recordation. Submit necessary fees, per the latest fee schedule, for new securities.
29. Maintenance Bond. Once all required public road, drainage, WQMP, and utility improvements have been constructed and approved, a maintenance bond for a period of one year shall be required to insure satisfactory condition of all improvements. Submit necessary fees, per the latest fee schedule, for new securities.
30. Street Improvement Plans. The developer shall submit for review and obtain approval of street improvement plans prior to recordation.
31. Utilities. Final plans and profiles shall indicate the location of any existing utility facility or utility pole which would affect construction, and any such utility shall be relocated as necessary without cost to the County.

Expiration Date: June 13, 2017

32. Encroachment Permits. Prior to installation of road and drainage improvements, a permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8039, as well as other agencies prior to work within their jurisdiction.
33. Soils Testing. Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to San Bernardino County and a written report shall be submitted to the Transportation Operations Division, Permits Section of County Public Works, prior to any placement of base materials and/or paving.
34. Open Roads/Cash Deposit. Existing County roads, which will require reconstruction, shall remain open for traffic at all times, with adequate detours, during actual construction. A cash deposit shall be made to cover the cost of grading and paving prior to issuance of road encroachment permit. Upon completion of the road and drainage improvement to the satisfaction of the Department of Public Works, the cash deposit may be refunded.
35. Transitional Improvements. Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing, shall be required as necessary.
36. Street Gradients. Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of County Public Works confirming the adequacy of the grade.
37. CDP/LDD - Roads. A Composite Development Plan (CDP) is required and the following shall be delineated or noted on the CDP with confirmation and approval obtained from the LDD prior to recordation of the Final Map (Statements in quotations shall be verbatim):

NOTES. The following notes shall be placed on the CDP:

"Land Use Services Department / Land Development Division – Roads (909) 387-8311"

"Encroachment Permit. At the time each lot/parcel is developed, an encroachment permit or other authorized clearance from each affected agency shall be required for all construction in the right-of-way of any jurisdiction, including the County and State. A copy of each permit shall be submitted to Public Works for review and approval obtained, prior to any project construction in any affected right-of-way of any jurisdiction."

Expiration Date: June 13, 2017

"Cash Deposit. At the time each lot/parcel is developed, a cash deposit shall be paid to Public Works prior to issuance of a County encroachment permit. The cash deposit is to assure completion of the required grading and paving in County right-of-way. The deposit shall cover all costs, including administration, contracting, construction and inspection. Upon completion of the County road and drainage improvements to the satisfaction of County Public Works, the cash deposit can be refunded."

"Improvements Constructed. Prior to final approval or occupancy of any structure on any lot/parcel, all required on-site and off-site road and drainage improvements (public and private) shall be fully constructed by the applicant, inspected and approved by County Public Works. However, completion of road and drainage improvements does not imply acceptance for maintenance by the County."

"Open Roads. At the time each lot/parcel is developed, existing County roads which require reconstruction by the project shall remain open for traffic at all times, with adequate Public Works approved detours, during actual construction."

"Structural Section Testing. Prior to occupancy, a thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to the County Public Works."

"Private Roads Improvements Prior to occupancy, construction of private roads and private road related drainage improvements shall be inspected and certified by the engineer."

"CMRS Exclusion. Roads within this development shall not be entered into the County Maintained Road System (CMRS)."

PUBLIC HEALTH/ Environmental Health Services (DEHS) (800) 442-2283

38. Water Service Verification. Developer shall procure a verification letter from the Muscoy Mutual Water District. This letter shall state whether or not water connection and service shall be made available to the project by the water agency. This letter shall reference the Assessor's Parcel Number 0268-291-09.
39. Sewer Letter. Applicant shall procure a verification letter from the City of Fontana with jurisdiction. This letter shall state whether or not sewer connection and service shall be made available to the project by the City of San Bernardino. The letter shall reference the Assessor's Parcel Number 0268-291-09.

Expiration Date: June 13, 2017

40. Existing Septic Systems. Existing septic systems can be used if developer provides certification from a qualified professional (i.e. Professional Engineer (P.E.), Registered Environmental Health Specialist (REHS), C-42 contractor, Certified Engineering Geologist (C.E.G.), etc.) that the system functions properly, meets code, and has the capacity required for the proposed project. Developer shall provide documentation outlining methods used in determining function.
41. LAFCO Review. Submit verification of annexation to DEHS for any project that requires water or sewer connection outside a purveyor's jurisdiction. For information, contact LAFCO at (909) 387-5866.
42. CDP/EHS. The following notes shall be noted verbatim on the CDP:

"Water Improvements. Water service shall be provided by Muscoy Mutual Water District. Proof of installation of water improvements shall be provided to DEHS prior to the issuance of building permits for each parcel."

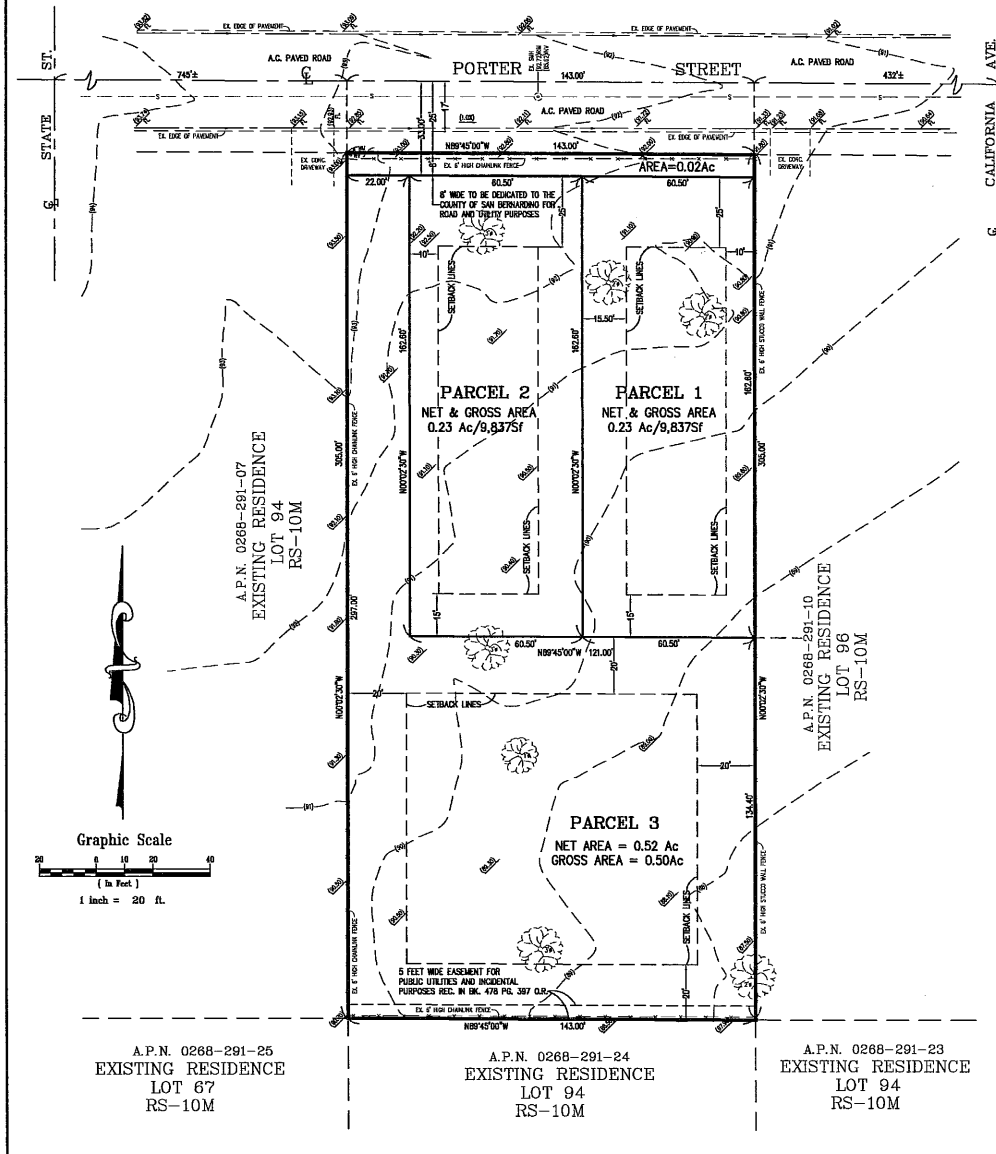
PUBLIC WORKS/ County Surveyor's Office (909) 387-8162

43. Parcel Map. A Parcel Map is required in compliance with the Subdivision Map Act and the San Bernardino County Development Code.
44. Non-interference Letter. Subdivider shall present evidence to the County Surveyor's Office that he has tried to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.
45. Easements. Easements of record not shown on the tentative map shall be relinquished or relocated. Lots affected by proposed easements or easement of records, which cannot be relinquished or relocated, shall be redesigned.
46. Title Report. Subdivider shall present a title report prepared for subdivision purposes.
47. Fees. Prior to approval for recordation, all fees required under actual cost job number PM 17356 shall be paid in full.

END OF CONDITIONS

TENTATIVE PARCEL MAP 17356

OFFICIAL USE ONLY



LEGAL DESCRIPTION

IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
LOT 96 OF TRACT MAP NO. 2243, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA RECORDED IN BOOK 32 OF MAPS, PAGES 21 AND 22 IN THE OFFICE OF THE SAN BERNARDINO COUNTY RECORDER.

SITE ADDRESS

1959 PORTER STREET
SAN BERNARDINO, CALIFORNIA

TOPOGRAPHY SOURCE

THE TOPOGRAPHY SHOWN HEREIN IS AN ACTUAL FIELD SURVEY PERFORMED UNDER THE SUPERVISION OF A. E. GUZMAN, A REGISTERED CIVIL ENGINEER, LICENSED IN THE STATE OF CALIFORNIA, ON FEBRUARY 4th, 2014.

GENERAL NOTES

GROSS ACREAGE 1.00 ACRES
NET ACREAGE 0.97 ACRES
EX. ZONING RS-10M
PROPOSED ZONING RS-10M
SPECIFIC PLAN NONE
COMMUNITY PLAN NONE
APN NUMBER 0268-291-09
TOWNSHIP & RANGE SEC. 30, T1N, R4W
PROPOSED USE RESIDENTIAL
NUMBER OF PARCELS 3
NUMBER OF LETTERED LOTS 1
LENGTH OF STREET FRONTAGE PORTER ST. 143.00'
FLOOD ZONING X-COM. # 060270
PANEL #7940F 3/18/96
ACCESS EASEMENT NONE
WATER FLOW NONE
PRELIMINARY GRADING SOUTH EAST
TREES/PLANTS CUT AND FILL
NONE REGULATED

UTILITY PURVEYORS

WATER
MUSCOY MUTUAL COMPANY
2167 GARRY STREET
SAN BERNARDINO, CA. 92407
PHONE (909) 887-2864

ELECTRIC
SOUTHERN CALIFORNIA EDISON
P. O. BOX 788
MILPITAS, CA. 95035
PHONE (909) 875-6420

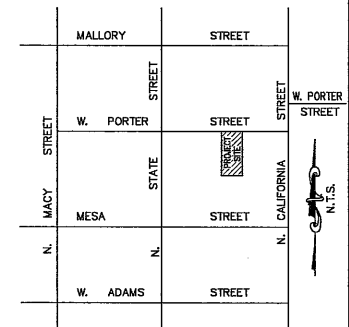
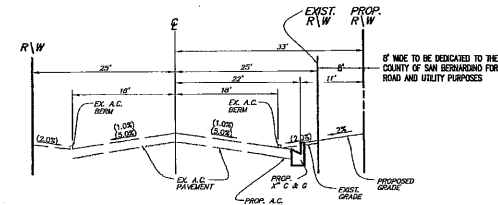
SEWER
CITY OF SAN BERNARDINO
300 N. D. STREET, 3RD FLOOR
SAN BERNARDINO, CA. 92418
PHONE (909) 384-9111

TELEPHONE
PACIFIC TELEPHONE COMPANY
3839 E. CORONADO
ANAHEIM, CA. 92807
PHONE (714) 886-5509

GAS
SOUTHERN CALIFORNIA GAS CO.
1231 VALLEY BOULEVARD
FONTANA, CA. 92335
PHONE (909) 458-9407

EASEMENTS

PER PRELIMINARY TITLE REPORT DATED FEBRUARY 7, 2014.
ITEM 5-AN EASEMENT FOR POLE LINES AND INCIDENTAL PURPOSES RECORDED IN AN INSTRUMENT IN BK 228, PAGE 74 O.R. CANNOT BE LOCATED FROM RECORD.
ITEM 6-AN EASEMENT FOR POLE LINES AND INCIDENTAL PURPOSES RECORDED IN AN INSTRUMENT IN BK 285, PAGE 84 O.R. CANNOT BE LOCATED FROM RECORD.
ITEM 7-AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES RECORDED ON 3/29/1922 IN BK 478, PG. 387 O.R. AFFECTS THE REAR 5 FEET.



PREPARED FOR

CARLOS MEDRANO
16186 WALNUT STREET
FONTANA, CA. 92336
PHONE (909) 857-6810

PROPERTY OWNER

MARTHA A. MEDRANO
16186 WALNUT STREET
FONTANA, CA. 92336
PHONE (909) 857-6810

A.P.N. NUMBER

0268-291-09

PREPARED BY

SP's TECHNICAL SERVICES
1391 WINDEMERE LANE
TUSTIN, CA. 92780
PHONE (714) 931-0912
EMAIL: fjt1961@gmail.com

PLANS PREPARED UNDER THE RESPONSIBLE CHARGE OF:

J. E. GUZMAN R.C.E. 27908 EXP. 03-31-2018

DATE PREPARED

FEBRUARY 06, 2014

REVISION DATE

OCTOBER 21, 2014

**Tom Dodson and Associates Response,
the County's Environmental Documents
for the Conditional Use Permit**

Attachment 4

TOM DODSON & ASSOCIATES

2150 N. ARROWHEAD AVENUE
SAN BERNARDINO, CA 92405
TEL (909) 882-3612 • FAX (909) 882-7015
E-MAIL tda@tdaenv.com



November 21, 2015

RECEIVED
NOV 25 2015

Ms. Kathleen Rollings-McDonald
Local Agency Formation Commission
215 North D Street, Suite 204
San Bernardino, CA 92415-0490

LAFCO
San Bernardino County

Dear Kathy:

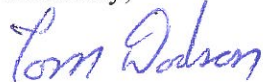
I have completed the California Environmental Quality Act (CEQA) review of out-of-area service contract, SC#402 for the Commission. LAFCO SC#402 would permit the City of San Bernardino to extend sewer service to single parcel of land (about one acre in size) located in unincorporated territory on the west side of the City in the community of Muscoy which is in the City's western Sphere of Influence. The project site is located on the south side of Porter Street, about 400 feet west of California Street. If approved, the service extension would provide sewer service and allow a single family residence to be constructed in the near term future on a lot that is currently vacant. The County has approved Tentative Parcel Map (TPM) 17356 which could allow an additional two lots to be developed in the future. If approved, these facilities would be connected to City of San Bernardino regional wastewater collection system and the regional treatment system operated by the City Municipal Water Department. In return, the owner makes a commitment to ultimately annex this parcel to the City. At the present time the property is noncontiguous with the City's boundary.

Based on the above proposal and the findings presented below, it appears that LAFCO SC#402 can be implemented without causing significant adverse environmental impacts. The administrative record does not identify any action to comply with the California Environmental Quality Act (CEQA) for this proposed project. Therefore, LAFCO will consider this extension of service contract as the CEQA lead agency. Based on the limited number of units that can ultimately be developed on this property (three, based on TPM17356), this project has not potential to cause a significant adverse impact on the environment. Therefore, I conclude that LAFCO SC#402 does not constitute a project under CEQA and adoption of the Statutory Exemption (under the "General Rule" and filing of a Notice of Exemption is the most appropriate determination to comply with the CEQA exemption found in Section 15061 (b) (3) for this action. The Commission can approve this review and finding for this action and I recommend that you notice LAFCO SC#402 as statutorily exempt from CEQA for the reasons outlined in the State CEQA Guideline sections cited above. The Commission needs to file a Notice of Exemption (NOE) with the County Clerk to the Board for this action once a decision is made for this out-of-area service agreement.

Thus, after independent review of this proposed action, the proposed sewer service extension does not appear to have any potential to significantly alter the existing physical environment. Extending sewer service has no effect on land uses which are governed by the County. Thus, this service extension does not involve any change in the authorized end use, which will consist of one single family residence in the near future and two additional residential units in the future. Since no other project is pending or will occur as a result of approving this application, no other potential significant physical changes in the environment are forecast to result from this action. Further, extending sewer service to this parcel is not forecast to create growth inducement because most of the land along this segment of Porter Street is already development with residential uses.

Based on a review of LAFCO SC#402 and the pertinent sections of CEQA and the State CEQA Guidelines, I believe it is appropriate for the Commission's CEQA environmental determination to cite the "General Rule" exemption, as adequate documentation in accordance with the Commission's CEQA lead agency status. If you have any questions regarding these recommendations, please feel free to give me a call.

Sincerely,



Tom Dodson

Draft Resolution #3209

Attachment 5

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

215 North "D" Street, Suite 204, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 885-8170
E-mail: lafco@lafco.sbcounty.gov
www.sbclafco.org

PROPOSAL NO.: LAFCO SC#402

HEARING DATE: DECEMBER 16, 2015

RESOLUTION NO. 3209

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY MAKING DETERMINATIONS ON LAFCO SC#402 – CITY OF SAN BERNARDINO IRREVOCABLE AGREEMENT TO ANNEX FOR SEWER SERVICE (APN 0268-291-09)

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

WHEREAS, Government Code Section 56133 requires the Local Agency Formation Commission to review and approve or deny applications for agencies to provide services outside their existing boundaries; and,

WHEREAS, an application for the proposed service extension in San Bernardino County was filed with the Executive Officer of this Local Agency Formation Commission in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), and the Executive Officer has examined the application and determined that the filings are sufficient; 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, the public hearing by this Commission was held upon the date and at the time and place specified in the notice of public hearing and in order or orders continuing the hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written protests; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the contract, in evidence presented at the hearing;

NOW, THEREFORE, BE IT RESOLVED, that the Local Agency Formation Commission for San Bernardino County does hereby determine, find, resolve and order as follows:

RESOLUTION NO. 3209

DETERMINATIONS:

SECTION 1. FINDINGS. The following findings are noted in conformance with Commission policy:

1. The project area, which includes one parcel—Assessor Parcel Number 0268-291-09—is located on the south side of Porter Street between California Avenue and State Street in the community of Muscoy. The parcel is within the sphere of influence assigned the City of San Bernardino and is anticipated to become a part of that City sometime in the future. The application requests authorization to receive City of San Bernardino sewer service for the proposed Tentative Parcel Map 17356 which would subdivide one gross acre into three parcels. This requirement is a condition of approval placed upon the project by the County Land Use Services Department. Therefore, approval of the City's request for authorization to provide sewer service is necessary in order to satisfy this condition of approval.
2. The Irrevocable Agreement to Annex is for the provision of sewer service by the City of San Bernardino to Assessor Parcel Number 0268-291-09, which would be subdivided into three parcels pursuant to TPM 17356. The City has indicated that annexation of this property could occur, but would require several adjacent properties to be included to provide for a logical and efficient boundary for delivery of the full-range of City services. The City has agreed to the processing of the out-of-agency service contract for sewer service to allow for the development of three single-family-residences. Therefore, this contract will remain in force in perpetuity for the parcel or until such time as the area will be annexed when a more comprehensive annexation can be identified and processed. Approval of this application allows the property owner/developer and the City of San Bernardino to proceed in finalizing the contract for the extension of sewer service.
3. The fees charged this project by the City of San Bernardino for sewer service are identified as totaling \$15,393.68. Payment of these fees is required prior to connection to the City's sewer facilities. The property owner/developer shall bear all costs to complete improvements needed to extend the sewer service to the parcel. The City has identified that it does not charge a premium rate for out-of-agency sewer service.
4. As required by State Law, notice of the Commission's consideration was provided through publication in a newspaper of general circulation, *The Sun*. Individual notice was provided to registered voters (zero within the project area and 145 surrounding) and landowners (the landowner/developer within and 96 surrounding) as required by Government Code Section 56157 as well as affected and interested agencies, County departments, and those agencies and individual requesting mailed notice. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determination.
5. The Local Agency Formation Commission has determined that this service contract is statutorily exempt from the California Environmental Quality Act (CEQA) based on the finding that the proposal has no potential to cause an adverse effect on the environment. The Commission certifies it has reviewed and considered the environmental recommendation and finds that, without any identifiable physical changes, this proposal does not constitute a project and is not subject to environmental review under the provisions of the State CEQA Guidelines Section 15061(b)(3).

RESOLUTION NO. 3209

The Commission directs its Executive Officer to file a Notice of Determination within five (5) working days with the San Bernardino County Clerk of the Board of Supervisors.

SECTION 2. CONDITION. The San Bernardino shall indemnify, defend, and hold harmless the San Bernardino County Local Agency Formation Commission from any legal expense, legal action, or judgment arising out of the Commission's approval of this service contract, including any reimbursement of legal fees and costs incurred by the Commission.

SECTION 3. The San Bernardino County Local Agency Formation Commission does hereby determine to approve the service extension contract submitted by the City of San Bernardino to provide sewer service to Tentative Parcel Map 17356, approved by the County to subdivide one gross acre (Assessor Parcel Number 0268-291-09) into three parcels.

SECTION 4. The Commission instructs the Executive Officer of this Local Agency Formation Commission to notify the affected agencies that the application identified as LAFCO SC#402 – City of San Bernardino Irrevocable Agreement to Annex for Sewer Service (APN 0268-291-09), has been approved.

THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission for San Bernardino County 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 for San Bernardino County, 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 regular meeting of December 16, 2015.

DATED: December 16, 2015

KATHLEEN ROLLINGS-MCDONALD
Executive Officer

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

215 North "D" Street, Suite 204, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 885-8170
E-mail: laico@laico.sbcounty.gov
www.sbclaico.org

DATE: DECEMBER 8, 2015

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #5 – Consideration of Fee Reduction Requested by the San Bernardino County Fire Protection District on behalf of the City of Needles for its Reorganization Proposal to Annex the City to the San Bernardino County Fire Protection District (et al)

RECOMMENDATION:

Staff recommends that the Commission approve a reduction in application fees for the City of Needles request to transfer its fire responsibility to the San Bernardino County Fire Protection District to a total of \$12,500 (total fees and deposits is \$15,400).

BACKGROUND:

The City of Needles at its meeting on October 27, 2015, accepted the recommendation of its Fire Services Task Force to pursue annexation into the San Bernardino County Fire Protection District (hereafter shown as "SBCFPD" or "County Fire"). The adopted resolution, Resolution No. 2015-49, does not comply with the requirements set in the Cortese-Knox-Hertzberg Local Government Reorganization Act (CKH) to initiate such a change, but the City is proposing to correct those deficiencies at its December 18, 2015 meeting. Much like the other fire changes the Commission has received, the City anticipates a sphere of influence amendment for SBCFPD along with the annexation to the SBCFPD, its South Desert Service Zone, and either Service Zone FP-5 or FP-6 for supplemental funding. Since 2004, the City of Needles has contracted with the SBCFPD to provide its fire protection services. Beginning in January 2015, the City and County Fire began negotiations to evaluate service options based upon the limitations of the tax revenues received by the City. The service changes anticipated for that upcoming fiscal year identified significant cost increases straining the City's ability to fund. The City in turn responded with development of the Fire Services Task Force to evaluate options for providing this service within the City.

At the October 27, 2015 City Council meeting, the findings of the Task Force were presented and the City indicated, through adoption of Resolution No. 2015-49, that it wished to pursue the option of annexing the City to the SBCFPD and its service zones for fire

protection/emergency medical response and supplemental funding. The purpose of this change of organization is to provide for a means to continue fire protection and emergency medical response in a financially sustainable manner. On November 23, 2015, LAFCO received a letter from County Fire requesting a reduction in the filing fees on behalf of itself and the City.

Based on the Commission's adopted fee schedule, the total filing fee for the sphere of influence change and reorganization would be \$33,960. The breakdown below shows all the required fees/deposits for the submission of the reorganization proposal:

LAFCO Filing Fees:

a. Sphere of Influence Amendment	\$ 5,000
b. Reorganization (\$7,500 plus \$1 per acre over 1,920 acres)	\$26,060
c. Deposit – Legal Counsel	\$ 1,150
d. Deposit – Environmental	\$ 750
e. Deposit – Legal Ad In Lieu of Individual Notice	<u>\$ 1,000</u>
TOTAL	<u>\$33,960</u>

Given the financial position of the City of Needles as well as the fact that the proposal addresses the whole of the service area which has been the subject of a service contract for more than ten years, staff supports a reduction in the fee. The reduction would be based on the Commission's adopted fee schedule, broken down as follows:

a. Sphere of Influence Amendment	\$ 5,000
b. Reorganization (a maximum single change fee)	\$ 7,500
c. Deposit – Legal Counsel	\$ 1,150
d. Deposit – Environmental	\$ 750
e. Deposit – Legal Ad In Lieu of Individual Notice	<u>\$ 1,000</u>
TOTAL	<u>\$15,400</u>

Staff is recommending that the Commission make the determination to reduce the total LAFCO filing fee to \$12,500 (sphere and reorganization) along with the balance of the required deposits. Staff will be happy to answer any questions of the Commission prior to or at the hearing.

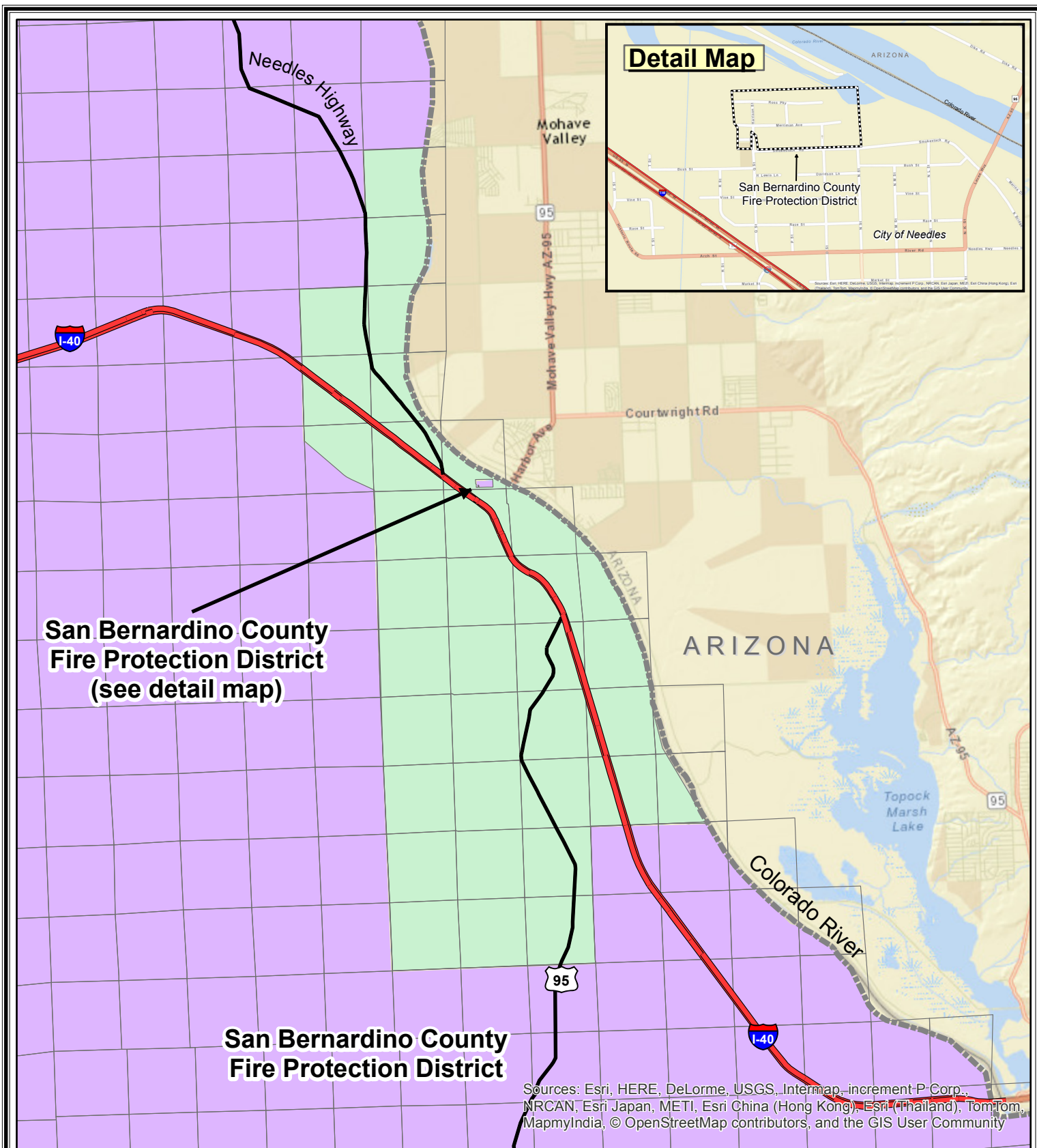
KRM

Attachment

1. Vicinity Map of the Fire Reorganization Anticipated
2. Letter Dated November 23, 2015 from the San Bernardino County Fire Protection District with City of Needles Resolution No. 2015-49

Vicinity Map of the Fire Reorganization Anticipated

Attachment 1



City of Needles Vicinity Map



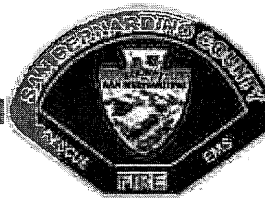
0 1 2 4 Miles

- City of Needles
- San Bernardino County Fire Protection District
- County Boundary

**Letter Dated November 23, 2015
from the San Bernardino
County Fire Protection District
with City of Needles
Resolution No. 2015-49**

Attachment 2

SAN BERNARDINO COUNTY FIRE DEPARTMENT



COUNTY OF SAN BERNARDINO

ADMINISTRATIVE HEADQUARTERS

157 West Fifth Street, Second Floor • San Bernardino, CA 92415-0451
(909) 387-5974 • Fax (909) 387-5542

MARK A. HARTWIG
Fire Chief/Fire Warden

November 23, 2015

Kathleen Rollings-McDonald
Executive Officer
San Bernardino LAFCO
215 North "D" Street, Suite #204
San Bernardino, CA. 92415

RE: Request for Reduction of Fees for forthcoming City of Needles application/consideration

Dear Kathleen,

The City of Needles council recently voted through a resolution to pursue a potential annexation into the San Bernardino County Fire District. The resolution was vague and will be finalized on December 8th, 2015 in relation to the desired approach. This in turn will be followed by a much more defined resolution on behalf of the San Bernardino County Board of Supervisors on December 18th, 2015.

As part of the annual budgeting process for the City of Needles, they identified only a surplus of approximately \$10,000 as of the start of the FY. As such, there is a very high likelihood that the San Bernardino County Fire District will eventually pay a significant portion, if not all of the required fees for consideration of a LAFCO application process.

In factoring the costs associated with such application, we came to a collective application price of \$33,960.

Since this was an unbudgeted and frankly unexpected expenditure on the Fire Districts behalf, I would respectfully request any consideration to a fees reduction as we have discussed.

GREGORY C. DEVEREAUX
Chief Executive Officer

Board of Supervisors
ROBERT A. LOVINGOOD.....First District JAMES RAMOS.....Third District
JANICE RUTHERFORD.....Second District GARY C. OVITT.....Fourth District
JOSIE GONZALES Fifth District

The San Bernardino County Fire District is prepared to pay the following as previously outlined:

Sphere Expansion:	\$5,000
Annexation (Single Maximum Fee)	\$7,500
Legal Deposit	\$1,150
Environmental Review	\$750
Legal Ad in-lieu of individual notice	\$1,000
This should total to:	\$15,400

Again, Thank you for consideration in this matter.

Respectfully,


John R. Chamberlin

Division Chief

San Bernardino County Fire District

760-365-3335

Proudly Serving:

*City of Adelanto
Crest Forest FPD
City of Fontana
City of Grand Terrace
City of Hesperia
City of Needles
City of Victorville
Town of Yucca Valley*

And the Communities of:

Amboy
Angelus Oaks
Baker
Baldwin Lake
Baldy Mesa
Barton Flats
Big River
Black Meadow Landing
Bloomington
Cedar Glen
Crest Park
Deer Lodge Park
Devore
El Mirage
Fawnskin
Forest Falls
Green Valley Lake
Harvard
Havasui Landing
Helendale
Hinkley
Iron Mountain
Johnson Valley
Joshua Tree
Lake Arrowhead
Landers
Lucerne Valley
Ludlow
Lytle Creek
Mentone
Mt. Baldy
Mt. Home Village
Mt. Pass
Mt. View Acres
Muscoy
Oak Hills
Oro Grande
Panorama Heights
Park Moabi
Phelan
Pinon Hills
Pioneer Town
Red Mountain
San Antonio Heights
Searles Valley/Trona
Sky Forest
Spring Valley Lake
Summit Valley
Windy Acres
Wonder Valley
Wrightwood

RESOLUTION NO. 2015-49

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF NEEDLES, CALIFORNIA, ACCEPTING THE
RECOMMENDATION OF THE FIRE SERVICES TASK FORCE
AND DIRECTING STAFF TO BEGIN THE APPLICATION PROCESS
FOR ANNEXATION INTO THE COUNTY FIRE DISTRICT
FOR CONTINUED FIRE PROTECTION SERVICES

WHEREAS, on January 5, 2015, the San Bernardino County Fire Department notified the City of Needles that the annual cost of fire protection services would be increasing from approximately \$620,000 to approximately \$1.2 million due to the elimination of their limited term firefighter program which provided low cost firefighter positions (lower pay and no benefits) while allowing the limited terms to gain valuable experience; and

WHEREAS, on July 14, 2015, the City Council appointed community members to serve on a Fire Services Task Force to research options for continued fire protection services within the City of Needles, including continuing the relationship with the County Fire Department; seeking an alternative fire service provider; annexation into the San Bernardino County Fire District; or creation of a municipal volunteer/paid-call fire department; and

WHEREAS, the Task Force met on three occasions during which significant reports and other information were provided on many components of operating a local fire department all of which was explored, discussed, and debated and all questions were answered by staff; and input was received from local emergency services personnel, citizens and business owners; and

WHEREAS, by majority consensus, the Fire Services Task Force recommended that the City of Needles begin the necessary steps towards annexation into the County Fire District, and, recognizing the need for community involvement, further recommended the implementation of a reserve firefighters, paid-call and/or explorer program to enhance service and provide local residents the opportunity for involvement in their fire department.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Needles, California, hereby accepts the recommendation of the Fire Services Task Force as outlined in their written report dated October 16, 2015 attached hereto and incorporated herein and directs the City Manager to begin the application process with the San Bernardino County Local Agency Formation Commission (LAFCO) for annexation into the San Bernardino County Fire District.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California, held on the 27th day of October, 2015, by the following roll call vote:

AYES: Councilmembers Frazier, Williams, Darcy and Richardson

NOES: Councilmembers Gudmundson and Evans

ABSENT: None

ABSTAIN: None

Cheryl/council/resolution - fire services task force recommendation - accept (Oct '15)

Resolution No. 2015-49
(Page Two)




Mayor

(SEAL)

ATTEST: 

City Clerk

APPROVED AS TO FORM:



City Attorney

October 16, 2015

To: Mayor Paget, M.D., Council members, Rick Daniels, City Manager

From: Michael Wright, representing the Fire Service Task Force Committee

Subject: Fire Service Task Force Committee recommendation of Fire Services for City of Needles, California.

The Fire Service Task Force Committee met three times in which there were many issues explored, discussed and debated. The committee was facilitated by Rick Daniels, City Manager. Committee members had the opportunity to review the cities' fire service history which brought us up to our present situation. It was determined the city had a few options to investigate.

- 1.) The city could maintain their contractual relationship with San Bernardino County Fire.
- 2.) The city could seek an alternative fire service provider, i.e. Mohave Valley Fire Dept.
- 3.) The city could be annexed into San Bernardino County Fire District.
- 4.) The city could create its own fire department.

Obviously, continuing the current contract with San Bernardino County Fire is not feasible. The alternative to the current contract, which was closer to what the city could afford, (\$612,000), was also a consideration. This model would result in a staffing reduction of one firefighter, but would provide a full Paramedic Engine company staffed. This staffing level is equivalent to Mohave Valley Fire Department.

It was estimated that contracting with Mohave County Fire Department would cost the city \$1.2 million to staff a fire station here in Needles.

Annexation into the County Fire District would cost a permanent transfer of \$582,000 from the total property tax collected. A parcel tax up to a maximum of \$171 could be levied to decrease the cities' cost. Level of service is maintained and may be enhanced by two firefighters in the future.

The Paid Call/Volunteer, city fire service model presented an unrealistic financial burden. When a rough draft budget was formulated, it became clear the city does not have the resources to fund its own agency. There is legitimate concern of homeowners and business insurance rates being significantly raised or even cancelled. The city made substantial outreach efforts to draw interest in a PCF/Volunteer fire agency and determine the size of an eligible pool of candidates. (Please see attached list of agencies notified.) At this point there is a total of zero applications received.

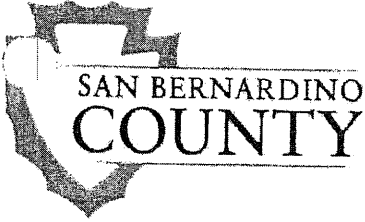
Many hours were spent discussing these options. We were privileged to have guest speakers and concerned citizens attend the meetings. Mike Lowenthal, owner/operations manager of Baker Ambulance spoke to the committee to inform us of what role his services play in emergency response. Division Chief John Chamberlin and Battalion Chief Tom Marshall from San Bernardino County Fire attended meetings and were willing to clarify many questions the committee had regarding the service they provide. Janet Jernigan, a local business owner provided insight into the possible scenarios regarding insurance issues. Local resident Barry Menges, provided valuable fire service details and perspective.

At our last meeting we again heard input from citizens, local business owners and Chief Chamberlin. We, the committee, were charged with coming to an agreement as to how the city of Needles could best be served with fire protection. Taking into consideration cost, level of service, response time and availability, I.S.O. and insurance consequences, availability and reliability of resources, community involvement and local control, we came to an unanimous, collective decision.

The Fire Service Task Force committee recommends the the city of Needles begin the necessary steps toward annexation into the County Fire District. The committee also recognizes the need for community involvement and would recommend implementing a reserve firefighter, paid-call and/or explorer program to enhance service and provide local residents the opportunity for involvement. The citizens participation is welcomed, encouraged and would be initiated by Chief Chamberlin and Chief Marshall.

Throughout California and much of the nation, the regional approach to fire services has proven to be a beneficial trend.

The committee agrees this would be the most cost effective route for securing ongoing fire protection services for the city. While it does require the permanent transfer of funds, a parcel tax would relieve some of the cost. Even without a parcel tax levee the cost is less than the city is currently paying. The level of service would remain, with the possible enhancement of adding two firefighter positions which Chief Chamberlin is requesting. Coverage of the city would remain intact with the existing mutual aid agreement. The city currently has an I.S.O. rating of five (5) which is unlikely to change. The County Fire District has the ability to provide many emergency response resources as well as human resources which is a cost the city would not have to incur. The San Bernardino County Fire District will have complete financial responsibility. Financial, operational, logistical and supportive resources will be provided by the fire district relieving the city of other costly obligations.



Fire District
Division 5 – South Desert

Mark A. Hartwig
Fire Chief/Fire Warden

Dave Benfield
Division Chief

January 5, 2015

Rick Daniels, City Manager
City of Needles
817 3rd Street
Needles, CA 92362

Mr. Daniels:

Currently the City's contract with San Bernardino County Fire (County Fire) pays for six limited-term firefighters (LT's) and other costs. The LT's work a schedule like full-time firefighters, but they have much lower pay and no benefits. The LT's are allowed to work a maximum of three years for County Fire as LT's to prevent County Fire from violating labor laws.

The original vision in hiring LT's under this Limited Term Firefighter Program (LT Program) was both to implement low-cost firefighter positions, and to allow LT's to gain valuable experience so that they could ultimately become full-time firefighters with County Fire or other organizations. However, under this program, County Fire has experienced great difficulty maintaining staffing levels. As such, County Fire will begin phasing out the LT Program, and will be replacing LT's with full-time firefighters.

The time frame for this transition is not yet known and will depend heavily on revenues. This will impact the City of Needles greatly, as County Fire will no longer offer a low-cost option for firefighters. The phase-out of the LT Program will definitely increase contract costs drastically. Currently the contract cost for the City of Needles is approximately \$620,000. If we were to hypothetically (today) replace the LT's with full-time firefighters, contract costs would increase by approximately \$600,000. My intent in this letter is to advise you of County Fire's future staffing plans so that the City of Needles can adequately plan for the future increase in expenses, or explore other options. Please feel free to contact me with any questions.

Respectfully,

Dave Benfield
Division Chief

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 885-8170
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: DECEMBER 8, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #7 -- Presentation Required Pursuant to Section IV - Application Processing, Policy 11 – Island Annexation Pursuant to Government Code Section 56375.3 – Proposed Annexation to the City of Rialto and West Valley Water District of the Lytle Creek Ranch Specific Plan Anticipating the Development of more than 500 Units

RECOMMENDATION:

Staff recommends that the Commission provide its direction to LAFCO related to the methods, if any, to address the Island Areas of North Rialto.

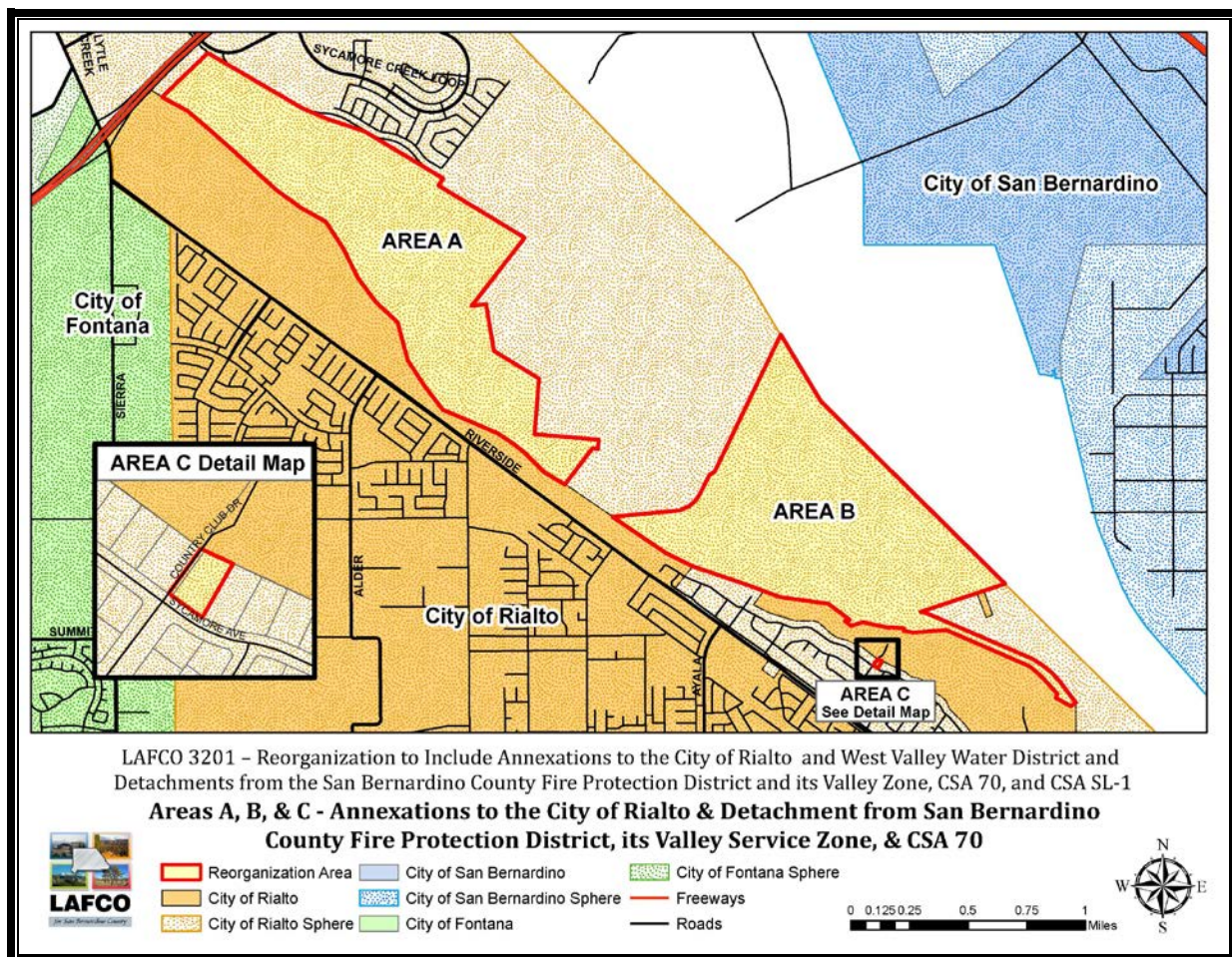
BACKGROUND:

In September 2011, the Commission modified its Island Annexation Policy removing the requirement for a City to initiate the annexation of its islands when considering a major development application. This amendment was based upon two changes in circumstances: (1) the passage of SB 89 by the legislature removing the discretionary Motor Vehicle In-lieu fee on a per capita basis made the determination of sustainability for service delivery questionable; and (2) the continuing desire of the Commission to look at these issues on a case-by-case basis. The policy language now reads:

4. *The Commission directs that upon receipt of a development-related annexation or reorganization application, which anticipates development of 500 or more dwelling units and/or 500,000 square feet of commercial/ industrial development, LAFCO staff shall, within 90-days, place an item on the Commission's discussion calendar to review that City's unincorporated island areas which meet the criteria identified in Government Code Section 56375.3. The questions to be reviewed shall include, but not be limited to, the feasibility of annexing the island areas as a condition of application approval, the anticipated revenues available to fund service extension should the areas be annexed, and*

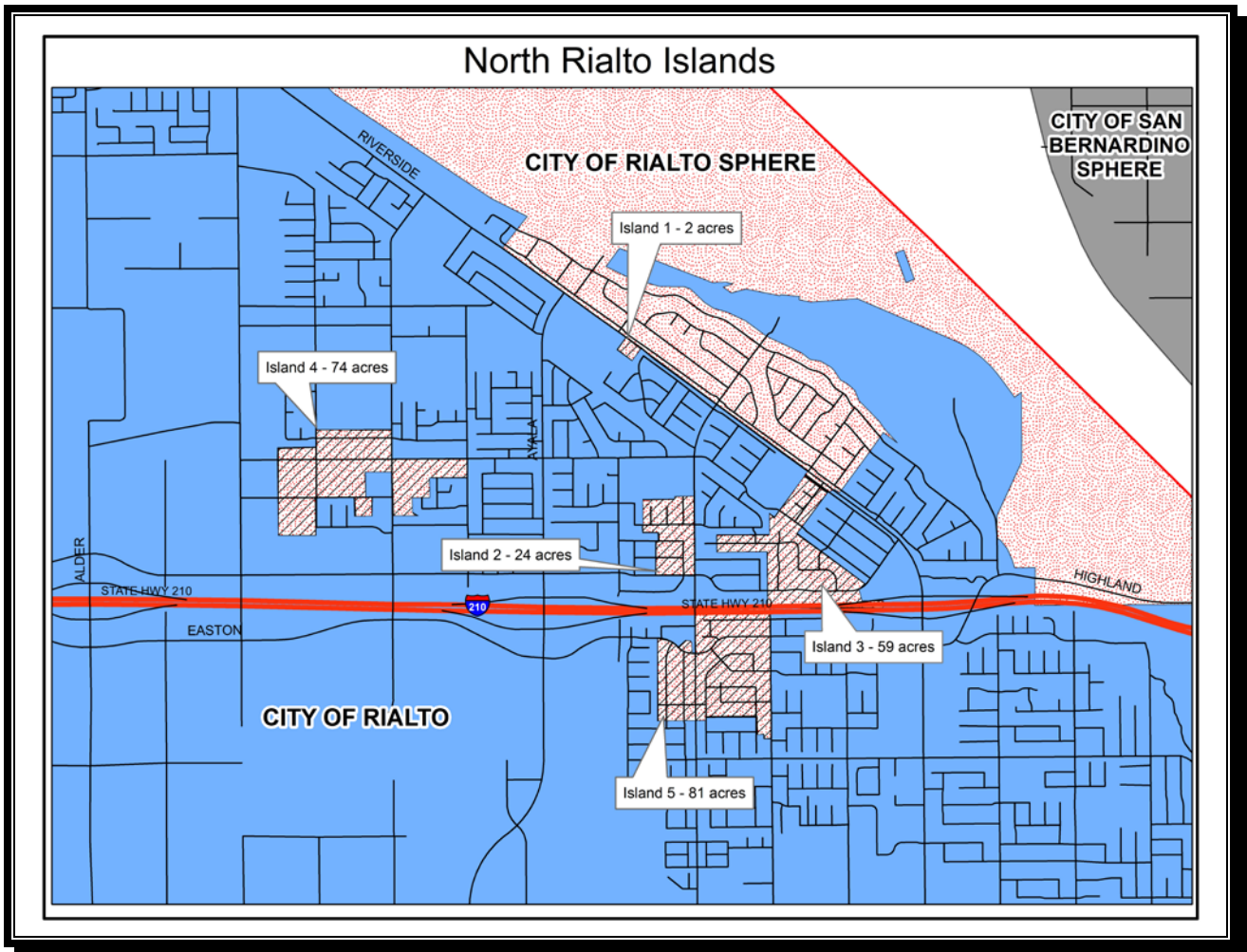
any special circumstance in reference to original change of organization application or the island areas.

In September 2015, the City of Rialto submitted an application for annexation of two portions of the adopted Lytle Creek Rancho Specific Plan. The area is shown on the map below and in Attachment #1, and excerpts from the Specific Plan are included as Attachment #2. The annexation proposal includes the anticipated development of 3,187 residential units and 235,645 square feet of commercial development. The specific plan includes area already a part of the City of Rialto, bringing the total development to 6,260 residential units and 668,732 square feet of commercial development. The development criteria of the island annexation policy have clearly been met requiring the discussion of the unincorporated island areas adjacent to the project.



The island areas which meet the criteria outlined in Government Code Section 56375.3 of less than 150 acres, substantially or totally surrounded, etc. and the Commission's

policies related to the determination of substantially surrounded in close proximity to the project are, shown on the graphic below along with their respective acreages.



As noted at the November hearing, conspicuously missing from this graphic is the El Rancho Verde Island which will become totally surrounded through the processing of LAFCO 3201 should it be approved. This island area is 212 +/- acres; therefore, it does not meet the criteria allowing for an expedited annexation procedure. In addition, when considering LAFCO 3201 and the creation of El Rancho Verde as a totally surrounded island, the Commission will be required to make the determinations required by Government Code Section 56375(m) that: (1) the application of restrictions identified in Government Code Section 56744 (an island cannot be created by action of an annexation) would be detrimental to the orderly development of the community and (2)

the area to be enclosed cannot reasonably be annexed to another city or incorporated as a new city.

It is the position of LAFCO staff that LAFCO 3201 presents the last opportunity for the Commission to look at requiring the annexation of the North Rialto islands as a companion action. This does not preclude efforts which may be undertaken between the County and City, along with LAFCO support, to address a comprehensive island annexation plan to provide for clarification and realignment of jurisdictions but the incentive may be different.

In response to the staff's determination that this is the last opportunity for requiring that these islands to be considered, we have evaluated the revenues available from within these areas for transfer to the City of Rialto and the anticipated cost for provision of services based upon the calculations used in the Plan for Service signed by the City of Rialto for LAFCO 3201. That information is provided as follows:

- **REVENUES:**

In order to evaluate the potential revenues that an island annexation would provide to the City of Rialto, LAFCO staff has utilized the Plan for Service presented by the City for LAFCO 3201 as the baseline for projections. However, there are several significant issues associated with the island annexations, outlined as follows:

1. Ad valorem property tax transfer

San Bernardino County has established policies related to the transfer of ad valorem property tax, generally known as the "share the pain" process. In the transfer, the historic share assigned the City is determined, what would have been the historic allocation of property tax is determined based upon that share, and then the detaching agencies' revenue is subtracted from the historic share of revenue. The remaining amount is then equally split between the City and County General Fund, generally resulting in a loss of percentage share for the annexing City. On rare occasions there is a surplus of funds remaining following the policy calculation which are also split between the annexing City and the County General Fund. However, in an island annexation the County has agreed to provide the City its full historic share.

In the case of the City of Rialto, the historic share is less than the amount of the detaching agencies at 13.642183%. The detaching agencies have shares which total 21.043441% of property tax revenues, individually identified as follows: CSA SL-1 (street lighting entity) 1.45458%, County

Fire Valley Service Zone 17.184959% and County Fire Administration (parent agency) 2.443024%. Staff has estimated that the total revenues that would be received based upon 2015-16 data is \$201,207. According to the County's past practice, compared to a standard annexation this would be an increase of \$70,762.

2. Utility tax application.

An additional item of significance in considering these islands is a recent judicial decision related to the imposition of special taxes in an island annexation situation. The case, *Citizen's Association of Sunset Beach vs Orange County Local Agency Formation Commission*, determined that the provisions of Prop 218 do not apply to island annexations, and the existing taxes that had been previously authorized by the annexing City could be extended to the island without a vote. This decision is significant for consideration of island annexations in San Bernardino County as this was not the interpretation prior to the decision in 2011 (a copy of the Superior Court and Appellate Court Published Decision included as Attachment #4). Based upon the calculation of Stan Hoffman and Associates for LAFCO 3201, this represents revenues of approximately \$235,665 annually based upon existing populations in the five islands estimated at 2,250. This would be a substantial source of revenue for the City of Rialto

- **EXPENDITURES:**

LAFCO staff has again used the expenditure data provided in the Plan for Service for LAFCO 3201 and are outlined in Attachment #3. However, a significant exception has been used by LAFCO staff and that is the exclusion of fire protection/emergency response costs. These are estimated by the Hoffman Plan for Service as \$149.91 per capita for a total of \$337,298 for all five islands. These costs have been excluded from the estimates on the basis of existing, and long term, contractual arrangements between County Fire and the City of Rialto that the City would serve the unincorporated islands without compensation in an automatic aid arrangement. This arrangement was most recently memorialized in August of 2012 with a five-year agreement for service.

The estimated expenses and revenues for the individual islands are shown below and are included as Attachment #3 to this report.

ITEM #7 – REVIEW OF CITY OF RIALTO
ANNEXATION WITH LAFCO
ISLAND ANNEXATION POLICY
December 10, 2015

Rialto North Islands							
			Island 1	Island 2	Island 3	Island 4	Island 5
Assessed Value			\$ 151,337	\$ 15,929,418	\$ 23,696,269	\$ 16,154,640	\$ 39,682,548
Tax Revenue			\$ 1,513	\$ 159,294	\$ 236,963	\$ 161,546	\$ 396,825
2015 Est. Population			\$ 4	\$ 276	\$ 458	\$ 526	\$ 986
2015 Est. Households			\$ 1	\$ 76	\$ 125	\$ 110	\$ 241
	Cost Factor						
	per capita	Note	Total Cost	Total Cost	Total Cost	Total Cost	TOTAL COST
Recurring Costs							
Property Tax							
CSA SL-1			\$ 21	\$ 2,255	\$ 3,354	\$ 2,287	\$ 5,617
County Fire - Valley Service Zone			\$ 260	\$ 27,375	\$ 40,722	\$ 27,762	\$ 68,194
County Fire - Admin			\$ 37	\$ 3,892	\$ 5,789	\$ 3,947	\$ 9,695
Sales Tax		Note 1					
In lieu property tax (sales & use tax)	\$ 22.97		\$ 92	\$ 6,340	\$ 10,521	\$ 12,083	\$ 22,650
Property transfer tax-turnover		Note 2	\$ 4	\$ 438	\$ 652	\$ 444	\$ 1,091
In lieu property tax (VLF)		Note 3	\$ 218	\$ 22,986	\$ 34,194	\$ 23,311	\$ 57,262
Franchise Fees	\$ 27.78		\$ 111	\$ 7,667	\$ 12,723	\$ 14,612	\$ 27,391
SB509 sales tax - safety	\$ 4.78		\$ 19	\$ 1,319	\$ 2,189	\$ 2,514	\$ 4,713
Utility Users Tax	\$ 104.74	Note 4	\$ 419	\$ 28,908	\$ 47,971	\$ 55,093	\$ 103,274
Animal Licenses and fees	\$ 1.53		\$ 6	\$ 422	\$ 701	\$ 805	\$ 1,509
Fines, forfeits, and penalties	\$ 4.30		\$ 17	\$ 1,187	\$ 1,969	\$ 2,262	\$ 4,240
County Landfill excavation charges	\$ 2.13		\$ 9	\$ 588	\$ 976	\$ 1,120	\$ 2,100
Charges for Current Services							
Animal Control Fees	\$ 0.13		\$ 1	\$ 36	\$ 60	\$ 68	\$ 128
Other Police Related Fees	\$ 2.64		\$ 11	\$ 729	\$ 1,209	\$ 1,389	\$ 2,603
Fire Related Inspections	\$ 2.96		\$ 12	\$ 817	\$ 1,356	\$ 1,557	\$ 2,919
Ambulance Service Fees/Subscriptions	\$ 16.51		\$ 66	\$ 4,557	\$ 7,562	\$ 8,684	\$ 16,279
Weed & Lot Cleaning	\$ 0.87		\$ 3	\$ 240	\$ 398	\$ 458	\$ 858
Other Current Services	\$ 0.04		\$ 0	\$ 11	\$ 18	\$ 21	\$ 39
Interest - 0.67% of recurring Gen. Revenues			\$ 9	\$ 735	\$ 1,155	\$ 1,061	\$ 2,215
Rents, concessions	\$ 1.96		\$ 8	\$ 541	\$ 898	\$ 1,031	\$ 1,933
Admin, Misc Fees	\$ 5.97		\$ 24	\$ 1,648	\$ 2,734	\$ 3,140	\$ 5,886
Gas Fund Transfer	\$ 14.75		\$ 59	\$ 4,071	\$ 6,756	\$ 7,759	\$ 14,544
Other Transfers	\$ 36.78		\$ 147	\$ 10,151	\$ 16,845	\$ 19,346	\$ 36,265
Total Projected Revenues			\$ 1,553	\$ 126,914	\$ 200,750	\$ 190,755	\$ 391,403
Recurring Costs							
General Government							
Police	\$ 243.23		\$ 973	\$ 67,131	\$ 111,399	\$ 127,939	\$ 239,825
Recreation	\$ 12.41		\$ 50	\$ 3,425	\$ 5,684	\$ 6,528	\$ 12,236
Development Services							
Engineering	\$ 3.95		\$ 16	\$ 1,090	\$ 1,809	\$ 2,078	\$ 3,895
Business Licensing	\$ 5.53		\$ 22	\$ 1,526	\$ 2,533	\$ 2,909	\$ 5,453
Code Enforcement	\$ 6.88		\$ 28	\$ 1,899	\$ 3,151	\$ 3,619	\$ 6,784
Public Works							
Public Works Administration	\$ 4.34		\$ 17	\$ 1,198	\$ 1,988	\$ 2,283	\$ 4,279
Community Bldg Maintenance	\$ 10.88		\$ 44	\$ 3,003	\$ 4,983	\$ 5,723	\$ 10,728
Park Maintenance							
Graffiti Removal	\$ 1.14		\$ 5	\$ 315	\$ 522	\$ 600	\$ 1,124
Engineering Services & Projects	\$ 3.00		\$ 12	\$ 828	\$ 1,374	\$ 1,578	\$ 2,958
Street Maintenance	\$ 23.97		\$ 96	\$ 6,616	\$ 10,978	\$ 12,608	\$ 23,634
Traffic Safety	\$ 7.84		\$ 31	\$ 2,164	\$ 3,591	\$ 4,124	\$ 7,730
Storm Drain Program	\$ 3.65		\$ 15	\$ 1,007	\$ 1,672	\$ 1,920	\$ 3,599
Contingency - 5%	\$ 16.34		\$ 65	\$ 4,510	\$ 7,484	\$ 8,595	\$ 16,112
Total Recurring Costs			\$ 1,373	\$ 94,712	\$ 157,168	\$ 180,503	\$ 338,357
Net Recurring Surplus			\$ 180	\$ 32,201	\$ 43,583	\$ 10,253	\$ 53,047
Sources: Assessed Value and Tax Revenue: County Auditor; Estimated Population and Households: ESRI; Cost Factor: Plan for Service for LAFCO 3201							
Notes:							
Note 1: 0% of per capita sales tax because area already developed							
Note 2: \$0.55 per \$1,000 assessed valuation of a 5% turnover rate							
Note 3: \$1,443 per \$1M assessed valuation							
Note 4: will sunset in 2018 unless renewed by voter majority							

The staff's review of the revenues and expenditures shows that there will be a cash balance available to fund reserves and/or capital replacement costs. The Commission's policies require that in order to move forward with a proposal it must show that the proposal would be sustainable for at least the five years of the fiscal impact analysis. Staff has not provided a five year project, but the following summarizes the revenues and costs outlining the surplus by island area for FY 2015-16:

Rialto Islands - Summary						
	Island 1	Island 2	Island 3	Island 4	Island 5	Total
Total Revenues	\$ 1,553	\$ 126,914	\$ 200,750	\$ 190,755	\$ 391,403	\$ 911,375
Total Costs	\$ 1,373	\$ 94,712	\$ 157,168	\$ 180,503	\$ 338,357	\$ 772,112
Net Recurring Suplus	\$ 180	\$ 32,201	\$ 43,583	\$ 10,253	\$ 53,047	\$ 139,263

CONCLUSION:

Over the past several years, LAFCO staff has been contacted by individuals interested in the vacant parcels contained within Island #4. However, these discussions were not productive due to the need to address effective and efficient boundaries within the Island which would require inclusion of inhabited areas which were perceived to doom any such standard proposal. In the past, the City of Rialto has rejected the Commission's requirement to annex the island areas as their analysis showed a substantial deficit in funding. This deficit was primarily based on the exclusion of the utility tax. As outlined above, that situation has changed.

Based upon the information amassed by staff related to this discussion, it is our position that further discussions related the North Rialto Islands in total should be pursued under the provision of Government Code Section 5637.3 in partnership with the County and City of Rialto. Elimination of these islands would clarify responsibility, provide for good government in the delivery of service, and in the case of fire protection and emergency response, provides for inclusion within the jurisdiction which currently provides this essential public safety service. This position has been conveyed to the City of Rialto representatives which attended the LAFCO Departmental Review Committee meeting held on LAFCO 3201 with the acknowledgement that additional financial information needed to be finalized. It has also been outlined in discussions with County staff who have expressed concerns about further isolation of service delivery obligations. For all these reasons and the provision of financial data indicating there would not be financial deficit, staff believes that now is the appropriate time to work together to move forward

toward annexation of these islands. Staff awaits further direction from the Commission on this effort.

Staff will be happy to answer any questions of the Commission prior to or at the Commission hearing.

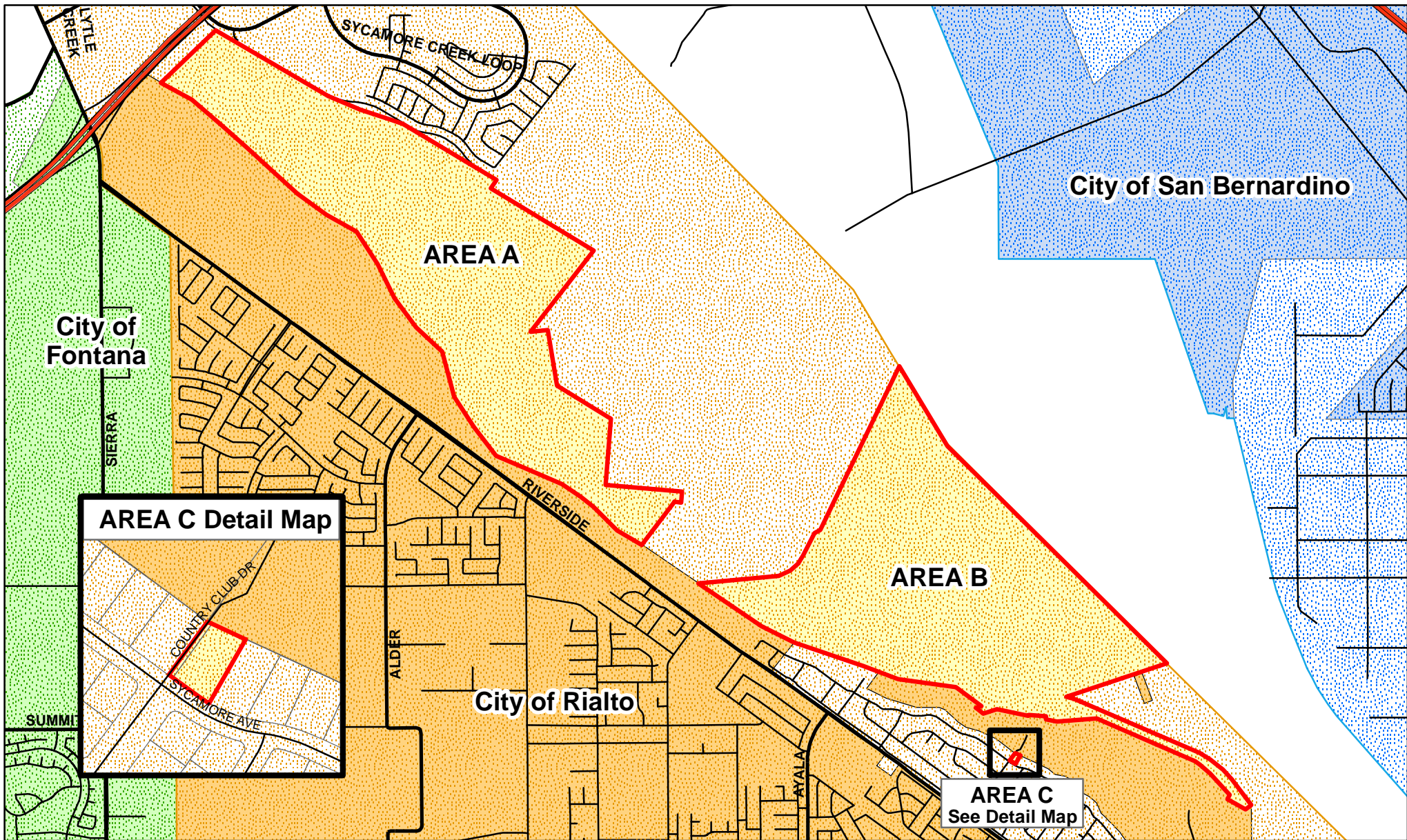
/krm

Attachments:

1. Vicinity Map of LAFCO 3201 and Island Areas in Close Proximity
2. Excerpts from Lytle Creek Ranch Specific Plan Adopted by the City of Rialto
3. LAFCO Estimated Revenues and Expenditures for the Five North Rialto Islands
4. Decision in *Citizen's Association of Sunset Beach vs Orange County Local Agency Formation Commission*

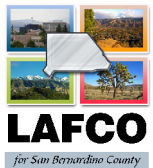
**Vicinity Map of LAFCO 3201 and
Island Areas in close proximity**

Attachment 1



LAFCO 3201 – Reorganization to Include Annexations to the City of Rialto and West Valley Water District and Detachments from the San Bernardino County Fire Protection District and its Valley Zone, CSA 70, and CSA SL-1

Areas A, B, & C - Annexations to the City of Rialto & Detachment from San Bernardino County Fire Protection District, its Valley Service Zone, & CSA 70

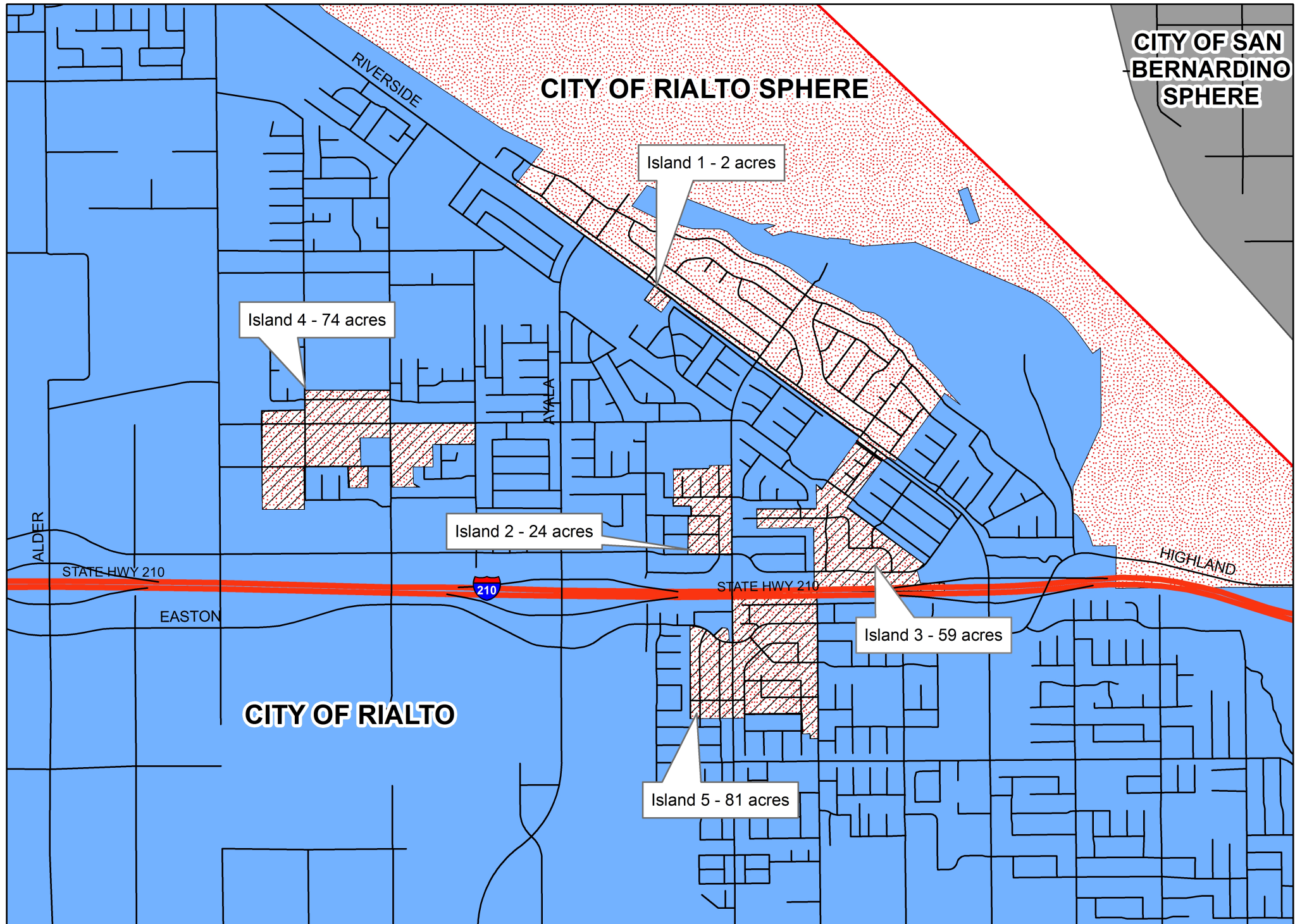


- | | | |
|-----------------------|-------------------------------|------------------------|
| Reorganization Area | City of San Bernardino | City of Fontana Sphere |
| City of Rialto | City of San Bernardino Sphere | Freeways |
| City of Rialto Sphere | City of Fontana | Roads |

0 0.125 0.25 0.5 0.75 1 Miles



North Rialto Islands



**Excerpts from Lytle Creek Ranch Specific
Plan Adopted by the City of Rialto**

Attachment 2

LYTLE CREEK RANCH SPECIFIC PLAN



LEAD AGENCY:

CITY OF RIALTO

PREPARED FOR:

LYTLE DEVELOPMENT
JOINT VENTURE III

ADOPTED BY THE RIALTO CITY COUNCIL ON JULY 13, 2010



LYTLE CREEK RANCH

SPECIFIC PLAN

Lead Agency:

City of Rialto
Development Services Department
150 S. Palm Avenue
Rialto, California 92376

Prepared for:

Lytle Development Joint Venture III
285 W. Rialto Avenue
Rialto, CA 92376-6411

Prepared by:

KTGY Group, Inc.
17922 Fitch
Irvine, California 92614
Contacts: Ken Ryan & Mark Hickner

Adopted by the Rialto City Council on July 13, 2010

CITY OF RIALTO

City Council

Grace Vargas, Mayor
Joe Baca Jr., Mayor Pro Tem
Edward M. Palmer, Council Member
Deborah Robertson, Council Member
Ed Scott, Council Member

Planning Commission

Beth George, Chair
Dale Estvander, Vice Chair
Artist Gilbert
Jerry Gutierrez
Pauline Tidler
Al Twine
John Peukert

Development Services

Michael E. Story, Development Services Director
Gina Gibson, Senior Planner
Daniel Casey, Assistant Planner

Redevelopment Agency of the City of Rialto

Robb Steel, Economic Development Director
Greg Lantz, Economic Development Manager

PROJECT TEAM

Lytle Development Joint Venture III
KTTY Group, Inc.
Casey O'Callaghan Golf Course Design, Inc.
Di Lallo Landscape Architecture
Engineering Resources of Southern California, Inc.
Hewitt & O'Neill, LLP
Latham & Watkins, LLP
Manatt, Phelps & Phillips, LLP
Otte-Berkeley Groupe
PACE, Inc.
PCR Services Corporation

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
PREFACE.....	P-1
1.0 INTRODUCTION	1- 1
1.1 Purpose and Intent of the Specific Plan.....	1-1
1.2 Authority and Format of the Specific Plan	1-1
1.3 Project Location	1-3
1.4 Project Objectives.....	1-3
1.5 Project Overview.....	1-11
1.6 Discretionary Actions and Approvals	1-13
2.0 PLANNING CONTEXT.....	2-1
2.1 Relationship to the City of Rialto General Plan/Zoning Code	2-1
2.1.1 General Plan Land Uses	2-1
2.1.2 Zoning.....	2-7
2.2 Existing Conditions	2-13
2.3 Surrounding Land Uses	2-14
2.4 Historical Background of Rialto.....	2-15
2.5 Environmental Setting.....	2-16
2.5.1 Site Topography	2-16
2.5.2 Geology and Soils	2-16
2.5.3 Seismicity and Faulting.....	2-16
2.5.4 Hydrology	2-19
2.5.5 Biological Resources	2-20
2.5.6 Cultural Resources	2-25
2.5.7 Existing Circulation	2-26
2.6 Rights-of-Way/Easements	2-26
2.7 Relationship to Other Plans	2-26
3.0 PLAN ELEMENTS	3-1
3.1 Purpose and Intent	3-1
3.2 Land Use Plan	3-1
3.2.1 Land Use Plan Description	3-1
3.2.2 Residential Development.....	3-10
3.2.3 Village Center Commercial Development.....	3-11
3.2.4 Maximum Allowable Development	3-11
3.2.5 Transfer of Development Between Planning Areas.....	3-11
3.2.6 Gated vs. Non-gated Development	3-17
3.2.7 Schools.....	3-17
3.2.8 Open Space.....	3-19
3.2.9 Open Space/Recreation	3-19
3.2.10 Land Use Plan General Development Standards.....	3-20
3.3 Parks and Recreation Plan	3-22
3.3.1 Comprehensive Paseo and Trail System	3-25
3.3.2 Neighborhood Parks.....	3-29
3.3.3 Sports Park (Planning Area 72).....	3-29

LYTLE CREEK RANCH

SPECIFIC PLAN

3.3.4	Joint-Use Parks	3-29
3.3.5	Private Recreation Centers in Neighborhood III	3-33
3.3.6	Active Adult Recreation Center	3-33
3.3.7	Golf Course and Clubhouse	3-39
3.3.8	Parks and Recreation Plan Development Standards	3-45
3.4	Open Space and Conservation Plan	3-46
3.4.1	Avoidance and Long-Term Preservation	3-47
3.4.2	Maintenance of Wildlife Movement Corridor	3-51
3.4.3	Preservation and Restoration of Riparian Habitat for Least Bell's Vireo	3-51
3.4.4	Preservation of Parry's Spineflower and Plummer's Mariposa Lilies	3-52
3.4.5	Protection of Nesting Birds	3-52
3.4.6	Protection of Burrowing Owls	3-52
3.5	Circulation Plan	3-53
3.5.1	Circulation Plan Description	3-53
3.5.2	Vehicular Circulation Network and Hierarchy	3-53
3.5.3	Mass Transit Connections	3-69
3.5.4	Parking	3-69
3.5.5	Circulation Plan General Development Standards	3-70
3.6	Infrastructure Plan	3-71
3.6.1	Water System	3-71
3.6.2	Sewer System	3-81
3.6.3	Drainage Plan	3-91
3.6.4	Utilities and Public Services	3-101
3.7	Grading Plan	3-104
3.7.1	Grading Plan Description	3-104
3.7.2	Grading Plan General Development Standards	3-104
4.0	DESIGN GUIDELINES	4-1
4.1	Planning Guidelines	4-1
4.1.1	Designing the City's Northern Gateway	4-1
4.1.2	Interface with Lytle Creek Wash	4-2
4.1.3	Neighborhood Character and Design	4-2
	A. Neighborhood Charm and Character	4-2
	B. Neighborhoods of Lytle Creek Ranch	4-2
4.1.4	Placemaking	4-3
4.1.5	Livable Streets	4-4
4.1.6	Defensible Space	4-7
4.2	Architectural Guidelines	4-8
4.2.1	Architectural Styles	4-9
	A. American Farmhouse	4-11
	B. California Bungalow	4-19
	C. Craftsman	4-27
	D. Monterey	4-37
	E. Spanish Eclectic	4-45
	F. Tuscan	4-55
	G. Italianate	4-63
4.2.3	Apartment Homes	4-71
4.2.3	Village Center Commercial Architectural Guidelines	4-73
4.3	Landscape Design Guidelines	4-76

4.3.1	Master Landscape Plan Description.....	4-76
4.3.2	Entry Monumentation	4-99
4.3.3	Plant Materials Guidelines.....	4-109
4.3.4	Drought-Tolerant Plant Materials and Water Conservation	4-109
4.3.5	Plant Palette	4-110
4.3.6	Planting Schedule.....	4-111
4.3.7	Planting Guidelines.....	4-112
4.3.8	Biofiltration Swales	4-114
4.3.9	Fences and Walls	4-115
4.4	Sustainable Design Strategies.....	4-125
4.4.1	Site Planning	4-125
4.4.2	Energy Efficiency	4-126
4.4.3	Materials Efficiency.....	4-127
4.4.4	Water Efficiency.....	4-128
4.4.5	Occupant Health and Safety.....	4-128
4.4.6	Landscape Design.....	4-129
5.0	DEVELOPMENT STANDARDS	5-1
5.1	Purpose and Intent	5-1
5.2	Definitions.....	5-1
5.3	Zoning Categories	5-1
5.4	Overlay Districts.....	5-3
5.4.1	Single-Family Residential Overlay.....	5-3
5.4.2	High Density Residential Overlay	5-4
5.5	Permitted Uses	5-4
5.6	Development Standards	5-7
5.6.1	Single-Family Residential One (SFR-1)	5-7
5.6.2	Single-Family Residential Two (SFR-2)	5-9
5.6.3	Single-Family Residential Three (SFR-3) – Neighborhoods I, III & IV.....	5-15
5.6.4	Single-Family Residential Three (SFR-3) – Neighborhood II Only	5-23
5.6.5	Multi-Family Residential (MFR)	5-25
5.6.6	High Density Residential (HDR)	5-33
5.6.7	Village Center Commercial (VC)	5-33
5.6.8	Single-Family Residential Overlay.....	5-34
5.6.9	High Density Residential Overlay	5-34
5.6.10	Open Space and Recreation (OS/R)	5-35
5.6.11	Open Space (OS)	5-35
5.6.12	Development Standards for Water Wells	5-35
5.6.13	Signage and Advertising Structures Requirements (All Districts and Zones)	5-35
5.6.14	Wall and Fence Standards (All Zones).....	5-36
5.6.15	Off-Street Parking Requirements (Applies to All Districts and Zones within the Lytle Cree Ranch Specific Plan).....	5-37
6.0	ADMINISTRATION AND IMPLEMENTATION.....	6-1
6.1	Purpose and Intent	6-1
6.2	Development Phasing.....	6-1
6.3	Financing	6-5
6.3.1	Mello-Roos Community Facilities Act of 1982	6-5
6.3.2	Special Assessment Districts	6-5
6.3.3	Impact Fees and Exactions	6-5

LYTLE CREEK RANCH

SPECIFIC PLAN

6.3.4	Developer Funding	6-5
6.3.5	Infrastructure Financing.....	6-6
6.4	Maintenance Responsibilities	6-7
6.4.1	Master Homeowners Associations	6-7
6.4.2	Residential Neighborhood Associations	6-7
6.4.3	Village Center Commercial Maintenance Associations	6-7
6.4.4	Open Space and Parks Maintenance Associations.....	6-7
6.4.5	Project Roadways Maintenance	6-7
6.5	Specific Plan Administration and Implementation	6-8
6.5.1	Compliance with the Adopted Specific Plan	6-8
6.5.2	Implementing Development Applications	6-8
6.5.3	Specific Plan Interpretations.....	6-10
6.5.4	Severability.....	6-10
6.6	Specific Plan Modifications and Amendments.....	6-11
6.6.1	Dwelling Unit or Intensity Adjustments	6-11
6.6.2	Ministerial Changes	6-11
6.6.3	Minor Adjustments to the Specific Plan.....	6-11
6.6.4	Specific Plan Amendments.....	6-12
6.7	Tentative Maps and Parcel Maps	6-14
6.8	Precise Plan of Design (Design Review).....	6-14

APPENDICES

A.	General Plan Consistency	A-1
1.1	Land Use Element	A-1
1.2	Economic Development Element	A-6
1.3	Circulation Element	A-6
1.4	Open Space and Recreation Element	A-7
1.5	Community Design Element	A-9
1.6	Cultural and Historic Resources Element.....	A-23
1.7	Conservation Element	A-23
1.8	Noise Element	A-26
1.9	Safety Element	A-27
1.10	Housing Element	A-29
1.11	Ordinances and Resolutions	On attached CD

SPECIFIC PLAN FIGURES

Figure		Page
Figure 1-1	Regional Location Map.....	1-7
Figure 1-2	Local Vicinity Map	1-9
Figure 1-3	Annexation Area.....	1-17
Figure 2-1	Existing City of Rialto General Plan Land Use Designations	2-3
Figure 2-2	Proposed City of Rialto General Plan Land Use Designations.....	2-5
Figure 2-3	Existing City of Rialto Zoning	2-9
Figure 2-4	Proposed City of Rialto Zoning.....	2-11
Figure 2-5	Existing Site Topography	2-17
Figure 2-6	Site Constraints – Neighborhood I (East Portion).....	2-27
Figure 2-7	Site Constraints – Neighborhood I (West Portion).....	2-29
Figure 2-8	Site Constraints – Neighborhood II	2-31
Figure 2-9	Site Constraints – Neighborhood III	2-33
Figure 2-10	Site Constraints – Neighborhood IV	2-35
Figure 3-1	Conceptual Land Use Plan.....	3-3
Figure 3-2	Parks and Recreation Plan.....	3-23
Figure 3-3	Trail Plan	3-27
Figure 3-4	Sports Park Concept (Planning Area 72)	3-31
Figure 3-5	Conceptual Recreation Center (Planning Area 53)	3-35
Figure 3-6	Conceptual Recreation Center (Planning Areas 40 and 64)	3-37
Figure 3-7	Conceptual Golf Course Plan.....	3-41
Figure 3-8	Conceptual Golf Clubhouse Building Elevations	3-43
Figure 3-9	Open Space and Conservation Plan	3-49
Figure 3-10	Circulation Plan	3-55
Figure 3-11	Roadway Cross-Sections	3-57
Figure 3-12	Roadway Cross-Sections	3-59
Figure 3-13	Roadway Cross-Sections	3-61
Figure 3-14	Roadway Cross-Sections	3-63
Figure 3-15	Typical Bus Mid Block Turnout.....	3-65
Figure 3-16	Water Plan – Neighborhood I	3-73
Figure 3-17	Water Plan – Neighborhood II	3-75
Figure 3-18	Water Plan – Neighborhood III	3-77
Figure 3-19	Water Plan – Neighborhood IV	3-79
Figure 3-20	Sewer Plan – Neighborhood I	3-83
Figure 3-21	Sewer Plan – Neighborhood II	3-85
Figure 3-22	Sewer Plan – Neighborhood III	3-87
Figure 3-23	Sewer Plan – Neighborhood IV	3-89
Figure 3-24	Drainage Plan – Neighborhood I	3-93
Figure 3-25	Drainage Plan – Neighborhood II	3-95
Figure 3-26	Drainage Plan – Neighborhood III	3-97
Figure 3-27	Drainage Plan – Neighborhood IV	3-99
Figure 3-28	Grading Plan – Neighborhood I	3-107
Figure 3-29	Grading Plan – Neighborhood II	3-109
Figure 3-30	Grading Plan – Neighborhood III	3-111
Figure 3-31	Grading Plan – Neighborhood IV	3-113
Figure 4-1	Examples of American Farmhouse Architecture	4-13
Figure 4-2	Examples of American Farmhouse Architecture	4-15
Figure 4-3	Typical American Farmhouse Details.....	4-17

LYTLE CREEK RANCH

SPECIFIC PLAN

Figure 4-4	Examples of California Bungalow Architecture	4-21
Figure 4-5	Examples of California Bungalow Architecture	4-23
Figure 4-6	Typical California Bungalow Details	4-25
Figure 4-7	Examples of Craftsman Architecture	4-31
Figure 4-8	Examples of Craftsman Architecture	4-33
Figure 4-9	Typical Craftsman Details	4-35
Figure 4-10	Examples of Monterey Architecture	4-39
Figure 4-11	Examples of Monterey Architecture	4-41
Figure 4-12	Typical Monterey Details	4-43
Figure 4-13	Examples of Spanish Eclectic Architecture	4-49
Figure 4-14	Examples of Spanish Eclectic Architecture	4-51
Figure 4-15	Typical Spanish Eclectic Details	4-53
Figure 4-16	Examples of Tuscan Architecture	4-57
Figure 4-17	Examples of Tuscan Architecture	4-59
Figure 4-18	Typical Tuscan Details	4-61
Figure 4-19	Examples of Italianate Architecture	4-65
Figure 4-20	Examples of Italianate Architecture	4-67
Figure 4-21	Typical Italianate Details	4-69
Figure 4-22	Conceptual Master Landscape Plan – Neighborhoods I and IV	4-77
Figure 4-23	Conceptual Master Landscape Plan – Neighborhood II-a	4-79
Figure 4-24	Conceptual Master Landscape Plan – Neighborhood II-b	4-81
Figure 4-25	Conceptual Master Landscape Plan – Neighborhood III-a	4-83
Figure 4-26	Conceptual Master Landscape Plan – Neighborhood III-b	4-85
Figure 4-27	Conceptual Riverside Avenue	4-87
Figure 4-28	Conceptual Country Club Drive (off-site)	4-89
Figure 4-29	Conceptual Country Club Drive (on-site, adjacent to residential uses)	4-91
Figure 4-30	Conceptual Entry Street – Neighborhood II	4-93
Figure 4-31	Conceptual Entry Street – Neighborhood III	4-95
Figure 4-32	Conceptual Collector Road – Neighborhood III	4-97
Figure 4-33	Conceptual City of Rialto Monument Signs	4-101
Figure 4-34	Conceptual Community Entries	4-103
Figure 4-35	Conceptual Gated Entries at Neighborhood II	4-105
Figure 4-36	Conceptual Roundabouts (Neighborhoods II and III)	4-107
Figure 4-37	Conceptual Community Wall and Fence Plan – Neighborhoods I and IV	4-117
Figure 4-38	Conceptual Community Wall and Fence Plan – Neighborhoods II	4-119
Figure 4-39	Conceptual Community Wall and Fence Plan – Neighborhoods III	4-121
Figure 4-40	Conceptual Wall and Fence Details	4-123
Figure 5-1a	Typical Alley Loaded Detached	5-12
Figure 5-1b	Typical Garden Court Detached	5-13
Figure 5-1c	Typical Motor Courts	5-14
Figure 5-2a	Typical Reversed Cluster	5-19
Figure 5-2b	Typical Duplexes	5-20
Figure 5-2c	Typical Manor Homes	5-21
Figure 5-2d	Typical Flats	5-22
Figure 5-3a	Typical Motor Court Townhomes	5-30
Figure 5-3b	Typical Masionette Condos	5-31
Figure 5-3c	Typical 11-Plex Garden Court	5-32
Figure 6-1	Phasing Plan	6-3

SPECIFIC PLAN TABLES

Table		Page
Table 3-1	Lytle Creek Ranch Land Use Summary	3-2
Table 3-2	Detailed Summary by Planning Area.....	3-7
Table 3-3	Development Densities and Intensities.....	3-14
Table 3-4	Maximum Daily Trip Calculations by Neighborhood	3-17
Table 5-1	Permitted Uses	5-5
Table 5-2	Summary Development Standards for SFR-1 (Single-Family Residential One) Zone	5-9
Table 5-3	Summary Development Standards for SFR-2 (Single-Family Residential Two) Zone	5-9
Table 5-4	Summary Development Standards for SFR-3 (Single-Family Residential Three) Zone – Neighborhoods I, III & IV	5-15
Table 5-5	Summary Development Standards for SFR-3 (Single-Family Residential Three) Zone – Neighborhoods I, III & IV	5-16
Table 5-6	Summary Development Standards for SFR-3 (Single-Family Residential Three) Zone – Neighborhood II Only	5-23
Table 5-7	Summary Development Standards for MFR (Multi-Family Residential) Zone	5-25
Table 5-8	Summary Development Standards for VC (Village Center Commercial) Zone	5-33
Table 6-1	Implementing Development Applications.....	6-9

This page intentionally left blank.

PREFACE

The *Lytle Creek Ranch Specific Plan* represents one family's strong commitment to the City of Rialto and its residents. For several decades, the Pharris family has served as good stewards of what is today the largest remaining tract of undeveloped land within the City. The property is located partially within the city limits of Rialto, with the remaining areas located within unincorporated San Bernardino County. As part of project entitlements, the portions of the site not currently within the city limits will be annexed into the City.

In recent years, Rialto and the surrounding areas have experienced increasing pressures to accommodate the growing Inland Empire population. Recognizing this need, the Pharris family has embraced the opportunity to create a legacy project that is a departure from the "mass produced" look and resulting anonymity of conventional subdivision development. With more than a decade spent in planning and design, Lytle Creek Ranch, is envisioned as a multi-generational community where residents can live, work, shop, play, and relax within an intimate, "small town" setting of rich architecture and attractive landscaping.

The *Lytle Creek Ranch Specific Plan* has been prepared to serve as an overall framework to conscientiously guide development of this significant landmark project. This Specific Plan serves as a regulatory document for development of the Lytle Creek Ranch project site into a high-quality, master-planned community. This document will provide guidance to the City of Rialto, builders, developers, architects, and designers in implementing an exciting new collection of neighborhoods that will quickly become some of Rialto's finest and most sought-after residential areas.

Lytle Creek Ranch incorporates carefully crafted neighborhood design principles to ensure that the community develops with a "sense of place" that promotes security, strong neighborhood ties, and a lifestyle rich in amenities. The community's design draws on inspiration from neighborhood-building design strategies and sustainability principles. Lytle Creek Ranch will incorporate "iconic" streets that are readily identifiable, definable neighborhoods with authentic architecture and a distinct sense of character, clustered development that preserves natural open space areas, a mixed-use center near the I-15 freeway that provides local- and regional-serving retail uses, and an extensive network of open space and walking and biking trails designed to promote health and fitness. Lytle Creek Ranch will offer a wide variety of housing sizes and styles designed to meet the needs of a families, couples, and singles. In addition, an age-restricted, Active-Adult neighborhood will offer a mix of residences designed specifically for the needs of individuals aged 55 and older who wish to remain in the Rialto area.

Lytle Creek Ranch offers a range of amenities that will be accessible to all of the residents of Rialto. These public recreational amenities include neighborhood parks, a sports park, two joint-use park/school facilities with sports fields and/or playgrounds, a central "Grand Paseo," and a public 18-hole golf course. The project incorporates and further builds and refines upon the efforts to rehabilitate and redevelop the underperforming El Rancho Verde Royal Vista Golf Club that began in 2006 to create an entirely new public golfing experience. Meandering greens and scenic vistas

will be interspersed by a series of small lakes and water features. The golf course will include a dramatic new clubhouse that will be available for City and community events and banquets, golf tournaments, weddings, and other social events. In addition to the golf course improvements that are proposed, the project will make the golf course the featured recreational and community amenity for the proposed Active Adult community. The community also proposes new elementary and K-8 schools, which will be owned, maintained, and operated by the Rialto Unified School District.

A new northern gateway into the City will be provided as a component of Lytle Creek Ranch, which will identify Rialto and serve as a community landmark. The gateway design will include an iconic representation of the celebrated Rialto Bridge near the Sierra Avenue/Riverside Avenue intersection, which will help to increase the visibility of the City to passing motorists. Lytle Creek Ranch will include several smaller “Welcome to Rialto” signs as well.

Lytle Creek Ranch also incorporates Green building techniques designed to conserve energy and water, promote recycling and re-use of materials, and ensure that only clean water enters Lytle Creek from the development. Planned as an environmentally conscious community, the project will set aside a total of 1,253.8 acres (51 percent of the total project area) as open space, including natural open space, trails, parkways, and paseos. A minimum of 829.2 acres of the 1,253.8 acres will be preserved in its existing natural habitat as part of the Open Space and Conservation Plan prepared specifically for Lytle Creek Ranch.

Lytle Creek Ranch will result in many benefits to Rialto and the community, including the following:

1. A quality residential and mixed-use master planned community.
2. An exciting new Active Adult community for residents aged 55 and older.
3. A minimum of 829.2 acres of natural open space that will protect important habitat.
4. More than 300 acres of parks, recreation areas, paseos, trails, and golf course uses — most of which will be available for use by the general public and citizens of Rialto.
5. A mix of housing products to meet a wide variety of housing needs.
6. Village Center Commercial development including retail centers that will generate important tax revenue for the City and provide residents with additional shopping opportunities close to home.
7. Improvements to the El Rancho Verde Royal Vista Golf Club that will further enhance the public golf course.

8. Road and landscape improvements to Glen Helen Parkway, Riverside Avenue, Sierra Avenue/Lytle Creek Road, and Country Club Drive.
9. A new decorative gateway element on Riverside Avenue at the northern entrance into the City of Rialto.
10. A community that incorporates sustainable design strategies and offers potential homebuyers an opportunity to live in an environmentally-conscious community.
11. Two potential new school sites – an elementary school and a K-8 school.

When built-out in 2030, this new community will benefit the entire City of Rialto through the provision of new housing neighborhoods, additional parks and recreational amenities, new schools, and enhanced retail opportunities. Its residents will enjoy a lifestyle and level of amenities unsurpassed elsewhere in Rialto. Truly, Lytle Creek Ranch will be a model of the latest “state-of-the-art” planning and design techniques in the Inland Empire and serve as a legacy project in Rialto.

This page intentionally left blank.

1.0 INTRODUCTION

1.1 PURPOSE AND INTENT OF THE SPECIFIC PLAN

The Lytle Creek Ranch Specific Plan, hereafter referred to as “Lytle Creek Ranch Specific Plan” or “Specific Plan,” provides a detailed description of the proposed land uses and infrastructure requirements for the Lytle Creek Ranch project, which will be processed through the City of Rialto, California. The design and development standards contained in this document will assist in creating architectural themes and landscape character for development within Lytle Creek Ranch. The Specific Plan is expected to be adopted by Resolution with the exception of Chapter 5.0, Development Standards, which will be adopted by Ordinance and serve as the zoning for the Lytle Creek Ranch Specific Plan area.

This Specific Plan is intended to serve the following purposes:

- Promote quality development consistent with the goals and policies of the City of Rialto General Plan.
- Provide for comprehensive planning that assures the orderly development of the project site in relation to surrounding existing development.
- Assure appropriate phasing and financing for community facilities, including circulation and streetscape improvements, domestic water, urban runoff and flood control facilities, sewage disposal facilities, educational facilities, and parks.
- Establish development regulations permitting a wide variety of detached and attached residential products.
- Develop a plan that is economically feasible and capable of being implemented based on existing and anticipated future economic conditions such that no economic burden to the City occurs.
- Provide for the creation of a compact, walkable community that concentrates development, accommodates residential and commercial/retail development, and establishes a strong “sense of place.”

1.2 AUTHORITY AND FORMAT OF THE SPECIFIC PLAN

The State of California Legislature has established the authority and scope to prepare and implement specific plans. The State requires that all cities and counties in California prepare and adopt a comprehensive General Plan for the physical development of their areas of jurisdiction. To implement the policies described in the General Plan, regulating programs need to be adopted (i.e.,

zoning ordinances, subdivision ordinances, building and housing codes, etc.). California State law authorizes cities with complete General Plans to prepare and adopt specific plans (Government Code Section 65450 – 65457). Local planning agencies or their legislative bodies may designate areas within their jurisdiction as areas for which a specific plan is “necessary or convenient” (Government Code Section 65451).

Specific plans are intended to serve as bridges between the local General Plan and individual development proposals. Specific plans contain both planning policies and regulations, and may combine zoning regulations, capital improvement programs, detailed development standards, and other regulatory requirements into one document, which are designed to meet the needs of a specific area.

The Lytle Creek Ranch Specific Plan has been created through the authority granted to the City of Rialto by the California Government Code, Sections 65450 through 65453. This Specific Plan has been prepared in accordance with the provisions of the California Government Code, which stipulate that a specific plan contain text and diagrams that specify the following:

Land Use

The specific plan must specify the distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.

Public Facilities

The specific plan must show the proposed distribution, location, extent, and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities located within the area covered by the plan, and needed to support the land uses described in the plan.

Development Standards

The specific plan must include standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.

Implementation Measures

The specific plan must include a program of implementation measures, including regulation, programs, public works projects, and financing measures.

General Plan Consistency

The specific plan must include a statement of the relationship of the specific plan to the General Plan.

Optional Contents

The specific plan may address any other subject that, in the judgment of the planning agency, is necessary or desirable for implementation of the General Plan.

All future development plans, tentative parcel and/or tract map(s), and/or other similar entitlements for the Lytle Creek Ranch Specific Plan area shall be consistent with the regulations set forth in this Specific Plan and with all other applicable City of Rialto regulations. Furthermore, all regulations, conditions, and programs contained herein shall be deemed separate, distinct, and independent provisions of the Lytle Creek Ranch Specific Plan. In the event that any such provision, standard, or clause is held invalid or unconstitutional, the validity of all remaining provisions, standards, and clauses of this Specific Plan shall not be affected.

1.3 PROJECT LOCATION

The Lytle Creek Ranch Specific Plan project site is located partially within the city limits of Rialto and mostly within the City's sphere of influence in unincorporated San Bernardino County. The site is bisected partially by both the Interstate 15 (I-15) Freeway and Lytle Creek Wash, an intermittent stream. The location of the Lytle Creek Ranch Specific Plan in relation to the local and regional setting is displayed in Figure 1-1, Regional Map, and Figure 1-2, Local Vicinity Map.

Regionally, the City of Rialto is located approximately 60 miles east of downtown Los Angeles and 103 miles north of San Diego, in the western portion of the San Bernardino Valley, in the center of the Inland Empire. The primary regional transportation linkages include the Foothill Freeway (State Route 210), which traverses through the central portion of the City in an east-west direction, and the Ontario Freeway (Interstate 15), which borders the City to the north, providing regional access to the project area. Secondary regional transportation linkages include the Interstate 215 Freeway and U.S. Highway 66 to the northeast and, further south, Interstate. From the I-15, direct access to the project site is provided by Sierra and Riverside Avenues, which run along the southwestern boundary of the site. Access to the site from State Route 210 is available via an interchange at Riverside Avenue.

1.4 PROJECT OBJECTIVES

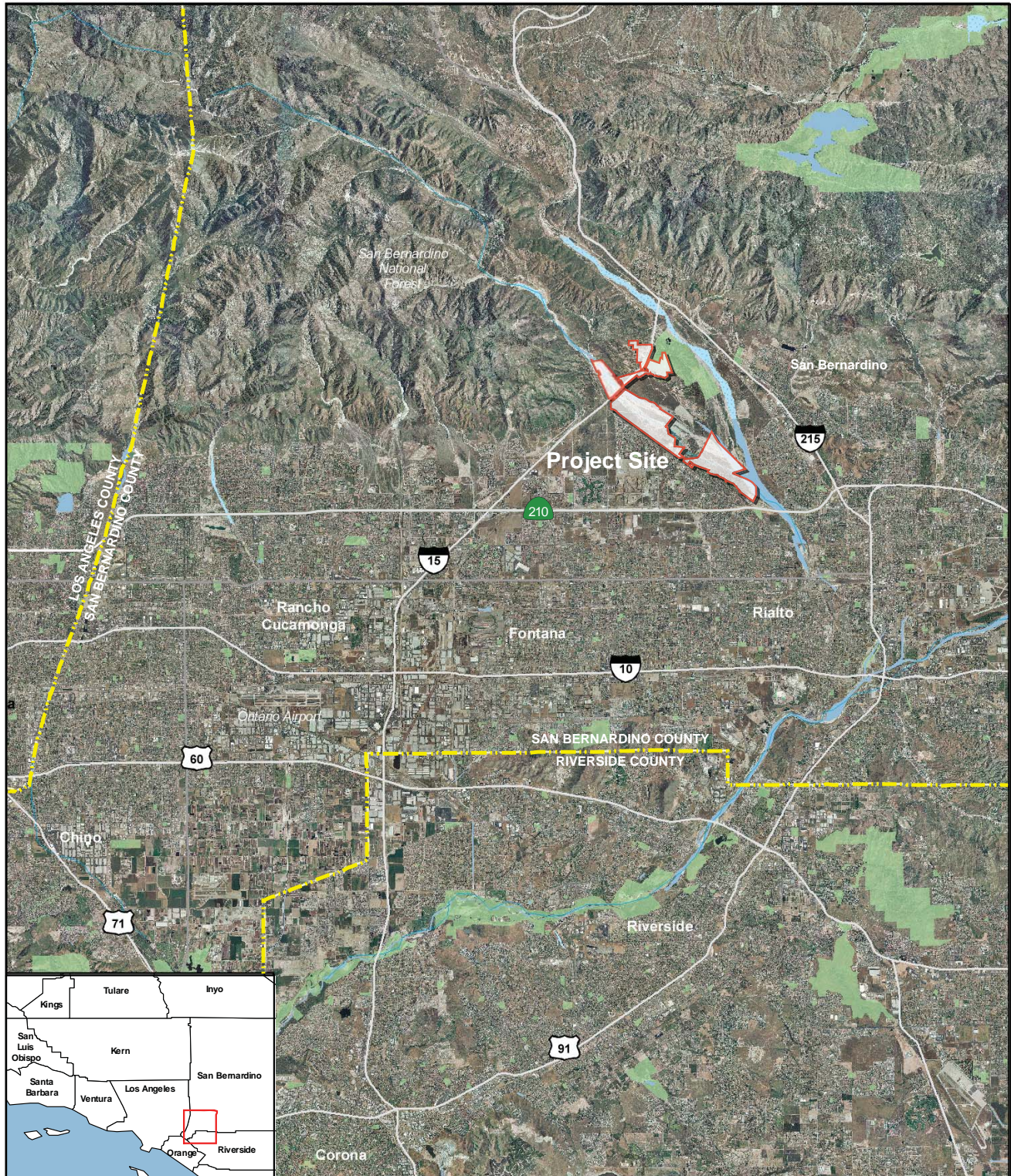
The Lytle Creek Specific Plan is designed to implement a series of project-related objectives that have been carefully crafted to ensure that the project develops as a high-quality master planned community that meets realistic and achievable objectives. These objectives, which are identified below, have been refined throughout the planning and design process for Lytle Creek Ranch:

- Build upon the platform of high-quality design, architecture, and landscaping established by neighboring residential communities to provide a northern gateway to the City of Rialto that offers new and exciting amenities to residents.
- Establish open space preservation areas that will provide functioning habitats for sensitive, threatened, and endangered species, preserve Lytle Creek Wash and minimize impacts to its riparian and alluvial fan sage scrub habitats, while providing other wildlife benefits and accommodating growth and development opportunities within the City.

- Locate and integrate the design of native habitat open space areas into the community by providing and promoting connectivity with significant blocks of wildlife habitat off-site and habitat linkages and wildlife movement corridors in the region.
- Maximize opportunities for using native plant material/species in the project landscaping, especially in areas where such landscaping is located in proximity to areas of preserved native habitat.
- Develop freeway-oriented commercial areas to serve regional needs and stimulate job and revenue growth in the City.
- Concentrate development within neighborhoods to promote greater efficiency of land use and promote walking and bicycling.
- Respond to the unmet need for Active Adult communities in the Rialto area by providing residents with a golf course-oriented community and a variety of conveniently located on-site amenities.
- Provide the City and surrounding community with a redesigned public golf course and clubhouse, recreation and open space areas, parks, and trails to meet the City's General Plan goals to provide such facilities to maintain and enhance the City's quality of life.
- Address the City of Rialto's current and projected housing needs for all segments of the community by providing a range of family-oriented single- and multi-family residences, as well as an Active Adult golf course community.
- Establish a mix of land uses and local-serving activities that meet the General Plan's objectives concerning community character and pedestrian-friendly design.
- Implement the City's General Plan Land Use Element goal to facilitate annexation of large areas of land that are governed by a specific plan, which provides for compatibility of land uses, fiscal balance, recreation, and resource protection.
- Create a transportation network that will fulfill the policies of the Rialto General Plan's Circulation Element by allowing residents to live within proximity to schools, recreational opportunities, retail centers, and commercial development, and by minimizing vehicle trips through utilizing access to a variety of transportation opportunities, including pedestrian pathways, bikeways, regional freeways, transit, and trains/Metrolink.
- Provide a network of pleasant, safe, and convenient pedestrian trails and bike lanes.

- Address regional infrastructure concerns by locating development in areas where opportunities for groundwater recharge are maintained and the life of groundwater aquifers are protected.
- Incorporate “Green” and sustainable practices, as practicable, in developing buildings and infrastructure in Lytle Creek Ranch.
- Identify and address safety hazards, such as wildfire and flooding dangers, through implementation of design safety features and levee improvements.
- Undertake development of the project site in a manner that is economically feasible and balanced to address both the Applicant’s and the City’s economic concerns.

This page intentionally left blank.

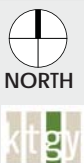
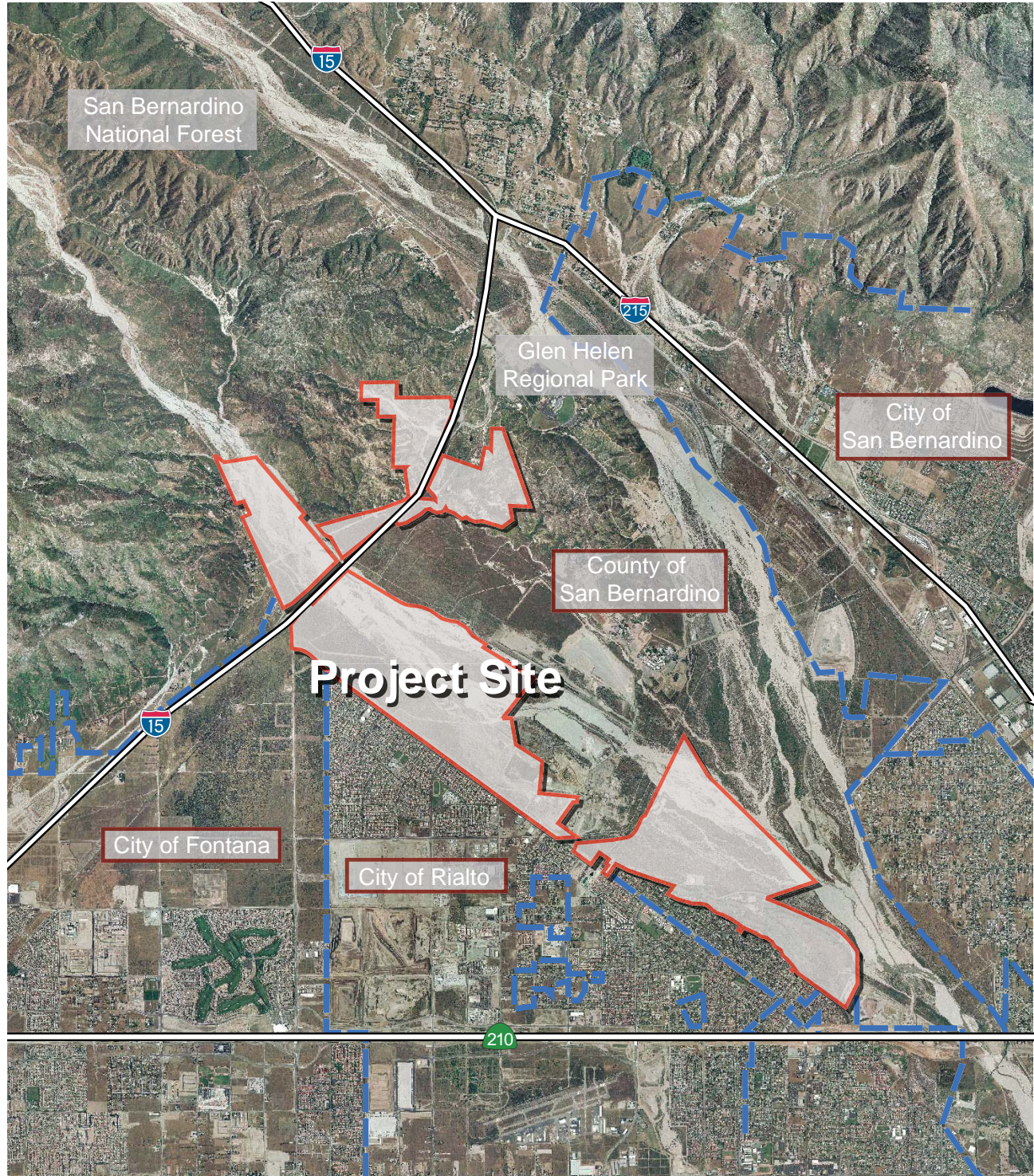


Not to Scale



Figure 1-1
Regional Location

This page intentionally left blank.



Not to Scale

Figure 1-2
Local Vicinity Map

This page intentionally left blank.

1.5 PROJECT OVERVIEW

Lytle Creek Ranch is the result of years of intensive planning and careful design to create one of the foremost master-planned communities in the Inland Empire and, indeed, in all of Southern California. The project site has been owned and protected by one family for several decades. Now that Rialto is nearing build-out, this family has decided the timing is right to develop portions of the last large remaining vacant land in the City with a beautiful, new master-planned community on approximately 2,447 acres. Portions of the site are located within the city limits of Rialto, while remaining areas of the site are located within the City's sphere of influence in unincorporated San Bernardino County.

The Lytle Creek Ranch community is designed as four separate and unique neighborhoods:

- **Neighborhood I** – includes approximately 417 acres of land. A portion of this land (“Sycamore Flats East” and “Sycamore Flats West”) is located within the boundaries of the 3,400-acre Glen Helen Specific Plan. The remaining land in Neighborhood I includes acreage located within the boundaries of the Lytle Creek North Planned Development. The Lytle Creek North Planned Development encompassed parts of Sycamore Flats East and Sycamore Flats West, including the community of Rosena Ranch. Once approved, the “Lytle Creek Ranch Specific Plan” will supersede portions of the “Glen Helen Specific Plan” (County of San Bernardino) and the “Lytle Creek North Preliminary Development Plan” (County of San Bernardino). Areas to be removed from these adopted plans include Planning Areas 1 through 15 of the Lytle Creek Ranch Specific Plan.
- **Neighborhood II** – is planned as a gated Active Adult golf course community on approximately 802 acres and includes the entire 221-acre El Rancho Verde Specific Plan area. Once approved, the “Lytle Creek Ranch Specific Plan” will supersede the City-approved “El Rancho Verde Specific Plan.” Areas to be removed from the adopted El Rancho Verde Specific Plan include a portion of Planning Area 95, and all of Planning Areas 96 through 103 of the Lytle Creek Ranch Specific Plan.
- **Neighborhood III** – is located south of the I-15 and is planned to appeal to young families and families with children and will include a mix of single-family detached and attached homes, as well as Village Center Commercial development on approximately 969 acres.
- **Neighborhood IV** – includes multi-family residential and Village Center Commercial development on approximately 259 acres located north of the I-15.

Each of the neighborhoods will have a separate and unique identity based on its physical features and public amenities. Three of the neighborhoods will be built-out with housing targeted at a variety of family sizes, couples, and singles, while the fourth neighborhood will be built as a gated, age-qualified community for residents age 55 and older. In all, a maximum of 8,407 dwelling units may

be constructed in Lytle Creek Ranch. The community will build-out at an overall gross density of approximately 3.5 dwelling units per acre.

Approximately 95.6 acres of Village Commercial Center uses are planned on-site. These areas will develop with retail, commercial, office, business park, and medical/dental uses. One of the Village Center Commercial areas, located at the juncture of Sierra Avenue and Riverside Avenue, is expected to build-out as a major retail shopping center.

Lytle Creek Ranch will include a wide variety of housing types in community settings that reflect the aesthetic charm and neighborhood structure reminiscent of traditional Southern California towns. The community is designed as a mix of family-oriented and Active Adult homes clustered into four distinct neighborhoods. Each neighborhood will have its own unique identity and character. This will be accomplished by promoting authentic architecture and creating iconic streets with consistent design elements and a unified landscape palette to create a readily identifiable streetscape.

Like most areas, the baby boomer segment of the San Bernardino County population is quickly approaching retirement age. The southern portion of Lytle Creek Ranch (Neighborhood II) is planned as a lifestyle community targeted at households within the expanding active adult (age 55 and older) population. Active adult communities such as Lytle Creek Ranch offer residents of similar ages and interests a place to come together to enjoy an active lifestyle and sense of community. Lytle Creek Ranch will focus on the health, wellness, and fitness of its residents. The project will include an extensive network of sidewalks, which will link together the Active Adult neighborhood. In addition, there will be a public 18-hole public golf course. The age-qualified community is designed to accommodate housing without burdening parks and local schools.

An Active Adult recreation center is planned in Neighborhood II especially for those residents. The recreation center will be beautifully landscaped and designed to serve as a community focal and gathering point. It is anticipated that the Neighborhood II recreation center will include a community center building that may contain such amenities as meeting and game/craft rooms, exercise facilities, locker rooms, restrooms, and other facilities. There will also be a swimming pool with a spa, and an outdoor area with barbecues for picnics and special events.

Of the 2,447 acres comprising the project site, half of the property will be preserved as open space by clustering development along Riverside Avenue, Lytle Creek Road, Glen Helen Parkway, Clearwater Parkway, and the I-15 corridor. Lytle Creek Wash bisects a portion of the project site. A minimum of 829.2 acres will be preserved as undisturbed open space in its natural condition for habitat and wildlife potential, including the areas located along and within Lytle Creek Wash and portions of the hillsides adjacent to Glen Helen Regional Park and the San Bernardino National Forest.

Another 296 acres will be devoted to open space, neighborhood parks, golf, and recreation areas. The project proposes an extensive system of green spaces, such as neighborhood parks, paseos, and recreation areas linked together by a network of trails and paseos.

A comprehensive trail system is planned throughout Lytle Creek Ranch. This system includes multi-purpose trails that run adjacent to Lytle Creek Wash in Neighborhoods II, III, and IV. Other trails include a pedestrian walkway along the length of Riverside Avenue in Neighborhoods II, III, and IV, and a variable width “Grand Paseo” that runs the length of Neighborhood III. A multi-purpose trail in the Grand Paseo will be a minimum of eight feet in width and will accommodate both bicycle and pedestrian traffic. In addition, a trail system will be provided in Neighborhood I that will link up to the pedestrian trail system planned in the adjacent Rosena Ranch community (formerly known as “Lytle Creek North”).

Lytle Creek Ranch also includes three public neighborhood parks that will include a mix of passive uses including, but not limited to, picnicking areas, shade structure(s), playgrounds, gardens, seating areas, informal turf play areas, and attractive landscaping. Each of the neighborhood parks in Neighborhood III will contain private recreation facilities designed especially to serve the recreational needs of Lytle Creek Ranch residents of Neighborhood III. In addition, there will be two joint-use parks located adjacent to the two schools, which will include playgrounds and/or sports fields.

In addition to the above recreational amenities, the project will include a re-designed and reconfigured 18-hole public golf course. The golf course will include a new 19,000-square-foot minimum clubhouse facility with pro shop, locker rooms, offices, bar, restaurant, and banquet facilities. Other features include a tournament lawn, driving range, and carts storage barn. Although the golf course will be surrounded by active adult housing, the course and clubhouse will be open for use by the general public.

A key feature of Lytle Creek Ranch is the establishment of a new northern gateway into the City of Rialto. At present, there is no clearly defined edge to the northern portion of the City. Lytle Creek Ranch is designed as the gateway into the City from the north. A dramatic entry featuring an interpretation of the City’s symbol, the Rialto Bridge, will be constructed on Riverside Avenue, near the I-15. This gateway will become a community landmark and will announce to both residents and visitors that they are entering Rialto. The project will also include two “Welcome to Rialto” monument signs, one each in Neighborhoods I and IV.

1.6 DISCRETIONARY ACTIONS AND APPROVALS

The City of Rialto is the Lead Agency for purposes of California Environmental Quality Act (CEQA) compliance and has prepared an Environmental Impact Report (EIR) to consider the following discretionary actions, for which applications have been submitted to the City. These actions are required to implement this Specific Plan:

- **Approval of the General Plan Amendment:** A General Plan Amendment will be necessary to change the entire property from the current General Plan land use designations of “Special Study Areas,” “Edison Easement,” “Residential – Low Density (0-3),” and “Residential – Medium Density (3-6)/Recreation-Golf Course” to “Specific Plan Area” on the City’s General Plan Land Use Map.
- **Approval of the Specific Plan:** The Lytle Creek Ranch Specific Plan has been prepared to realize the objectives of the proposed project as defined here in this Specific Plan. The Specific Plan will be adopted by resolution by the City of Rialto City Council, with the Development Standards chapter adopted by ordinance. The existing “El Rancho Verde Specific Plan,” a portion of the existing “Glen Helen Specific Plan,” and a portion of the “Lytle Creek North Planned Development” will be superseded by the Lytle Creek Ranch Specific Plan, once the Lytle Creek Ranch Specific Plan is approved.
- **Approval of Prezoning:** Once the Specific Plan is approved by the City, the Specific Plan will serve as the “pre-zoning” for the project site. The Specific Plan will pre-zone the property from the mix of current Rialto and San Bernardino County zoning designations to “Specific Plan Zone.”
- **Approval of Tentative Tract Maps (TTM):** Concurrently with the General Plan Amendment, Specific Plan, and other entitlement requests, the master developer intends to process Tentative Tract Maps for portions of the Specific Plan area. The Tentative Tract Maps will be prepared and processed through the City in accordance with Section 17.16 of the City of Rialto Municipal Code and in accordance with the Subdivision Map Act of the California Government Code.
- **Approval of Grading Plans:** In conjunction with the Tentative Tract Maps, the City will process the corresponding grading plans based on the grading permit process established by the City’s Building Codes. Grading permits will be required prior to commencement of on-site grading activities.
- **Certification of the Environmental Impact Report (EIR):** The City of Rialto has determined that an EIR is required to analyze the potential environmental impacts of the project and include mitigation measures, as appropriate, to reduce potential environmental impacts. The EIR has been prepared in accordance with CEQA and the CEQA Guidelines. The City of Rialto will consider certification of the EIR prior to taking action on the requested approvals.
- **Adoption of Mitigation Monitoring Program:** The City will evaluate and adopt a Mitigation Monitoring Program (MMP), which will be considered by the City related to the changes made to the project or conditions of project approval that were adopted in order to mitigate or avoid significant effects on the environment.

- **Approval of a Development Agreement/Pre-Annexation Development Agreement:** A Development Agreement/Pre-Annexation Development Agreement will be negotiated between the City of Rialto and the Project Applicant that will establish vesting of development rights and entitlements, identify project improvements, timing of improvements, as well as the responsibilities and rights of both the City and the project Applicant applying to development of the Lytle Creek Ranch project.
- **Annexation Determination:** All of the above land use entitlements will be acted on by the City prior to annexation of the unincorporated areas into the City. The above entitlements, including the Pre-Annexation Development Agreement, are premised upon “pre-annexation” approvals that will become “in effect” upon completion of the annexation process. Cities are permitted to process pre-annexation General Plan amendments, zone changes, and specific plans prior to Local Agency Formation Commission (LAFCO) action on the proposed annexation; however, these land use entitlements are not considered in effect for the portions of the property located outside the city limits until the property is actually incorporated into the City. The annexation determination will involve the filing of a petition by the landowner(s) with the San Bernardino County LAFCO to annex the unincorporated portions of Lytle Creek Ranch into the City of Rialto. At the time of approval by the City Council, the land use entitlements for those portions of the project site located within the city limits will become effective immediately or as provided for by state law.

The approximately 2,447.3-acre Lytle Creek Ranch project site is located partly within the City of Rialto (approximately 694.2 acres) and partly within an unincorporated portion of southwestern San Bernardino County (approximately 1,753.1 acres). The jurisdictional boundaries are depicted in Figure 1-3, Annexation Areas. As part of project entitlements for Lytle Creek Ranch, the following annexations/boundary adjustments will need to occur:

- Annexation of all unincorporated lands (approximately 1,753.1 acres) within the project area into the City of Rialto;
- Removal of Neighborhood I from the San Bernardino County GH-70 Service District for Fire and Sewer Service;
- Adjustments between the Rialto Unified School District/San Bernardino Unified School District service boundaries in Neighborhood I; and
- Annexation of those portions of the project site located within the Sphere of Influence (i.e., portions of Neighborhoods II, III, and IV) into the West Valley Water District.

All entitlements will require approval by the Rialto City Council. The annexation request will require approval by LAFCO, as well.

This page intentionally left blank.

Figure 1-3
Annexation Areas

This page intentionally left blank.

**LAFCO Estimated Revenues and
Expenditures for the
Five North Rialto Islands**

Attachment 3

Rialto North Islands

	Island 1	Island 2	Island 3	Island 4	Island 5
Assessed Value	\$ 151,337	\$ 15,929,418	\$ 23,696,269	\$ 16,154,640	\$ 39,682,548
Tax Revenue	\$ 1,513	\$ 159,294	\$ 236,963	\$ 161,546	\$ 396,825
2015 Est. Population	\$ 4	\$ 276	\$ 458	\$ 526	\$ 986
2015 Est. Households	\$ 1	\$ 76	\$ 125	\$ 110	\$ 241

	Cost Factor		Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	TOTAL COST
	per capita	Note						
Recurring Costs								
Property Tax								
CSA SL-1			\$ 21	\$ 2,255	\$ 3,354	\$ 2,287	\$ 5,617	\$ 13,534
County Fire - Valley Service Zone			\$ 260	\$ 27,375	\$ 40,722	\$ 27,762	\$ 68,194	\$ 164,313
County Fire - Admin			\$ 37	\$ 3,892	\$ 5,789	\$ 3,947	\$ 9,695	\$ 23,360
Sales Tax		Note 1						
In lieu property tax (sales & use tax)	\$ 22.97		\$ 92	\$ 6,340	\$ 10,521	\$ 12,083	\$ 22,650	\$ 51,685
Property transfer tax-turnover		Note 2	\$ 4	\$ 438	\$ 652	\$ 444	\$ 1,091	\$ 2,629
In lieu property tax (VLF)		Note 3	\$ 218	\$ 22,986	\$ 34,194	\$ 23,311	\$ 57,262	\$ 137,971
Franchise Fees	\$ 27.78		\$ 111	\$ 7,667	\$ 12,723	\$ 14,612	\$ 27,391	\$ 62,505
SB509 sales tax - safety	\$ 4.78		\$ 19	\$ 1,319	\$ 2,189	\$ 2,514	\$ 4,713	\$ 10,755
Utility Users Tax	\$ 104.74	Note 4	\$ 419	\$ 28,908	\$ 47,971	\$ 55,093	\$ 103,274	\$ 235,665
Animal Licenses and fees	\$ 1.53		\$ 6	\$ 422	\$ 701	\$ 805	\$ 1,509	\$ 3,443
Fines, forfeits, and penalties	\$ 4.30		\$ 17	\$ 1,187	\$ 1,969	\$ 2,262	\$ 4,240	\$ 9,675
County Landfill excavation charges	\$ 2.13		\$ 9	\$ 588	\$ 976	\$ 1,120	\$ 2,100	\$ 4,793
Charges for Current Services								
Animal Control Fees	\$ 0.13		\$ 1	\$ 36	\$ 60	\$ 68	\$ 128	\$ 293
Other Police Related Fees	\$ 2.64		\$ 11	\$ 729	\$ 1,209	\$ 1,389	\$ 2,603	\$ 5,940
Fire Related Inspections	\$ 2.96		\$ 12	\$ 817	\$ 1,356	\$ 1,557	\$ 2,919	\$ 6,660
Ambulance Service Fees/Subscriptions	\$ 16.51		\$ 66	\$ 4,557	\$ 7,562	\$ 8,684	\$ 16,279	\$ 37,148
Weed & Lot Cleaning	\$ 0.87		\$ 3	\$ 240	\$ 398	\$ 458	\$ 858	\$ 1,958
Other Current Services	\$ 0.04		\$ 0	\$ 11	\$ 18	\$ 21	\$ 39	\$ 90
Interest - 0.67% of recurring Gen. Revenues			\$ 9	\$ 735	\$ 1,155	\$ 1,061	\$ 2,215	\$ 5,175
Rents, concessions	\$ 1.96		\$ 8	\$ 541	\$ 898	\$ 1,031	\$ 1,933	\$ 4,410
Admin, Misc Fees	\$ 5.97		\$ 24	\$ 1,648	\$ 2,734	\$ 3,140	\$ 5,886	\$ 13,433
Gas Fund Transfer	\$ 14.75		\$ 59	\$ 4,071	\$ 6,756	\$ 7,759	\$ 14,544	\$ 33,188
Other Transfers	\$ 36.78		\$ 147	\$ 10,151	\$ 16,845	\$ 19,346	\$ 36,265	\$ 82,755
Total Projected Revenues			\$ 1,553	\$ 126,914	\$ 200,750	\$ 190,755	\$ 391,403	\$ 911,375

Recurring Costs								
General Government								
Police	\$ 243.23		\$ 973	\$ 67,131	\$ 111,399	\$ 127,939	\$ 239,825	\$ 547,268
Recreation	\$ 12.41		\$ 50	\$ 3,425	\$ 5,684	\$ 6,528	\$ 12,236	\$ 27,923
Development Services								
Engineering	\$ 3.95		\$ 16	\$ 1,090	\$ 1,809	\$ 2,078	\$ 3,895	\$ 8,888
Business Licensing	\$ 5.53		\$ 22	\$ 1,526	\$ 2,533	\$ 2,909	\$ 5,453	\$ 12,443
Code Enforcement	\$ 6.88		\$ 28	\$ 1,899	\$ 3,151	\$ 3,619	\$ 6,784	\$ 15,480
Public Works								
Public Works Administration	\$ 4.34		\$ 17	\$ 1,198	\$ 1,988	\$ 2,283	\$ 4,279	\$ 9,765
Community Bldg Maintenance	\$ 10.88		\$ 44	\$ 3,003	\$ 4,983	\$ 5,723	\$ 10,728	\$ 24,480
Park Maintenance								
Graffiti Removal	\$ 1.14		\$ 5	\$ 315	\$ 522	\$ 600	\$ 1,124	\$ 2,565
Engineering Services & Projects	\$ 3.00		\$ 12	\$ 828	\$ 1,374	\$ 1,578	\$ 2,958	\$ 6,750
Street Maintenance	\$ 23.97		\$ 96	\$ 6,616	\$ 10,978	\$ 12,608	\$ 23,634	\$ 53,933
Traffic Safety	\$ 7.84		\$ 31	\$ 2,164	\$ 3,591	\$ 4,124	\$ 7,730	\$ 17,640
Storm Drain Program	\$ 3.65		\$ 15	\$ 1,007	\$ 1,672	\$ 1,920	\$ 3,599	\$ 8,213
Contingency - 5%	\$ 16.34		\$ 65	\$ 4,510	\$ 7,484	\$ 8,595	\$ 16,112	\$ 36,767
Total Recurring Costs			\$ 1,373	\$ 94,712	\$ 157,168	\$ 180,503	\$ 338,357	\$ 772,112

Net Recurring Surplus			\$ 180	\$ 32,201	\$ 43,583	\$ 10,253	\$ 53,047	\$ 139,263
------------------------------	--	--	---------------	------------------	------------------	------------------	------------------	-------------------

Sources: Assessed Value and Tax Revenue: County Auditor; Estimated Population and Households: ESRI; Cost Factor: Plan for Service for LAFCO 3201

Notes:

- Note 1: 0% of per capita sales tax because area already developed
- Note 2: \$0.55 per \$1,000 assessed valuation of a 5% turnover rate
- Note 3: \$1,443 per \$1M assessed valuation
- Note 4: will sunset in 2018 unless renewed by voter majority

**Decision in Citizen's Association of
Sunset Beach vs Orange County
Local Agency Formation Commission**

Attachment 4

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 08/18/2011

TIME: 03:21:00 PM

DEPT: C31

JUDICIAL OFFICER PRESIDING: Frederick P. Horn

CLERK: Margarita Marquez

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT:

CASE NO: **30-2010-00431832-CU-WM-CJC** CASE INIT.DATE: 12/09/2010

CASE TITLE: **Citizen's Association of Sunset Beach vs. Orange County Local Agency Formation Commission**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

EVENT ID/DOCUMENT ID: 71301056

EVENT TYPE: Chambers Work

APPEARANCES

There are no appearances by any party.

This matter having been taken under submission on 8/11/11, the Court now rules as follows:

The Petition of Citizens' Association of Sunset Beach for a Writ of Mandate requiring Respondent City of Huntington Beach to give the residents of Sunset Beach an opportunity to vote on existing Huntington Beach taxes not currently paid by Sunset Beach resident and prohibiting Respondent OC LAFCO from completing the island annexation of Sunset Beach until such vote is taken is Denied.

The Court initially notes that the issue raised in the Petitioner's writ is one of first impression; there are no cases on point to guide this Court in its determination. The Court has considered all arguments and authorities submitted by both Petitioner and Respondents in reaching its decision.

Petitioner/Plaintiff CASB contends that the City's proposed island annexation of Sunset Beach under Government Code § 56375.3 must proceed, if at all, in compliance with Government Code § 57330 and Proposition 218, meaning that Huntington Beach must give the residents of Sunset Beach a vote on the taxes or the right to protest the annexation. Petitioner contends that Proposition 218, a constitutional provision, takes precedence over Government Code § 56375.3.

The City (and OC LAFCO) contends that the writ of mandate sought by Petitioner would (1) violate the separation of powers because the court would be replacing its judgment for the legislative mandate of the OC LAFCO to approve the island annexation; (2) that annexation is separate from taxation, and (3) Proposition 218 does not apply to the facts of this case.

The Court has determined that the "island annexation" procedures provided for in Government Code § 56375.3, found in the Cortese-Knox Local Government Reorganization Act of 1985 (**the Act**), apply to the annexation of Sunset Beach into the City of Huntington Beach and Proposition 218 does not apply.

Respondent OC LAFCO is required to approve the annexation of Sunset Beach if all provisions of Government Code § 56375.2(a)(1)(A)-(C) and (b)(1)-(6) are met. In this case there is no dispute that Sunset Beach falls within these provisions. The Court may not replace its judgment for the legislative mandate of Government Code § 56375.3.

The provisions of Government Code § 56375.3 do not provide for a protest procedure prior to annexation. That statute specifically provides for waiver of protest proceedings. Therefore, the citizens of Sunset Beach are not entitled to vote on the existing Huntington Beach taxes that will be imposed as a result of the annexation before the annexation is approved. Respondent OC LAFCO may not condition the annexation on the approval by the residents of Sunset Beach of the taxes at issue. The specific provisions of Government Code § 56375.3 regarding "island" annexations take precedence over the general provisions of Government Code 56375, which applies to non-island annexations and which would allow OC LAFCO to condition its approval of a non-island annexation and would allow for a protest procedure.

The Petitioner claims that certain new taxes will be imposed on the residents of Sunset Beach – taxes that Huntington Beach residents currently pay but Sunset Beach residents do not pay - if the annexation proceeds without allowing Sunset Beach residents an opportunity to vote on those taxes first. Petitioner relies on Proposition 218 and contends that Proposition 218 and Government Code § 56375.3 are in conflict and cannot be harmonized; therefore, Proposition 218 takes precedence over Government Code § 56375.3.

The Court finds that Proposition 218 does not apply to the facts of this case because the annexation of Sunset Beach will not involve the imposition, extension or increase of any new general or special taxes. The annexation of Sunset Beach will involve taxes, assessments and/or fees and charges that have previously been established and approved by the electorate of Huntington Beach. Therefore, there is no issue of a conflict between Proposition 218 and Government Code § 56375.3.

The Attorney General's statements in Opinion 99-602, pp. 9-10, were instructive to this Court. The Opinion addressed the question: "If a local agency formation commission conditions approval of a change of organization or reorganization upon a requirement that the subject agency levy or fix and collect a previously established and collected tax, benefit assessment, or property-related fee or charge on parcels being annexed to the agency, do the voter and landowner approval requirements set forth in the Constitution (Proposition 218) relating to taxes, assessments, fees and charges apply?"

The Attorney General's following observations provide guidance to this Court in reaching its decision: We have examined in detail the voters' pamphlet with respect to Proposition 218. . . . Nothing therein suggests that the proposed voter approval requirements were to be added to the voter approval requirements of the Act. The ballot materials regarding Proposition 218 simply do not support an intent by the electorate to subject LAFCO proceedings to the requirements of articles XIII C and XIII D. . . as a practical matter, it would be virtually impossible to comply with the varying and complex requirements of articles XIII C and XIII D with respect to changes of organization or reorganization under the Act . Not only the timing of the elections but the differing constituencies who would be voting on different measures with differing voter approval requirements . . . would present an administrative imbroglio.

Finally, while the case of Metropolitan Water District v. Dorff (1979) 98 Cal.App.3d 109 involved Proposition 13 and is not directly on point with the facts of this case, it was helpful to this Court. The court in the Metropolitan Water case discussed the interaction of Proposition 13 (Article XIII A) and provisions of the Metropolitan Water District Act. The court found that Proposition 13 did not prohibit the levy/imposition of an existing ad valorem tax , approved by the voters of the Metropolitan Water District prior to annexation, on property subsequently annexed to the Metropolitan Water District.

Court orders Clerk to give notice by e-mail and US mail.

John C. McCarron of Stern, Van Vleck & McCarron LLP, JMCCARRON@LAWPOLICY.COM
Holly O. Wathley of Colantuono & Levin, PC, HWhatley@CLLAW.US
Daniel S. Roberts of Best Best & Krieger, Daniel.Roberts@bbklaw.com

Filed 10/5/12

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

CITIZENS ASSOCIATION OF SUNSET
BEACH,

Plaintiff and Appellant,

v.

ORANGE COUNTY LOCAL AGENCY
FORMATION COMMISSION et al.,

Defendants and Respondents.

G045878

(Super. Ct. No. 30-2010-00431832)

OPINION

Appeal from a judgment of the Superior Court of Orange County, Frederick P. Horn, Judge. Affirmed. Motion for judicial notice. Motion granted.

Howard Jarvis Taxpayers Foundation, Trevor A. Grimm, Jonathan M. Coupal and Timothy A. Bittle for Plaintiff and Appellant.

Best Best & Krieger, Scott C. Smith and Daniel S. Roberts for Defendant and Respondent Orange County Local Agency Formation Commission.

Colantuono & Levin, Michael G. Colantuono, Holly O. Whatley and Michael R. Cobden for Defendant and Respondent City of Huntington Beach.

Jarvis, Fay, Doporto & Gibson, Rick W. Jarvis and Benjamin P. Fay for League of California Cities and California State Association of Counties as Amicus Curiae on behalf of City of Huntington Beach.

I. INTRODUCTION

Taxpayers living in Huntington Beach have been paying two taxes which taxpayers in next door Sunset Beach haven't. First, Huntington Beach taxpayers have been paying a utility tax of five percent. Second, they have been paying a "retirement property tax" of about \$15 per each \$100,000 of assessed valuation, on top of Proposition 13's one-percent limit, for Huntington Beach pension costs incurred prior to the passage of Proposition 13 in 1978.¹

Until now the taxpayers of Sunset Beach have been spared those taxes. Sunset Beach is a relatively small strip of land, consisting of about 133 acres, which, for over a century, has been an unincorporated part of the County of Orange. Because of this small size, Huntington Beach was able, with the approval of Orange County's local agency formation commission (OC LAFCO), to annex Sunset Beach without a vote under California's "island annexation" statute. (See Gov. Code, § 56375.3.²)

Another California statute provides that any territory annexed to a city shall be subject to that city's previously authorized taxes. (§ 57330.) So, with the annexation,

¹ Huntington Beach's retirement tax over and above the Proposition 13 limit only collects for retirement benefits incurred prior to Proposition 13 in 1978, and does not apply to "'new' retirement benefits" liability for which was incurred after Proposition 13. (See *Howard Jarvis Taxpayers Assn. v. County of Orange* (2003) 110 Cal.App.4th 1375, 1385-1387 (*Jarvis v. Huntington Beach*).) Huntington Beach cannot fund retirement benefits incurred after Proposition 13 from this "excess levy." (*Id.* at p. 1385.)

² All undesignated statutory references in this opinion are to the Government Code.

Sunset Beach residents have now found themselves subject to the two additional taxes levied on taxpayers in Huntington Beach for which no one in Sunset Beach voted.

A group of Sunset Beach residents calling themselves the Citizen's³ Association of Sunset Beach (the Citizens Association) brought this litigation just before the annexation, seeking either to prevent the annexation, or at least to require a vote by the electorate in Sunset Beach to approve the application of the two additional taxes that would otherwise accompany the annexation. Their argument is that Proposition 218 (the Right to Vote on Taxes Act), added to the California Constitution as articles XIII C and XIII D, requires that Sunset Beach residents be given the chance to vote on the two "new" taxes.⁴ The trial court eventually denied the Citizens Association's petition, allowed the annexation to go through, and the Citizens Association has brought this appeal.

We conclude Proposition 218 was never intended to require votes incident to annexations of territory by local governments. It was intended to prevent politicians from trying to circumvent Proposition 13 by inventing so-called assessment districts which supposedly could impose taxes without any vote of the electorate. Nor does the text of Proposition 218, even liberally construed, require an election on tax differentials in connection with an annexation. Most dispositive are the dual track elections on taxes expressly required by Proposition 218: majority votes for general taxes, supermajority votes for special taxes. If the proponents of Proposition 218 had intended to require votes on annexations whenever there is a difference in the taxes between the annexing territory and the territory to be annexed, they would, at the very least, have made provision for the fact that some of the taxes would require only a majority vote, but other taxes would

³ While the transcript of the proceedings below refers to appellant as "Citizen's," the appellate materials, including the briefs, generally delete the apostrophe. We adopt the more recent and explicable usage.

⁴ The full text of Proposition 218 is set out as an appendix to *Keller v. Chowchilla Water Dist.* (2000) 80 Cal.App.4th 1006, 1018-1022.

require a two-thirds vote. None of that is in the text of Proposition 218. We therefore affirm the trial court's denial of the petition brought by the Citizens Association.

II. BACKGROUND

A. *The Move to Annex Sunset Beach*

Both Sunset Beach and its larger neighbor Huntington Beach got their start in 1904 in response to a railway extension connected with the construction of the Huntington Beach Pier depot. At the time, the land that is now Huntington Harbor (which lies generally behind Sunset Beach to the inland) was marshland. Until Huntington Harbor was developed in the early 1960's, Sunset Beach was almost a literal "island," with train tracks running along the beach, housing tracts built on the inland side of the train tracks, and marshland behind it.

Unlike Huntington Beach, though, Sunset Beach never incorporated as a city, in part due to its relatively small size. Today, Sunset Beach consists of less than 134 acres, tucked into the northwestern corner of Orange County. There are roughly two beach acres for every residential acre. There are about 1200 permanent residents and most of the community is on the ocean side of Pacific Coast Highway. All parties agree the community retains an identity distinctly separate from Huntington Beach.

As an unincorporated county area, Sunset Beach has been receiving a number of its local government services from the County of Orange, including police protection from the Orange County Sheriff's Department. Fire protection has been shared by the Orange County Fire Authority and Huntington Beach's fire department. However, since the 1990's the County of Orange has wanted to pull back from "municipal-type services," thus raising the question of whether Sunset Beach might incorporate as a city on its own or be annexed by nearby Huntington Beach or Seal Beach. A feasibility study prepared in May 2010 to explore the possibility of Sunset Beach incorporating on its own projected total revenue would exceed costs by about 10 percent and found incorporation feasible under three scenarios, albeit each of the three

scenarios under consideration contemplated “expanded” utility taxes. Nothing came of the self-incorporation option.

But each California county has its own LAFCO, or “local agency formation commission” to oversee annexations and formations of local governments. (See *Community Water Coalition v. Santa Cruz County Local Agency Formation Com.* (2011) 200 Cal.App.4th 1317, 1323-1324 [overview of Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000].)⁵ As part of the county’s general desire to divest itself of municipal-type services, OC LAFCO had been eyeing the possible annexation of Sunset Beach by an adjacent city since at least 2005. Sometime before April 2010, OC LAFCO initiated the idea of having Huntington Beach annex Sunset Beach.

A representative from OC LAFCO acknowledged the “request was not initiated” by Huntington Beach. It came up at a Huntington Beach City Council meeting in August 2010. The Huntington Beach City Council voted to direct its staff to prepare the necessary paperwork for a formal application to OC LAFCO for annexation. Huntington Beach then applied to annex Sunset Beach. OC LAFCO staff recommended approval on December 8, 2010.

The next day the Citizens Association filed this action.

B. *The Litigation*

The Citizens Association’s petition sought a writ of mandate immediately prohibiting OC LAFCO from taking any further action on Huntington Beach’s annexation petition. The Citizens Association also sought an order directing OC LAFCO to either reject the annexation petition or impose as a condition “a favorable vote” by the

⁵ In Orange County, for example, the LAFCO that eventually approved Huntington Beach’s annexation of Sunset Beach consisted of two city councilmembers (from Lake Forest and Fountain Valley), two members of the county board of supervisors, a water district director, a sanitary district director, and a representative of the general public.

residents of Sunset Beach “in an election pursuant to Proposition 218 regarding imposition of all of the City’s special taxes, including but not limited to the utility tax and the property tax override.” Lastly, the Citizens Association asked for a preliminary injunction. The trial court granted the preliminary injunction on January 19, 2011, reasoning that the Citizens Association had shown a likelihood of success and would be entitled to some kind of protest proceeding or election “on the annexation or taxation” issue.

But when the matter was considered on the merits after briefing and oral argument in August 2011, the result was different. The court determined Proposition 218 does not apply to “‘island’” annexations under the Government Code (specifically section 56375.3). The court further concluded the annexation of Sunset Beach by Huntington Beach would not “involve the imposition, extension or increase of any new general or special taxes.” Rather, the taxes at issue had already “been established and approved by the electorate of Huntington Beach.”

The trial court’s thorough (three pages, single-spaced, covering the parties’ major arguments) minute order was filed August 18, 2011. But the minute order did not deal with the existing preliminary injunction that had been in effect since January 19.

The Citizens Association thought the status of that preliminary injunction in need of clarification. Huntington Beach thought the denial of the petition for writ of mandate to be clear and self-executing. In any event, OC LAFCO didn’t wait for further briefing. It filed its notice of completion of annexation four days later, on August 22. Two days after that, the trial court denied an ex parte request for a stay of execution of judgment pending appeal. The formal judgment was filed September 20, and the Citizens Association filed this appeal.

III. DISCUSSION

A. *Mootness*

Respondent Huntington Beach argues the case is moot because the annexation is now final, but even so invites this court to reach the merits since the case is a matter of public interest and likely to arise anew. Respondent OC LAFCO, by contrast, apparently does not think the case is moot at all.

The case is not moot, because the Citizens Association raises a constitutional argument against the application of the annexation statutes to Sunset Beach. If, indeed, Proposition 218 requires an election before either of the two Huntington Beach taxes at issue in this case may be applied to citizens of Sunset Beach, then it makes no difference whether the annexation itself is a *fait accompli*. Constitutions trump conflicting statutes. (*Delaney v. Superior Court* (1990) 50 Cal.3d 785, 800-801, fn. 11.) Local governments cannot avoid application of a constitutional provision simply by ramming through an annexation to completion and then argue the constitutional provision doesn't apply to a *fait accompli*.

B. *General Considerations*

Since this appeal centers on the possible application of Proposition 218, a constitutional provision enacted by initiative, our task is ascertaining the intent of the voters. "When construing a constitutional provision enacted by initiative, the intent of the voters is the paramount consideration." (*Davis v. City of Berkeley* (1990) 51 Cal.3d 227, 234.) To determine intent, courts look first to the language of the provision, giving its words their ordinary meaning. If that language is clear in relation to the problem at hand, there is no need to go further. (*Ibid.*) If, on the other hand, the language is ambiguous, we turn to extrinsic indicia of voter intent, particularly what the ballot pamphlet said about the initiative. (*People v. Rizo* (2000) 22 Cal.4th 681, 685.)

In construing the language of an initiative, we consider not only the ordinary meaning of the bare words, but how those words fit into the initiative as a

whole. (*People v. Superior Court (Pearson)* (2010) 48 Cal.4th 564, 571; *Professional Engineers in California Government v. Kempton* (2007) 40 Cal.4th 1016, 1037.) Here, the context is key.

Structurally, Proposition 218 sets up a dual system of voting on taxes. It contains two parallel subdivisions, now set forth respectively in article XIII C, section 2, subdivision (b) and article XIII, section 2, subdivision (d), of the state Constitution. They govern two different kinds of taxes. The language in each subdivision is *almost* identical. A vote is required before a tax may be imposed, extended or increased. But the required quantum of support for the tax varies with the kind of tax being imposed, extended or increased. If, as provided for in subdivision (b), a tax is a “general” one, the quantum is a simple majority. But if the tax is “special,” a super-majority of two-thirds is required.⁶ We conclude this dual structure undercuts any argument there was an intent to require a vote in connection with an annexation. But to explain our conclusion, a little history is needed.

Originally, section 4 of Proposition 13 passed in 1978 (Cal. Const., art. XIII A) provided that cities and counties “may” impose “special taxes” by a two-thirds vote. But four years later, in 1982, a divided Supreme Court upheld an increase in what was arguably a special tax by only 55 percent of the vote.⁷ In 1986, in specific response to

⁶ Article XIII C, section 2, subdivision (b) of the state Constitution provides : “No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.”

Article XIII C, section 2, subdivision (d) of the state Constitution provides: “No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.”

⁷ The tax was a payroll and gross receipts tax passed by 55 percent of the voters in a June 1980 election. While the high court majority construed San Francisco’s payroll and gross receipts tax not to be a special tax within the meaning of Proposition 13’s section 4, the dissent thought that the majority adopted an overly “restricted interpretation of the term ‘special tax.’” (See *City and County of San Francisco v. Farrell* (1982) 32 Cal.3d 47, 53, 57; see *id.* at p. 57 (dis. opn. of Richardson, J.).)

that particular Supreme Court decision, the backers of Proposition 13 placed Proposition 62 on the ballot.⁸ Unlike Proposition 13 before it, Proposition 62 was a statutory initiative, not an amendment to the Constitution. Proposition 62 added sections 53721, 53722, and 57723 to the Government Code. Section 53721 specifies that all taxes “are either special taxes or general.” Section 53722 states that all special taxes must be approved by two-thirds of the voters. And section 54723 states that no general tax may be imposed without a majority vote.

With the passage of Proposition 62 in 1986 came the possibility of a gallimaufry of differing tax regimes among California cities and counties. For example, voters in some counties could enact “special” sales taxes by a two-thirds supermajority to fund construction of county jails (cf. *Rider v. County of San Diego* (1991) 1 Cal.4th 1 (*Rider*)⁹), or to fund county transportation projects (cf. *Santa Clara County Local Transportation Authority v. Guardino* (1995) 11 Cal.4th 220 (*Guardino*)¹⁰). Likewise county voters could impose “general” sales tax increases by majority vote to fund general county objectives (e.g., *Coleman v. County of Santa Clara* (1998) 64 Cal.App.4th 662 (*Coleman*)¹¹). And city voters might enact certain parcel taxes which, if properly classified as general taxes, could have squeaked by with a “bare majority” of the voters. (See *Neecke v. City of Mill Valley* (1995) 39 Cal.App.4th 946, 950-951.)

This history suggests strongly that if there was any intent in Proposition 218 to provide for elections in connection with annexations, that intent would have manifested itself in some provision for the multitude of elections that would be required.

⁸ See *City of Westminster v. County of Orange* (1988) 204 Cal.App.3d 623, 637 (*Westminster*). Howard Jarvis himself was among the three writers of the ballot argument in favor of Proposition 62. (*Ibid.*)

⁹ In this case the sales tax failed because it only got 50.8 percent of the vote. (*Rider, supra*, 1 Cal.4th at p. 6.)

¹⁰ Again, this particular sales tax increase failed because it fell short of the two-thirds needed, there receiving 54.1 percent. (See *Guardino, supra*, 11 Cal.4th at p. 228.)

¹¹ Because the tax increase went for general purposes, this one passed with 51.8 percent of the vote. (*Coleman, supra*, 64 Cal.App.4th at p. 664.)

While much of the briefing in this case centers on the assumed confluence between Proposition 218 and the *normal* requirement of a majority election when unincorporated county territory is annexed by a city (§ 57075), we cannot assume that an election on annexation is synonymous with an election on a tax. Some voters might wish to vote one way on the annexation and another way on the tax.

So, if Proposition 218 were intended to apply to annexations, up to three separate elections might be required any time an annexation occurred: first an election by majority vote on any general tax which the annexing jurisdiction had which the to-be-annexed territory did not have; second an election on any special tax which the annexing jurisdiction had and which the to-be-annexed territory did not have; and third – at least in the case of non-island annexations – an election on the annexation per se.

And those are only the vanguard of the structural complications. Given the diversity of tax regimes among local governments contemplated by Proposition 62, some mechanism would also be needed to determine in the first place whether an annexation really would, or would not, result in additional taxes to be paid by the citizens of the to-be-annexed territory.¹² Beyond that, there would be the problem of ascertaining, before any vote required by Proposition 218, whether any tax differentials between the annexing jurisdiction and the annexed territory were to be classified as “special,” requiring a two-thirds vote.

In short, there is much in the very structure of Proposition 218 that, if it had been intended to apply to annexations, should have been there, but isn’t. Just as the silence of a dog trained to bark at intruders suggests the absence of intruders, this silence speaks loudly. It is indicative of a lack of voter intent to affect annexation law. (See *In*

¹² For example, suppose a county had a business license tax that applied only to county territory, while the annexing city had no business license tax but did have a tax on cell phone calls. Would the annexation of county territory by the city result in a net increase or decrease in taxes – and for which taxpayers?

re DirecTV Early Cancellation Litigation (2010) 738 F.Supp.2d 1062, 1075 [citing the Arthur Conan Doyle short story *Silver Blaze*].)

But quite apart from this context, the words themselves undermine appellant's position. Both subdivisions (b) and (d) use the same set of verbs – “may impose, extend, or increase.” For the Citizens Association, the verbs “impose, extend, or increase” are unambiguous, and demand a simple application of Proposition 218's election requirements to the taxes at issue.

There is, however, a rule of construction – well known prior to the passage of Proposition 218 – that courts are required to try to harmonize constitutional language with that of existing statutes if possible. (*Penziner v. West American Finance Co.* (1937) 10 Cal.2d 160, 176; *Metropolitan Water District v. Dorff* (1979) 98 Cal.App.3d 109, 114 (*Dorff*).) Put another way, the implied repeal of statutes by later constitutional provisions is not favored. Accordingly, if it is possible to reconcile the language of Proposition 218 with the annexation statutes existing at the time of its passage, we must do so. (See *Dorff, supra*, 98 Cal.App.3d at p. 114.)

It turns out that at least two annexation statutes were on the books prior to the passage of Proposition 218 which would be impliedly repealed by a construction of the measure that required an election any time an annexation involved a negative tax differential between the annexed jurisdiction and the annexing jurisdiction.

One was the island annexation statute. The Citizens Association argues that involuntary “island annexations” were the product of amendments to the Government Code in 2000 enacting section 56375.3, hence Proposition 218 need not be harmonized with such involuntary annexations. Says the Citizens Association, “The island annexation statute, and the amendments accompanying it (Government Code sections 56375.3-56375.5), were not added to the Code until 2000,” therefore “[i]t would have been impossible for the drafters of Proposition 218 to anticipate the island annexation law and make special provision for it.” The argument, however, is not

persuasive because involuntary island annexations long pre-existed Proposition 218's enactment in 1996.

Involuntary annexations of relatively small parcels of territory have been a part of our state's statutory framework since 1939. (See *Weber v. City Council of Thousand Oaks* (1973) 9 Cal.3d 950, 962 (*Weber*).) Before 1939, annexations were only for uninhabited contiguous territory. (*Ibid.*, citing Stats. 1899, ch. 41, p. 37; see Stats. 1939, ch. 297, § 1, pp. 1567-1568.) But beginning in 1939, the Legislature began amending annexation statutes to include territory with voters, first only 3 acres, then 12 acres, and in 1977 providing for involuntary annexations of territory not exceeding 100 acres. (See *Weber, supra*, 9 Cal.3d at p. 962; *I.S.L.E. v. County of Santa Clara* (1983) 147 Cal.App.3d 72, 74-75, fn. 2 [quoting former section 35150 as it stood in 1978].) “The entire island concept was introduced into the statute to prevent piecemeal annexation of large surrounded or substantially surrounded areas, thus prohibiting the circumvention of the 100-acre limitation and/or the annexation of smaller areas within larger substantially surrounded areas.” (*Fig Garden Park No. 2 Assn. v. Local Agency Formation Com.* (1984) 162 Cal.App.3d 336, 343.)

The 100-acre threshold was cut back to 75 acres by legislation in 1985 (the original Cortese Local Government Reorganization Act of 1985) with the codification of section 56375. The legislation still provided for annexations of islands “without an election.” (Stats. 1985, ch. 541, § 3, p. 1950 [enacting former § 56375].)

In 1996, on the eve of Proposition 218, section 56375 still gave local LAFCOs the power to allow annexation of unincorporated islands that did not exceed 75 acres to cities surrounding, or substantially surrounding, those islands without an election. (Stats. 1995, ch. 91, § 55, p. 289.) The amendments of 2000 simply gave the island annexation law its own code section. (See Stats. 2000, ch. 761, § 68.5, p. 3933, West's No. 9 Cal. Legis. Service.) Finally, in 2004, the then-existing 75-acre threshold was increased to 150 acres (Stats. 2004, ch. 95, § 1, pp. 398-399.)

The island annexation statute works in combination with another statute, section 57330 (passed in 1993, three years prior to the passage of Proposition 218), which provides that “[a]ny territory annexed to a city or district *shall* be subject to the levying or fixing and collection of any previously authorized taxes . . . of the city” (Italics added.) Read together, the island annexation statute (in 1996, section 56375) and the automatic-taxation-of-annexed-territory-statute (in 1996, section 57330) would necessarily be repealed by any interpretation of Proposition 218 that required a vote whenever an “island” annexation involved a “taxpayer unfriendly” annexation.¹³ But more would be repealed than just these two statutes. Even non-island annexations would be impliedly repealed.

In non-island annexations (now those involving territory over 150 acres), a protest procedure, and sometimes a vote, is required when one local government annexes territory. (See § 57075.) If a majority of the voters residing within the territory to be annexed file written protests (see § 57078) the annexation automatically terminates. If less than 25 percent of the voters file written protests, the annexation automatically goes through. But if at least 25 percent but not more than 50 percent file written protests, there must be an election, and that election is only by majority vote.¹⁴

But what happens when the annexing jurisdiction has a special tax originally passed with a two-thirds vote? As alluded to above, a majority vote on the annexation itself would be inadequate to account for Proposition 218’s requirement that special taxes be passed with a two-thirds majority. We note in this regard that section 57330 makes no differentiation between “previously authorized” special taxes and

¹³ And as we have discussed above, even figuring out whether an annexation is taxpayer friendly or taxpayer unfriendly itself presents a problem.

¹⁴ In the language of the statute, annexation is “subject to confirmation by the registered voters residing within the affected territory.” (§ 57075, subd. (a)(2).) But there is nothing to indicate that an annexation procedure requires a supermajority vote. Given that votes are only triggered if the written protests fall between 25 and 50 percent, the obvious import of section 57075 is that annexation elections are decided by simple majority vote.

general taxes, thus underscoring the point that if Proposition 218 had been intended to affect annexations, it would have needed some mechanism to accommodate the need for a supermajority vote for special taxes. Thus, at the very least, application of Proposition 218 to annexations would also result in the implied repeal of section 57075 when read in conjunction with section 57330.

Of course, Citizens Association is correct Proposition 218 *can* be read to effect the repeal of section 56375 (now section 56375.3) or sections 57075 and 57330. But for analytical purposes, the point is it does not *have* to be. (See *Dorff, supra*, 98 Cal.App.3d at p. 115 [declining to imply repeal of existing statutes where language was not “clear-cut.”].) The words “impose,” “extend” and “increase” all have meanings which would not necessarily apply to the tax effects of an annexation.

The word “impose” usually refers to the first enactment of a tax, as distinct from an extension through operation of a process such as annexation.¹⁵ Huntington Beach’s utility tax and property tax surcharge have already been imposed in this sense of the word. And the active voice syntax in article XIII C, section 2, subdivisions (b) and (d) (“No local government may impose, extend or increase . . .”) indicates the actual subject of the sentence is a local government, not an abstract *process* like an annexation conducted under the auspices of a county LAFCO.

¹⁵ Black’s Law Dictionary defines “impose” as meaning “To levy or exact,” which suggests a discrete, initiating event. (Black’s Law Dict. (7th ed. 1999) p. 759, col. 2.) Similarly, the very first definition of “impose” in the exhaustive Oxford English Dictionary suggests an origination of a burden (“To lay on or set on; to place or set in a position; to put, place or deposit”) as does the definition given with specific reference to taxation (“To put or levy (a tax, price, etc.) on or upon (goods, etc.).”) (7 Oxford English Dict. (2d ed. 1989) at pp. 730-731.)

The first three references to taxes being “imposed” in published opinions this year all use the word “impose” to refer to the time of a tax’s *initial enactment*. (See *NetJets Aviation, Inc. v. Guillory* (2012) 207 Cal.App.4th 26, 32; *Diageo-Guinness USA, Inc. v. Board of Equalization* (2012) 205 Cal.App.4th 907, 913; *Goldman v. Franchise Tax Bd.* (2012) 202 Cal.App.4th 1193, 1203.)

Similarly, “extend” is normally thought of in terms of time, not geographic areas, particularly in the context of taxation.¹⁶ Here, there is no chronological *prolongation* of either the utility tax or the property tax surcharge.

And “increase” most often refers to a change in the amount of an existing tax *rate* a taxpayer owes, as figured on some sort of base (e.g., instead of paying 25 percent on \$X net income, you pay 27 percent on \$X net income). Here, the annexation is independent of the rates by which the utility tax and property tax surcharges are calculated.

Any doubt about our conclusion is removed by examination of the history behind Proposition 218. Its proponents simply never intended it to apply to annexations.

We begin with Proposition 13, passed in 1978. Section 1 of Proposition 13 contained language that indicated a two-thirds vote might be required for any special “assessments” made by a local government. (Cal. Const., art XIII A, § 1 (b).) While assessments levied by local governments are not, strictly speaking, the same as ordinary taxes, the proponents of Proposition 13, fearing the potential for abuse by local governments, wanted them treated as ordinary taxes. The problem was, Proposition 13’s language on assessments was not well conceived. Proposition 13’s basic one-percent limit in section 1 did not mention special assessments; it only mentioned ad valorem property taxes. And, the two-thirds vote provision in section 4 only mentioned “special taxes,” and did not use the words “assessments” or “special assessments.” Consequently, a series of appellate court decisions between 1979 and 1982 held that Proposition 13 did not apply to special assessments.

¹⁶ For example, this statement from a Web site called “Ballotpedia”: “If Proposition 1A had passed, \$10 billion in ‘temporary’ sales, use, income and vehicle taxes imposed as part of the 2009-2010 budget agreement would each have been *extended for one or two years*, resulting in a further tax increase of some \$16 billion.” (Italics added.) (Ballotpedia, California Proposition 1A, Temporary Tax Increase (May 2009) <http://ballotpedia.org/wiki/index.php/California_Proposition_1A (May 2009)>. (As of July 27, 2012.)

The predictable result came to pass. As proponents of Proposition 218 would point out in 1996, special districts increased their assessments by over 2400 percent over 15 years, while cities raised benefit assessments by almost 10 times. And so, in 1996, Proposition 218 was proposed as a constitutional amendment to plug the loophole the courts had discovered (or, depending on your point of view, punched) in Proposition 13 by allowing unrestricted special assessments.

Both sides submitted ballot materials. Ballot materials are windows into voter intent (see *Strong v. State Bd. of Equalization* (2007) 155 Cal.App.4th 1182, 1188, fn. 3), and the words “annex” or “annexation” do not appear in Proposition 218, or in any of the ballot materials provided to the voters, pro, con, or otherwise.

The ballot arguments in favor of Proposition 218 emphasized the guarantee of the right to vote on taxes even if denominated “fees,” including the right to vote on utility taxes. (“Proposition 218 guarantees your right to vote on taxes imposed on your water, gas, electric, and telephone bills.”) They also emphasized that Proposition 218 was necessary to do what Proposition 13’s backers hoped would have been accomplished in the first place. (“Proposition 218 simply extends the long standing constitutional protection against politicians imposing tax increases without voter approval.”)

The main emphasis was on plugging the loophole that allowed assessments to be imposed without a vote: “After voters passed Proposition 13, politicians created a loophole in the law that allows them to raise *taxes without voter approval by calling taxes ‘assessments’ and ‘fees.’*” [¶] Once this loophole was created, one lawyer working with politicians wrote, assessments ‘are now limited only by the limits of human imagination.’ [¶] How imaginative can the politicians be with assessments? Here are a few examples among thousands:” (Italics added.) The ballot argument then listed as among the abuses of assessments a “view tax,” assessments for an equestrian center, assessments for a park 27 miles away, and for a college football field in the Central Valley.”

The rebuttal to the argument in favor of Proposition 218 focused largely on the mechanics of the measure's voting provisions, in which votes on assessments are proportional to a landowner's exposure to the assessment. Thus the phrase "voting power" was a main argument in the rebuttal, stressing that Proposition 218 could reduce the "voting power" of nonlandowners. The rebuttal also emphasized the prospect of service cutbacks, and the inability of local governments to impose emergency assessments in the wake of "earthquakes floods and fires." And, echoing a point also made by the analyst, the rebuttal stressed that Proposition 218 would require more elections and hence generate its own administrative costs.

In response, the backers of Proposition 218 repeated the theme that Proposition 218 would not have been necessary at all except for the interim circumvention of Proposition 13. ("Proposition 218 simply gives taxpayers the right to vote on taxes and stops politicians' end-runs around Proposition 13.") They ended with the general theme of voting on taxes. ("Do you believe taxpayers should have the right to vote on taxes?")¹⁷

In none of this do we find any discussion – any mention – of annexation.¹⁸ Proposition 218's silence on the subject of annexations is indicative of the voters' understanding of what they were doing. The gravamen of the Proposition was ending what its proponents saw as the end-run around Proposition 13 by the gambit of imposing special assessments without any vote at all. Annexations were simply not on the radar of the initiative's proponents.

But if the ballot arguments are not clear enough, the existence of the *Dorff* case, decided in 1979, shows plainly that Proposition 218 was not intended to apply to

¹⁷ The ballot materials were considered by the trial court and are thus part of the regular appellate record. Huntington Beach also filed in this court, on March 26, 2012, an unopposed request for judicial notice of various related legislative materials. The motion is granted as to all materials therein.

¹⁸ There are no references to annexations in the legislative analyst's summary either.

the tax effects of annexations. More than a decade and a half *prior* to Proposition 218, *Dorff* directly held that Proposition 13 did not preclude the application of a preexisting property tax to land previously not part of an annexing water district to pay for that water district's outstanding obligations.

As in the case before us, in *Dorff* the *effect* of the annexation was to apply a preexisting tax to property previously free of that tax. But the court noted Proposition 13 had not directly addressed the problem of whether its exception for payment of indebtedness approved before Proposition 13 applied only to property subject to such taxation before its date. The *Dorff* court reasoned the absence of “a more clear-cut mandate” on the issue did not prohibit the levy of the annexing water district's tax to the parcels being annexed. (*Id.* at p. 115.)

Dorff recognized that annexations could have possible adverse tax effects on property being annexed, and these adverse tax effects *were known as early as 1979*, and courts had held them not to offend Proposition 13. Had Proposition 218 been intended to satisfy or avoid the effects of *Dorff*, we would have expected *some* attempt somewhere in Proposition 218 to address the issue. We have found none.

The Citizens Association relies on *AB Cellular*, *supra*, 150 Cal.App.4th 747 for the proposition that the tax effects of annexation require a vote under Proposition 218. But *AB Cellular* is not an annexation case involving the application of a tax to a new territory. It is a calculation case, in which the same electorate kept paying the same tax, only more of it. *AB Cellular* involved the methodology of how, and on how much air time, a city collected its cell phone tax. The court held the *methodology* of calculation had changed, requiring a Proposition 218 election.

The *AB Cellular* court used the phrase “tax base” to refer to the quantum of cell phone calls that would be subject to the city's tax, much the same way that the income tax requires taxpayers to pay a tax on wages but not gifts. So, for example, the city's “tax base” for purposes of the cell phone tax went from calls originating and

terminating within the city to simply all calls, or “air time.” (See *AB Cellular, supra*, 150 Cal.App.4th at p. 753.) In that context, the court observed: “In practical terms, a tax is increased if the math behind it is altered so that either a larger tax rate or a larger tax base is part of the calculation.” (*Id.* at p. 763.)

To be sure, one could say that Huntington Beach’s “tax base” has been increased (one might as well also say extended) by the addition of Sunset Beach. But application of the very different “tax base” terminology of *AB Cellular* to annexations is anything but clear cut. As used in *AB Cellular*, the phrase “tax base” applied to a “base” of cell phone calls, not the extension of a city’s boundaries by an annexation statute. While the case would be compatible with the application of Proposition 218 to annexations, it does not compel that result. And given the problems of structure and implied repeal discussed above, we decline to extend the rule of *AB Cellular* to annexations.

In all of this, we are not unmindful that section 5 of Proposition 218 requires liberal construction “to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.” But, a rule of liberal construction cannot trump the rule against implied repeal, much less require us to blind ourselves to the history and language of the proposition. The very structure of Proposition 218 – which would have had to take into account the difference between two-thirds requirement for special taxes and a majority requirement for ordinary taxes – is simply inimical to its application.

One other loose end remains. County LAFCOs have the *discretionary* authority to condition annexations upon “the approval by the voters of general or special taxes.” (§ 56886, subd. (s) [using “may”]; accord, 89 Ops.Cal.Atty.Gen. 173, 174 (the Sansone Opinion) [county LAFCO has authority to condition approval of incorporation of a city upon approval by city’s voters of a general tax for the proposed city].) On the other hand, LAFCOs *must* approve “island” annexation if the relevant criteria are present

(§ 56375.3 [using “shall”]), the idea being that island annexations must be allowed without elections. The question thus arises as to whether OC LAFCO might have conditioned the annexation of Sunset Beach by Huntington Beach on a vote by the citizens of Sunset Beach on the two “new” taxes which would apply to them in the wake of annexation.

The question is academic here. The theory of the Citizens Association has been that the annexation statute can only be reconciled with Proposition 218 by *compelling* OC LAFCO to condition the annexation on a vote. However, since Proposition 218 does not apply to annexations of either the voted-on or involuntary island variety, there was no constitutional *compulsion* to hold an election. Whether OC LAFCO *could have* conditioned annexation on approval of the voters is not properly before us.

IV. DISPOSITION

The trial court was correct. Proposition 218 does not apply to annexations. The judgment is affirmed. Respondents shall recover their costs on appeal.

BEDSWORTH, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

ARONSON, J.

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

215 North "D" Street, Suite 204, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 885-8170
E-mail: lafoo@lafoo.sbcounfy.gov
www.sbcclafoo.org

DATE: DECEMBER 10, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: AGENDA ITEM #8 – WORKSHOP TO OUTLINE ISSUES RELATED TO
LAFCO 3197/3198 CITY OF SAN BERNARDINO FIRE
REORGANIZATION AND LAFCO 3199/3200 TWENTYNINE PALMS
WATER DISTRICT FIRE REORGANIZATION**

RECOMMENDATION:

Staff recommends that the Commission:

1. Change the date of the January hearing to January 27, 2016 with the Notice of Hearing and individual Notice provided on January 4, 2016; and,
2. Provide its questions and direction to staff for further processing of these fire reorganization proposals.

BACKGROUND:

At the September hearing, the Commission determined that its top priority was to process the fire reorganizations involving the City of San Bernardino, the Twentynine Palms Water District and Hesperia Fire Protection District with the San Bernardino County Fire Protection District (hereafter shown as "County Fire"). As of the date of this report, only two of the three proposals have been submitted – the City of San Bernardino and Twentynine Palms Water District. The Hesperia Fire Protection District proposal is expected prior to the staff office closing for the holidays, and we have a new application coming from the City of Needles in the next few weeks. Staff has placed this workshop on the agenda to review the issues related to the City of San Bernardino, currently scheduled for consideration on the January 20, 2016 agenda, and the Twentynine Palms Water District now scheduled for consideration on the February 18, 2016 agenda.

The proposals as presented represent a good government approach to providing a continuing and sustainable fire protection and emergency response service; however, as always the devil is in the details, and LAFCO is responsible for making sure that it

addresses those details to assure a smooth transition, to assure the constituents that are to receive and fund the services from a new provider understand the ramifications and that we have done the due diligence as best we can to assure that sustainability.

As we continue to work with the applicants and analyze the proposals for presentation to the Commission, significant issues unique to each proposal have arisen and the Commission needs to be aware of the issues as we progress. Those identified as follows:

1. Notices:

For each of these proposals, we have received direction from Legal Counsel that we need to provide individual notice to all landowners for both the Commission's hearing and the protest hearing related to the imposition of an existing tax through the annexation. This direction relates to the provisions of Government Code Section 56125, which is somewhat ambiguous as it states that individual notice shall be provided by the "*clerk of the county or of the district*". Since 2001, when Cortese-Knox-Hertzberg was enacted the notice for protest hearings has transitioned to LAFCO and this section is a holdover from prior acts. However, in an abundance of caution, Legal Counsel has directed that individual notice be provided to landowners for both hearings requiring that approximately 44,000 notices be mailed for San Bernardino and approximately 15,500 for Twentynine Palms. Based upon that information, staff has requested Commission concurrence in changing the January hearing date to the 27th with the notices being mailed on January 4th rather than during the time the LAFCO office is closed. That concurrence has been received and staff is recommending that the hearing date be officially changed.

2. City of San Bernardino proposals:

Over the past several months, staff has been working with representatives of the City of San Bernardino, the County Administrative Office and County Fire to address the information needs to move forward with this proposal. A number of items remain unclear at this time, but the primary issues are identified as:

- a. The standard transfer of property tax required by Revenue and Taxation Code 99 for this proposal has illuminated an issue with the outline of revenues within the Plan for Service. A substantial portion of the property tax pledged to provide for the ongoing delivery of service is derived from the swap of Motor Vehicle In-Lieu fees for property tax which a fire protection district is not statutorily authorized to receive. Therefore, as a part of this process we will be developing a condition of approval to transfer these funds in perpetuity. This needs to be worked out by County Counsel, the City Attorney, LAFCO Legal Counsel, and the Auditor-Controller's office. Discussions are ongoing.
- b. The Plan for Service and the Fiscal Impact Analysis are currently being updated to reflect the information required by LAFCO staff. Questions

include but are not limited to: the transfer of equipment funded by the San Manuel Tribe of Mission Indians, the Community Facilities District funding the Verdemon Fire Station, and questions on the transfer of ownership of that station as it is a function of leaseback financing with the California Infrastructure and Economic Development Bank.

Staff continues to work with the representatives to assure a timely LAFCO hearing process to achieve the desired July 1, 2016 effective date.

3. Twentynine Palms Water District proposals:

The primary issue to be resolved in regards to the District's reorganization of its fire function relates to its unfunded PERS pension liability. In mid-November, it was determined that this represented an estimated \$3,000,000 liability. The District's application proposes to divest its fire function and transfer that obligation to County Fire; however, its PERS contract pension liability would remain an obligation of the District without a means to pay for that obligation. The City of Twentynine Palms has outlined its interest in assisting in the resolution of this issue with County Fire and Twentynine Palms Water District but it will require crafting a condition of approval that can secure a funding means, payment method and the agreement upon the designation of the PERS contract as an inactive contract for the District. In addition, LAFCO staff has identified that a new Service Zone will need to be created to isolate this obligation as a part of the reorganization process.

Staff continues to work with all parties in this discussion to resolve the issue; but the materials required will not be available in time to place the item on the January 27th agenda. The item has been tentatively placed on the Commission's February 18th agenda, the last hearing that can reasonably assure a completion by the requested July 1, 2016 date. However, the hearing date remains uncertain due to the need for submission of additional information from the District and County Fire.

The purpose of this workshop is to outline these issues and to hear from the members of the Commission on additional questions it requires staff to address in its reports on these matters. Staff will be happy to answer any questions of the Commission prior to or at the hearing.

KRM