

Draft Resolution #3166

Attachment 5

PROPOSAL NO.: LAFCO SC#367

HEARING DATE: AUGUST 15, 2012

RESOLUTION NO. 3166

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO SC#367 – CITY OF SAN BERNARDINO IRREVOCABLE AGREEMENT TO ANNEX FOR SEWER SERVICE (BAKER FAMILY LEARNING CENTER, APN 0268-041-14)

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

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

WHEREAS, an application for the proposed service extension in the County of San Bernardino was filed with the Executive Officer of this Local Agency Formation Commission in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 *et seq.*), and the Executive Officer has examined the application and determined that the filings are sufficient; and,

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

WHEREAS, the public hearing by this Commission was held upon the date and at the time and place specified in the notice of public hearing and in order or orders continuing the hearing; and,

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

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

DETERMINATIONS:

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

1. The project area, identified as Assessor Parcel Number (APN) 0268-041-14, is generally located in the community of Muscoy at the northwest corner of Darby and Macy Streets (2818 N. Macy Street). The parcel is within the sphere of influence assigned the City of San Bernardino and is anticipated to become a part of that City sometime in the future. The application requests authorization to receive City of San Bernardino sewer service for the proposed community center facility. This requirement is a condition of approval placed upon the project by the County Land Use Services Department. Therefore, approval of the City's request for authorization to provide water and sewer service is necessary in order to satisfy this condition of approval.
2. Commission review of this service contract has been advertised in *The Sun*, a newspaper of general circulation within the area. In addition, LAFCO staff has provided individual notices to landowners and registered voters surrounding the service contract area (totaling 172) in accordance with state law and adopted Commission policies.
3. The Irrevocable Agreement to Annex No. 2012-01 being considered is for the provision of sewer service by the City of San Bernardino to APN 0268-041-14. This contract will remain in force in perpetuity for the parcel or until such time as the area will be annexed. Approval of this application will allow the property owner and the City of San Bernardino to proceed in finalizing the contract for the extension of sewer service.
4. The preliminary fees charged by the City of San Bernardino for the extension of sewer service to the parcel are estimated at \$1,420 plus an additional sewer capacity fee based on total sewage effluent (\$12.45 per gallon of sewage effluent; to be calculated by the City's Water Department). The actual cost will be determined by the City and the payment of these fees will be required prior to connection to the City's sewer facilities. In addition, the property owner shall bear all costs to complete improvements needed to extend sewer service to the parcel.
5. The Local Agency Formation Commission has determined that this service contract is statutorily exempt from environmental review since it does not have the potential for causing a significant effect on the environment, directly or ultimately (Section 15061(b)(3) of the State California Environmental Quality Act Guidelines). Therefore, this proposal is not subject to environmental review under the provisions of the State CEQA Guidelines section cited above or the Commission's adopted CEQA Guidelines. LAFCO hereby adopts a General Rule Statutory Exemption for LAFCO SC#367 and directs its Executive Officer to file a Notice of Exemption within five (5) working days with the San Bernardino County Clerk of the Board of Supervisors

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

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SECTION 3. The San Bernardino County Local Agency Formation Commission does hereby determine to approve the service extension contract submitted by the City of San Bernardino to provide sewer service to APN 0268-041-14.

SECTION 4. The Commission instructs the Executive Officer of this Local Agency Formation Commission to notify the affected agencies that the application identified as LAFCO SC#367 – City of San Bernardino Irrevocable Agreement to Annex No. 2012-01 for Sewer Service (Baker Family Learning Center, APN 0268-041-14), has been approved.

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

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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

I, KATHLEEN ROLLINGS-McDONALD, Executive Officer of the Local Agency Formation Commission of the County of San Bernardino, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission by vote of the members present as the same appears in the Official Minutes of said Commission at its regular meeting of August 15, 2012.

DATED:

KATHLEEN ROLLINGS-McDONALD
Executive Officer