

AGENDA (AMENDED)

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

**NORTON REGIONAL EVENT CENTER
1601 EAST THIRD STREET, SAN BERNARDINO**

REGULAR MEETING OF MARCH 15, 2023

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 January 18, 2023](#)
2. [Approval of Executive Officer's Expense Report](#)
3. [Ratify Payments as Reconciled and Note Cash Receipts for Months of December 2022 and January 2023](#)
4. Consent Items Deferred for Discussion

PUBLIC HEARING ITEMS:

5. [Consideration of: \(1\) CEQA Exemption as CEQA Lead Agency for LAFCO SC#497; and \(2\) SC#497 – City of Redlands OSC 22-01 for Water Service \(APN 0298-301-33\)](#)
6. Consideration of: (1) CEQA Exemption as CEQA Lead Agency for LAFCO SC#498; and (2) SC#498 – City of Colton Extra-Territorial Water Service Agreement (APN 0274-122-05) **TAKEN OFF CALENDAR—ITEM PULLED INDEFINITELY BY APPLICANT**
7. [Consideration of: \(1\) Review of Mitigated Negative Declaration prepared by the County of San Bernardino for a Conditional Use Permit and Tentative Tract Map \(TTM 20016\) to develop a multiple family condominium project on approximately 6.7 acres, as CEQA Responsible Agency for LAFCO SC#495; and \(2\) SC#495 – City of Fontana Pre-Annexation Agreement No. 22-006 for Sewer Service \(APNs 0230-031-20 & 21 -- Serena Village\)](#)

DISCUSSION ITEM:

8. Nominations for the Special District Risk Management Authority Board of Directors

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 other items under the jurisdiction of LAFCO not on the agenda.)

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 1170 West Third Street, Unit 150, San Bernardino, during normal business hours, on the LAFCO website at www.sbclaifco.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.

3/9/23:mt

DRAFT
**ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

REGULAR MEETING

9:00 A.M.

JANUARY 18, 2023

PRESENT:

COMMISSIONERS:

Regular Member

Joe Baca
James Bagley, Chair
Dr. Kimberly Cox
Phill Dupper
Steven Farrell
Curt Hagman

Alternate Member

Rick Denison
Jim Harvey
Kevin Kenley

STAFF:

Samuel Martinez, Executive Officer
Paula de Sousa, Legal Counsel
Michael Tuerpe, Senior Analyst
Art Pastor, Analyst
Angela Schell, Commission Clerk

ABSENT:

COMMISSIONERS:

Regular Member

Acquanetta Warren, Vice Chair

Alternate Member

Dawn Rowe

**CONVENE REGULAR MEETING OF THE LOCAL AGENCY FORMATION COMMISSION –
9:05 A.M. – CALL TO ORDER – FLAG SALUTE AND ROLL CALL**

ANNOUNCEMENT OF CONTRIBUTIONS

CONSENT ITEMS:

Commissioner Hagman arrives at the dais at 9:07 A.M.

1. Approval of Minutes for Regular Meeting of December 21, 2022

2. Approval of Executive Officer's Expense Report

Recommendation: Approve the Executive Office's Expense for Procurement Card Purchases from November 23, 2022 to December 22, 2022.

3. Ratify Payments as Reconciled for the Month of November 2022 and Note Revenue Receipts

Recommendation: Ratify payments as reconciled for the month of November 2022 and note revenue receipts for the same period.

4. Consent Items Deferred for Discussion (None)

Commissioner Denison moves the approval of the Consent Items. Second by Commissioner Dupper. The motion passes with the following roll call vote:

*Ayes: Bagley, Cox, Denison, Dupper, Farrell, and Hagman.
Noes: None.
Abstain: None.
Absent: Baca and Warren (Denison voting in her stead).*

DISCUSSION ITEMS:

Commissioner Baca arrives at the dais at 9:21 A.M.

5. Presentation by the San Bernardino Valley Water Conservation District on the Groundwater Sustainability Council and Expanded Recharge

Chair Bagley notes for the record that Commissioner Baca has joined the Commission.

*Presenter from San Bernardino Valley Water Conservation District:
Betsy Miller, General Manager*

6. Review and Accept Audit Report for Fiscal Year Ended June 30, 2022

Recommendation: Staff recommends that the Commission receive and file the materials submitted by Davis Farr LLP related to the Commission's audit for Fiscal Year 2021/22.

*Presenter from Davis Farr LLP:
Jonathan Foster, Partner*

No action was taken by the Commission, Chair Bagley states the item is to receive and file.

7. Presentation by the San Bernardino County Employees' Retirement Association

*Presenter from the San Bernardino County Employees' Retirement Association:
Amy McInery, Chief Financial Officer*

No action was taken by the Commission, Chair Bagley states the item is to receive and file.

8. Mid-Year Budget Review for Fiscal Year 2022-23

Recommendation: Staff Recommends that the Commission note receipt of this report and file.

No action was taken by the Commission, Chair Bagley states the item is to receive and file.

INFORMATION ITEMS:

9. Ad-Hoc Committee Assignments Related to Strategic Plan

After staff presentation and Commission discussion, Chair Bagley indicates that recommendations/direction on specific strategies will funnel through the Admin Committee first and will then be provided to the entire Commission for consideration.

Chair Bagley states the item is to receive and file.

10. Legislative Update Oral Report

Executive Officer Samuel Martinez states that there is no legislative update and will have it at the next meeting.

11. Executive Officer's Report

Executive Officer Samuel Martinez states that the new LAFCO calendar for 2023 identifies that the Commission will be dark in February and December. He states that the proposed calendar may change later. He indicates that the CALAFCO Annual Conference in October is again on the same week of the Commission's meeting and that the Commission would likely cancel that meeting in October. He then states that the new CKH Guide is now available via the link provided in the staff report and the updated Brown Act is also being provided courtesy of BB&K. Mr. Martinez concludes his report acknowledging that the Commission received the President's Special Acknowledgement Award from SDRMA, which recognizes that the Commission has no paid claims for the last five consecutive years.

12. Commissioner Comments

There is none.

13. Comments from the Public

There is none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE MEETING ADJOURNS AT 10:45 A.M.

ATTEST:

ANGELA SCHELL, Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JIM BAGLEY, Chair

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE : MARCH 7, 2023
FROM: SAMUEL MARTINEZ, 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 from December 23, 2022 to January 23, 2023 and January 24, 2023 to February 22, 2023.

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 periods of:

- December 23, 2022 to January 23, 2023 and
- January 24, 2023 to February 22, 2023

Staff recommends that the Commission approve the Executive Officer's expense reports as shown on the attachment.

SM/AS

Attachments

Approving Official (Print & Sign)	Date
Jim Bagley	03/15/23



PROCUREMENT CARD PROGRAM


ATTACHMENT G

MONTHLY PROCUREMENT CARD PURCHASE REPORT

PAGE 1 OF 1

[REDACTED]		Cardholder						Travel	Billing Period	
F		Samuel Martinez							1/24/22 to 2/22/2022	
DATE	VENDOR NAME	#	DESCRIPTION	PURPOSE	COST CENTER	G/L ACCOUNT	\$ AMT	TRIP NUMBER	*R/D	SALES TAX INCL
01/23/23	Old Country Coffee Shop	1	Office Expense	Notice of Protest Meeting	8900005012	52002305	\$60.07		R	
01/25/23	Thomas West	2	Law Library Updates	Law Library Updates	8900005012	52002080	\$290.54		R	
02/07/23	Southwest Airlines	3	Air Travel (S. Martinez)	Staff Workshop, Murphy CA	8900005012	52942945	\$222.96		R	
02/07/23	Southwest Airlines	4	Air Travel (A. Pastor)	Staff Workshop, Murphy CA	8900005012	52942945	\$182.97		R	
02/12/23	Zoom	5	Video Conference	Communication	8900005012	52002305	\$16.15		R	
02/11/23	Dell Technologies	6	Office Expense	Laptop Docking Station	8900005012	52002305	\$238.15		R	
02/11/23	Dell Technologies	7	Office Expense	Keyboard & Mouse	8900005012	52002305	\$94.59		R	
02/09/23	Southwest Airlines	8	Air Travel (M. Tuerpe)	Staff Workshop, Murphy CA	8900005012	52942945	\$188.98		R	

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)	Date
Samuel Martinez 	03/07/23

Approving Official (Print & Sign)	Date
Jim Bagley	03/15/23

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE : MARCH 8, 2023
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: AGENDA ITEM #3 - RATIFY PAYMENTS AS RECONCILED FOR
THE MONTHS OF DECEMBER 2022 AND JANUARY 2023 AND
NOTE REVENUE RECEIPTS**

RECOMMENDATION:

Ratify payments as reconciled for the months of December 2022 and January 2023 and note revenue receipts for the same period.

BACKGROUND INFORMATION:

Staff 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 periods of:



- December 1 through December 31, 2022
- January 1 through January 31, 2023

Staff recommends that the Commission ratify the payments as outlined on the attached listing and note the revenues received.

SM/MT

Attachment

DECEMBER 2022 PAYMENTS PROCESSED							
Document Number	Account	Posting Date	Vendor	Invoice	Reference	Amount	
1901381916	5200	2075	12/08/22	CA Special Districts Association	6986	2023 Membership Renewal	\$ 1,634.00
1901375723	5200	2085	12/01/22	Daily Journal	B3636746	The Sun Nov 16 Hearing	\$ 512.96
1901381917	5200	2090	12/08/22	Jan Pro	91329	Janitorial Service Month of December 2022	\$ 588.00
1901386853	5200	2180	12/15/22	So Cal Edison	6433-12-12-22	Electricity for Office	\$ 527.70
1901393148	5200	2305	12/27/22	Angela Schell	Petty Cash 12/22	Replenish Petty Cash	\$ 155.33
1901375716	5200	2400	12/01/22	Best, Best, Krieger	951248	Legal Counsel	\$ 1,867.90
1901375718	5200	2400	12/01/22	Best, Best, Krieger	951249	Legal Counsel	\$ 662.00
1901384376	5200	2400	12/13/22	Best, Best, Krieger	952844	Legal Counsel	\$ 11,222.09
1901384373	5200	2400	12/13/22	Best, Best, Krieger	952845	Legal Counsel	\$ 167.00
1901395380	5200	2424	12/29/22	Tom Dodson	LAFCO 22-13	Environmental consulting	\$ 1,835.00
1901381919	5200	2445	12/08/22	Pam Miller	2022-1203-02	Prep of draft Strategic Plan	\$ 750.00
1901384312	5200	2445	12/13/22	Hannah Larsen	#4	Work on SALC project	\$ 125.00
1901395385	5200	2445	12/29/22	Baca	BACA12-21-22	Baca Stipend 12/21/22 Commission Mtg	\$ 200.00
1901395386	5200	2445	12/29/22	Bagley	BAGLEY12-21-22	Bagley Stipend & Mileage 12/21/22 Comm Mtg	\$ 200.00
1901395387	5200	2445	12/29/22	Cox	COX12-21-22	Cox Stipend & Mileage for 12/21/22 Mtg	\$ 200.00
1901395390	5200	2445	12/29/22	Denison	DENISON12-21-22	Denison Stipend & Mileage for 12/21/22 Mtg	\$ 200.00
1901395392	5200	2445	12/29/22	Dupper	DUPPER12-21-22	Dupper Stipend for 12/21/22 Mtg	\$ 200.00
1901395393	5200	2445	12/29/22	Farrell	FARRELL12-21-22	Farrell Stipend & Mileage for 12/21/22 Mtg	\$ 200.00
1901395394	5200	2424	12/29/22	Harvey	HARVEY12-21-22	Harvey Stipend & Mileage for 12/21/22 Mtg	\$ 200.00
1901395395	5200	2445	12/29/22	Kenley	KENLEY12-21-22	Kenley Stipend & Mileage for 12/21/22 Mtg	\$ 200.00
1901395396	5200	2445	12/29/22	Rowe	ROWE12-21-22	Rowe Stipend for 12/21/22 Mtg	\$ 200.00
1901395383	5200	2895	12/29/22	Konica Minolta	41242043	Copier	\$ 67.65
1901395383	5200	2895	12/29/22	Konica Minolta	41242043	Copier	\$ 365.38
1901375721	5200	2905	12/01/22	IVDA	1484	Monthly rent for using Auditorium Dec 2022	\$ 405.00
1901395386	5294	2940	12/29/22	Bagley	BAGLEY12-21-22	Bagley Stipend & Mileage 12/21/22 Comm Mtg	\$ 108.75
1901395387	5294	2940	12/29/22	Cox	COX12-21-22	Cox Stipend & Mileage for 12/21/22 Mtg	\$ 73.75
1901395390	5294	2940	12/29/22	Denison	DENISON12-21-22	Denison Stipend & Mileage for 12/21/22 Mtg	\$ 83.00
1901395393	5294	2940	12/29/22	Farrell	FARRELL12-21-22	Farrell Stipend & Mileage for 12/21/22 Mtg	\$ 22.87
1901395394	5294	2940	12/29/22	Harvey	HARVEY12-21-22	Harvey Stipend & Mileage for 12/21/22 Mtg	\$ 105.00
1901395395	5294	2940	12/29/22	Kenley	KENLEY12-21-22	Kenley Stipend & Mileage for 12/21/22 Mtg	\$ 30.25
TOTAL							\$ 23,108.63
DECEMBER 2022 COUNTY TRANSFERS PROCESSED							
4102660015	5200	2031	12/01/22	IT		NOV 2022 Payroll System Services (EMACS)	\$ 77.88
4102660016	5200	2032	12/01/22	IT		NOV 2022 Virtual Private Network (VPN)	\$ 13.29
4102660018	5200	2037	12/01/22	IT		NOV 2022 Dial Tone	\$ 226.72
4102680146	5200	2305	12/26/22	Purchasing		Staples surcharge	\$ 5.17
4102660021	5200	2322	12/01/22	IT		NOV 2022 Enterprise Printing (EMACS)	\$ 7.98
4102660025	5200	2420	12/01/22	IT		NOV 2022 Wireless Device (Exchange Active Sync)	\$ 12.45
4102660025	5200	2420	12/01/22	IT		NOV 2022 Storage - Tier 3	\$ 147.76
4102660025	5200	2420	12/01/22	IT		NOV 2022 Storage - Tier 1	\$ 110.84
4102660025	5200	2420	12/01/22	IT		NOV 2022 Enterprise Content Management	\$ 135.10
4102660026	5200	2421	12/01/22	IT		NOV 2022 Desktop Support Services	\$ 802.96
4102660029	5200	2460	12/01/22	IT		NOV 2022 Aerial Imagery	\$ 3,000.00
4102660022	5241	2410	12/01/22	IT		IT Infrastructure - Period 6	\$ 570.00
4102660023	5241	2414	12/01/22	IT		Application Maintenance & Support - Period 06	\$ 673.00
4102680146	5540	5012	12/26/22	Purchasing		Staples purchase	\$ 43.10


4200107805	5200	2424	12/28/22	Clerk to the Board		Environmental filing	\$	50.00
4200107803	5200	2424	12/29/22	Clerk to the Board		Environmental filing	\$	50.00
4200107804	5200	2424	12/29/22	Clerk to the Board		Environmental filing	\$	50.00
1901380933	5294	2940	12/06/22	Michael Tuerpe		*Trip from 07/12/22 To 07/15/22 to San Diego	\$	133.76
1901385486	5294	2940	12/13/22	Michael Tuerpe		*Trip from 10/19/22 To 10/21/22 to Newport Beac	\$	70.00
1901385458	5294	2940	12/13/22	Art Pastor		*Trip from 10/18/22 To 10/21/22 to Newport Beac	\$	70.00
1901380933	5294	2942	12/06/22	Michael Tuerpe		*Trip from 07/12/22 To 07/15/22 to San Diego	\$	929.79
1901380933	5294	2943	12/06/22	Michael Tuerpe		*Trip from 07/12/22 To 07/15/22 to San Diego	\$	102.00
1901385486	5294	2943	12/13/22	Michael Tuerpe		*Trip from 10/19/22 To 10/21/22 to Newport Beac	\$	9.00
1901385458	5294	2943	12/13/22	Art Pastor		*Trip from 10/18/22 To 10/21/22 to Newport Beac	\$	34.00
1901380933	5294	2946	12/06/22	Michael Tuerpe		*Trip from 07/12/22 To 07/15/22 to San Diego	\$	135.00
4200107273	5200	2323	12/13/22	Purchasing		N7764 - #10 Regular ENV	\$	236.78
TOTAL							\$	7,696.58
DECEMBER 2022 CASH RECEIPTS								
				NONE				
TOTAL							\$	-
DECEMBER 2022 COUNTY TRANSFERRED RECEIVED								
				NONE				
TOTAL							\$	-
COMPLETED BY:	MICHAEL TUERPE				APPROVED BY:	SAMUEL MARTINEZ		
	Senior Analyst					Executive Officer		
	Date: 3/6/2023					3/6/2023		

JANUARY 2022 PAYMENTS PROCESSED									
Document Number	Account	Posting Date	Vendor	Invoice	Reference	Amount			
1901401943	5200	2085	01/10/23	Daily Journal	B3645638	Notice of hearing	\$	545.02	
1901422218	5200	2085	01/25/23	Daily Journal	B3652915	Notice of hearing	\$	452.95	
1901401942	5200	2090	01/10/23	City Comm	UNIT: 150	Lease payment 12/23/22	\$	372.00	
1901401948	5200	2090	01/10/23	Jan Pro	91707	Janitorial Service Month of Jan 2023	\$	588.00	
1901407340	5200	2180	01/12/23	So Cal Edison	6433-1-10-23	Office electricity	\$	496.99	
1901395875	5200	2305	01/03/23	Shred-It	8003095475	Shredding	\$	19.25	
1901395384	5200	2315	01/02/23	Storetrieve	3075108	Records Storage	\$	75.98	
1901409693	5200	2315	01/17/23	Storetrieve	3200945	Records Storage	\$	76.14	
1901422224	5200	2400	01/25/23	Best, Best, Krieger	954608	Legal counsel	\$	195.26	
1901395874	5200	2424	01/03/23	Tom Dodson	LAFCO 22-12	Environmental consulting	\$	935.00	
1901401945	5200	2445	01/10/23	Event Design Lab	03735	Live Stream Broadcast Dec. 21, 2022	\$	750.00	
1901402223	5200	2445	01/10/23	Bagley	BAGLEY1-5-2023	Admin Committee Mtg Jan 5, 2023	\$	200.00	
1901402288	5200	2445	01/10/23	Cox	COX1-5-2023	Admin Committee Mtg Jan 5, 2023	\$	200.00	
1901402291	5200	2445	01/10/23	Warren	WARREN1-5-2023	Admin Committee Mtg Jan 5, 2023	\$	200.00	
1901422223	5200	2445	01/25/23	Event Design Lab	03736	Live Stream Broadcast Jan 18, 2023	\$	750.00	
1901422229	5200	2445	01/25/23	Baca	BACA1-18-23	Baca Stipend 1/18/23 Comm Mtg	\$	200.00	
1901422234	5200	2445	01/25/23	Bagley	BAGLEY1-18-23	Bagley Stipend 1-18-23	\$	200.00	
1901422238	5200	2445	01/25/23	Cox	COX1-18-23	Cox Stipend for 1-18-2023 Comm mtg	\$	200.00	
1901422249	5200	2445	01/25/23	Denison	DENISON1-18-23	Denison Stipend & Mileage for 1/18/2023 Comm Mtg	\$	200.00	
1901422253	5200	2445	01/25/23	Dupper	DUPPER1-18-23	Dupper Stipend for 1/18/23 Comm Mtg	\$	200.00	
1901422255	5200	2445	01/25/23	Farrell	FARRELL1-18-23	Farrell Stipend & Mileage for 1/18/23 Comm Mtg	\$	200.00	
1901422260	5200	2445	01/25/23	Hagman	HAGMAN1-18-23	Hagman Stipend for 1/18/23 Comm Mtg	\$	200.00	
1901422261	5200	2445	01/25/23	Harvey	HARVEY1-18-23	Harvey Stipend & Mileage for 1/18/23 Mtg	\$	200.00	
1901422265	5200	2445	01/25/23	Kenley	KENLEY1-18-23	Kenley Stipend & Mileage for 1/18/23 Comm Mtg	\$	200.00	
1901395879	5200	2905	01/03/23	IVDA	1503	Monthly rent for using Auditorium Jan 2023	\$	405.00	
1901401942	5200	2905	01/10/23	City Comm	UNIT: 150	City Comm Lease payment 12/23/22	\$	14,256.00	
1901422234	5294	2940	01/25/23	Bagley	BAGLEY1-18-23	Bagley Stipend 1-18-23	\$	113.97	
1901422238	5294	2940	01/25/23	Cox	COX1-18-23	Cox Stipend for 1-18-2023 Comm mtg	\$	77.29	
1901422249	5294	2940	01/25/23	Denison	DENISON1-18-23	Denison Stipend & Mileage for 1/18/2023 Comm Mtg	\$	86.00	
1901422255	5294	2940	01/25/23	Farrell	FARRELL1-18-23	Farrell Stipend & Mileage for 1/18/23 Comm Mtg	\$	23.97	
1901422261	5294	2940	01/25/23	Harvey	HARVEY1-18-23	Harvey Stipend & Mileage for 1/18/23 Mtg	\$	110.04	
1901422265	5294	2940	01/25/23	Kenley	KENLEY1-18-23	Kenley Stipend & Mileage for 1/18/23 Comm Mtg	\$	31.70	
TOTAL							\$	22,760.56	
JANUARY 2022 COUNTY TRANSFERS PROCESSED									
4102708031	5200	2031	01/01/23	IT		DEC 2022 Payroll System Services (EMACS)	\$	51.92	
4102708032	5200	2032	01/01/23	IT		DEC 2022 Virtual Private Network (VPN)	\$	13.29	
4102708034	5200	2037	01/01/23	IT		DEC 2022 Dial Tone	\$	226.72	
4102708037	5200	2322	01/01/23	IT		DEC 2022 Enterprise Printing (EMACS)	\$	7.14	
4102708038	5241	2410	01/01/23	IT		IT Infrastructure - Period 7	\$	570.00	
4102708039	5241	2414	01/01/23	IT		Application Maintenance & Support - Period 07	\$	673.00	
4102708041	5200	2420	01/01/23	IT		DEC 2022 Enterprise Content Management	\$	135.10	
4102708041	5200	2420	01/01/23	IT		DEC 2022 Storage - Tier 1	\$	110.84	
4102708041	5200	2420	01/01/23	IT		DEC 2022 Storage - Tier 3	\$	147.76	
4102708042	5200	2421	01/01/23	IT		DEC 2022 Desktop Support Services	\$	802.96	
4200108737	5200	2424	01/19/23	Clerk to the Board		NOE - LAFCO SC#496	\$	50.00	
4200108443	5200	2310	01/11/23	Mail		Mail Services - DEL	\$	160.55	
TOTAL							\$	2,949.28	

JANUARY 2022 CASH RECEIPTS							
4102703103	4075	9930	01/11/23	CA Dept of Conservation	SALC grant reimbursement	\$	19,088.50
4102703103	various		01/11/13	West Valley Water District	Service Contract #492	\$	3,512.00
4102703103	4070	9800	01/11/13	City of Chino	Service Contract #496	\$	577.00
4102732838	various		01/31/23	City of Redlands	Service Contract #497	\$	3,512.00
4102732838	various		02/01/23	City of Colton	Service Contract #498	\$	3,512.00
4102732838	various		02/02/23	City of Fontana	Service Contract #495	\$	3,480.00
TOTAL						\$	33,681.50
JANUARY 2022 COUNTY TRANSFERRED RECEIVED							
100899629	4030	8500	01/27/23	County Treasury	Quarterly interest	\$	4,110.80
TOTAL						\$	4,110.80
COMPLETED BY: MICHAEL TUERPE				APPROVED BY: SAMUEL MARTINEZ			
Senior Analyst				Executive Officer			
Date: 3/6/2023				3/6/2023			

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

1170 West Third Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: MARCH 8, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
ARTURO PASTOR, Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Consent Item: LAFCO SC#497 – City of Redlands OSC 22-01 for
Water Service (APN 0298-301-33)

INITIATED BY:

City of Redlands, on behalf of the property owners.

RECOMMENDATION:

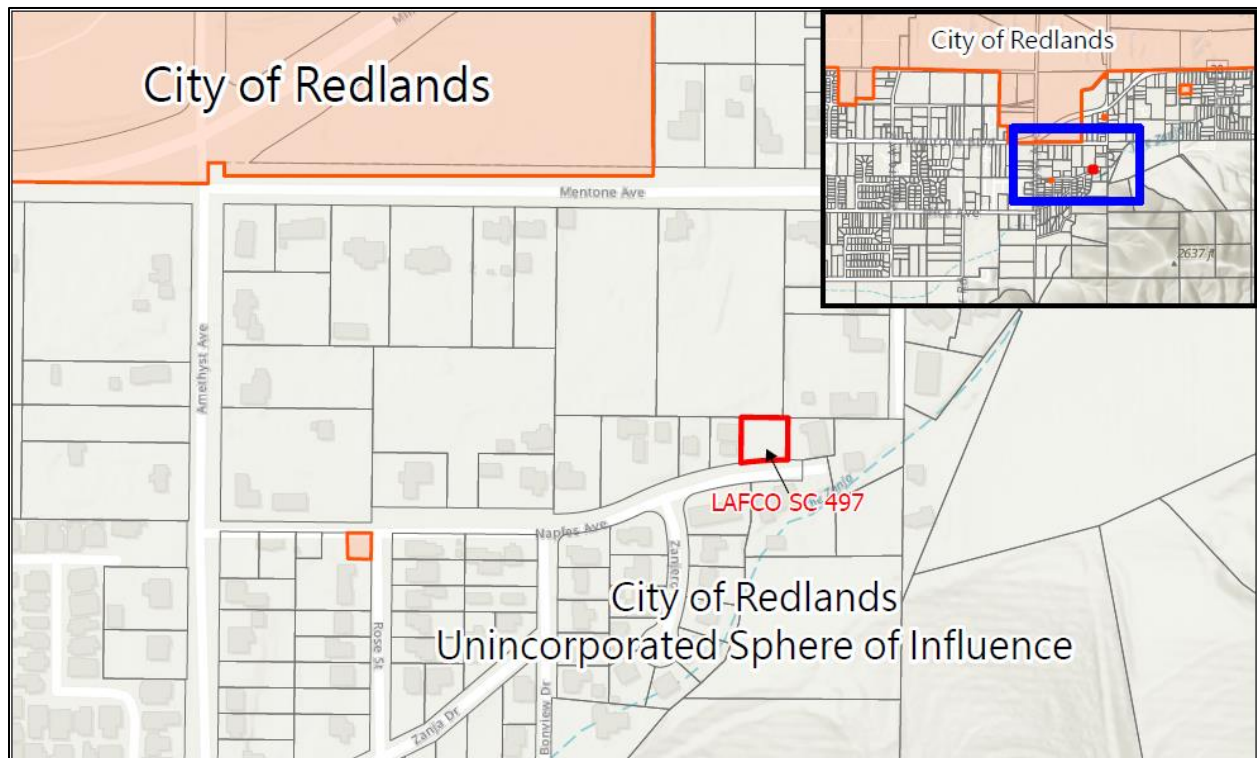
Staff recommends that the Commission approve LAFCO SC#497 by taking the following actions:

1. Certify that LAFCO SC#497 is exempt from environmental review and direct the Executive Officer to file a Notice of Exemption within five (5) days of this action.
2. Approve LAFCO SC#497 authorizing the City of Redlands to extend water service outside its boundaries to Assessor Parcel Number 0298-301-33.
3. Adopt LAFCO Resolution #3366 setting forth the Commission's determinations and approval of the agreement for service outside the City of Redlands' boundaries.

BACKGROUND:

The City of Redlands (hereinafter the "City") has submitted a request for approval of an out-of-agency service agreement that outlines the terms by which it will extend water service to a single parcel, Assessor Parcel Number (APN) 0298-301-33, which is approximately 0.17 acres and is generally located on the north side of Naples Avenue towards the eastern terminus of Naples Avenue, within the City of Redland's eastern

sphere of influence, in the unincorporated community of Mentone. The map below, which is also included as Attachment #1, provides a location and vicinity map of the site.



Vicinity Map

The property owner intends to develop a single-family residence on the vacant parcel, which requires connection to the City's water facilities. Therefore, the City, on behalf of the property owners, has requested that the Commission authorize the extension of water service to the parcel pursuant to the provisions of Government Code Section 56133. Authorization of this agreement is required before the City can take the final actions to implement the terms of the agreement.

PLAN FOR SERVICE:

The City's application identifies that water service to the parcel will be provided through a lateral connection to the existing 8-inch water main in Naples Avenue and installing a domestic water meter as well as establishing a utility service account.

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 submitted an estimated cost of \$5,358.00 for the extension of water service to the parcel. Following is a table with a breakdown of the fee calculation:

Description of Fees/Charges	Cost	Total Cost
Development Impact Fee		
• Water Source Acquisition	\$783.00	\$783.00
• Water Capital Improvement	\$4,350.00	\$4,350.00
Connection Fee		
• Water Meter	\$225.00	\$225.00
TOTAL		\$5,358.00

In addition to the cost outlined above, the property owners will bear all costs for the water connection extending from the existing water main to the vacant parcel.

ENVIRONMENTAL DETERMINATION:

As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson from Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the review of LAFCO SC#497 is exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of the out-of-agency service agreement has no potential to cause a significant adverse impact on the environment; and therefore, the proposal is exempt (under the "Common Sense Rule") from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061(b)(3).

CONCLUSION:

The purpose of the service contract application is for the City to receive authorization to provide water service outside its boundaries via contract to a parcel that requires connection to the City of Redlands water facilities.

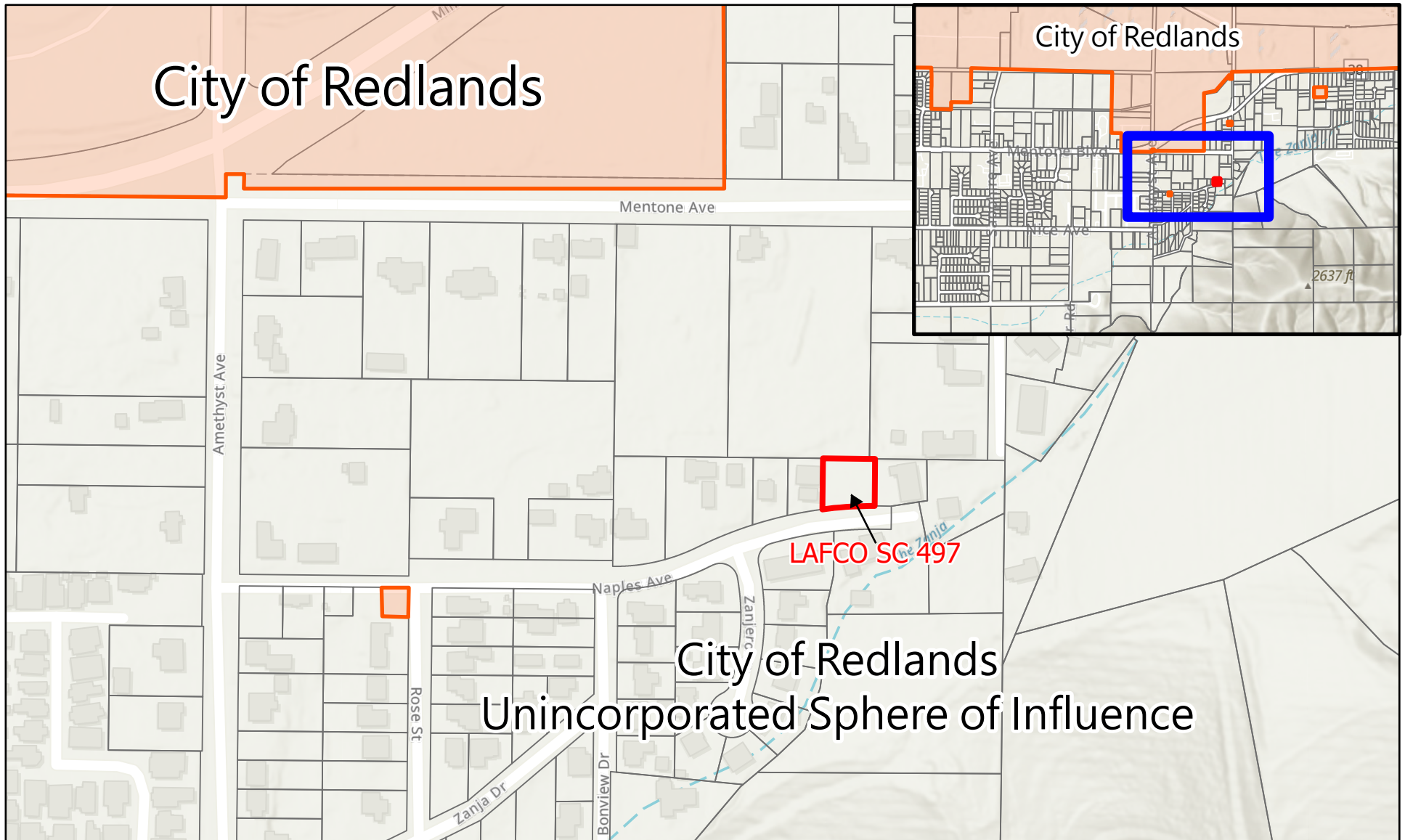
Staff has reviewed this request for authorization to provide water service from the City of Redlands outside its corporate boundaries against the criteria established by Commission policy and Government Code Section 56133. The area to be served is within the sphere of influence assigned to the City of Redlands and is anticipated to become a part of the City sometime in the future. Staff supports the City's request for authorization to provide water service to APN 0298-301-33 since its facilities are adjacent to the parcel, and there is no other existing entity available to provide this service within the area.

DETERMINATIONS:

1. The project area, Assessor Parcel Number (APN) 0298-301-33, is within the sphere of influence assigned to the City of Redlands and is anticipated to become a part of that City sometime in the future. The application requests authorization to receive City of Redlands water service.
2. The City of Redlands' OSC No. 22-01 being considered is for the provision of water service to APN 0298-301-33 generally located on the north side of Naples Avenue towards the eastern terminus of Naples Avenue, within the city of Redland's eastern sphere of influence. This contract will remain in force in perpetuity or until such time as the area is annexed. Approval of this request will allow the property owners and the City of Redlands to proceed in finalizing the contract for the extension of water service.
3. The fees charged this project by the City of Redlands for the extension of water service are identified as totaling \$5,358.00 (for a breakdown of charges, see table on page 3). Payment of these fees are required prior to connection to the City's water facilities. In addition, the property owners will be responsible for the entire costs of the construction and installation of the water extension.
4. As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the service contract submitted by the City of Redlands and recommended that this application is exempt from environmental review. A copy of Mr. Dodson's response is included as Attachment #3 to this report.



Attachments:

1. [Vicinity Map](#)
2. [City of Redlands' Application and Contract](#)
3. [Response from Tom Dodson and Associates](#)
4. [Draft Resolution #3366](#)



Vicinity Map

LAFCO SC#497 - City of Redlands
OSC 22-01 for Water Service (APN 0298-301-33)

 City of Redlands
 APN 0298-301-33

 Parcels



Disclaimer: The information show is intended to be used for general display only and is not to be used as an official map.

0 20 40 80
Yards

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Created by Arturo Pastor on 01/30/2023

**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 Redlands
CONTACT PERSON: Donald Young
ADDRESS: 35 Cajon Street
Redlands CA 92373
PHONE: 909-798-5875 x4
EMAIL: dyoung@cityofredlands.org

CONTRACTING PARTY:

NAME OF
PROPERTY OWNER: LAWSON, GAYLE M SEP
PROP TRUST 5/29/13
CONTACT PERSON: John Lawson
MAILING ADDRESS: 700 E. Redlands Blvd, Ste. U-340
Redlands, CA 92373
PHONE: 909-496-2463
EMAIL: jflawsoniv@gmail.com
ADDRESS OF PROPERTY
PROPOSED FOR CONTRACT: 2371 Naples Ave.
Mentone, CA 92359
CONTRACT NUMBER/IDENTIFICATION: OSC 22-01
PARCEL NUMBER(S): 0298-301-33-0-000
ACREAGE: 0.172

*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.
Domestic Water Service

(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.

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.
Preannexation Agreement

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.
Projected timeframe of annexation has too many variable to predict
timing of future 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.

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 Land

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

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.

Property is currently vacant land. Owner wants to establish water

service for irrigation in preparation for future residential use.

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"/>

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.

Installation of a domestic water meter to connect to the existing

water service lateral and 8" water main in Naples Avenue.

Upon approval of this Extension of Service Contract the

applicant will apply for installation of a water meter and

establishment of a utility service account.

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.).

Description of Fees/Charges	Cost	Total
Development Impact Fee		
Water Source Acquisition	783	783.-
Water Capital Improvment	4350	4350.-
Connection Fee		
Meter Set	225	225.-
Total Costs		\$5358.-

- (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).

Not Applicable

*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).

- 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.

City of Redlands Municipal Code identifies appropriate procedures

for extension of service to properties within the City's sphere of
influence areas.

CERTIFICATION

As a part of this application, the City/Town of Redlands, 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.

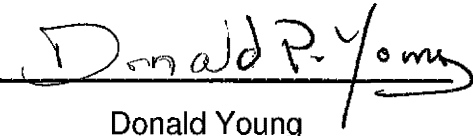
The agency signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant to indemnify, hold harmless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

Donald Young

POSITION TITLE:

One Stop Permit Center Manager

DATE:

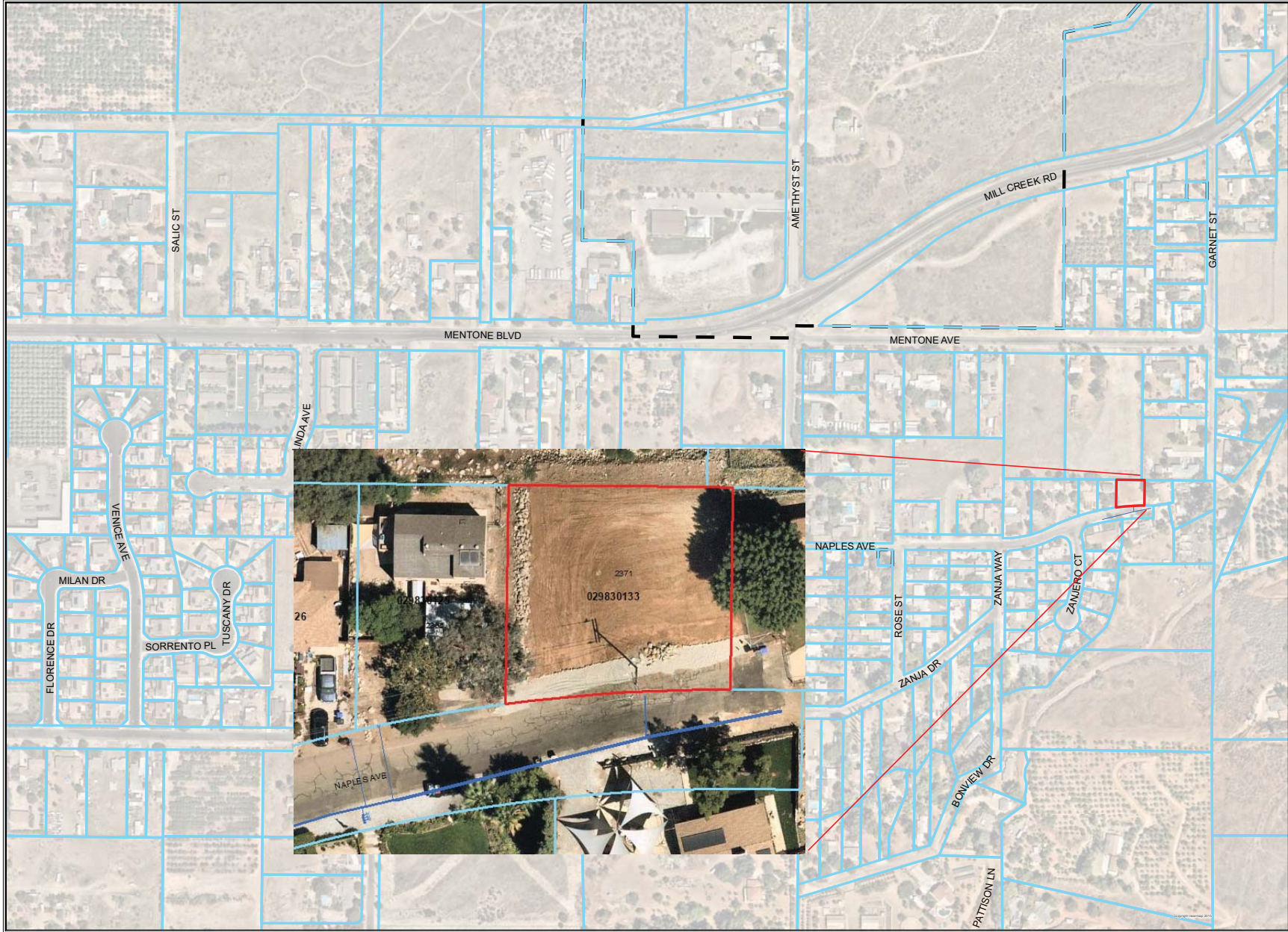
2/28/23

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
1170 W. Third Street, Unit 150,
San Bernardino, CA 92415-0490
PHONE: (909) 388-0480 • FAX: (909) 388-0481



Title

LAWSON
OSC 22-1

This map was produced by the City of Redlands, Geographic Information System. The City of Redlands assumes no warranty or legal responsibility for the information contained on this map. The data used to generate this map is dynamic in nature, therefore the information shown may or may not be the most current.



November 2, 2022

OneStop.mxd

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

CITY CLERK'S OFFICE
CITY OF REDLANDS
P.O. BOX 3005
REDLANDS, CA 92373

(THIS SPACE FOR RECORDER'S USE ONLY)

EXEMPT FROM FEES PER GOVERNMENT CODE SECTION 27388.1

AGREEMENT FOR ANNEXATION AND PROVISION FOR CITY UTILITY SERVICES

This Agreement for Annexation and Provision of City Utility Services ("Agreement") is made and entered into this 6th day of September, 2022 by and between the City of Redlands, a municipal corporation organized and existing under the laws of the State of California ("City") and Gayle M. Lawson, ("Property Owner"). City and Property Owner are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

RECITALS

WHEREAS, to provide for orderly planning, City (1) has the authority pursuant to Government Code sections 65300 and 65301 to include within its General Plan property outside its boundaries which is in City's sphere of influence or, which in City's judgment, bears a relation to its strategic planning, and (2) also has the authority pursuant to Government Code section 65859 to pre-zone property within its sphere of influence for the purpose of determining the zoning designation that will apply to such property in the event of a subsequent annexation of the property to City; and

WHEREAS, California case law, including but not limited to, *Dateline Builders, Inc. v. City of Santa Rosa* (1983) 146 Cal. App. 3d, 520 and *County of Del Norte v. City of Crescent City* (1999) which state in relevant part that it is not against the law or public policy for a city or county to use utilities as a tool to manage growth, provides that a city has no obligation, and may use its sole discretion, to extend utility services outside its corporate boundaries; and

WHEREAS, Property Owner owns a vacant parcel of land generally located at 2371 Naples Avenue and identified as county of San Bernardino Assessor's Parcel Number 0298-301-33-0000 ("Property") in the unincorporated area of the county of San Bernardino within the City's sphere of influence, as described in Exhibit "A" titled "Grant Deed", has made a request and application to City to receive water service for property located in the unincorporated area of the county of San Bernardino, and has provided evidence satisfactory to City that Property Owner is the fee owner of the Property; and

WHEREAS, Government Code section 56133 authorizes the City to provide new or extended utility services by contract outside its jurisdictional boundaries if it first receives written approval from the Local Agency Formation Commission for San Bernardino County ("LAFCO"), and provides that LAFCO may authorize City to provide such services within City's sphere of influence in anticipation of a later change of organization; and

WHEREAS, City's General Plan and Chapter 13.60 of the Redlands Municipal Code establish policies and procedures for the approval of City utility services to properties located within the City's sphere of influence and require, among other things, the owner of the property to be served to enter into an agreement, and record the same in the official records of the county of San Bernardino, requiring the property owner to annex the property to City upon certain conditions; and

WHEREAS, City has prepared a General Plan for the unincorporated area in which the Property is located to provide for the orderly planning of such area, and has determined that the proposed development of the Property is consistent with the goals and policies of City's General Plan; and

WHEREAS, it is the policy and goal of City to discourage and not facilitate development in City's sphere of influence which is unwilling and/or fails to comply with City's General Plan and City's development standards by refusing to extend utility services in such instances; and

WHEREAS, pursuant to the requirements of Chapter 13.60 of the Redlands Municipal Code and in consideration for City's agreement to extend utility services outside its jurisdictional boundaries to the Property, Property Owner has entered into this Agreement to provide assurances to City that connection to City's domestic water system will occur in accordance with the Redlands General Plan and the development standards of the Redlands Municipal Code, and that the Property shall be annexed to City in accordance with this Agreement's terms, provisions and conditions;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the City of Redlands and Property Owner agree as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct.
2. Provision of Utility Services. City agrees to provide domestic water service to the Property consistent with the terms and conditions of this Agreement, provided that the connection complies with all rules and regulations of City governing the extension and provision of utility services to properties located outside City's boundaries at the time a request by Property Owner for application for a water connection is approved by City's Municipal Utilities and Engineering Department. Nothing herein represents a commitment by City to provide such service unless and until Property Owner complies with all such rules and regulations. As a condition of approval of an application for water connection, and prior to receiving any service, Property Owner agrees to pay the full cost of such service as established by City for the extension of utility services to the Property.

3. Agreement to Develop by City Standards. In consideration of City's agreement to provide City water service to the Property, Property Owner shall develop the Property in accordance with the Redlands General Plan and any applicable development standards of the Redlands Municipal Code.

4. Agreement to Annex. In consideration of City's agreement to provide City water service to the Property, Property Owner hereby irrevocably consents to annexation of the Property to City and agrees it shall take any and all reasonable and necessary actions, and fully and in good faith cooperate with City, to cause the annexation of the Property to City. Property Owner and City agree that in the event City initiates an annexation of the Property, City shall be responsible for the costs of such annexation. In all other instances where the annexation of the Property is proposed to City, Property Owner shall be responsible for such costs.

5. Payment of Fees. As a condition of receiving domestic water service from City, Property Owner shall pay to City all then-established applicable development impact fees, water acquisition fees, and user fees specifically for such domestic water service.

6. Taxes and Assessments. Property Owner hereby consents to the imposition of, and agrees that Property Owner shall pay, all taxes and assessments imposed and/or levied by City which may be applicable to the Property at the time the Property is annexed to City.

7. Recordation. By entering into this Agreement, Property Owner and City acknowledge and agree that, among other things, it is the express intention of the Parties that any and all successors in interest, assigns, heirs and executors of Property Owner shall have actual and constructive notice of Property Owner's obligations under, and the benefits and burdens of, this Agreement. Therefore, this Agreement and any amendments hereof, shall be recorded in the official records of the county of San Bernardino. Property Owner further agrees that City shall, at the sole cost of Property Owner, have the right to cause the recordation of this Agreement.

8. Breach/Failure to Annex In the event Property Owner fails to comply with its obligations under this Agreement or takes any action to protest, challenge, contravene or otherwise breach any of its obligations or representations under this Agreement, City shall have the right to, without any liability whatsoever, cease the provision of City utility services to the Property. This right shall be in addition to any other legal or equitable relief available to City.

9. Not a Partnership. The Parties specifically acknowledge that Property Owner's development of the Property is a private project, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint-venture or other association of any kind is formed by this Agreement. The only relationship between City and Property Owner is that of a governmental entity regulating the development of private property and the owner of such property.

10. Indemnity and Cost of Litigation.

A. Property Owner agrees to and shall hold City, and its elected and appointed officials, officers, agents, and employees free and harmless from any and all liability for damage or claims for damage for personal injury, including death, and claims for property damage which may

arise from the operations, errors, or omissions of Property Owner or those of its contractors, subcontractors, agents, employees or any other persons acting on Property Owner's behalf which relate to development of the Property. Property Owner agrees to and shall defend, indemnify and hold harmless City, its elected officials, officers, agents, employees and representatives from all actions for damages caused or alleged to have been caused by reason of Property Owner's acts, errors or omissions in connection with the development of the Property. This hold harmless agreement applies to all damages and claims for damages suffered or alleged to have been suffered by reason of Property Owner's or its representatives' acts, errors or omissions regardless of whether or not City supplied, prepared or approved plans or specifications relating to the development of the Property and regardless of whether or not any insurance policies of Property Owner relating to such development are applicable.

B. Property Owner shall defend, at its expense, including attorneys' fees, indemnify and hold harmless City, and its elected and appointed officials, officers, agents and employees from any claim, action or proceeding against any of them to attack, set aside, void or annul the approval of this Agreement or the approval of any permit or entitlement granted in furtherance of this Agreement. City may, in its sole discretion, participate in the defense of any such claim, action or proceeding.

11. Liquidated Damages. In the event that the property is not annexed to City in accordance with the terms of the Agreement, the then existing owner of the Property shall pay each year to City, as liquidated damages, a sum equal to the property taxes and any sales taxes the City would have received had the Property been annexed. Failure to make such liquidated damages payments shall be good cause for City to cease service to the Property.

12. Section Headings. All section headings and sub-headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and construed in accordance with the laws of the State of California.

14. Attorneys' Fees. In the event any action is commenced to enforce or interpret the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for a Party's use of in-house counsel.

15. Binding Effect. The burdens of this Agreement bind and the benefits of this Agreement inure to the assigns and successors in interest of the Parties.

16. Authority to Execute. The person or persons executing this Agreement warrant and represent that they have the authority to execute this Agreement on behalf of the legal, fee title owner of the Property.

17. Waiver and Release. Property Owner hereby waives and releases any and all claims it may have against City, and its elected and appointed officials, officers, employees and agents with respect to any City actions or omissions relating to the development of the Property, and the Parties' entry into, and execution of, this Agreement. Property Owner makes such waiver and release with full knowledge of Civil Code Section 1542, and hereby waives any and all rights

thereunder to the extent of this waiver and release, of such Section 1542 is applicable. Civil Code Section 1542 provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

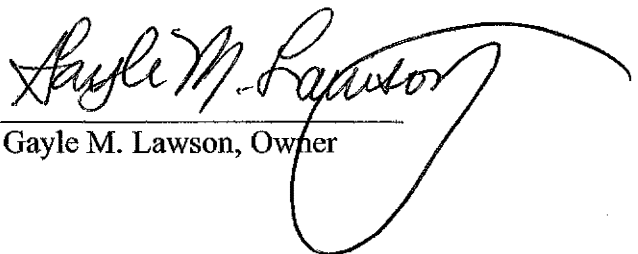
18. Construction. The Parties agree that each Party and its counsel have reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement. The Parties further agree that this Agreement represents a voluntary "arms-length" transaction agreed to by and between the Parties and that each Party has had the opportunity to consult with legal counsel regarding the terms, conditions and effect of this Agreement.

19. Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the Parties as to the matters contained herein, and there are no oral or written representations, understandings or ancillary covenants or agreements which are not contained or expressly referenced herein, and no testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

CITY OF REDLANDS

PROPERTY OWNER

By: _____
Paul T. Barich, Mayor

By: 
Gayle M. Lawson, Owner

ATTEST:

Jeanne Donaldson, City Clerk

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of

SAN BERNARDINO

On

JULY 5, 2022

Date

before me,

SAMUEL LUNA Notary Public

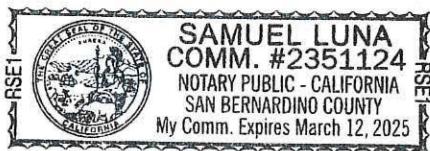
Here Insert Name and Title of the Officer

personally appeared

GAYLE LAWSON

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Samuel Luna

Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document:

Agreement

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

Signer's Name:

☐ Corporate Officer – Title(s):

☐ Corporate Officer – Title(s):

☐ Partner – ☐ Limited ☐ General

☐ Partner – ☐ Limited ☐ General

☐ Individual

☐ Attorney in Fact

☐ Individual

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Trustee

☐ Guardian or Conservator

☐ Other:

☐ Other:

Signer is Representing:

Signer is Representing:

EXHIBIT "A"

Grant Deed



Electronically
Recorded in Official Records
County of San Bernardino
Bob Dutton
Assessor-Recorder-County Clerk

RECORDING REQUESTED BY:
Lawyers Title Company

WHEN RECORDED MAIL TO:
AND MAIL TAX STATEMENT TO:

Gayle M. Lawson, Trustee of the Gayle M. Lawson
Separate Property Trust of May 29, 2013
700 E. Redlands Blvd # U340
Redlands, CA 92373

ORDER NO. 1245883
APN: 0298-301-33-0-000

DOC# 2021-0301088

07/02/2021
01:29 PM
SAN

14311

Titles: 1 Pages: 3

Fees	\$30.00
Taxes	\$38.50
CA SB2 Fee	\$0.00
Total	\$68.50

SPACE ABOVE THIS LINE FOR RECORDERS USE

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

DOCUMENTARY TRANSFER TAX is \$38.50

CITY TAX \$0.00

- ☐ Monument Preservation Fee is: \$
☒ computed on full value of property conveyed, or
☐ computed on full value less value of liens or encumbrances
remaining at time of sale.

Unincorporated area ☒ City of Mentone

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Bradford David Goins, Trustee of The Bradford and Kathleen Goins 2005 Revocable Living Trust

hereby **GRANT(S)** to Gayle M. Lawson, Trustee of the Gayle M. Lawson Separate Property Trust of May 29, 2013

the following described real property in the ~~City of Mentone~~, County of San Bernardino, State of California:

See Exhibit "A" attached hereto and made a part hereof.

Date: June 22, 2021

The Bradford and Kathleen Goins 2005 Revocable Living Trust

By: Bradford David Goins Trustee
Bradford David Goins, Trustee

MAIL TAX STATEMENT AS DIRECTED ABOVE

Order No.: 1245883
Grant Deed Sale

Page 1 of 3

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Bernardino

On June 30, 2021 before me Brandi Vorisek, Notary Public personally appeared Bradford David Guins, who proved to me on the basis of satisfactory evidence to be the person(s), whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Brandi Vorisek



(seal)

File No: 621673644

EXHIBIT "A"

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF LOT 7, TRACT NO. 2940, ZANJA COURT TRACT, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK 40 OF MAPS, PAGES 51 AND 52, RECORDS OF COUNTY OF SAN BERNARDINO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 7, THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 7 NORTH 89° 56' 12" WEST A DISTANCE OF 20.78 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 691.00 FEET;

THENCE WESTERLY ALONG SAID CURVE AND THE SOUTHERLY LINE OF SAID LOT 7, THROUGH A CENTRAL ANGLE OF 0° 40' 51" A DISTANCE OF 8.21 FEET TO A POINT THAT HAS A RADIAL LINE THAT BEARS NORTH 0° 37' 03" WEST, AND TO THE TRUE POINT OF BEGINNING:

THENCE CONTINUING WESTERLY ALONG SAID CURVE AND THE SOUTHERLY LINE OF LOT 7, THROUGH A CENTRAL ANGLE OF 7° 29' 26" A DISTANCE OF 90.34 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7, ALSO SAID POINT HAS A RADIAL LINE THAT BEARS NORTH 8° 06' 29" WEST;

THENCE ALONG THE WEST LINE OF SAID LOT 7 NORTH 0° 05' 34" EAST A DISTANCE OF 87.89 FEET (87.88 FEET RECORD) TO THE NORTHWEST CORNER OF SAID LOT 7;

THENCE ALONG THE NORTH LINE OF SAID LOT 7 SOUTH 89° 59' 43" EAST A DISTANCE OF 90.00 FEET TO A POINT THAT IS NORTH 89° 59' 43" WEST A DISTANCE OF 28.95 FEET FROM THE NORTHEAST CORNER OF SAID LOT 7, (119.00 FEET RECORD FROM THE NORTHWEST CORNER TO THE NORTHEAST CORNER OF SAID LOT 7);

THENCE SOUTH 0° 05' 34" WEST A DISTANCE OF 81.02 FEET TO THE TRUE POINT OF BEGINNING.

SAID LEGAL DESCRIPTION IS MADE AND PURSUANT TO CERTIFICATE OF COMPLIANCE, LOT LINE ADJUSTMENT NO. EV0331-92 RECORDED ON MARCH 9, 1993 AS INSTRUMENT NO. 1993-106253, OF OFFICIAL RECORDS.

ASSESSOR'S PARCEL NUMBER: 0298-301-33-0-000

TOM DODSON & ASSOCIATES

Mailing Address: PO Box 2307, San Bernardino, CA 92406-2307

Physical Address: 2150 N. Arrowhead Avenue, San Bernardino, CA 92405

Tel: (909) 882-3612 ♦ *Fax:* (909) 882-7015 ♦ *Email:* tda@tdacnv.com



February 27, 2023

Mr. Samuel Martinez
Local Agency Formation Commission
1170 W 3rd Street, Unit 150
San Bernardino, CA 92415-0490

RECEIVED

FEB 27 2023

LAFCO
San Bernardino County

Dear Sam:

I have completed the California Environmental Quality Act (CEQA) review of out-of-area service contract, SC#497 for the Commission. LAFCO SC#497 would permit the City of Redlands to extend water service to a single parcel of land located in unincorporated territory on the east side of the City in the City's eastern Sphere of Influence. The parcel is located on Naples Avenue, south of Mentone Avenue and west of Garnet Street. See attached map. If approved, the service extension would provide potable water service to the parcel, which is currently vacant and designated for single family residential use. An 8-inch water line is located adjacent to the property in Naples Avenue. No specific proposal for development accompanied the application for the service agreement. The site is assigned APN 0298-301-33 and encompasses 0.172 acre (about 7,492 square feet). In return for the water service, the owner makes a commitment to ultimately annex this parcel to the City. At the present time the property is not contiguous with the City's boundary.

Based on the above proposal and the findings presented below, it appears that LAFCO SC#497 can be implemented without causing significant adverse environmental impacts. LAFCO will consider this extension of service contract as the CEQA lead agency. Based on the limited additional development that would be allowed on this property (single family residence), this project has no potential to cause a significant adverse impact on the environment. Therefore, I conclude that LAFCO SC#497 does not constitute a project under CEQA and adoption of an exemption (under the "Common Sense Rule") and filing of a Notice of Exemption is the most appropriate determination to comply with CEQA. This exemption is found in Section 15061 (b)(3). The Commission can approve this review and finding for this action and I recommend that you notice LAFCO SC#497 as exempt from CEQA for the reasons outlined in the State CEQA Guideline section referenced 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 potable water service extension to this lot does not appear to have any potential to significantly alter the existing physical environment. Extending water service has no effect on land uses which are presently governed by the County at this location. Thus, this service extension does not involve any change in the authorized end use, which will consist of residential uses now and 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.

Based on a review of LAFCO SC#497 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 "Common Sense Rule" exemption, as adequate CEQA compliance in accordance with

the Commission's CEQA lead agency status. If you have any questions regarding this recommendation, please feel free to give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Tom Dodson".

Tom Dodson

TD/cmc

LAFCO SC#497 SE Memo

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

1170 West Third Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

PROPOSAL NO.: LAFCO SC#497

HEARING DATE: MARCH 15, 2023

RESOLUTION NO. 3366

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY MAKING DETERMINATIONS ON LAFCO SC#497 – CITY OF REDLANDS OSC NO. 22-01 (ASSESSOR PARCEL NUMBER 0298-301-33)

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 his 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 called for March 15, 2023 at the time and place specified in the notice of public hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written protests; 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. 3366

DETERMINATIONS:

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

1. The property, identified as Assessor Parcel Number 0298-301-33, is within the sphere of influence assigned the City of Redlands and is anticipated to become a part of that City sometime in the future. The application requests authorization to receive City of Redlands water service.
2. The City of Redlands' OSC No. 22-01 being considered is for the provision of water service to Assessor Parcel Number 0298-301-33. This contract will remain in force in perpetuity or until such time as the area will be annexed. Approval of this request will allow the property owners and the City of Redlands to proceed in finalizing the contract for the extension of water service.
3. The fees charged this project by the City of Redlands for the extension of water service are identified as totaling \$5,358.00 (a breakdown of charges is on file in the LAFCO office). Payment of these fees is required prior to connection to the City's water facilities.
4. The Local Agency Formation Commission for San Bernardino County has determined that this service contract is exempt from environmental review under the "Common Sense Rule" since it has no potential to cause a significant adverse impact on the environment (Section 15061[b] [3] of the State California Environmental Quality Act Guidelines). Therefore, this proposal is not subject to environmental review under the provisions of the State CEQA Guidelines section cited above or the Commission's adopted CEQA Guidelines. The Commission hereby adopts the Exemption and directs its Executive Officer to file a Notice of Exemption within five (5) working days with the San Bernardino County Clerk of the Board of Supervisors.

SECTION 2. CONDITION. The City of Redlands shall indemnify, defend, and hold harmless the Local Agency Formation Commission for San Bernardino County 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 Local Agency Formation Commission for San Bernardino County does hereby determine to approve the service extension contract submitted by the City of Redlands to provide water service to Assessor Parcel Number 0298-301-33.

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#497 – City of Redlands OSC No. 22-01 (Assessor Parcel Number 0298-301-33), has been approved.

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

AYES: COMMISSIONERS:

RESOLUTION NO. 3366

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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


I, SAMUEL MARTINEZ, 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 March 15, 2023.

DATED:

SAMUEL MARTINEZ
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: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: MARCH 8, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #7: LAFCO SC#495 - City of Fontana Pre-Annexation Agreement No. 22-006 for Sewer Service (APNs 0230-031-20 and 0230-031-21 -- Serena Village)

INITIATED BY:

City of Fontana, on behalf of property owner/developer

RECOMMENDATION:

1. For environmental review, take the following actions as a responsible agency:
 - Certify that the Commission has reviewed and considered the environmental assessment and the Mitigated Negative Declaration prepared by the County of San Bernardino for a Conditional Use Permit and Tentative Tract Map 20016 to develop a 112-unit multiple family condominium project on approximately 6.7 acres, and found them to be adequate for the Commission's use;
 - Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for this project; that all mitigation measures are the responsibility of the County of San Bernardino and/or others, not the Commission; and are self-mitigating through the Conditions of Approval; and,
 - Direct the Executive Officer to file a Notice of Determination within five (5) days of this action.

2. Approve SC#495 authorizing the City of Fontana to extend sewer service outside its boundaries to the project area comprised of Assessor Parcel Numbers 0230-031-20 & 0230-031-21; and,
3. Adopt LAFCO Resolution #3367 setting forth the Commission's determinations and approval of the agreement for service outside the City of Fontana's boundaries.

BACKGROUND:

The City of Fontana has submitted a request for approval of a pre-annexation agreement that outlines the terms by which it will extend sewer service outside its boundaries. The agreement relates to a proposed development that includes multiple parcels, two of which are within the unincorporated sphere of influence for the City of Fontana. The two parcels, Assessor Parcel Numbers (APNs) 0230-031-20 and 0230-031-21, comprising a total of approximately 6.7 acres generally located on the west side of Banana Avenue between Foothill Boulevard and Arrow Route, within the City of Fontana's western sphere of influence (see Figure 1 below). Attachment #1 also provides a location and vicinity map of the project site along with a map outlining the location of the infrastructure to be extended.

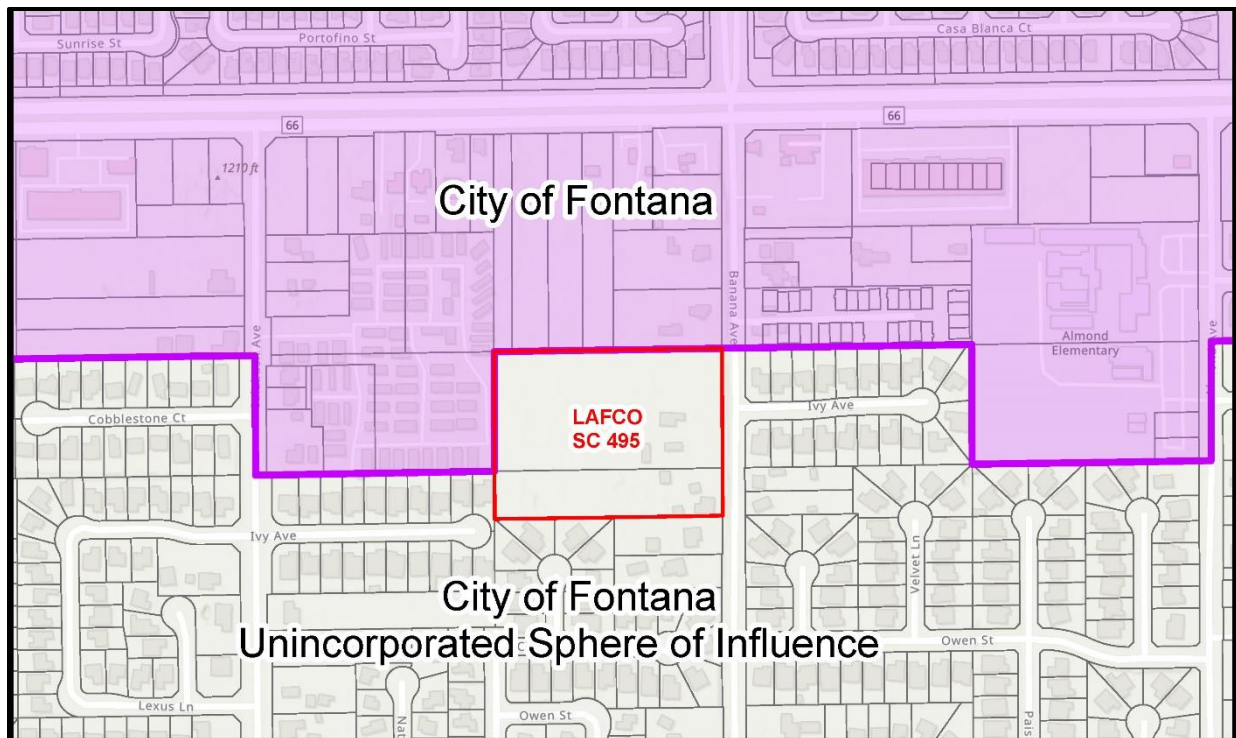


FIGURE 1 – Vicinity Map

The property owner/developer is proposing a multi-jurisdictional condominium project that includes property within the City of Fontana as well as within the unincorporated

County area. For the portion within the County, the property owner/developer processed a Conditional Use Permit (CUP) and a Tentative Tract Map (TTM 20016) for a 112-unit multiple family condominium project on the 6.7-acre site (see Figure 2 below).

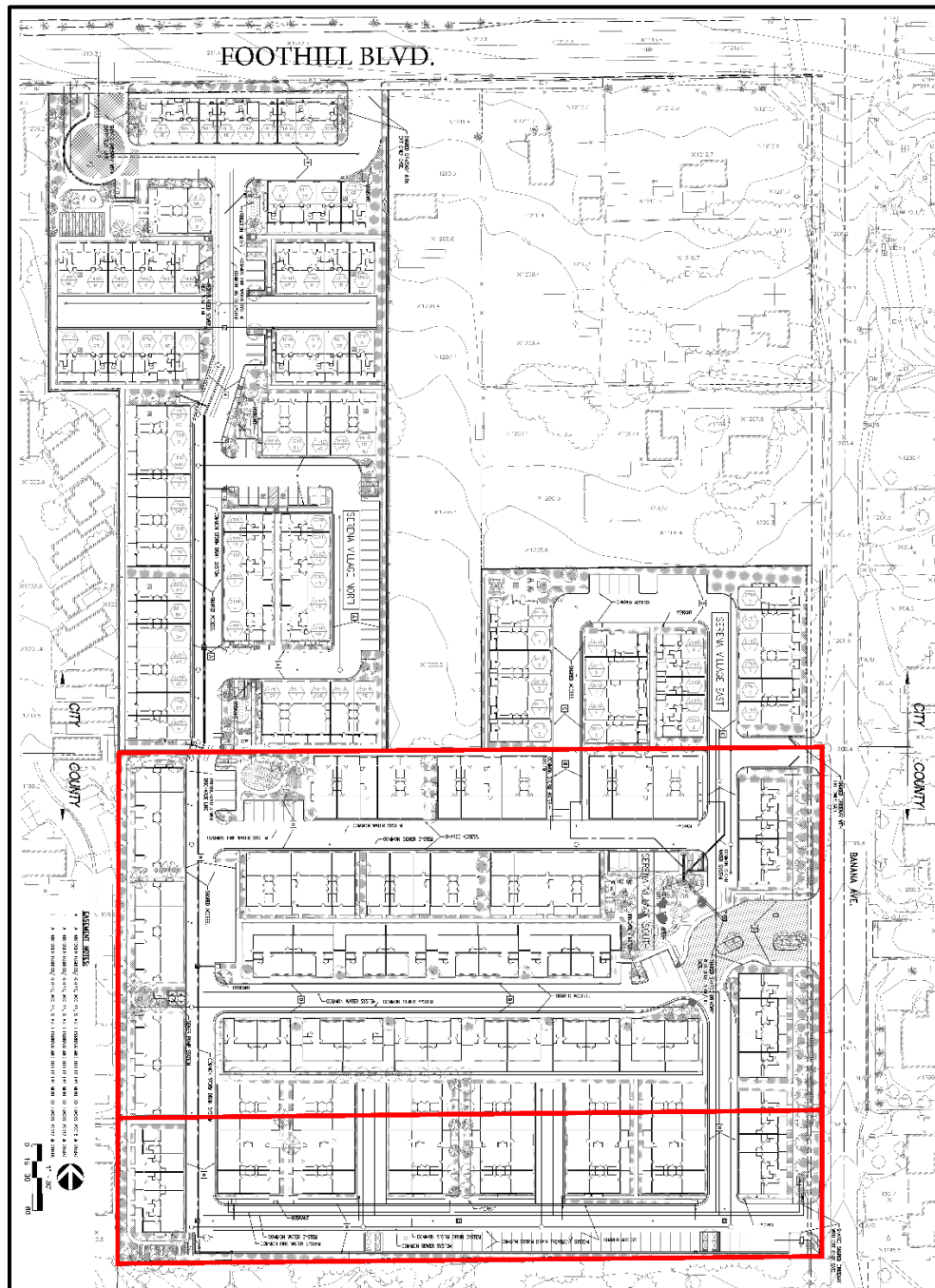


FIGURE 2 – Overall Project Area

The conditions of approval placed upon this project include the requirement to connect to the City of Fontana's sewer facilities prior to issuance of building permits (see CUP

Conditions 92, 93, and 94). A copy of the County's Conditions of Approval the Tentative Tract and the CUP are attached as Exhibit E to the Pre-Annexation Agreement, which is a part of Attachment #2 to this report.

The City, 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. Authorization of this contract is required before the City can take the final actions to implement the terms of the agreement.

PLAN FOR SERVICE:

The City's application (included as part of Attachment #2 to this report) identifies that the proposed County project will be served by extending an 8-inch sewer line approximately 500 linear feet that will run along the City-portion of the project from the existing 8-inch sewer line in Foothill Boulevard (see Figure 3 below).

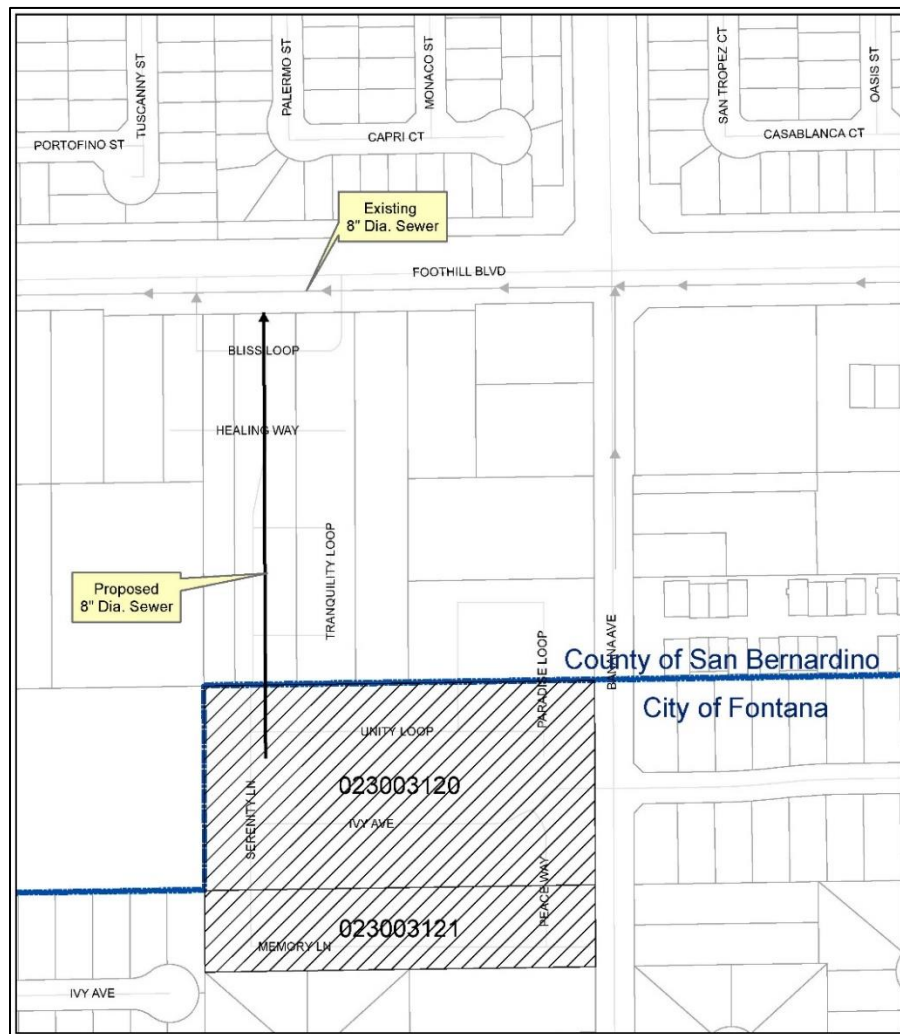


FIGURE 3 – Service Connection Plan

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 of Fontana has identified an estimated cost of \$1,431,197.73 in development impact fees and sewer fees for the extension of sewer service to the project (see Exhibit F of the Pre-annexation Agreement in Attachment #2).

The Table below outlines the City's sewer connection/expansion charges:

Description of Fees/Charges	Fee		Total
Sewer Master Connection Fee	\$902/du	112 du	\$101,024.00
IEUA Sewer Expansion Fee ¹	\$7,600/du	112 du	\$851,200.00
Sewer Connection Permit	\$25.00/connection	1 connection	\$25.00
Sewer Deposit ²	\$ 120.84/du	112 du	\$13,534.08
TOTAL			\$965,783.08

¹ The Sewer Facilities Expansion Fee is a pass through fee that is collected by the City on behalf of the Inland Empire Utilities Agency.

² Sewer Deposit is calculated @ \$32.21/du x 4 months = \$120.84.

Per the Memorandum of Understanding (MOU) between the City and the County (Western Sphere of Influence), any development in the unincorporated Western Sphere requires that it pay the City certain development impact fees that would otherwise be assessed for such development within the City such as fire facilities fee, storm drainage facilities fee, and park development fee (for residential properties only). The following table shows the City's Development Impact Fees that are being assessed for the project:

Description of Fees	Fee		Total
Fire Facilities Fee – MF Low ⁴	\$180.00/du	44 du	\$7,920.00
Fire Facilities Fee – MF High ⁴	\$190.00/du	68 du	\$12,920.00
Storm Drainage Fee ⁴	\$ 10,479.50/ac	6.7 acres	\$70,212.65
Park Development – MF Low ⁴	3,239.00	44 du	142,516.00
Park Development – MF High ⁴	3,409.50	68 du	231,846.00
TOTAL			\$465,414.65

⁴ Since the project is located within the City's infill area, the corresponding Development Impact Fee (DIF) reflects a 50% reduction.

In addition, the property owner/developer will be responsible for hiring a contractor for the connection of the proposed development to the City's existing sewer system. The costs of all improvements needed to extend the sewer to the proposed development are also borne by the property owner/developer. Also, future users of the sewer service will be charged \$58.14 per EDU per month, which is the outside city monthly sewer rates for residential development.

ENVIRONMENTAL DETERMINATION:

The County prepared an Initial Study and Mitigated Negative Declaration for a Conditional Use Permit and Tentative Tract Map to develop a 112-unit multiple family condominium project on approximately 6.7 Acres.

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the County's environmental assessment and the Mitigated Negative Declaration issued for the proposed project. Mr. Dodson's analysis indicates that the County's Initial Study and Mitigated Negative Declaration are adequate for the Commission's use as a CEQA responsible agency.

Mr. Dodson has indicated that the necessary environmental actions to be taken by the Commission are as follows:

- a) Certify that the Commission, its staff and its Environmental Consultant, have independently reviewed and considered the County's environmental assessment and Mitigated Negative Declaration;
- b) Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the project; that the mitigation measures identified in the County's environmental documents are the responsibility of the County and/or others, not the Commission; and,
- c) Direct the Executive Officer to file the Notice of Determination within five (5) days and find that no further Department of Fish and Wildlife filing fees are required by the Commission's approval since the County has paid said fees for its environmental determination.

CONCLUSION:

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

DETERMINATIONS:

1. The project area is comprised of two parcels, Assessor Parcel Numbers (APNs) 0230-031-20 and 0230-031-21, comprising a total of approximately 6.7 acres. The parcels are within the sphere of influence assigned the City of Fontana and are anticipated to become a part of that City sometime in the future. The project will receive water service from the Fontana Water Company. The application requests authorization to receive City of Fontana sewer service.

The sewer connection requirement is a condition of approval as identified in the County's Conditional Use Permit (CUP) for the multiple family condominium project. 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 City of Fontana's Pre-Annexation Agreement No. 22-006 being considered is for the provision of sewer service by the City of Fontana to two parcels, APNs 0230-031-20 and 0230-031-21, located on the west side of Banana Avenue between Foothill Boulevard and Arrow Route. This contract will remain in force in perpetuity for the proposed development or until such time as the area is annexed. Approval of this application will allow the property owner/developer and the City of Fontana to proceed in finalizing the contract for the extension of this service.
3. The fees charged this project by the City of Fontana for sewer service are identified as totaling \$1,431,197.73 (for a breakdown of fees, see tables on page 5). Payment of these fees is required prior to connection to the City's sewer facilities. In addition, the property owner/developer shall bear all costs to complete improvements needed to extend the sewer service to the proposed project.
4. During the period from February 2022 to July 2022, acting as the CEQA lead agency, the County prepared an environmental assessment for the Conditional Use Permit and Tentative Tract Map to develop a 112-unit multiple family condominium project on approximately 6.7 Acres. The County's assessment indicates that the project would not have a significant effect on the environment through its development under the Conditions of Approval that have been approved for the proposed project.

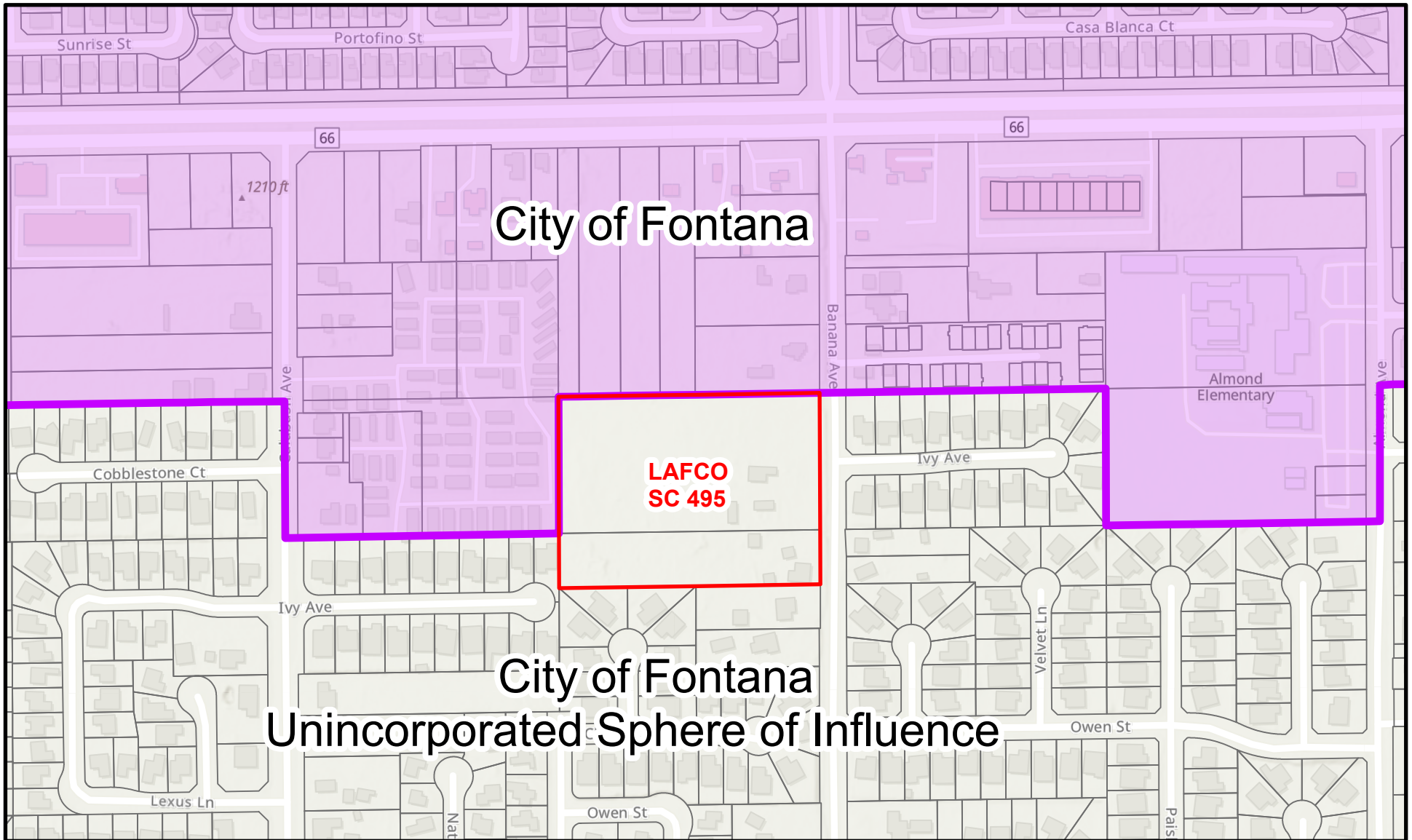
LAFCO's Environmental Consultant, Tom Dodson and Associates has reviewed the County's Initial Study and the Mitigated Negative Declaration issued for the proposed project. Mr. Dodson's analysis indicates that the County's Initial Study and Mitigated Negative Declaration are adequate for the Commission's use as a CEQA responsible agency. The Commission will not be adopting alternatives or additional mitigation measures for this development; all mitigation measures are the responsibility of the County of San Bernardino and/or others, not the Commission, and are self-mitigating through the Conditions of Approval.

Attachment #3 to this report is a copy of Mr. Dodson's response and recommendation regarding the Commission's review and actions to be taken including a copy of the County's environmental assessment.

SM/mt


Attachments:

1. [Vicinity Map and Map of the Contract Area](#)
2. [City of Fontana's Application and Contract](#)
3. [Tom Dodson and Associates' Response and County's Environmental Assessment and Mitigated Negative Declaration](#)
4. [Draft Resolution #3367](#)




Vicinity Map

LAFCO SC#495 - City of Fontana
Pre-Annexation Agreement No. 22-006
for Sewer Service (APNs 0230-031-20 & 21)


 City of Fontana

 Parcels

 APN 0230-031-20 & -21



Disclaimer: The information show is intended to be used for general display only and is not to be used as an official map.

0 30 60 120
 Yards



Created by Arturo Pastor on 01/30/2023

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 Fontana, California

CONTACT PERSON: Salvador Quintanilla, Senior Planner

ADDRESS: 8353 Sierra Avenue
Fontana, CA 92335

PHONE: (909) 350-6656

EMAIL: squintanilla@fontana.org

CONTRACTING PARTY:

NAME OF
PROPERTY OWNER: Inland Senior Development, LLC

CONTACT PERSON: Mohammd Monshizadeh

MAILING ADDRESS: 1 Venture, Suite 130
Irvine, CA 92618

PHONE: (949) 339-5337

EMAIL: mm@mcodevelopment.com

ADDRESS OF PROPERTY
PROPOSED FOR CONTRACT: 8246 and 8260 Banana Avenue
Fontana, CA 92335

CONTRACT NUMBER/IDENTIFICATION: Pre-annexation Agreement No. 22-006

PARCEL NUMBER(S): 0230-031-20 and -21

ACREAGE: 6.69 acres

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.

Sewer service will be provided by the City of Fontana

- (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.

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.

The Pre-annexation Agreement is for the provision of sewer service for the development of a 112-unit multi-family condominium project on two separate parcels totaling approximately 6.69 acres located in the County of San Bernardino on property adjacent to the City of Fontana boundary. The applicant proposes to construct a main sewer system that will be located at the southwest corner of the county project site. This sewer system will collect the waste from the three projects (two projects from the City and one adjacent project in the County) and will pump the waste to the sewer line located on Foothill Boulevard in the City of Fontana.

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.

The City anticipates annexation of the site at a future date and/or upon initiation by the applicant. The applicant is supportive of being annexed into the City of Fontana either before the start of construction of the project or after the county has signed off the project.

- (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.

In order to assist development in economically challenged areas within the unincorporated areas, the City has agreed to enter into pre-annexation agreements to allow developers to connect to the City's sanitary sewer system. The City anticipates annexation of the site at a future date and/or upon initiation by the applicant.

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?

The project site has two existing single-family homes with accessory structures; six buildings total occupy the overall site. These buildings will be demolished in order to construct the proposed 112-unit multi-family condominium project. The existing sidewalk is partially paved with concrete. The project site is in the unincorporated County area and has a County General Plan Land Use designation of Medium Density Residential (MDR) and County zoning of Multiple Residential (RM) and Single Residential (RS). The site is surrounded by single-family residential uses to the north, south and to the east and a mobile park to the west.

The most recent approvals for the site include a Conditional Use Permit and Tentative Tract Map (PROJ-2020-00230) approved by the County of San Bernardino in 2022 for a 112-unit multi-family condominium project on two separate parcels totaling approximately 6.69 acres, and a Variance for a reduced side yard landscape width.

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

The applicant is proposing a change in use from existing single-family detached residential homes to attached condominium units. The applicant is proposing to construct a 112 multi-family condominium project, on two separate parcels totaling

approximately 6.69 acres.

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.

Project Description:

In 2020 the applicant submitted an application for a Conditional Use Permit, Tentative Tract Map, and Variance to the County of San Bernardino Land Use Services Department (Planning Division) for the development of a 112-unit multi-family condominium project. The 112-unit condominium project is on a 6.69 acre site that is located south of Foothill Blvd., west side of Banana Avenue, in the unincorporated County area within Fontana's Western Sphere of Influence. The proposed project also includes a Condominium Map to combine the two existing lots into condominium parcels.

The 112-unit multi-family condominium project will have 28 buildings with units that range from one-bedroom units (840 sf) to four bedroom units (2,322 sf), with building heights of 28 feet. The project will have amenities that include common areas with BBQs, water features, children's play area, a community center, exercise area, and seating area for the residents of this development.

Approval Status:

On July 7, 2022, the San Bernardino County Planning Commission approved the Conditional Use Permit, Tentative Tract Map, and Variance (No. PROJ-2020-00230) for the proposed condominium development.

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

The above entitlements were approved by the County of San Bernardino on July 7, 2022.

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.

The County prepared the Initial Study/ Mitigated Negative Declaration (IS/MND) for the

development of the 112-multi-family units. The City has reviewed the IS/MND and finds that it adequately addresses plans for sewer service. The IS/MND is attached to the application for LAFCO's reference.

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 Fontana will be providing sewer service to a project site that is located outside its corporate limits. The City has the facilities and capacity to serve the project site from an existing sewer line on Foothill Boulevard. To serve the proposed development, approximately 500 feet of sewer line will be constructed within the project to Foothill Boulevard.

- (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.).

The City, in connection with the pre-annexation agreement, will require developers within the Western Sphere to pay to the City certain development impact fees that would otherwise be assessed against such development if it were located within the City's jurisdictional boundaries. As to the Western Sphere, these development impact fees will consist solely of sewer connection and expansion fees, a storm drainage facilities fee, a fire facilities fee, and a park development fee (for residential properties only). Additionally, to facilitate the economic development and revitalization of the Western Sphere, the City and the County have agreed that the Western Sphere DIF and the corresponding impact fees collected by the County from projects being developed within the Western Sphere will be invested into public infrastructure projects located within the Western Sphere. Additionally, since this development is in the Infilled area of the City, it is eligible to receive a 50% reduction in certain fees (as shown below). The construction cost of the project will be borne by the developer.

Fontana's Development Impact Fees include the following, which may be amended from time to time:

<i>Description of Fees/Charges</i>	<i>Cost</i>	<i>Total</i>
Fire Facility – Infill Benefit (@50% Reduction	MF Low = \$180 x 44	\$7,920
Fire Facility – Infill Benefit (@50%	MF High =	\$12,920

Reduction	\$190 x 68	
Storm Drain Fee - Infill Benefit (@50% Reduction)	\$10,479.50 x 6.7 acres	\$70,212.65
Park Development - Infill Benefit (@50% Reduction)	MF Low = \$3,239 x 44	\$142,516
Park Development - Infill Benefit (@50% Reduction)	MF High = \$3,409.50 x 68	\$231,846
City Sewer Master Connection Fee	Residential = \$902 x 112du	\$101,024
IEUA Sewer Expansion Fee _Pass Thru	Residential = \$7,600 x 112 du	\$851,200
City Sewer Connection Permit	\$25	\$25
Sewer Deposit	Residential = \$120.84 x 112	\$13,534.08
LAFCO Fee	\$5,725	\$5,725
Total Costs		\$1,436,922.73

- (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).

The monthly sewer rate for residential development that is outside the City's corporate boundaries is \$ 58.14 per Dwelling Unit (EDU) per month.

- (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).

The property owner is responsible for hiring a contractor for the installation and connection of the proposed development to the City's existing sewer system. The costs of improvements and financing are borne by the property owner.

- 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.

On August 26, 2008, the City of Fontana and County of San Bernardino entered into a Memorandum of Understanding (MOU) for the City's Western Sphere of Influence. The MOU was amended as of October 9, 2012; a copy is attached. The MOU includes a copy of the City's adopted Annexation Policy.

CERTIFICATION

As a part of this application, the City of Fontana agrees 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.

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:

Phillip Burum

POSITION TITLE:

Deputy City Manager

PN

DATE:

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.

Please forward the completed form and related information to:

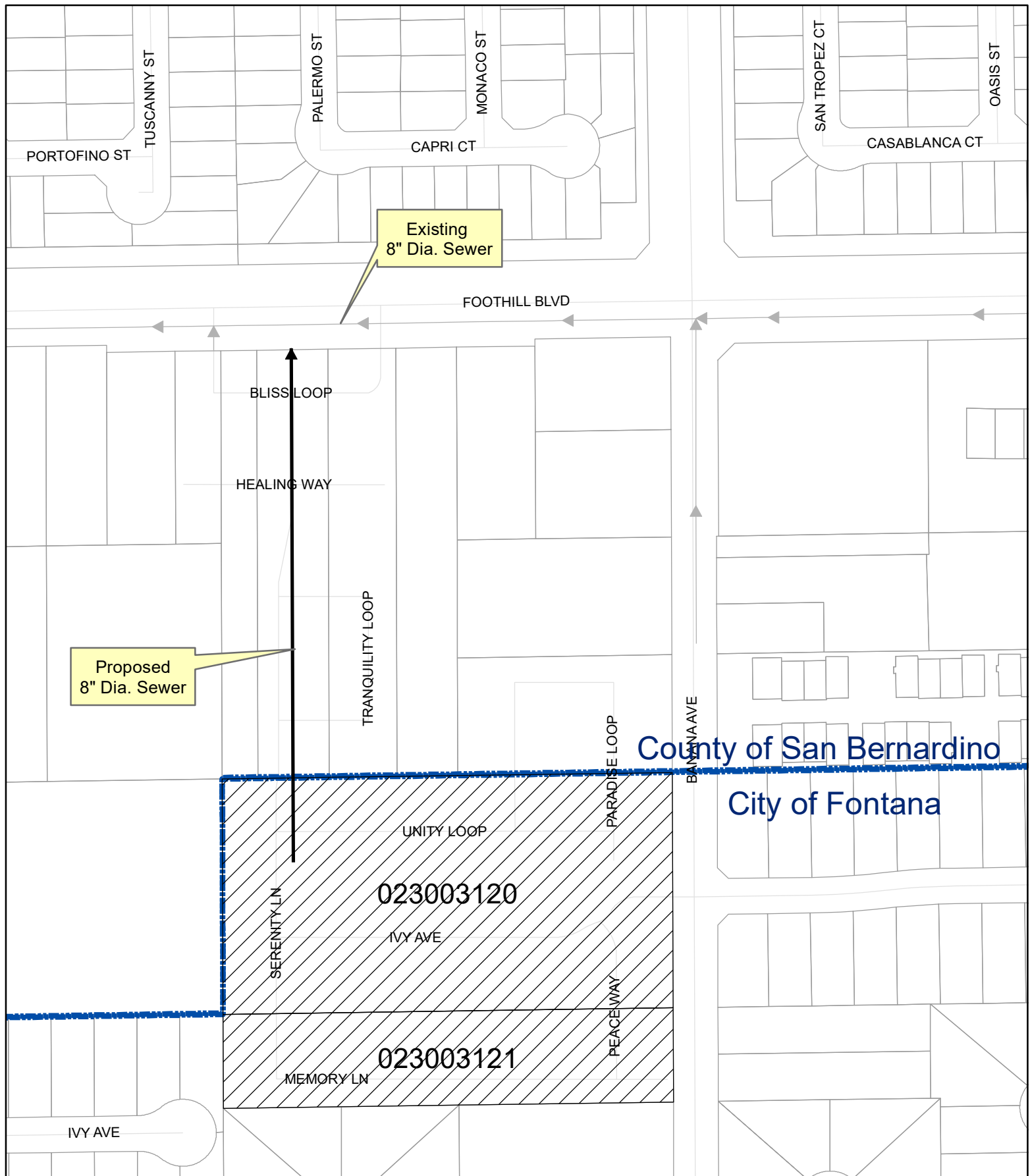
Local Agency Formation Commission for San Bernardino County

1170 West 3rd Street, Unit 150

San Bernardino, CA 92415-0490

PHONE: (909) 388-0480 • FAX: (909) 388-0481

PRE-ANNEXATION VICINITY MAP (SEWER SERVICE)



RECORDING REQUESTED BY:

Order No:

WHEN RECORDED MAIL DOCUMENT TO:

City of Fontana
8353 Sierra Avenue
Fontana, California 92335
Attn.: City Clerk

Space Above This Line for Recorder's Use Only
Exempt from Recording Fees Pursuant
to Gov. Code §§ 27383, 6103

PREANNEXATION AGREEMENT

between

**THE CITY OF FONTANA,
a California municipal corporation
("CITY")**

and

INLAND SENIOR DEVELOPMENT, LLC

[Dated as of 09/27/2022 for reference purposes only]

PRE-ANNEXATION AGREEMENT

This Preannexation Agreement ("Agreement") is entered into as of this 27th day of Sept, 2022, between the City of Fontana, a California municipal corporation ("City") and INLAND SENIOR DEVELOPMENT, LLC ("Landowner"), a California Limited Liability Company LLC, with the principal place of business located at 1 Venture, Suite 130, Irvine, CA 92618. City and Landowner are sometimes individually referred to herein and "Party" and collectively as the "Parties."

WHEREAS, Landowner has fee title to a roughly 6.69-acre piece of property, in unincorporated San Bernardino County, commonly known as APN 0230-031-20 and APN 0230-031-21 (the "Property"), more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference. An Assessor Parcel Map is attached hereto as Exhibit "B" and incorporated by this reference.

WHEREAS, the City is contemplating annexation of certain territory, including Landowner's Property which is also located within the "Western Sphere of Influence", as defined in and subject to the Memorandum of Understanding ("MOU") between the City and County of San Bernardino approved on August 26, 2008, and as it may be amended from time to time, as well as the City's annexation policy as amended from time to time. A current copy of the MOU is attached hereto as Exhibit "C" and incorporated herein by reference. A current copy of the City's annexation policy is attached hereto as Exhibit "D" and incorporated herein by reference.

WHEREAS, the City has general planned and prezoned the Western Sphere of Influence and, upon annexation, the Property will be zoned Form Based Code, Transitional District in accordance with the City's Zoning District Map.

in accordance with the City's Zoning District Map.

WHEREAS, Landowner desires to build [112-unit multi-family condominium development] ("Project") in compliance with County of San Bernardino Tentative Tract Map No. 20016 (TTM No. 20016) and has requested that the City enter into this Agreement and City desires to provide sewer service to the Project. City has further determined that it is in the best interest of the citizens of the City and the Landowner to encourage the development of this Project.

WHEREAS, Government Code § 56133 allows a public agency, like the City, to extend services by contract, including the provision of sewer services, beyond its jurisdictional reach, provided the San Bernadino County Local Agency Formation Commission ("LAFCO") approves such a request; and

WHEREAS, the Parties have therefore agreed that it is in their respective interests to request LAFCO approval for the City to provide sewer services to the Property pursuant Government Code § 56133 until such time as the City annexes the Property into the City.

NOW THEREFORE, the Parties agree as follows:

1. EFFECTIVE DATE.

1.1 **Effective Date.** This Agreement will not become effective until the date ("Effective Date") on which it has been executed by Landowner and has been approved by the City Council, which date is ever later. City shall deliver a fully executed counterpart original of this Agreement to Landowner within ten (10) days from City's execution of this Agreement.

2. TERMS.

In order to facilitate the annexation of the Property, and the development of this Project the City and Landowner agree to the following:

2.1 City's Obligation.

(a) **Annexation.** Subject to Section 2.1(c) noted below, upon completion of the annexation of the Property, the Property shall be subject to the same benefits and obligations as other properties zoned Commercial and Residential by the City.

(b) **No Representation or Warranty Regarding Annexation.** Nothing herein shall be deemed as a representation or warranty by City that the annexation of the Property will be completed.

(c) **Zoning.** The Parties acknowledge that the City has rezoned the Property, and upon annexation, the Property will be zoned Form Based Code, Transitional District. Notwithstanding the foregoing, or anything to the contrary contained herein, this Agreement shall not limit the right of Landowner to continue any existing legal use upon the Property that is conducted prior to annexation, but is considered a legal nonconforming use following annexation and/or due to future changes to the City's General Plan or zoning ordinances. The City acknowledges that development of the Property in compliance with TTM No. 20016 and the County Conditions of Approval will be a conforming use under the City's Form Based Code, Transitional District zoning designation.

(d) **Development Standards.** The Tentative Tract Map (TTM No. 20016) will comply with the County's Conditions of Approval (see Exhibit "E" for current Conditions of Approval).

(e) **Out Of Agency Service Contract.** Within thirty (30) days from City's execution of this Agreement, the City will submit the out-of-agency service agreement application for sewer services and sewer connections to the Project.

2.2 Landowner's Obligations.

(a) **Development Impact Fees.** Landowner shall pay all fees and charges and make all deposits adopted by and in effect by the then applicable City ordinance or resolution, including those fees identified in the MOU as it may be amended from time to time. The amount of the development impact fees to be paid to the City by the developer in connection with the proposed development shall be paid to the City at the time of sewer connection permit

issuance for the proposed development. Those fees shall include, but not be limited to, the following:

Fire Facilities (see Exhibit F)

Park Development (residential only) (see Exhibit F)

Storm Drainage Facilities (see Exhibit F)

Sewer Facilities (see Subsections (b) & (c) noted below)

(b) **City Provision of Sewer Service.** The City agrees to provide sewer service and a sewer connection to said Project, provided that (1) such Landowner complies with the City's annexation policy, as it may be amended from time to time (a current copy of which is attached as Exhibit "D"), (2) the Landowner meets all other City requirements and pays all fees imposed by the City pursuant to the Municipal Code and other policies and regulations, as they may be amended from time-to-time, in connection with such sewer service; and (3) the Landowner pays to the City those development impact fees which would be applicable to the Project if it were to occur within city limits as required under the City's current fee schedule and the MOU at the time a sewer connection permit is issued and in the amounts as may be established from timetotime by the City, provided, however, that the City shall not require the payment of any impact fee which is imposed by the County on the Project to fund the same infrastructure as being funded by the City impact fee.

(c) **Sewer Connection Charges/LAFCO Fee.** Landowner shall pay all fees and charges and make all deposits required by City to connect to and use the sewer. Landowner also agrees to pay any additional fees that may be charged by the Local Agency Formation Commission (LAFCO). Those fees shall include, but not be limited to, the following:

Sewer Deposit (see Exhibit F)

Sewer Connection Permit Fee (see Exhibit F)

City Sewer Master Connection Fee (see Exhibit F)

Sanitary Sewage Facilities Expansion Fee (see Exhibit F)

LAFCO Fee (see Exhibit F)

Landowner agrees to be bound by all City ordinances, rules and regulations respecting the sewer system.

2.3 Event of Default. For purposes of this Section 2.3, an "Event of Default" shall mean the occurrence of any of the following during the term hereof:

(a) Landowner materially breaches any of the obligations of this Agreement;

(b) Subject to Section 2.1(c) noted above, if after the issuance of the first building permit, Landowner suspends or ceases construction activities for a period in excess of thirty (30) days;

(c) Landowner makes a material misrepresentation of any fact or item in any document executed by the City with respect to this Agreement;

(d) Upon the attachment, levy, execution or other judicial seizure of any substantial portion of the assets of Landowner, that is not released, expunged, bonded, discharged, or dismissed within thirty (30) days after the attachment, levy, execution or seizure; and

(e) Landowner becomes insolvent or unable to pay Landowners' debts generally as they mature, makes a general assignment for the benefit of creditors, admits in writing Landowners' inability to pay Landowners' debts generally as they mature, file or have filed against it a petition in bankruptcy or a petition or answer seeking a reorganization, arrangement with creditors or other similar relief under the Federal bankruptcy laws or under any other applicable law of the United States of America or any state thereof, or consents to the appointment of a trustee or receiver for it or for a substantial part of Landowner's Property.

2.4 Irrevocable Consent to Annexation. In exchange for the City's commitments hereunder to make the sewer connection available to Landowner, Landowner hereby consents to the annexation of the Property to the City. Provided that City has fully complied with its obligations under this Agreement, Landowner agrees to covenant for itself, its agents, employees, contractors, heirs, successors and assigns (including on behalf of any future owner of a portion of the Property) ("Successors") not any way object to, protest, delay, frustrate or otherwise impede any annexation proceedings concerning the annexation of the Property to the City. Provided that City has fully complied with its obligations under this Agreement, Landowner and its Successors shall cooperate in every reasonable way with the requests of the City, the San Bernardino Local Agency Formation Commission ("LAFCO"), or any other public agency in any proceedings to annex the Property to the City. The Landowner's and its Successor's cooperation shall include, but not be limited to, the filing of all necessary applications, petitions, plans, drawings, and any other documentation or information required by the City, LAFCO, or any other public agency at no cost or expense to Landowner or its Successor.

2.5 Duration of Agreement. This Agreement shall remain in effect until such time as the property is annexed into the City, or upon expiration of the County's land use approvals, including any extensions, or whatever occurs first.

2.6 Property Maintenance. Landowner agrees to maintain the Property in good condition and in compliance with reasonable residential standards. Reasonable standards are defined as the level of maintenance service necessary to keep the appearance and operation of the Property free from visible defects, deterioration, dirt and debris.

2.7 Amendments/Time Extensions. City and Landowner may amend this Agreement by written amendment mutually executed by both parties. Such amendments shall

not invalidate this Agreement or relieve or release any Party from its obligations under this Agreement unless expressly stated so by such amendment.

3. GENERAL PROVISIONS.

3.1 **General Compliance.** Landowner agrees to comply with all applicable, federal, state and local laws and regulations, including but not limited to the City's Building, Planning, Fire and Code Enforcement Departments.

3.2 **Waiver of Liability.** Accordingly, Landowner shall waive the City from all liability resulting from any damage to property or unfinished or poor quality work caused by a contractor.

3.3 **Hold Harmless.** Landowner shall hold harmless, defend and indemnify City, and its respective elected officials, directors, officials, officers, attorneys, employees, agents, representatives and volunteers from and against any and all actual or alleged claims, actions, suits, charges, demands, judgments, and expenses (including reasonable attorneys' fees, expert witness fees and court costs) whatsoever that arise out of Landowner's or any of its contractor's performance or nonperformance of this Agreement. Landowner shall defend, at Landowner's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought against City and its respective elected officials, directors, officials, officers, attorneys, employees, agents, representatives and volunteers.

3.4 **Suspension or Termination.** City may suspend or terminate this Agreement, in whole or in part, if Landowner materially fails to comply with any term of this Agreement or with any of the rules, regulations or provisions referred to herein; and the City may declare Landowner ineligible for any further participation in City contracts, in addition to other remedies as provided by law.

3.5 **Attorneys' Fees.** In the event of the bringing of an action or suit by a Party against another Party by reason of any breach of any of the covenants contained in this Agreement or any other dispute between the Parties concerning this Agreement, then, in that event, the prevailing Party in such action or dispute, whether by final judgment or out of court settlement shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees. Any judgment or order entered in any final judgment shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment. For the purposes of this Section, Costs shall include, without limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions, (ii) contempt proceedings, (iii) garnishment, levy, and debtor and third party examination; (iv) discovery; and (v) bankruptcy litigation. This Section shall survive any expiration or termination of this Agreement.

3.6 **Interpretation.** City and Landowner acknowledge that this Agreement is the product of mutual armslength negotiation and drafting. Accordingly, the rule of construction which provides the ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Agreement. In

any action or proceeding to interpret or enforce this Agreement, the finder of fact may refer to any extrinsic evidence not in direct conflict with any specific provision of this Agreement to determine and give effect to the intention of the parties.

3.7 Counterpart Originals; Integration; Modification. This Agreement may be executed in by the Parties in counterparts, all of which together shall constitute a single Agreement. This Agreement constitutes the entire understanding of the Parties with respect to the matters set forth in this Agreement and supersedes any and all writings and oral discussions concerning the same. The performances of City's and Landowner's respective obligations under this Agreement are not intended to benefit any party other than the City or Landowner, except as expressly provided otherwise herein. The foregoing notwithstanding, the City is declared to be an intended third party beneficiary of the Landowner's obligations hereunder,

3.8 No Waiver. Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.9 Venue; Jurisdiction; Governing Law. Any legal action or proceeding concerning this Agreement shall be filed and prosecuted in the appropriate court in the County of San Bernardino, California. Each Party hereto irrevocably consents to the personal jurisdiction of the court. This Agreement shall be governed by the laws of the State of California, without regard to conflict of laws principles.

3.10 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.11 Authority to Enter Agreement; Subcontracting; Recordation. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. The Parties agree that this Agreement may be recorded with the San Bernardino County Recorder's Office.

3.12 Non Assignability. Landowner may not assign any of their rights or obligations under this Agreement without the express written consent of the City, which may not be unreasonably withheld or delayed. Notwithstanding the foregoing, Landowner may assign this Agreement, upon written notice to City, to any entity in which Landowner owns a majority and controlling interest. No unpermitted successor or assign of Landowner's rights under this Agreement shall be deemed to possess or be entitled to exercise any such right; provided, however, that the obligations of this Agreement shall nonetheless be binding upon such unpermitted successor or assign.

3.13 Force Majeure. Landowner shall be excused for the period of any delay in the performance of its obligations hereunder, when prevented from so doing by any cause beyond its

control including, but not limited to, construction, labor unrest, litigation, unavailability of material, weather, war, acts of God, and refusal or failure of governmental authorities to grant necessary approvals and permits for construction of the Improvements in the manner contemplated herein ("Force Majeure").

3.14 **Notices.** All notices required or allowed by this Agreement shall be in writing and addressed as set forth below. Notices shall be deemed received upon (i) actual receipt by the intended recipient if the method of delivery is personal service, messenger service or facsimile transmission, (ii) actual receipt by the intended recipient if the method of delivery is overnight delivery service such as Federal Express or the like, or (iii) three business days after deposit in the United States mail, postage prepaid, return receipt requested. Notices shall be addressed as follows:

If to City: City of Fontana
8353 Sierra Avenue
Fontana, California 92335
Telephone: (909) 350-7654
Facsimile: (909) 350-6613
Attn: City Manager

With a copy to: Best Best & Krieger LLP
3500 Porsche Way, Suite 200
Telephone: (909) 989-8584
Facsimile: (909) 944-1441
Attn:

If to Landowner: Inland Senior Development, LLC
1 Venture, Suite 130
Irvine, CA 92618
Telephone: (949) 339-5337
Attn: Mohammad Monshizadeh

With a copy to: Inland Senior Development, LLC
1 Venture, Suite 130
Irvine, CA 92618
Telephone: (949) 339-5337
Attn: Mohammad Monshizadeh

Any party's address for notices may be changed by written notice as provided above.

[Signatures on following pages]

SIGNATURE PAGE
TO
PREANNEXATION AGREEMENT

CITY:

CITY OF FONTANA
a California municipal corporation

RUN
B

Dated: 11.14.22

By: *[Signature]*
Matthew C. Ballantyne
City Manager

ATTEST:

[Signature]
Germaine McClellan, City Clerk

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP

By: *[Signature]*
Ruben Duran, City Attorney

LANDOWNER:

Inland Senior Development, LLC

Dated: 10/27/2022

By: *[Signature]*
Mohammad Monshizadeh

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of ~~SAN BERNARDINO~~)

On October 27, 2022, before me, Jessica Avalos,
(insert name and title of the officer)

Notary Public, personally appeared Mohammad Monshizadeh,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

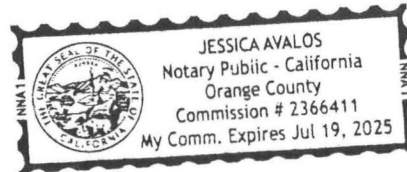
I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of SAN BERNARDINO)

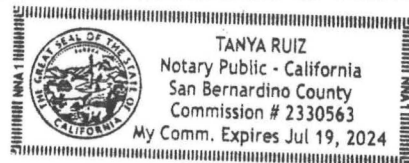
On November 14, 2022, before me, Tanya Ruiz,
(insert name and title of the officer)

Notary Public, personally appeared Matthew C. Ballantyne,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]



(Seal)

"EXHIBIT A"
TO
PREANNEXATION AGREEMENT

LEGAL DESCRIPTION OF PROPERTY
ASSESSOR PARCEL NOS. 0230-031-20 and 0230-031-21

LEGAL DESCRIPTION:

PARCEL C:

APN: 0230-031-20-0-000
LOT 223 OF TRACT NO. 2102, FONTANA ARROW ROUTE TRACT, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 31, PAGES 11, 12, 13, 14 AND 15, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL D:

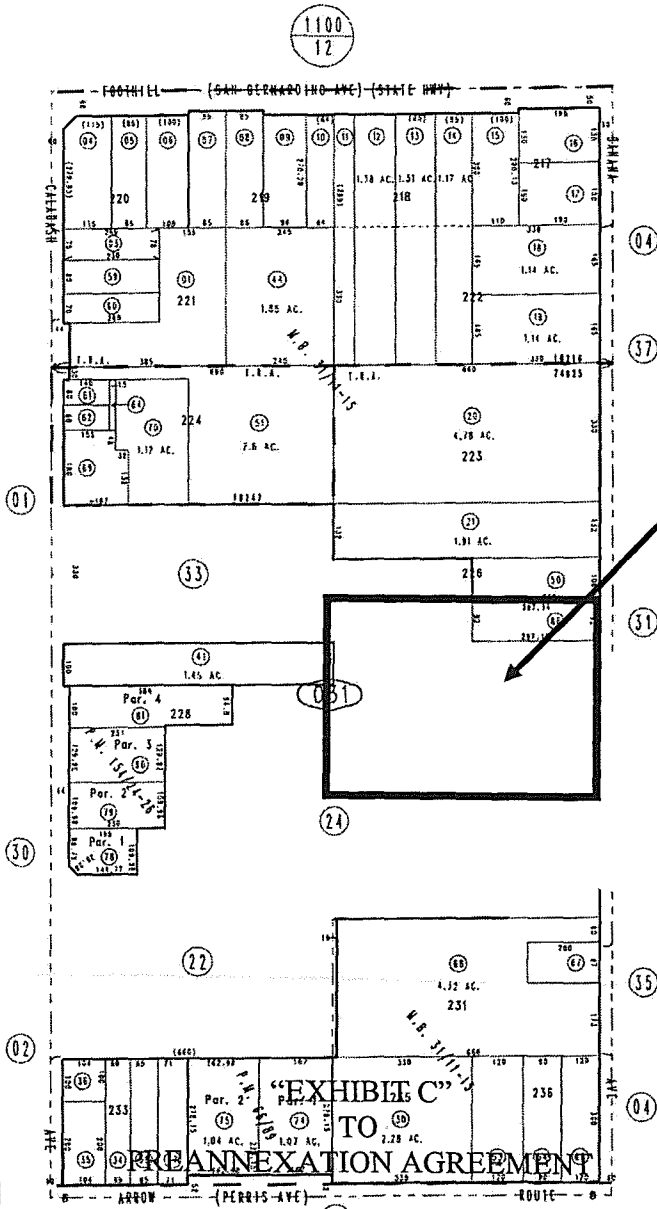
APN: 0230-031-21-0-000
THE NORTH 132 FEET OF LOT 226, TRACT NO. 2102, FONTANA ARROW ROUTE TRACT, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 31, PAGES 11, 12, 13, 14 AND 15, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

February 2004

Parcel Map No. 1712, P.M. 154/24-25
Parcel Map No. 5516, P.M. 66/83

Pln. N.W. 1/4, Sec. 10
T.1S., R.6W.

Assessor's Map
Book 0230 Page 03
San Bernardino County



THIS MAP IS FOR THE PURPOSE
OF ASSESSING TAXATION ONLY.

Ptn. For

Subject Site

Arrow Route Tract No. 2102
M.B. 31/11-15

City of Fontana
Fontana Unified
Tax Rate Area
10216 10247 74025

0230-0

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FONTANA AND COUNTY OF SAN BERNARDINO (WESTERN SPHERE OF INFLUENCE)

[Attached Behind This Page]

“EXHIBIT C”

TO

PREANNEXATION AGREEMENT

MOU between the City of Fontana and County of San Bernardino

August 26, 2008

Western Sphere of Influence

[Attached Behind This Page]

EXHIBIT C

MEMORANDUM OF UNDERSTANDING

**BETWEEN
CITY OF FONTANA
AND
COUNTY OF SAN BERNARDINO
AUGUST 26, 2008**

WESTERN SPHERE OF INFLUENCE

CITY OF FONTANA/COUNTY OF SAN BERNARDINO

**MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)**

This Memorandum of Understanding (Western Sphere of Influence) ("Agreement") is entered into between (1) the City of Fontana, a California general law city and municipal corporation ("City") and, (2) the County of San Bernardino, a political subdivision of the State of California ("County"). This Agreement is reference dated as of August 26, 2008. This Agreement will not become effective until the occurrence of the "Effective Date" defined below. If the Effective Date does not occur on or before December 31, 2008, then this Agreement may not thereafter become effective and any prior approvals and/or signatures of the Parties shall be deemed, automatically and without need of further act or instrument by either Party, rescinded and void *ab initio*. The City and the County are sometimes referred to in this Agreement, individually, as a "Party" and, collectively, as the "Parties".

This Agreement will become effective on the date ("Effective Date") on which it has been approved by both the City Council on behalf of the City and the Board of Supervisors on behalf of the County and fully executed counterpart originals have been exchanged between the Parties. The term ("Term") of this Agreement shall commence on the Effective Date and shall automatically end upon the City's annexation of the entire Western Sphere (as defined in Recital A, below), or either Party's election to terminate this Agreement, which election may be made at any time and for any reason (or for no reason), notice of which shall be given as provided by Section 6.

RECITALS

A. Immediately adjacent to the westerly border of the City is an unincorporated area of land located within the County and designated by the San Bernardino County Local Agency Formation Commission ("LAFCO") as the City's Western Sphere of Influence ("Western Sphere"). The Western Sphere is approximately 8.5 square miles in size. A map depicting the boundaries of the Western Sphere is attached as Exhibit "A".

B. The San Bernardino County Redevelopment Agency has previously adopted a redevelopment plan ("Plan") for a redevelopment project area known as the "Speedway Redevelopment Area" ("Project Area"). The boundaries of the Project Area are located entirely within the Western Sphere and are also identified on the attached Exhibit "A".

C. The City provides sanitary sewer services within portions of the Western Sphere. The City owns and maintains the pipes and other transmission infrastructure needed to provide such service, whereas the Inland Empire Utilities Agency ("IEUA") provides wastewater treatment services within portions of the Western Sphere through a series of agreements with the City. The City's current annexation policy is to require any landowner or developer within the Western Sphere who desires to connect to the City's sanitary sewer system to either sign an irrevocable agreement to annex to the City or to complete a pre-annexation agreement. By this Agreement, the City and County have agreed on certain practices and procedures that they intend will facilitate economic development within the Western Sphere.

D. The City and the County acknowledge that the Western Sphere, or some portion of it, may be annexed into the City at some future date. The County further acknowledges that the City's intent in entering into this Agreement includes ensuring that development within the Western Sphere which occurs prior to such annexation be accomplished in a manner that as closely as possible reflects the City's practices and requirements as established in the City's Development Code as it exists from time to time throughout the Term of this Agreement.

E. The Parties recognize that development within the Western Sphere will be enhanced and facilitated by the investment of public funds into the public infrastructure needed to support such development. The chief sources of public funds for such public infrastructure are those fees and charges imposed and collected from developers within the Western Sphere as a condition to the obtaining of building permits and other entitlements for such development. County has a limited program for the collection of such fees. The City, in connection with the pre-annexation agreements described in Recital "C" above, requires developers within the Western Sphere to pay to the City certain of those development impact fees that would otherwise be assessed against such development if it were located within the City's jurisdictional boundaries. As to the Western Sphere, these development impact fees will consist solely of sewer connection and expansion fees, a storm drainage facilities fee, a fire facilities fee, and a park development fee (for residential properties only) (collectively, the "Western Sphere Development Impact Fees" or "Western Sphere DIF"). The Western Sphere DIF shall be charged at the same rates which City charges for similar development projects within the City's incorporated boundaries, as such rates may be amended from time to time. To facilitate the economic development and revitalization of the Western Sphere, the City and the County have agreed that the Western Sphere DIF and the corresponding impact fees collected by the County from projects being developed within the Western Sphere shall be invested into public infrastructure projects located within the Western Sphere as more particularly described in this Agreement.

F. The Parties further recognize that development within the Western Sphere will be enhanced and facilitated by the reinvestment of sales tax revenues generated within the Western Sphere as more particularly described in Section 5 of this Agreement.

AGREEMENT

Section 1. Incorporation of Recitals. The Parties each acknowledge the accuracy of the factual matters set forth in the Recitals and further acknowledge that such facts form the material basis for their entry into this Agreement.

Section 2. County's Obligation to Consult re Development Entitlements and Development Code and Development Standard Changes. The City has reviewed the County's current Development Code and other regulations concerning development within the Western Sphere (collectively, the "County Standards"). Although not identical to City standards, the City is nonetheless satisfied that development which takes place in accordance with the County Standards will be of sufficient quality and character so as to be compatible with the development in the adjoining portion of the City. Accordingly, and in order to foster the continued development of the Western Sphere consistent with the above objective, the County agrees as follows:

- 2.1 The County shall submit to the City full and complete copies of any and all development or other entitlement permits or applications for development entitlements occurring within the Western Sphere. Such

information shall be provided to the City no less than thirty (30) days prior to the administrative or County Planning Commission hearing at which the development application or other entitlement is to be considered. The City shall promptly review the application and, within twenty (20) days following its receipt from the County, the City will provide written comments to the County for its consideration. The County agrees to reasonably consider the City's comments and, to the extent not in conflict with the County Standards, to incorporate such City-recommended changes as either modifications to or conditions of approval of such entitlement.

2.2 The County shall provide to the City no less than thirty (30) days prior notice of any proposed changes to any of the County Standards, including General Plan amendments and Zoning and Development Code amendments. The County shall review and reasonably respond to any suggested changes and County staff shall incorporate such City-recommended changes for consideration by the County Planning Commission or Board of Supervisors, as applicable.

2.3 The requirements of the foregoing Sections 2.1 and 2.2 shall not operate to modify, waive or abridge any County obligation arising under the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.*) ("CEQA") to provide the City with environmental notice and opportunity to comment as prescribed by CEQA.

2.4 The County shall review and consider a proposed change to the County Standards to make the County Standards consistent with the City's Automatic Fire Sprinkler Systems standards as set forth in City Code Sections 11-26 thru 11-31.

Section 3. City Provision of Sewer Service. To the extent the City/IEUA has available wastewater (sewer) treatment capacity, the City agrees to provide sewer service to and authorize a sewer connection by any landowner requesting such connection and service within the Western Sphere provided that: (1) such landowner complies with the City's annexation policy, as it may be amended from time to time (a current copy of which is attached as Exhibit "B"); (2) the landowner meets all other City requirements and pays the applicable sewer service fees which are imposed by the City pursuant to the City's Municipal Code and other policies and regulations, as they may be amended from time-to-time, in connection with such sewer service; and (3) the landowner pays to the City the Western Sphere DIF which would be applicable to the development if it were to occur in the City at the time a sewer connection permit is issued. Provided, however, that the City shall not require the payment of any development impact fee which is imposed by the County to fund the same infrastructure as being funded by the City impact fee. City agrees that this Agreement will accomplish, in major part, what annexation would provide for the Western Sphere. Therefore, notwithstanding the requirement for a landowner to comply with the City's annexation policy, the City agrees it will not file a formal application with the Local Agency Formation Commission seeking to annex any part of Speedway Redevelopment Area as long as this Agreement is in effect, unless the annexation application is otherwise agreed upon by the City and the County.

Section 4. Use of Development Impact Fees Within Western Sphere. Each year as part of their preparation and approval of their respective Capital Improvement Plans described by Government Code Section 66002, the City and the County shall each use reasonable good faith efforts to include capital improvement/public infrastructure projects within the Western Sphere which will be funded by the Western Sphere DIF (as to the City) and those development impact fees received by the County from development occurring within the Western Sphere. Without limiting the legislative discretion granted to either the City Council or the Board of Supervisors, the Parties agree that, to the extent possible, the following projects shall be given priority in the allocation of Western Sphere DIF and those development impact fees received by the County from development occurring within the Western Sphere:

- 4.1 Sewer Facilities
- 4.2 Storm Drainage Facilities
- 4.3 Park Development: a central park
- 4.4 Fire Facilities

The above list is intended by the Parties to be precatory only and shall not be a binding commitment to fund. The County's Second District Supervisor and City's Mayor are authorized to meet and attempt to resolve any disputes regarding the priority of projects to be funded and/or add new projects, subject to the consent and ratification of the City Council and Board of Supervisors. Actual funding of such projects shall require separate agreements for each specific project, as approved by both the City Council and Board of Supervisors.

Section 5. Sales Tax Allocations. It is the desire of the Parties that a yearly General Fund commitment equal to approximately thirty-seven percent (37%) of the sales tax revenue received by the Parties and attributable to the application of the Bradley – Burns Uniform Sales and Use Tax Law (Revenue and Taxation Code Section 7200, *et seq*) upon taxable sales and lease transactions occurring within the Western Sphere (the “Western Sphere Sales Tax Revenues”) shall be returned to that same area through funding of public improvement projects as approved by both Parties or projects described in Section 4, above, even if, over time, portions of the Western Sphere are incorporated within the City. The County shall provide the City with a Statement of Account upon request of the City. The Statement of Account shall include the following: Western Sphere Sales Tax Revenue received by the County to date for the current Fiscal Year; Western Sphere Sales Tax Revenue applied to public improvement projects under Section 4 above from the date of this Agreement. If the City annexes some or all of the Western Sphere, the City shall provide the same information as to Western Sphere Sales Tax Revenues received by the City to the County upon request. It is the intent of the Parties that the sales tax revenue allocations are to be above and beyond the Parties’ current expenditures in the Western Sphere.

Notwithstanding anything to the contrary in this Agreement, any such Western Sphere Sales Tax Revenues received by the County and/or City, as applicable, shall remain the sole property of the County or City, as applicable, unless and until they have been contractually committed by the owning Party in a separate agreement for a specific project. Notwithstanding anything in this Section 5 or elsewhere in this Agreement to the contrary, the Parties agree that neither Party is making a pledge of Western Sphere Sales Tax Revenues or of their respective General Funds. Both Parties acknowledge that all Western Sphere Sales Tax Revenues must by law be deposited into the receiving Party’s General Fund and is subject to appropriation and expenditure only in accordance with law. Nothing in this Agreement is a representation or agreement by either Party to fund a particular project or to make a particular expenditure, which

actions must be, if at all, authorized by the City Council or Board of Supervisors, as applicable, following all legally required prerequisites.

Section 6. Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective parties may provide in writing for this purpose.

City

City of Fontana
8353 Sierra Avenue
Fontana, CA 92335
Attention: City Manager

County

County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415
Attention: County Administrative Officer

Section 7. Integration/Modifications. This Agreement contains the entire understanding of the Parties with respect to the matters set forth in this Agreement and supercedes any and all prior writings and oral discussions concerning the same. This Agreement may not be amended except by a writing duly signed and duly approved by the City and County. This Agreement is not intended to and shall not accrue to the benefit of any person or entity other than the City and the County.

Section 8. Governing Law. This Agreement shall be governed by the procedural and substantive laws of the State of California.

Section 9. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 10. Counterpart Originals. This Agreement may be executed by the Parties in counterparts, all of which together shall constitute a single Agreement.

Section 11. Attorney's Fees. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, shall bear its own costs and attorneys' fees.


Section 12. Authority to Enter into Agreement. City and County both warrant that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind both respective Parties to this Agreement.

[Signatures on following pages]

SIGNATURE PAGE
TO
MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)

COUNTY:

COUNTY OF SAN BERNARDINO


Paul Biane, Chairman
Board of Supervisors

Dated: AUG 26 2008

CITY:

CITY OF FONTANA, a California legal law
city and municipal corporation

By: 
Kenneth R. Hunt
City Manager

Dated: 8/28/08

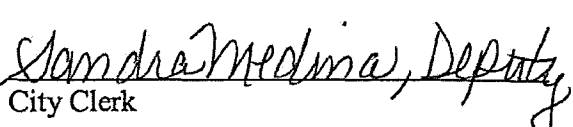
SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

DENA M. SMITH
Clerk of the Board of Supervisors

By: 
Dena M. Smith
Deputy

Dated: AUG 26 2008


ATTEST:


Sandra Medina, Deputy
City Clerk

Dated: 9/2/08

APPROVED AS TO LEGAL FORM:

RUTH E. STRINGER
County Counsel

By: 
Rex A. Hinesley, Chief Assistant

Dated: 8-19-08

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP


City Attorney

Dated: September 2, 2008

EXHIBIT A
TO
MEMORANDUM OF UNDERSTANDING

WESTERN SPHERE AREA MAP
(See following page.)

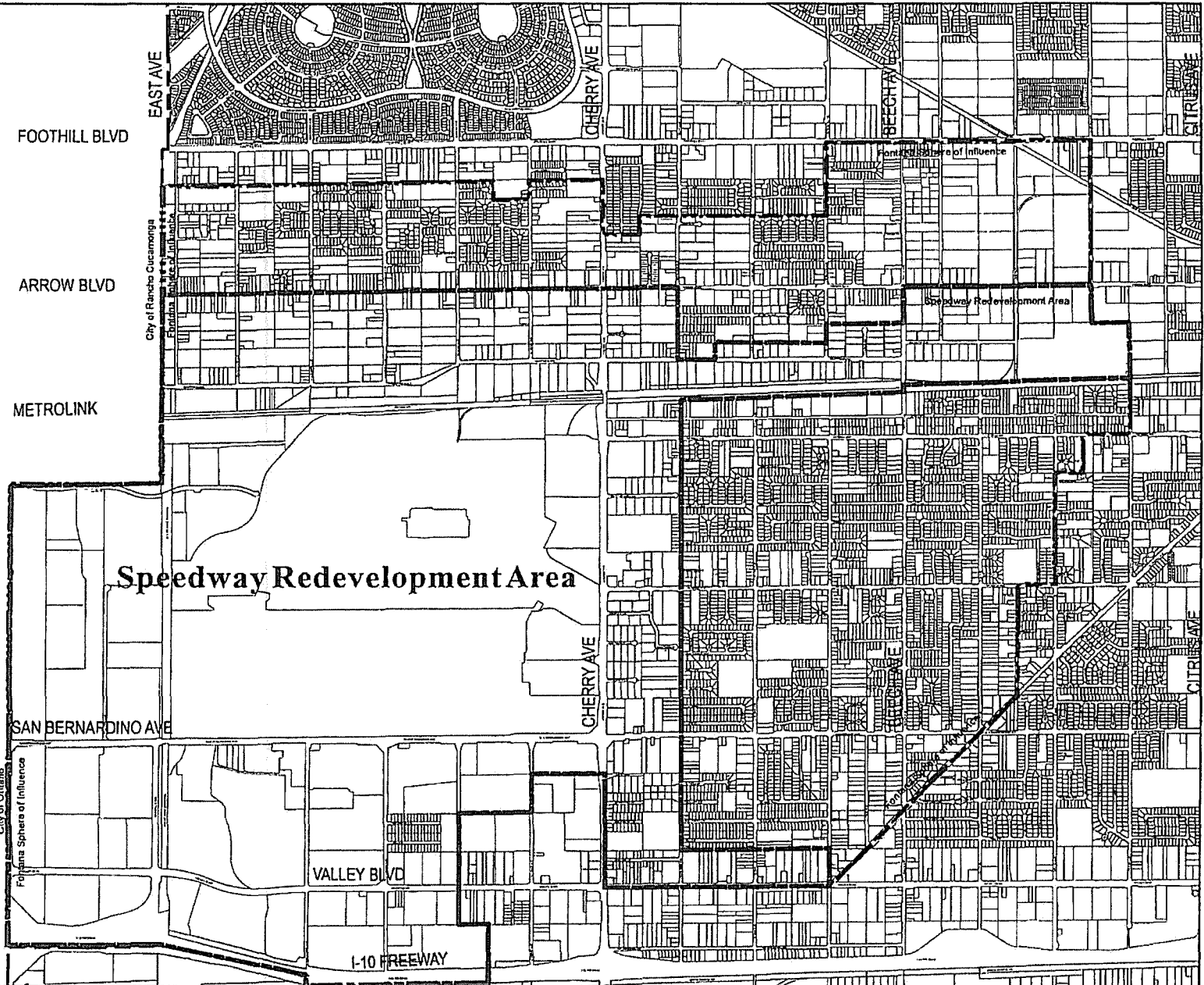
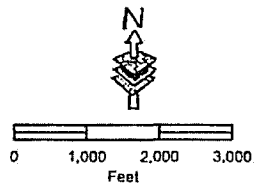
Western Sphere of Influence

CITY OF FONTANA



Legend

- City of Fontana
- County Area
- Speedway RDA



City of Fontana
DSO/Annexation Program
GSanchez, 7/1/08
Western Sphere of Influence

EXHIBIT B
TO
MEMORANDUM OF UNDERSTANDING

ANNEXATION POLICY
(See following pages.)

RESOLUTION NO. 2006-95

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF FONTANA AMENDING THE CITY OF FONTANA'S
POLICY PERTAINING TO ANNEXATION.**

WHEREAS, the City Council of the City of Fontana ("City") has approved a policy pertaining to annexation as noted in Chapter 3 (Land Use Element) of the General Plan;

WHEREAS, the City has determined that in order to promote the City Council's economic and General Plan goals and objectives, amending the City's policy on annexation is an important benefit for the City's economic development;

NOW THEREFORE, BE IT RESOLVED, determined and ordered by the City Council of the City of Fontana as follows:

Section 1. Annexations shall be pursued that promote Community balance, quality development, and improvement of the City's economic base as follows:

Annexations may be initiated by the City Council (adopted resolution) or by property owners or registered voters (written petition);

A Plan for Services shall be prepared for all annexations and submitted to the City Council for review and consideration;

A fiscal impact analysis shall be conducted for all annexation areas;

All City and Local Agency Formation Commission (LAFCO) filing fees for annexation must be paid by the applicant.

Section 2. Irrevocable Agreements to Annex for Sewer Service—Existing Development (Contiguous and Non-Contiguous Areas)

An Irrevocable Agreement to Annex is an agreement between the landowner and the City for only sewer service. This agreement outlines that the City shall provide sewer service outside its corporate limits and the landowner agrees not to oppose a future attempt by the City to annex the area. Upon approval by LAFCO, the agreement shall be recorded with the County Recorder's office. Upon recordation, the agreement shall be considered a covenant on the land.

Irrevocable Agreements to Annex may be utilized when sewer service is extended outside the City's corporate limits to an existing residence or an existing commercial or industrial establishment that is experiencing a failing septic system.

Section 3. Irrevocable Agreements to Annex for Sewer Service—New Development (Non-Contiguous Areas)

Irrevocable Agreements to Annex for sewer service may be utilized for new developments for areas that are not contiguous to the City's limits.

Section 4. Preannexation Agreements—New Development (Contiguous and Non-Contiguous Areas)

A Preannexation Agreement may be utilized for new developments for areas that are contiguous or not contiguous to the City's limits. An applicant may wish to consider a preannexation agreement to outline land use designations, development standards, conditional use permits approved by the County of San Bernardino, donation of right-of-way easements, sewer service, and other requirements as necessary.

Annexation may be deferred by use of a Preannexation Agreement if the following conditions are met:

The proposed development is of a quality and design that is comparable to existing City standards.

The development mitigation fees would be paid by the developer as required by all developments in the City. The City would agree to set these mitigation fees aside for use in partnership with County Redevelopment for the creation of the necessary infrastructure to serve the growth needs of the area.

The proposed development would agree to enter into a Preannexation Agreement with the City that would include an Irrevocable Agreement to Annex to the City if and when the area is brought forward for annexation.

The County would agree to use recurring revenues generated by development in the area to support community service needs in the unincorporated area of Fontana.

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 13th day of June, 2006.

READ AND APPROVED AS TO LEGAL FORM:

/s/ Clark Alsop
City Attorney

I, Beatrice Watson, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting thereof, held on the 13th day of June, 2006 by the following vote to wit:

AYES: Council Members Roberts, Rutherford, Scialdone, Warren

NOES:

ABSENT: Mayor Nuaimi

/s/ Beatrice Watson
City Clerk of the City of Fontana

/s/ Mark N. Nuaimi
Mayor of the City of Fontana

ATTEST:

/s/ Beatrice Watson
City Clerk

**“EXHIBIT D”
TO
PREANNEXATION AGREEMENT
CITY’S ANNEXATION POLICY
[Attached Behind This Page]**

EXHIBIT D

RESOLUTION NO. 2008-142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA AMENDING THE CITY OF FONTANA'S POLICY PERTAINING TO ANNEXATION.

WHEREAS, the City Council of the City of Fontana ("City") has approved a policy pertaining to annexation as noted in Chapter 3 (Land Use Element) of the General Plan;

WHEREAS, the City has determined that in order to promote the City Council's economic and General Plan goals and objectives, amending the City's policy on annexation is an important benefit for the City's economic development;

NOW THEREFORE, BE IT RESOLVED, determined and ordered by the City Council of the City of Fontana as follows:

Section 1. Annexations shall be pursued that promote Community balance, quality development, and improvement of the City's economic base as follows:

Annexations may be initiated by the City Council (adopted resolution) or by property owners or registered voters (written petition);

A Plan for Services shall be prepared for all annexations and submitted to the City Council for review and consideration;

A fiscal impact analysis shall be conducted for all annexation areas;

All City and Local Agency Formation Commission (LAFCO) filing fees for annexation must be paid by the applicant.

Section 2. Irrevocable Agreements to Annex for Sewer Service—Existing Development (Contiguous and Non-Contiguous Areas)

An Irrevocable Agreement to Annex is an agreement between the landowner and the City for only sewer service. This agreement outlines that the City shall provide sewer service outside its corporate limits and the landowner agrees not to oppose a future attempt by the City to annex the area. Upon approval by LAFCO, the agreement shall be recorded with the County Recorder's office. Upon recordation, the agreement shall be considered a covenant on the land.

Irrevocable Agreements to Annex may be utilized when sewer service is extended outside the City's corporate limits to an existing residence or an existing commercial or industrial establishment that is experiencing a failing septic system.

Section 3. Irrevocable Agreements to Annex for Sewer Service—New Development (Non-Contiguous Areas)

Irrevocable Agreements to Annex for sewer service may be utilized for new developments for areas that are not contiguous to the City's limits.

Irrevocable Agreements to Annex in the Western Sphere of Influence will be subject to the terms of the adopted Memorandum of Understanding (MOU) between the City and County of San Bernardino (copy attached).

Section 4. Preannexation Agreements—New Development (Contiguous and Non-Contiguous Areas)

A Preannexation Agreement may be utilized for new developments for areas that are contiguous or not contiguous to the City's limits. An applicant may wish to consider a preannexation agreement to outline land use designations, development standards, conditional use permits approved by the County of San Bernardino, donation of right-of-way easements, sewer service, and other requirements as necessary.

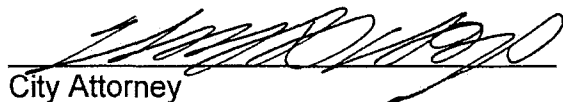
Annexation may be deferred by use of a Preannexation Agreement if the following condition is met:

Preannexation Agreements in the Western Sphere of Influence will be subject to the terms of the adopted MOU between the City and County (copy attached).

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 9th day of December, 2008.

READ AND APPROVED AS TO LEGAL FORM:

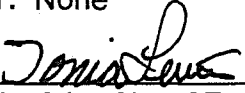

City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting thereof, held on the 9th day of December, 2008 by the following vote to wit:

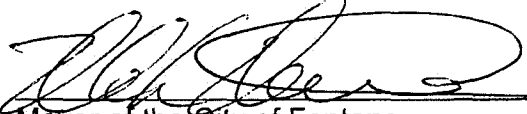
AYES: Mayor Nuaimi, Council Members Roberts, Rutherford, Scialdone, Warren

NOES: None

ABSENT: None



City Clerk of the City of Fontana



Mayor of the City of Fontana

ATTEST:



City Clerk of the City of Fontana

**“EXHIBIT E”
TO
PREANNEXATION AGREEMENT
CONDITIONS OF APPROVAL
[Attached Behind This Page]**



EXHIBIT E

Conditions of Approval

Description:

CF - TENTATIVE TRACT MAP - PROPOSED 112 UNIT MULTI-FAMILY RESIDENTIAL

Informational

Land Use Services – Planning

1. Subdivisions - Development Impact Fees: Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.
2. Revisions: Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.
3. Subdivisions- Condition Compliance: Condition compliance confirmation for purposes of Final Map recordation will be coordinated by the County Surveyor.
4. Subdivisions - Project Approval Description (TT/TPM): Tentative Tract Map No. 20016 is a 112-multiple family condominium development on 6.7 acres and may be recorded in compliance with the conditions of approval, the approved stamped tentative map, and the required Composite Development Plan. The Project is located on the west side of Banana Avenue approximately 600 feet south of Foothill Blvd., in the Fontana area of San Bernardino County
5. Subdivisions - 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. 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.
6. Subdivisions - Project Account (TT/TPM): The Project account number is PROJ-2020-00230. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works and County Counsel). Upon notice, the developer shall deposit additional funds to maintain or return the account to a positive balance. The developer is responsible for all expenses charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$500.00 shall be in the project account at the time of project approval and the initiation of the Condition Compliance Review. Sufficient funds shall remain in the account to cover all estimated charges that may be made during each compliance review. All fees required for processing shall be paid in full prior to recordation.



Conditions of Approval

7. Subdivisions - 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 may include: FEDERAL: STATE: COUNTY: LOCAL:
8. Subdivisions - State and Federal Endangered Species Act: This approval does not relieve the property owner or project proponent of responsibility to comply with State and Federal Endangered Species Acts. If any sensitive species are identified during grading, building or land disturbing activity, all on-site activities must cease, the California Department of Fish and Wildlife (CDFW) and/or U.S. Fish and Wildlife Service (USFWS) (as applicable) must be contacted to discuss specific mitigation measures and to obtain the necessary incidental take permits. Proof of an incidental take permit from the appropriate agency, or letter stating a permit is not required, must be furnished to the Planning Division. All mitigation measures must be agreed upon and implemented prior to construction activity resuming.

On-Going

Land Use Services - Planning

9. Extension of Time: Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)
10. Underground Utilities: No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.

Prior to Recordation

Land Use Services - Building and Safety

11. Geotechnical (Soil) Report Required: A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to recordation of the final map.
12. Demolition Permit Required Before Recordation: Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.

Land Use Services - Land Development

13. Road Dedication/Improvements: The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. Banana Avenue (Collector Street – 66'): •Road Dedication. A 3-foot grant of easement is required to provide a half-width right-of-way of 33 feet. •Street Improvements. Design curb and gutter with match up paving 22 feet from centerline. •Sidewalks. Design sidewalks per County Standard 109 Type "C". •Driveway Approach. Design driveway approach per 2010 Caltrans Driveway Standard Detail A87A (W=12' min – 26' max) and located per San Bernardino County Standard 130.
14. Slope Easements: Slope rights shall be dedicated, where necessary.



Conditions of Approval

15. Improvement Securities: Any required public road, drainage, WQMP, and/or utility improvements for subdivisions shall be bonded in accordance with County Development code unless constructed and approved prior to recordation. All necessary fees shall be provided in accordance with the latest fee schedule.
16. Road Standards and Design: All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. 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 General Plan, Circulation Element.

Public Works Department – Surveyor's Office

17. Subdivision Map Act Compliance: A Tentative and Final Map is required in compliance with the Subdivision Map Act and the San Bernardino County Development Code.
18. 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.
19. Easements of Record: Easements of record not shown on the tentative map shall be relinquished or relocated. Lots affected by proposed easements or easement of record, which cannot be relinquished or relocated, shall be redesigned.
20. Final Map Review: Review of the Final Map by our office is based on actual cost, and requires an initial \$8,000.00 deposit. Prior to recordation of the map all fees due to our office for the project shall be paid in full.
21. Title Report: A current Title Report prepared for subdivision purposes is required at the time the map is submitted to our office for review.
22. Final Monumentation: Final Monumentation, not set prior to recordation, shall be bonded for with a cash deposit to the County Surveyor's Office as established per the current County Fee Ordinance on file with the Clerk of the Board.

END OF CONDITIONS



Conditions of Approval

Record: PROJ-2020-00230

System Date: 05/10/2022

Record Type: Project Application

Primary APN: 0230031210000

Record Status: In Review

Application Name: CONCURRENT FILING -
CONDITIONAL USE PERMIT AND
TENTATIVE TRACT MAP

Description:

CF - CONDITIONAL USE PERMIT - PROPOSED 112 UNIT MULTI-FAMILY
RESIDENTIAL

Informational

Land Use Services – Planning

1. Project Approval Description (CUP/MUP): This Conditional Use Permit is conditionally approved to proposing a Conditional Use Permit, in conjunction with a Tentative Tract Map, to construct 112 condominium units in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the San Bernardino County Fire Code (SBCFC), the following Conditions of Approval, the approved site plan, and all other required and approved reports and displays (e.g. elevations). The developer shall provide a copy of the approved conditions and the approved site plan to every current and future project tenant, lessee, and property owner to facilitate compliance with these Conditions of Approval and continuous use requirements for the Project.
2. Project Location: The Project site is located on the west side of Banana Avenue approximately 600 feet south of Foothill Blvd., in the Fontana area of San Bernardino County, adjacent to the Fontana City Limits.
3. Clear Sight Triangle: Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic.
4. Continuous Effect/Revocation: All of the conditions of this project approval are continuously in effect throughout the operative life of the project for all approved structures and approved land uses/activities. Failure of the property owner or developer to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the approved land use, provided adequate notice, time and opportunity is provided to the property owner, developer or other interested party to correct the non-complying situation.
5. Revisions: Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.



Conditions of Approval

Record: PROJ-2020-00230

System Date: 05/10/2022

County Fire - Community Safety

6. Permit Expiration: Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred with 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.
7. Additional Requirements: In addition to the Fire requirements stated herein, other onsite and offsite 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.
8. Access – 150+ feet : Roadways exceeding one hundred fifty (150) feet in length shall be approved by the Fire Department. These shall be extended to within one hundred fifty (150) feet of and shall give reasonable access to all portions of the exterior walls of the first story of any building.
9. 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 California Fire Code requirements and all applicable status, codes, ordinances and standards of the Fire Department.
10. Private Road Maintenance : The applicant shall construct and maintain all such roads. In addition, the applicant shall provide to the Fire Department a signed maintenance agreement as detailed in the General Requirement conditions for ongoing road maintenance and snow removal (where applicable). This shall include all primary and secondary access routes that are not otherwise maintained by a public agency.
11. Sprinkler Installation Letter: The applicant shall submit a letter to the Fire Department agreeing and committing to installation of a fire protection system prior to the building inspection for drywall and insulation.
12. Access – 30% slope : Where the natural grade between the access road and building is in excess of thirty percent (30%), an access road shall be provided within one hundred and fifty (150) feet of all buildings. Where such access cannot be provided, a fire protection system shall be installed. Plans shall be submitted to and approved by the Fire Department.

Land Use Services - Land Development

13. 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.
14. Erosion Control Installation: Erosion control devices must be installed and maintained at all perimeter openings and slopes throughout the construction of the project. No sediment is to leave the job site.



Conditions of Approval

15. Additional Drainage Requirements: 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.
16. BMP Enforcement: In the event the property owner/"developer" (including any successors or assigns) fails to accomplish the necessary BMP maintenance within five (5) days of being given written notice by County Public Works, then the County shall cause any required maintenance to be done. The entire cost and expense of the required maintenance shall be charged to the property owner and/or "developer", including administrative costs, attorney's fees and interest thereon at the rate authorized by the County Code from the date of the original notice to the date the expense is paid in full.
17. Continuous BMP Maintenance: The property owner/"developer" is required to provide periodic and continuous maintenance of all Best Management Practices (BMP) devices/facilities listed in the County approved Water Quality Management Plan (WQMP) for the project. Refer to approved WQMP maintenance section.

On-going

Land Use Services - Planning

18. Construction Hours: Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday in accordance with the County of San Bernardino Development Code standards. No construction activities are permitted outside of these hours or on Sundays and Federal holidays.
19. Cultural Resources: During grading or excavation operations, should any potential paleontological or archaeological artifacts be unearthed or otherwise discovered, the San Bernardino County Museum shall be notified and the uncovered items shall be preserved and curated, as required. For information, contact the County Museum, Community and Cultural Section, telephone (909) 798-8570.
20. Extension of Time: Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)
21. Lighting : Lighting shall comply with Table 83-7 "Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region" of the County's Development Code (i.e. "Dark Sky" requirements). All lighting shall be limited to that necessary for maintenance activities and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign, an alternating message no more than once every five seconds.
22. Underground Utilities : No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.
23. Back Out Into Public Roadways: Project vehicles shall not back out into the public roadway.



Conditions of Approval

24. On-going Condition: TCR-1: The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in CR-1, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.
25. On-going Condition: TCR-2: Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.
26. Additional Permits: The developer shall ascertain compliance with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies that may apply for the development and operation of the approved land use. These may include but are not limited to: a. FEDERAL: b. STATE: c. COUNTY: d. LOCAL:
27. GHG - Operational Standards: The developer shall implement the following as greenhouse gas (GHG) mitigation during the operation of the approved project: a. Waste Stream Reduction. The "developer" shall provide to all tenants and project employees County-approved informational materials about methods and need to reduce the solid waste stream and listing available recycling services. b. Vehicle Trip Reduction. The "developer" shall provide to all tenants and project employees County-approved informational materials about the need to reduce vehicle trips and the program elements this project is implementing. Such elements may include: participation in established ride-sharing programs, creating a new ride-share employee vanpool, designating preferred parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles with benches in waiting areas, and/or providing a web site or message board for coordinating rides. c. Provide Educational Materials. The developer shall provide to all tenants and staff education materials and other publicity about reducing waste and available recycling services. The education and publicity materials/program shall be submitted to County Planning for review and approval. d. Landscape Equipment. The developer shall require in the landscape maintenance contract and/or in onsite procedures that a minimum of 20% of the landscape maintenance equipment shall be electric-powered.
28. Construction Noise: The following measures shall be adhered to during the construction phase of the project: - All construction equipment shall be muffled in accordance with manufacturer's specifications. - All construction staging shall be performed as far as possible from occupied dwellings. The location of staging areas shall be subject to review and approval by the County prior to the issuance of grading and/or building permits. - All stationary construction equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors (e.g. residences and schools) nearest the project site.
29. Project Account: The Project account number is PROJ-2020-00230. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works, and County Counsel). Upon notice, the "developer" shall deposit additional funds to maintain or return the account to a positive balance. The "developer" is responsible for all expense charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$2,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.



Conditions of Approval

30. Continuous Maintenance : The Project property owner shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The property owner shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to: a) Annual maintenance and repair: The developer shall conduct inspections for any structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety. b) Graffiti and debris: The developer shall remove graffiti and debris immediately through weekly maintenance. c) Landscaping: The developer shall maintain landscaping in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated it shall be done in a manner designed to conserve water, minimizing aerial spraying. d) Dust control: The developer shall maintain dust control measures on any undeveloped areas where landscaping has not been provided. e) Erosion control: The developer shall maintain erosion control measures to reduce water runoff, siltation, and promote slope stability. f) External Storage: The developer shall maintain external storage, loading, recycling and trash storage areas in a neat and orderly manner, and fully screened from public view. Outside storage shall not exceed the height of the screening walls. g) Metal Storage Containers: The developer shall NOT place metal storage containers in loading areas or other areas unless specifically approved by this or subsequent land use approvals. h) Screening: The developer shall maintain screening that is visually attractive. All trash areas, loading areas, mechanical equipment (including roof top) shall be screened from public view. i) Signage: The developer shall maintain all on-site signs, including posted area signs (e.g. "No Trespassing") in a clean readable condition at all times. The developer shall remove all graffiti and repair vandalism on a regular basis. Signs on the site shall be of the size and general location as shown on the approved site plan or subsequently a County-approved sign plan. j) Lighting: The developer shall maintain any lighting so that they operate properly for safety purposes and do not project onto adjoining properties or roadways. Lighting shall adhere to applicable glare and night light rules. k) Parking and on-site circulation: The developer shall maintain all parking and on-site circulation requirements, including surfaces, all markings and traffic/directional signs in an un-faded condition as identified on the approved site plan. Any modification to parking and access layout requires the Planning Division review and approval. The markings and signs shall be clearly defined, un-faded and legible; these include parking spaces, disabled space and access path of travel, directional designations and signs, stop signs, pedestrian crossing, speed humps and "No Parking", "Carpool", and "Fire Lane" designations. l) Fire Lanes: The developer shall clearly define and maintain in good condition at all times all markings required by the Fire Department, including "No Parking" designations and "Fire Lane" designations.
31. Expiration: This project permit approval shall expire and become void if it is not "exercised" within 36 months of the effective date of this approval, unless an extension of time is approved. The permit is deemed "exercised" when either: (a.) The permittee has commenced actual construction or alteration under a validly issued building permit, or (b.) The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060) (c.) Occupancy of approved land use, occupancy of completed structures and operation of the approved and exercised land use remains valid continuously for the life of the project and the approval runs with the land, unless one of the following occurs: - Construction permits for all or part of the project are not issued or the construction permits expire before the structure is completed and the final inspection is approved. - The land use is determined by the County to be abandoned or non- conforming. - The land use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination. PLEASE NOTE: This will be the ONLY notice given of this approval's expiration date. The developer is responsible to initiate any Extension of Time application.

Public Health– Environmental Health Services

32. Refuse Storage and Disposal: All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least 1 time per week, or as often as necessary to minimize public health nuisances. Refuse containing garbage shall be removed from the



Conditions of Approval

premises at least 2 times per week, or as often if necessary to minimize public health nuisances, by a permitted hauler to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.0830 et. seq.

33. Noise Levels: Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080.

Land Use Services – Land Development

34. WQMP Inspection Fee: The developer shall provide a \$3,600 deposit to Land Development Division for inspection of the approved WQMP. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
35. WQMP: A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A \$2,650 deposit for WQMP review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule. The report shall adhere to the current requirements established by the Santa Ana/Mojave Watershed Region. Copies of the WQMP guidance and template can be found at: (<http://cms.sbcounty.gov/dpw/Land/WQMPTemplatesandForms.aspx>).
36. On-site Flows: On-site flows need to be directed to the nearest County road or drainage facilities unless a drainage acceptance letter is secured from the adjacent property owners and provided to Land Development.
37. Drainage Improvements: A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a safety manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$550 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
38. Road Dedication/Improvements: The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. Banana Avenue (Collector Street – 66'):
- Road Dedication. A 3-foot grant of easement is required to provide a half-width right-of-way of 33 feet.
 - Street Improvements. Design curb and gutter with match up paving 22 feet from centerline.
 - Sidewalks. Design sidewalks per County Standard 109 Type "C".
 - Driveway Approach. Design driveway approach per 2010 Caltrans Driveway Standard Detail A87A (W=12' min – 26' max) and located per San Bernardino County Standard 130.
39. Slope Easements: Slope rights shall be dedicated, where necessary.
40. 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.
41. Construction Permits: Prior to installation of road and drainage improvements, a construction permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.
42. Maintenance Bond: Once all required public road, drainage, WQMP, and/or 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.



Conditions of Approval

43. Road Standards and Design: All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. 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 General Plan, Circulation Element.
44. 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.
45. 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.
46. Street Type Entrance: Street type entrance(s) with curb returns shall be constructed at the entrance(s) to the development.
47. Project Specific Conditions: Road Improvements. All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Department of Public Works. Completion of road and drainage improvements does not imply acceptance for maintenance by the County.
48. Project Specific Conditions: 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 Department of Public Works.

Prior to Land Disturbance

Land Use Services - Building and Safety

49. Wall Plans: Submit plans and obtain separate building permits for any required retaining walls.
50. Geotechnical (Soil) Report Required Before Grading: A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits or land disturbance.
51. Demolition Permit Required Before Grading: Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.

Land Use Services - Land Development

52. Grading Plans: Grading and Erosion control plans shall be submitted for review and approval obtained, prior to construction. All Drainage and WQMP improvements shall be shown on the Grading plans according to the approved Drainage study and WQMP reports. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.
53. Regional Board Permit: Construction projects involving one or more acres must be accompanied by Regional Board permit WDID #. Construction activity includes clearing, grading, or excavation that results in the disturbance of at least one (1) acre of land total.
54. NPDES Permit: An NPDES permit - Notice of Intent (NOI) - is required on all grading of one (1) acre or more prior to issuance of a grading/construction permit. Contact your Regional Water Quality Control Board for specifics. www.swrcb.ca.gov.



Conditions of Approval

55. FEMA Flood Zone: The project is located within Flood Zone X-Shaded and X-Unshaded according to FEMA Panel Number 06071C8651H dated 8/28/2008 and FEMA Panel Number 06071C8635J dated 9/26/2016. Flood Zone X- Shaded will require the lowest floor of structure to be elevated 1 foot above highest adjacent ground in compliance with FEMA/SBC regulations. No elevation requirements for Flood Zone X-Unshaded. The requirements may change based on the most current Flood Map prior to issuance of grading permit.
56. Drainage Improvements: A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a safety manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$750 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
57. WQMP Inspection Fee: The developer shall provide a \$3,600 deposit to Land Development Division for inspection of the approved WQMP. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
58. WQMP: A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A \$2,650 deposit for WQMP review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule. The report shall adhere to the current requirements established by the Santa Ana/Mojave Watershed Region. Copies of the WQMP guidance and template can be found at: (<http://cms.sbcounty.gov/dpw/Land/WQMPTemplatesandForms.aspx>)
59. San Sevaine Fee: The project site is located within the San Sevaine Drainage Fee area and is subject to a fee of \$4,405 per net developed acre that is to be paid prior to issuance of any grading or building permit. (SBC Ord, No. 3358). Total net developed acreage is 2.63 acres and the fee shall be \$11,585.15.

Public Works – Surveyor's Office

60. Corner Records Required Before Grading: Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances: a. Monuments set to mark property lines or corners; b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel; c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.
61. Monument Disturbed by Grading: If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.

Land Use Services – Planning

62. Grading/Land Disturbance Condition: BIO-1: Construction activities, including vegetation removal, will be conducted outside the general bird nesting season (February 1 through August 31) to avoid impacts to nesting birds. If construction activities cannot be conducted outside the bird nesting season, a preconstruction nesting bird survey by a qualified biologist is required no more than three days prior to any construction activities. Should nesting birds be found on-site, an exclusionary buffer will be established by the qualified biologist. The buffer will be clearly marked in the field by construction personnel under guidance of the qualified biologist. No construction activities will be allowed within this zone until the qualified biologist determines that the young have fledged or the nest is no longer active. A copy of the biologist's report shall be filed with the County Planning Division upon completion.



Conditions of Approval

63. Grading/Land Disturbance Condition: CUL-1: In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed within TCR-1, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.
64. Grading/Land Disturbance Condition: CUL-2: If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.
65. Grading/Land Disturbance Condition: CUL-3: If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.
66. Air Quality: Although the Project does not exceed South Coast Air Quality Management District thresholds, the Project proponent is required to comply with all applicable rules and regulations as the South Coast Air Basin is in non-attainment status for ozone and suspended particulates [PM10 and PM2.5 (State)]. To limit dust production, the Project proponent must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures for each fugitive dust source. This would include, but not be limited to, the following Best Available Control Measures. Compliance with Rules 402 and 403 are mandatory requirements and thus not considered mitigation measures: a. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. 1. The Project proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading. Portions of the site that are actively being graded shall be watered to ensure that a crust is formed on the ground surface, and shall be watered at the end of each workday. 2. The Project proponent shall ensure that all disturbed areas are treated to prevent erosion. 3. The Project proponent shall ensure that all grading activities are suspended when winds exceed 25 miles per hour. b. Exhaust emissions from vehicles and equipment and fugitive dust generated by equipment traveling over exposed surfaces, will increase NOX and PM10 levels in the area. Although the Project will not exceed Mojave Desert Air Quality Management District thresholds during operations, the Project proponent will be required to implement the following requirements: 1. All equipment used for grading and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel. 2. The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site haul trucks in order to minimize exhaust emissions from truck idling.
67. Diesel Regulations: The operator shall comply with all existing and future California Air Resources Board and South Coast Air Quality Management District regulations related to diesel-fueled trucks, which among others may include: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment. South Coast Air Quality Management District rules for diesel emissions from equipment and trucks are embedded in the compliance for all diesel fueled engines, trucks, and equipment with the statewide California Air Resources Board Diesel Reduction Plan. These measures will be implemented by the California Air Resources Board in phases with new rules imposed on existing and new diesel-fueled engines.



Conditions of Approval

68. **GHG - Construction Standards:** The developer shall submit for review and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce GHG emissions and submitting documentation of compliance. The developer/construction contractors shall do the following: a) Implement the approved Coating Restriction Plans. b) Select construction equipment based on low GHG emissions factors and high-energy efficiency. All diesel/gasoline-powered construction equipment shall be replaced, where possible, with equivalent electric or CNG equipment. c) Grading contractor shall provide and implement the following when possible: - training operators to use equipment more efficiently. - identifying the proper size equipment for a task can also provide fuel savings and associated reductions in GHG emissions. - replacing older, less fuel-efficient equipment with newer models. - use GPS for grading to maximize efficiency. d) Grading plans shall include the following statements: - "All construction equipment engines shall be properly tuned and maintained in accordance with the manufacturers specifications prior to arriving on site and throughout construction duration." - "All construction equipment (including electric generators) shall be shut off by work crews when not in use and shall not idle for more than 5 minutes." e) Schedule construction traffic ingress/egress to not interfere with peak-hour traffic and to minimize traffic obstructions. Queuing of trucks on and off site shall be firmly discouraged and not scheduled. A flag person shall be retained to maintain efficient traffic flow and safety adjacent to existing roadways. f) Recycle and reuse construction and demolition waste (e.g. soil, vegetation, concrete, lumber, metal, and cardboard) per County Solid Waste procedures. g) The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew and educate all construction workers about the required waste reduction and the availability of recycling services.

Public Health– Environmental Health Services

69. **Vector Control Requirement:** The project area has a high probability of containing vectors. A vector survey shall be conducted to determine the need for any required control programs. A vector clearance application shall be submitted to the appropriate Mosquito & Vector Control Program. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

Prior to Issuance

County Fire - Community Safety

70. **Building Plans:** Building plans shall be submitted to the Fire Department for review and approval.
71. **Combustible Protection:** Prior to combustibles being placed on the project site an approved all-weather fire apparatus access surface and operable fire hydrants with acceptable fire flow shall be installed. The topcoat of asphalt does not have to be installed until final inspection and occupancy.
72. **Fire Fee:** The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.
73. **Fire Flow Test:** Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied. This requirement shall be completed prior to combination inspection by Building and Safety.



Conditions of Approval

74. Access: The development shall have a minimum of 3 points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. a. Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty-six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions. b. Multi-Story Road Access Width. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height.
75. Haz-Mat Approval: The applicant shall contact the San Bernardino County Fire Department/Hazardous Materials Division (909) 386-8401 for review and approval of building plans, where the planned use of such buildings will or may use hazardous materials or generate hazardous waste materials.
76. Hydrant: Your project meets fire flow however the fire hydrant shown in your submittal is in excess of the required spacing and/or a substandard fire hydrant. You will be required to install an approved fire hydrant within 300 feet (as measured along vehicular travel- ways) from the driveway on the address side of the proposed structure. This requirement shall be completed prior to combination inspection by Building and Safety.
77. Primary Access Paved: Prior to building permits being issued to any new structure, the primary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions, including width, vertical clearance and turnouts.
78. Secondary Access Paved: Prior to building permits being issued to any new structure, the secondary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions including width, vertical clearance and turnouts.
79. Solar: Solar / Photovoltaic System Plans. Plans shall be submitted online through EZOP to the Fire Department for review and approval. Plans must be submitted and approved prior to Conditional Compliance Release of Building.
80. Surface: Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Road surface shall meet the approval of the Fire Chief prior to installation. All roads shall be designed to 85% compaction and/or paving and hold the weight of Fire Apparatus at a minimum of 80K pounds.
81. Water System: Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using California Fire Code. The Fire Flow for this project shall be: 1500 GPM for a two hour duration at 20 psi residual operating pressure. Fire Flow is based on a 7457 sq. ft. structure.
82. Water System Certification: The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job site.
83. Water System Commercial: A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than three hundred (300) feet from any portion of a structure.

Land Use Services - Building and Safety

84. Temporary Use Permit: A Temporary Structures (TS) permit for non-residential structures for use as office, retail, meeting, assembly, wholesale, manufacturing, and/ or storage space will be required. A Temporary Use Permit (PTUP) for the proposed structure by the Planning Division must be approved prior to the TS Permit approval. A TS permit is renewed annually and is only valid for a maximum of five (5) years.



Conditions of Approval

85. Construction Plans: Any building, sign, or structure to be added to, altered (including change of occupancy/use), constructed, or located on site, will require professionally prepared plans based on the most current adopted County and California Building Codes, submitted for review and approval by the Building and Safety Division.

Land Use Services - Land Development

86. Construction Permits: Prior to installation of road and drainage improvements, a construction permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.
87. Regional Transportation Fee: This project falls within the Regional Transportation Development Mitigation Fee Plan Area for the Fontana Subarea. The Regional Transportation Development Mitigation Plan Fee (Plan Fee) shall be paid by a cashier's check to the Land Use Services Department. The Plan Fee shall be computed in accordance with the Plan Fee Schedule in effect as of the date that the building plans are submitted and the building permit is applied for. The Plan Fee is subject to change periodically. Currently, the fee is \$4,671 per unit for Multi Family Use, which includes the 112 units per the site plan dated May 26, 2021. Therefore, the estimated Regional Transportation Fees for the Project is \$523,152.00. The current Regional Transportation Development Mitigation Plan can be found at the following website: <http://cms.sbcounty.gov/dpw/Transportation/TransportationPlanning.aspx>

Public Works – Surveyor's Office

88. Monument Disturbed by Grading: If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.
89. Corner Records Required Before Grading: Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances:
- a. Monuments set to mark property lines or corners;
 - b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel;
 - c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.

Land Use Services – Planning

90. Signs: All proposed on-site signs shall be shown on a separate plan, including location, scaled and dimensioned elevations of all signs with lettering type, size, and copy. Scaled and dimensioned elevations of buildings that propose signage shall also be shown. The applicant shall submit sign plans to County Planning for all existing and proposed signs on this site. The applicant shall submit for approval any additions or modifications to the previously approved signs. All signs shall comply with SBCC Chapter 83.13, Sign Regulations, SBCC §83.07.040, Glare and Outdoor Lighting Mountain and Desert Regions, and SBCC Chapter 82.19, Open Space Overlay as it relates to Scenic Highways (§82.19.040), in addition to the following minimum standards: a. All signs shall be lit only by steady, stationary shielded light; exposed neon is acceptable. b. All sign lighting shall not exceed 0.5 foot-candle. c. No sign or stationary light source shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety. d. Monument signs shall not exceed four feet above ground elevation and shall be limited to one sign per street frontage.



Conditions of Approval

Public Health– Environmental Health Services

91. Preliminary Acoustical Information: Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the EHS for review and approval. For information and acoustical checklist, contact EHS at (800) 442-2283.
92. Water and Sewer - LAFCO: Water and/or Sewer Service Provider Verification. Please provide verification that the parcel(s) associated with the project is/are within the jurisdiction of the water and/or sewer service provider. If the parcel(s) associated with the project is/are not within the boundaries of the water and/or sewer service provider, submit to EHS verification of Local Agency Formation Commission (LAFCO) approval of either: 1. Annexation of parcels into the jurisdiction of the water and/or sewer service provider; or, 2. Out-of-agency service agreement for service outside a water and/or sewer service provider's boundaries. Such agreement/contract is required to be reviewed and authorized by LAFCO pursuant to the provisions of Government Code Section 56133.
93. Sewer Service Verification Letter: Applicant shall procure a verification letter from the sewer service provider identified. This letter shall state whether or not sewer connection and service shall be made available to the project by the sewer provider. The letter shall reference the Assessor's Parcel Number(s).
94. Sewage Disposal: Method of sewage disposal shall be sewer service provided by City of Fontana or an EHS approved onsite wastewater treatment system (OWTS) that conforms to the Local Agency Management Program (LAMP).
95. Existing Wells: If wells are found on-site, evidence shall be provided that all wells are: (1) properly destroyed, by an approved C57 contractor and under permit from the County OR (2) constructed to EHS standards, properly sealed and certified as inactive OR (3) constructed to EHS standards and meet the quality standards for the proposed use of the water (industrial and/or domestic). Evidence, such as a well certification, shall be submitted to EHS for approval.
96. Water Service Verification Letter: Applicant shall procure a verification letter from the water service provider. This letter shall state whether or not water connection and service shall be made available to the project by the water provider. This letter shall reference the File Index Number and Assessor's Parcel Number(s). For projects with current active water connections, a copy of water bill with project address may suffice.
97. Water Purveyor: Water purveyor shall be Fontana WC or EHS approved.
98. Demolition Inspection Required: All demolition of structures shall have a vector inspection prior to the issuance of any permits pertaining to demolition or destruction of any premises. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

Public Works – Traffic

99. Improvements: The applicant shall design their street improvement plans to include the following:
 - Driveways on Banana Avenue.
 - ✓ The northerly driveway shall be an emergency vehicle access only.
 - ✓ The southerly driveway shall be an exit only. Developer shall install outside the public road right-of-way and maintain, at all times, the appropriate retroreflective signage to clearly communicate and enforce this restriction.



Conditions of Approval

Prior to Final Inspection

County Fire - Community Safety

100. Combustible Vegetation: Combustible vegetation shall be removed as follows: a. Where the average slope of the site is less than 15% - Combustible vegetation shall be removed a minimum distance of thirty (30) feet from all structures or to the property line, whichever is less. b. Where the average slope of the site is 15% or greater - Combustible vegetation shall be removed a minimum one hundred (100) feet from all structures or to the property line, whichever is less.
101. Commercial Addressing: Commercial and industrial developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum six (6) inches in height and with a three quarter (3/4) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances.
102. Fire Alarm - Manual: A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.
103. Fire Extinguishers: Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.
104. Fire Lanes: The applicant shall submit a fire lane plan to the Fire Department for review and approval. Fire lane curbs shall be painted red. The "No Parking, Fire Lane" signs shall be installed on public/private roads in accordance with the approved plan.
105. Fire Sprinkler-NFPA #13: An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit plans to the with hydraulic calculation and manufacturers specification sheets to the Fire Department for approval and approval. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.
106. Hydrant Marking: Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road.
107. Illuminated Site Diagram: The applicant shall submit for review and approval a site diagram plan to the Fire Department. The applicant shall install at each entrance to a multi-family complex an illuminated diagrammatic representation of the complex, which shows the location of each unit and each fire hydrant.
108. Key Box: An approved Fire Department key box is required. In commercial, industrial and multi-family complexes, all swing gates shall have an approved fire department Knox Lock.
109. Override Switch: Where an automatic electric security gate is used, an approved Fire Department override switch (Knox ®) is required.



Conditions of Approval

110. Roof Certification: A letter from a licensed structural (or truss) engineer shall be submitted with an original wet stamp at time of fire sprinkler plan review, verifying the roof is capable of accepting the point loads imposed on the building by the fire sprinkler system design.
111. Street Sign: This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.

Prior to Occupancy

County Fire - Community Safety

112. Inspection by the Fire Department: Permission to occupy or use the building (certificate of Occupancy or shell release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

Land Use Services - Land Development

113. WQMP Improvements: All required WQMP improvements shall be completed by the applicant, inspected and approved by County Public Works. An electronic file of the final and approved WQMP shall be submitted to Land Development Division, Drainage Section.
114. Drainage Improvements: All required drainage improvements shall be completed by the applicant. The private Registered Civil Engineer (RCE) shall inspect improvements outside the County right-of-way and certify that these improvements have been completed according to the approved plans.
115. Structural Section Testing: Structural Section Testing. A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Department of Public Works, for Banana Avenue only. Structural section for the private roads shall be submitted to Land Development.
116. Road Improvements: Condition of Road Improvements. At the time of occupancy for all structures, the condition of all required on-site and off-site improvements shall be acceptable to County Department of Public Works.
117. Structural Section Testing: A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Public Works.
118. LDD Requirements: Landscape Maintenance. Trees, irrigation systems, and landscaping required to be installed on public right-of-way shall be approved by the County Department of Public Works/Current Planning, maintained by the adjacent property owner or other County-approved entity.
119. Road Improvements: All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Public Works.



Conditions of Approval

Land Use Services – Planning

120. Condition Compliance: Prior to occupancy/use, all conditions shall be completed to the satisfaction of County Planning with appropriate authorizing approvals from each reviewing agency.
121. Fees Paid: Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number PROJ- 2020-00230.
122. Installation of Improvements: All required on-site improvements shall be installed per approved plans.
123. Landscaping/Irrigation: All landscaping, dust control measures, all fences, etc. as delineated on the approved Landscape Plan shall be installed. The developer shall submit the Landscape Certificate of Completion verification as required in SBCC Section 83.10.100. Supplemental verification should include photographs of the site and installed landscaping.
124. Screen Rooftop: All roof top mechanical equipment is to be screened from ground vistas.
125. Shield Lights: Any lights used to illuminate the site shall include appropriate fixture lamp types as listed in SBCC Table 83-7 and be hooded and designed so as to reflect away from adjoining properties and public thoroughfares and in compliance with SBCC Chapter 83.07, "Glare and Outdoor Lighting" (i.e. "Dark Sky Ordinance).
126. GHG - Installation/Implementation Standards: The developer shall submit for review and obtain approval from County Planning of evidence that all applicable GHG performance standards have been installed, implemented properly and that specified performance objectives are being met to the satisfaction of County Planning and County Building and Safety. These installations/procedures include the following: a) Design features and/or equipment that cumulatively increases the overall compliance of the project to exceed Title 24 minimum standards by five percent. b) All interior building lighting shall support the use of fluorescent light bulbs or equivalent energy-efficient lighting. c) Installation of both the identified mandatory and optional design features or equipment that have been constructed and incorporated into the facility/structure.

Public Works - Traffic

127. Roadway Improvements. The applicant shall construct, at 100% cost to the applicant all roadway improvements as shown on their approved street improvement plans.



Conditions of Approval

Record: PROJ-2020-00230

System Date: 06/28/2022

If you would like additional information regarding any of the conditions in this document, please contact the department responsible for applying the condition and be prepared to provide the Record number above for reference. Department contact information has been provided below.

Department/Agency	Office/Division	Phone Number
Land Use Services Dept.	San Bernardino Govt. Center	(909) 387-8311
(All Divisions)	High Desert Govt. Center	(760) 995-8140
Web Site	http://cms.sbcounty.gov/lus/Home.aspx	
County Fire	San Bernardino Govt. Center	(909) 387-8400
(Community Safety)	High Desert Govt. Center	(760) 995-8190
Web Site	https://www.sbcfire.org/	
County Fire	Hazardous Materials	(909) 386-8401
	Flood Control	(909) 387-7995
Dept. of Public Works	Solid Waste Management	(909) 386-8701
	Surveyor	(909) 387-8149
	Traffic	(909) 387-8186
Web Site	http://cms.sbcounty.gov/dpw/Home.aspx	
Dept. of Public Health	Environmental Health Services	(800) 442-2283
Web Site	https://wp.sbcounty.gov/dph/programs/ehs/	
Local Agency Formation Commission (LAFCO)		(909) 388-0480
Web Site	http://www.sbciafco.org/	
Special Districts	Water and Sanitation	(760) 955-9885
	Administration,	
	Park and Recreation,	
	Roads, Streetlights,	(909) 386-8800
	Television Districts, and Other	
External Agencies (Caltrans, U.S. Army, etc.)		See condition text for contact information...

“EXHIBIT F”
TO
PREANNEXATION AGREEMENT
DEVELOPMENT IMPACT FEES

ESTIMATED DEVELOPMENT IMPACT FEES
PER MOU BETWEEN CITY AND COUNTY
(Western Sphere Area)

Impact Fees	Fee Amount	Multiplier	Fee Amount Extended
Fire Facility - Infill Benefit (@ 50% Reduction)			
Multi-Family Low	\$180.00	44	\$7,920.00
Multi-Family High	\$190.00	68	\$12,920.00
Storm Drain Fee - Infill Benefit (@ 50% reduction)			
I-10 North Benefit Area	\$10,479.50	6.7 acres	\$70,212.65
Park Development- Infill Benefit (@ 50% Reduction)			
Multi-Family Low	\$3,239.00	44	\$142,516.00
Multi-Family High	\$3,409.50	68	\$231,846.00
City Sewer Master Connection Fee			
Residential	\$902.00 per du	112 du	\$101,024.00
*IEUA Sewer Expansion Fee Pass Thru**			
Residential	\$7,600.00 per du	112 du	\$851,200.00
City Sewer Connection Permit	\$25.00		\$25.00
Sewer Deposit			
Residential	\$120.84 du [\$32.21 per du x 4/mo]	112 du	\$13,534.08
LAFCO fee**	\$5,725.00		\$5,725.00
TOTAL FEES TO BE COLLECTED:			\$1,436,922.73

*Inland Empire Utility Agency

** Indicates a pass through fee collected for other agencies.

TOM DODSON & ASSOCIATES

Mailing Address: PO Box 2307, San Bernardino, CA 92406-2307

Physical Address: 2150 N. Arrowhead Avenue, San Bernardino, CA 92405

Tel: (909) 882-3612 ♦ *Fax:* (909) 882-7015 ♦ *Email:* tda@tdaenv.com



March 1, 2023

Mr. Samuel Martinez
Local Agency Formation Commission
1170 W 3rd Street, Unit 150
San Bernardino, CA 92415-0490

RECEIVED

MAR 03 2023

LAFCO
San Bernardino County

Dear Sam:

LAFCO SC#495 consists of an application for Extension of Service by the City of Fontana to two parcels located in the City's western Sphere of Influence (Sphere). The specific action before the Local Agency Formation Commission (LAFCO) consists of a request by the City of Fontana (City) to extend sewer collection and wastewater treatment service to a proposed residential condominium development on approximate 6.69 acres consisting of two land parcels located on the west side of Banana Avenue between Foothill Boulevard and Arrow Route. If the Commission approves LAFCO SC#495, the project can move forward with development of 112 residential condominium units and connect to the City's sewer collection system, which is located about 500-600 feet north of the project area in Foothill Boulevard. If the Commission approves LAFCO SC#495, the project site can move forward with development through the County of San Bernardino (County). See attached map.

The County prepared an Initial Study and adopted a Mitigated Negative Declaration (MND) for this project. This document addressed the whole of the project which consisted of Tentative Tract Map No. 20016 and a Conditional Use Permit. The Notice of Determination (NOD) for this action was filed for the Mitigated Negative Declaration (MND) on July 2022. Based on a field review of the project site, the surrounding environment has not changed in a manner that would result in greater environmental impacts from implementing the proposed project.

As indicated, the County prepared an Initial Study which concluded that implementation of the proposed project, would not result in significant adverse impacts to the environment and identified several (5) mitigation measures that must be implemented. None of the measures are the direct responsibility of the Commission. Indirectly, the Commission gets involved because it must approve the extension of service agreement before the facility can be occupied. Therefore, I am recommending that the Commission consider the adopted MND as a CEQA Responsible Agency as the appropriate CEQA environmental determination for LAFCO's decision on LAFCO SC#495.

Thus based on a review of LAFCO SC#495 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 County's MND as adequate documentation in accordance with the Commission's CEQA Responsible Agency status. The CEQA review process was carried out in early 2012, and based on a field review and review of the environmental issues in the County's environmental document, no substantial changes in circumstances have occurred since its adoption that would require additional environmental documentation. Under this situation, I recommend that the Commission take the following steps if it chooses to approve LAFCO SC#495, acting as a CEQA Responsible Agency.

1. Indicate that the Commission staff and environmental consultant have independently reviewed the County's Initial Study and Mitigated Negative Declaration and found them adequate for the extension of service proposal contained in LAFCO SC#495.
2. The Commission needs to indicate that it has considered the Mitigated Negative Declaration and environmental effects, as outlined in the Initial Study, prior to reaching a decision on the project before it, and finds the information substantiating the Mitigated Negative Declaration adequate for approval of the extension of service proposal contained in LAFCO SC#495.
3. The Commission should indicate that it does not intent to adopt alternatives or mitigation measures for this project. The mitigation measures required for this project will remain the responsibility of the County to implement.
4. File a new Notice of Determination with the County Clerk of the Board acting as a CEQA Responsible Agency.

If you have any questions regarding these recommendations, please feel free to give me a call.

Sincerely,

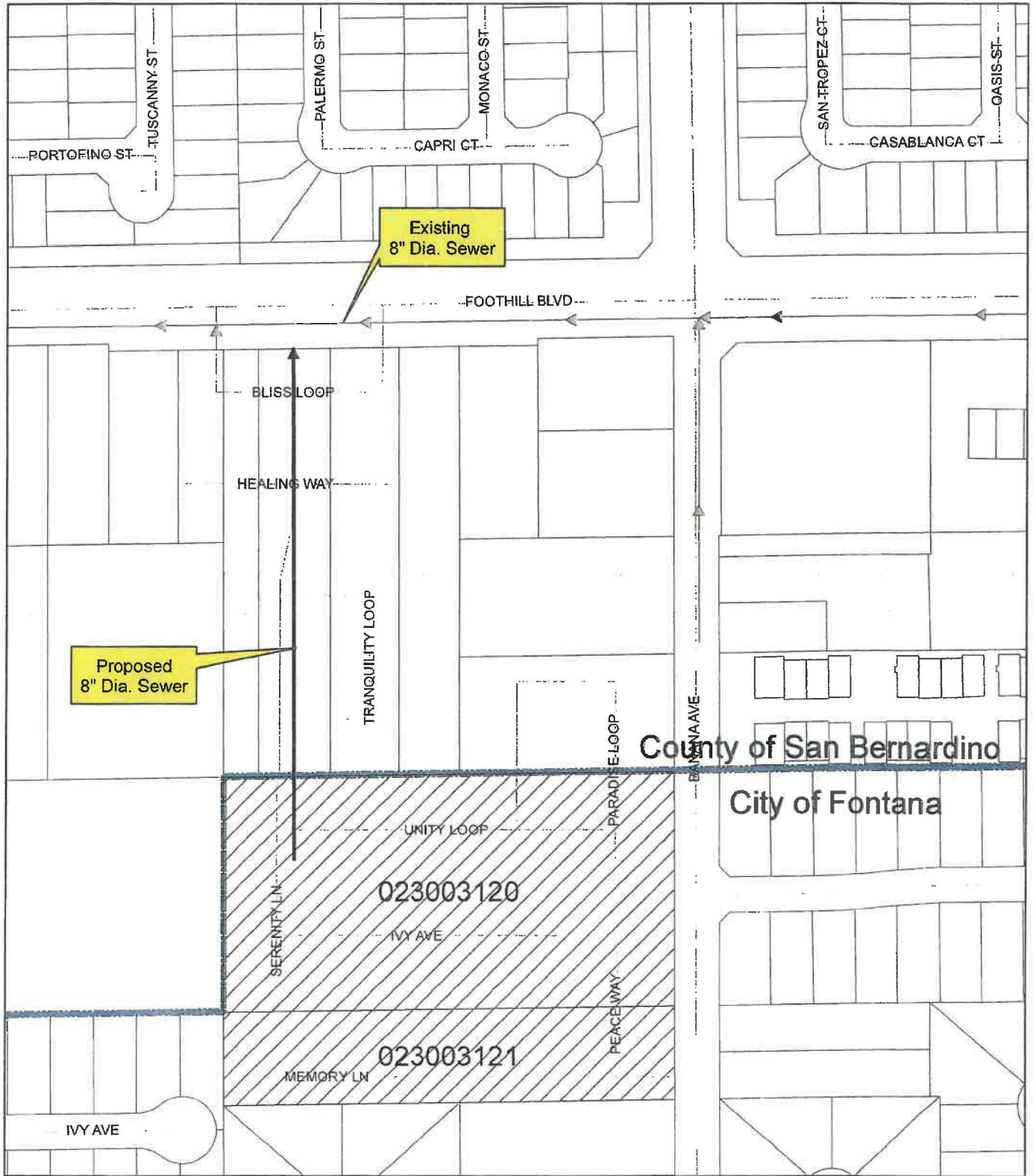
A handwritten signature in black ink that reads "Tom Dodson". The signature is written in a cursive, flowing style.

Tom Dodson

TD/cmc

LAFCO SC#495 Memo

PRE-ANNEXATION VICINITY MAP (SEWER SERVICE)



- EXISTING 8" DIA. SEWER
- PROPOSED 8" DIA. SEWER
- - - FONTANA CITY LIMITS



1 inch = 177 feet

DATE FILED & POSTEDPosted On: 07-13-2022Removed On: 08-25-2022Receipt No: 36-07132022-478**Notice of Determination****To:**

☒ Office of Planning and Research
 U.S. Mail: _____ Street Address: _____
 P.O. Box 3044 1400 Tenth St., Rm 113
 Sacramento, CA 95812-3044 Sacramento, CA 95814

☒ Clerk of the Board
 County of: San Bernardino
 Address: 385 North Arrowhead Avenue, Second Floor
San Bernardino, CA 92415-0130

From:

Public Agency: San Bernardino County, LUSD
 Address: 385 North Arrowhead Ave, First Floor San
Bernardino, CA 92415-0187
 Contact: Jim Morrissey
 Phone: 909-387-4234

Lead Agency (if different from above): _____

Address: _____

Contact: _____

Phone: _____

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2022030393Project Title: Tentative Tract Map No. 20016 and Conditional Use PermitProject Applicant: Mco Development

Project Location (include county): Approximately 600 feet south of Foothill Blvd., on the west side of
Banana Avenue, in the Fontana area of San Bernardino County.

Project Description:

Conditional Use Permit and Tentative Tract Map for a 112-unit multiple family condominium project on two separate parcels and a variance for side yard landscaping. This proposal will connect with several other subdivisions to the north in the City of Fontana. The City is currently processing these applications.

This is to advise that the San Bernardino County has approved the
 above (☒ Lead Agency or ☐ Responsible Agency)

described project on July 7, 2022 and has made the following determinations regarding the
 above (date)
 described project.

1. The project [☐ will ☒ will not] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐ was not] adopted for this project.
5. A statement of Overriding Considerations [☐ was ☒ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final and record of project approval are the Mitigated Negative Declaration are
 available to the General Public at:

385 N. Arrowhead Ave., San Bernardino, CA 92415

Signature (Public Agency): James Morrissey Title: Contract Planner
 Jim Morrissey

Date: 7/7/2022 Date Received for filing at OPR: _____

Authority cited: Sections 21083, Public Resources Code.
 Reference Section 21000-21174, Public Resources Code.

Revised 2011

CLERK OF THE
 BOARD OF SUPERVISORS
 2022 JUL 13 AM 8:31
 COUNTY OF SAN BERNARDINO
 CALIFORNIA

SAN BERNARDINO COUNTY
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
ENVIRONMENTAL CHECKLIST FORM

This form and the descriptive information in the application package constitute the contents of Initial Study pursuant to County Guidelines under Ordinance 3040 and Section 15063 of the State CEQA Guidelines.

PROJECT LABEL:

APNs:	0230-031-20 and 21	USGS Quad:	Fontana
Applicant:	Mco Development	T, R, Section:	T01S, R06W, Section 10
Location	Approximately 600 feet south of Foothill Blvd., on the west side of Banana Avenue, in the Fontana area of San Bernardino County and subdivisions in the City of Fontana abutting the site to the north and extending to Foothill Blvd.	Thomas Bros	
Project No:	PROJ-2020-00230	Community Plan:	Fontana
Rep	Jessica Thelwell	LUZD:	RM RM-10M (Single Residential, 10,000 sq. ft. minimum lot size)
Proposal:	A Tentative Tract Map No. 20016 and a Conditional Use Permit to develop a 112 unit multiple family condominium project on approximately 6.7 acres within the RM (Multiple Residential) Zone.	Overlays:	Burrowing Owl

PROJECT CONTACT INFORMATION:

Lead agency: County of San Bernardino
Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0182

Contact person: Jim Morrissey, Contract Planner
Phone No: (909) 387-4234 **Fax No:** (909) 387-3223
E-mail: Jim.Morrissey@lus.sbcounty.gov

PROJECT DESCRIPTION:

Summary

The proposed Project is a 112-unit multiple family residential condominium on approximately 6.7 acres, approximately 600 feet south of Foothill Boulevard, on the west side of Banana Avenue, in the unincorporated area of San Bernardino County. The proposed Project includes a Tentative Tract Map No. 20016 and Conditional Use Permit to provide for the individual ownership pattern requested and overall design of the Project. The proposal is adjacent to several subdivisions within the City of Fontana proposed by the same developer for additional multiple family condominiums that will ultimately allow the development to operate as a single Project.

Primary access to the property is from Banana Avenue, with secondary access ultimately provided to Foothill Boulevard as part of Tentative Tract Map No. 20382, which is in process with the City of Fontana, as a 71-unit townhouse proposal. Access along Banana Avenue will consist of two separate gated entries. A third subdivision, Tentative Tract Map No. 20397, which is a 23-unit condominium project as in the City of Fontana, will obtain vehicular access from Tentative Tract Map 20016 in the unincorporated area.

Surrounding Land Uses and Setting

The unincorporated Project site is located within an area that includes primarily single family development along Banana Avenue, in addition to a variety of vacant, commercial, and mobile home park properties. Property immediately to the west includes detached single family homes and a mobile home park. To the north are vacant land and single family homes. Commercial use and a fire station are located along Foothill Boulevard. That portion in the City of Fontana also adjoins the same mobile home park to the west and vacant land to the east. The unincorporated Project site occurs within the Fontana area of the County of San Bernardino and has a current Policy Plan Land Use designation of RM (Multiple Residential) and consistent zoning of RM (Multiple Residential). Most of the properties to the west and all of the properties to the north and those encompassing two adjoining subdivisions are in the City Fontana, with a Land Use Designation of WMXU-1 (Walkable Mixed Use Corridor & Downtown). Parcels to the south are General Planned by the City as R-SF (Single Family Residential, 2.1-5 du/ac) and WMXU-1. The City of Fontana has zoned these properties consistent with the General Plan Land Use Designations; FBC (Walkable Mixed-Use Urban Village) and R-1 (Single Residential). Information provided by the City of Fontana identifies most of the land to the west and north as within the Route 66 Gateway area.

The subject property is relatively flat, but slopes gradually to the south in a uniform manner. The property has some mature trees, but any native grasses have been removed.

Figure 1 Regional Location

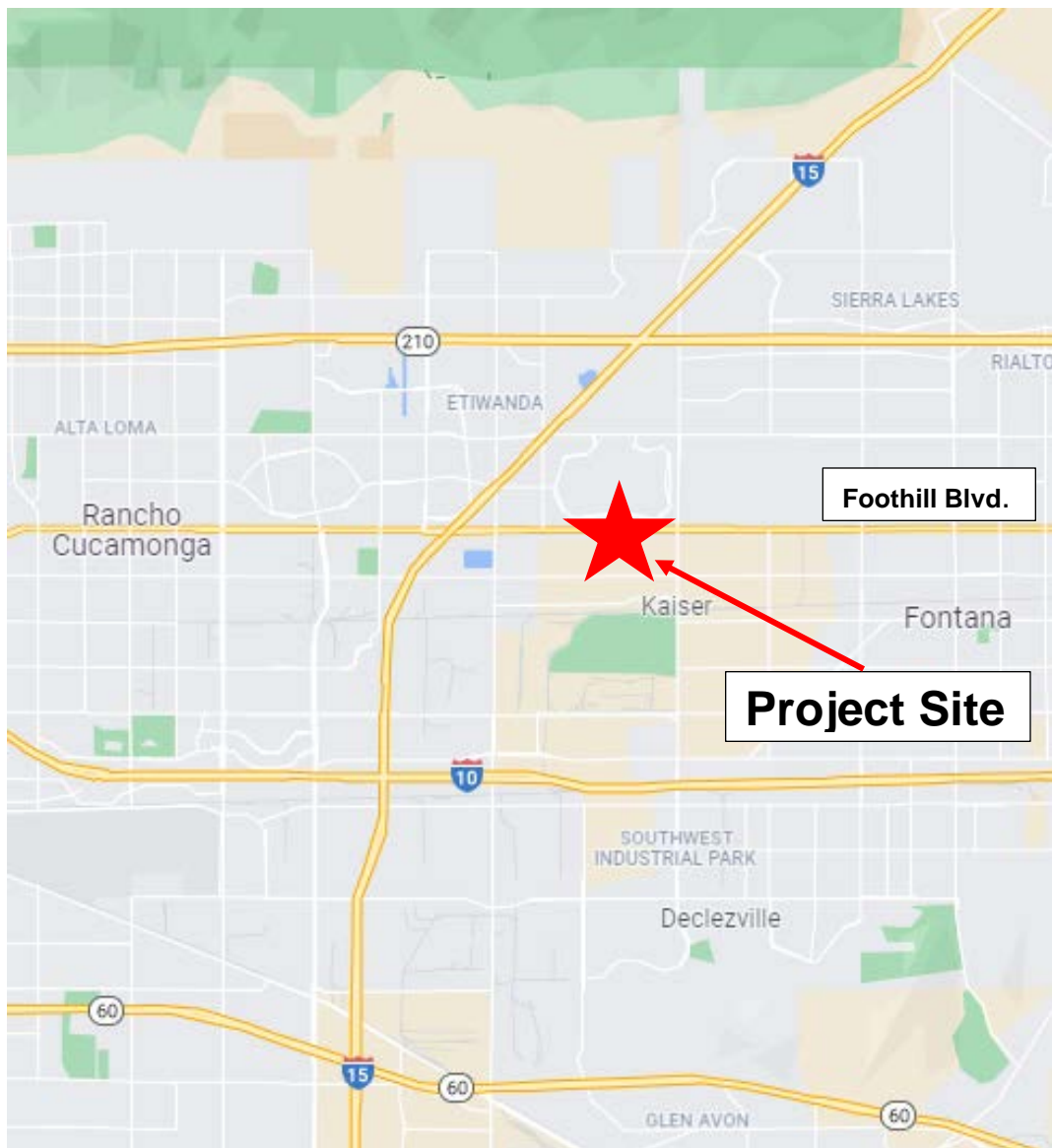


Figure 2 Vicinity Map

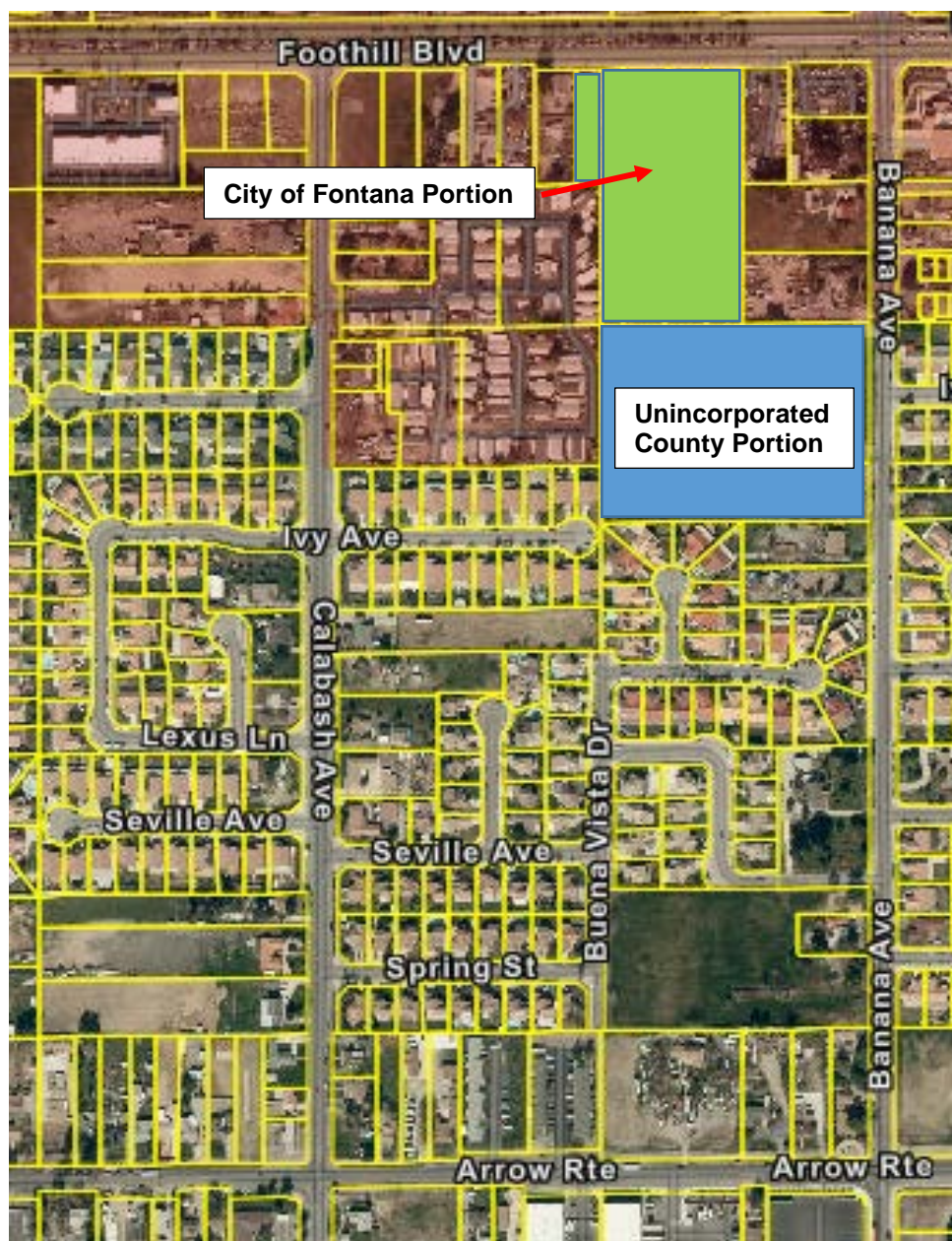


Figure 3a – Overall Site Plan
County of San Bernardino and City of Fontana

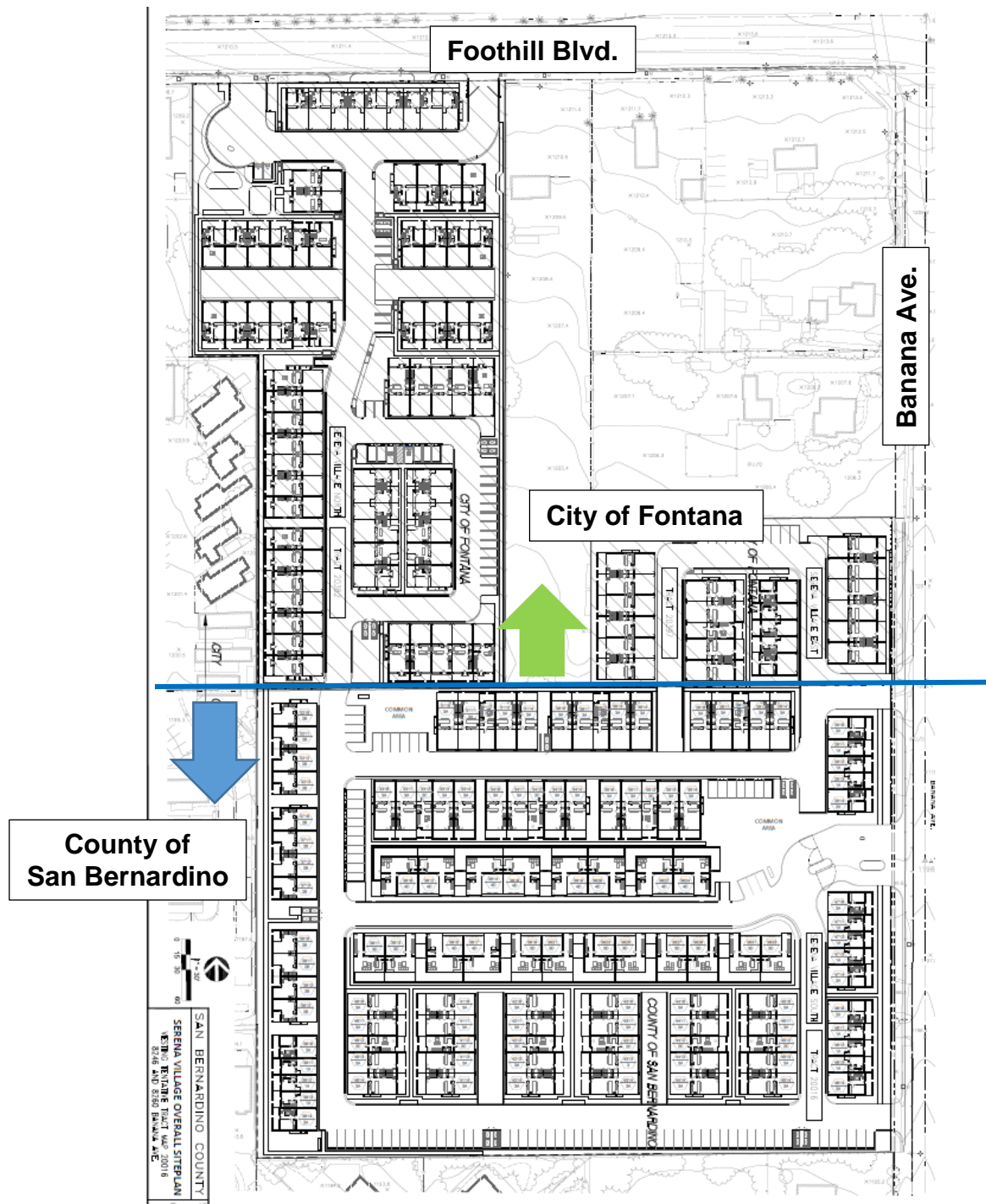
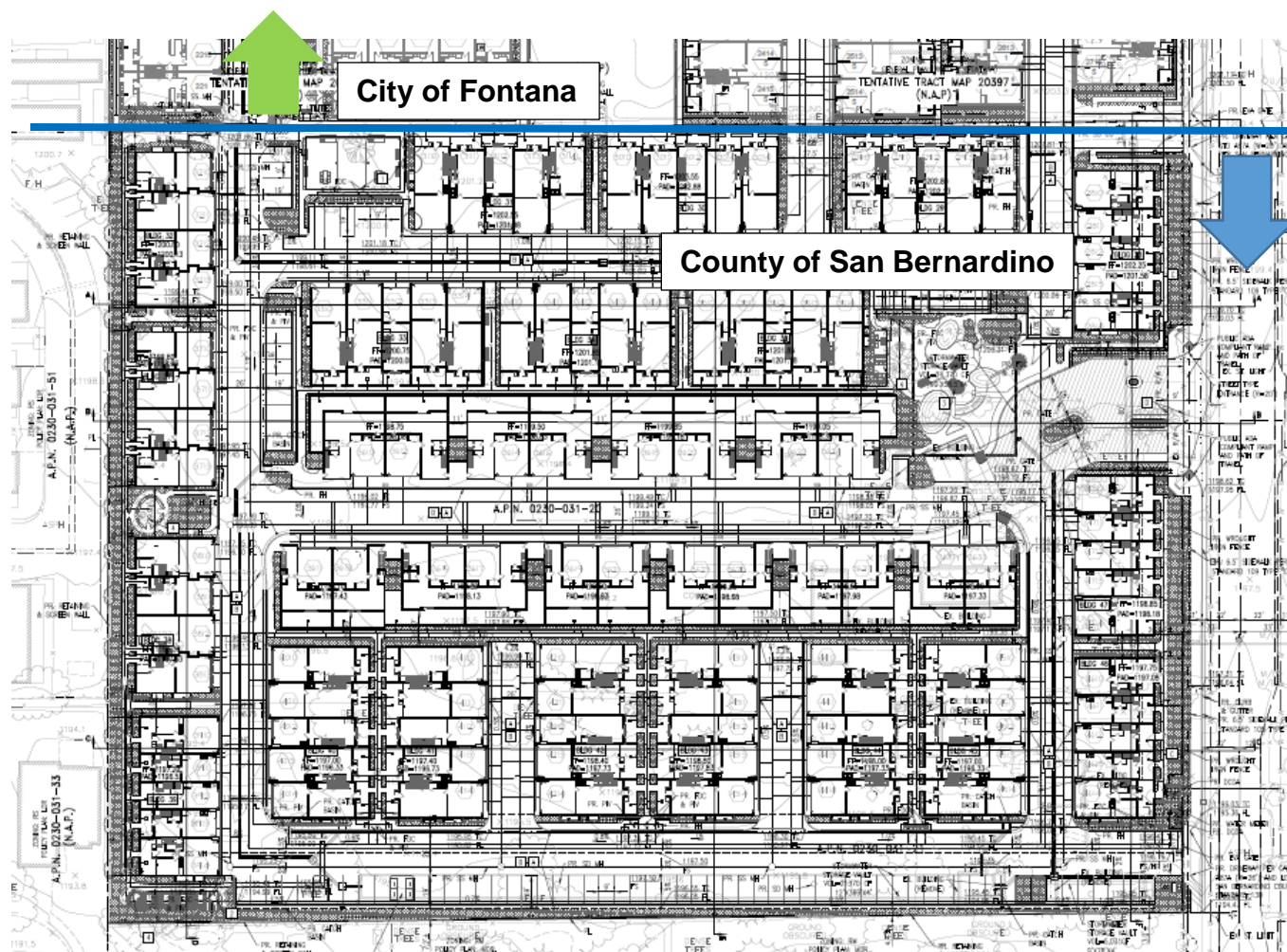


Figure 3b – Site Plan (Unincorporated Portion)



Project Site Location, Existing Site Land Uses and Conditions

The unincorporated Project site is located in the Fontana area of San Bernardino County and adjacent to the Fontana City Limits to the north and west. The San Bernardino Countwide Policy Plan designates the property MDR (Medium Density Residential and is zoned RM (Multiple Residential).

The subject property is within the City of Fontana Sphere of Influence and has two separate City General Plan Land Use designations of Walkable Mixed Use Corridor & Downtown and R-SF (Single Family Residential, 2.1-5 du/ac) is Zoned FBC (Walkable Mixed-Use Urban Village) and RS (Single Family), respectively. Access to the site is available from Banana Avenue, which is a paved two lane roadway. Access to the subdivisions to the north in the City of Fontana would be provided by Foothill Boulevard. The Project Site is relatively flat and generally slopes to the south.

The unincorporated Project property consists of two parcels with several structures, one of which is vacant. The parcels immediately surrounding the property include a combination of vacant land and various types of residential uses. Primary and secondary vehicle access is proposed from Banana Avenue.

ADDITIONAL APPROVAL REQUIRED BY OTHER PUBLIC AGENCIES

Federal: None

State: None

County of San Bernardino: Land Use Services Department-Building and Safety, Public Health-Environmental Health Services, and Public Works.

Regional: None

CONSULTATION WITH CALIFORNIA NATIVE AMERICAN TRIBES

On April 29, 2021, the County of San Bernardino mailed notifications pursuant to SB 18 to five tribes. Table 1 – *AB 52 Consultation*, shows a summary of comments and responses provided for the Project.

Table 1
AB 52 Consultation

Tribe	Comment Received	Summary of Response	Conclusion
Soboba Band of Mission Indians	None	None	
Gabrieleno Band of Mission Indians - Kizh Nation,	None	None	
San Gabriel Band of Mission Indians	None	None	
Morongo Band of Mission Indians	None	None	
San Manuel Band of Mission Indians	None	Indicated they have no concerns. Requested inclusion of measures should any resources be found.	
Twenty-Nine Palms Band of Mission Indians	None	None	

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

EVALUATION FORMAT

This Initial Study is prepared in compliance with the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, et seq. and the State CEQA Guidelines (California Code of Regulations Section 15000, et seq.). Specifically, the preparation of an Initial Study is guided by Section 15063 of the State CEQA Guidelines. This format of the study is presented as follows. The project is evaluated based on its effect on 20 major categories of environmental factors. Each factor is reviewed by responding to a series of questions regarding the impact of the project on each element of the overall factor. The Initial Study checklist provides a formatted analysis that provides a determination of the effect of the project on the factor and its elements. The effect of the project is categorized into one of the following four categories of possible determinations:

Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant	No Impact
--------------------------------	--	-----------------------	-----------

Substantiation is then provided to justify each determination. One of the four following conclusions is then provided as a summary of the analysis for each of the major environmental factors.

1. **No Impact:** No impacts are identified or anticipated, and no mitigation measures are required.
2. **Less than Significant Impact:** No significant adverse impacts are identified or anticipated, and no mitigation measures are required.
3. **Less than Significant Impact with Mitigation Incorporated:** Possible significant adverse impacts have been identified or anticipated and the following mitigation measures are required as a condition of project approval to reduce these impacts to a level below significant. The required mitigation measures are: (List of mitigation measures)
4. **Potentially Significant Impact:** Significant adverse impacts have been identified or anticipated. An Environmental Impact Report (EIR) is required to evaluate these impacts, which are (List of the impacts requiring analysis within the EIR).

At the end of the analysis, the required mitigation measures are restated and categorized as being either self- monitoring or as requiring a Mitigation Monitoring and Reporting Program.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below will be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|--|
| <input type="checkbox"/> <u>Aesthetics</u> | <input type="checkbox"/> <u>Agriculture and Forestry Resources</u> | <input type="checkbox"/> <u>Air Quality</u> |
| <input type="checkbox"/> <u>Biological Resources</u> | <input type="checkbox"/> <u>Cultural Resources</u> | <input type="checkbox"/> <u>Energy</u> |
| <input type="checkbox"/> <u>Geology/Soils</u> | <input type="checkbox"/> <u>Greenhouse Gas Emissions</u> | <input type="checkbox"/> <u>Hazards & Hazardous Materials</u> |
| <input type="checkbox"/> <u>Hydrology/Water Quality</u> | <input type="checkbox"/> <u>Land Use/Planning</u> | <input type="checkbox"/> <u>Mineral Resources</u> |
| <input type="checkbox"/> <u>Noise</u> | <input type="checkbox"/> <u>Population/Housing</u> | <input type="checkbox"/> <u>Public Services</u> |
| <input type="checkbox"/> <u>Recreation</u> | <input type="checkbox"/> <u>Transportation</u> | <input type="checkbox"/> <u>Tribal Cultural Resources</u> |
| <input type="checkbox"/> <u>Utilities/Service Systems</u> | <input type="checkbox"/> <u>Wildfire</u> | <input type="checkbox"/> <u>Mandatory Findings of Significance</u> |

DETERMINATION: Based on this initial evaluation, the following finding is made:

<input type="checkbox"/>	The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION shall be prepared.
<input checked="" type="checkbox"/>	Although the proposed project could have a significant effect on the environment, there shall not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION shall be prepared.
<input type="checkbox"/>	The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
<input type="checkbox"/>	The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
<input type="checkbox"/>	Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

James Morrissey
Signature: (Jim Morrissey, Contract Planner)

2/11/22
Date

Signature: (Chris Warrick, Supervising Planner)

Date

Issues		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
I. AESTHETICS – Except as provided in Public Resources Code Section 21099, would the project:					
a)	Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Create a new source of substantial light or glare, which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SUBSTANTIATION: (Check ☐ if project is located within the view-shed of any Scenic Route listed in the General Plan):

San Bernardino General Plan, 2020; The City of Fontana, Fontana Forward, Draft Environmental Impact Report (Draft EIR) for General Plan Update 2015-2035; Submitted Project Materials.

- a) *Have a substantial adverse effect on a scenic vista?*
Less Than Significant Impact

The unincorporated Project site consists of two parcels on the westerly side of Banana Avenue. The surrounding area is urbanized, with single family residential and mobile home development to the east, west, and south. A mixture of commercial, residential, and governmental uses exist along the south side of Foothill Boulevard, just to the north of the property. Similar units exist near the adjoining subdivisions in the City of Fontana. The San Bernardino Countywide Plan (General Plan) Policy NR-4.1 identifies scenic vistas and natural features as prominent hillsides, ridgelines, dominant landforms, and reservoirs, which do not exist within the Project area. The San Gabriel Mountains exist to the north with views of the urban valley below, including the Project site, but no unique features exist within the immediate vicinity of the Project site.

The City of Fontana, Fontana Forward, Draft Environmental Impact Report (Draft EIR) for General Plan Update 2015-2035, dated June 8, 2018, noted the following with respect to potential visual impact of new development:

“Infill, redevelopment, and new construction as described above would alter the visual character in areas in which that development would occur. However, the Land Use, Zoning, and Urban Design Element provides specific strategies and recommendations to ensure that urban design applied to new and existing development would be visually appealing and compatible with existing development, and would enhance connectivity throughout the City. While the visual character could change substantially with implementation of the General Plan Update (e.g., infill development where no structures currently exist; new mixed-use development on underutilized land), such changes are more likely to be considered a beneficial aesthetic impact and an improvement to the views within the Project area, rather than an adverse impact.” (p. 5.1-11 and 12)

The proposed development is located within the unincorporated area of the County, but portions of the adjoining development in the City of Fontana to the north represent a continuation of the Project. It is being designed as a single ownership with vehicular access through both the City and County. The proposed design features are consistent with the requirements of the City of Fontana. As such, the proposed Project would not represent a significant adverse impacts are identified or anticipated, and no mitigation measures are required.

- b) *Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?*

Less Than Significant Impact

Figure 5.1-1 County Designated Scenic Routes, as contained in the Countywide Plan, does not display any scenic routes within the area. A review of the Caltrans web site <https://dot.ca.gov/-/media/dot-media/programs/design/documents/od-county-scenic-hwys-2015-a11y.pdf> for designated scenic highways found no designated highways in the area. In addition, the City of Fontana does not identify any scenic highways in the area, as noted in the Draft EIR. (p. 5.1-7)

<https://www.fontana.org/DocumentCenter/View/29524/Draft-Environmental-Impact-Report-for-the-General-Plan-Update>

However, the City's General Plan does have goals, policies and actions relative to trees and historic buildings. The policies and actions include maintaining the City's urban forest and expanding the City's tree canopy. None of these features would be affected by the proposed Project. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- c) *In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?*

No Impact

The Project site occurs within an urbanized area and the proposed Project is a request to develop a multiple family condominium development within the unincorporated area that includes adjoining portions in the City of Fontana. The proposed Project would be consistent with the development criteria of both the City of Fontana and County of San Bernardino.

As noted previously, the proposed use would be consistent with the City of Fontana development requirements and would not adversely affect scenic quality. No scenic features or concerns based upon an evaluation of the County of San Bernardino Countywide Policy Plan requirements and related environmental documents. As such, no impacts are identified or anticipated, and no mitigation measures are required.

- d) *Create a new source of substantial light or glare, which will adversely affect day or nighttime views in the area?*

Less Than Significant Impact

The proposed Project would include 112-unit multiple family condominium, two-story in height. Exterior areas around the property would be illuminated for accessibility and security. While this would create a new source of lighting for the property, the County Development Code requires that illumination within the Valley portion of the County, not extend beyond the property line, so as to minimize its dispersal onto adjoining properties, as referenced in the following section:

Section 83.07.050 Valley Requirements.

Direct or indirect light from any light fixture shall not cause glare above five-tenths foot-candles when measured at the property line of a residential land use zoning district, residential parcel, or public right-of-way. Light levels shall be measured with a light meter, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination (CIE).

That portion of the overall development within the City of Fontana would also be required to meet existing development standards adopted in the City. Utilization of this standard requirement as a condition of approval would reduce potential impacts to less than significant and no mitigation measures are required.

No significant adverse impacts are identified or anticipated, and no mitigation measures are required,

	<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
II.	AGRICULTURE AND FORESTRY RESOURCES - In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts				

on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) | Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) | Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) | Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) | Result in the loss of forest land or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) | Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION: (Check ☐ if project is located in the Important Farmlands Overlay):

San Bernardino Countywide Plan, 2020; California Department of Conservation Farmland Mapping and Monitoring Program;

- a) *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

No Impact

The California Department of Conservation's Farmland Mapping and Monitoring Program, San Bernardino County Important Farmland 201, Sheet 2 of 2, identifies the Project Site as "Urban and Built-Up Land". "Urban and Built-Up Land" is defined as land occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. Common examples include residential,

industrial, commercial, institutional facilities, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, and water control structures. No prime farmland, unique farmland, or farmland of statewide importance occurs in or around the proposed Project area, based upon a review of the above listed Farmland mapping sheet. As such, the proposed Project would not convert farmland to a non-agricultural use. No impacts are identified or are anticipated, and no mitigation measures are required.

- b) *Conflict with existing zoning for agricultural use, or a Williamson Act contract?*
No Impact

According to San Bernardino County's Interactive Agricultural Resources Map NR-5, the Project site is not under or adjacent to any lands under a Williamson Act Contract. The proposed Project would be consistent with the Countywide Policy Plan and City of Fontana General Plan and would not conflict with existing zoning for agricultural uses or lands under a Williamson Act Contract. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

- c) *Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?*
No Impact

The subject property is within an area designated for multiple family development and that is currently improved with a variety of residential, commercial, and governmental uses. Implementation of the proposed Project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned for Timberland Production. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

- d) *Result in the loss of forest land or conversion of forest land to non-forest use?*
No Impact

Forest land is defined as land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits. The subject property is currently mostly vacant and located within an area planned for residential development and surrounded by substantial residential development. Implementation of the proposed Project would not result in loss of forest land or conversion of forest land to non-forest use. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

- e) *Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?*
No Impact

The subject Project is proposed to develop a 112-unit multiple family residential condominium development and links to similar development within the adjoining City of Fontana with several subdivisions proposed for 94-units. Detached single family development exists to the south and east, and a mobile home park to the west. Implementation of the proposed Project would not result in the conversion of farmland to non-agricultural use or conversion of forest land to non-forest use. No impacts are identified or are anticipated, and no mitigation measures are required.

No adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
III. AIR QUALITY - Where available, the significance criteria established by the applicable air quality management district or air pollution control district might be relied upon to make the following determinations. Would the project:					
a)	Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d)	Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUBSTANTIATION: <i>(Discuss conformity with the Mojave Desert Air Quality Management Plan, if applicable):</i>					
San Bernardino Countywide Plan, 2020; Air Quality and Greenhouse Gas Emissions Impact Analysis (CalEEMod); Submitted Project Materials					

- a) *Conflict with or obstruct implementation of the applicable air quality plan?*
Less Than Significant Impact

The subject property is located within the South Coast Air Basin (SCAB). The South Coast Air Quality Management District (SCAQMD) has jurisdiction over air quality issues and regulations within the SCAB. The Air Quality Management Plan (AQMP) for the basin establishes a program of rules and regulations administered by SCAQMD to obtain attainment of the state and federal air quality standards. The most recent AQMP (2016

AQMP) was adopted by the SCAQMD on March 3, 2017. The 2016 AQMP incorporates the latest scientific and technological information and planning assumptions, including transportation control measures developed by the Southern California Association of Governments (SCAG) from the 2016 Regional Transportation Plan/Sustainable Communities Strategy, and updated emission inventory methodologies for various source categories.

A project is inconsistent with the AQMP if: (1) it does not confirm with the local general plan; or (2) it uses a disproportionately large portion of the forecast growth increment. If a project proves to be inconsistent with the AQMP, project proponent can prepare a general plan amendment (GPA). The County of San Bernardino currently designates the Project Site as Medium Density Residential and that portion in the City of Fontana is designated WMXU-1 (Walkable Mixed Use Corridor & Downtown). The proposed use is consistent with these land use designations.

An evaluation of potential air quality impacts related to the buildout of the entire Project, both the applicant's portion in the unincorporated area, as well as that portion in the adjoining City of Fontana. Table 2 and Table 3 illustrate operational emissions associated with the current General Plan/Zoning designations and the proposed Project. Construction emissions were modeled, although their impacts would be short-term in nature, and measures consistent with existing requirements would be imposed to minimize such impacts. As shown, operational impacts resulting from the proposed Project would not exceed SCAQMD thresholds. Consequently, the proposed Project would not result in a conflict or obstruction to the implementation of the AQMP. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- b) *Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard?*

Less Than Significant Impact

The proposed Project would allow the development of multiple family development. Construction and operational emissions were screened using California Emissions Estimator Model (CalEEMod) version 2016.3.2. The emissions incorporate Rule 402 and 403 by default as required during construction. The criteria pollutants screened for include reactive/volatile organic gases (ROG), nitrous oxides (NOx), carbon monoxide (CO), sulfur dioxide (SO₂), and particulates (PM₁₀ and PM_{2.5}). Two of the analyzed pollutants, ROG and NOx, are ozone precursors. Both summer and winter season emission levels were estimated.

The Project Site occurs in the South Coast Air Basin (SCAB). The South Coast Air Quality Management District (SCAQMD) has jurisdiction over air quality issues and regulations within the SCAB. The Air Quality Management Plan (AQMP) for the basin establishes a program of rules and regulations administered by SCAQMD to obtain attainment of the state and federal air quality standards. The most recent AQMP (2016 AQMP) incorporates the latest scientific and technological information and planning assumptions, including transportation control measures developed by the Southern California Association of Governments (SCAG) from the 2016 Regional Transportation Plan/Sustainable Communities Strategy, and updated emission inventory methodologies for various source categories.

Construction Emissions

Construction emissions are considered short-term, temporary emissions and were modeled with the following construction parameters: Site preparation, grading (fine and mass grading), building construction, paving, and architectural coating. The resulting emissions generated by construction of the proposed Project are shown in Table 2. The Modeling prepared for the proposed Project separately analyzed each of the three subdivisions, the larger of which is in the unincorporated area, except for any demolition and grading. Demolition and grading were assumed to occur for the entire site incorporating three subdivisions. In addition, it was assumed the northerly portion of the proposed Project, in the City of Fontana, would occur first. As such, the grading for the entire site was incorporated into that analysis separate from the other two locations. Based upon this separation of activities the estimated maximum construction related emissions would occur in the subdivision located within the unincorporated area. As such, those factors are listed in Table 2. Table 3 has localized emission calculations that were also analyzed for each subdivision. The maximum emissions levels are identified and drawn from both Serena Village North (unincorporated area) and East (City of Fontana). The maximum emission levels for the most missions in a phase do not include that portion involving demolition and grading.

Table 2
Construction Emissions – Maximum Phase/Activity
(Pounds per Day)

Source/Phase	VOC	NO _x	CO	SO ₂	PM ₁₀	PM _{2.5}
Site Preparation	N/A	N/A	N/A	N/A	N/A	N/A
Grading	N/A	N/A	N/A	N/A	N/A	N/A
Building Construction, Paving, and Architectural Coatings	45.05	31.42	40.99	0.08	3.93	1.99
SCAQMD Threshold	75	100	550	150	150	55
Significant	No	No	No	No	No	No

Source: CalEEMod.2016.3.2

Table 3
Construction Related Local Criteria Pollutant Emissions
(Pounds per Day)

Source/Phase	NO _x	CO	PM ₁₀	PM _{2.5}
Site Preparation	31.44	21.57	2.14	1.53
Grading	38.84	29.04	10.31	5.10
Building Construction, Paving, and Architectural Coatings.	27.66	32.76	1.39	1.30
SCAQMD Threshold	170	972	7	4
Significant	No	No	No	No

Source: CalEEMod.2016.3.2

Operational Emissions

The operational mobile source emissions were also calculated using the same CalEEMod program that evaluated construction emissions. Emissions associated with the proposed Project's estimated total daily trips were modeled and are listed in Table 4, which represent operational emissions.

Table 4
Operational Emissions Summary
(Pounds per Day)

Source	VOC	NO _x	CO	SO ₂	PM ₁₀	PM _{2.5}
Area	9.72	3.28	18.23	0.02	0.35	0.35
Energy	0.09	0.81	0.35	0.00	0.07	0.07
Mobile	2.95	17.48	35.55	0.15	11.08	3.03
Totals (lbs./day)	12.77	21.56	54.22	0.17	11.48	3.43
SCAQMD Threshold	55	55	550	150	150	55
Significance	No	No	No	No	No	No

Source: CalEEMod.2016.3.2 Emissions.

Compliance with SCAQMD Rules 402 and 403

Although the Proposed Project does not exceed SCAQMD thresholds for construction emissions, the Project Proponent would be required to comply with all applicable SCAQMD rules and regulations as the SCAB is in non-attainment status for ozone and suspended particulates (PM₁₀ and PM_{2.5}).

The Project Proponent would be required to comply with Rules 402 nuisance, and 403 fugitive dust, which require the implementation of Best Available Control Measures (BACMs) for each fugitive dust source, and the AQMP, which identifies Best Available Control Technologies (BACTs) for area sources and point sources. The BACMs and BACTs would include, but not be limited to the following:

1. The Project Proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities.
 - (a) The Project Proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading activity on the site. Portions of the site that are actively being graded shall be watered regularly (2x daily) to ensure that a crust is formed on the ground surface and shall be watered at the end of each workday.
 - (b) The Project Proponent shall ensure that all disturbed areas are treated to prevent erosion until the site is constructed upon.
 - (c) The Project Proponent shall ensure that landscaped areas are installed as soon as possible to reduce the potential for wind erosion.
 - (d) The Project Proponent shall ensure that all grading activities are suspended during first and second stage ozone episodes or when winds exceed 25 miles per hour.

During construction, exhaust emissions from construction vehicles and equipment and fugitive dust generated by equipment traveling over exposed surfaces, would increase NOX and PM10 levels in the area. Although the proposed Project does not exceed SCAQMD thresholds during construction, the Applicant/Contractor would be required to implement the following conditions as required by SCAQMD:

2. To reduce emissions, all equipment used in grading and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel.
3. The Project Proponent shall ensure that existing power sources are utilized where feasible via temporary power poles to avoid on-site power generation during construction.
4. The Project Proponent shall ensure that construction personnel are informed of ride sharing and transit opportunities.
5. All buildings on the Project Site shall conform to energy use guidelines in Title 24 of the California Administrative Code.
6. The operator shall maintain and effectively utilize and schedule on-site equipment in order to minimize exhaust emissions from truck idling.

7. The operator shall comply with all existing and future California Air Resources Board (CARB) and SCAQMD regulations related to diesel-fueled trucks, which may include among others: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment.

As displayed above, construction and operational emissions are below SCAQMD thresholds. The proposed Project does not exceed applicable SCAQMD regional thresholds during either construction or operational activities. Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

- c) *Expose sensitive receptors to substantial pollutant concentrations?*
Less Than Significant Impact

The Project operational-sourced emissions would not exceed applicable regional thresholds of significance established by the SCAQMD. Additionally, project-related trips will not cause or result in CO concentrations exceeding applicable state and/or federal standards (CO “hotspots”). Project operational-source emissions would, therefore, not adversely affect sensitive receptors within the vicinity of the project. No significant adverse impacts are identified or anticipated, and no mitigation measures are required.

- d) *Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?*
Less Than Significant Impact

The proposed Project would allow the operation of multiple family condominium development, with a paved parking areas, outdoor activity areas, landscaping, and fencing. Potential odor sources associated with the proposed Project may result from construction equipment exhaust and the application of asphalt and architectural coatings during construction activities. Standard construction requirements would minimize odor impacts resulting from construction activity. Any construction odor emissions generated would be temporary, short-term, and intermittent in nature and would cease upon completion of the respective phase of construction activity. In addition, the Project would continue to comply with SCAQMD Rule 402 to prevent occurrences of public nuisances. Therefore, odors associated with the proposed Project would be less than significant. No significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
IV. BIOLOGICAL RESOURCES - Would the project:				
a) Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION: (Check if project is located in the Biological Resources Overlay or contains habitat for any species listed in the California Natural Diversity Database ☒):

Glen Helen Specific Plan; San Bernardino County Biotic Resource Overlay; Submitted Project Materials; Biological Resources Assessment; Site Visit

- a) *Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

Less Than Significant Impact with Mitigation Incorporated

A *Biological Due Diligence Investigation*, prepared by ELMT Consulting, June 9, 2021, evaluated both portions of the Project area in the unincorporated area of the County and the City of Fontana. The Project biologist undertook a site visit on June 3, 2021, and found no native plant communities or natural communities of special concern. The report noted the “project site consisted of vacant, undeveloped land that has been subject to a variety of anthropogenic disturbances and existing development.” It also noted the “majority of the site supports disturbed areas that are composed primarily of non-native early successional/ruderal plant species.” (p.2) The report also noted the property provides minimal foraging and cover habitat for species adapted to a high degree of anthropogenic disturbance.

No active bird nests displaying nesting behavior were observed by the Project biologist even though the site visit was conducting during nesting season. The site also contains suitable for habitat for special-status nesting birds, including the burrowing owl and California horned lark, as well as other non-special-status bird species. Nesting bird species with potential to occur within the project are protected by California Fish and Game Code Sections 3503, 3503.5, 3511, and 3513, and by the Migratory Bird Treaty Act (16 USC 703–711). These laws regulate the take, possession, or destruction of the nest or eggs of any migratory bird or bird of prey. The biological report recommended a pre-construction survey for nesting birds prior to any vegetation removal or ground disturbing activities, if construction occurs between February 1 and August 31. A mitigation measure has been recommended to reduce this potential impact to less than significant.

The report also contained information on the potential for burrowing owls. The report noted that:

“No burrowing owls or recent sign (i.e., pellets, feathers, castings, or whitewash) were observed during the field investigation. The project site is unvegetated and/or vegetated with a variety of low-growing plant species that allow for line-of-sight observation favored by burrowing owls. However, the project site lacks suitable burrows (>4 inches in diameter) capable of providing roosting and nesting opportunities. Further, existing buildings, electrical poles bordering the site further decrease the likelihood that burrowing owls would occur on the project site as these features provide perching opportunities for larger raptor species (i.e., red-tailed hawk [*Buteo jamaicensis*]) that prey on burrowing owls. Based on the results of the field investigation, it was determined that the project site does not provide suitable habitat for burrowing owls and are presumed absent. Focused surveys are not recommended.” (p 4)

BIO-1: Construction activities, including vegetation removal, will be conducted outside the general bird nesting season (February 1 through August 31) to avoid

impacts to nesting birds. If construction activities cannot be conducted outside the bird nesting season, a pre-construction nesting bird survey by a qualified biologist is required no more than three days prior to any construction activities. Should nesting birds be found on-site, an exclusionary buffer will be established by the qualified biologist. The buffer will be clearly marked in the field by construction personnel under guidance of the qualified biologist. No construction activities will be allowed within this zone until the qualified biologist determines that the young have fledged or the nest is no longer active. A copy of the biologist's report shall be filed with the County Planning Division upon completion.

- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?*

No Impact

The Project site is not within a federally designated Critical Habitat, with the closest site being approximately 2.2 miles to the northeast. The site investigation noted the extent of prior site disturbances and that these “disturbances have eliminated, the suitability of the habitat onsite to support special-status plant species and the availability and quality of habitats needed by each species.” (p. 4) The report found all potentially occurring special-status biological resources were either presumed absent or absent based upon site observations and review of available literature research. Therefore, no significant impacts are identified or are anticipated, and no mitigation measures are required.

- c) *Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No Impact

The *Biological Due Diligence Investigation* stated that no “discernable drainage courses, inundated areas, or wetlands/obligate plant species that would be considered jurisdictional by the United States Army Corps of Engineers (Corps), Regional Water Quality Control Board (Regional Board), or CDFW were observed within the proposed project site.” (p. 3) The site investigation did not find any special-status plant species. Therefore, no significant impacts are identified or are anticipated, and no mitigation measures are required.

- d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

No Impact

Habitat linkages provide connections between larger habitat areas that are separated by development. Wildlife corridors provide opportunities for animals to disperse or migrate between areas. A corridor can be defined as a linear landscape feature of sufficient width to allow animal movement between two comparatively undisturbed habitat fragments. Adequate cover is essential for a corridor to function as a wildlife movement area. Wildlife corridors allow for the dispersal, seasonal migration, breeding,

and foraging of a variety of wildlife species. Additionally, open space can provide a buffer against both human disturbance and natural fluctuations in resources.

The *Biological Due Diligence Investigation* prepared for the Project area noted the site is surrounded by urban development that has eliminated connection to nearby wildlife corridors. Therefore, implementation of the proposed Project is not expected to disrupt or have any adverse effects on any migratory corridors or linkages that may occur in the general vicinity of the Project Site. No impacts are identified or anticipated, and no mitigation measures are required.

- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

No Impact

The *Biological Due Diligence Investigation* noted the level of site disturbance. A limited number of trees are scattered around the site, some of which would require permits if they were removed, due to their size/maturity. However, these trees are not unique in their type and are considered properly evaluated for their significance due to the completion of the previously referenced *Biological Due Diligence Investigation*. As such, the remaining trees are not subject to the County's tree preservation requirements.

- f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?*

No Impact

The Project site is not located within the planning area of an adopted Habitat Conservation Plan, Natural Community Plan, or other approved local, regional, or state habitat conservation plan as discussed in the previously referenced *Biological Resources Assessment*. No impacts are identified or are anticipated, and no mitigation measures are required.

Possible significant adverse impacts have been identified or anticipated and implementation of Mitigation Measure BIO-1 is required as a condition of project approval to reduce these impacts to a level below significant.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
V. CULTURAL RESOURCES - Would the project:				

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

- | | | | | | |
|----|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| b) | Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) | Disturb any human remains, including those outside of formal cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION: (Check if the project is located in the Cultural ☐ or Paleontologic ☐ Resources overlays or cite results of cultural resource review): **San**

San Bernardino Countywide Plan, 2020; Glen Helen Specific Plan; Archaeological Records Search

a,b) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?

Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

Less Than Significant Impact

The subject area is highly disturbed and no historical and archaeological resources are anticipated on the property. The area was previously farmed, as displayed in aerial photos from 1938 and 1948 that were accessed through NETRonline, www.historicaerials.com. However, subsequent photos from the same source in 1959 and later displayed a transition away from farming. Buildings that existed as part of the farming activities were removed and subsequent building constructed. A number of buildings currently exist, some of which are boarded up and unoccupied.

An information request was submitted to the South Central Coastal Information Center on July 6, 2021 requesting historical and archaeological information about the property. A response was received on December 21, 2021 that included the following:

There were several improved roads with the project search radius. The Atchison Topeka and Santa Fe R.R. (Southern California Div.) and the Etiwanda Station were present south of the project area. In 1954, there was still no visible development within the project area. There was an increase in a development within the search radius which included several additional roads, many buildings, an intermittent stream, a gravel pit and a mine. The previously mentioned rail line still remained.

The proposed Project site is adjacent to the City of Fontana City Limits. The Fontana General Plan Draft Environmental Impact Report identifies a number of historical properties within the City, generally in the downtown area, although a variety of other sites are also included, such as the former Kaiser Steel Mill. The subject area has no known significant historical or archaeological resources.

Notices were sent to six Tribes requesting comment on the proposed Project. The San Manuel Band of Mission Indians indicated they do not have any concerns about the proposed Project, but requested the following measures:

CUL-1: In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed within TCR-1, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

CUL-2: If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

CUL-3: If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

Further Tribal information can be found in **Section XVIII Tribal Cultural Resources**. As such, no impacts are identified or anticipated, and no mitigation measures are recommended.

- c) *Disturb any human remains, including those outside of formal cemeteries?*
Less Than Significant Impact

Construction activities, particularly placement of footings, could potentially disturb human remains interred outside of a formal cemetery. No human remains are known to exist on-site. However, the potential exists that human remains may be unearthed during earthmoving activities associated with Project construction. If human remains are discovered during construction activities, the Project Proponent would be required to comply with the applicable provisions of California Health and Safety Code § 7050.5 as well as Public Resources Code § 5097, et. seq., which requires that if the coroner determines the remains to be of Native American origin, he or she will notify the Native American Heritage Commission, who will then identify the most likely descendants to be consulted regarding treatment and/or reburial of the remains. Mandatory compliance with these provisions of California state law would ensure that impacts to human remains, if unearthed during construction activities, would be appropriately treated. Therefore, no significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

Possible significant adverse impacts have been identified or anticipated and implementation of Mitigation Measures CR-1, CR-2, and CR-3 are required as a condition of project approval to reduce these impacts to a level below significant.

Issues		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
VI. ENERGY – Would the project:					
a)	Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SUBSTANTIATION: San Bernardino Countywide Plan, 2020; CalEEMod Analysis; Submitted Materials					

- a) *Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?*

Less Than Significant Impact

Electricity

The proposed Project consists of a 112-unit condominium development within the unincorporated area of the County and an adjoining 94 units in the City of Fontana. This type of operation would consume electricity in a manner similar to other residential developments.

The subject property is serviced by Southern California Edison for electric power. In 2018, the Industry sector of the Southern California Edison planning area consumed 18228.339531 GWh of electricity. The proposed Project improvements would not result in a significant increase in electrical demand upon the overall system based upon the number of dwelling units proposed. Utilizing the energy use tabulation in the CalEEMod air quality estimate for 206 dwelling units, the estimated electricity demand for the proposal is 602,672 Kilowatts/year or 0.602672 GWh per year. The estimated increase in electricity demand from implementation of the Project would be insignificant when compared to the existing demand.

Natural Gas

The proposed Project and surrounding area are serviced by Southern California Gas Company. The subject property is primarily vacant. According to the California Energy Commission's Energy Report, previously referenced in County Initial Studies, the Industry Sector was responsible for 1755.124869 million Therms of natural gas consumption in the SoCalGas Planning Area in 2018. Based upon the energy use tabulation in the CalEEMod air quality estimate, the estimated natural gas demand for the proposal is 3.58214 Therms, which represents an insignificant percentage to the

overall demand in SoCalGas's service area. Therefore, implementation of the Project would not increase the Project site's natural gas demand and result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

b) *Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?*
No Impact

The proposed Project would be designed to comply with the County of San Bernardino Greenhouse Gas Emissions Reduction Plan, and the State Building Energy Efficiency Standards (Title 24). Project development would not cause inefficient, wasteful and unnecessary energy consumption, and no adverse impact would occur.

The proposed Project would not conflict with any applicable plan, policy or regulation of an agency adopted to reduce GHG emissions. The proposed Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, no impacts are identified or anticipated, and no mitigation measures are recommended.

Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
VII. GEOLOGY AND SOILS - Would the project:				

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map Issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION: (Check ☐ if project is located in the Geologic Hazards Overlay District):

San Bernardino Countywide Plan, 2020; Glen Helen Specific Plan

- a) i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map Issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42

Less Than Significant Impact

The proposed Project is a 112-unit multiple family condominium development on approximately 6.7 acres and an adjoining 94 units in the City of Fontana. The Countywide Plan Map HZ-1, Earthquake Fault Zones, does not display a fault near the subject property. The closest identified fault is approximately 3.5 miles to the northwest of the subject property. According to the County's Draft Environmental Impact Report Appendices, Safety Background Figures, the closest fault is identified as the Red Hill-Etiwanda Avenue Fault. It is not noted in Appendix G, Safety Background Report, as one of the prominent active faults in the Valley Region of the County. According to Table 2-4 of the Countywide Safety Background Report, the maximum probable magnitude is 7.0.

Nonetheless, the proposed Project would be required to comply with the California Building Code requirements and the Uniform Fire Code requirements and all applicable

statutes, codes, ordinances, and standards of the San Bernardino County Fire Department. Compliance with the California Building Codes and Uniform Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the San Bernardino County Fire Department would address potential impacts resulting from an earthquake event. Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

ii) Strong seismic ground shaking?

Less Than Significant Impact

According to the Countywide Plan Map HZ-1, the Red Hill-Etiwanda Avenue Fault is closest fault zone to the subject property. As is the case for most areas of Southern California, ground shaking resulting from earthquakes associated with nearby and more distant faults may occur at the Project site. The design of any structures on-site would incorporate measures to accommodate projected seismic ground shaking in accordance with the California Building Code (CBC) and local building regulations. The CBC is intended to preclude significant adverse effects associated with strong seismic ground shaking. Compliance to the CBC would ensure potential impacts are reduced to a less than significant and the proposed Project would not expose people or structures to substantial adverse effects, including loss, injury or death, involving seismic ground shaking. Therefore, no significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

iii) Seismic-related ground failure, including liquefaction?

Less Than Significant Impact

Areas overlying groundwater within 30 to 50 feet of the surface are considered susceptible to liquefaction hazards. According to the Countywide Plan, HZ-2 Liquefaction & Landslides, the subject property is not within an area designated as having the potential for liquefaction. However, even though the site is not identified as having the potential for liquefaction, a soils analysis will be required as part of the grading plan to ensure on-site soils are properly compacted for the proposed residential structures. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

iv) Landslides?

No Impact

Landslides and slope failure can result from ground motion generated by earthquakes. Based upon a field survey of the site no slopes exist on the property. As such, the property would not be subject to slope instability. Therefore, no significant impacts are identified or are anticipated, and no mitigation measures are required.

b) Result in substantial soil erosion or the loss of topsoil?

No Impact

The subject property is relatively flat and is not subject to flooding, based upon Countywide Policy Plan Map, NZ-4 Flood Hazards. However, FEMA FIRM Map No. 06071C 8651 H, dated 8/28/2008, displays the area as Zone X. Zone X is defined as "Areas of 0.2% annual chance flood; areas of 1% annual chance of flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas

protected by levees from 1% annual chance flood.” Grading of the site will be necessary for final improvements to ensure adequate soil compaction and drainage flows. The location of the Project and its size will necessitate preparation of a drainage study and water quality management plan (WQMP) to respond to construction and operational activities on the property. As such, the development of the proposed Project would not result in substantial soil erosion or loss of topsoil. Therefore, no significant impacts are identified or are anticipated, and no mitigation measures are required.

- c) *Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?*

No Impact

As noted previously, the Project site is not known to be subject to liquefaction, subsidence or collapse. However, a soils report will be required as part of grading to evaluated site conditions. No landslides are foreseen due to the relatively flat topography of the site. Therefore, no significant impacts are identified or are anticipated, and no mitigation measures are required.

- d) *Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?*

Less Than Significant Impact

According to material provided by the U.S. Department of Agriculture, Soil Survey Web Site, site soils consist of Tujunga loamy sand (TuB) and Tujunga gravelly loamy sand (TvC). This soil category is listed as somewhat excessively drained and would not represent a potential for expansive soils. According to the County's Engineering Geologist, this type of soil is slightly expansive. As surficial soils they are expected to be removed as part of the initial grading process. Therefore, no significant impacts are identified or are anticipated, and no mitigation measures are required.

- e) *Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

No Impact

The proposed Project will connect to a public sewer system. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

- f) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

No Impact

The San Bernardino Countywide Plan Cultural Resources Section 5.5 of the Countywide Plan Draft Environmental Impact Report (EIR) states, “the Younger Alluvium (Q) across the valley floor is too young to preserve fossil resources in the upper layers, but the deeper layers and underlying sediments have high paleontological sensitivity, as do the Miocene Marine Sediments (M).” (p. 19) In addition, according to Appendix F: Paleontological Resources Technical Report, contained in the Draft EIR “The Valley Region is characterized by a broad valley floor deposit of Younger Alluvium

(Q), which is likely underlain by Older Alluvium (Qoa) and Pleistocene-Pliocene Nonmarine Sediments (QPc), such as the San Timoteo Formation, that also occur as scattered outcrops along the valley margins. A large area of Miocene Marine Sediments (M), including the Vaqueros and Puente Formations, is present in the southwestern corner, whereas the northern margins of the region about the granitic rocks of the San Bernardino Mountains. The Younger Alluvium (Q) across the valley floor is too young to preserve fossil resources in the upper layers, but the deeper layers and underlying sediments have high paleontological sensitivity, as do the Miocene Marine Sediments (M).” (p. 25)

The Paleontological Resources Technical Report also noted “The depth at which Holocene sediments are old enough to preserve fossil resources (i.e., more than 5,000 years old) or transitions to Older Alluvium is highly variable and often unknown for any specific area. One study of inland valley fossil deposits in Riverside and San Bernardino counties identifies this transition as relatively shallow in many areas, with fossil-bearing sediments occurring as little as 1.5 m (5 feet) below the surface (Reynolds and Reynolds, 1991). These deposits are mapped as covering large surface areas across the Valley, East Desert, and North Desert Regions, and as scattered deposits in the Mountain Region.” (p. 13)

It is not envisioned that substantial excavation greater than five feet of the site will be necessary due to the type of use proposed. As such, it is unlikely paleontological resources would be uncovered on the property. Therefore, no significant impacts are identified or are anticipated, and no mitigation measures are required.

Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
VIII. GREENHOUSE GAS EMISSIONS – Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>SUBSTANTIATION:</i> <i>San Bernardino Countywide Plan, 2020; Submitted Project Materials; Air Quality and Greenhouse Gas Emissions Impact Analysis (CalEEMod) provided by applicant.</i>				

- a) *Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

Less Than Significant Impact

According to CEQA Guidelines Section 15064.4, when making a determination of the significance of greenhouse gas emissions, the “lead agency shall have discretion to determine, in the context of a particular project, whether to (1) use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use.” In addition, CEQA Guidelines section 15064.7 provides that “a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts” on the condition that “the decision of the lead agency to adopt such thresholds is supported by substantial evidence.”

The Global Warming Solutions Act of 2006 requires that by the year 2020, the Greenhouse Gas (GHG) emissions generated in California be reduced to the levels of 1990. Emissions were estimated using the CalEEMod version 2016.3.2.

Many gases make up the group of pollutants that are believed to contribute to global climate change. However, three gases are currently evaluated and represent the highest concentration of GHG: Carbon dioxide (CO₂), Methane (CH₄), and Nitrous oxide (N₂O). The Proposed Project would not generate Fluorinated gases, as defined by AB 32, only the GHGs (CO₂, CH₄, and N₂O) that are emitted by construction equipment. SCAQMD provides guidance methods and/or Emission Factors that are used for evaluating a project’s emissions in relation to the thresholds. A threshold of 10,000 MTCO₂E per year has been adopted by SCAQMD for industrial type projects.

In September 2011, the County adopted a Greenhouse Gas Emissions (GHG) Reduction Plan (GHG Plan). The GHG Plan presents a comprehensive set of actions to reduce the County’s internal and external GHG emissions to 15% below 2007 levels by 2020, consistent with the AB 32 Scoping Plan. This Plan was updated in 2021. GHG emissions impacts are assessed through the GHG Development Review Process (DRP) by applying appropriate reduction requirements as part of the discretionary approval of new development projects. Through its development review process the County will implement CEQA and require new development projects to quantify the project’s GHG emissions and adopt feasible mitigation to reduce project emissions below a level of significance. This occurs through a screening proposes that involves accumulating an adequate number of points through the use of various construction methods and equipment use. If this point level is achieved, then no additional analysis is required. The applicant achieved over 100 points. However, the applicant also prepared a GHG analysis as part of their Air Quality evaluation. As shown in Table 5, the proposed Project’s emissions would exceed the County’s 3,000 MTCO₂e threshold of significance, without mitigation utilizing the CalEEMod program. However, inclusion of CalEEMod mitigation incorporated into the CalEEMod program, this number was reduced below 3,000 MTCO₂e. These measures included the sites proximity to existing public transportation. Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Table 5
Project Related Greenhouse Gas Annual Emissions with Mitigation
(Metric Tons per Year)

Source/Phase	CO ₂	CH ₄	N ₂ O	CO ₂ e
Area ¹	47.99	0.0	0.0	48.34
Energy ²	509.85	0.1	0.0	512.09
Mobile ³	1,694.45	0.09	0.0	1,696.73
Solid Waste ⁴	4.81	0.28	0.0	11.92
Water and Wastewater ⁵	77.91	0.37	0.0	89.39
Construction ⁶	36.88	0.0	0.0	41.27
Total GHG Emissions	2,371.89	0.84	0.00	2,393.44⁷
County Threshold	3,000			
Significant	No			

Notes:

¹ Area sources consist of GHG emissions from consumer products, architectural coatings, and landscaping equipment.

² Energy usage consists of GHG emissions from electricity and natural gas usage.

³ Mobile sources consist of GHG emissions from vehicles.

⁴ Waste includes the CO₂ and CH₄ emissions created from the solid waste placed in landfills.

⁵ Water includes GHG emissions from electricity used for transport of water and processing of wastewater.

⁶ Construction emissions amortized over 30 years as recommended in the SCAQMD GHG Working Group on November 19, 2009.

Source: CalEEMod Version 2016.3.2.

⁷ Sequestration has been incorporated into the final total and reduced the estimated CO₂e generated.

- b) *Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?*
Less Than Significant Impact

The proposed Project is not anticipated to conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases. Any project that does not exceed 3,000 MTCO₂e per year will be considered to be consistent with the County's GHG Plan and determined to have a less than significant individual and cumulative impact for GHG emissions. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated and no mitigation measures are required.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
IX. HAZARDS AND HAZARDOUS MATERIALS – Would the project:				

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? ☐ ☐ ☒ ☐

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION:

San Bernardino Countywide Policy Plan, 2020; Department of Toxic Substances Control, EnviroStor Program; Submitted Project Materials

- a) *Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*

Less Than Significant Impact

The proposed Project is a 112-unit multiple family condominium development that that will connect with 93 additional proposed units in the City of Fontana on adjoining parcels. This proposal involves both a tentative tract map and conditional use permit. Hazardous or toxic materials transported in association with construction may include items such as oils, paints, and fuels. All materials required during construction would be kept in compliance with State and local regulations. With implementation of Best Management Practices (BMPs) and compliance with all applicable federal, state and local regulations including all Certified Unified Program Agency (CUPA) regulations, potential impacts to

the public or the environment from the routine transport, use, or disposal of hazardous materials during construction are considered to be less than significant.

The operational activities of the proposed development involve the routine transport or use of hazardous materials, but only the types of products typically used in the construction and on-going maintenance of residential properties, including landscaping. No significant adverse impacts or anticipated and no mitigation measures are required.

- b) *Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

Less Than Significant Impact

As stated in response (a) above, hazardous or toxic materials transported in association with construction of the proposed Project may include items such as oils, paints, and fuels. All materials required during construction would be kept in compliance with State and local regulations. Operational activities would continue to include standard maintenance (i.e., landscape upkeep, exterior painting and similar activities) involving the use of commercially available products (e.g., pesticides, herbicides, gas, oil, paint, etc.) the use of which would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accidental release of hazardous materials into the environment. With implementation of Best Management Practices (BMPs) and compliance with all applicable regulations, potential impacts from the use of hazardous materials is considered less than significant and no mitigation measures are required.

- c) *Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

No Impact

The closest school to the Project site is Almond Elementary School, approximately 660 feet or 0.125 miles east of the Project site. No hazardous materials beyond that typically used in the construction and operation of residential development would be emitted as a result of the proposed Project. Therefore, no impacts associated with emission of hazardous or acutely hazardous materials, substances, or waste within 0.25-mile of a school are anticipated. No impacts or anticipated and no mitigation measures are required.

- d) *Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

No Impact

The subject property is not on the list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 by the California Department of Toxic Substances Control's EnviroStor data management system, based upon an on-line review of the Web Site September 29, 2021. The closest identified site involves a voluntary cleanup site located approximately 0.7 miles to the southeast, as part of an existing reclamation facility. EnviroStor tracks cleanup, permitting, enforcement and investigation efforts at hazardous waste facilities and sites with known or suspected contamination issues. No hazardous

materials sites are located within or near the vicinity of the Project Site. Therefore, no impacts are identified or are anticipated, and no mitigation measures are required.

- e) *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?*

Less Than Significant Impact

The subject property is located approximately 5.75 miles from the Ontario International Airport. As shown on the San Bernardino Countywide Policy Plan Map, HZ-9 Airport Safety & Planning Areas, the Project site is approximately two miles from the boundary of the Airport Safety Review Area. As such, the Project Site is not located within close proximity of a private or public airstrip. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

- f) *Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

No Impact

The closest designated evacuation route to the subject property is Foothill Boulevard, based upon a review of the Countywide Plan PP-2 Evacuation Routes. Banana Avenue also provides adjacent accessible routes away from the property. Therefore, operations and construction of the proposed Project would not interfere with the use of these routes during an evacuation. During construction, the contractor would be required to maintain adequate emergency access for emergency vehicles as required by the County. Furthermore, the subject property does not contain any emergency facilities. Project operations at the site would not interfere with an adopted emergency response or evacuation plan. No impacts are identified or anticipated, and no mitigation measures are required.

- g) *Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?*

Less Than Significant Impact

The Project site is located within a very urbanized area. As identified by San Bernardino Countywide Policy Plan, HZ-5 Fire Hazards Severity Zones, the subject property and surrounding area is not located within a designated Very High Fire hazard. Pockets of High and Moderate Zones exist in the general area, with the closest one approximately 0.9 miles to the west. All proposed buildings would be required to comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the San Bernardino County Fire Department.

Due to the location of the proposed use, it would not expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. No significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
X. HYDROLOGY AND WATER QUALITY – Would the project:					
a)	Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
	i. result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or offsite;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of runoff; or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	iv. impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d)	In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SUBSTANTIATION:

San Bernardino Countywide Plan, 2020; Project WQMP; Submitted Project Materials;

- a) *Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?*

Less Than Significant Impact

The proposed Project would disturb more than one-acre and therefore would be subject to the National Pollutant Discharge Elimination System (NPDES) permit requirements. The State of California is authorized to administer various aspects of the NPDES. Construction activities covered under the State's General Construction permit include removal of vegetation, grading, excavating, or any other activity that causes the disturbance of one-acre or more. The General Construction permit requires recipients to reduce or eliminate non-storm water discharges into storm water systems, and to develop and implement a SWPPP.

The purpose of a SWPPP is to: 1) identify pollutant sources that may affect the quality of discharges of storm water associated with construction activities; and 2) identify, construct and implement storm water pollution control measures to reduce pollutants in storm water discharges from the construction site during and after construction.

A revised preliminary Water Quality Management Plan (WQMP) prepared by Azar Engineering, has been reviewed and approved by the Land Development Divisions and is summarized below. The Project proponent is responsible for the implementation of the provisions of the WQMP and will ensure that the plan is amended as appropriate to reflect up-to-date conditions of the site consistent with the County's Municipal Storm Water Management Program and the intent of the NPDES Permit for San Bernardino County and the incorporated cities of San Bernardino County within the Santa Ana Region.

Implementation of the proposed Project would dramatically increase the impervious surface of property, due to its current undisturbed condition. Utilizing information contained in the WQMP, the proposed Project has one (1) Drainage Area with stormwater runoff collected and conveyed through a CDS Separator before directing it to an underground/detention system via catch basins located within the proposed drive aisles and area drain system within the landscaped areas. The underground infiltration/detention system will be open bottomed to promote infiltration and groundwater recharging. The underground detention/infiltration system constructed using Brentwood System modules with a debris shield. Pretreatment will be provided by catch basin inserts located within the main drive aisle. During larger storm events and when the infiltration/detention system has reached capacity, stormwater will bypass to a proposed underground storm drain system and convey offsite via parkway drains to the public right-of-way of Banana Avenue. Post-development drainage from the adjoining two subdivisions to the north, TTM 20382 and 20397, will be conveyed to this subdivision within the unincorporated area, TTM 20016.

Based upon the amount of water traversing the site, along with the amount of impervious surface, drawdown rate based upon soil conditions, and runoff coefficient, the computed design capture volume of the proposed drainage system is 45,453 cubic feet, which will be achieved using the a proposed drainage vault system under the southerly parking area. The estimated required capture rate noted in the WQMP is 43,711 cubic feet. As such, the proposed Project would not generate additional drainage flows during peak periods for downstream properties. Based upon the amount

of volume capture of runoff and the design of the infiltration system to ensure pollutants do not discharge downstream, no significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

- b) *Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?*

Less Than Significant Impact

The Project site is directly served by the Fontana Water Company (FWC), which is part of the San Gabriel Valley Water Company. FWC has the following existing water supplies:

- Surface water diverted from Lytle Creek, treated at the Summit Plant.
- Untreated SWP surface water purchased from the Inland Empire Utilities Agency (IEUA) and San Bernardino Valley Municipal Water District (SBVMWD), treated at the Summit Plant.
- Recycled water purchased from IEUA.
- Groundwater pumped from FWC-owned and operated wells from the underlying Chino Basin, Rialto-Colton/No Man's Land Basins, and Lytle Basin.

As noted in **Section XIX Utilities and Service Systems**, FWC plans to expand the capacity of the Summit Plant to increase the imported supply purchased and treated in an effort to reliably meet current and future water demands. "FWC's drought risk was specifically assessed between 2021 and 2025, assuming that the next five years are dry years. In each case, water supplies comfortably meet water demands. This remains true whether the drought occurs in 2021, 2045, or any year between." (*San Gabriel Valley Water Company, Fontana Water Company Division, Final 2020 Water Management Plan*, p. ES-3)

The additional structures and site improvements would increase the Project site's water demand. However, the proposed land use is consistent with the County's Policy Plan Medium Density (5 to 20 units per acre) and substantially less than the City of Fontana General Plan Land Use Map Walkable Mixed Use Corridor and Downtown (24-39 units per acre), and therefore would not result in a substantial adverse effect on groundwater supplies. The proposed Project design is intended to retain stormwater flows during peak periods at a rate that exceeds the projected runoff rate from the property in its current condition. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- c) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:*

- i) *Result in substantial erosion or siltation on- or off-site;*
Less Than Significant Impact

The Preliminary Drainage Study and Preliminary Water Quality Management Plans were approved on December 13, 2021. The Drainage Study indicated stormwater flows through the site will be reduced from 26.47 cubic feet per second (cfs) to 23.55 cfs. As noted in the WQMP and based upon the site topography, the site drains to the south. This general drainage pattern will not be altered with implementation of the proposed Project. Site runoff will be conveyed by surface flow to a drainage inlet system that feeds an underground pipe retention/infiltration/vault system at the southerly end of the site under the proposed parking area. The site is relatively flat and borders portions of two streets. Full retention of the amount of stormwater runoff is proposed with the site design infiltration system. The computed capture rate noted in the WQMP is 43,711 Cubic Feet and the total retention volume from the low impact development (LID) infiltration best management practices (BMPs) is greater at 45,453 cubic feet. As such, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

- ii) *Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or offsite;*

Less Than Significant Impact

As noted in subsection ai) above, the design volume of the proposed infiltration basin system is greater than the computed capture rate, based upon identified design standards for the area. As such, the proposed Project would not increase the rate or amount of surface runoff in a manner which would result in flooding on or offsite. Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

- iii) *Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of runoff; or*

Less Than Significant Impact

As stated in the WQMP, the proposed infiltration basin is anticipated to achieve a complete on-site retention of the site's computed capture rate. As such, with adherence to the respective WQMP design criteria, the proposed Project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. Therefore, no significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

- iv) *Impede or redirect flood flows?*

Less Than Significant Impact

The subject property is within an identified flood hazard area. The San Bernardino Countywide Policy Plan Map HZ-4 Flood Hazards, displays the subject property as not within a 100 (Zone A) or 500 year (Zone X) flood plain. However, this area represents a gap in the mapping, which is clarified using the County's arcgis system that identifies the area as Zone X, FEMA Map No. 06071C8651H. FEMA FIRM Map Number 06071C8651H Panel 8651 of 9400, revised 08/28/2008, displays the subject site in Zone X (Other Flood Areas) described as areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less

than 1 square mile; and areas protected by levees from 1% annual chance flood. As noted in other portions of this document, the projected runoff volume for the Project site based upon the proposed design features and site characteristics will be captured by the proposed infiltration basin at the southerly end of the property. Therefore, with adherence to the WQMP, the proposed Project is not anticipated to impede or redirect flood flows. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- d) *In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?*

No Impact

Tsunamis are large waves generated in open bodies of water by fault displacement due to major ground movement. Due to the Project Site's distance from the Pacific Ocean, tsunamis are not potential hazards in the vicinity of the Project Site. Therefore, the risk of release of pollutants of by flood, seiche, or tsunami is considered low. No significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

- e) *Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

Less Than Significant Impact

The WQMP prepared and which has received preliminary approval as part of this proposal complies with the requirements of the San Bernardino County and the NPDES Areawide Stormwater Program. The proposed Project would adhere to each PWQMP's BMPs, regional and local water quality control and/or sustainable groundwater management plans. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XI. LAND USE AND PLANNING – Would the project:					
a)	Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

San Bernardino Countywide Plan, 2020; Submitted Project Materials

a), b) *Physically divide an established community?*

Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No Impact

The Project site is located just south of Foothill Boulevard, a major east/west thoroughfare in the City of Fontana. Most of the surrounding properties in the area are developed with residential uses. The proposed private internal roadway system will link to subdivisions in the City of Fontana and ultimately provide a through connection from Foothill Boulevard to Banana Avenue. As such, the property will be a residential use within a predominately residential area and be a self-contained development, similar to other condominium developments. As such, development of the subject property would not divide an established community.

The City of Fontana Draft EIR contains the following documentation with respect to critical habitat:

“Within City boundaries, USFWS-designated Critical Habitat occurs for SBKR and coastal California gnatcatcher. SBKR Critical Habitat is present in the foothills of the San Gabriel Mountains in the northern portion of the City, and coastal California gnatcatcher Critical Habitat is present in the Jurupa Hills in the southern portion of the City. Other Critical Habitat in the vicinity of the Planning Area includes that for mountain yellow-legged frog (*Rana muscosa*) in Day Canyon Wash and its tributaries in the San Gabriel Mountains approximately 3 miles to the west-northwest of the City and for southwestern willow flycatcher (*Empidonax traillii* extimus) and Santa Ana sucker (*Catostomus santaanae*) along the Santa Ana River approximately two miles to the east-southeast of the City.” (p.5.3-36)

As such, the Project site is not within an area identified for mitigating environmental effects nor is it part of a Critical Habitat area.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XII. MINERAL RESOURCES – Would the project:				
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUBSTANTIATION: (Check <input type="checkbox"/> if project is located within the Mineral Resource Zone Overlay):				
<i>San Bernardino Countywide Plan, 2020; California Department of Conservation, Mineral Land Classification</i>				

- a) *Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?*

Less Than Significant Impact

According to the California Department of Conservation, Mineral Land Classification map, the Project site occurs in the Southwestern San Bernardino Valley region, specifically in OFR (Open File Report) 1994-0008. As shown on an exhibit in the report, the Project site and surrounding area are located within Mineral Resource Zone 3 (MRZ-3). This zone identifies areas of known or inferred mineral deposits that may qualify as mineral resources. The subject property is of limited size and adjacent to a mobile home park and detached single family subdivisions within a highly urbanized area. This location and surrounding uses are not compatible with mineral resource extraction. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- b) *Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?*

Less Than Significant Impact

The Project site occurs in an area designated as Mineral Resource Zone 3 (MRZ-3). The State *Guidelines for Classification of and Designation of Mineral Lands* generally defines MRZ-3 as either:

- MRZ-3a: Areas containing known mineral deposits that may qualify as mineral resources.
- MRZ-3b: Areas containing inferred mineral deposits that may qualify as mineral resources.

The County Policy Plan and City of Fontana General Plan designate the property for residential use. Approval of the Tentative Tract Map and Conditional Use Permit would authorize the use of the property for a multiple family condominium development. The Project site is not located within a planning area designated for mining. Therefore, the proposed Project would not result in the loss of availability of a locally important mineral resource recovery site, since the area is not intended for that type of use. No significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XIII. NOISE – Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SUBSTANTIATION: (Check if the project is located in the Noise Hazard Overlay District <input type="checkbox"/> or is subject to severe noise levels according to the General Plan Noise Element <input type="checkbox"/>):				
San Bernardino Countywide Plan, 2020; Submitted Project Materials				

Noise can be measured in the form of a decibel (dB), which is a unit for describing the amplitude of sound. The predominant rating scales for noise in the State of California are the Equivalent Continuous Sound Level (L_{eq}), and the Community Noise Equivalent Level (CNEL), which are both based on the A-weighted decibel (dBA). The L_{eq} is the average of the sound level energy for a one-hour period and employs an A-weighted decibel correction that corresponds to the optimal frequency response of the human ear. The CNEL is based upon 24 one-hour L_{eq} measurements.

The background ambient noise levels in the Project study area are dominated by the transportation-related noise associated with the adjacent surface streets and background residential land use from nearby properties.

Sensitive receivers are generally defined as locations where people reside or where the presence of unwanted sound could otherwise adversely affect the use of the land. Noise sensitive residential receiver locations in proximity to the Project site include single family tract housing to the south and east, a mobile home park to the west, and a single family residence to the north. The Project site is approximately 600 feet south of Foothill Boulevard, a major east/west transportation corridor.

Policy Plan Figure HZ-7 Existing Noise Contours displays the unincorporated portion of the property as 60 dBA. This level of noise is consistent with the County's Development Code requirements of 60 dBA for residential exterior noise levels. Policy Plan Figure HZ-8 Future Noise Contours does not note a change in the projected noise levels for that area. That portion of the property within the City of Fontana would be subject to greater noise levels and would be the responsibility of the City to address potential design features to maintain noise levels within acceptable levels.

It is not expected that the amount of noise generated by vehicle trips from this residential land use would cause notable noise levels that would be unusual for a residential area.

- b) *Generation of excessive groundborne vibration or groundborne noise levels?*
Less Than Significant Impact

County Development Code Section 83.01.090, Vibration, establishes standards for acceptable vibration levels: temporary construction, maintenance, repair, or demolition activities between 7 a.m. and 7 p.m. are exempt from this vibration limit, except on Sundays and federal holidays, when construction is prohibited. Potential impacts due to noise would be short-term and temporary during construction. Vehicle use during Project operation are also exempt from the County vibration standards. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- c) *For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the project area to excessive noise levels?*
No Impact

The Project Site is located approximately 2.2 miles northeast of the Ontario International Airport Safety Review Area, as displayed on San Bernardino Countywide Plan HZ-9

Airport Safety and Planning Areas. The Project Site is not located within the vicinity of a private or public airstrip. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Issues				
Potentially Significant Impact				
Less than Significant				
with Mitigation Incorporated				
No Impact				

XIV. POPULATION AND HOUSING – Would the project:

- a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? ☐ ☐ ☐ ☒
- b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere? ☐ ☐ ☐ ☒

SUBSTANTIATION:

San Bernardino Countywide Plan 2020; Submitted Project Materials

- a) *Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*
No Impact

The proposed Project site is designated for residential development in both the County of San Bernardino Land Use Element of the Countywide Plan and the City of Fontana General Plan. The Project site is adjacent to and will obtain access to existing paved roadways when ultimately developed. As such, it would not induce unplanned population growth in the area due to the existing Plans adopted by both the County and City. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- b) *Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*
No Impact

The Project site is has several residences on the property. One is boarded up and unoccupied. The other residence has occupants. Once the site is developed the current residents will have the opportunity to utilize the 112-unit multiple family development or those portions of the adjoining development that represent the extension of the Project in the City of Fontana. As such, implementation of the proposed Project would not displace a substantial number of people or housing, although the proposal would provide significant opportunity for any displaced residents. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
XV. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

San Bernardino Countywide Plan 2020; Submitted Project Materials

- a) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*

Fire Protection?

Less Than Significant Impact

The Project site is located approximately 400 feet south of San Bernardino County Fire Station No. 73, located at the intersection of Foothill Boulevard and Banana Avenue. Response times in the range of five to eight minutes are considered maximum in the

case of structural fires. A longer response time will result in the loss of most of the structural value. Fire station organization, physical/environmental conditions, distance, grade and road conditions affect response times.

Due to the close proximity of the station, no significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

Police Protection?

Less Than Significant Impact

Personnel organization, distance, grade and road conditions as well as other physical factors influence response times by law enforcement. The unincorporated portions of San Bernardino County within the Fontana area are served by the San Bernardino's County Sheriff Department (SBCSD). The County operates a Station at 17780 Arrow Route, approximately 4.6 miles from the project site. Response times to the area are depended upon the type of calls for service. The SBCSD reviews staffing needs on a yearly basis and adjusts service levels as needed to maintain an adequate level of public protection. Demand for service at the site is not expected to be significant nor unusual. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

Schools?

No Impact

The Project site is within the Fontana Unified School District boundaries. School districts are permitted to require payment of developer fees, along with the issuing of bonds, to pay for expansion of schools to meet the construction of classrooms for students. The collection of these funds would provide adequate compensation under the law to meet the potential impact of development upon the school district. The Fontana District has adopted developer impact fees of 4.08/sq. ft. Therefore, the collection of applicable development impact fees, consist with the requirements of State law, would address any potential impacts related to school facilities and no mitigation measures are required.

Parks?

No Impact

The proposed Project would allow for the development of a 112-unit multiple family condominium development. The County development standards require the establishment of private open space for individual dwellings and common areas for joint use. The purpose of the design is to provide easily accessible open space and recreational areas for residents. The County of San Bernardino provides a number of regional recreational facilities totaling 8,515 acres.

The Countywide Plan Draft EIR notes the "population of the incorporated and unincorporated areas is forecasted to reach 2,744,578 in 2040. The amount of regional parkland in the county is 8,515 acres, which is sufficient for the parkland needs of about 3.4 million people if based on the 2007 General Plan standard of 2.5 acres per 1,000 residents. Upon adoption of the proposed Countywide Plan [which has occurred], the standard for regional parkland would be replaced by an emphasis on maintaining and

improving existing facilities and the coordination with other jurisdictions to provide regional park land (Policy NR-3.6, Regional park land). Accordingly, no new and/or expanded facilities would need to be developed due to Countywide Plan buildout, and no additional impacts would occur.” (p. 5.15-13)

Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

Other Public Facilities?

No Impact

The proposed Project would result in an increased residential population and an increase in the work force as the Project due to the new multiple family condominium units. However, the other types of public facilities affected, such as municipal/county offices or water and sewer facilities, would not be significant to the extent existing facilities would be overburdened or the potential impact would not be mitigated through either a standard construction or fee payment process. Therefore, implementation of the proposed Project would not adversely affect other public facilities or require the construction of new or modified facilities. No impacts are identified or anticipated, and no mitigation measure is required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XVI. RECREATION					
a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SUBSTANTIATION:					
San Bernardino Countywide Plan 2020; Glen Helen Specific Plan; Submitted Project Materials					

- a) *Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?*

No Impact

Demands for recreational facilities are generated by the populations in the facilities' service areas. The County's total 49,680 projected growth in population in unincorporated areas, as referenced in the previous section, would increase the use of existing regional park and recreational facilities. Regional parks, however, are also used and funded by those in incorporated jurisdictions. According to the Countywide Draft EIR, Recreation Section, the unincorporated growth represents a two percent increase of potential users on existing regional park facilities, with an average annual growth rate of 0.10 percent over the planning horizon of 24 years. This incremental level of growth would not lead to substantial physical deterioration of existing park and recreational facilities.

The Draft EIR also noted "The population of the incorporated and unincorporated areas is forecasted to reach 2,744,578 in 2040. The amount of regional parkland in the county is 8,515 acres, which is sufficient for the parkland needs of about 3.4 million people if based on the 2007 General Plan standard of 2.5 acres per 1,000 residents. In the updated Countywide Policy Plan, the standard for regional parkland would be replaced by an emphasis on maintaining and improving existing facilities and the coordination with other jurisdictions to provide regional park land (Policy NR-3.6, Regional park land). Accordingly, no new and/or expanded facilities would need to be developed due to Countywide Policy Plan buildout, and no additional impacts would occur." (p. 5.15-14) Therefore, no significant impacts are identified or anticipated and no mitigation measures are required.

- b) *Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

No Impact

The proposed Project includes private open space for each proposed condominium unit and common open space areas with small gathering areas with benches, pathways, a tot lot, outdoor exercise area, and a community structure. Section 84.16.070 of the County Development Code requires developments with greater than 100 dwelling units to provide a minimum of 10 points based upon the type of recreational facilities provided on the property. The application has provided a tot lot that includes multiple play structures with climbing nets and a tire swing, an outdoor exercise area with equipment, a community structure (in lieu of a community room), and passive recreation areas with walking paths throughout the site. These features exceed the 10 point requirement and would reduce the need to utilize recreational outside the Project site.

Implementation of policies listed in the Countywide Goals and Policies of the Recreation Element in the Countywide Policy Plan would ensure impacts to parks are less than significant and no mitigation measures are required. The proposed Project is not anticipated to require construction or expansion of additional recreational facilities.

Therefore, no adverse impacts are identified or anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XVII. TRANSPORTATION – Would the project:					
a)	Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3 subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SUBSTANTIATION:

San Bernardino Countywide Plan; Trip Generation Assessment; Project Application Materials

- a,b) *Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities? Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3 subdivision (b)?*

Less Than Significant Impact

A *Trip Generation Vehicle Miles Traveled (VMT) Analysis*, dated October 3, 2021, was prepared for the Project by TJW Engineering, Inc. The report is available for review at the County of San Bernardino Land Use Services Department and is summarized herein. The purpose of the assessment was to determine whether additional traffic analysis was necessary for the proposed Project based on the County's Transportation Impact Study Guidelines. The trip generation rates used for the analysis were based upon information collected by the Institute of Transportation Engineers (ITE), as provided in their Trip Generation Manual (10th Edition, 2017). The analysis projected a

total of 74 total AM peak hour trips and 93 PM peak hour trips, with 1,120 total daily trips.

The traffic study also referenced use of the County of San Bernardino Transportation Impact Study Guidelines (July 2019), which provides guidelines for CEQA analysis including screening criteria and requirements for VMT assessment of land use projects. The VMT guidelines provide several screening criteria for projects including Transit Priority Area (TPA) Screening, Low VMT Area Screening, and Project Type Screening. The County's Traffic Impact Analysis Guidelines indicates projects located within a Transit Priority Area (TPA) may be presumed to have a less than significant impact to VMT. Based on the San Bernardino County Transportation Authority VMT Screening Tool, the Project is within a half-mile area of Foothill Boulevard (a transit priority area). Therefore, the project is screened out from VMT analysis and presumed to have a less than significant impact to VMT. Therefore, no adverse impacts are identified or anticipated, and no mitigation measures are required.

- c) *Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?*

No Impact

The Project site is relatively flat and adjoins several streets with good line of sight visibility. The Project does not include a geometric design feature or incompatible use that would substantially increase hazards. Therefore, no impacts are identified or anticipated, and no mitigation measures are required.

- d) *Result in inadequate emergency access?*

Less Than Significant Impact

As required by the County, the Project would provide three driveways with a minimum width of 26 feet to allow for emergency access. The proposed Project would be subject to any conditions required by the San Bernardino County Fire Department to maintain adequate emergency access. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
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XVIII. TRIBAL CULTURAL RESOURCES

- a) Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- | | | | | | |
|-----|--|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| i) | Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ii) | A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION:

San Bernardino Countywide Plan, 2020; Cultural Historical Resources Information System (CHRIS), South Central Coastal Information Center, California State University, Fullerton; Submitted Project Materials

- a) *i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or;*

Less Than Significant Impact

Based upon the response received from the South Central Coastal Information Center (SCCIC) no significant resources were identified for the property and an area within one-quarter mile. The response from SCCIC included a review of materials from the California Points of Historical Interest (SPHI), the California Historical Landmarks (SHL), the California Register of Historical Resources (CAL REG), the National Register of Historic Places (NRHP), and the California State Built Environment Resources Directory (BERD) listings.

No significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

- b) *ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?*

Less Than Significant Impact with Mitigation Incorporated

On July 9, 2021, the County of San Bernardino distributed notification pursuant to AB52 to the following six tribes: Gabrieleno Band of Mission Indians - Kizh Nation, San Gabriel Band of Mission Indians, Soboba Band of Luiseño Indians, Morongo Band of Mission Indians, Twenty-Nine Palms Band of Mission Indians, and San Manuel Band of Mission Indians. The only comments received were from the San Manuel Band of Mission Indians on July 16, 2021. The Tribe indicated that "The proposed

project area exists within Serrano ancestral territory and, therefore, is of interest to the Tribe. However, due to the nature and location of the proposed project, and given the CRM Department's present state of knowledge, SMBMI does not have any concerns with the project's implementation, as planned, at this time." The following measures were requested for incorporation into the document:

TCR-1: The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in CR-1, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.

TCR-2: Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.

Possible significant adverse impacts have been identified or anticipated and implementation of Mitigation Measures TCR-1 and TCR-2 are required as a condition of project approval to reduce these impacts to a level below significant.

Issues		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
XIX. UTILITIES AND SERVICE SYSTEMS – Would the project:					
a)	Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
c) Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SUBSTANTIATION:

San Bernardino Valley Municipal District Urban Water Management Plan 2015; Submitted Project Materials; Glen Helen Specific Plan

- a) *Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?*

Less Than Significant Impact

Water

The Fontana Water Company would provide water service to the Project site and operates various pumping, transmission, and treatment facilities to provide water service to its customers. Both local surface water from Lytle Creek and imported State Water Project (SWP) water is treated at FWC's Summit Surface Water Treatment Plant (Summit Plant). Local groundwater is pumped from various wells and disinfected, and in some locations is treated at on-site treatment facilities to remove perchlorate or Volatile Organic Compounds (VOCs). FWC operates a network of water pipelines, reservoirs, and pumping facilities to deliver this treated drinking water to its customers.

The Project will connect to an existing water line operated by the Fontana Water Company in compliance with their existing requirements.

Wastewater Treatment

The proposed Project will connect to the City of Fontana sewer line and utilize treatment facilities operated by the Inland Empire Utilities Authority (IEUA).

Storm Drainage

The site design will reflect the existing drainage patterns of the Project site. The Project will maximize roof drainage to landscaped areas and downspouts will discharge onto paved surface and routed to underground infiltration system. All on site water will be collected and treated in underground infiltration system.

Electric Power

The Project will connect to the existing Southern California Edison electrical distribution facilities available near the project site.

Natural Gas

The Project will connect to the existing Southern California Gas natural gas distribution facilities near the Project site.

Conclusions

The installation of the above-described facilities as proposed by the Project would result in physical impacts to the surface and subsurface of the project site. These impacts are considered to be part of the project's construction phase and are evaluated throughout this Initial Study/Mitigated Negative Declaration. In instances where significant impacts have been identified, Mitigation Measures have been required to reduce impacts to less-than-significant levels. Accordingly, additional measures beyond those identified throughout this Initial Study/Mitigated Negative Declaration would not be required.

- b) *Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years?*

Less Than Significant Impact

The Project site will be provided water by the Fontana Water Company (FWC). FWC is a division of the San Gabriel Valley Water Company and is a retail water supplier for the City of Fontana, and portions of the City of Rialto, City of Rancho Cucamonga, and adjacent unincorporated areas of San Bernardino County. FWC operates within the service area of the Inland Empire Utilities Agency (IEUA) and the San Bernardino Valley Municipal Water District (SBVMWD) wholesale water agencies. FWC purchases imported water supplies from IEUA and SBVMWD, both wholesale water agencies. Projected future water demands have been estimated based on the anticipated growth, as defined by population projections for FWC's service area. FWC assumes per capita water use will remain substantially lower than the historical baseline (1999-2008) water use, but will increase slightly from current recorded usage due to recovery from the 2012-2016 drought conservation efforts. Based on these factors, water demands in the FWC water service area are expected to increase approximately 42 percent (from 2020

levels) by 2045, which represents a more than 10 percent decrease in the 2040 projected water demand from FWC's 2015 UWMP.

FWC has the following existing water supplies:

- Surface water diverted from Lytle Creek, treated at the Summit Plant.
- Untreated SWP surface water purchased from the Inland Empire Utilities Agency (IEUA) and San Bernardino Valley Municipal Water District (SBVMWD), treated at the Summit Plant.
- Recycled water purchased from IEUA.
- Groundwater pumped from FWC-owned and operated wells from the underlying Chino Basin, Rialto-Colton/No Man's Land Basins, and Lytle Basin. Three of the basins are adjudicated, which includes the Chino Basin, Rialto-Colton Basin, and the Lytle Basin, and one un-adjudicated basin known as the No Man's Land Basin.

To reliably meet current and future water demands, FWC plans to expand the capacity of the Summit Plant to increase the imported supply purchased and treated. "FWC's drought risk was specifically assessed between 2021 and 2025, assuming that the next five years are dry years. In each case, water supplies comfortably meet water demands. This remains true whether the drought occurs in 2021, 2045, or any year between." (*San Gabriel Valley Water Company, Fontana Water Company Division, Final 2020 Water Management Plan*, p. ES-3)

Chino Basin

The Chino Basin is the main source of water for FWC and is an adjudicated basin. According to the DWR [Department of Water Resources] Bulletin 118 (California's Groundwater), DWR has not identified the Chino Basin as one of the basins being in "*critical condition of overdraft*."

Rialto-Colton Basin

FWC pumps groundwater from seven active wells in the Rialto-Colton Basin, which is an adjudicated basin. DWR has also not identified the Rialto-Colton Basin as one of the basins being in "*critical condition of overdraft*."

Lytle Basin

FWC pumps groundwater from ten active wells in the Lytle Basin. The Lytle Basin is an adjudicated basin and DWR has also not identified the Lytle Basin as one of the basins being in "*critical condition of overdraft*."

No Man's Land Basin

The Water Company's previous UWMP identified the No Man's Land Basin and the Rialto-Colton Basin as separate groundwater basins with separate production rights. On February 3, 2021, the FUWC, West Valley Water District, City of Rialto, and City of Colton entered into the Rialto Basin Groundwater Council (RBGC) Framework Agreement, for the purpose of groundwater management and coordination in the Rialto

Basin. However, the Rialto Basin Groundwater Council (RBGC) Framework Agreement incorporates the FWC production right from No Man's Land Basin into the Rialto Basin groundwater production limitations.

FWC pumps groundwater from three active wells in the No Man's Land Basin. The No Man's Land Basin is not an adjudicated basin. DWR has also not identified the No Man's Land Basin as one of the basins being in "*critical condition of overdraft*." Average groundwater production of approximately 4,000 AFY from the No Man's Land Basin is estimated to be available for pumping and diversion by FWC during normal, single dry and multiple dry years in the next twenty years.

The adopted groundwater management plans for the adjudicated Chino Basin, Rialto-Colton Basin, and Lytle Creek Region are contained within the Chino Basin Judgment, Rialto-Colton Basin Court Decree, and McKinley Decree, respectively. FWC has the legal right to pump groundwater from these basins. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- c) *Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?*

Less Than Significant Impact

As noted previously in subsection a) above, the Inland Empire Utilities Agency (IEUA) would serve the proposed Project for wastewater treatment. The City of Fontana would operate the wastewater collection lines in the street. According to a sewer availability letter from the City, dated August 17, 2017, an existing public sewer main is located approximately 200 feet from the property. One of two treatment plants could service the property. The IEUA Web Site, accessed on January 18, 2022, states that "Regional Water Recycling Plant No. 1 (RP-1) is located in the city of Ontario and has been in operation since 1948. The plant has undergone several expansions to increase the design hydraulic domestic sewage (wastewater) treatment capacity to 44 million gallons per day. The plant serves areas of Chino, Fontana, Montclair, Ontario, Rancho Cucamonga, Upland, and solids removed from RP-4, located in Rancho Cucamonga. The plant treats an average influent wastewater flow of approximately 28 million gallons per day." "Regional Water Recycling Plant No. 4 (RP-4) is located in the city of Rancho Cucamonga and has been in operation since 1997. The plant has undergone an expansion to increase the design hydraulic domestic sewage (wastewater) treatment capacity to 14 million gallons per day. The plant serves areas of Fontana, Rancho Cucamonga and San Bernardino County. The plant treats the liquid portion of an average influent wastewater flow of approximately 10 million gallons per day." As such, adequate capacity exists to provide for the proposed Project and no impacts are identified or anticipated, and no mitigation measures are required.

- d) *Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?*

Less Than Significant Impact.

Construction Waste

Waste generated during the construction phase of the Project would primarily consist of discarded materials from the construction of streets, common areas, infrastructure installation, and other project-related construction activities. The California Green Building Standards Code (CALGreen), requires all newly constructed buildings to prepare a Waste Management Plan and divert construction waste through recycling and source reduction methods. The County of San Bernardino, Department of Public Works, Solid Waste Management Division reviews and approves all new construction projects required to submit a Waste Management Plan. Mandatory compliance with CALGreen solid waste requirements will ensure that construction waste impacts are less than significant.

Operational Waste

Waste generated during the operation of the Project is estimated to be 10.58 metric tons per year, although this can be reduced with mitigation to 2.645 metric tons (utilizing the requirements of AB 341 that requires jurisdictions to divert 75 percent of their waste from landfills), based on the California Emissions Estimator Model (CalEEMod) which is a statewide land use emissions computer model which can be used to estimate solid waste generation rates for various types of land uses for analysis in CEQA documents.

Solid waste generated in the Fontana area is generally transported to the Mid-Valley Landfill. According to the Cal Recycle Facility/Site Summary Details website accessed on January 17, 2022 the Mid-Valley Landfill has a maximum capacity of 101,300,000 CY and a remaining capacity of 61,219,377, with a ceased operation date of 4/1/2045. As such, the Project will not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.

- e) *Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?*

Less Than Significant Impact

The County of San Bernardino Solid Waste Management Division reviews and approves all new construction projects that require a Construction and Demolition Solid Waste Management Plan (waste management plan). A project's waste management plan consists of two parts which are incorporated into the Conditions of Approval (COA's) by the County of San Bernardino Solid Waste Management Division. As part of the plan, proposed projects are required to estimate the amount of tonnage to be disposed and diverted during construction. Disposal/diversion receipts or certifications are required as a part of that summary.

The mandatory requirement to prepare a Construction and Demolition Solid Waste Management Plan would ensure that impacts related to construction waste would be less than significant. The proposed Project would comply with all federal, State, and local statutes and regulations related to solid waste. Solid waste produced during the construction phase or operational phase of the proposed Project would be disposed of in accordance with all applicable statutes and regulations. Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>
XX.	WILDFIRE: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a)	Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water resources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

County of San Bernardino Countywide Plan 2020; Submitted Project Materials

- a) *Substantially impair an adopted emergency response plan or emergency evacuation plan?*

No Impact

The routes nearest to the Project site that are paved and suitable in the event of an evacuation are Banana Avenue, which provides direct access to the subdivision in the unincorporated portion of the County, and Foothill Boulevard, which is related to the Project through the adjoining subdivisions proposed by the applicant in the City of Fontana. The closest designated evacuation route is Foothill Boulevard, approximately 600 feet north of the Unincorporated portion of the property, as displayed on the San Bernardino Countywide Plan Map PP-2 Evacuation Routes. Therefore, operations and construction of the Proposed Project would not interfere with the use of this route during an evacuation.

During construction, the contractor would be required to maintain adequate emergency access for emergency vehicles as required by the County. Furthermore, the Project Site does not contain any emergency facilities, although County Fire Station No. 73 is located just north of the property at the southeast corner of Banana Avenue and Foothill Boulevard. Continued operations at the Project site would not interfere with an adopted emergency response or evacuation plan. No impacts are identified or anticipated, and no mitigation measures are required.

- b) *Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from wildfire or the uncontrolled spread of a wildfire?*

Less Than Significant Impact

The Project site is relatively flat and located within an urbanized area with commercial and residential uses. Fire safety areas are prone to wildfires and require additional development standards. However, the Project site and its vicinity are located more than a mile from an identified from a high fire hazard area, as displayed on the San Bernardino Countywide Plan Map HZ-5 Fire Hazard Severity Zone. Any very high fire hazard areas are located significantly further away.

The Project site would be developed as a multiple family residential condominium project. The property would be substantially improved with residential structures, landscaping, and paving. Although wildfire hazards exist within the broader urban area, the immediate area has a significant level of urban development and minimal vegetation, except for annual grasses on some properties. As such, the risk to persons or property is minimal. Therefore, no significant impacts are identified or anticipated, and no mitigation measures are required.

- c) *Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water resources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

No Impact

The Project site would be improved as a multiple family residential condominium development, with associated improvements, such as paving and landscaping. The proposed Project does not include the installation or maintenance of associated infrastructure that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment. Therefore, no impacts are identified, and no mitigation measures are required.

- d) *Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?*

No Impact

The Project site and its immediate vicinity are relatively flat, therefore post-fire slope instability related to flooding or landslides is not anticipated to affect the subject property. The implementation of associated storm water BMPs will ensure that the proposed Project appropriately conveys storm water runoff without affecting upstream

or downstream drainage characteristics. As a result, the proposed Project would not expose people or uses to significant risks, such as downslope flooding or landslides. The Project site is within FEMA designated Zone X (shaded and unshaded) and the lowest floors to the elevated one foot above the highest adjacent ground as required by FEMA regulations. No significant impacts are identified or anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant	No Impact
XXI. MANDATORY FINDINGS OF SIGNIFICANCE:				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects, which would cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) <i>Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or</i>				

endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less Than Significant Impact

A *Biological Due Diligence Investigation*, prepared by ELMT Consulting, June 9, 2021, evaluated both portions of the Project area in the unincorporated area of the County and the City of Fontana. The Project biologist undertook a site visit on June 3, 2021, and found no native plant communities or natural communities of special concern. The report noted the “project site consisted of vacant, undeveloped land that has been subject to a variety of anthropogenic disturbances and existing development.” It also noted the “majority of the site supports disturbed areas that are composed primarily of non-native early successional/ruderal plant species.” (p.2) In addition the report noted the property provides minimal foraging and cover habitat for species adapted to a high degree of anthropogenic disturbance.

No active bird nests displaying nesting behavior were observed by the Project biologist even though the site visit was conducting during nesting season. Nesting bird species with potential to occur within the project are protected by California Fish and Game Code Sections 3503, 3503.5, 3511, and 3513, and by the Migratory Bird Treaty Act (16 USC 703–711). These laws regulate the take, possession, or destruction of the nest or eggs of any migratory bird or bird of prey. The biological report recommended a pre-construction survey for nesting birds prior to any vegetation removal or ground disturbing activities, if construction occurs between February 1 and August 31. A mitigation measure has been recommended to reduce this potential impact to less than significant.

The *Biological Due Diligence Investigation* noted the subject area was highly disturbed and research through the South Central Coastal Information Center on potential historical or archaeological resources did not identify the site as historically or archaeologically significant. Historical aerial photography noted the area was farmed, but within the last 60 years transition away from that activity. Information in the City of Fontana General Plan Draft Environmental Impact Report noted historical sites within the City, such as the downtown, and other features, such as the Kaiser Mill, but nothing within the Project area. The San Manuel Band of Mission Indians requested mitigation measures in the event any inadvertent finds were uncovered. However, the Tribe indicated in their e-mail response to the County that “SMBMI does not have any concerns with the project’s implementation.” As such, the Project would not adversely affect important examples of the major periods of California history or prehistory.

- b) *Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

Less Than Significant Impact

Cumulative impacts are defined as two or more individual affects that, when considered together, are considerable or that compound or increase other environmental impacts. The cumulative impact from several projects is the change in the environment that results from the incremental impact of the development when added to the impacts of other closely related past, present, and reasonably foreseeable or probable future developments. Cumulative impacts can result from individually minor, but collectively significant,

developments taking place over a period. The CEQA Guidelines, Section 15130 (a) and (b), generally state:

- (a) Cumulative impacts shall be discussed when the project's incremental effect is cumulatively considerable.
- (b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided of the effects attributable to the project. The discussion should be guided by the standards of practicality and reasonableness.

As concluded in the *Trip Generation and VMT Screening Analysis*, the proposed Project is anticipated to generate 93 daily trips, which is below the County threshold levels for analysis and, as such, would not be cumulatively considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. Similarly, the pollutant emissions from the proposed Project are below SCAQMD thresholds and therefore, the proposed Project would be in compliance SCAQMD's AQMP. In addition, greenhouse gas emissions from the Proposed Project are below County thresholds based upon the County screening tables and a separate Greenhouse Gas analysis utilizing the CalEEMod program with standard measures recognized by the South Coast Air Quality Management District. Therefore, air quality and greenhouse gas impacts would not be cumulatively considerable.

Impacts associated with the proposed Project would not be considered individually or cumulatively adverse or considerable. Impacts identified in this Initial Study have been found to be less than significant impact based upon the completion of individual studies for biological resources, air quality and greenhouse gases, and trip generation and prior evaluations for historical and cultural resources. Therefore, no significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

- c) *Does the project have environmental effects, which would cause substantial adverse effects on human beings, either directly or indirectly?*

Less Than Significant Impact

The Project site is not located in an area that is susceptible to geologic hazards, with the exception of ground shaking during a geological event. The California Building Code and applicable fire codes would ensure appropriate construction techniques were utilized to adequately protect future occupants.

Therefore, implementation of the proposed Project would not have environmental effects that would cause substantial adverse effects on human beings. At a minimum, the Project will be required to meet the conditions of approval for the project to be implemented, including recommended mitigation measures that would be incorporated as conditions of approval. It is anticipated that all such conditions of approval will further ensure that no potential for adverse impacts will be introduced by construction activities, and current or future land uses authorized by the Project approval. Therefore, no significant adverse impacts are identified or are anticipated, and no mitigation measures are required.

Therefore, no significant adverse impacts are identified or anticipated, and no mitigation measures are required.

MITIGATION MEASURES/CONDITIONS OF APPROVAL

Any mitigation measures, which are not “self-monitoring”, shall have a Mitigation Monitoring and Reporting Program prepared and adopted at time of project approval. Condition compliance will be verified by existing procedures. (CCRF)

Biological Measure

BIO-1: Construction activities, including vegetation removal, will be conducted outside the general bird nesting season (February 1 through August 31) to avoid impacts to nesting birds. If construction activities cannot be conducted outside the bird nesting season, a pre-construction nesting bird survey by a qualified biologist is required no more than three days prior to any construction activities. Should nesting birds be found on-site, an exclusionary buffer will be established by the qualified biologist. The buffer will be clearly marked in the field by construction personnel under guidance of the qualified biologist. No construction activities will be allowed within this zone until the qualified biologist determines that the young have fledged or the nest is no longer active. A copy of the biologist's report shall be filed with the County Planning Division upon completion.

Cultural Measures

CUL-1: In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed within TCR-1, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

CUL-2: If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

CUL-3: If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

Tribal Cultural Measures

TCR-1: The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in CR-1, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information

regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.

TCR-2: Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.

GENERAL REFERENCES

California Department of Conservation, California Important Farmland Finder.
<https://maps.conservation.ca.gov/agriculture/#webmaps>

California Department of Conservation, Mineral Land Classification map, Open File Report 1994-0008.

California Department of Resources Recycling and Recovery (CalRecycle), Solid Waste Facilities, <https://www.calrecycle.ca.gov/>

California Department of Toxic Substances Control, EnviroStor Database.
<https://www.envirostor.dtsc.ca.gov/public/>

California Energy Commission, California Energy Consumption Database. Accessed January 29, 2020 from <https://ecdms.energy.ca.gov/Default.aspx>

County of San Bernardino. Development Code.
<http://cms.sbcounty.gov/lus/Planning/DevelopmentCode.aspx>

County of San Bernardino. Countywide Plan, 2020. <http://countywideplan.com/>

County of San Bernardino. Fire Stations. <https://sbcfire.org/firestations/>

San Gabriel Valley Water Company, Fontana Water Company Division, Final 2020 Water Management Plan. [FWC-2020-UWMP-June-2021-Final.pdf](https://fontanawater.com/FWC-2020-UWMP-June-2021-Final.pdf) (fontanawater.com)

California Department of Conservation, Mineral Land Classification map, Open File Report 1994-0008

PROJECT-SPECIFIC REFERENCES

Biological Due Diligence Investigation, ELMT, June 9, 2021 Assessment, LSA, July 2021.

Custom Soil Resource Report for San Bernardino County Southwestern Part, California, August 15, 2021.

Preliminary Water Quality Management Plan for Serena Village, Azar Engineering; December 13, 2021.

Serena Village Air Quality and Greenhouse Gas Impact Study, MD Acoustics, May 5, 2021.

Tract 20016 (TRSTY-2021-00023) Trip Generation Vehicle Miles Traveled (VMT) Analysis, County of San Bernardino, TJW Engineering, Inc., October 13, 2021

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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PROPOSAL NO.: LAFCO SC#495

HEARING DATE: MARCH 15, 2023

RESOLUTION NO. 3367

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO SC#495 - CITY OF FONTANA PRE-ANNEXATION AGREEMENT NO. 22-006 FOR SEWER SERVICE (ASSESSOR PARCEL NUMBERS 0230-031-20 AND 0230-031-21 -- SERENA VILLAGE)

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, approve with conditions, 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 his 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 called for March 15, 2023, at the time and place specified in the notice of public hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written support and/or opposition; 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. 3367

DETERMINATIONS:

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

1. The project area, encompassing two parcels identified as Assessor Parcel Numbers 0230-031-20 and 0230-031-21, is within the sphere of influence assigned the City of Fontana and are anticipated to become a part of that City sometime in the future.

Water service will be provided by the Fontana Water Company.

The application requests authorization to receive City of Fontana sewer service. This requirement is a condition of approval placed upon the project by the County. Therefore, approval of the City's request for authorization to provide sewer service is necessary to satisfy this condition of approval.

2. The City of Fontana's Pre-Annexation Agreement No. 22-006 being considered is for the provision of sewer service by the City of Fontana to the two parcels, Assessor Parcel Numbers 0230-031-20 and 0230-031-21, located on the west side of Banana Avenue between Foothill Boulevard and Arrow Route. This contract will remain in force in perpetuity for the proposed development or until such time as the project area is annexed. Approval of this application will allow the property owner/developer and the City of Fontana to proceed in finalizing the contract for the extension of sewer service to the parcel.
3. The fees charged by the City of Fontana for the extension of sewer service to the project are identified as totaling \$1,431,197.73 (a breakdown of charges is on file in the LAFCO office). In addition, the property owner/developer shall bear all costs to complete improvements needed to extend the sewer service to the proposed project.
4. During the period from February 2022 to July 2022, acting as the CEQA lead agency, the County of San Bernardino, as a function of its review of a Conditional Use Permit and Tentative Tract Map to develop a 112-unit multiple family condominium project on approximately 6.7 Acres, prepared an environmental assessment and adopted a Mitigated Negative Declaration which indicates that approval of the project will not have a significant adverse impact on the environment through its development under the Conditions of Approval that have been prepared for the proposed project. The County's Initial Study and Mitigated Negative Declaration have been reviewed by the Commission's staff and Environmental Consultant who have found them to be adequate for the service contract decision.

The Commission certifies that it has reviewed and considered the County's Mitigated Negative Declaration and environmental effects as outlined in the Initial Study prior to reaching a decision on the service contract and finds the information substantiating the Mitigated Negative Declaration is adequate for its use in making a decision as a CEQA responsible agency. The Commission further finds that it does not intend to adopt alternatives or additional mitigation measures for this project as all changes, alterations and mitigation measures are within the responsibility and jurisdiction of the County and/or others, and are self-mitigating through implementation of the Conditions of Approval.

The Commission, as a responsible agency, finds that proposal is exempt from Department of Fish and Wildlife fees because the filing fee was the responsibility of the County as the CEQA

RESOLUTION NO. 3367

lead agency. 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 City of Fontana shall indemnify, defend, and hold harmless the Local Agency Formation Commission for San Bernardino County 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 Local Agency Formation Commission for San Bernardino County does hereby determine to authorize the service extension contract submitted by the City of Fontana to provide sewer service to the project area, Assessor Parcel Numbers 0230-031-20 and 0230-031-21.

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#495 - City of Fontana Pre-Annexation Agreement No. 22-006 for Sewer Service, 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, Samuel Martinez, 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 March 15, 2023.

DATED:

SAMUEL MARTINEZ
Executive Officer

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE : MARCH 8, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #8 - Notice of Nomination Period for Special District Risk Management Authority (SDRMA) Board of Directors

RECOMMENDATION:

Staff recommends that the Commission take one of the following actions:

1. If the Commission nominates a member of the Commission or its management staff for the SDRMA Board of Directors 2023 Election, direct the Executive Officer to prepare a resolution for candidate nomination for Commission action at the April meeting and submit the required documents by the May 1, 2023 deadline; or,
2. If there is no nomination, note receipt of and file the information.

BACKGROUND:

The Commission belongs to the Special Districts Risk Management Authority (SDRMA), the insurance Joint Powers Authority which provides the Commission's Workers Compensation and property/liability insurance coverage. In January, staff received a letter outlining the process for the SDRMA elections, including the nomination packet (copy attached). Directors are elected to four-year terms, with the term beginning January 1, 2024 and expiring December 31, 2027. Directors are reimbursed by SDRMA for reasonable travel, lodging, and meals when attending board and committee meetings.

Staff is providing this information to determine if there is interest among Commissioners to run for this office or if the Commission desires to nominate one of its management staff. If there is interest, staff recommendation #1 will provide for completion of the required process. If not, recommendation #2 will note and file the information.

Staff will be happy to answer any questions at the hearing.

Attachment



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Maximizing Protection. Minimizing Risk. * www.sdrma.org

January 18, 2023

Ms. Angela Schell
Clerk to the Commission
Local Agency Formation Commission for San Bernardino County
1170 West Third Street, Unit 150
San Bernardino, California 92415-0490

Dear Ms. Schell,

Notice of Nominations for the Special District Risk Management Authority (SDRMA) Board of Directors 2023 Election is being provided in accordance with the SDRMA Sixth Amended and Restated Joint Powers Agreement. The following nomination information has been posted to the SDRMA website: Nomination Packet Checklist, Board of Director Fact Sheet, Nomination/Election Schedule, SDRMA Election Policy No. 2022-06, Sample Resolution for Candidate Nomination and Candidate Statement of Qualifications.

General Election Information - Three (3) Directors seats are up for election. The nomination filing deadline is Monday, May 1, 2023. Ballots will be mailed to all SDRMA member agencies in mid-May. Mail-in ballots will be due Tuesday, August 8, 2023.

Nominee Qualifications - Nominees must be a member or the agency's governing body or full-time management employee (see SDRMA Election Policy 2022-06, Section 4.1) and be an active member agency of both SDRMA's property/liability and workers' compensation programs. Candidates must be nominated by resolution of their member agency's governing body and complete and submit a "Statement of Qualifications".

Nomination Documents and Information - Nomination documents (Nominating Resolution and Candidates Statement of Qualifications) and nomination guideline information may be obtained on Memberplus, as an attachment to this letter or from the SDRMA homepage, click on the "2023 Nomination & Election Information" button. All necessary nomination documents and election information may be downloaded and printed.

Term of Office - Directors are elected to 4-year terms. The term of office for the newly elected Directors will begin January 1, 2024 and expire December 31, 2027.

Nomination Filing Deadline - Nomination documents must be received in SDRMA's office no later than 4:30 P.M. on Monday, May 1, 2023.

Please do not hesitate to contact us memberplus@sdrrma.org or 800-537-7790, if you have any questions regarding the 2023 SDRMA Board of Director Nominations or the election process.

Sincerely,
Special District Risk Management Authority

Ellen Doughty, ARM
Chief Member Services Officer

Attachment: Nomination Packet

2023 Nomination Packet Checklist



SDRMA BOARD OF DIRECTORS NOMINATION AND ELECTION GUIDELINES

January 18, 2023, marks the official commencement of the election process for the SDRMA Board of Directors. Three seats on the Board of Directors are up for election in 2023.

For your convenience we have enclosed the necessary nomination documents and election process schedule. Please note that some items have important deadlines. All documents contained in this packet, as well as additional information regarding SDRMA Board elections, are available on our website www.sdrma.org and/or by calling SDRMA Member Services at 800-537-7790.

- ____ **Attachment One:** **SDRMA Board of Directors Fact Sheet:** This document reviews the Board of Directors' Roles and Responsibilities along with other important information.

- ____ **Attachment Two:** **SDRMA Board of Directors 2023 Nomination/Election Schedule:** Please review this document for important deadlines. Nomination submissions must be received by 4:30 pm at the SDRMA office listed below in original format with wet signatures.

- ____ **Attachment Three:** **SDRMA Election Policy No. 2022-06:** A Policy of the Board of Directors of the Special District Risk Management Authority establishing guidelines for Director elections.

- ____ **Attachment Four:** **Sample Resolution for Candidate Nomination:** A resolution of the Governing Body of the Agency nominating a candidate for the Special District Risk Management Authority Board of Directors.

- ____ **Attachment Five:** **Candidate's Statement of Qualifications:** Please be advised that no candidate statements are endorsed by SDRMA. Candidate's Statements of Qualification will be distributed to the membership with the SDRMA election ballot, "exactly as submitted" by the candidate.

Please complete and return all required nomination and election documents to:

SDRMA Election Committee
C/O Ellen Doughty, Chief Member Services Officer
Special District Risk Management Authority
1112 "I" Street, Suite 300
Sacramento, California 95814

SDRMA BOARD OF DIRECTORS FACT SHEET

SDRMA BOARD OF DIRECTORS ROLE AND RESPONSIBILITIES

Special District Risk Management Authority (SDRMA) is a public entity Joint Powers Authority established to provide cost-effective property/liability, worker's compensation, health benefit coverages and comprehensive risk management programs for special districts and other public agencies throughout California. SDRMA is governed by a Board of Directors elected from the membership by the programs' members.

Number of Board Members	SDRMA Board of Directors consists of seven Board Members , who are elected at-large from members participating in both programs.
Board of Directors' Role	SDRMA Board of Directors provide effective governance by supporting a unified vision, ensuring accountability, and setting direction based on SDRMA's mission and purpose, as well as establishing and approving policy to ensure SDRMA meets its obligations and commitment to its members.
Board of Directors' Responsibilities	Board Member responsibilities include a commitment to: serve as a part of a unified governance body; govern within Board of Directors' policies, standards and ethics; commit the time and energy to be effective; represent and make policy decisions for the benefit, and in the best interest, of all SDRMA members; support collective decisions; communicate as a cohesive Board of Directors with a common vision and voice; and, operate with the highest standards of integrity and trust.
Three Seats For this Election	Elections for Directors are staggered and held every two years, four seats during one election and three seats in the following election. Three seats are up for election this year.
Term of Directors	Directors are elected for four-year terms . Terms for directors elected this election begin January 1, 2024 and end on December 31, 2027.
Board Member Travel Reimbursement	Board Members are reimbursed for reasonable travel and lodging in accordance with SDRMA Board Ordinance No. 2022-01 and applicable laws and are allowed to claim a stipend of \$235 per meeting day or for each day's service rendered as a Member of the Board.
Number of Meetings per Year	The Board meets from seven to ten times annually with an average of eight board meetings per year. Generally, the Board does not meet more than one meeting per month.
Meeting Location	SDRMA office in Sacramento, CA and at two conference locations.
Meeting Dates	Typically the first Wednesday and Thursday of the month.
Meeting Starting Times	Meetings are typically held 3:00 to 5:30 p.m. Wednesday and 8:00 to 10:00 a.m. Thursday.
Meeting Length	Meetings are four to six hours on average.
Average Time Commitment	Commitment per month ranges from 15 to 20 hours.

"The mission of Special District Risk Management Authority is to provide excellent risk financing and risk management services through a financially sound pool to California public agencies, delivered in a timely and responsive cost-efficient manner."

SDRMA BOARD OF DIRECTORS
2023 NOMINATION/ELECTION SCHEDULE

2023 Nomination/Election Schedule



JANUARY						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
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15	16	17	18	19	20	21
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29	30	31				

FEBRUARY						
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MARCH						
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APRIL						
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23/30	24	25	26	27	28	29

MAY						
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JUNE						
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JULY						
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AUGUST						
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27	28	29	30	31		

SEPTEMBER						
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OCTOBER						
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29	30	31				

NOVEMBER						
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DECEMBER						
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24/31	25	26	27	28	29	30

TASK TIMELINE	
11/2/22	Board approves 2023 Election Schedule
1/18	Mail Notification of Election & Nomination Procedure to Members 90 days prior to mailing Ballots (118 days)
2/8-9	Election Committee is appointed/ratified
5/1	Deadline to return Nominations
5/4	Tentative - Election Committee Meeting Reviews Nominations
5/15	E-Mail Ballots to Members 60 days prior to Ballot Receipt Deadline (86 days)
8/8	Deadline to Receive Ballots
8/9	Tentative - Election Committee Meeting Count Ballots at SDRMA Office No more than 5 days after 8/8/23
8/10	Election Committee Notifies Successful Candidates of Election Results
11/1-2	Directors' Elect are invited to attend November Board Meeting
1/2024	Newly Elected Directors' Seated and Election of Officers

SDRMA BOARD OF DIRECTORS
ELECTION POLICY NO. 2022-06

**A POLICY OF THE BOARD OF DIRECTORS OF SPECIAL DISTRICT RISK MANAGEMENT
AUTHORITY ESTABLISHING GUIDELINES FOR DIRECTOR ELECTIONS, DIRECTOR
APPOINTMENTS, AND CREATION OF A SUPERVISING ELECTION COMMITTEE**

- WHEREAS, SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY (SDRMA) is a joint powers authority, created pursuant to Section 6500, et. seq. of the California Government Code; and
- WHEREAS, the Board of Directors recognizes that it is in the best interest of the Authority and its members to adopt a written policy for conducting the business of the Board; and
- WHEREAS, establishing guidelines for Director elections and appointments will help ensure a process that is consistent for all nominees and candidates, will promote active participation by SDRMA members in the election/appointment process, and will help ensure election/appointment of the most qualified candidate(s); and
- WHEREAS, the Bylaws provide the Board with the option of conducting the election using a mail-in ballot process; and
- WHEREAS, the Board of Directors of SDRMA has an overriding and compelling interest in ensuring the accuracy of the election/appointment process of its Board members through the creation of an election committee;

NOW, THEREFORE, it is the policy of the Board of Directors of SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY, until such policy shall have been amended or rescinded, that the following procedures shall be followed when conducting Director elections or filling a Director vacancy by appointment:

1.0. Election Schedule

- 1.1. Not later than the first Board meeting of each election year, the Board of Directors shall approve an election schedule based on the following criteria and time frames.

2.0. Election Committee

- 2.1. The Board of Directors herein establishes an election committee with the following composition, duties and responsibilities; The five (5) members of the Election Committee shall include two (2) presently sitting members of the Board of Directors of SDRMA whose seats are not up for election, the Management Analyst & Clerk of the Board of Directors of SDRMA, and the CPA/auditor regularly used and retained by

SDRMA at the time of counting ballots of and for an election to the Board of Directors. For good reason found and stated, the Board of Directors of SDRMA may appoint any CPA/auditor who, in the discretion of the Board of Directors, would appropriately serve the Election Committee. The General Counsel for SDRMA shall also sit as a member of the Election Committee with the additional obligation of providing legal advice to the balance of the Committee as legal questions may arise.

3.0. Member Notification of Election

- 3.1. Authority staff shall provide emailed notification, of an election for the Board of Directors, to all member agencies during January of each election year. Such notification shall be provided a minimum of ninety (90) days prior to the distribution of ballots and shall include (1) where to locate election documents in MemberPlus; (2) the number of Director seats to be filled by election; and (3) a summary of nomination/election deadline dates.

4.0. Qualifications

- 4.1. A candidate seeking election, re-election or appointment to SDRMA's Board of Directors must be a member of the Governing Body or a management employee of an SDRMA member participating in both the Property/Liability and Workers' Compensation Programs. To qualify as a "management employee," the candidate must be a management-level (as determined by the Governing Body) employee whose wages are reported to the IRS on a "W-2" form. Only one (1) representative from any Member may serve on the Board of Directors at the same time. [Per Bylaws, Article II, (2) (b)]
- 4.2. Each nominated candidate must submit a properly completed "Statement of Qualifications" (required form attached) with an original wet signature (electronic signatures are not acceptable) on or before the filing deadline in May in order for the candidate's name to be placed on the official ballot. A candidate shall provide responses to all questions on the candidate's "Statement of Qualifications". Each nominated candidate's "Statement of Qualifications" must be filed in SDRMA's office on or before the aforementioned deadline by (1) personal delivery; (2) U.S. mail; or (3) courier. To assure the Statement of Qualifications has affixed the candidate's original wet signature, the Statement of Qualifications may not be delivered by electronic mail. When ballots are provided to the membership, each candidate's "Statement of Qualifications" form will be available to the membership exactly as submitted by the candidate to SDRMA. However, any attachments submitted by the candidate(s) with the Statement of Qualifications will not be provided by SDRMA with the ballots to any members.
- 4.3. If a nominated candidate elects not to use the provided form "Statement of Qualifications," and prepares instead the candidate's own completed form, the

candidate's form must include the title "Statement of Qualifications" and contain exactly all information required and requested by the provided form.

NOTE: The candidate's "Statement of Qualifications" form must be submitted as a part of the nominating process. When ballots are made available to the membership, each candidate's "Statement of Qualifications" form will be distributed "exactly as submitted" to SDRMA, except that any attachments submitted by the candidate will not be sent to any SDRMA members.

- 4.4. A candidate who does not submit a Candidate's Statement of Qualifications that complies with Section 4.2 or 4.3 will be disqualified by the SDRMA Election Committee.
- 4.5. A qualified candidate currently serving on the CSDA board of directors must, if elected to the SDRMA board of directors, immediately resign his or her seat on the CSDA board. [Per Memorandum of Understanding, Alliance Executive Council, 9/20/2001.] Such resignation must occur prior to the meeting at which the director-elect takes his or her seat on the SDRMA board.

5.0. Nominating Procedure

- 5.1. Candidates seeking election or reelection must be nominated by action of their respective Governing Body. Only one (1) candidate may be nominated per member agency and one (1) candidate shall not represent more than one (1) member agency. A resolution from the candidate's district/agency Governing Body nominating the candidate must be received by the Authority on or before the scheduled date in May. (A sample of the resolution is enclosed). Actual receipt by the Authority on or before the scheduled deadline date in May is required. The resolution nominating the candidate may be hand-delivered to the Authority or sent by U.S. mail or emailed to SDRMA. In the event a candidate is nominated by two (2) or more member agencies, he or she shall represent the member agency whose nominating resolution is first received by the Authority. The other member agency or agencies that nominated the candidate shall be entitled to select a replacement nominee as long as a resolution nominating the replacement is received by the Authority prior to the scheduled deadline date.
- 5.2. A member may not nominate a candidate unless that member is participating in both the Property/Liability and Workers' Compensation Programs and is in "good standing" on the date the nominations are due. "Good standing" is defined as no accounts receivable due to SDRMA which is more than ninety (90) days past due.
- 5.3. No earlier than the day after the deadline for receipt of nominations, the Election Committee, as hereinabove defined and comprised, shall review all nominations received from members, and will reject any nominations that do not meet all of the

qualifications specified and set forth in this policy. The Election Committee's decisions regarding the qualification of nominees are final. Following the Election Committee's review of all nominations, the Election Committee shall direct that a ballot be prepared stating and listing all of the qualified nominees. The ballot of qualified nominees shall be provided to the membership for election via MemberPlus as described below.

- 5.4. Upon verification or rejection of each nominee by the Election Committee, staff will email acknowledgment to both the nominee and the district/agency of its acceptance or rejection as a qualified nominee for election.
- 5.5. A nominee requesting that his/her nomination be withdrawn prior to the election, shall submit such requests in writing to SDRMA's office a minimum of three (3) days prior to the scheduled date for posting the ballots. After that date, all qualified nominees' names shall appear on the ballot provided to the membership.

6.0. Terms of Directors

- 6.1. The election of directors shall be held in each odd-numbered year. The terms of the directors elected by the Members will be staggered. Four directors will serve four-year terms, to end on December 31 of one odd-numbered year. Three directors will serve four-year terms, to end on December 31 of the alternate odd-numbered year. [Per Bylaws, Article II, (3), paragraph 1].

7.0. Campaigning

- 7.1. SDRMA staff will publish via MemberPlus each qualified candidate's "Statement of Qualifications", "exactly as submitted" by the candidate with the ballots to the membership.
- 7.2. Candidates, at their own expense, may distribute additional information to member agency(s) after the ballots have been published and prior to the election.
- 7.3. SDRMA staff is prohibited from actively promoting a candidate or participating in the election process while on Authority premises.
- 7.4. SDRMA staff may provide member information, mailing lists, financial reports or operational data and information, that is normally available through the Public Records Act, to candidates to assist them in their research and campaigning. In addition to obtaining such information under the Public Records Act, candidates may request SDRMA staff prepare mailing labels for the distribution of campaign materials to member agencies. Under existing policy, charges will apply for this service. The SDRMA logo is trademarked for use by SDRMA only. Neither the logo, nor any other Trademark

of SDRMA may be used in any campaign literature. No campaign literature is to imply support of any candidate by SDRMA.

- 7.5. SDRMA election documents for the membership, including ballots and candidates' "Statement of Qualifications", shall be made available via MemberPlus upon sending out an e-blast announcement via email.

8.0. Limitations on Campaigning

- 8.1. As used in this section the following terms have the following meanings:

"Campaign Activity" means any activity that expressly advocates the election or defeat of a candidate or provides direct support to a candidate for his or her candidacy. "Campaign activity" does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes or the use of public resources to nominate a candidate or vote in any Board of Directors election.

"Candidate" means an individual who has been nominated by the Member Agency to have his or her name listed on the ballot for election to the Board of Directors.

"Expenditure" means a payment of Member Agency funds that is used for communications that expressly advocate the election or defeat of a clearly identified candidate. "Expenditure" does not include the use of public funds to nominate a candidate or vote in any Board of Directors election.

"Public resources" means any property or asset owned by the Member Agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and Member Agency-compensated time.

- 8.2. An officer, official, employee, or consultant of a Member Agency may not expend or authorize the expenditure of any of the funds of the Member Agency to support or oppose the election or defeat of a candidate for the Board of Directors.
- 8.3. No officer, official, employee, or consultant of a Member Agency shall use or permit others to use public resources for campaign activity.
- 8.4. At any time during an election campaign, if a Member Agency or its officers, officials, employees or consultants violate this section, that Member Agency shall be ineligible to nominate a candidate for the Board of Directors election in which the violation occurred. Any candidate of an offending Member Agency shall be deemed to have withdrawn his or her candidacy. Prior to declaring a Member Agency ineligible to nominate a candidate or a specific candidate's candidacy withdrawn, the Elections

Committee shall hold a hearing to determine whether or not a violation of this section occurred. The hearing shall be conducted pursuant to reasonable procedures that the Elections Committee shall prescribe, provided that the affected Member Agency or candidate shall have an opportunity to dispute the violation. At the conclusion of the hearing, the Elections Committee shall determine by a majority vote whether the violation occurred.

9.0. Balloting

- 9.1. A ballot containing nominees for the Board of Directors, accepted and approved by the Election Committee, shall be made available to each SDRMA member agency via MemberPlus, except as provided in Section 9.2 below, no less than sixty (60) days prior to the deadline for receiving ballots and the closing date for voting. Ballots shall show the date and time the ballots must be received in SDRMA's office.
- 9.2. In the event that the number of qualified/approved nominees is equal to or less than the number of director seats up for election, the distribution of the ballots as outlined in Section 9.1 shall be waived. In this event, the election committee shall inform the Board of Directors of these facts and the Board of Directors shall, at a regular or special meeting, appoint all qualified nominee(s) to the Board. If one or more seats on the Board remain open, the Board of Directors shall fill those seats pursuant to the process set forth for the filling of vacancies in Section 11.0.
- 9.3. Only those qualified nominees approved by the Election Committee will be eligible candidates on the ballot. Write-in candidates shall not be accepted.
- 9.4. It is required that the Governing Body of each member vote on behalf of their agency at a public meeting and the ballot MUST be signed by an authorized agency official.
- 9.5. A member may not vote unless the member was a member of the Authority in "good standing" on or before the nomination due date for the pending election. "Good standing" is defined as no accounts receivable due to SDRMA which is more than ninety (90) days past due.
- 9.6. A member may cast only one (1) vote for the same candidate. By way of example, if there are four (4) candidates on the ballot, a member may not cast two (2) to four (4) votes for any single candidate. Any ballot casting more than one (1) vote for the same candidate will be considered void.
- 9.7. A member may vote by using the official ballot provided by SDRMA, or a copy of SDRMA's original ballot, or a reasonable duplicate prepared by the member agency. Whichever of the three foregoing formats is used, the ballot must contain an original

wet signature and confirmation that the ballot was approved at a public meeting of the agency's Governing Body. Ballots submitted without an original signature and/or without confirmation that the form of the ballot was approved at a public meeting of the agency's Governing Body will be considered void.

- 9.8. Ballots may be returned using either hand-delivered or mailed in ballots - faxed or e-mailed ballots will not be accepted. Mailed in ballots must be addressed to, and hand-delivered ballots must be delivered to, the Special District Risk Management Authority office presently located at 1112 I Street, Suite 300, Sacramento, California 95814-2865.
- 9.9. Any ballot received after the specified deadline will not be counted and will be considered void.

10.0. Election Results

- 10.1. All ballots will be tabulated at SDRMA's office only after the deadline for receiving ballots. Ballots will be tabulated by SDRMA's Election Committee, no more than five (5) days after the closing deadline. Candidates receiving the highest number of votes shall be declared the elected director(s).
- 10.2. In the event of a tie, a coin toss shall be used to determine the elected director. The coin toss shall be conducted by the Election Committee at the time and place of the conclusion of counting ballots.

PROCEDURE: In the event more than two (2) candidates tie, the coin toss shall be between two (2) candidates at a time based on the order in which their name appeared on the ballot. This process shall be repeated, as needed, in cases where there are more than two (2) candidates.
- 10.3. Excluding tie votes, within five (5) days after the ballots tabulated Authority staff shall advise the candidates and their respective agency via email of the final election results. Copies of the results shall also be emailed/distributed to SDRMA's Board of Directors, staff and consultants and published in the first available CSDA newsletter.
- 10.4. If a director-elect withdraws after the election or fails to accept the Director seat prior to December 31, the Board shall name a new director-elect by going back to the ballots and awarding the seat to the candidate receiving the next highest number of votes during the election.
- 10.5. Staff shall invite newly elected director(s) to attend the last Board meeting of the year after confirmation of election results. Director(s) elect will be reimbursed for expenses,

except for director stipends, in accordance with approved director reimbursement policy (copy of policy shall be provided to newly elected directors).

10.6. A member or candidate dissatisfied with the election result may, within ten (10) days after the ballots are opened and tabulated, file with the Authority a written challenge and appeal. The challenge and appeal must clearly set forth the complaint and any and all facts in support of the challenge and appeal. Within ten (10) days after the ballots are opened and tabulated, the challenge and appeal shall be delivered and received by the Authority. Within five (5) days of receipt of the challenge and appeal, the Authority shall deliver the same to the Election Committee for decision. The Election Committee shall have absolute authority for deciding the challenge and appeal. Notice of the decision of the Election Committee shall be provided to the party filing the challenge and appeal within ten (10) days.

11.0. Director Vacancy

11.1. If a director vacancy(s) occurs (Note 1), appointment of a replacement director for the balance of the unexpired term will be made by the remaining members of the SDRMA Board. In order to accomplish this in an orderly and consistent manner, when a vacancy(s) of an elected Director(s) occurs, the SDRMA Board of Directors, after discussion and consideration, shall, when deemed appropriate, instruct staff to:

- a) Notify all then member entities via email that a vacancy has occurred; and
- b) Said notice shall refer to the applicable Article in the By-laws in advising member entities and their eligible candidates of the steps to take to apply for appointment; and
- c) The SDRMA Board shall establish the closing date for the receipt of applications; and
- d) Candidates shall submit the following, by the date specified in the notice:
 - i) a letter of interest; and
 - ii) a resume, with particular emphasis on the candidate's knowledge of special districts and risk management; and
 - iii) a resolution from, or a letter approved by, the candidate's Governing Body nominating the candidate; and
- e) The Election Committee shall review all applications received, and shall reject any that do not meet all of the qualifications specified and set forth in this policy; and
- f) Upon verification or rejection of each application by the Election Committee, staff will email acknowledgement to both the applicant and the district/agency of its acceptance or rejection of the applicant as a qualified candidate for appointment; and

- g) Candidates shall be interviewed at the next regularly scheduled meeting of the SDRMA Board of Directors following the date of closure for the applications. Interviews shall be in person, or if an unforeseen emergency arises, the interview may be by telephone or via Zoom or an alternative at the same scheduled time; and
- h) The SDRMA Board shall make the appointment without undue delay, but need not act at the same meeting.

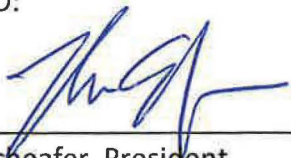
Note 1: If the Director vacancy occurs within nine (9) months after the date the ballots were counted and certified by the Election Committee or within nine (9) months after a candidate was appointed to fill a vacancy, then the Board shall have the option to interview and appoint the candidate(s) who did not receive sufficient votes to be elected OR to interview and appoint from the pool of candidates from 11.1.g) above. If the Director vacancy occurs in an election year after the Notification of Election is sent to the members, the Board may determine to fill the vacancy by appointing the candidate who receives the next highest number of votes in the election. If the Board determines in its sole discretion that none of these options is appropriate, then staff shall be instructed to proceed with the process described above in steps 11.1 a) to h).

11.2 The appointment process set forth in this section 11.0 shall also be followed in the event open seats remain at the conclusion of any regular election of Board members [see Section 9.2].

Revised and adopted this 9th day of February 2022, by the Board of Directors of Special District Risk Management Authority, at a regular meeting thereof.

This Policy No. 2022-06 supersedes Policy No. 2021-10 and all other policies inconsistent herewith.

APPROVED:



Michael Scheafer, President
Board of Directors

ATTEST:



Laura S. Gill, ARM, ARM-P, CSDM
Chief Executive Officer

SAMPLE
RESOLUTION FOR
CANDIDATE NOMINATION

**A RESOLUTION OF THE [GOVERNING BODY] OF THE [AGENCY NAME]
NOMINATING [CANDIDATE'S NAME] AS A CANDIDATE FOR ELECTION TO THE
SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY BOARD OF DIRECTORS**

WHEREAS, the Special District Risk Management Authority (SDRMA) is a Joint Powers Authority formed under California Government Code, Section 6500 et.seq., for the purpose of providing risk management and risk financing for California Special Districts and other local government agencies; and

WHEREAS, the Joint Powers Agreement and Bylaws of SDRMA set forth director qualifications, terms of office and election requirements; and

WHEREAS, the Board of Directors of SDRMA established procedures and guidelines for the Director Election process; and

WHEREAS, the SDRMA Board of Directors adopted Board Policy 2022-06, which includes the following requirements for candidate qualification:

- a. A candidate seeking election, re-election or appointment to SDRMA's Board of Directors must be a member of the Governing Body or a management employee (as defined in Section 4.1) of a SDRMA member participating in both the Property/Liability and Workers' Compensation Programs.
- b. Each nominated candidate must submit a properly completed "Statement of Qualifications" with an original wet signature (electronic signatures are not acceptable) on or before the May 1, 2023 filing deadline in order for the candidate's name to be placed on the official ballot.
- c. Candidates seeking election or reelection must be nominated by action of their respective Governing Body through a resolution that must be received by the Authority on or before the May 1, 2023 filing deadline.

NOW THEREFORE, BE IT RESOLVED, the Board of Directors of the Special District Risk Management Authority hereby finds, determines, and resolves as follows:

1. The governing body of [AGENCY NAME] nominates [CANDIDATE'S NAME], its [POSITION TITLE], as a candidate for the Board of Directors of the Special District Risk Management Authority.
2. ***ADD ONLY IF CANDIDATE IS NOT A MEMBER OF THE AGENCY'S GOVERNING BODY***

The [GOVERNING BODY] of [AGENCY NAME] has determined that [CANDIDATE'S NAME] is a management employee for purposes of SDRMA Election Policy 2022-06, Section 4.1.

3. The [GOVERNING BODY] of [AGENCY NAME] further directs that a copy of this

Resolution No. _____

Resolution shall be delivered to SDRMA on or before the May 1, 2023 filing deadline.

PASSED, APPROVED, and ADOPTED, by the [GOVERNING BODY] of [AGENCY NAME], on this [DAY] day of [MONTH], [YEAR], by the following roll call vote:

Ayes:

Noes:

Abstained:

Absent:

APPROVED:

ATTESTED:

President/Governing Body

Administrator/Secretary

No seal

CANDIDATE'S STATEMENT OF QUALIFICATIONS

Provided are 2 sets of the Candidate's **Statement of Qualifications Form** and can be completed one of two ways as follows:

- 1 set is downloadable to be completed by hand, or
- 1 set is an online fillable PDF Form.

**Special District Risk Management Authority
Board of Directors
Candidate's Statement of Qualifications**

What special skills, talents, or experience (including volunteer experience) do you have? (Response Required)

[illegible]

What is your overall vision for SDRMA? (Response Required)

[illegible]

I certify that I meet the candidate qualifications as outlined in the SDRMA election policy. I further certify that I am willing to serve as a director on SDRMA's Board of Directors. I will commit the time and effort necessary to serve. Please consider my application for nomination/candidacy to the Board of Directors.

Candidate Signature _____ Date _____

**Special District Risk Management Authority
Board of Directors
Candidate's Statement of Qualifications**

This information will be distributed to the membership with the ballot, "exactly as submitted" by the candidates – **no attachments will be accepted**. No statements are endorsed by SDRMA.

Candidate*

District/Agency

Work Address

Work Phone

Home Phone

*The name or nickname and any designations (i.e. CPA, SDA, etc.) you enter here will be printed on the official ballot, exactly as submitted.

Why do you want to serve on the SDRMA Board of Directors? (Response Required)

What Board or committee experience do you have that would help you to be an effective Board Member? (SDRMA or any other organization) (Response Required)

**Special District Risk Management Authority
Board of Directors
Candidate's Statement of Qualifications**

**What special skills, talents, or experience (including volunteer experience) do you have?
(Response Required)**

What is your overall vision for SDRMA? (Response Required)

I certify that I meet the candidate qualifications as outlined in the SDRMA election policy. I further certify that I am willing to serve as a director on SDRMA's Board of Directors. I will commit the time and effort necessary to serve. Please consider my application for nomination/candidacy to the Board of Directors.

Candidate Signature _____ Date _____

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

1170 West 3rd Street, Unit 150 San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: MARCH 8, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #9: LEGISLATIVE REPORT

RECOMMENDATION:

Staff recommends that the Commission receive and file the Legislative Report.

BACKGROUND:

The 2023 Legislative session is under way. The following outlines the CALAFCO legislative priorities for 2023.

1) CALAFCO's Omnibus bill

CALAFCO sponsors its annual Assembly Local Government Committee (ALGC) Omnibus bill that provides for non-substantive, technical changes/corrections to the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (CKH). Four proposals were submitted for consideration for this year's Omnibus bill which was recommended by the CALAFCO Board (see Attachment #1). However, of the four proposals, only Items #1 and #2 are being submitted to the ALGC staff for final review and consideration.

- Item 1. Delivery of Resolutions Making Determinations

The first proposal clarifies the way a "resolution making determinations" is delivered. Government Code Section 56882 outlines how LAFCOs should distribute resolutions making determinations. The change would allow for distribution of said resolution either by direct mail or email (or any electronic means). The latest version now includes language that requires confirmation of receipt by the intended recipient.

- Item 2. Clarify Certificate of Filing Requirement

Government Code Section 56658 outlines when LAFCOs can issue a certificate of filing, which deems an application complete and ready for Commission consideration.

The proposed change would add language that would require the adoption of a property tax exchange agreement prior to issuing a certificate of filing, which is clearly outlined in Revenue and Taxation Code Section 99(b)(6), but not in CKH.

The third proposal was removed at the request of the proposer, Ventura LAFCO. Even though the proposal simply removes obsolete language in CKH, the proposer received pushback from stakeholders. The fourth item, which proposes clarifying language related to improvement districts as well as defining the word “zones” as it relates to improvement districts, was also removed at the request of the ALGC Consultant who felt it did not qualify as an Omnibus item. However, the consultant is willing to work with the proposer to try to get it through next year’s Omnibus bill with advance outreach with potential stakeholders.

Status: The ALGC has not introduced the bill in its final form. Once the draft bill is introduced, staff will return to the Commission and present the draft bill for review and consideration.

2) San Diego LAFCO Proposal to Amend Government Code Section 56133.

As previously stated, CALAFCO is co-sponsoring San Diego LAFCO’s legislative effort to amend Government Code Section 56133(e). In March 2021, this Commission took a position to support this effort. During the past two years, San Diego LAFCO, in partnership with CALAFCO, conducted outreach to other LAFCOs and held preliminary discussions with different stakeholders i.e. CSDA, League of Cities, CSAC, etc. The Legislative Committee will now focus on stakeholder outreach and a potential author. It is anticipated that this legislative change will require a lot of effort to get it through the various stakeholders.

Status: The Legislative Committee established a subcommittee to continue working on this multi-year effort.

3) Legislation that would Authorize the Use of Indemnification Provisions

In 2022, the Second District Court of Appeals opined that LAFCOs operate only under and within the authorities expressly given to them by the legislature and, consequently, determined that LAFCOs have no statutory authority to impose an indemnity agreement as a condition of a LAFCO application. In response to this 2022 decision, the CALAFCO Board is moving forward to seek legislation to provide indemnification language by amending Government Code Section 56383 to add the following new Subsection (h):

(h) A Commission may require, as a condition for processing a change of organization or reorganization, a sphere amendment or a sphere update, an out-of-agency service or exemption request pursuant to Government Code §§ 56133 or 56134, or any other action or determination requested of LAFCo, that the applicant defend, indemnify, and hold harmless the Commission, its agents, officers, and employees from any claim, action, or proceeding against the Commission, its agents,

officers, or employees to attack, set aside, invalidate void, or annul, a determination of the commission.

Status: The proposed legislation was adopted by the CALAFCO Board with direction to submit the proposed language to the Legislative Counsel's Office and begin the search for an author.

New Legislation:

Attachment #2 is the CALAFCO Daily Legislative Report for Monday, March 6, 2023 outlining the current status of all bills considered to be of importance to CALAFCO. Several bills require further CALAFCO review, some of which are simply placeholder spot bills that were submitted in order to beat the February 17 deadline, a few of the bills relate to issues concerning the Brown Act provisions (i.e. open meetings and teleconference meetings), and the usual annual Senate validations.

Status: Staff will monitor these bills and will return to the Commission at a later date as more information becomes available.

CONCLUSION:

If there are other pieces of legislation that Commissioners are aware of that should be brought to the attention of CALAFCO or you wish staff to review in more detail, please provide the bill number reference and we will be happy to bring it back to the Commission for review.

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

Attachments:

1. [Omnibus Proposal Items](#)
2. [CALAFCO Daily Legislative Report – Dated March 6, 2023](#)

2023 Omnibus Bill Items Tracking Log

Item No.	Person(s) Responsible	Government Code Section/ Proposed Change(s)	Actions	Due Date	Status
1	Carolyn Emery, (OC), Brendon Freeman (Napa), and Paul Novak (LA)	<p><u>Current:</u> Government Code Section 56882:</p> <p>"The executive officer mail a copy of the resolution adopted by the commission making determinations addressed to each of the following persons or entities:</p> <p>(a) The proponents, if any, where the proceedings for change of organization were initiated by petition.</p> <p>(b) Each affected local agency whose boundaries would be changed by the proposal."</p> <p><u>Proposed:</u> Replace "mail" with "transmit" and Replace "boundaries" with "jurisdictional boundary" as shown below:</p> <p>The executive officer mail transmit a copy of the resolution adopted by the commission...</p> <p>(b) Each affected local agency whose boundaries jurisdictional boundary would be changed by the proposal.</p> <p>(c) If the executive officer transmits a copy of the resolution using email or electronic means, the executive officer shall confirm receipt by the intended recipient through electronic read receipt or other means.</p>	Approved as amended by Leg Team on 11/4. To be forwarded to ALGC.	-	State Assembly Local Government Committee negotiated with the concerned stakeholders and CALAFCO on 2/10 to add a new subsection for further clarification
2	Kai Luoma (Ventura)	<p><u>Current:</u> Government Code Section 56658: "The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice required by subdivision (b)..."</p> <p><u>Proposed:</u> Add language to GCS 56658 requiring the adoption of a property tax exchange agreement prior to issuing a certificate of filing as shown below:</p> <p>(d)(1) The executive officer shall not accept an application for filing and issue a certificate of filing pursuant to subdivision (f) and an application shall not be deemed accepted for filing pursuant to subdivision (e) if an agreement for the exchange of property tax revenues has not been adopted pursuant to Section 99(b)(6) of the Revenue and Taxation Code.</p> <p>(2) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days...</p>	Approved as amended by Leg Team on 11/4. To be forwarded to ALGC.	-	State Assembly Local Government Committee Received Proposal on 12/5; Currently being Reviewed

e3	Kai Luoma (Ventura)	<p><u>Current:</u> Government Code Sections 56375.(c), 56425.5, and 56429 are identified in the Cortese-Knox-Hertzberg Act and appear to be obsolete.</p> <p><u>Proposed:</u> Remove all identified obsolete sections in the CKH Act.</p>	Approved by Leg Team on 11/4 with direction to also include additional obsolete sections. To be forwarded to ALGC.	-	<p>State Assembly Local Government Committee Received Proposal on 12/5;</p> <p>Author has requested to withdraw this proposal</p>
4	Sam Martinez (San Bernardino)	<p><u>Current:</u> The Cortese-Knox-Hertzberg Act references "improvement districts" and "zones"</p> <p><u>Proposed:</u></p> <p>Always include "zone" whenever the language in the Act is referring to an "improvement district"; and</p> <p>Add the definition of a "zone" in the Act.</p>	Approved by Leg Team on 1/6. To be forwarded to ALGC.	-	<p>State Assembly Local Government Committee Received Proposal on 1/9;</p> <p>State determined that this proposal did not meet the Omnibus criteria</p>

CALAFCO Daily Legislative Report as of Monday, March 06, 2023

[AB 930](#) ([Friedman D](#)) **Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) districts.**

Current Text: Introduced: 2/14/2023 [html](#) [pdf](#)

Introduced: 2/14/2023

Status: 3/2/2023-Referred to Coms. on L. GOV. and J., E.D., & E.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would authorize the legislative bodies of 2 or more local governments, defined to include a city, county, special district, or transit agency, to jointly form a Reinvestment in Infrastructure for a Sustainable and Equitable California district (RISE district) in accordance with specified procedures. The bill would require the Office of Planning and Research (OPR) to develop standards for the formation of RISE districts no later than November 30, 2025. The bill would provide for the establishment of a governing board of a RISE district with representatives of each participating local government.

Position: Neutral

Subject: Special District Principle Acts

CALAFCO Comments: This bill has a similar overtone to SB 852 Dodd in 2022 regarding the formation of climate resilience districts outside of the LAFCo process.

As introduced, this bill (AB 930) is focused on the generation of funding and the governance of the expenditure of those funds. However, it should be carefully tracked in case that mission is expanded.

[AB 1439](#) ([Garcia D](#)) **Housing.**

Current Text: Introduced: 2/17/2023 [html](#) [pdf](#)

Introduced: 2/17/2023

Status: 2/18/2023-From printer. May be heard in committee March 20.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law generally sets forth the duties of the Department of Housing and Community Development, which is the principal state department responsible for coordinating federal-state relationships in housing and community development and for implementing the California Statewide Housing Plan. This bill would state the intent of the Legislature to enact legislation related to housing.

Position: Placeholder - Spot Bill

Subject: Housing

CALAFCO Comments: This is a spotholder bill that only notes an intent to address housing.

[AB 1460](#) ([Bennett D](#)) **Local government.**

Current Text: Introduced: 2/17/2023 [html](#) [pdf](#)

Introduced: 2/17/2023

Status: 2/18/2023-From printer. May be heard in committee March 20.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. This bill would make a nonsubstantive change to the provision naming the act.

Position: Neutral

Subject: CKH General Procedures, Other

CALAFCO Comments: As introduced, this bill makes only a minor nonsubstantive change to CKH in that it would merely add commas to Section 56000 so that it would read: "This division shall be known, and may be cited, as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000."

SB 68 (**McGuire D**) **Local government.**

Current Text: Introduced: 1/5/2023 [html](#) [pdf](#)

Introduced: 1/5/2023

Status: 1/18/2023-Referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law provides for the formation and powers of various local governments, including counties and cities. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. This bill would state the intent of the Legislature to enact legislation relating to local government.

Position: Watch

CALAFCO Comments: 1-6-2023: As it currently stands, this bill appears to be a spot holder. In the write-up it notes that the legislative intent will be to address local government and it specifically mentions CKH. Consequently, the Executive Director reached out to the author's office requesting more particulars. On 1-9-2023, the author's office responded that they had no additional info to share but that, while the the leg counsel introduction mentioned CKH, their language had nothing to do with it.

SB 440 (**Skinner D**) **Agricultural preserves: annexations.**

Current Text: Introduced: 2/13/2023 [html](#) [pdf](#)

Introduced: 2/13/2023

Status: 2/22/2023-Referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Under existing law, the Williamson Act, upon the annexation by a city of any land subject to a contract with a county that enforceably restricts the land to agricultural use within an agricultural preserve, the city succeeds to all rights, duties, and powers of the county under the contract unless specified circumstances apply, including that the land being annexed was within one mile of the city boundary when the contract was executed, the contract was executed before January 1, 1991, and the city filed a protest of record that identifies the affected contract and the subject parcel. The act authorizes a local agency formation commission to request, and requires the Department of Conservation to provide, advice and assistance regarding these provisions. The act requires the department to advise the local agency formation commission of its concerns, whether or not it has been requested to do so, and requires the commission to address those concerns. This bill would make nonsubstantive changes to those provisions.

Position: None at this time

Subject: Ag Preservation - Williamson, Annexation Proceedings

SB 455 (**McGuire D**) **Governmental organization.**

Current Text: Introduced: 2/13/2023 [html](#) [pdf](#)

Introduced: 2/13/2023

Status: 2/22/2023-Referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current constitutional and statutory law prescribes the organization of the government in California. The Government Code prescribes certain definitions for purposes of its interpretation,

including definitions for "state," "county," and "city." This bill would state the intent of the Legislature to enact legislation relating to governmental organization.

Position: Placeholder - Spot Bill

Subject: Other

CALAFCO Comments: This is a spotholder bill that notes that its intent will be to enact legislation relating to governmental organization.

SB 537 (Becker D) Open meetings: local agencies: teleconferences.

Current Text: Introduced: 2/14/2023 [html](#) [pdf](#)

Introduced: 2/14/2023

Status: 2/22/2023-Referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would state the intent of the Legislature to enact subsequent legislation that expands local government's access to hold public meetings through teleconferencing and remote access.

Position: Placeholder - Spot Bill

Subject: Brown Act

CALAFCO Comments: This is a spotholder bill that states an intent to expand local government's access to hold public meetings through teleconferencing and remote access.

SB 768 (Caballero D) California Environmental Quality Act: transportation impact analysis: rural areas.

Current Text: Introduced: 2/17/2023 [html](#) [pdf](#)

Introduced: 2/17/2023

Status: 3/1/2023-Referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would state the intent of the Legislature to enact subsequent legislation that would create a new transportation impact analysis for rural areas for purposes of CEQA. This bill contains other existing laws.

Position: Placeholder - Spot Bill

Subject: CEQA

CALAFCO Comments: This is a spotholder bill that notes an intent to enact subsequent legislation that would create a new transportation impact analysis for rural areas for purposes of the California Environmental Quality Act.

SB 833 (McGuire D) Natural resources.

Current Text: Introduced: 2/17/2023 [html](#) [pdf](#)

Introduced: 2/17/2023

Status: 3/1/2023-Referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law declares that resource conservation is of fundamental importance to the prosperity and welfare of the people of this state, and provides for the formation and powers of resource conservation districts. This bill would declare the intent of the Legislature to enact subsequent legislation relating to natural resources.

Position: Placeholder - Spot Bill

Subject: Special District Powers, Special District Principle Acts, Special Districts Governance

CALAFCO Comments: This is a spotholder bill that notes only an intent to enact subsequent legislation relating to natural resources.

SB 865 (Laird D) Municipal water districts: automatic exclusion of cities.

Current Text: Introduced: 2/17/2023 [html](#) [pdf](#)

Introduced: 2/17/2023

Status: 3/1/2023-Referred to Com. on GOV. & F.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law authorizes a governing body of a municipal water district to adopt an ordinance excluding any territory annexed to a metropolitan water district organized under the Metropolitan Water District Act, if the territory is annexed prior to the effective date of the formation of the municipal water district. Current law requires the Secretary of State to issue a certificate reciting the passage of the ordinance and the exclusion of the area from the municipal water district within 10 days of receiving a certified copy of the ordinance. This bill would extend the number of days the Secretary of State has to issue a certificate to 14 days.

Position: None at this time

Subject: Annexation Proceedings

CALAFCO Comments: Existing law authorizes a governing body of a municipal water district may adopt an ordinance excluding any territory annexed to a metropolitan water district organized under the Metropolitan Water District Act, providing that the territory is annexed prior to the effective date of the formation of the municipal water district. If that happens, the Secretary of State must, within 10 days of receiving a certified copy, issue a certificate reciting the passage of the ordinance that excludes the area from the municipal water district. This bill would extend the Secretary of State's window to issue that certificate from 10 to 14 days.

3

AB 557 (Hart D) Open meetings: local agencies: teleconferences.

Current Text: Introduced: 2/8/2023 [html](#) [pdf](#)

Introduced: 2/8/2023

Status: 2/17/2023-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health, as specified. If there is a continuing state of emergency, or if state or local officials have imposed or recommended measures to promote social distancing, existing law requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures. Current law requires a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option. Current law prohibits a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. This bill would extend the above-described abbreviated teleconferencing provisions when a declared state of emergency is in effect, or in other situations related to public health, as specified, indefinitely.

Position: Neutral

Subject: Brown Act

CALAFCO Comments: Similar in scope to SB 411, this bill is follow-on legislation to AB 361 (2022) and seeks to return some of the pandemic-era teleconferencing provisions to the Brown Act. This bill is sponsored by CSDA.

AB 817 (Pacheco D) Local government: open meetings.

Current Text: Introduced: 2/13/2023 [html](#) [pdf](#)

Introduced: 2/13/2023

Status: 2/14/2023-From printer. May be heard in committee March 16.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law, the Ralph M. Brown Act, requires each legislative body of a local agency to provide notice of the time and place for its regular meetings and an agenda containing a brief general description of each item of business to be transacted. The act also requires that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized. This bill would make nonsubstantive changes to a provision of the Ralph M. Brown Act.

Position: Placeholder - Spot Bill

Subject: Brown Act

CALAFCO Comments: This bill appears to be a spot holder in that it currently only makes minor grammatical changes. The lack of substance raises concern regarding future changes to this bill.

AB 1348 (Grayson D) Local government: open meetings.

Current Text: Introduced: 2/16/2023 [html](#) [pdf](#)

Introduced: 2/16/2023

Status: 2/17/2023-From printer. May be heard in committee March 19.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law, the California Public Records Act, requires state agencies and local agencies to make public records available for inspection, subject to specified criteria, and with specified exceptions. Current law, the Ralph M. Brown Act, requires the meetings of the legislative body of a local agency to be conducted openly and publicly, with specified exceptions. Current law makes agendas of public meetings and other writings distributed to the members of the governing board disclosable public records, with certain exceptions. This bill would make nonsubstantive changes to the public record provisions governing the writings related to agendas of public meetings.

Position: Neutral

Subject: Brown Act

CALAFCO Comments: This bill as introduced would change the Section 54957.5 of the Brown Act in a minor and nonsubstantive way by changing an "a" to "any" in two places.

SB 411 (Portantino D) Open meetings: teleconferences: bodies with appointed membership.

Current Text: Introduced: 2/9/2023 [html](#) [pdf](#)

Introduced: 2/9/2023

Status: 2/22/2023-Referred to Coms. on GOV. & F. and JUD.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment. Current law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. This bill would authorize a legislative body to use alternate teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency. The bill would alternatively define "legislative body" for this purpose to mean a board, commission, or advisory body of a local agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to the Ralph M. Brown Act.

Position: Neutral

Subject: Brown Act

CALAFCO Comments: This bill would permanently add back provisions to Section 54953.4 of the Brown Act that had been temporarily enacted during the COVID-19 pandemic. The amendment would allow a legislative body to use teleconferencing provisions, and would define the proper procedure for conducting such a meeting, would require the legislative body to take no further action in the event of a broadcasting disruption within the local agency's control until the broadcast can be resumed, would require time public comment periods to remain open until the public comment time has elapsed, and would not only prevent requiring comments in advance but would also require that the public be afforded the chance to comment in real time.

SB 878 (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/17/2023 [html](#) [pdf](#)

Introduced: 2/17/2023

Status: 3/1/2023-Referred to Com. on GOV. & F.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would enact the First Validating Act of 2023, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

Position: None at this time

Subject: LAFCo Administration

CALAFCO Comments: This is the first of three annual validating acts.

SB 879 (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/17/2023 [html](#) [pdf](#)

Introduced: 2/17/2023

Status: 3/1/2023-Referred to Com. on GOV. & F.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would enact the Second Validating Act of 2023, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

Position: None at this time

Subject: LAFCo Administration

CALAFCO Comments: This is one of three annual validating acts.

SB 880 (Committee on Governance and Finance) Validations.

Current Text: Introduced: 2/17/2023 [html](#) [pdf](#)

Introduced: 2/17/2023

Status: 3/1/2023-Referred to Com. on GOV. & F.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would enact the Third Validating Act of 2023, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Position: None at this time

Subject: LAFCo Administration


CALAFCO Comments: This is one of three annual validating acts.

Total Measures: 17

Total Tracking Forms: 17

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: MARCH 8, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #10: EXECUTIVE OFFICER'S REPORT

REMINDER:

The Commission will be meeting next month, April 19, 2023, to consider revisions to its Policy and Procedures Manual, an update to its Fee Schedule, as well as its Preliminary Budget for FY 2023-24.

PROPOSAL UPDATES:

- LAFCO 3254 (Running Springs Water District Annexation and CSA 79 Dissolution) – Not a single protest was received upon the conclusion of the Protest period for LAFCO 3254. The Certificate of Completion for LAFCO 3254 was issued on March 1, 2023.
- LAFCO 3258 (Mountain View Avenue Bridge Reorganization) – LAFCO staff conducted the Protest Hearing for LAFCO 3258 on February 22, 2023 with zero protest received. The Certificate of Completion for LAFCO 3258 will be issued upon completion of the required condition for County Fire to take its action to expand the boundaries of its service zones to include the LAFCO 3258 area (Condition No. 7). County Fire has until June 20, 2023 to submit the necessary documents to complete this condition.

SOUTHERN REGION LAFCOs:

The Southern Region LAFCOs next quarterly virtual meeting is tentatively scheduled for Tuesday, April 11, 2023, at 10:00 am. Agenda and Zoom meeting link are to follow.

STAFF PRESENTATIONS:

The Morongo Valley CSD has requested that I provide a presentation on LAFCO (e.g. authority, governance, role) and special districts at its next meeting on March 15. As the

Commission may recall, this LAFCO completed a special study of the Morongo Valley CSD in January 2022 and staff presented the service review at a CSD board meeting in March 2022. However, the CSD board and staff leadership has experienced turnover, and the current board and staff request an additional presentation from LAFCO.