

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

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DATE : **NOVEMBER 9, 2009**

FROM: **KATHLEEN ROLLINGS-McDONALD, Executive Officer**

TO: **LOCAL AGENCY FORMATION COMMISSION**

**SUBJECT: AGENDA ITEM #7 – CONSIDERATION OF LAFCO 3067A THROUGH 3067F –
 CITY OF SAN BERNARDINO ISLANDS (See Full Titles Below)**

LAFCO 3067A – Reorganization to include City of San Bernardino Annexation No. 361 and Detachment from San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1 (Area #1)

LAFCO 3067B – Reorganization to include City of San Bernardino Annexation No. 361 and Detachment from San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1 (Area #2)

LAFCO 3067C – Reorganization to include City of San Bernardino Annexation No. 361 and Detachment from San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1 (Area #3)

LAFCO 3067D – Reorganization to include City of San Bernardino Annexation No. 361 and Detachment from San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1 (Area #4)

LAFCO 3067E – Reorganization to include City of San Bernardino Annexation No. 361 and Detachment from San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1 (Area #5)

LAFCO 3067F – Reorganization to include City of San Bernardino Annexation No. 361 and Detachment from San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1 (Area #6)

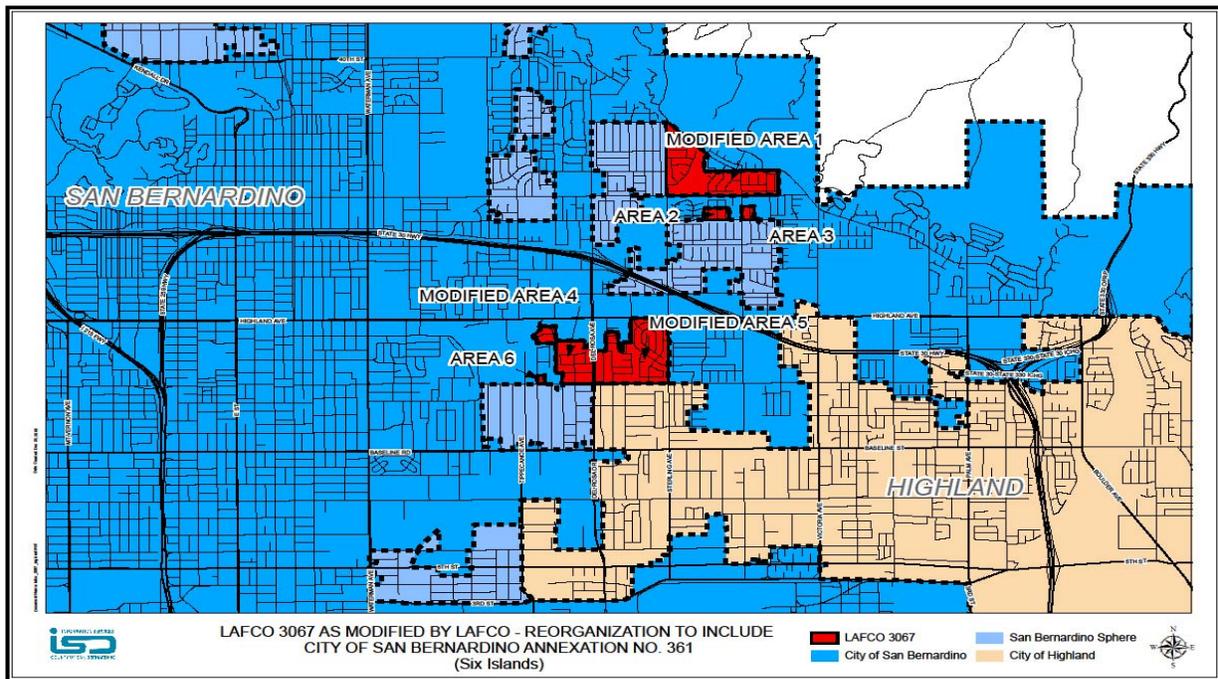
INITIATED BY:

City Council Resolution, City of San Bernardino

INTRODUCTION:

In July 2006, the City of San Bernardino submitted a proposal to annex six substantially-surrounded unincorporated islands of territory located in its northeastern sphere of influence. This proposal was submitted in response to Commission requirements officially outlined at the April 2006 Commission hearing related to the annexation of the Arrowhead Springs Specific Plan (LAFCO 3050). Over the last three years, the City has maintained its request that LAFCO 3067 not proceed without the companion LAFCO 3050.

At the February 2007 hearing the Commission separated LAFCO 3067 into six separate considerations, identified individually as LAFCO 3067A through 3067F. This report will provide general background information for all six proposals combined and then provide an individual recommendation and discussion for the island areas.



BACKGROUND:

At the July 11, 2006 City of San Bernardino Council meeting, the City initiated the annexation of six of the twelve islands (LAFCO 3067) it had committed to through adoption of Resolution No. 2006-347. In October 2006, the City adopted Resolution No. 2006-348 which outlined a schedule to address five additional island areas. The illustration below shows the six islands originally submitted by the City in red, while the area in yellow identifies the remaining five islands to be initiated by the City. The resolution identifies that they will be initiated in two phases, by no later than January 2008.

ISLAND ANNEXATION PROVISIONS:

Government Code Sections 56375(a) and 56375.3 requires the Commission to approve the annexation of island territory if several basic findings are made concerning the size of the island, the configuration of city boundaries, the lack of prime agricultural land within the island area, the presence of development in the area, and the ability of the study area to benefit from or use municipal services from the City. The Commission is required to evaluate each of the six (6) islands against the criteria outlined and make specific determinations regarding their compliance with these provisions. That specific evaluation criterion is as follows:

- The area does not exceed 150 acres, and constitutes the entire island of unincorporated territory;
- The study area constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands;
- The area is totally or substantially surrounded;
- The study area is substantially developed or developing, based on findings that there is the availability of public services, there is the presence of public improvements in the area, and there are physical improvements on many, if not most, of the properties;
- The study area is not prime agricultural land as such is defined by LAFCO statutes; and,
- The study area will benefit from the annexation or is receiving benefits from the annexing city.

In addition, the Commission has adopted its own policies related to the processing and evaluation of island annexations. Those policies, adopted March 31, 2005, are as follows:

1. For the purpose of applying the provisions of Government Code Section 56375.3, the territory of an annexation proposal shall be deemed “substantially surrounded” if 52% of its boundary, as set forth in a boundary description accepted by the Executive Officer, is surrounded by (a) the affected City or (b) the affected City and adjacent Cities, or (c) the affected City and a service impediment boundary as defined by the Commission to include, but not be limited to, a freeway, a flood control channel or forest service land.
2. The Commission determines that no territory within an established County Redevelopment Area shall be included within an island annexation proposal, unless written consent has been received from the County Board of Supervisors and County Redevelopment Agency.
3. The Commission directs that a City proposing to initiate an island annexation proposal shall have conducted a public relations effort within the area prior to the adoption of its resolution of initiation. Such efforts shall include, but not be limited to, providing information on the grandfathering of existing legal County

uses into the City, costs to the resident/taxpayer associated with annexation, and land use determinations. Documentation of these efforts shall be a part of the application submitted for consideration by the Commission.

Each of these islands will be evaluated as to whether or not it complies with these directives.

ISSUES RELATED TO LAFCO 3067A THROUGH LAFCO 3067F:

In reviewing these proposals there were a number of items which affected all six islands equally. Those matters are outlined below:

1. LAFCO staff, members of the City of San Bernardino staff and County Land Use Services personnel have met to review issues related to the handling of the transition of land use projects and code enforcement issues from the County to the City. It has been identified that there are projects and open Code Enforcement actions currently in process at the County affected by this action. The City has indicated to LAFCO staff that it will honor the County's land use approvals for projects, will assume responsibility for assurance of compliance with the County's conditions of approval and will assume responsibility for ongoing enforcement action. However, City personnel have noted that the City reserves the right to require compliance with City design standards and on-site improvement plans.
2. As noted above, the City of San Bernardino has provided a "Plan for Service" for LAFCO 3067A through LAFCO 3067F as a single document as required by law and as modified by Commission policy. A copy of the Plan, including supplemental information, is included as part of Attachment #2 to this report. Highlights of the Plan and related information include the following:
 - Water and sewage collection services will not be affected by these changes. This is based upon the provision of these services by the East Valley Water District whose boundaries are unaffected by the island annexations.
 - Law enforcement responsibilities will shift from the County Sheriff's Department, which operates out of the Main Sheriff facility in San Bernardino, to the City of San Bernardino Police Department. The City indicates that its Police Department will absorb this territory into its existing beat system surrounding the sites. However, the City has indicated that no additional police personnel will be provided due to the City's existing hiring freeze, so the change will impact overtime requirements. The financing of this service will be through the ad valorem property tax received by the City from within the annexation areas.
 - Solid waste services are currently provided within the annexation area by Burrtec Disposal. As authorized by law and City policy, upon annexation residents will have five years in which to transition to the City-operated service. The City's current residential rate is \$22.84 per month for pick up which includes the provision of containers for normal, recyclable and green waste. The current rate for Burrtec varies from \$45.72 to \$49.00 bi-monthly depending on island area. The City rate would be four (4) cents lower than existing low end Burrtec rate or \$3.32 less than the high end rate. Commercial rates vary depending on the type and frequency of pick up.

- Fire protection and paramedic services are currently the responsibility of the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2 (paramedics). The County contracts with the City of San Bernardino to provide these services within all the unincorporated area east of Waterman Avenue including the Arrowhead Suburban Farms island (copy of the contract included as Attachment #3). The City's modified Plan for Service identifies that the contract entered into in 2006 provided the City with a payment of \$487,000 per year which was determined to be 75% of the CSA 38 revenue in 2005-06 (CSA 38 has become the Valley Service Zone of the San Bernardino County Fire Protection District (SBCFPD)) and all of the revenues from the special assessment for paramedic services (in the contract identified as CSA 38 Zone L, which was reorganized into Service Zone PM-2). A concern for City staff and SBCFPD personnel is the effect of the transfer of these responsibilities to the City along with the revenues they generated.

LAFCO staff has provided updated information on the ad valorem property revenues generated within this area, including those related to the current fire providers, SBCFPD and its Valley Service which will be transferred to the City. The revenues for the special assessment for Service Zone PM-2, to which the City will succeed, have been provided by County Fire Fiscal Management personnel. The transfers are:

SBCFPD (formerly CSA 70)	\$ 29,677
SBCFPD Valley Service Zone (formerly CSA 38)	\$134,392
Service Zone PM-2 (formerly CSA 38 Zone L)	\$ 19,399
TOTAL	\$183,468

According to the terms outlined in Section 8 of the agreement, the reduction in the contract will be for the full value of the SBCFPD (former CSA 38) and its Service Zone PM-2 (former Zone L). This reduction will take effect in Fiscal Year 2010-11. The language states "only properties annexed prior to April 1st of the current contract year will be used to recalculate the next year's contract payment." LAFCO staff has previously identified its concern that the contract amount no longer represents what the understandings of the parties were at the time of contract signing. Specifically that the amount paid represents the amount of revenue derived from the area by CSA 38 (Board Agenda Item #16 of October 31, 2006 included as a part of Attachment #5). LAFCO staff has requested updated information from the County Assessor and Property Tax Division of the Auditor Controller to determine the amount of revenue generated within the areas of the contract (approximately 8 islands of territory). The amounts to be received during the 2009-10 Fiscal Year are:

SBCFPD	\$ 174,944
SBCFPD Valley Service Zone	\$ 792,226
Service Zone PM-2	\$ 94,654
TOTAL	\$1,061,824

The staffs from the City Manager's Office, LAFCO and County Fire have met to review this situation and LAFCO staff's concerns. It has been agreed that the current contract amount will not be altered for the current and final year of the contract for service, and that the negotiations for the contract for Fiscal Year 2011-12 and thereafter will take into account the revenue stream remaining for those services. City and County Fire staff has indicated that a letter outlining this position will be provided to LAFCO staff, but as of the time of preparation of this report it had not been received. A copy of any correspondence related to this matter will be provided to the Commission at the hearing.

- Streetlights are currently funded within the island areas through County Service Area SL-1. The Plan for Service identifies that 173 lights and the lights associated with two intersections will transfer to City responsibility. The Commission's adopted policy requires documentation of the transfer of this responsibility through verification of lighting facilities to be transferred and requiring the submission by the City of a signed form authorizing the transfer upon completion of the annexation. Staff has included this condition in its recommendation for approval. There are 173 lights operated by CSA SL-1 within County territory to be transferred and it is estimated that the annual cost of operation is \$24,912 (approximately \$144 per year for energy and administrative costs). The property tax transfer from CSA SL-1 to the City is \$17,200, which does not cover the entire cost of this service.
- An important note included in the Plan for Service and proposed as a condition of approval for the individual islands, is that none of the island areas will be required to pay the City's 7.75 percent Utility Users Tax. Pursuant to a State Attorney General opinion, unless the voters and landowners have the opportunity to protest the annexation, the existing taxes of the City can not be automatically extended to the area. However, in the future as voters of the City if the matter of the utility users' tax is on a ballot, they will become subject to payment.

As required by Commission policy and State law, the Plan for Service submitted by the City of San Bernardino shows that the extension of its services will maintain, and/or exceed, current service levels provided through the County.

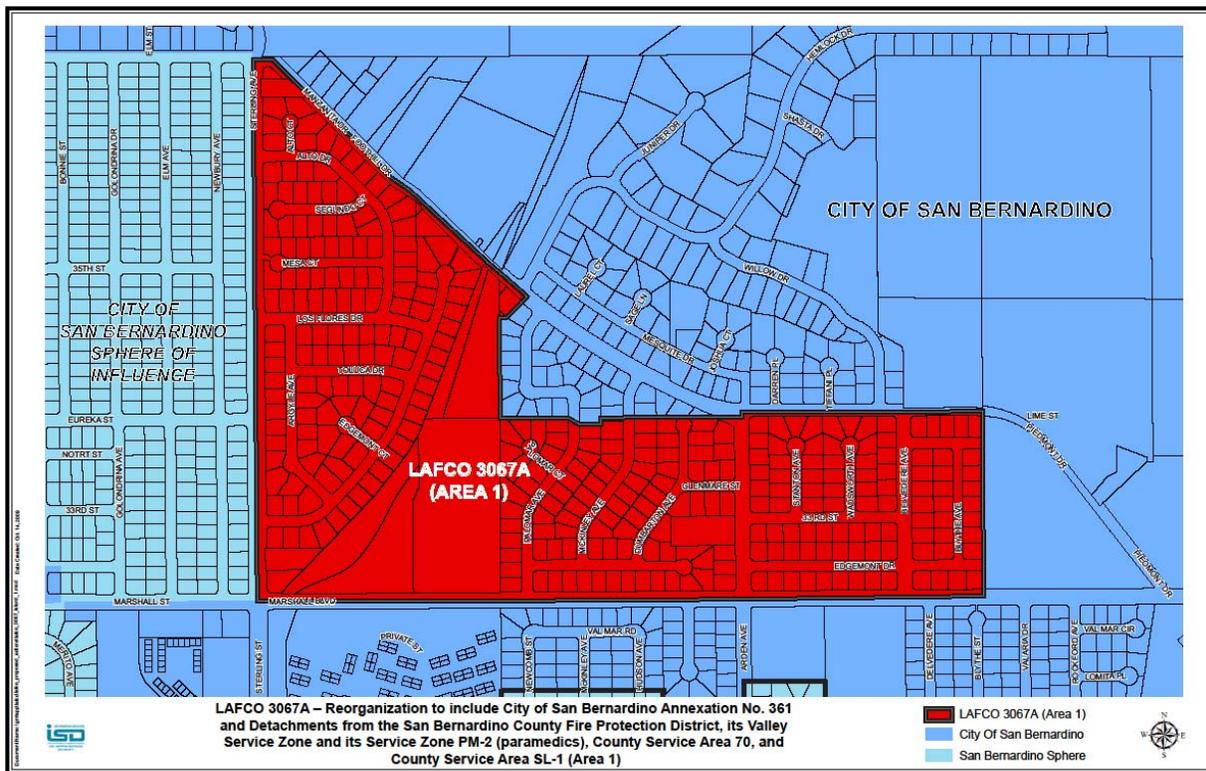
3. The City Council of the City of San Bernardino adopted Resolution No. 2006-348 on October 4, 2006 (copy included as Attachment #4), which outlines the phasing of the remaining island annexations. As noted in the introduction of this report, the City of San Bernardino was responding to requirements of the Commission to address 13 unincorporated islands discussed during consideration of LAFCO 3050. No action to rescind this resolution has been taken by the City Council and LAFCO staff is of the understanding that the phasing will take place acknowledging the three (3) year deferral for LAFCO 3067 at the request of the City. Specifically, Resolution No. 2006-348 identifies that the areas identified in its Exhibits as Islands #1 and #6 would be initiated by January 2007 and Islands #2, #7 and #8 by January 2008. It is staff's assumption that these dates would be deferred to January 2010 and January 2011 respectively.

For every proposal, the Commission is required to evaluate the factors of boundaries, land uses, service delivery and environmental considerations. These items were discussed at the previous

hearings on this proposal conducted in February 2007 and November 2006. A copy of the staff report for the February hearing, dated February 12, 2007 is included as Attachment #5 to this report. Those items that have been amended and that are universal to the six areas have been outlined above. The information which follows provides for the staff's analysis of each of the individual island areas, provides the determinations required by State law under Government Code Section 56375.3, provides for individual consideration by the Commission for the islands and provides a staff recommendation.

LAFCO 3067A -- AREA 1

Area 1 is generally located north of Marshall Boulevard (existing City of San Bernardino boundary), east of Sterling Avenue, south of a combination of Foothill and Piedmont Drives (existing City of San Bernardino Boundary) and parcel lines on the west abutting the San Manuel Casino parcel (existing City of San Bernardino boundary). Attachment #6 provides maps of the area, an updated Island Information for Proposal Form, Fiscal Impact Spreadsheet for Area #1 provides for the environmental assessment of the proposal provided by the Commission's environmental consultant and provides a draft resolution of approval. The map below illustrates this area:



LAFCO staff has addressed each of the required determinations for the island as follows:

- The area is 135 +/- acres in size, as verified by the County Surveyor's Department, within the 150 acre threshold, and encompasses the entire substantially surrounded island;
- The area is substantially surrounded. The island, as modified by Commission action, is 80% surrounded by existing City of San Bernardino and complies with the Commission's policy declaration defining substantially surrounded;
- The study area is substantially developed or developing, on the basis that public services are available in the area, there are public improvements in the area, and there are

physical improvements on many, if not most, of the properties;

- The study area does not contain prime agricultural land as such is defined by LAFCO statutes;
- The study area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District (formerly known as County Service Area 38);
- The City of San Bernardino has conducted an extensive outreach program prior to submission of the reorganization application; and,
- The area is not included within an established County Redevelopment Area.

LAND USE:

The City of San Bernardino adopted its General Plan Update in October 2006 which included the pre-zoning of its sphere of influence. The City's land use designations for Area #1 is RS (Residential Suburban) – allowing 4.5 dwelling units per acre or 7,200 square foot minimum lot size and Public Facility (for the flood control channel territory within the annexation). The pre-zone designation is required to be maintained for a two-year period following annexation (Government Code Section 56735 (e)) unless specific determinations are made by the City Council at a public hearing. The City's land use classifications are generally compatible with the County's land use designations.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the reorganization to include island annexations is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. Such a "ministerial action" is exempt from environmental review pursuant to Section 15268 of the State CEQA Guidelines. A copy of Mr. Dodson's analysis is included as Attachment #6 to this report. It is recommended that the Commission adopt the statutory exemption for this proposal and direct the Executive Officer to file a Notice of Exemption with the appropriate agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that Area #1, as modified, is legally inhabited, containing 578 registered voters as of October 13, 2009.

2. The study area is within the sphere of influence assigned the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for Area #1 is \$46,526,169 (\$12,345,217 land; \$34,180,952 improvements).
4. LAFCO staff has provided individual notices to landowners (totaling 332 notices) and registered voters (totaling 578 notices) within the reorganization area. Notice was provided to surrounding landowners (1,409) and registered voters (2,035) for the three northern islands on October 29, 2009. The total number of notices provided, in accordance with State law and adopted Commission policies, is 4,354. To date verbal expression of opposition has been received in the LAFCO staff office expressing concern regarding service delivery changes; and written opposition has been received.
5. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
6. The City of San Bernardino pre-zoned its sphere of influence through adoption of its General Plan Update in October 2006. The land use designations to be applied within the reorganization area upon annexation are RS (Residential Suburban) – 4.5 dwelling units per acre/7,200 square foot lots and PF (public facility). Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this reorganization is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is ministerial, in that based upon the findings required by Government Code Section 56375(a), the Commission has no discretion in its action on the proposal other than approval. Therefore, a statutory exemption as authorized under Section 15268 of the State CEQA Guidelines is appropriate. A copy of Mr. Dodson's response is included for the Commission's review as a part of Attachment #6 to this report.
8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land uses. The City has submitted a "Plan for Service" as required by law which indicates that revenues are less than the costs for providing the service; however, the revenues anticipated from the annexation of LAFCO 3050 are anticipated to exceed the cost of service covering this shortfall. Water and sewer service to the island area is currently provided by the East Valley Water District, fire protection/paramedics are currently provided by the City of San Bernardino Fire Department through contract with the San Bernardino County Fire Protection District and ambulance service is provided by American Medical Response. A copy of the City's Plan and updated information on the Plan is included for the Commission's review as Attachment #2 to this report.

9. The City of San Bernardino has indicated in its application and Plan for Service that its 7.75% Utility Users Tax on properties will not be extended to this area upon annexation. In addition, LAFCO staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area until such time as the registered voters have an opportunity to vote on the matter.

10. The area in question is presently served by the following public agencies:

County of San Bernardino
Inland Empire Resource Conservation District
San Bernardino Valley Municipal Water District
San Bernardino Valley Water Conservation District
San Bernardino County Fire Protection District, its Valley Service Zone and its
Service Zone PM-2
East Valley Water District
County Service Area SL-1
County Service Area 70

San Bernardino County Fire Protection District, its Valley Service Zone, Service Zone PM-2, CSA SL-1 and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

11. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.
12. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, verbal and written expressions of protest or opposition to these annexations and the island annexation provisions has been received.
13. The study area can benefit from the availability of municipal-level services from the City of San Bernardino and have benefited from City level fire protection services through contract with the County.
14. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses.
15. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based upon race, culture or income.
16. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this

annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code. Renegotiation of the property tax transfer may be requested due to the modification in boundaries. This process is outlined in Revenue and Taxation Code Section 99(b) (7).

17. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

It is staff's position that LAFCO 3067A must be approved by the Commission without protest by landowners and registered voters. This position is based upon the factors outlined in Government Code Sections 56375(a) and 56655. In addition, it is the staff's position that the Commission is required to make the mandatory determinations outlined in Section 56375.3.

Approval of this reorganization proposal will provide a clear delineation of law enforcement responsibility, will provide for the transfer of the full revenue stream attributable to fire protection and paramedic service to the City which is currently providing the service, and will define the responsible agency to turn to for needed road improvements. Approval of this proposal addresses the needs for service now and in the future. It is the staff position that the territory complies with the statutorily required factors; therefore, the Commission is required to approve this proposal, regardless of any protest that might be submitted at the hearing. State law also requires the Commission to waive the protest hearing on this proposal, and staff's recommendation includes that action as part of its approval of this proposal.

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3067A by taking the following actions:

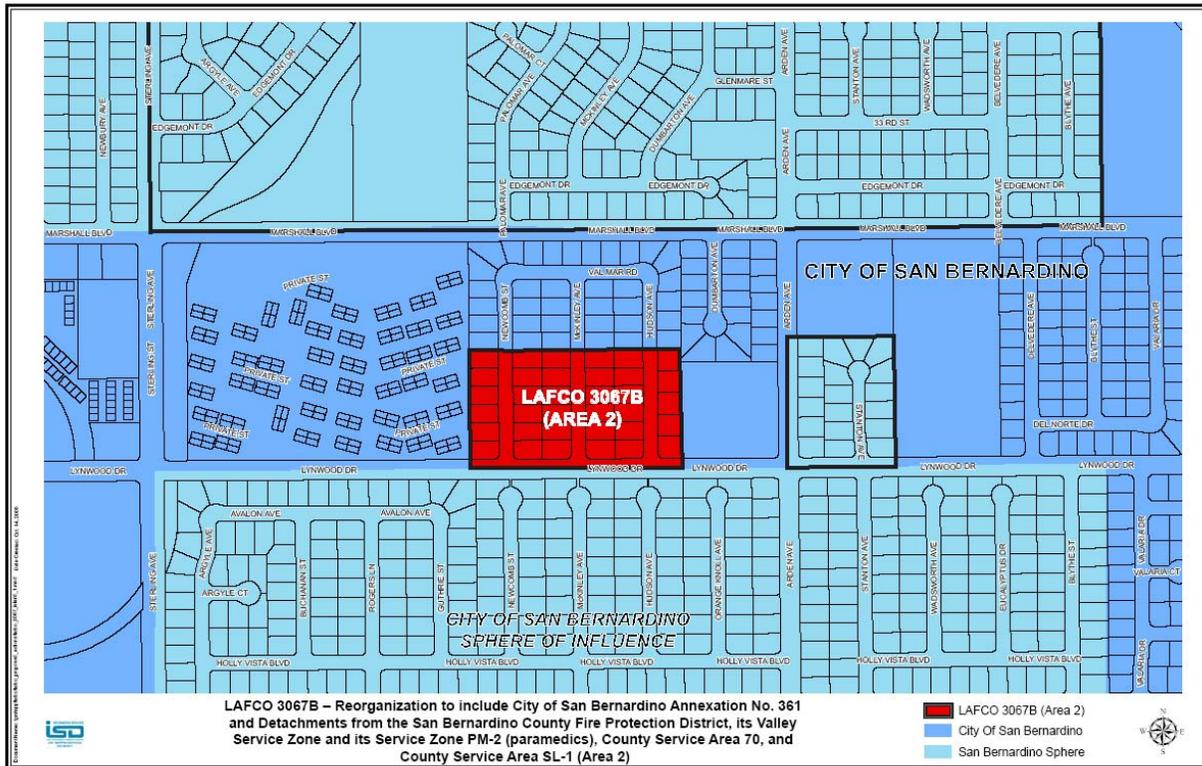
1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct that the Notice of Exemption be filed within five (5) days of this action;
2. Modify LAFCO 3067A as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1;
3. Approve LAFCO 3067A – Reorganization to include City of San Bernardino Annexation No. 361 et al as an island annexation, as defined in Government Code Section 56375.3, with the following terms and conditions:
 - a. That the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area;
 - b. All streetlights currently the responsibility of County Service Area SL-1 within the annexation areas shall be transferred to the City of San Bernardino

upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts; and,

- c. The standard terms and conditions of approval that include the “hold harmless” clause for potential litigation.
4. Waive protest proceedings, as required by Government Code Section 56375.3; and,
5. Adopt LAFCO Resolution #3071 setting forth the Commission’s findings and determinations concerning this proposal.

LAFCO 3067B -- AREA 2

Area 2 is generally located north of Lynwood Drive and west, south and east of parcels lines which comprise the City of San Bernardino boundaries. The area includes territory east and west of McKinley Avenue, Newcomb Street, and Hudson Avenue.. Attachment #7 provides maps of the area, an updated Island Information for Proposal Form, Fiscal Impact Spreadsheet for Area #2, provides for the environmental assessment of the proposal provided by the Commission's environmental consultant and provides a draft resolution of approval. The maps below illustrates this area:





LAFCO staff has addressed each of the required determinations for the island as follows:

- The area is 10 +/- acres in size, as verified by the County Surveyor's Department, within the 150 acre threshold, and encompasses the entire substantially surrounded island;
- The area is substantially surrounded. The island is 68% surrounded by existing City of San Bernardino boundaries in compliance with Commission policy;
- The study area is substantially developed or developing, on the basis that public services are available in the area, there are public improvements in the area, and there are physical improvements on most of the properties;
- The study area does not contain prime agricultural land as such is defined by LAFCO statutes;
- The study area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District (formerly known as County Service Area 38);
- The City of San Bernardino has conducted an extensive outreach program prior to submission of the reorganization application; and,
- The area is not included within an established County Redevelopment Area.

LAND USE:

The City of San Bernardino adopted its General Plan Update in October 2006 which included the pre-zoning of its sphere of influence. The City's land use designation for Area #2 is RS (Residential Suburban) which promotes development of single family detached units in a suburban setting with a minimum lot size of 7,200 square feet and a maximum density of 4.5 dwelling units per acre . The pre-zone designation is required to be maintained for a two-year period following annexation (Government Code Section 56735 (e)) unless specific determinations are made by the City Council at a public hearing. The City's land use classifications are generally compatible with the County's land use designations.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the reorganization to include island annexations is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. Such a "ministerial action" is exempt from environmental review pursuant to Section 15268 of the State CEQA Guidelines. A copy of Mr. Dodson's analysis is included as Attachment #7 to this report. It is recommended that the Commission adopt the statutory exemption for this proposal and direct the Executive Officer to file a Notice of Exemption with the appropriate agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that Area #2 is legally inhabited, containing 60 registered voters as of October 13, 2009.
2. The study area is within the sphere of influence assigned the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for Area #2 is \$4,837,644 (\$1,225,673 land; \$3,611,971 improvements).
4. LAFCO staff has provided individual notices to landowners (totaling 35 notices) and registered voters (totaling 60 notices) within the reorganization area. Notice was provided to surrounding landowners (1,409) and registered voters (2,035) for the three northern islands on October 27, 2009. The total number of notices provided, in accordance with State law and adopted Commission policies, is 3,539. To date verbal expression of opposition has been received in the LAFCO staff office expressing concern regarding service delivery changes; and written opposition has been received.
5. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, newspaper of general circulation within the study area. Individual

notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.

6. The City of San Bernardino pre-zoned its sphere of influence through adoption of its General Plan Update in October 2006. The land use designation to be applied within the reorganization area upon annexation is RS (Residential Suburban) – 4.5 dwelling units per acre/7,200 square foot lots. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this reorganization is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is ministerial, in that based upon the findings required by Government Code Section 56375(a), the Commission has no discretion in its action on the proposal other than approval. Therefore, a statutory exemption as authorized under Section 15268 of the State CEQA Guidelines is appropriate. A copy of Mr. Dodson's response is included for the Commission's review as Attachment #7 to this report.
8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land uses. The City has submitted a "Plan for Service" as required by law which indicates that revenues are less than the costs for providing the service; however, the revenues anticipated from the annexation of LAFCO 3050 are anticipated to exceed the cost of service covering this shortfall. Water and sewer service to the island area is currently provided by the East Valley Water District, fire protection/paramedics are currently provided by the City of San Bernardino Fire Department through contract with the San Bernardino County Fire Protection District and ambulance service is provide by American Medical Response. A copy of the City's Plan and updated information on the Plan is included for the Commission's review as Attachment #2.
9. The City of San Bernardino has indicated in its application and Plan for Service that its 7.75% Utility Users Tax on properties will not be extended to this area upon annexation. In addition, LAFCO staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area.
10. The area in question is presently served by the following public agencies:
 - County of San Bernardino
 - Inland Empire Resource Conservation District
 - San Bernardino Valley Municipal Water District
 - San Bernardino Valley Water Conservation District
 - San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2
 - East Valley Water District
 - County Service Area SL-1
 - County Service Area 70

San Bernardino County Fire Protection District, its Valley Service Zone, Service Zone PM-2, CSA SL-1 and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

11. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.
12. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, verbal and written expressions of protest or opposition to these annexations and the island annexation provisions has been received.
13. The study area can benefit from the availability of municipal-level services from the City of San Bernardino and have benefited from City level fire protection services through contract with the County.
14. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses.
15. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based upon race, culture or income.
16. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
17. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

It is staff's position that LAFCO 3067B must be approved by the Commission without protest by landowners and registered voters. This position is based upon the factors outlined in Government Code Sections 56375(a) and 56655. In addition, it is the staff's position that the Commission is required to make the mandatory determinations outlined in Section 56375.3.

Approval of this reorganization proposal will provide a clear delineation of law enforcement responsibility, will provide for the transfer of the full revenue stream attributable to fire protection and paramedic service to the City which is currently providing the service, and will define the responsible agency to turn to for needed road improvements. Approval of this proposal

addresses the needs for service now and in the future. It is the staff position that the territory complies with the statutorily required factors; therefore, the Commission is required to approve this proposal, regardless of any protest that might be submitted at the hearing. State law also requires the Commission to waive the protest hearing on this proposal, and staff's recommendation includes that action as part of its approval of this proposal.

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3067B by taking the following actions:

1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct that the Notice of Exemption be filed within five (5) days of this action;
2. Modify LAFCO 3067B as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1;
3. Approve LAFCO 3067B – Reorganization to include City of San Bernardino Annexation No. 361 as an island annexation, as defined in Government Code Section 56375.3, with the following terms and conditions:
 - a. That the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area;
 - b. All streetlights currently the responsibility of County Service Area SL-1 within the annexation areas shall be transferred to the City of San Bernardino upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts; and,
 - c. The standard terms and conditions of approval that include the "hold harmless" clause for potential litigation.
4. Waive protest proceedings, as required by Government Code Section 56375.3; and,
5. Adopt LAFCO Resolution #3072 setting forth the Commission's findings and determinations concerning this proposal.



LAFCO staff has addressed each of the required determinations for the island as follows:

- The area is 6 +/- acres in size, as verified by the County Surveyor's Department, within the 150 acre threshold, and encompasses the entire substantially surrounded island;
- The area is substantially surrounded. The island is 78% surrounded by existing City of San Bernardino in compliance with Commission policy;
- The study area is substantially developed or developing, on the basis that public services are available in the area, there are public improvements in the area, and there are physical improvements on many, if not most, of the properties;
- The study area does not contain prime agricultural land as such is defined by LAFCO statutes;
- The study area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District (formerly known as County Service Area 38);
- The City of San Bernardino has conducted an outreach program prior to submission of the reorganization application; and,
- The area is not included within an established County Redevelopment Area.

LAND USE:

The City of San Bernardino adopted its General Plan Update in October 2006 which included the pre-zoning of its sphere of influence. The City's land use designations for Area #3 is RS (Residential Suburban). This district is intended to promote single family residential detached units in a suburban setting with a minimum 7,200 square foot lot size. This calculates to maximum density of 4.5 dwelling units per acre. The pre-zone designation is required to be maintained for a two-year period following annexation (Government Code Section 56735 (e)) unless specific determinations are made by the City Council at a public hearing. The City's land use classifications are generally compatible with the County's land use designations.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the reorganization to include island annexations is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. Such a "ministerial action" is exempt from environmental review pursuant to Section 15268 of the State CEQA Guidelines. A copy of Mr. Dodson's analysis is included as Attachment #8 to this report. It is recommended that the Commission adopt the statutory exemption for this proposal and direct the Executive Officer to file a Notice of Exemption with the appropriate agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that Area #3 is legally inhabited, containing 37 registered voters as of October 13, 2009.
2. The study area is within the sphere of influence assigned the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for Area #3 is \$2,914,033 (\$724,976 land; \$2,189,057 improvements).
4. LAFCO staff has provided individual notices to landowners (totaling 19 notices) and registered voters (totaling 37 notices) within the reorganization area. Notice was provided to surrounding landowners (1,409) and registered voters (2,035) for the three northern islands on October 27, 2009. The total number of notices provided, in accordance with State law and adopted Commission policies, is 3,500. To date verbal expression of opposition has been received in the LAFCO staff office expressing concern regarding service delivery changes; and written opposition has been received.
5. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, newspaper of general circulation within the study area. Individual

notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.

6. The City of San Bernardino pre-zoned its sphere of influence through adoption of its General Plan Update in October 2006. The land use designation to be applied within the reorganization area upon annexation is RS (Residential Suburban) – 4.5 dwelling units per acre/7,200 square foot lots. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this reorganization is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is ministerial, in that based upon the findings required by Government Code Section 56375(a), the Commission has no discretion in its action on the proposal other than approval. Therefore, a statutory exemption as authorized under Section 15268 of the State CEQA Guidelines is appropriate. A copy of Mr. Dodson's response is included for the Commission's review as Attachment #8 to this report.
8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land uses. The City has submitted a "Plan for Service" as required by law which indicates that revenues are less than the costs for providing the service; however, the revenues anticipated from the annexation of LAFCO 3050 are anticipated to exceed the cost of service covering this shortfall. Water and sewer service to the island area is currently provided by the East Valley Water District, fire protection/paramedics are currently provided by the City of San Bernardino Fire Department through contract with the San Bernardino County Fire Protection District and ambulance service is provided by American Medical Response. A copy of the City's Plan and updated information on the Plan is included for the Commission's review as a part of Attachment #2.
9. The City of San Bernardino has indicated in its application and Plan for Service that its 7.75% Utility Users Tax on properties will not be extended to this area upon annexation. In addition, LAFCO staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area.
10. The area in question is presently served by the following public agencies:
 - County of San Bernardino
 - Inland Empire Resource Conservation District
 - San Bernardino Valley Municipal Water District
 - San Bernardino Valley Water Conservation District
 - San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2
 - East Valley Water District
 - County Service Area SL-1
 - County Service Area 70

San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, CSA SL-1 and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

11. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.
12. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, verbal and written expressions of protest or opposition to these annexations and the island annexation provisions has been received.
13. The study area can benefit from the availability of municipal-level services from the City of San Bernardino and have benefited from City level fire protection services through contract with the County.
14. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses.
15. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based upon race, culture or income.
16. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
17. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

It is staff's position that LAFCO 3067C must be approved by the Commission without protest by landowners and registered voters. This position is based upon the factors outlined in Government Code Sections 56375(a) and 56655. In addition, it is the staff's position that the Commission is required to make the mandatory determinations outlined in Section 56375.3.

Approval of this reorganization proposal will provide a clear delineation of law enforcement responsibility, will provide for the transfer of the full revenue stream attributable to fire protection and paramedic service to the City which is currently providing the service, and will define the responsible agency to turn to for needed road improvements. Approval of this proposal

addresses the needs for service now and in the future. It is the staff position that the territory complies with the statutorily required factors; therefore, the Commission is required to approve this proposal, regardless of any protest that might be submitted at the hearing. State law also requires the Commission to waive the protest hearing on this proposal, and staff's recommendation includes that action as part of its approval of this proposal.

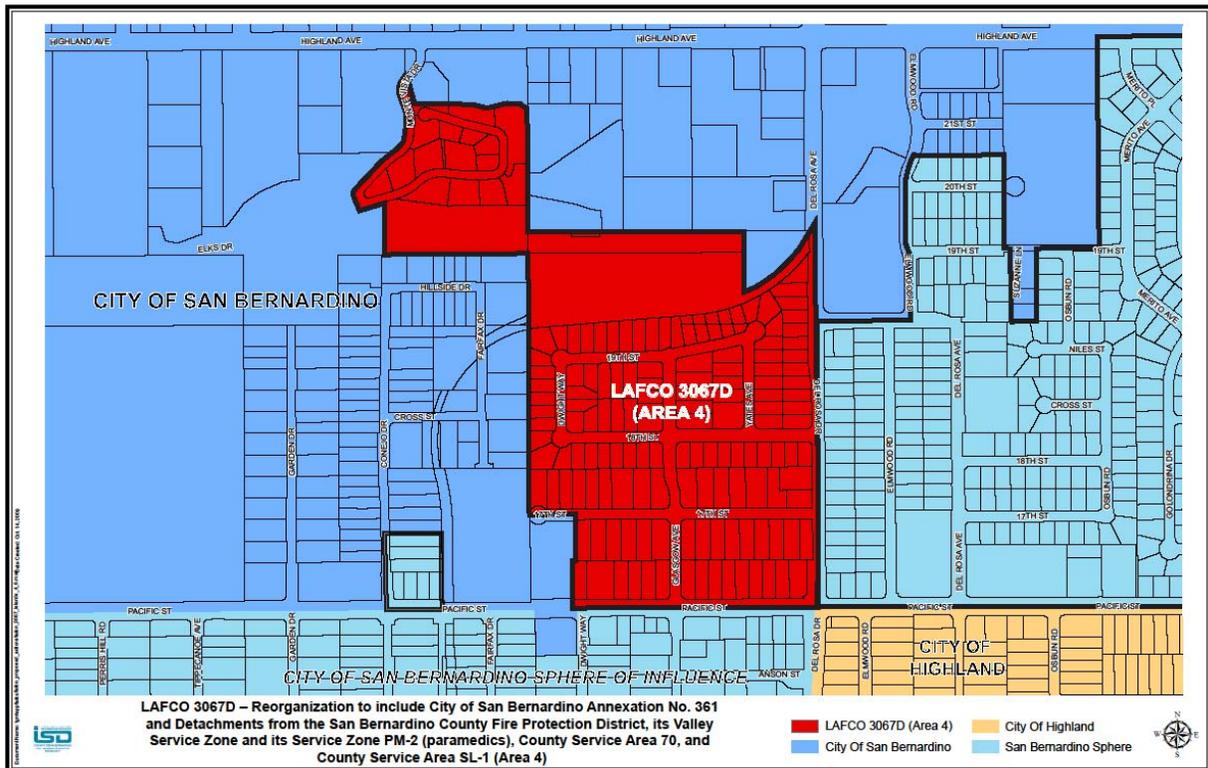
RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3067C by taking the following actions:

1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct that the Notice of Exemption be filed within five (5) days of this action;
2. Modify LAFCO 3067C as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1;
3. Approve LAFCO 3067C – Reorganization to include City of San Bernardino Annexation No. 361 as an island annexation, as defined in Government Code Section 56375.3, with the following terms and conditions:
 - a. That the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area;
 - b. All streetlights currently the responsibility of County Service Area SL-1 within the annexation areas shall be transferred to the City of San Bernardino upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts; and,
 - c. The standard terms and conditions of approval that include the "hold harmless" clause for potential litigation.
4. Waive protest proceedings, as required by Government Code Section 56375.3; and,
5. Adopt LAFCO Resolution #3073 setting forth the Commission's findings and determinations concerning this proposal.

LAFCO 3067D -- AREA 4

Area 4 is generally located north of Pacific Street and west of Del Rosa Drive. The island is bordered by a combination of Monte Vista Drive and parcel lines on the west (existing City boundary), parcel lines on the north (existing City of San Bernardino boundary), Del Rosa Drive on the east, and Pacific Street on the south. Attachment #9 provides maps of the area, an updated Island Information for Proposal Form, Fiscal Impact Spreadsheet for Area #4, provides for the environmental assessment of the proposal provided by the Commission’s environmental consultant, and provides a draft resolution of approval. The map below illustrates this area:



LAFCO staff has addressed each of the required determinations for the island as follows:

- The area is 61 +/- acres in size, as verified by the County Surveyor’s Department, within the 150 acre threshold, and encompasses the entire substantially surrounded island;
- The area is substantially surrounded. The island, as modified by Commission action, is an estimated 70% surrounded by existing City of San Bernardino boundaries in compliance with Commission policy;
- The study area is substantially developed or developing, on the basis that public services are available in the area, there are public improvements in the area, and there are physical improvements on many, if not most, of the properties;

- The study area does not contain prime agricultural land as such is defined by LAFCO statutes;
- The study area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District (formerly known as County Service Area 38);
- The City of San Bernardino has conducted an outreach program prior to submission of the reorganization application; and,
- The area is not included within an established County Redevelopment Area. However, the territory is a part of the Inland Valley Development Authority, a joint-powers redevelopment agency created for the former Norton Air Force Base transition.

LAND USE:

The City of San Bernardino adopted its General Plan Update in October 2006 which included the pre-zoning of its sphere of influence. The City's land use designations for Area #4 is RL (Residential Low) which promotes low density, large lot, single family detached residential units with a minimum average lot size of 10,800 square feet; and RS (Residential Suburban) which promotes single family detached units in a suburban setting with a minimum lot size of 7,200 square feet and a maximum density of 4.5 dwelling units per acre. The pre-zone designation is required to be maintained for a two-year period following annexation (Government Code Section 56735 (e)) unless specific determinations are made by the City Council at a public hearing. The City's land use classifications are generally compatible with the County's land use designations.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the reorganization to include island annexations is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. Such a "ministerial action" is exempt from environmental review pursuant to Section 15268 of the State CEQA Guidelines. A copy of Mr. Dodson's analysis is included as Attachment #9 to this report. It is recommended that the Commission adopt the statutory exemption for this proposal and direct the Executive Officer to file a Notice of Exemption with the appropriate agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that Area #4, as modified, is legally inhabited, containing 241 registered voters as of October 28, 2009.
2. The study area is within the sphere of influence assigned the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for Area #4 is \$15,265,944 (\$3,848,571 land; \$11,417,373 improvements).
4. LAFCO staff has provided individual notices to landowners (totaling 464 notices) and registered voters (totaling 240 notices) within the reorganization area. Notice was provided to surrounding landowners (1,306) and registered voters (1,761) for the three southern islands on October 27, 2009. The total number of notices provided, in accordance with State law and adopted Commission policies, is 3,771. To date verbal expression of opposition has been received in the LAFCO staff office expressing concern regarding service delivery changes; and written opposition has been received.
5. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
6. The City of San Bernardino pre-zoned its sphere of influence through adoption of its General Plan Update in October 2006. The land use designations to be applied within the reorganization area upon annexation are RL (Residential Low) single family detached residential units, average lot size of 10,800 square feet and RS (Residential Suburban) – 4.5 dwelling units per acre/7,200 square foot lots. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this reorganization is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is ministerial, in that based upon the findings required by Government Code Section 56375(a), the Commission has no discretion in its action on the proposal other than approval. Therefore, a statutory exemption as authorized under Section 15268 of the State CEQA Guidelines is appropriate. A copy of Mr. Dodson's response is included for the Commission's review as Attachment #9 to this report.
8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land uses. The City has submitted a "Plan for Service" as required by law which indicates that revenues are less than the costs for providing the service; however, the revenues anticipated from the annexation of LAFCO 3050 are anticipated to exceed the cost of service covering this shortfall. Water and sewer service to the island area is currently provided by the East Valley Water District, fire protection/paramedics are currently provided by the City of San Bernardino Fire Department through contract with the San Bernardino County Fire Protection District and

ambulance service is provide by American Medical Response. A copy of the City's Plan and updated information on the Plan is included for the Commission's review as Attachment #2.

9. The City of San Bernardino has indicated in its application and Plan for Service that its 7.75% Utility Users Tax on properties will not be extended to this area upon annexation. In addition, LAFCO staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area.

10. The area in question is presently served by the following public agencies:

County of San Bernardino
Inland Empire Resource Conservation District
San Bernardino Valley Municipal Water District
San Bernardino Valley Water Conservation District
San Bernardino County Fire Protection District, its Valley Service Zone and its
Service Zone PM-2
East Valley Water District
County Service Area SL-1
County Service Area 70

San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, CSA SL-1 and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

11. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.
12. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, verbal and written expressions of protest or opposition to these annexations and the island annexation provisions has been received.
13. The study area can benefit from the availability of municipal-level services from the City of San Bernardino and have benefited from City level fire protection services through contract with the County.
14. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses.
15. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based upon race, culture or income.

16. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code. Renegotiation of the property tax transfer may be requested due to the modification in boundaries. This process is outlined in Revenue and Taxation Code Section 99(b) (7).
17. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

It is staff's position that LAFCO 3067D must be approved by the Commission without protest by landowners and registered voters. This position is based upon the factors outlined in Government Code Sections 56375(a) and 56655. In addition, it is the staff's position that the Commission is required to make the mandatory determinations outlined in Section 56375.3.

Approval of this reorganization proposal will provide a clear delineation of law enforcement responsibility, will provide for the transfer of the full revenue stream attributable to fire protection and paramedic service to the City which is currently providing the service, and will define the responsible agency to turn to for needed road improvements. Approval of this proposal addresses the needs for service now and in the future. It is the staff position that the territory complies with the statutorily required factors; therefore, the Commission is required to approve this proposal, regardless of any protest that might be submitted at the hearing. State law also requires the Commission to waive the protest hearing on this proposal, and staff's recommendation includes that action as part of its approval of this proposal.

RECOMMENDATION:

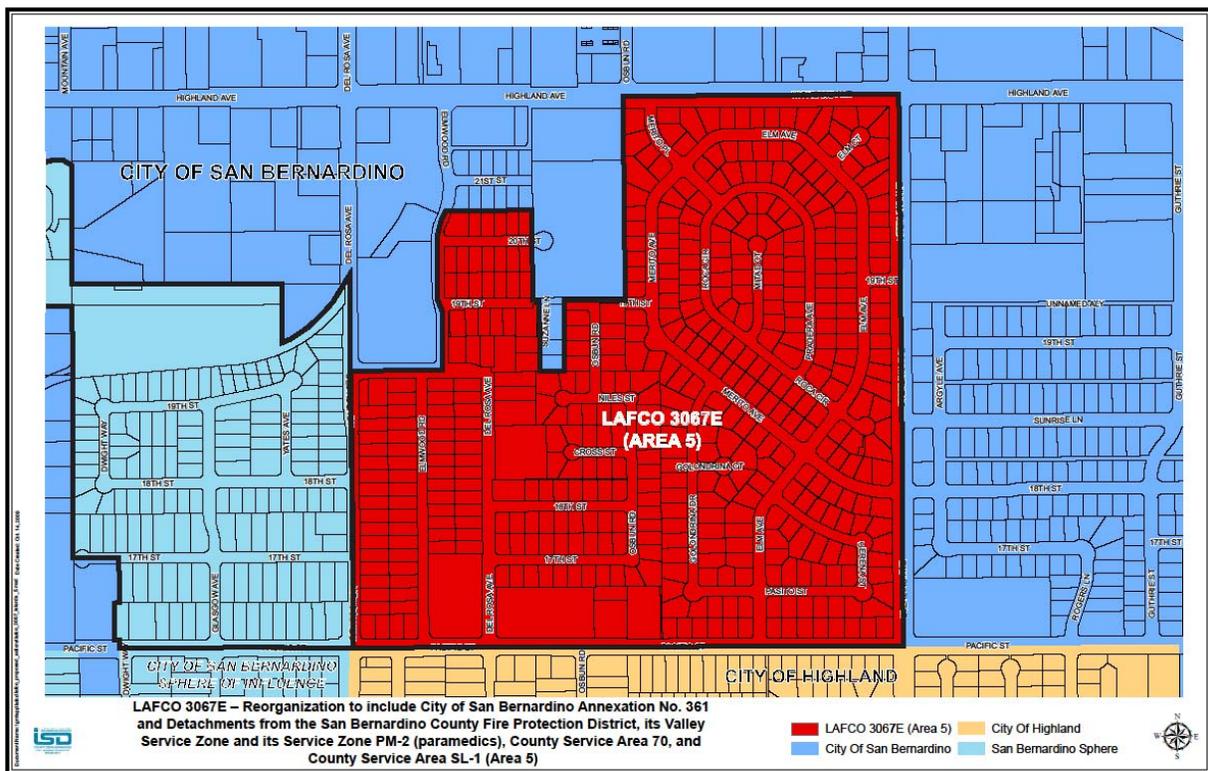
The staff recommends that the Commission approve LAFCO 3067D by taking the following actions:

1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct that the Notice of Exemption be filed within five (5) days of this action;
2. Modify LAFCO 3067D as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1;
3. Approve LAFCO 3067D – Reorganization to include City of San Bernardino Annexation No. 361 as an island annexation, as defined in Government Code Section 56375.3, with the following terms and conditions:
 - a. That the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area;

- b. All streetlights currently the responsibility of County Service Area SL-1 within the annexation areas shall be transferred to the City of San Bernardino upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts; and,
 - c. The standard terms and conditions of approval that include the “hold harmless” clause for potential litigation.
- 4. Waive protest proceedings, as required by Government Code Section 56375.3; and,
 - 5. Adopt LAFCO Resolution #3074 setting forth the Commission’s findings and determinations concerning this proposal.

LAFCO 3067E -- AREA 5

Area 5 is generally located north of Pacific Street (existing City of Highland boundary) and east of Del Rosa Drive. The area is north of Pacific Street (City of Highland boundary), east of Del Rosa Drive, south of parcel lines and Highland Avenue (existing City of San Bernardino boundary) and west of Sterling Avenue (existing City of San Bernardino boundary). Attachment #10 provides maps of the area, an updated Island Information for Proposal Form, Fiscal Impact Spreadsheet for Area #5, provides for the environmental assessment of the proposal provided by the Commission’s environmental consultant, and provides a draft resolution of approval. The map below illustrates this area:



LAFCO staff has addressed each of the required determinations for the island as follows:

- The area is 130 +/- acres in size, as verified by the County Surveyor’s Department, within the 150 acre threshold, and encompasses the entire substantially surrounded island;
- The area is substantially surrounded. The island, as modified by Commission action, is 85% surrounded by existing City of San Bernardino and City of Highland boundaries as defined by Commission policy;
- The study area is substantially developed or developing, on the basis that public services are available in the area, there are public improvements in the area, and

- there are physical improvements on all of the properties;
- The study area does not contain prime agricultural land as such is defined by LAFCO statutes;
 - The study area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District (formerly known as County Service Area 38);
 - The City of San Bernardino has conducted an outreach program prior to submission of the reorganization application; and,
 - The area is not included within an established County Redevelopment Area. However, the territory is a part of the Inland Valley Development Authority, a joint-powers redevelopment agency created for the former Norton Air Force Base transition.

LAND USE:

The City of San Bernardino adopted its General Plan Update in October 2006 which included the pre-zoning of its sphere of influence. The City's land use designation for Area #5 is RS (Residential Suburban) which promotes single family detached units in a suburban setting with a minimum lot size of 7,200 square feet and a maximum density of 4.5 dwelling units per acre. The pre-zone designation is required to be maintained for a two-year period following annexation (Government Code Section 56735 (e)) unless specific determinations are made by the City Council at a public hearing. The City's land use classifications are generally compatible with the County's land use designations.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the reorganization to include island annexations is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. Such a "ministerial action" is exempt from environmental review pursuant to Section 15268 of the State CEQA Guidelines. A copy of Mr. Dodson's analysis is included as Attachment #10 to this report. It is recommended that the Commission adopt the statutory exemption for this proposal and direct the Executive Officer to file a Notice of Exemption with the appropriate agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that Area #5, as modified, is legally inhabited, containing 682 registered voters as of October 28, 2009.
2. The study area is within the sphere of influence assigned the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for Area #5 is \$44,149,269 (\$11,500,797 land; \$32,648,472 improvements).
4. LAFCO staff has provided individual notices to landowners (totaling 154 notices) and registered voters (totaling 682 notices) within the reorganization area. Notice was provided to surrounding landowners (1,306) and registered voters (1,761) for the three southern islands on October 27, 2009. The total number of notices provided, in accordance with State law and adopted Commission policies, is 3,903. To date verbal expression of opposition has been received in the LAFCO staff office expressing concern regarding service delivery changes; and written opposition has been received.
5. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
6. The City of San Bernardino pre-zoned its sphere of influence through adoption of its General Plan Update in October 2006. The land use designations to be applied within the reorganization area upon annexation are RS (Residential Suburban) – 4.5 dwelling units per acre/7,200 square foot lots. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this reorganization is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is ministerial, in that based upon the findings required by Government Code Section 56375(a), the Commission has no discretion in its action on the proposal other than approval. Therefore, a statutory exemption as authorized under Section 15268 of the State CEQA Guidelines is appropriate.
8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land uses. The City has submitted a "Plan for Service" as required by law which indicates that revenues are less than the costs for providing the service; however, the revenues anticipated from the annexation of LAFCO 3050 are anticipated to exceed the cost of service covering this shortfall. Water and sewer service to the island area is currently provided by the East Valley Water District, fire protection/paramedics are currently provided by the City of San Bernardino Fire Department through contract with the San Bernardino County Fire Protection District and ambulance service is provided by American Medical Response. A copy of the City's Plan and updated information on the Plan is included for the Commission's review as Attachment #2.

9. The City of San Bernardino has indicated in its application and Plan for Service that its 7.75% Utility Users Tax on properties will not be extended to this area upon annexation. In addition, LAFCO staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area.
10. The area in question is presently served by the following public agencies:

County of San Bernardino
Inland Empire Resource Conservation District
San Bernardino Valley Municipal Water District
San Bernardino Valley Water Conservation District
San Bernardino County Fire Protection District, its Valley Service Zone and its
Service Zone PM-2
East Valley Water District
County Service Area SL-1
County Service Area 70

San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, CSA SL-1 and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

11. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.
12. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, verbal and written expressions of protest or opposition to these annexations and the island annexation provisions has been received.
13. The study area can benefit from the availability of municipal-level services from the City of San Bernardino and have benefited from City level fire protection services through contract with the County.
14. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses.
15. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based upon race, culture or income.
16. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the

Revenue and Taxation Code. Renegotiation of the property tax transfer may be requested due to the modification in boundaries. This process is outlined in Revenue and Taxation Code Section 99(b) (7).

17. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

It is staff's position that LAFCO 3067E must be approved by the Commission without protest by landowners and registered voters. This position is based upon the factors outlined in Government Code Sections 56375(a) and 56655. In addition, it is the staff's position that the Commission is required to make the mandatory determinations outlined in Section 56375.3.

Approval of this reorganization proposal will provide a clear delineation of law enforcement responsibility, will provide for the transfer of the full revenue stream attributable to fire protection and paramedic service to the City which is currently providing the service, and will define the responsible agency to turn to for needed road improvements. Approval of this proposal addresses the needs for service now and in the future. It is the staff position that the territory complies with the statutorily required factors; therefore, the Commission is required to approve this proposal, regardless of any protest that might be submitted at the hearing. State law also requires the Commission to waive the protest hearing on this proposal, and staff's recommendation includes that action as part of its approval of this proposal.

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3067E by taking the following actions:

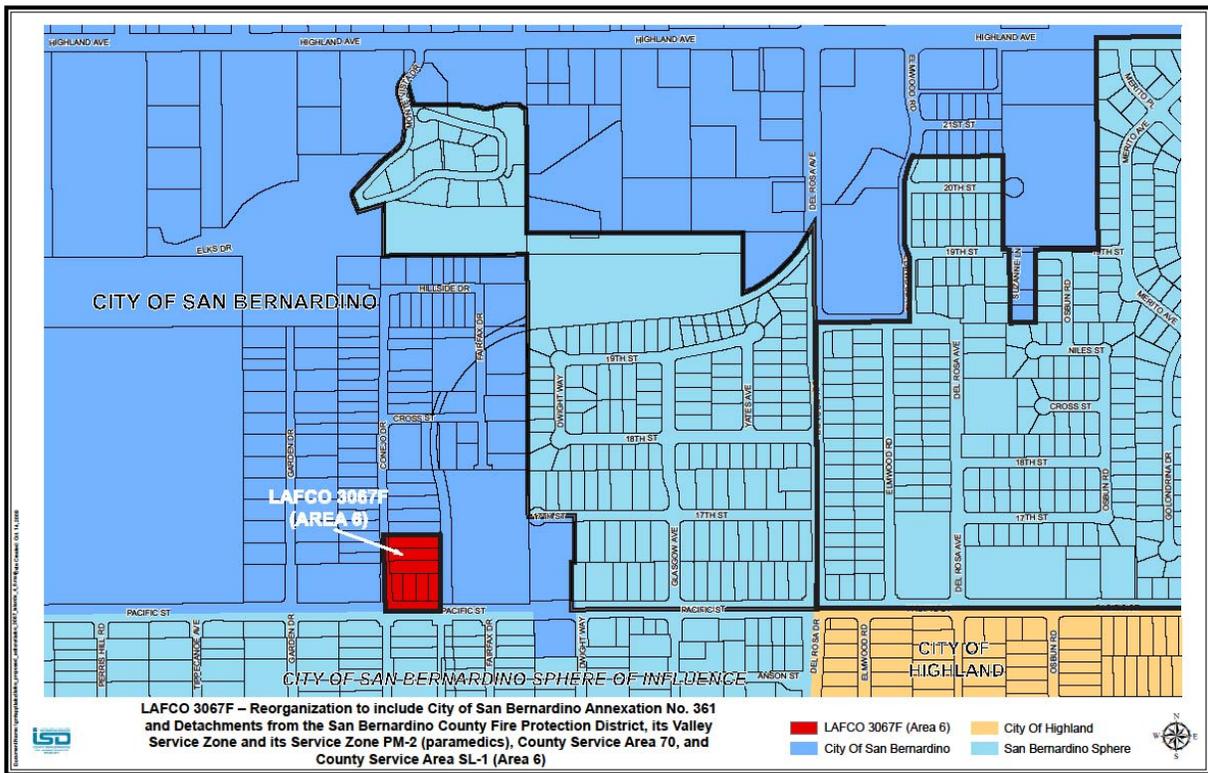
1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct that the Notice of Exemption be filed within five (5) days of this action;
2. Modify LAFCO 3067E as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1 and the expansion of territory;
3. Approve LAFCO 3067A – Reorganization to include City of San Bernardino Annexation No. 361 et al as an island annexation, as defined in Government Code Section 56375.3, with the following terms and conditions:
 - a. That the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area;
 - b. All streetlights currently the responsibility of County Service Area SL-1 within the annexation areas shall be transferred to the City of San Bernardino

upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts; and,

- c. The standard terms and conditions of approval that include the “hold harmless” clause for potential litigation.
4. Waive protest proceedings, as required by Government Code Section 56375.3; and,
 5. Adopt LAFCO Resolution #3075 setting forth the Commission’s findings and determinations concerning this proposal.

LAFCO 3067F -- AREA 6

Area 6 is generally located north of Pacific Street in the City of San Bernardino's eastern sphere of influence. The area is generally bordered by Pacific Street on the south, Conejo Drive (existing City boundary) on the west, parcel boundaries (existing City of boundary) on the north and the Flood Control Channel (existing City boundary) on the east. Attachment #11 provides maps of the area, an updated Island Information for Proposal Form, Fiscal Impact Spreadsheet for Area #6, provides for the environmental assessment of the proposal provided by the Commission's environmental consultant, and provides a draft resolution of approval. The maps below illustrates this area:



LAFCO staff has addressed each of the required determinations for Area #6 as follows:

- The area is 2 +/- acres in size, as verified by the County Surveyor's Department, within the 150 acre threshold, and encompasses the entire substantially surrounded island;
- The area is substantially surrounded. The island is 79% surrounded by existing City of San Bernardino which complies with Commission policy;
- The study area is substantially developed or developing, on the basis that public services are available in the area, there are public improvements in the area, and there are physical improvements on many, if not most, of the properties;
- The study area does not contain prime agricultural land as such is defined by LAFCO statutes;
- The study area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District (formerly known as County Service Area 38);
- The City of San Bernardino has conducted an outreach program prior to submission of the reorganization application; and,
- The area is not included within an established County Redevelopment Area. However, the territory is a part of the Inland Valley Development Authority, a joint-powers redevelopment agency created for the former Norton Air Force Base transition.

LAND USE:

The City of San Bernardino adopted its General Plan Update in October 2006 which included the pre-zoning of its sphere of influence. The City's land use designations for Area #6 is RU (Residential Urban) this land use is to promote single family detached and attached units, including duplexes, mobilehome parks, and small lot subdivisions. The pre-zone designation is required to be maintained for a two-year period following annexation (Government Code Section 56735 (e)) unless specific determinations are made by the City Council at a public hearing. The City's land use classifications are generally compatible with the County's land use designations.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that the reorganization to include island annexations is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. Such a "ministerial action" is exempt from environmental review pursuant to Section 15268 of the State CEQA Guidelines. A copy of Mr. Dodson's analysis is included as Attachment #11 to this report. It is recommended that the Commission

adopt the statutory exemption for this proposal and direct the Executive Officer to file a Notice of Exemption with the appropriate agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that the Area #6 is legally uninhabited, containing 4 registered voters as of October 13, 2009.
2. The study area is within the sphere of influence assigned the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for Area #6 is \$910,137 (\$255,283 land; \$654,854 improvements).
4. LAFCO staff has provided individual notices to landowners (totaling 6 notices) and registered voters (totaling 4 notices) within the reorganization area. Notice was provided to surrounding landowners (1,306) and registered voters (1,761) for the three southern islands on October 27, 2009. The total number of notices provided, in accordance with State law and adopted Commission policies, is 3,077. To date verbal expression of opposition has been received in the LAFCO staff office expressing concern regarding service delivery changes; and written opposition has been received.
5. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
6. The City of San Bernardino pre-zoned its sphere of influence through adoption of its General Plan Update in October 2006. The land use designation to be applied within the reorganization area upon annexation are RU (Residential Urban) which provides for the development of attached and detached units, duplexes, mobilehome parks and small lot subdivisions as a part of a planned residential development. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this reorganization is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is ministerial, in that based upon the findings required by Government Code Section 56375(a), the Commission has no discretion in its action on the proposal other than approval. Therefore, a statutory exemption as authorized under Section 15268 of the State CEQA Guidelines is appropriate. A copy of Mr. Dodson's response is included for the Commission's review as Attachment #11 to this report.

8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land uses. The City has submitted a “Plan for Service” as required by law which indicates that revenues are less than the costs for providing the service; however, the revenues anticipated from the annexation of LAFCO 3050 are anticipated to exceed the cost of service covering this shortfall. Water and sewer service to the island area is currently provided by the East Valley Water District, fire protection/paramedics are currently provided by the City of San Bernardino Fire Department through contract with the San Bernardino County Fire Protection District and ambulance service is provide by American Medical Response. A copy of the City’s Plan and updated information on the Plan is included for the Commission’s review as a part of Attachment #2.
9. The City of San Bernardino has indicated in its application and Plan for Service that its 7.75% Utility Users Tax on properties will not be extended to this area upon annexation. In addition, LAFCO staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area.
10. The area in question is presently served by the following public agencies:
 - County of San Bernardino
 - Inland Empire Resource Conservation District
 - San Bernardino Valley Municipal Water District
 - San Bernardino Valley Water Conservation District
 - San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2
 - East Valley Water District
 - County Service Area SL-1
 - County Service Area 70

San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, CSA SL-1 and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.
11. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.
12. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, verbal and written expressions of protest or opposition to these annexations and the island annexation provisions has been received.

13. The study area can benefit from the availability of municipal-level services from the City of San Bernardino and have benefited from City level fire protection services through contract with the County.
14. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses.
15. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based upon race, culture or income.
16. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
17. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

It is staff's position that LAFCO 3067F must be approved by the Commission without protest by landowners and registered voters. This position is based upon the factors outlined in Government Code Sections 56375(a) and 56655. In addition, it is the staff's position that the Commission is required to make the mandatory determinations outlined in Section 56375.3.

Approval of this reorganization proposal will provide a clear delineation of law enforcement responsibility, will provide for the transfer of the full revenue stream attributable to fire protection and paramedic service to the City which is currently providing the service, and will define the responsible agency to turn to for needed road improvements. Approval of this proposal addresses the needs for service now and in the future. It is the staff position that the territory complies with the statutorily required factors; therefore, the Commission is required to approve this proposal, regardless of any protest that might be submitted at the hearing. State law also requires the Commission to waive the protest hearing on this proposal, and staff's recommendation includes that action as part of its approval of this proposal.

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3067F by taking the following actions:

1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct that the Notice of Exemption be filed within five (5) days of this action;
2. Modify LAFCO 3067F as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service

Zone PM-2, County Service Area 70 and County Service Area SL-1;

3. Approve LAFCO 3067F – Reorganization to include City of San Bernardino Annexation No. 361 as an island annexation, as defined in Government Code Section 56375.3, with the following terms and conditions:
 - a. That the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area;
 - b. All streetlights currently the responsibility of County Service Area SL-1 within the annexation areas shall be transferred to the City of San Bernardino upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts; and,
 - c. The standard terms and conditions of approval that include the "hold harmless" clause for potential litigation.
4. Waive protest proceedings, as required by Government Code Section 56375.3; and,
5. Adopt LAFCO Resolution #3076 setting forth the Commission's findings and determinations concerning this proposal.

KRM/

Attachments:

1. [Vicinity Maps of LAFCO 3067 et al](#)
2. [Updated Plan for Service Dated November 2009 Submitted by the City of San Bernardino](#)
3. [City of San Bernardino Request for Council Action Dated August 17, 2006 Adopting Resolution No. 2006-308 Authorizing the Signing of Agreement Between the City of San Bernardino and County Fire for Service](#)
4. [City of San Bernardino Resolution No. 2006-348 Describing Phasing of Island Annexation Applications](#)
5. [LAFCO Staff Report for LAFCO 3067 – Reorganization to Include City of San Bernardino Annexation No. 361 \(Six Islands\) Dated February 12, 2007](#)
6. [LAFCO 3067A – Area #1 – Map, Information for Proposal Form, Fiscal Impact Analysis Spreadsheet, October 26, 2009 Environmental Assessment Letter from Tom Dodson and Associates, and Draft Resolution No. 3071](#)
7. [LAFCO 3067B – Area #2 – Map, Information for Proposal Form, Fiscal Impact Analysis Spreadsheet, October 26, 2009 Environmental Assessment Letter from Tom Dodson and Associates, and Draft Resolution No. 3072](#)
8. [LAFCO 3067C – Area #3 – Map, Information for Proposal Form, Fiscal Impact Analysis Spreadsheet, October 26, 2009 Environmental Assessment Letter from Tom Dodson and Associates, and Draft Resolution No. 3073](#)

9. [LAFCO 3067D – Area #4 – Map, Information for Proposal Form, Fiscal Impact Analysis Spreadsheet, October 26, 2009 Environmental Assessment Letter from Tom Dodson and Associates, and Draft Resolution No. 3074](#)
10. [LAFCO 3067E – Area #5 – Map, Information for Proposal Form, Fiscal Impact Analysis Spreadsheet, October 26, 2009 Environmental Assessment Letter from Tom Dodson and Associates, and Draft Resolution No. 3075](#)
11. [LAFCO 3067F – Area #6 – Map, Information for Proposal Form, Fiscal Impact Analysis Spreadsheet, October 26, 2009 Environmental Assessment Letter from Tom Dodson and Associates, and Draft Resolution No. 3076](#)