

AGENDA

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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

REGULAR MEETING OF JANUARY 15, 2014

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

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

CONSENT ITEMS:

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

1. Approval of Minutes for Regular Meeting of November 20, 2013
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Months of November and December 2013 and Note Cash Receipts
4. Consideration of: (1) CEQA Statutory Exemption for Schedule of Fees, Deposits and Charges Revisions; and (2) Review and Adoption of Amended Schedule of Fees, Deposits and Charges for Fiscal Year 2013-14

PUBLIC HEARING ITEMS:

5. Consent Items Deferred for Discussion

DISCUSSION ITEMS:

6. Consideration of Request for Exemption from Government Code Section 56133 for LAFCO SC#383 – Wastewater Collection and Treatment Service Agreement between the City of Rialto and County Service Area 70 Zone BL (Bloomington sewer)
7. Consideration of Contract with County of San Bernardino Auditor-Controller/Treasurer/Tax Collector for Continued Payroll and Accounting Services (***Continued from November 20, 2013 Hearing***)

8. Status Report on LAFCO 3176 – Service Reviews for the Daggett, Newberry and Yermo Community Services Districts
9. Workshop Presentation on the Mechanisms to Provide for Management of Open Space and Habitat Preservation Lands – Participants Anticipated to include Representatives from the California Department of Fish and Wildlife, Federal Department of Fish and Wildlife, Army Corps of Engineers, Santa Ana Regional Water Control Board

INFORMATION ITEMS:

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

The Commission may adjourn for lunch from 12:00 to 1:30 p.m.

In its deliberations, the Commission may make appropriate changes incidental to the above-listed proposals.

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

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

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

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

A person with a disability may contact the LAFCO office at (909) 383-9900 at least 72-hours before the scheduled meeting to request receipt of an agenda in an alternative format or to request disability-related accommodations, including auxiliary aids or services, in order to participate in the public meeting. Later requests will be accommodated to the extent feasible.

**ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 20, 2013**

REGULAR MEETING

9:00 A.M.

NOVEMBER 20, 2013

PRESENT:

COMMISSIONERS: Jim Bagley
James Curatalo, Chair
Robert Lovingood
Larry McCallon
James Ramos
Dawn Rowe, Alternate
Sunil Sethi, Alternate
Robert Smith, Alternate
Diane Williams

STAFF: Kathleen Rollings-McDonald, Executive Officer
Clark Alsop, LAFCO Legal Counsel
Samuel Martinez, Assistant Executive Officer
Michael Tuerpe, Project Manager
Rebecca Lowery, Clerk to the Commission
Joe Serrano, LAFCO Secretary

ABSENT:

COMMISSIONERS: Kimberly Cox, Vice-Chair
Janice Rutherford, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION
COMMISSION – CALL TO ORDER – 9:05 A.M. – SAN BERNARDINO CITY COUNCIL
CHAMBERS**

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

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS:

1. Approval of Minutes for Regular Meeting of October 16, 2013
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Months of October 2013 and Note Cash Receipts

LAFCO considers the items listed under its consent calendar, which includes a Visa Justification and a staff report outlining the staff recommendations for the reconciled

payments. Copies of each report are on file in the LAFCO office and are made part of the record by their reference herein.

Executive Officer Kathleen Rollings-McDonald states that no items have been requested to be deferred for discussion.

Commissioner McCallon moves approval of the consent calendar, second by Commissioner Williams. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, McCallon, Ramos, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead), Lovingood.

PUBLIC HEARING ITEM:

ITEM NO. 4. No Items Deferred for Discussion

DISCUSSION ITEMS:

ITEM NO. 5. CONSIDERATION OF CONTRACT WITH COUNTY OF SAN BERNARDINO AUDITOR-CONTROLLER/TREASURER/TAX COLLECTOR FOR CONTINUED PAYROLL AND ACCOUNTING SERVICES

Project Manager Michael Tuerpe presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. The full recommendation is outlined on page 1 of the staff report.

Mr. Tuerpe states that LAFCO contracts with the County for payroll and payroll reporting and accounting services. He states that due to changes in payroll reporting in the Internal Revenue Code as a result of the Affordable Care Act, the County is required to establish a payroll reporting relationship. He says that it was determined during the July hearing that LAFCO would continue the relationship with the County to provide payroll reporting and accounting services and directed the Executive Officer to negotiate a contract with the County for these services. Staff continues to work with the Auditor staff on a contract for continuing service, but to date no draft has been provided by Auditor staff for consideration. Therefore, staff is recommending that the item be continued to the January 15, 2014 hearing for consideration.

Commissioner Smith moves approval of the continuation of the item to the January 15, 2014 hearing, second by Commissioner Ramos. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, McCallon, Ramos, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead), Lovingood.

ITEM NO 6. CONSIDERATION OF AMENDMENT TO FEE SCHEDULE AND FEE WAIVER POLICY

Assistant Executive Officer Samuel Martinez presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. The full recommendations are outlined on pages 1 and 2 of the staff report.

(It is noted that Commissioner Lovingood arrives at 9:11 a.m.)

Mr. Martinez states that at the October hearing the Commission raised questions concerning the need to change its policy regarding the LAFCO filing fee waiver/reduction provisions. He states that Government Code Section 56383(d) provides the ability for the Commission to address the issue of a reduction or waiver of a fee charge or deposit. The Commission utilized this section when adopting its fee waiver policy in 1981. He states that the current policy allows the Commission to review a request for a reduction of fees or a fee waiver and allows the flexibility for the Commission to make its determination on the merits of each request.

Mr. Martinez states that staff is proposing to slightly modify the language for Item C to include a provision that requires the applicant to provide a justification for the request and identify the fee or deposit it is requesting to be waived or specify the dollar amount of the fee, deposit or charge to be reduced and that the requests shall be placed on the Commission's consent calendar for consideration.

Mr. Martinez also states that staff is proposing another option for automatic waivers, which is to waive the sphere of influence fee for concurrent sphere amendment (expansion and/or reduction) and reorganization (annexation and/or detachment) proposals where the boundaries of the sphere of influence change and the annexation/detachment change are coterminous. However, staff is recommending a limitation on this automatic waiver which is based on location - 100 acres for proposals within the Valley and Mountain regions and 640 acres for proposals located in the Desert region.

Mr. Martinez states that as part of the overall discussion of the fee changes, staff is proposing to keep the current fee structure, applying it only to the valley and/or mountain regions, and have a separate fee structure for the desert region which includes north and south desert areas, which have larger parcel configurations. He says that these changes to the fee schedule will require legal advertisement in a newspaper of general circulation and that staff is recommending that the Commission signal its intent to approve the changes proposed by staff and add the item to the January 2014 hearing for final approval.

Marina West, General Manager, Bighorn-Desert View Water Agency, thanks the Commission for the policy update noting that the changes take into consideration the property differences in the many areas of the county. She states that she feels this will help further along progress in the desert regions. She asks how these changes will affect the government checker board lands or homestead lands in the area with regards to fee reductions.

Commissioner Bagley asks staff if the issue of annexing checkerboard lands has been taken into consideration during the process of amending the fee waiver policy.

Executive Officer Kathleen Rollings-McDonald states that staff has addressed these types of lands and that the fee waiver is based on the legal description of the area and that until a report of landowners is run, it is not clear which lands are publicly owned and that

sometimes lands which are owned federally or by the state are leased to private individuals or corporations which do pay property taxes.

Commissioner Bagley states that in areas where there are large amounts of vacant land, a resident or landowner looking for service or to annex to a service agency will benefit from the change to the fee waiver policy. He states that the Commission needs the flexibility in the policy.

Executive Officer Kathleen Rollings-McDonald states that there is a myriad of federal lands that need some type of municipal service from water to fire protection and that this policy change will help to facilitate to ease service provision and maintenance.

Commissioner Williams moves approval of the staff's recommendation for amendment to the Fee Schedule and Fee Waiver Policy, second by Commissioner Lovingood. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Lovingood, McCallon, Ramos, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead).

INFORMATION ITEMS:

ITEM NO 7. LEGISLATION UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald presents the report for the pending legislation, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

She states that the legislative report includes the two bills that were signed into law and supported by CALAFCO. The first is AB 1427 – the CALAFCO Omnibus bill and the second being AB 743 (Logue). She also notes that the Commission has taken the position that the passage of SB 89, which was effective July 1, 2012, has created a situation where island annexations do not appear to be sustainable in general; therefore, the Commission amended the Application Processing Policy #10 related to islands to include a new item that addresses removal of the motor vehicle in-lieu fees and the unsustainability of annexations.

She also states that SB 245 (Fuller) that addresses an update to the Special Act for the Bighorn-Desert View Water Agency was supported by the Commission and was signed by the Governor, will take effect January 1, 2014.

Ms. McDonald notes that she has provided to the Commission a copy of the "Debt Line" publication as an attachment to the staff report which provides a listing of legislation proposed related to Local Finance and Infrastructure and that many of the bills listed are attempts to fill the void left by the elimination of redevelopment agencies. She also notes that three bills of particular interest to staff with the potential for broad impact on funding streams are SB 33 (Wolk), AB 229 (Perez) and AB (243 Dickinson). Staff will continue to monitor these items and will keep the Commission apprised of any notable information or actions.

Ms. McDonald also states that she has been selected to maintain her seat on the CALAFCO Legislative Committee.

No action is required.

ITEM NO. 8 EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer Kathleen Rollings-McDonald presents the Executive Officers oral report and presents the video created by Assistant Executive Officer Samuel Martinez and Emmanuel Abello, Commission Clerk, Santa Clara LAFCO for the CALAFCO Annual Conference.

Ms. McDonald introduces Pamela Miller, Executive Director of CALAFCO.

Ms. Miller states that she has come to express her appreciation and gratitude to Assistant Executive Officer Samuel Martinez for his exemplary dedication and hard work on the CALAFCO Annual Conference Planning Committee and that she is looking forward to continue her working relationship with him as he heads the committee for the CALAFCO Annual Conference that this Commission is hosting in 2014.

She also informs the Commission that due to the concurrent scheduling of the CSDA conference, the date of the Conference has been moved from September to October with no increase in hotel rates. She thanks the Commission for allowing staff to participate on the various CALAFCO committees and for the Commission's support of CALAFCO.

Executive Officer Kathleen Rollings-McDonald gives an update of the Fiscal Indicators Project and notes that the project is moving along.

Ms. McDonald provides an update on the Special Study for Newberry, Daggett and Yermo CSDs and notes that Mr. Tuerpe, Project Manager, is scheduled to conduct site visits to the three districts on Thursday, November 21, 2014.

(Commissioner Smith leaves the dais)

Bob Smith, President of the Board of Directors for Yermo CSD, states that the constituents of the Yermo CSD are not happy that their district has been perceived to have the same issues as those of the Newberry CSD; the constituents feel that by LAFCO's initiation of a special study for the three neighboring CSDs, as recommended by the Grand Jury's report, they are being corralled into the same category as Newberry CSD. He states that the residents of both Yermo and Daggett feel like the LAFCO Commission is punishing them for Newberry's shortcomings and no other apparent reason. Mr. Smith expresses the request that he would like for the Commission to help these small districts instead of criticizing them, as they feel the Commission is currently doing by virtue of the Special Study Service Review. Mr. Smith states that his district was informed of the items that staff was requesting for the review only a few day prior to the scheduled site visit and that the list was very comprehensive and that it would require time and resources that the district does not currently have to compile all the information.

Executive Officer Kathleen Rollings-McDonald states that staff's response to Mr. Smith's comments will be placed on the January 15, 2014 agenda.

Executive Officer Kathleen Rollings-McDonald gives an update of the Mapping Program and states that staff continues to work with the county's mapping division and that the maps should be available by the first part of January 2014.

Ms. McDonald notes that the Commission is dark the month of December and that the LAFCO staff office will be closed from December 20, 2013 until January 3, 2014 and will resume normal working hours on January 6, 2014.

Ms. McDonald informs that Commission that SCAG has put together a Technical Committee and that she has been confirmed to be a part of that working group.

No action is required.

ITEM NO. 9 COMMISSIONER COMMENTS

There are none.

ITEM NO. 10 COMMENTS FROM THE PUBLIC

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,
THE HEARING IS ADJOURNED AT 10:20 A.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman

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

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DATE: JANUARY 6, 2014

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

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

RECOMMENDATION:

Approve the Executive Officer’s Expense Report for Procurement Card Purchases for November 2013 as presented.

BACKGROUND INFORMATION:

The Commission participates in the County of San Bernardino’s Procurement Card Program to supply the Executive Officer a credit card to provide for payment of routine official costs of Commission activities as authorized by LAFCO Policy #4(H). Staff has prepared an itemized report of purchases that covers the billing period of October 23, 2013 through November 22, 2013.

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

KRM/rcl

Attachments



**COUNTY OF SAN BERNARDINO
PROCUREMENT CARD PROGRAM**

MONTHLY PROCUREMENT CARD PURCHASE REPORT

Card Number	Cardholder Kathleen Rollings-McDonald	Billing Period 10/23/13 to 11/22/13
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Date	Vendor Name	Receipt/ Invoice No.	Item Description	Purpose	\$ Amount	Reconciled (R) Disputed (D)	Sales Tax Included on invoice (Yes or No)
10-25	Verizon	1	Payment – Phone Bill	Phone Line for Alarm	35.54	R	Y
10-25	Thomas West	2	Monthly Payment	Law Library Updates	161.84	R	Y
10-28	Storetrieve LLC	3	Monthly Payment	Records Storage and Maintenance	47.52	R	N
11-06	Southwest Airlines	4	Airfare – Lowery	CALAFCO University	324.30	R	Y
11-06	Best Best & Krieger	5	Registration – Lowery	Filing Officers Training	75.00	R	N
11-14	Southwest Airlines	6	Airfare – Rollings- McDonald	LAFCO Symposium	151.30	R	Y
11-18	Southwest Airlines	7	Airfare – Martinez	CALAFCO Staff Meeting	181.30	R	Y
11-21	Panera Bread	8	Bagels	LAFCO Hearing	13.99	R	N

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

Cardholder (Print & Sign) Kathleen Rollings-McDonald <i>Kathleen Rollings McDonald</i>	Date 12/17/13
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Approving Official (Print & Sign) James Curatalo, Chairman	Date 1/15/14
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**LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

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DATE : JANUARY 6, 2014
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



**SUBJECT: AGENDA ITEM #3 - RATIFY PAYMENTS AS RECONCILED FOR
MONTHS OF NOVEMBER AND DECEMBER 2013 AND NOTE
REVENUE RECEIPTS**

RECOMMENDATION:

Ratify payments as reconciled for the months of November and December 2013 and note revenue receipts for the same period.

BACKGROUND INFORMATION:

Staff has prepared a reconciliation of warrants issued for payments to various vendors, internal transfers for payments to County Departments, cash receipts and internal transfers for payments for deposits or other charges that cover the period of November 1 through November 30, 2013 and December 1, 2013 through December 31, 2013

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

KRM/rcf

Attachment

MONTHLY RECONCILIATION OF PAYMENTS

MONTH OF NOVEMBER 2013 PAYMENTS PROCESSED					
VOUCHER DOCUMENT ID	ACCOUNT	NAME	WARRANT NUMBER	WARRANT DATE	AMOUNT
PV890801201	2445	ROBERT A LOVINGOOD	8331558	11/4/2013	\$ 200.00
PV890801202	2445	JAMES C RAMOS	8331484	11/4/2013	\$ 200.00
PV890801203	2445	LARRY MCCALLON	8331506	11/4/2013	\$ 200.00
PV8908113	2445/2940	ROBERT W SMITH	8334387	11/07/13	\$ 291.53
PV8908114	2445/2940	DIANE WILLIAMS	8332495	11/5/2013	\$ 229.38
PV8908115	2445/2940	DAWN MICHELLE ROWE	8332485	11/5/2013	\$ 282.49
PV8908116	2445/2940	SUNIL SETHI	8332658	11/5/2013	\$ 229.38
PV8908117-PV8908123		NOT YET PROCESSED			
PV8908124	2444	MIJAC ALARM CORP	3210461	11/19/2013	\$ 187.00
PV8908125	2445	CITY OF SAN BERNARDINO	8340705	11/19/2013	\$ 300.00
PV8908126	2905	INLAND EMPIRE PROPERTIES LLC	8340748	11/19/2013	\$ 4,103.52
PV8908127	2075	CALIFORNIA SPECIAL DIST ASSN - 2014 MEMBERSHIP DUES	8340700	11/19/2013	\$ 1,005.00
TOTAL					\$ 7,228.30
MONTH OF NOVEMBER 2013 INTERNAL TRANSFERS PROCESSED					
JVIB 04062037D	2037	OCTOBER 2013 PHONE		11/8/2013	\$ 221.52
JVIB 04062038D	2038	OCTOBER 2013 LONG DISTANCE		11/8/2013	\$ 7.98
JV890RT07096	2308	CAL CARD PAYMENT		11/27/2013	\$ 2,736.74
JVPURRT06217	2310	1ST CLASS PRESORT- MAIL		11/12/2013	\$ 126.87
JVPURRT06219	2310	PACKAGING - MAIL		11/12/2013	\$ 597.47
JVPURRT06221	2310	PRESORT FLATS - MAIL		11/12/2013	\$ 12.31
JVPURRT06228	2310	INTER-OFFICE MAIL		11/13/2013	\$ 8.00
JVPURRT06226	2310	INTER-OFFICE MAIL		11/14/2013	\$ 176.00
JVPURRT06230	2310	PACKAGING - MAIL		11/14/2013	\$ 3.64
JVPURRT06273	2323	PRINTING SERVICES		11/14/2013	\$ 165.98
JVIB 04062410AB	2410	OCTOBER 2013 DATA PROCESSING		11/8/2013	\$ 1.56
JVIB 04062410AF	2410	OCTOBER 2013 DATA PROCESSING		11/8/2013	\$ 106.18
JVIB 04062410AK	2410	OCTOBER 2013 DATA PROCESSING		11/8/2013	\$ 4.92
JVIB 04062410AR	2410	OCTOBER 2013 DATA PROCESSING		11/8/2013	\$ 48.29
JVIB 04062410E	2410	OCTOBER 2013 DATA PROCESSING		11/8/2013	\$ 22.90
JVIB 04062410P	2410	OCTOBER 2013 DATA PROCESSING		11/8/2013	\$ 149.30
JVIB 04062410T	2410	OCTOBER 2013 DATA PROCESSING		11/8/2013	\$ 72.39
JVIB 04062410X	2410	OCTOBER 2013 DATA PROCESSING		11/8/2013	\$ 131.14
JVATXRT07105	2415	COWCAP - 2013/2014		11/21/2013	\$ 1,513.16
JVIB 04062421F	2421	OCTOBER 2013 ISD DIRECT		11/12/2013	\$ 560.16
JVIB 04062450B	2450	OCTOBER 2013 SYSTEMS DEVELOPMENT		11/8/2013	\$ 9,322.06
TOTAL					\$ 15,988.57

MONTHLY RECONCILIATION OF PAYMENTS

MONTH OF NOVEMBER 2013 CASH RECEIPTS

DEPOSIT				DEPOSIT	
DOCUMENT ID	ACCOUNT	DESCRIPTION		DATE	AMOUNT
CR890A06251	9545	INDIVIDUAL NOTICE		11/27/2013	\$ 700.00
	9555	LEGAL FEES		11/27/2013	\$ 1,150.00
	9660	ENVIRONMENTAL		11/27/2013	\$ 750.00
	9800	LAFCO FEES		11/27/2013	\$ 9,711.00
TOTAL					\$ 12,311.00

MONTH OF NOVEMBER 2013 INTERNAL TRANSFERS RECEIVED

TRANSFER				TRANSFER	
DOCUMENT ID	ACCOUNT	NAME		DATE	AMOUNT
		NONE			
TOTAL					\$ -

Rebecca Lowery

REBECCA LOWERY, Clerk to the Commission

1/6/2014
DATE

RECONCILIATION APPROVED BY:

Kathleen Rollings-McDonald

KATHLEEN ROLLINGS-MCDONALD, Executive Officer

1/6/2014
DATE

MONTHLY RECONCILIATION OF PAYMENTS

MONTH OF DECEMBER 2013 PAYMENTS PROCESSED

VOUCHER DOCUMENT ID	ACCOUNT	NAME	WARRANT NUMBER	WARRANT DATE	AMOUNT
PV890Z071417	2305	REBECCA LOWERY FUND CUSTODIAN - PETTY CASH	8354265	12/12/2013	\$ 227.70
PV8908109	2445/2940	JIM BAGLEY	8352995	12/11/2013	\$ 301.59
PV8908110	2445/2940	KIMBERLY COX	8353001	12/11/2013	\$ 261.02
PV8908111	2445/2940	JAMES V CURATALO	8352992	12/11/2013	\$ 228.25
PV8908112-8116		PREVIOUSLY PROCESSED			
PV8908117	2424	TOM DODSON & ASSOCIATES	3212111	12/11/2013	\$ 1,986.25
PV8908118	2445	CITY OF SAN BERNARDINO	8352956	12/11/2013	\$ 300.00
PV8908119	2400	BEST BEST & KRIEGER	3211964	12/11/2013	\$ 1,299.17
PV8908120	2305	CITY OF SAN BERNARDINO - FIRE DEPT	8352955	12/11/2013	\$ 25.00
PV8908121	2895	ADVANCED COPY SYSTEMS	3211948	12/11/2013	\$ 269.54
PV8908122	2335	STAFFMARK CALIFORNIA LLC	8353050	12/11/2013	\$ 574.08
PV8908123	9800	HELENDALE COMMUNITY SVC DIST - REFUND	8353709	12/12/2013	\$ 8,283.00
PV8908124-8127		PREVIOUSLY PROCESSED			
PV8908128	2445/2940	JIM BAGLEY	8352098	12/10/2013	\$ 301.59
PV8908129	2445/2940	JAMES V CURATALO	8352096	12/10/2013	\$ 563.85
PV890813001	2445	ROBERT A LOVINGOOD	8349617	12/5/2013	\$ 200.00
PV890813002	2445	JAMES C RAMOS	8349535	12/5/2013	\$ 200.00
PV890813003	2445	LARRY MCCALLON	8349545	12/5/2013	\$ 200.00
PV8908131	2445/2940	DAWN MICHELLE ROWE	8350297	12/9/2013	\$ 282.49
PV8908132	2445/2940	SUNIL SETHI	8352155	12/10/2013	\$ 229.38
PV8908133	2445/2940	ROBERT W SMITH	8352129	12/10/2013	\$ 291.53
PV8908134	2445/2940	DIANE WILLIAMS	8352070	12/10/2013	\$ 229.38
PV8908135	2080	DAILY JOURNAL	8352062	12/10/2013	\$ 1,460.64
PV8908136	2305	DAISY WHEEL RIBBON CO INC	3211840	12/10/2013	\$ 826.76
PV8908137	2424	TOM DODSON & ASSOCIATES	3211936	12/10/2013	\$ 484.00
PV8908138	2405	WHITE NELSON DIEHL EVANS LLP	8352171	12/10/2013	\$ 4,000.00
PV8908139	2444	MJS ALARM CORP	3211899	12/10/2013	\$ 85.00
PV8908140	2400	BEST BEST & KRIEGER	3211828	12/10/2013	\$ 5,974.68
PV8908141	2115	ENVIRONMENTAL SYSTEMS RESEARCH	3211853	12/10/2013	\$ 341.10
PV8908142	2895	ADVANCED COPY SYSTEMS	3211814	12/10/2013	\$ 269.54
PV8908143	2335	STAFFMARK CALIFORNIA LLC	8352148	12/10/2013	\$ 574.08
TOTAL					\$ 30,269.62

MONTH OF DECEMBER 2013 INTERNAL TRANSFERS PROCESSED

JVIB 05092037D	2037	NOVEMBER 2013 PHONE		12/11/2013	\$ 221.52
JVIB 05092038D	2038	NOVEMBER 2013 LONG DISTANCE		12/11/2013	\$ 6.86
JVIB 05092043C	2043	NOVEMBER 2013 ELECTRIC EQPT SERVICE - PHONE		12/12/2013	\$ 119.25
JVISDRT07711	2115	MICROSOFT SOFTWARE UPDATE, ANNUAL LICENSE		12/10/2013	\$ 910.35
JVCS 20131226063	2305	STAPLES - SERVICE CHARGE		12/27/2013	\$ 43.08
JVCS 20131226063	5012	STAPLES - SUPPLIES		12/27/2013	\$ 359.04
JVATXRT07963	2308	CAL CARD PAYMENT		12/4/2013	\$ 990.79
JVPURRT07877	2310	1ST CLASS PRESORT- MAIL		12/11/2013	\$ 159.48
JVPURRT07879	2310	PACKAGING - MAIL		12/11/2013	\$ 179.95
JVPURRT07881	2310	PRESORT FLATS - MAIL		12/11/2013	\$ 13.19
JVPURRT07886	2310	INTER-OFFICE MAIL		12/13/2013	\$ 144.00
JVIB 05092410AA	2410	NOV 2013 DATA PROC		12/11/2013	\$ 1.82
JVIB 05092410AE	2410	NOV 2013 DATA PROC		12/11/2013	\$ 123.87
JVIB 05092410AJ	2410	NOV 2013 DATA PROC		12/11/2013	\$ 13.11

MONTHLY RECONCILIATION OF PAYMENTS

MONTH OF DECEMBER 2013 INTERNAL TRANSFERS PROCESSED (cont.)

DOCUMENT ID	ACCOUNT	DESCRIPTION	DATE	AMOUNT
JVIB 05092410AP	2410	NOV 2013 DATA PROC	12/11/2013	\$ 56.34
JVIB 05092410E	2410	NOV 2013 DATA PROC	12/11/2013	\$ 27.48
JVIB 05092410O	2410	NOV 2013 DATA PROC	12/11/2013	\$ 174.19
JVIB 05092410S	2410	NOV 2013 DATA PROC	12/11/2013	\$ 84.46
JVIB 05092410W	2410	NOV 2013 DATA PROC	12/11/2013	\$ 152.99
JV890RT07971	2424	NOE FOR LAFCO SC 384	12/6/2013	\$ 50.00
JV890RT08400	2445	PAYMENT TO AUDITOR FOR APPORTIONMENT SERVICES	12/19/2013	\$ 2,782.08
JVIB 05092450B	2450	NOVEMBER 2013 SYSTEMS DEVELOPMENT	12/12/2013	\$ 857.20
TOTAL				\$ 7,471.05

MONTH OF DECEMBER 2013 CASH RECEIPTS

DEPOSIT DOCUMENT ID	ACCOUNT	DESCRIPTION	DEPOSIT DATE	AMOUNT
CR890A06666	9545	INDIVIDUAL NOTICE	12/10/2013	\$ 700.00
	9555	LEGAL FEES		\$ 1,150.00
	9660	ENVIRONMENTAL		\$ 1,080.10
	9800	LAFCO FEES		\$ 5,500.00
TOTAL				\$ 8,430.10

MONTH OF DECEMBER 2013 INTERNAL TRANSFERS RECEIVED

TRANSFER DOCUMENT ID	ACCOUNT	NAME	TRANSFER DATE	AMOUNT
JVATXRT08058	8842	RECOVERY OF OUTSTANDING APPORTIONMENT	12/6/2013	\$ 193.00
JV890RT08057	9660	FUND CORRECTION	12/6/2013	\$ 50.00
JVECDRT07608	9800	FILING FEE - LAFCO SC 383	12/3/2013	\$ 2,250.00
JV105RT08200	9800	FILING FEE - LAFCO SC 385	12/12/2013	\$ 500.00
TOTAL				\$ 2,993.00

Rebecca Lowery
 REBECCA LOWERY, Clerk to the Commission

1/6/2014
 DATE

RECONCILIATION APPROVED BY:

Kathleen Rollings-McDonald
 KATHLEEN ROLLINGS-MCDONALD, Executive Officer

1/6/2014
 DATE

LOCAL AGENCY FORMATION COMMISSION COUNTY FOR SAN BERNARDINO

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 383-9900 • Fax (909) 383-9901
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: JANUARY 6, 2014 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #4 – REVIEW AND ADOPTION OF REVISION TO
SCHEDULE OF FEES, DEPOSITS AND CHARGES

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Certify that the proposed revisions to the Schedule of Fees, Deposits, and Charges (herein after shown as "Schedule") are statutorily exempt from the provisions of the California Environmental Quality Act and direct the Executive Officer to file a Notice of Exemption within five (5) days of this action.
2. Adopt the Schedule, as revised, to be effective January 16, 2014.
3. Adopt LAFCO Resolution #3178 reflecting the Commission's determinations related to the Schedule.

BACKGROUND:

At the November 20, 2013 hearing, LAFCO staff presented the Commission with its recommended changes to the existing Schedule of Fees, Deposits and Charges ("Schedule") that would add a new annexation/reorganization fee structure specifically for the desert region. On November 25, 2013, copies of the revised fee structure were forwarded to the County, the twenty-four cities/towns and the independent special districts for review and comment. As of the date of this report, no comments have been received. However, if staff receives comments prior to the hearing, they will be provided to the Commission along with staff's response at the hearing.

The only additional change LAFCO staff is proposing is to reflect the new California Department of Fish and Wildlife (DFW) filing fees for Notices of Determination for Negative Declarations, Mitigated Negative Declarations, Environmental Impact Reports, and Notices

of Exemption that are referenced in the Schedule. The following are the DFW fees, which include the Clerk of the Board administrative fees:

Negative Declaration (as lead agency)	\$2,231.25
Environmental Impact Report (as lead agency)	\$3,079.75
Notice of Determination (as responsible agency)	\$50.00
Notice of Exemption	\$50.00

Staff recommends that the Commission adopt the revised Schedule, as presented, with an effective date of January 16, 2014.

KRM/

Attachments:

1. Revised Schedule of Fees, Deposits, and Charges
2. Clerk of the Board of Supervisors Notice Regarding Department of Fish and Wildlife Revised Fees
3. Environmental Determination and Notice of Exemption
4. Draft Resolution #3178

**Revised Schedule of Fees, Deposits, and
Charges**

Attachment 1

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

**SCHEDULE OF FEES, DEPOSITS AND CHARGES
EFFECTIVE JANUARY 16, 2014**

The submission of a proposal to the Local Agency Formation Commission (hereinafter LAFCO) is not officially accepted for processing until the filing fees and deposits have been received. These fees and deposits ordinarily involve the appropriate LAFCO filing fee and deposits for the recovery of the Commission's direct costs, for such items as LAFCO Legal Counsel, environmental review, Registrar of Voters costs, individual notification costs, etc. In addition, certain fees are required at the conclusion of the application process and must be received prior to its official completion.

APPLICATION SUBMISSION:

The following fees and deposits are required at the time of application submission:

A. LAFCO Filing Fees:

1. Annexation, Detachment, Reorganization – involving solely annexations and/or detachments:

Valley and Mountain Region

	Under 20 acres	20 – 150 acres	151 – 275 acres	Over 275 acres
City	\$5,500	\$7,000	\$9,000	\$9,000 plus \$1 per acre over 275 acres
District	\$5,000	\$6,000	\$7,500	\$7,500 plus \$1 per acre over 275 acres

Desert Region (North and South Desert)

	Under 100 acres	100 – 640 acres	641 – 1,920 acres	Over 1,920 acres
City	\$5,500	\$7,000	\$9,000	\$9,000 plus \$1 per acre over 1,920 acres
District	\$5,000	\$6,000	\$7,500	\$7,500 plus \$1 per acre over 1,920 acres

The fees identified above shall be assessed for each area of consideration within the proposal. A single area means any separate geographical area requiring a legal description. A "single area" does not include two areas that are contiguous only at a point, or two or more areas that are contiguous to an existing boundary of a city or district but not to each other. Review the Commission's Policy #8 of the Accounting and Financial Policies related to LAFCO Filing Fee Waiver or Reduction.

2. Reorganization Sum of Component Charges

For a reorganization that involves any combination of changes beyond simply annexations and detachments, the fee will be based upon the components of the reorganization. Also review automatic waiver provisions under "Policies Related to Implementation of Fee Schedule" for further information.

3. Sphere of Influence Update/Municipal Service Review:

- | | | |
|----|--|---------|
| a. | Amendment | \$5,000 |
| b. | Update/Service Review Proposing Change | \$5,000 |

The fee identified above shall be assessed for each area of consideration within the proposal. A single area means any separate geographical area requiring a legal description. A "single area" does not include two areas that are contiguous only at a point, or two or more areas that are contiguous to an existing sphere boundary of a city or district but not to each other.

- | | | |
|----|---|-------|
| c. | Deposit for Sphere Update/Service Review with no change requested | \$500 |
|----|---|-------|

For the item above, agencies will be required to reimburse the Commission for all direct charges (LAFCO legal counsel, environmental review, reproduction costs, notification costs, etc.) in excess of the deposit. If charges billed to LAFCO are less than the amount of the deposit, the balance of the deposit will be refunded to the applicant.

- | | | |
|-----|---|-------------|
| 4. | Dissolution, Merger, or Establishment of Subsidiary District(s) | \$5,000 |
| 5. | Formation or Consolidation of Special District(s) | \$10,000 |
| 6. | Incorporation or Disincorporation of a City, or Consolidation of Cities | \$10,000 |
| 7. | Addition/Deletion of Powers for Special Districts | \$5,000 |
| 8. | Request for Reconsideration of LAFCO Decision/Environmental Determination | \$1,100 |
| 9. | Request for Extension of Time to Complete Proceedings | \$1,100 |
| 10. | Verification of Petition Signatures by Registrar of Voters Office | Actual Cost |

(A \$200 deposit from the applicants is required at the time of petition submission. This amount will be refunded upon certification of the petition and determination of billable charges. The charges assessed by the Registrar of Voters Office to verify petition signatures shall be payable by the affected entity in the same manner as the verification of initiative petition signatures is billed.)

B. LAFCO Filing Fee for Out-of-Agency Service Contract Review (City or District):

- | | | |
|----|---|---------|
| 1. | Contracts involving developments such as: subdivisions/ tracts as defined by the Subdivision Map Act (five or more units), Specific Plans | \$4,000 |
|----|---|---------|

- 2. Contracts involving the development of units requiring only a tract map as defined by the Subdivision Map Act (up to four units) \$750 per connection
- 3. Service Contract Requiring Approval Pursuant to Govt. Code Section 56133, Subsection (c) \$750
- 4. Development Related Request for Exemption from Govt. Code Section 56133 \$2,250
- 5. Administrative Review of Non-development-related Out-of-Agency Service Contract (City or District) or Non-development Related Exemption from Govt. Code Section 56133 as Authorized by Commission Policy \$500

C. Legal Counsel Deposit:

- 1. Legal Deposits are required at the time of application submission identified as follows:

- a. Jurisdictional Change or Sphere of Influence Change (applicable to actions listed under Item A, #1 through #7 except for Item #3c)

\$200 non-refundable LAFCO fee	\$950 Deposit for LAFCO Legal Counsel costs	\$1,150 Total Deposit required upon application submission
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- b. Service Contracts Item B #1 through #3

\$150 non-refundable LAFCO fee	\$425 Deposit for LAFCO Legal Counsel costs	\$575 Total Deposit required upon application submission
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(Applicants shall be required to reimburse the Commission for all LAFCO Legal Counsel charges and costs in excess of the deposit outlined above. Reimbursement to LAFCO shall be required prior to issuance of the Certificate of Completion for jurisdictional changes or issuance of the Commission's resolution for service contracts or sphere of influence changes. If charges billed to LAFCO are less than the amount of deposit, the balance of the fee will be refunded to the applicant or applied to other categories where excess charges have been incurred. If Special Counsel is required due to a conflict of interest by LAFCO Legal Counsel, the Commission will determine at a public hearing whether the applicant will be required to pay the full cost of Special Counsel, as authorized by Government Code Section 56384, or the current hourly rate of LAFCO Legal Counsel.)

- 2. Legal Defense Actual Cost

As a condition of approval of any action taken by LAFCO, the proponents may be required to defend, indemnify and hold harmless LAFCO or its agents, officers, and employees from any claim, action, or proceeding against LAFCO or its agents, officers, and employees to attack, set aside, void, or annul the approval of LAFCO concerning the proposal or any action relating to, or arising out of, such approval when such action is brought within the applicable statute of limitations. The Commission has adopted a policy and procedure setting out the process by which this charge will be applied. At the discretion of the Commission, a deposit of funds by the proponent may be required in an amount sufficient to cover the anticipated litigation costs.

D. Environmental Review Processing:

1. Environmental Review Deposit:

- a. Jurisdictional Change or Sphere of Influence Change (applicable to actions listed under Item A, #1 through #7 except for Item #3c)

\$200 non-refundable LAFCO fee	\$550 Deposit for LAFCO Environmental Consultant costs	\$750 Total Deposit required upon application submission
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- b. Service Contracts (Item B, #1 through #3)

\$150 non-refundable LAFCO fee	\$300 Deposit for LAFCO Environmental Consultant costs	\$450 Total Deposit required upon application submission
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(All applicants shall be required to pay the full costs of the Commission's Environmental Consultant's review regardless whether the Commission is the lead or responsible agency as defined under CEQA. Applicants shall be required to reimburse the Commission for Environmental Consultant charges and costs in excess of the deposit outlined above. Reimbursement to LAFCO shall be required prior to issuance of the Certificate of Completion for jurisdictional changes or issuance of the Commission's resolution for service contracts or sphere of influence changes. If charges billed to LAFCO are less than the amount of deposit, the balance of the deposit will be refunded to the applicant or applied to other categories where excess charges have been incurred.)

2. Appeal of Environmental Recommendation \$750
3. Preparation of Environmental Impact Report Actual Cost

(A \$20,000 deposit with LAFCO shall be required before proceeding toward preparation of the required environmental documents.)

4. California Department of Fish and Wildlife Fees are required to be paid at the time of filing with the Clerk of the Board of the affected County. These fees are dependent upon the action reviewed. The fees listed below, as identified by the Department of Fish and Wildlife, are current as of January 1, 2014. LAFCO staff will notify the applicant of the appropriate fees:

- | | |
|--|------------|
| a. Negative Declaration (as lead agency) | \$2,231.25 |
| b. Environmental Impact Report (as lead agency) | \$3,079.75 |
| c. Notice of Determination (as responsible agency) | \$50.00 |
| d. Notice of Exemption | \$50.00 |

E. Individual Notice

1. Deposit for Individual Notice (Registrar of Voters Review, and Registered Voter and Landowner Notification Requirements)

[Applicable to actions listed under Items A1, A2, A3, (except for Item 3c), B1, B2 and B3]

\$250 non-refundable LAFCO fee	\$450 Deposit for Individual Notification costs	\$700 Total Deposit required upon application submission
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(Applicants shall be required to reimburse the Commission for Registrar of Voters charges and notification costs (notice to all registered voters and landowners within the proposal and surrounding the area according to Commission policy) in excess of the deposit prior to issuance of the Certificate of Completion or issuance of the Commission's resolution for service contracts or sphere of influence changes . If charges billed to LAFCO are less than the amount of deposit, the balance will be refunded to the applicant or applied to other categories where excess charges have been incurred.

In cases where the change would involve mailing more than 1,000 notices, the Commission may waive the individual notice requirement and direct its staff to publish a 1/8th page display ad in a newspaper of general circulation within the area. Please contact the LAFCO office if the proposal would require mailing of more than 1,000 notices for further information. By policy, individual notice to landowners and registered voters shall not be waived for city island annexations filed pursuant to Government Code Section 56375.3, even if it includes more than 1,000 notices.)

2. Deposit for Publication of Display Ad in lieu of Individual Notice \$1,000

[Applicable to actions listed under Items A4 - A7, and those actions where individual notice has been waived by the Commission.]

(Adopted Commission policy automatically waives the requirement for individual landowner and registered voter notice inside and surrounding a proposal for dissolution, merger, or establishment of subsidiary district; formation or consolidation of special districts; activation of divestiture of powers for special districts; consolidation of cities; or incorporation or disincorporation of a city proposal. In doing so, the Commission required that a 1/8th page display ad be provided in a newspaper of general circulation within the area. Applicants shall be required to reimburse the Commission for advertisement charges in excess of the deposit prior to issuance of the Certificate of Completion or issuance of the Commission's resolution for service contracts or sphere of influence changes. If the charges billed to LAFCO are less than the amount of the deposit, the balance will be refunded to the applicant or applied to other categories where excess charges have been incurred.

F. Comprehensive Fiscal Analysis for Incorporation Proposal Actual Cost

(A \$50,000 deposit is required at the time the application is submitted. Applicants shall be required to reimburse the Commission for all costs associated with the preparation of the Comprehensive Fiscal Analysis in excess of the deposit prior to the scheduling of the Commission hearing. If the charges billed to LAFCO for the preparation of the required document are less than the amount of the deposit, the balance will be refunded to the applicant or applied to other categories where excess charges have been incurred.)

COMPLETION FEES AND CHARGES:

Following Commission approval of an action, the following fees may be required. LAFCO staff will notify the applicant at the time the Commission's resolution is forwarded which of the following fees is applicable to the proposal:

A. Deposit for Protest Proceeding:

\$200 non-refundable LAFCO fee	\$800 Deposit for LAFCO Protest Proceeding costs	\$1,000 Total Deposit required for Protest Proceeding
--------------------------------	--	---

(Deposit required within 30 days of Commission approval of action – Protest Hearing will not be set until deposit has been paid)

(Applicants shall be required to reimburse the Commission for any protest proceeding costs in excess of the deposit outlined above. Reimbursement to LAFCO shall be required prior to issuance of the Certificate of Completion. If charges billed to LAFCO are less than the amount of the deposit, the balance of the fee will be refunded to the applicant or applied to other categories where excess charges have been incurred.)

B. Geographic Information Management System (GIMS) Processing, required at the time the Certificate of Completion is prepared:

1. Changes requiring an update to current sphere or boundaries of participating agencies

(Fees identified below will be assessed for each area of consideration. The definition of area is provided under Application Submission on Page 1.)

<u>Acreage</u>	<u>Primary Charge</u>	<u>Additional Agency</u>
0 to 100 acres	\$400	\$ 85
101 to 640 acres	\$550	\$110
641 to 2,560 acres	\$825	\$150
over 2,560 acres	\$1,100	\$175

2. Incorporation, Formation, or placement of a new agency boundary or sphere into the LAFCO-maintained GIMS system \$3,000

(The fees for incorporations or formations can be deferred until the new City/Town or District receives its first revenues. A request for deferral shall be made to the Executive Officer.)

C. At the time the Certificate of Completion is forwarded to the State Board of Equalization (SBE), application types listed under Item A - LAFCO Filing Fees Subsections 1 through 6 (except for Spheres of Influence), are charged a processing fee pursuant to SBE's adopted Fee Schedule (Government Code Section 54902.5). The fees listed below, as identified by SBE, are current as of January 1, 2011. LAFCO staff will notify the applicant of the appropriate fees:

Single Area Charges:	
Less than 1 acre	\$300
1-5 acres	\$350
6-10 acres	\$500
11-20 acres	\$800
21-50 acres	\$1,200
51-100 acres	\$1,500
101-500 acres	\$2,000
501-1,000 acres	\$2,500
1,001-2,000 acres	\$3,000
2,001 acres and above	\$3,500

(Additional types of charges are outlined in the State Board of Equalization Fee Schedule. LAFCO staff will notify the applicant of the appropriate fees.)

MISCELLANEOUS CHARGES:

The following miscellaneous charges may occur at different times within the processing of an application by LAFCO, or thereafter:

- | | |
|--|-------------|
| A. State Controller's Fiscal Review for Incorporations | Actual Cost |
|--|-------------|

(A \$25,000 deposit is required at the time a Request for State Controller Review is submitted. All costs in excess of this amount will be the responsibility of the Requestor for payment. Any balance remaining after payments are made to the State will be refunded to the Requestor of Review.)

B. Workshop Fees Actual Cost

Proponents of actions pending Commission review may request that a Commission workshop be held in their area. If the Commission agrees to conduct such a workshop session, the Commission may require reimbursement of all costs associated with that session by the proponents.

C. Charge for Purchase of Copies:

a. Copies from paper materials (requests in excess of 10 pages) 10 cents per page

b. Copies from digital data (requests in excess of 20 pages) 5 cents per page

D. Copy of Commission Hearing

a. Tape/CD \$10 per tape/CD

b. DVD (available if production services are utilized for hearings) \$25 per DVD

E. Preparation of Transcript of Hearing Actual Cost

(Those requesting a transcript of a Commission hearing will be notified of the estimated cost for preparation. The Requestor will be required to provide a deposit in the amount of the estimated cost. All costs in excess of the deposit amount will be the responsibility of the Requestor for payment. Any balance remaining after final charges are determined will be refunded to the Requestor.)

Approved and adopted by the Local Agency Formation Commission on May 16, 2012.

KRM/January 6, 2014

**Clerk of the Board of Supervisors Notice
Regarding Department of Fish and Wildlife
Revised Fees**

Attachment 2



**COUNTY OF
SAN BERNARDINO**
Clerk of the Board of Supervisors

County Government Center
385 North Arrowhead Avenue, Second Floor
San Bernardino, CA 92415-0130
www.sbcounty.gov/cob

(909) 387-3841 Fax (909) 387-4554

BOARD OF SUPERVISORS

Robert A. Lovingood *First District*
Janice Rutherford *Second District*
James Ramos *Third District*
Gary C. Ovitt *Fourth District*
Josie Gonzales *Fifth District*

GREGORY C. DEVEREAUX
Chief Executive Officer

LAURA H. WELCH
Clerk of the Board of Supervisors

RECEIVED
NOV 15 2013

DATE: November 15, 2013
TO: LOCAL FILING AGENCIES
SUBJECT: INCREASE IN STATE FISH AND GAME FEES

LAFCO
San Bernardino County

This letter is to inform you of an increase in State Fish and Game fees for Negative Declarations and Environmental Impact Reports when filing Notices of Determination with the Clerk of the Board's Office. Pursuant to SB 1535, effective January 1, 2014, the State Fish and Game has amended their fees as follows:

Negative Declaration:	\$2,181.25 (increased from \$2,156.25)
Mitigated Negative Declaration:	\$2,181.25 (increased from \$2,156.25)
Environmental Impact Report:	\$3,029.75 (increased from \$2,995.25)

For future information, pursuant to Fish and Game Code Section 713, fees will be adjusted annually based on changes in the Implicit Price Deflator for State and Local Government Purchase of Goods and Services, as published by the U. S. Department of Commerce; you may also visit the Fish and Game website for information relating to the fee increase at: http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html.

Therefore, when filing Notices of Determination and Notices of Exemption after <u>January 1, 2014</u>, the <u>TOTAL</u> fees (includes \$50.00 administrative fee) will be as follows:	
Negative Declaration & Mitigated Negative Declaration	\$2,231.25
Environmental Impact Report	\$3,079.75
Notice of Determination (With "No Effect" documentation – Clerk of Board fee only)	\$ 50.00
Notice of Exemption (No Fish & Game fee – Clerk of the Board fee only)	\$ 50.00

There is no provision for a grace period, so please ensure that any documents submitted after January 1, 2014 reflect the amounts shown above. Also, as a reminder, please be sure to make checks payable to the "Clerk of the Board of Supervisors." A notice of increase flyer is attached for your reference.

Should you have any questions, please feel free to contact our office at (909) 387-3841.

Sincerely,

LAURA H. WELCH
Clerk of the Board of Supervisors

LHW:day

Attachment (1)

**Environmental Determination and Notice of
Exemption**

Attachment 3

LOCAL AGENCY FORMATION COMMISSION COUNTY FOR SAN BERNARDINO

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 383-9900 • Fax (909) 383-9901
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: JANUARY 6, 2014 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Environmental Determination – Revisions of LAFCO Schedule of Fees, Deposits, and Charges

The Local Agency Formation Commission is currently considering the revision of its “Schedule of Fees, Deposits, and Charges” which help support the services it provides to the County, cities/towns, special districts, and citizens of San Bernardino County. The California Environmental Quality Act (CEQA) and the State CEQA Guidelines provide a statutory exemption for the review and modification of fee and rate schedules. Specifically, Section 21080(b)(8) of CEQA and Section 15273(a) of the CEQA Guidelines provide for such statutory exemptions if such rates or charges are for the purpose of: (1) meeting operating expenses, including employee wage rates and fringe benefits; (2) purchasing or leasing supplies, equipment, or materials; and (3) meeting financial reserve needs and requirements, etc.

Section 15273(c) of the CEQA Guidelines requires that the Commission make findings regarding such an exemption indicating specifically the basis for the claim of exemption. Staff recommends that the Commission make the findings required by Section 15273(c) of the CEQA Guidelines as follows:

- a. Filing and processing fees are authorized by Government Code Section 56383 to cover the estimated reasonable cost of providing the service; and,
- b. The rates and charges identified in the Schedule of Fees, Deposits, and Charges are for the purpose of: (1) meeting operating expenses, including employee wage rates and fringe benefits; (2) purchasing or leasing supplies, equipment, or materials; and (3) meeting financial reserve needs and requirements.

Staff recommends that the Commission determine this action is statutorily exempt from CEQA for the reasons outlined in the State CEQA Guideline Section cited above. The Commission is required to file a Notice of Exemption with the Clerk to the Board within five working days of its action to approve the Schedule modifications. A copy of this exemption shall be retained in the LAFCO file to serve as verification of this evaluation and as the CEQA environmental determination record.

Draft Resolution #3178

Attachment 4

HEARING DATE: January 15, 2014

RESOLUTION NO. 3178

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY MAKING DETERMINATIONS ON THE ADOPTION OF A REVISED SCHEDULE OF FEES, DEPOSITS, AND CHARGES FOR FISCAL YEAR 2013-14.

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

WHEREAS, Section 56383 of the California Government Code authorizes a Local Agency Formation Commission to establish a schedule of fees for the filing and processing of applications submitted to the Commission pursuant to the provisions of Government Code Sections 56000 et seq.; and,

WHEREAS, the Local Agency Formation Commission for San Bernardino County (hereinafter referred to as the "Commission") adopted the existing Schedule of Fees and Charges on May 17, 2012; 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 this Commission upon the proposed amendments to the Schedule of Fees, Deposits, and Charges; and

WHEREAS, the Executive Officer has prepared a report including her recommendations thereon, said 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 any order or orders continuing such hearing; and,

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

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

DETERMINATIONS:

SECTION 1. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution in the manner provided by Section 56882 of the Government Code.

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 383-9900 • Fax (909) 383-9901
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: JANUARY 6, 2014 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: **Agenda Item #6:** Consideration of Request for Exemption from Government Code Section 56133 for LAFCO SC#383 – Wastewater Collection and Treatment Service Agreement between the City of Rialto and County Service Area 70 Zone BL

RECOMMENDATION:

Determine that LAFCO SC#383 complies with the exemption criteria listed within Government Code Section 56133 Subsection (e) and, therefore, does not require Commission approval to proceed.

BACKGROUND:

On November 14, 2013, the City of Rialto (hereinafter the “City”) submitted a letter (included as Attachment #1) requesting that the Commission determine that the Out-of-Agency Service Agreement between the City and County Service Area 70 Zone BL (hereinafter “CSA 70 BL” or the “District”) is exempt from the provisions of Government Code Section 56133. The agreement allows for the City’s acceptance of wastewater collected from within the boundaries of CSA 70 BL for transportation and treatment at its facility. The facts surrounding the exemption request are outlined below.

County Service Area 70 Zone BL

The County’s Community Development and Housing Department has been working with a developer for more than a year on a proposal to build a 190-unit affordable housing project located in the unincorporated Bloomington community. The project, located on the north side of Valley Boulevard (between Alder and Locust Avenues), has been required by the County’s Land Use Services Department to connect to a public sewer system.

The unincorporated Bloomington community generally has no public sewer system, except in those instances where the City of Rialto has extended sewer service outside its

boundaries. The current project could have contracted directly with the City for sewer service since it is within the City’s existing sphere of influence. However, the County opted to establish a new public sewer provider to serve a portion of the unincorporated Bloomington community including the development project. On November 19, 2013, the County Board of Supervisors approved the formation of CSA 70 BL as a means to facilitate the provision of sewer service to this portion of the Bloomington community. Figure 1 below is a vicinity map of the boundaries for CSA 70 BL. Location and vicinity maps showing the existing City sewer facilities as well as the proposed sewer line to be constructed by the District are included as Attachment #2 to this report.

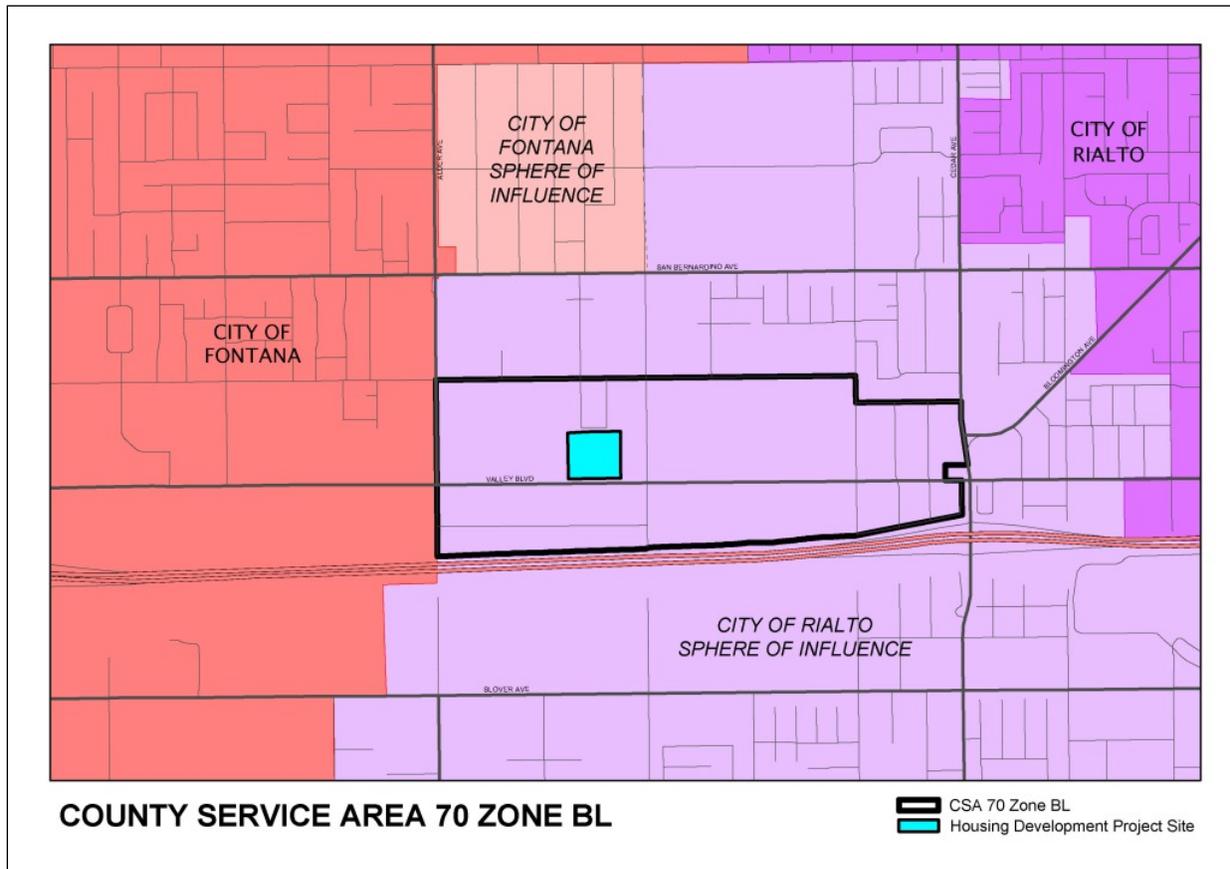


Figure 1 – Vicinity Map

The development project (information included as Attachment #4), which will include a County library, a community center, and medical and counseling facilities, will be the District’s first user. The District will construct an 18-inch sewer line in Valley Boulevard from the project site located west of Locust Avenue extending approximately 5,150 feet to connect with the City’s existing 18-inch sewer transmission line in Valley Boulevard at Cedar Avenue.

As an alternative to private on-site septic system, sewer service can also be extended to any of the properties within the District's service area. The City currently has excess capacity to treat flows generated from the project as well as additional properties within CSA 70 BL that may require sewer connection in the future up to 419 EDUs (equivalent dwelling units). Should additional capacity be needed, the City and the District have agreed to expand the scope of the agreement to develop the additional capacity that would include, but not be limited to, wastewater collection system improvements as well as improvements to the City's wastewater treatment plant.

The Out-of Agency Service Agreement, which is included as part of Attachment #3, outlines terms and conditions by which the City will accept wastewater generated from the District's sewer collection facilities. The agreement addresses the operation and maintenance responsibilities of each party, fees and charges, monitoring flows sent to the City's system, and miscellaneous other terms and conditions. The District will be responsible for billing and collection of sewer service payments from the properties within CSA 70 BL that connect to its sewer system at the rate of 1.3 times the in-City rate. The District will also be responsible for remitting payments to the City for all costs associated with the service connections. At the time new sewer connections are made to the District, the City will receive connection, permit and inspection fees in accordance with the fee schedules in effect at the time the connection permits are issued.

The agreement was ratified by the City of Rialto's City Council on December 10, 2013 and subsequently approved by the County Board of Supervisors, on behalf of CSA 70 BL, on December 17, 2013.

Additionally, the County Board of Supervisors also approved the 190-unit affordable housing project that includes the library and community benefit space on December 17, 2013 with the condition that it receives wastewater collection and treatment services from the District.

Exemption Discussion

The City has cited the relevant exemption language within Government Code Section 56133 (e) for its request. The section reads as follows:

"This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider."

After reviewing the materials presented for LAFCO SC#383, it is the staff's position that the exemption outlined above applies to the agreement between the City of Rialto and CSA 70 BL, and therefore should be exempted from further LAFCO review on the basis of the following facts:

1. The Out-of-Agency Service Agreement is between the City of Rialto and CSA 70 BL, both of which are legally defined public agencies.
2. The public service to be provided includes wastewater collection and treatment as identified in the agreement. The services to be provided by the City of Rialto are an alternative to CSA 70 BL providing wastewater treatment service on its own.
3. CSA 70 BL is contracting with the City to connect its sewer collection facilities to the City's existing wastewater transportation and treatment facilities. CSA 70 BL will collect wastewater within its service area and the City will then accept wastewater from the District into its existing wastewater transmission line located in Valley Boulevard just west of Cedar Avenue. Wastewater collected from the District will then be transported and treated at the City's wastewater treatment plant.
4. The level of service to be provided through this contract is consistent with the level of service contemplated by CSA 70 BL as identified in the Out-of-Agency Service Agreement. The agreement addresses the delivery and receipt of wastewater, connection requirements, wastewater plant capacity, user fees, connection fees, rate modification, terms and conditions, and others.

CONCLUSION:

On the basis of the determinations outlined above, LAFCO staff recommends that the Commission determine that pursuant to Government Code Section 56133 Subsection (e), the Extraterritorial Agreement for Wastewater Conveyance and Treatment between the City of Rialto and County Service Area 70 Zone BL is exempt from further review and approval by the Commission.

KRM/SM

Attachments:

1. City of Rialto Letter Dated November 14, 2013 Requesting Exemption from Government Code Section 56133
2. Vicinity Map and Service Area Map for County Service Area 70 Zone BL including the City of Rialto's Existing Sewer Facilities and the District's Proposed Sewer Line Extension
3. Application for Extension of Service by Contract signed by the City of Rialto including a Copy of the Unsigned Extraterritorial Agreement, a Map and Legal Description for County Service Area 70 Zone BL, and a Copy of the City of Rialto's Resolution No. 6119 Establishing the City's Revised Schedule of Water and Sewer Rates and Charges
4. December 17, 2013 Board of Supervisors Agenda Item Approving Planned Development Permit and Tentative Tract Development for 190 Unit Affordable Housing Project

**City of Rialto Letter Dated November 14,
2013 Requesting Exemption from
Government Code Section 56133**

Attachment 1



City of Rialto

California

November 14, 2013

Ms. Kathleen Rollings-McDonald, Executive Officer
Local Agency Formation Commission
175 West Fifth Street, Second Floor
San Bernardino, CA 92415-0490

**SUBJECT: Request for Exemption / Government Code Section 56133
City of Rialto and County Service Area 70, Zone BL**

Dear Ms. Rollings-McDonald:

As you are aware, the City of Rialto (Rialto) and County Service Area 70, Zone BL (District) are preparing an agreement which provides conditions for the transfer of wastewater collected in the District to Rialto's sanitary sewer system for conveyance and treatment. The agreement, which we believe has been reviewed by the Local Agency Formation Commission (LAFCO), is scheduled for review and approval by the Rialto City Council on November 26, 2013. Our understanding is that the San Bernardino County Board of Supervisors, as the governing body of the District, will then consider the proposed agreement for approval at its December 3, 2013 meeting. Rialto is prepared to accept the additional wastewater flow from the District under the terms and conditions contained in the proposed agreement. Rialto would like to petition LAFCO for an exemption from "Out of Area Service Agreements" within the District, thereby authorizing Rialto to accept, convey and treat wastewater generated from within the District's service boundary.

Rialto currently has the excess capacity to treat flows generated from the planned County Project, located in the District and identified as assessor's parcel numbers 0252-051-06, 69, and 70, as well as additional parcels/projects in the District that might require future sanitary sewer service. Should additional capacity in Rialto's sanitary sewer system be requested by the District, Rialto and the District will jointly agree upon improvement projects that will develop the required additional capacity.

Properties in the District requesting service from the District will be required to comply with Rialto's conditions for service, including but not limited to, the payment of Wastewater Treatment Development fees; monthly treatment fees; permit fees; and associated costs if necessary. Properties connected to the District's wastewater system will receive bi-monthly statements from the District. The District will remit payment to Rialto within 60-days of receipt of payment.

Ms. Kathleen Rollings-McDonald

November 14, 2013

Page 2

Conversations with County staff have determined that the County and the District support the proposed exemption under the provisions of Government Code Section 56133 subject to available capacity contingent upon the above conditions. A copy of the proposed agreement is enclosed for your reference.

If you have any questions or comments, please feel free to contact me at (909) 421-7279 or mfuller@rialtoqa.gov.

Sincerely,

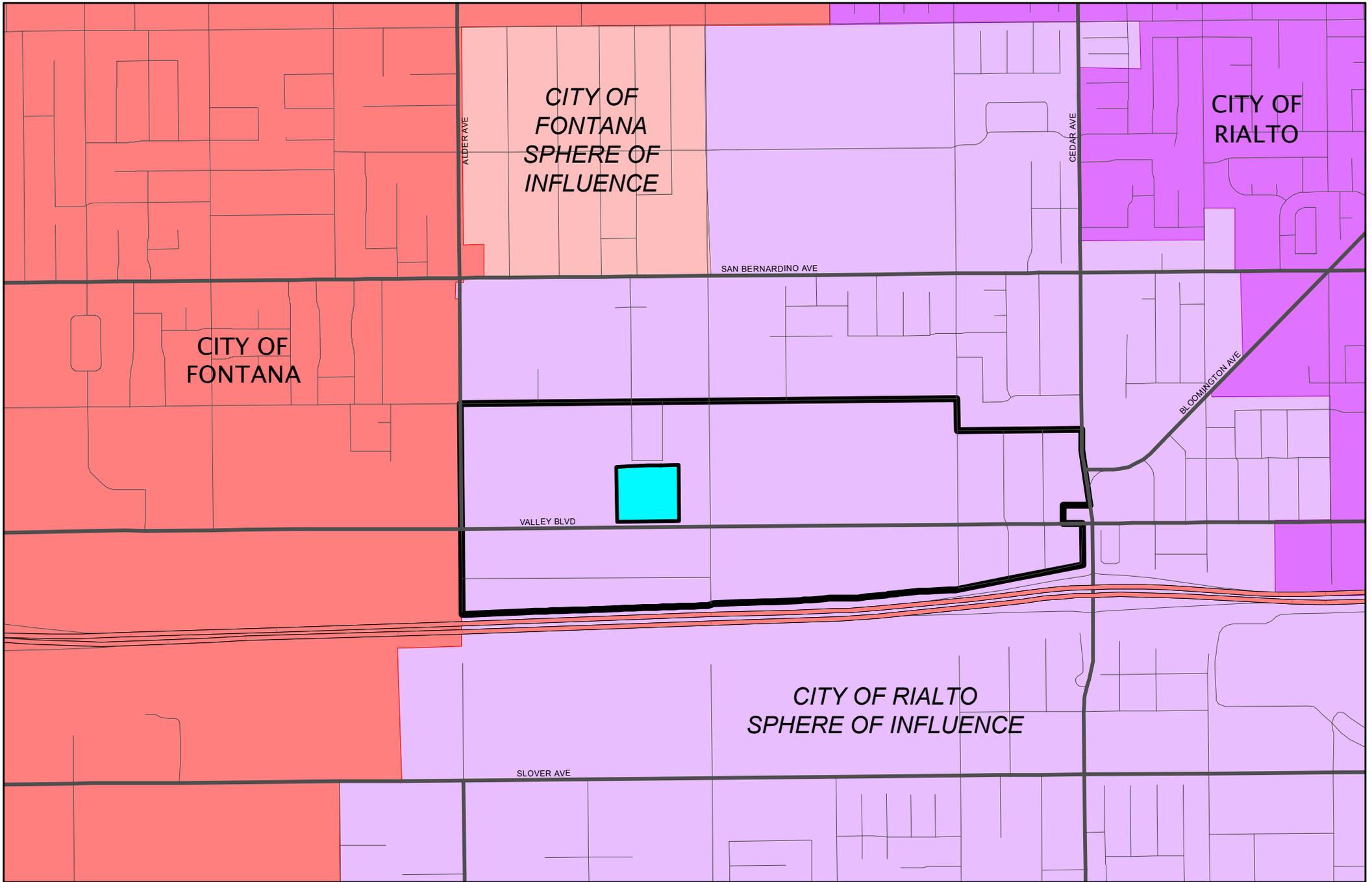


Marcus Fuller, P.E., P.L.S.
Public Works Director/City Engineer

cc: *Michael E. Story, City Administrator*
Gary Hallen, County of San Bernardino
file

**Vicinity Map and Service Area Map for
County Service Area 70 Zone BL including
the City of Rialto's Existing Sewer
Facilities and the District's Proposed
Sewer Line Extension**

Attachment 2



COUNTY SERVICE AREA 70 ZONE BL

-  CSA 70 Zone BL
-  Housing Development Project Site

CITY OF RIALTO
CALIFORNIA



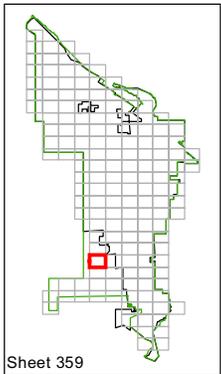
Waste Water
Network

Legend

- Manholes
- Pumps
- Force Mains
- Sewer Lines
- ▭ Municipal Boundary
- ▭ Sewer District Boundary



0 100 200 Feet



Sheet 359

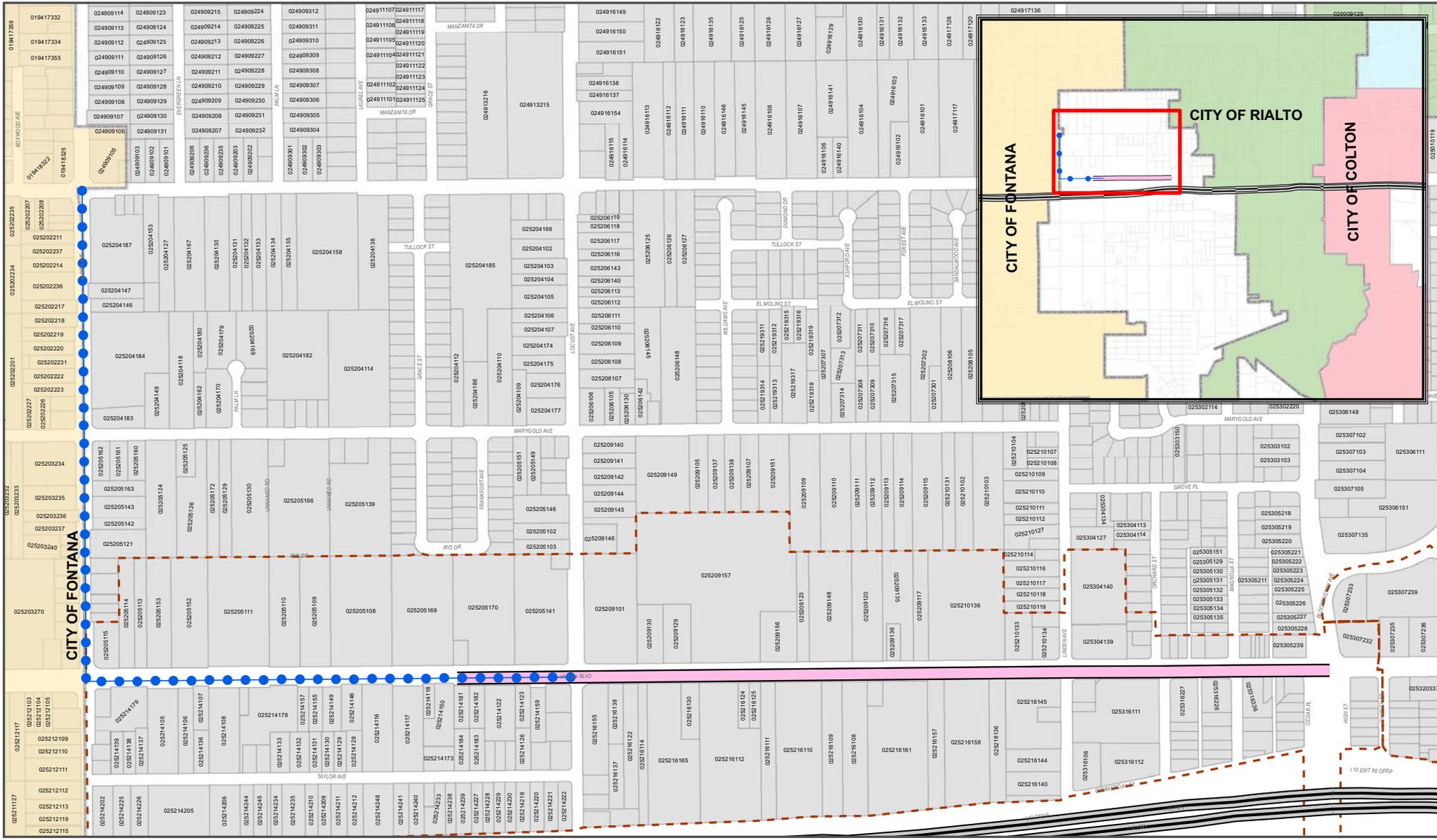


Source: Esri, i-cubed, USDA, USGS, AEX, GeoEye, Getmapping, Aerogrid, IGN, IGP, and the GIS User Community



BLOOMINGTON SPECIFIC PLAN

WATER AND SEWER INFRASTRUCTURE IMPROVEMENTS

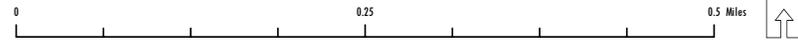


Proposed Bloomington Specific Plan

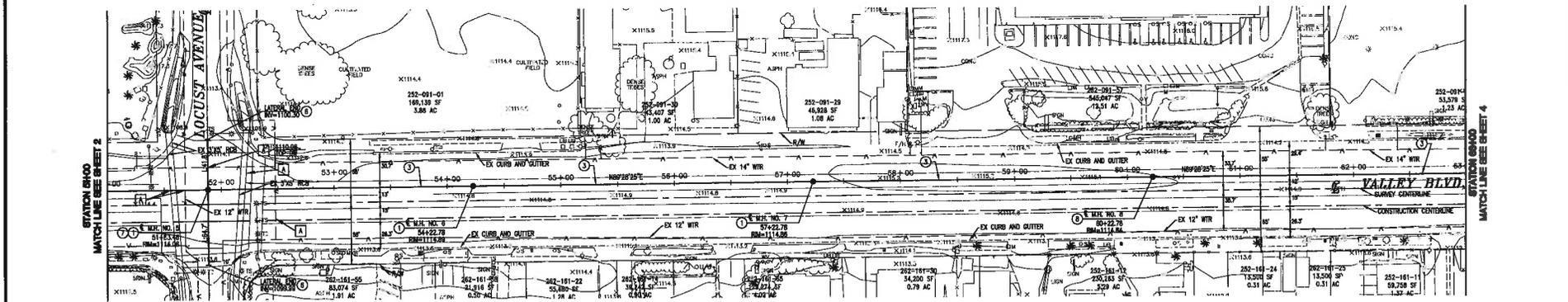
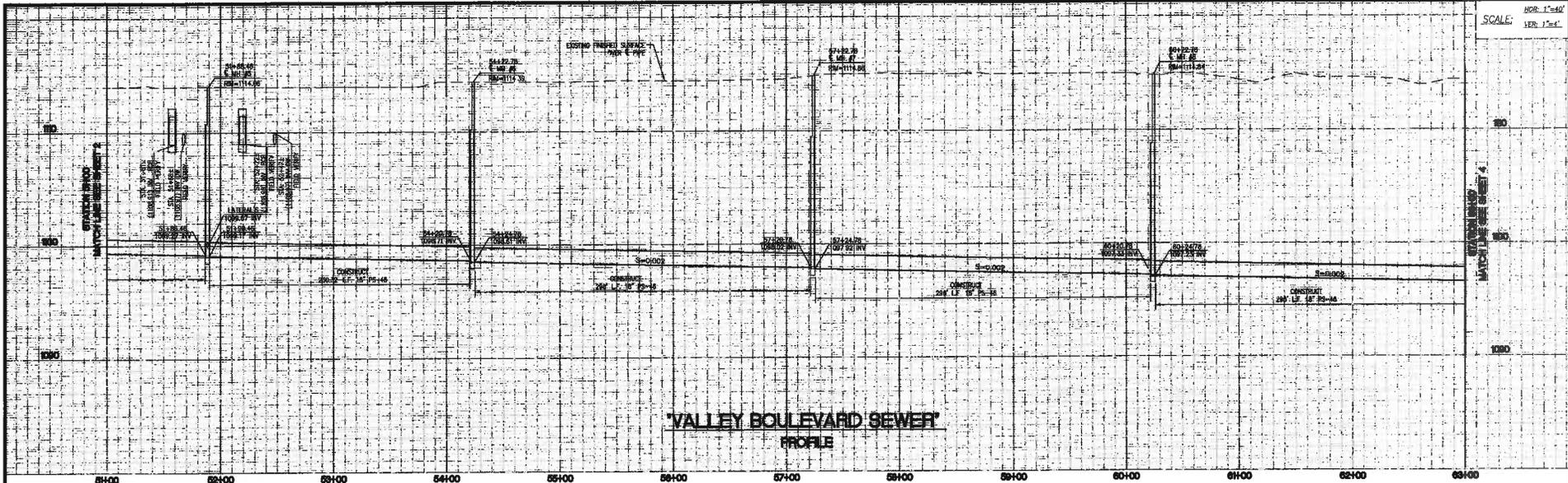
● Proposed Water Improvements

 Proposed 18" PVC Sewer

Produced by: Alex Holsheimer, EDA
 August 2, 2013



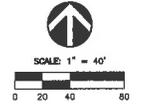
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VERT. 1"=4'



- SEWER IMPROVEMENT NOTES**
- CONSTRUCT PRECAST MANHOLE PER COUNTY OF SAN BERNARDINO SPECIAL DISTRICTS STANDARD DRAWING NO. E-2 AND E-3.
 - REMOVE EXISTING 15" STUB IN EXISTING MANHOLE.
 - INSTALL 18" PS-46 SEWER MAIN TO THE GRASSES SHOWN AND PER SAN BERNARDINO SPECIAL DISTRICTS DRAWING NO. E-18. REPLACEMENT PAYMENT PER COUNTY DEPARTMENT OF PUBLIC WORKS TRENCHING SPECIFICATION.
 - REMOVE EXISTING MANHOLE CHANNELIZATION AND RECONSTRUCT PER SAN BERNARDINO SPECIAL DISTRICTS DRAWING NO. E-2.
 - INSTALL 12" PS-46 SEWER MAIN TO THE GRASSES SHOWN AND PER SAN BERNARDINO SPECIAL DISTRICTS DRAWING NO. E-18. REPLACEMENT PAYMENT PER COUNTY DEPARTMENT OF PUBLIC WORKS TRENCHING SPECIFICATION.
 - INSTALL SEWER MAIN END OF LINE CLEAN OUT PER SAN BERNARDINO SPECIAL DISTRICTS DRAWING NO. E-14.
 - INSTALL 12" PS-46 SEWER MAIN STUB, LENGTH AS SHOWN INSTALLED AT 1.5% TO THE NORTH AND 0.5% TO THE SOUTH AS SHOWN. INSTALL WORKER FLUG.
 - CONSTRUCT 60" DIAMETER PRECAST MANHOLE PER COUNTY OF SAN BERNARDINO SPECIAL DISTRICTS STANDARD DRAWING NO. E-2 AND E-3.

POTHOLE NOTES

- EXISTING UTILITY, POT HOLE TO CORNER. LOCATION AND ELEVATION PRIOR TO CONSTRUCTION.



SEAL: [Professional Engineer Seal for C. J. ...]

BENCH MARK: []

PLANS PREPARED UNDER THE SUPERVISION OF

C&V CONSULTING, INC.
CIVIL ENGINEERING
LAND PLANNING & SURVEYING
CHOCOMA, CA

37700 BURNHAM
PO BOX 1000
PO BOX 1000
T. 848.818.8800
F. 848.818.3305
CVC@CINET

PROJECT SHEET NO. 30201 (EXP. 6/30/14) DATE: 10-22-13

MARK	DESCRIPTION	APPR	DATE

COUNTY OF SAN BERNARDINO
CSA 70 BY
SPECIAL DISTRICTS DEPARTMENT

DESIGNED BY: [] DRAWN BY: [] CHECKED BY: [] VS []

APPROVED BY: [Signature] 11/6/13
SPECIAL DISTRICTS DEPARTMENT

RECOMMENDED APPROVED BY: [Signature] DATE: [] DISTRICT ENGINEER

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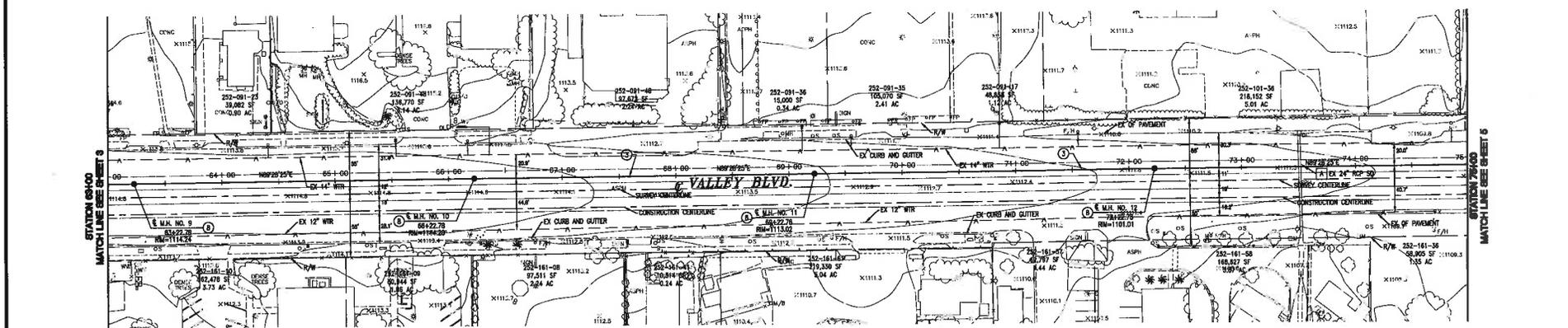
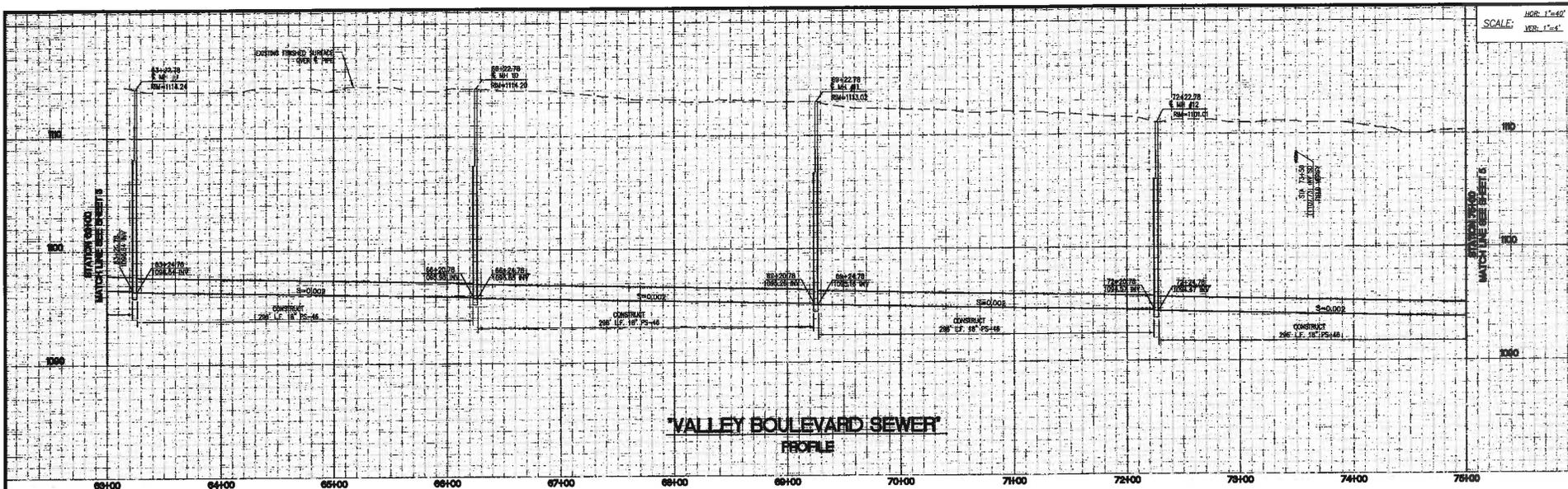
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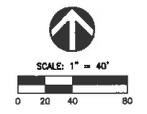
VALLEY BLVD SEWER IMPROVEMENT PLAN

SCALE: HOR: 1"=40'
VER: 1"=4'



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 - INSTALL SEWER MAIN END OF LINE CLEAN OUT PER SAN BERNARDINO SPECIAL DISTRICTS DRAWING NO. E-14.
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- POTHOLE NOTES**
- [A] EXISTING UTILITY, POT HOLE TO CORNER. LOCATION AND ELEVATION PRIOR TO CONSTRUCTION



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PLANS PREPARED UNDER THE SUPERVISION OF
C&V CONSULTING, INC.
 CIVIL ENGINEERING
 LAND PLANNING & SURVEYING
 87788 BURNBANK
 PORTLAND, OREGON, USA 97203
 T. 503.646.8300
 F. 503.646.3800
 CVO@C&V.NET

MARK	DESCRIPTION	APPR	DATE

COUNTY OF SAN BERNARDINO
 CSA 70 BL
 SPECIAL DISTRICTS DEPARTMENT

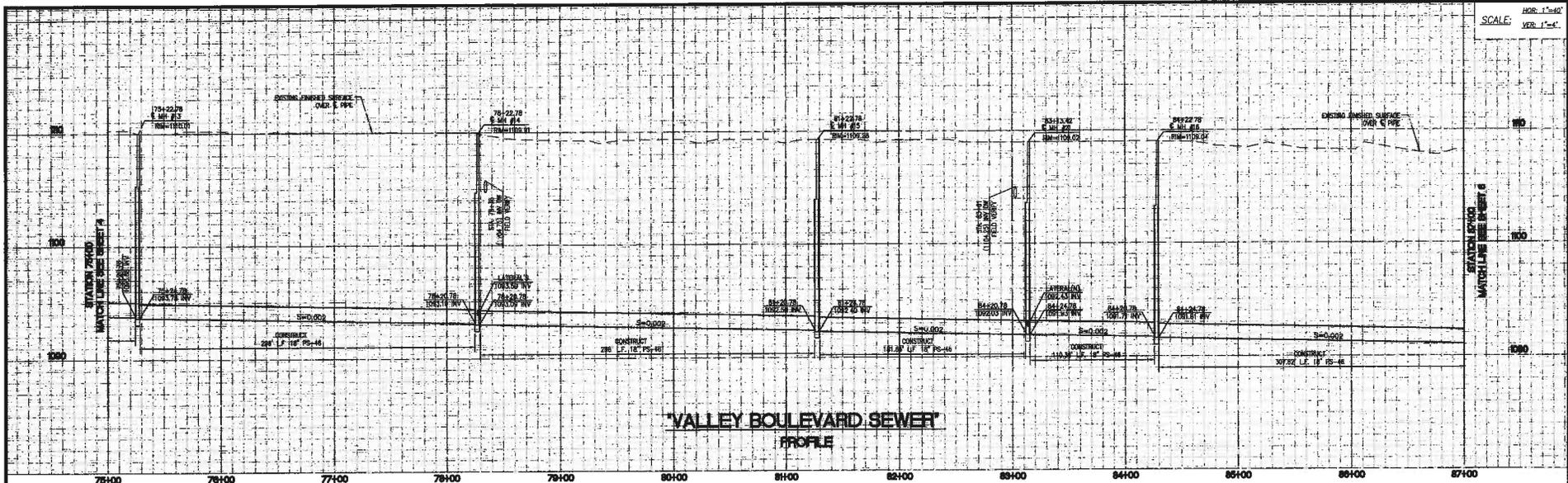
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 CHECKED BY: [Blank]
 VS
 APPROVED BY: [Signature]
 SPECIAL DISTRICTS DEPARTMENT
 SUBMITTED BY: [Blank]
 C.D.E.
 RECOMMENDED APPROVED BY: [Signature]
 LAND DEVELOPMENT ENGINEER
 DATE: [Blank]
 DISTRICT ENGINEER: [Signature]

SEWER IMPROVEMENT PLAN

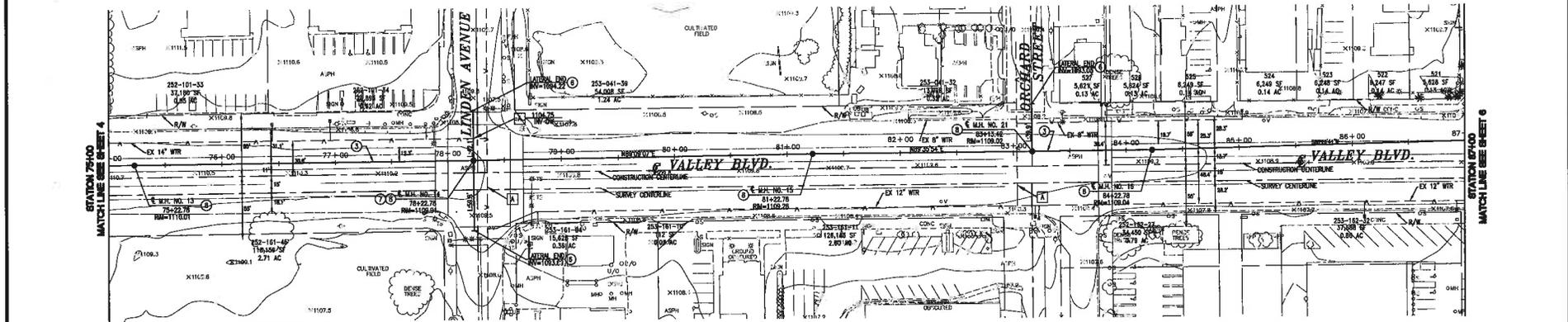
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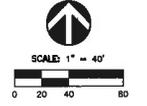


"VALLEY BOULEVARD SEWER"
PROFILE



- SEWER IMPROVEMENT NOTES**
- CONSTRUCT PRECAST MANHOLE PER COUNTY OF SAN BERNARDINO SPECIAL DISTRICTS STANDARD DRAWING NO. E-2 AND E-3.
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 - REMOVE EXISTING MANHOLE CHANNELIZATION AND RECONSTRUCT PER SAN BERNARDINO SPECIAL DISTRICTS DRAWING NO. E-5.
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- POTHOLE NOTES**
- EXISTING UTILITY, POT HOLE TO CONFIRM LOCATION AND ELEVATION PRIOR TO CONSTRUCTION



SEAL
BENCH MARK

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CIVIL ENGINEERING
LAND PLANNING & SURVEYING
CVC-INC.NET
11-21-13

MARK	DESCRIPTION	APPR	DATE

COUNTY OF SAN BERNARDINO
CSA 70 BL
SPECIAL DISTRICTS DEPARTMENT

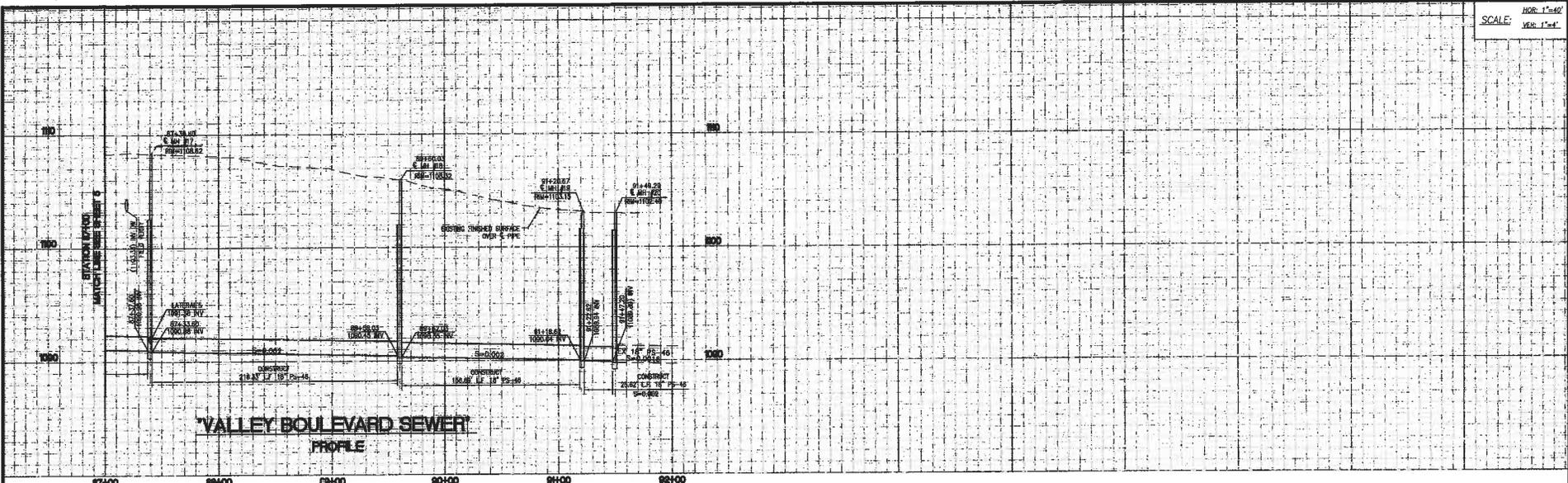
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RECOMMENDED APPROVED BY: [Signature]
LAND DEVELOPMENT ENGINEER: [Signature]

SEWER IMPROVEMENT PLAN

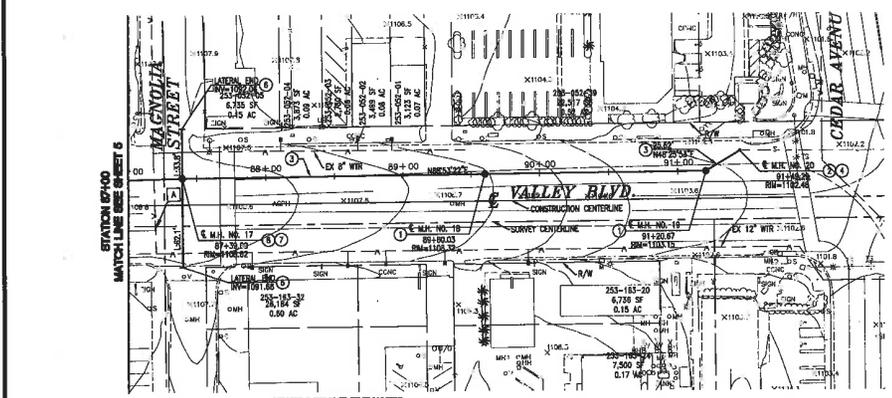
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SEWER IMPROVEMENT PLAN

WORD ORDER No.
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FILE No.
SHEET 5 OF 6

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VALLEY BOULEVARD SEWER PROFILE

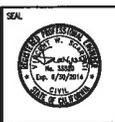
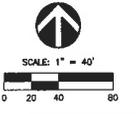


SEWER IMPROVEMENT NOTES

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POTHOLE NOTES

1. EXISTING UTILITY, POT HOLE TO CONFIRM LOCATION AND ELEVATION PRIOR TO CONSTRUCTION



SEAL
BENCH MARK

PLANS PREPARED UNDER THE SUPERVISION OF
CONVEX CONSULTING, INC.
 CIVIL ENGINEERING
 LAND PLANNING & SURVEYING
 253-183-20
 6728 SF
 0.19 AC
 7,500 SF
 0.17 AC

MARK	DESCRIPTION	APPR	DATE

COUNTY OF SAN BERNARDINO
 CSA 70 81
 SPECIAL DISTRICTS DEPARTMENT

DESIGNED BY: [] DRAWN BY: [] CHECKED BY: [] APPROVED BY: []
 SUBMITTED BY: [] C.D.E. []
 RECOMMENDED APPROVED BY: []
 LAND DEVELOPMENT ENGINEER: [] DATE: []

SEWER IMPROVEMENT PLAN

WORD ORDER No. []
 ROAD No. []
 FILE No. []
 SHEET 6 OF 6

VALLEY BLVD SEWER IMPROVEMENT PLAN

**Application for Extension of Service by
Contract signed by the City of Rialto
including a Copy of the Unsigned
Extraterritorial Agreement, a Map and
Legal Description for County Service Area
70 Zone BL, and a Copy of the city of
Rialto's Resolution No. 6119 Establishing
the City's Revised Schedule of Water and
Sewer Rates and Charges**

Attachment 3

SAN BERNARDINO LAFCO APPLICATION FOR EXTENSION OF SERVICE BY CONTRACT

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

AGENCY TO EXTEND SERVICE:

AGENCY NAME: City of Rialto

CONTACT PERSON: Marcus Fuller

ADDRESS: 335 W. Rialto Ave.
Rialto, CA 92376

PHONE: (909) 421-7279

EMAIL: mfuller@rialtoca.gov

CONTRACTING PARTY:

NAME OF PROPERTY OWNER: County Service Area 70, Zone BL

CONTACT PERSON: James A. Oravets

MAILING ADDRESS: 157 W Fifth Street, Second Floor
San Bernardino, CA 92415-0450

PHONE: 909-387-5940

EMAIL: joravets@sdd.sbcounty.gov

ADDRESS OF PROPERTY PROPOSED FOR CONTRACT: See attached map of Service Area
County Proposed Project
18010 Valley Blvd, Bloomington, CA 92316

CONTRACT NUMBER/IDENTIFICATION: N/A

PARCEL NUMBER(S): Various for the Zone
Project: 0252-051-70, 0252-051-69 0252-051-06

ACREAGE: Approximately 9 acres

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

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

Sewer Service for sewer conveyance, treatment and disposal

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

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

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

County Service Area 70, Zone BL (Bloomington) was approved and formed by the Board of Supervisors on November 19, 2013. The Zone was approved to provide sewer service for this area of Bloomington, which the project will be its only initial user. An Extraterritorial Agreement was prepared to set the terms and conditions of service. The agreement addresses the delivery and receipt of wastewater, connection requirements, wastewater plant capacity, user fees, connection fees, rate modifications, terms and conditions and termination.

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

The unincorporated Bloomington area is within the City of Rialto sphere of influence, and may be annexed by the City within the next 20 years; however there are currently no applications for annexation pending.

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

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

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

Various uses are within the Zone and vacant land for the project

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

Various changes may occur within the zone and the project will go from vacant to a planned development with 190 units of Affordable Housing and a County library

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

The Service agreement is for the entire zone identified but the first rate payer of the district will be the planned development project.

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

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

As the Out of Area Agreement doesn't require entitlements the County of San Bernardino, Economic Development Agency (EDA) planned project to develop certain portion of land identified as APNs 0252-051-06, 0252-051-69, and 0252-051-70, has gone through the entitlements of which all the documents above apply and can be provided.

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

10. Plan for Service:

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

1. Rialto has additional available capacity at its Wastewater Treatment Plant and in the Rialto Disposal System available for the use and benefit of CSA 70, Zone BL.

2, 3 and 4. CSA 70 Zone BL will construct an 18-inch diameter pipeline from the Project Site on Locust Avenue and Valley Boulevard to the connection point with the Rialto Disposal System at the intersection of Valley Boulevard and Cedar Avenue. The connection point shall be extended to include the next upstream manhole (5-foot diameter), parshal flume, sonic level indicator and flow recorder, and the interconnecting 18-inch diameter between the metering facility and the Rialto manhole that will receive the Project and DISTRICT wastewater flows. The length of the line is 5150 feet.

5. No other permits are required at this time.

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

Description of Fees/Charges	Cost	Total
-----------------------------	------	-------

CERTIFICATION

As a part of this application, the city of Rialto, or the _____ district agree to defend, indemnify, hold harmless, and release the San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, and expenses, including attorney fees. The agency signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I/We understand that if this application is approved, the Commission will impose a condition requiring the applicant to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

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

SIGNED

Marcus Fuller

NAME:

Marcus Fuller

POSITION TITLE:

Public Works Director/City Engineer

DATE:

11/26/13

REQUIRED EXHIBITS TO THIS APPLICATION:

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

Please forward the completed form and related information to:

Local Agency Formation Commission
215 North D Street, Suite 204
San Bernardino, CA 92415-0490

PHONE: (909) 383-9900 • FAX: (909) 383-9901



FOR COUNTY USE ONLY

**BOARD GOVERNED
COUNTY SERVICE AREAS

F A S

STANDARD CONTRACT**

<input checked="" type="checkbox"/> New	FAS Vendor Code		SC	Dept.	Contract Number			
<input type="checkbox"/> Change				SPD	A			
<input type="checkbox"/> Cancel								
ePro Vendor Number				ePro Contract Number				
County Department			Dept.	Orgn.	Contractor's License No.			
Special Districts Department			105	105				
County Department Contract Representative				Telephone		Total Contract Amount		
James A. Oravets, Division Manager				(909)387-5940				
Contract Type								
<input type="checkbox"/> Revenue		<input type="checkbox"/> Encumbered		<input type="checkbox"/> Unencumbered		<input checked="" type="checkbox"/> Other: Agreement		
If not encumbered or revenue contract type, provide reason:								
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount			
		Dec 3, 2013	N/A	\$				
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No	Amount		
						\$		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount		
						\$		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount		
						\$		
Project Name			Estimated Payment Total by Fiscal Year					
			FY	Amount	I/D	FY	Amount	I/D

THIS CONTRACT is entered into in the State of California by and between the County Service Area 70, Zone BL, hereinafter called the DISTRICT, and

Name
City of Rialto hereinafter called Rialto
Address
335 W. Rialto Avenue
Rialto, CA 92376
Telephone (909) 421 - 7279 Federal ID No. or Social Security No. On file

IT IS HEREBY AGREED AS FOLLOWS:

**EXTRATERRITORIAL AGREEMENT FOR WASTEWATER CONVEYANCE AND TREATMENT
BETWEEN THE CITY OF RIALTO
AND
COUNTY SERVICE AREA 70, ZONE BL**

This Extraterritorial Agreement (the "Agreement") is entered into this ____ day of December, 2013 ("Commencement date"), by and between the City of Rialto ("Rialto"), a municipal corporation of the State of California and County Service Area 70, Zone BL (Bloomington, herein referred to as "DISTRICT"), which are hereafter collectively referred to as the "Parties".

Auditor-Controller/Treasurer Tax Collector Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

RECITALS:

WHEREAS, DISTRICT is a public agency authorized to provide sewer service within its boundaries; and

WHEREAS Rialto is also a public agency authorized to provide sewer service within it's boundary; and

WHEREAS the County of San Bernardino, Economic Development Agency ("County") has entered into an agreement with respect to the development of a certain portion of land identified as APNs 0252-051-06, 0252-051-69, and 0252-051-70 (herein referred to as the "PROJECT"), and DISTRICT expects to enter into future sewer service agreements within the DISTRICT boundary ("Service Area"), a map of which is attached as Exhibit "A". The County will enter into a Development Agreement at a future date, which will be provided to Rialto at that time, and

WHEREAS, DISTRICT desires to and has committed to provide adequate sewer service to the PROJECT and desires to or will commit to provide sewer service to future development within its Service Area; and

WHEREAS, Rialto owns and operates a sewage treatment facility located at 501 East Santa Ana Avenue ("The Treatment Plant") and the sewer transmission line in Valley Boulevard, from Cedar Avenue to the Treatment Plant, and any and all related collection and/or transmission facilities used for the conveyance, treatment and disposal of sewage originating in Rialto's service area including extensions, expansions and replacements of any of the above hereinafter referred to as the "Rialto Disposal System," and

WHEREAS, other economical wastewater collection and treatment facilities in the DISTRICT's Service Area are not available and DISTRICT desires to connect to Rialto's Disposal System at the intersection of Valley Boulevard and Cedar Avenue for the general health, safety and welfare of the Service Area; and

WHEREAS, County and DISTRICT agree to construct the facilities, including a metering facility comprised of a 5-foot diameter manhole, parshal flume and sonic level indicator to measure and record the flows, necessary to connect to Rialto's Disposal System at DISTRICT's sole cost as approved by Rialto, including all road cuts, patching, design, permits and inspections; and

WHEREAS, Rialto has defined and established by Council Resolution a policy and administrative guidelines to provide for wastewater service outside the Rialto's corporate boundaries; and has agreed to provide wastewater conveyance, treatment and disposal services for wastewater originating from the Project and future wastewater originating from DISTRICT's Service Area on the terms and conditions contained herein; and

WHEREAS, by its approval of this Agreement, the City Council of the City of Rialto finds that the significant financial and physical benefits to be received by Rialto as provided herein, authorizes the provision of extraterritorial sewer services at a rate of 1.3 times the rates that are paid within the City limits; and

WHEREAS, in order to accommodate the conveyance, treatment and disposal of wastewater originating from the Project and future wastewater originating from the DISTRICT's Service Area, Rialto agrees to maintain the Rialto Disposal System and such related and/or additional facilities, up and unto the connection point at Cedar Avenue and Valley Boulevard, but excluding the metering facility, as may be necessary to adequately provide such service for Project and Service Area, and

WHEREAS, DISTRICT agrees that it will not, without the prior written consent of Rialto, allow connection of more than 419 equivalent dwelling units (EDUs), the current available capacity at the Treatment Plant, to deliver flow to the Rialto Disposal System during any period set forth above. Rialto shall continue to own, operate and maintain the Rialto Disposal System for the conveyance, treatment and disposal of Project and Service Area wastewater, and

WHEREAS, both DISTRICT and Rialto are self insured entities, and

WHEREAS, DISTRICT acknowledges that after the current available capacity at the Treatment Plant of 419 EDUs is exhausted, DISTRICT will need to finance and construct improvements to the Rialto Disposal System as required and approved by Rialto and/or its Agent to make additional capacity available, and

WHEREAS, DISTRICT agrees to make payments described herein with respect to wastewater from the Project and the DISTRICT Service Area discharged into the Rialto Disposal System at 1.3 times the monthly rates, in place at the time of issuance of either building permit or sewer connection permit and subject to rate increases by either the DISTRICT or Rialto, charged by Rialto to customers within Rialto, all on terms and conditions more fully set forth herein.

NOW THEREFORE, in consideration of the above and the terms and conditions contained herein, the parties hereto hereby agree as follows:

ARTICLE I, RIGHTS AND OBLIGATIONS:

Section 1.01 Recitals Incorporated: The recitals set forth above are true and correct and are hereby incorporated into and made a part of this agreement.

Section 1.02 Delivery and Receipt of Wastewater: At all times, except as may be restricted by unforeseeable emergencies, DISTRICT shall have the right (but not the obligation) to deliver an equivalent flow to the Rialto Disposal System as contributed by up to 419 EDUs, the current available capacity at the Treatment Plant, and Rialto shall have the obligation to receive all such wastewater into the Rialto Disposal System and to convey, treat and dispose of such wastewater. Payment to Rialto by DISTRICT shall be made based on the number of connections to the Rialto Disposal System and not the available capacity.

Section 1.03 Disposal of Project and Service Area Wastewater; Ownership and Reclamation of Effluent: The cost of constructing, expanding, extending, maintaining and operating the Rialto Disposal System and of conveying, treating and disposing of the aggregate Project and Service Area Wastewater (including without limitation any effluent or by-product thereof) after delivery of such Project and Service Area Wastewater, up to and including 419 EDU capacity, to the Rialto Disposal System shall be the responsibility solely of Rialto and DISTRICT shall have no responsibility for, and shall not be liable to Rialto or any third party for, any costs or other expenses incurred by Rialto in connection with or related thereto, other than payment of the Wastewater User Fees set forth herein, provided DISTRICT adopts

and enforces an acceptable Industrial Pretreatment Program and complies with all aspects of the Rialto Municipal Code and the State of California Codes and policies, incorporated herein by reference, as they relate to wastewater discharge for industrial and commercial customers.

Section 1.04 Ownership of Project and Service Area Wastewater: It is the intention and agreement of the parties that Rialto shall have total ownership and control of all aggregate Project and Service Area Wastewater delivered to the Rialto Disposal System. DISTRICT warrants that it shall ensure customers comply with all aspects of the DISTRICT's standards, policies and Rules and Regulations pertaining to discharges to the DISTRICT's public sewer system.

Section 1.05 Connection Point(s): DISTRICT agrees to construct, at its sole cost, and Rialto agrees to provide one (1) connection point to the Rialto Disposal System under the terms and conditions of this agreement. The proposed connection point is to an existing Rialto sewer manhole and 18-inch diameter pipeline stub located at the intersection of Valley Boulevard and Cedar Avenue. The connection point shall be extended to include the next upstream manhole (5-foot diameter), partial flume, sonic level indicator and flow recorder, and the interconnecting 18-inch diameter between the metering facility and the Rialto manhole that will receive the Project and DISTRICT wastewater flows. The costs to construct the connection point, including materials, labor, permits and inspection (both DISTRICT and Rialto), are solely the responsibility of the Project and the DISTRICT. Maintenance of the connection point and all related connectors in the Service Area shall be the responsibility of the DISTRICT, and Rialto shall not be liable to DISTRICT or any third party with respect thereto or maintenance thereof.

ARTICLE II, PAYMENTS FOR CONSTRUCTION OF FACILITIES TO THE RIALTO DISPOSAL SYSTEM

Section 2:01 Initial Special Service Availability Payment: In consideration of this agreement between Rialto and DISTRICT for Rialto to accept Project and DISTRICT Service Area Wastewater for conveyance, treatment and disposal, Rialto and DISTRICT agree that no Initial Special Service Availability payments are warranted, required or desired.

Section 2:02 Wastewater Treatment Capacity Payments: Within sixty (60) days following the issuance of the earlier of a building permit or a sewer connection permit with respect to any structure located or to be located in the DISTRICT Service Area, DISTRICT will have paid or will pay 1.3 times the Sewage Treatment Facilities Development Fee currently in effect and imposed on new development within Rialto on the date of issuance of such permit, subject to rate modifications by either the DISTRICT or Rialto.

Section 2.03 Permit Records: DISTRICT shall maintain records of all permits issued and fees collected by DISTRICT and will submit copies of such records to Rialto each month, together with any related payments due under the terms and conditions of this agreement.

Section 2.04 Calculation of Service Area Wastewater: The amount of Service Area Wastewater attributable to any structure within the Project or the DISTRICT Service Area delivered by the DISTRICT to the Rialto Disposal System shall be estimated by:

- (a) Except as set forth below, each single-family residence, condominium unit, apartment unit and mobile home or mobile home space within the Project and the Service Area shall be assumed to generate two hundred and seventy gallons per day (270 gpd), which amount shall constitute one EDU;

- (b) Each one bedroom, one bathroom residential unit shall be assumed to generate 0.8 EDU; and
- (c) The number of gallons attributable to commercial and/or industrial units shall be determined in accordance with the calculations set forth in Rialto's standards as amended periodically.

DISTRICT shall utilize the above requirements for estimating flows within the Service Area and for reporting to Rialto. DISTRICT Rules and Regulations shall be used for sizing of all facilities within the Service Area.

In the event that the actual monitored wastewater from the Project and Service Area, measured at the connection point metering facility, and delivered to the Rialto Disposal System substantially exceeds or is less than the estimated discharges so calculated, the parties agree to amend this Agreement in accordance with the terms and conditions of this agreement. The parties agree to amend the agreement to use the actual wastewater measured at the metering facility and to utilize an alternative method of calculating user discharges, which method shall be mutually agreeable to both Rialto and the DISTRICT.

ARTICLE III, WASTEWATER USER CHARGES

Section 3.01 Monthly Wastewater User Fees: After the Commencement date, DISTRICT shall collect from users of wastewater services within the PROJECT and Service Area and shall pay to Rialto within sixty (60) days after the conclusion of any month for the provisions of wastewater conveyance, treatment and disposal services a wastewater fee for that month calculated at a rate equal to 1.3 times the rate then charged by Rialto to its residential, industrial and commercial users, in accordance with chapter 12.08.200 of the Rialto Municipal Code, as the same may be amended from time to time. Such payments shall be in lieu of taxes, assessments and other charges imposed by Rialto for the provision of such services. DISTRICT shall pay for such use whether or not it collects from property owners or tenants in the Project or the DISTRICT Service Area.

Section 3.02 Rialto Not To Charge DISTRICT Users: DISTRICT may impose and collect wastewater user charges within the Service Area and, except as set forth herein, shall be entitled to retain, use and expend such charges for any lawful purpose. Rialto shall not impose nor seek to impose wastewater user charges within the DISTRICT Service Area, nor shall DISTRICT impose nor seek to impose wastewater user charges within the Rialto Service Area except as expressly stated in this Agreement, without the prior written consent of the other Party.

Section 3.03 Rate Changes and Notification: DISTRICT acknowledges Rialto's prior adoption of sewer rates pursuant to its Resolution No. 6119 adopted June 28, 2012, included herewith as Exhibit "B", which implements additional increases to its current sewer rates on January 1, 2014; January 1, 2015; January 1, 2016; and January 1, 2017; all of which are subject to annual adjustment every July 1 by the increase in the Consumer Price Index as indicated in its Resolution No. 6119. DISTRICT shall provide legal notification of Rialto's adopted sewer rate increases, and any future sewer rate increases adopted by Rialto, to its rate payers. Rialto shall provide DISTRICT with notification of any planned rate increase at least thirty (30) days prior to its adoption. DISTRICT shall be responsible to notify its rate payers in accordance with the Proposition 218 notification requirements and deadlines. Should Proposition 218 protests from DISTRICT's rate payers overturn any of Rialto's future adopted sewer rate increases, DISTRICT shall retain responsibility to pay Rialto monthly wastewater user fees pursuant to Section 3.01

and in accordance with Rialto's adopted sewer rates, including any increase differential which may not be implemented by DISTRICT to its rate payers pursuant to a Proposition 218 protest.

ARTICLE IV, MONITORING OF SERVICE AREA WASTEWATER

Section 4.01 Pre-Treatment Program, Quality Specifications and Standards: DISTRICT shall, solely at its cost and expense, maintain and enforce a pretreatment program for the DISTRICT Service Area wastewater. Rialto shall have the right to monitor or restrict the discharge of any individual user located within the Service Area as if the user was located in Rialto if it suspects or discovers the user has discharged prohibited substances, as described in the Rialto Municipal Code, into the Rialto Disposal System or violated other provisions of said Code. Rialto may, at its option, allow discharge to resume with the installation and proper maintenance of an approved pretreatment device or system.

ARTICLE V, MISCELLANEOUS

Section 5.01 Term of Agreement: This Agreement shall remain in effect in perpetuity or until such time as both Parties agree, in writing, to revise or repeal this Agreement as set forth herein.

Section 5.02 Termination: Either Party may terminate this Agreement upon sixty (60) days written notice to the other Party following the review period as noted herein, in the event DISTRICT is able to provide an alternative source of treatment for the PROJECT and the Service Area. The request shall be given a sixty (60) day review period prior to submission to the respective governing bodies for approval. In no case shall service be interrupted by any Party to this Agreement for ninety (90) days following the original notification. No other termination of this Agreement shall be effective for any purpose.

Section 5.03 Amendment: No amendment or waiver of any provisions of this Agreement or consent to any departure from its terms shall be effective unless the same shall be in writing and signed by the parties hereto. Any Party desiring to change or otherwise amend the Agreement must submit a written request to the other Party. The request shall be given a sixty (60) day review period prior to submission to the respective governing bodies for approval.

Section 5.04 Assignment: No Party may assign or transfer its rights or obligations under this Agreement without the express written consent of the other Party. This Agreement shall inure to the benefit of, and be binding upon, the lawful successors in interest and permitted assign of each Party.

Section 5.05 Effective Date: This Agreement shall become effective when the agreement has been duly executed by both Parties hereto, and shall be binding upon the heirs, assigns and successors of the Parties.

Section 5.06 Amendment, Etc.: No amendment or waiver of any provisions of this Agreement or consent to any departure from its terms shall be effective unless the same shall be in writing and signed by the parties hereto.

Section 5.07 Notices: All notices and other communications provided for hereunder shall be in writing addressed to the Parties as noted below:

County Service Area 70, Zone BL
ATTN: Director
157 West Fifth Street, Second Floor
San Bernardino, CA 92415-0450

City of Rialto
ATTN: City Administrator
150 South Palm Avenue
Rialto, CA 92376

Section 5.06 Indemnification: DISTRICT agrees to indemnify, defend, save and hold harmless Rialto, it's authorized agents, officers, and employees from and against all liability, claims, damages, losses and expense of any nature whatsoever, including but not limited to bodily injury, death, personal injury, property damages and attorney's fees, arising directly or indirectly from any acts or omissions of such indemnifying Party or its officers, agents or employees in connection with this agreement.

Section 5.07 Indemnification: Rialto agrees to indemnify, defend, save and hold harmless DISTRICT, it's authorized agents, officers, and employees from and against all liability, claims, damages, losses and expense of any nature whatsoever, including but not limited to bodily injury, death, personal injury, property damages and attorney's fees, arising directly or indirectly from any acts or omissions of such indemnifying Party or its officers, agents or employees in connection with this agreement.

Section 5.08 Sewer Rate Increase Litigation: If DISTRICT's customers challenge a rate increase for sewer services as a result of increases to Rialto's costs for providing services pursuant to this Agreement, and Rialto is sued as a result, DISTRICT will defend Rialto at the DISTRICT's own cost.

Section 5.09 Dispute Resolution: In the event a dispute arises out of this Agreement between the parties, the parties must engage in dispute resolution as a condition precedent to the enforcement of any rights under this Agreement or the law, including but not limited to, the filing of any litigation. The parties must first engage in good faith negotiations to end the dispute. The dispute must be submitted within 60 days of when it arises to the City Administrator for Rialto and the County Chief Executive Officer for the DISTRICT. These individuals shall have 60 days to resolve the dispute. If the dispute is not resolved within that time frame, the parties must request mediation within fifteen days. The parties shall agree upon a mediator who shall conduct mediation within 90 days. The mediation shall consist of a minimum of four hours, to be conducted when and as agreed upon by the parties, so long as the mediation is completed within 30 days of commencement. If the mediation is unsuccessful, neither party may file litigation until 30 days after the completion of the mediation. Failure to satisfy this condition precedent of prelitigation dispute resolution shall result in the forfeiture of any attorneys' fees and any costs that could otherwise be awarded in any subsequently filed litigation.

Section 5.10 Attorneys' Fees: In the event of any litigation between the parties arising from this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred including staff time, court costs and reasonable attorneys' fees. In the event of a no-adjudicative settlement of litigation between the parties or a resolution of a dispute by arbitration should the parties agree to engage in arbitration, the term "prevailing party" shall be determined by the conductor(s) of the proceedings in accordance with the standards of California Civil Code 1717 and 1021. If the parties resolve the litigation on their own, then each party shall bear its own costs and attorneys' fees.

Section 5.11 Binding Effect: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns, except that no Party hereto shall have the right to assign or transfer, hereunder or interest herein without the prior written consent of the other Party. Any such attempted assignment shall be void and of no force and effect, and no such assignee or transferee shall acquire any right or interest by reason of such attempted assignment or transfer.

Auditor-Controller/Treasurer Tax Collector Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

Section 5.12 Entire Agreement: This writing constitutes the entire Agreement between the Parties with respect to the subject matter hereof, and supersedes all oral or written representations or written agreements, which may have been entered into between the Parties prior to the execution of this Agreement.

Section 5.13 Counterparts: This Agreement may be executed in counterparts, each of which shall be an original and all of which when taken together shall constitute one and the same instrument.

Section 5.14 Partial Invalidity: The invalidity of any provision of this agreement will not affect the validity of the remainder hereof.

Section 5.15 Time of Essence: Time is of the essence in the fulfillment by the Parties hereto of their obligations under this Agreement.

Section 5.16 Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth above.

CITY OF RIALTO, CALIFORNIA

By _____
Deborah Robertson
Mayor

ATTEST:

By _____
Barbara McGee
City Clerk

COUNTY SERVICE AREA 70, ZONE BL

► _____
Janice Rutherford, Chair, Board of Supervisors

Dated: _____

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

Laura H. Welch
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

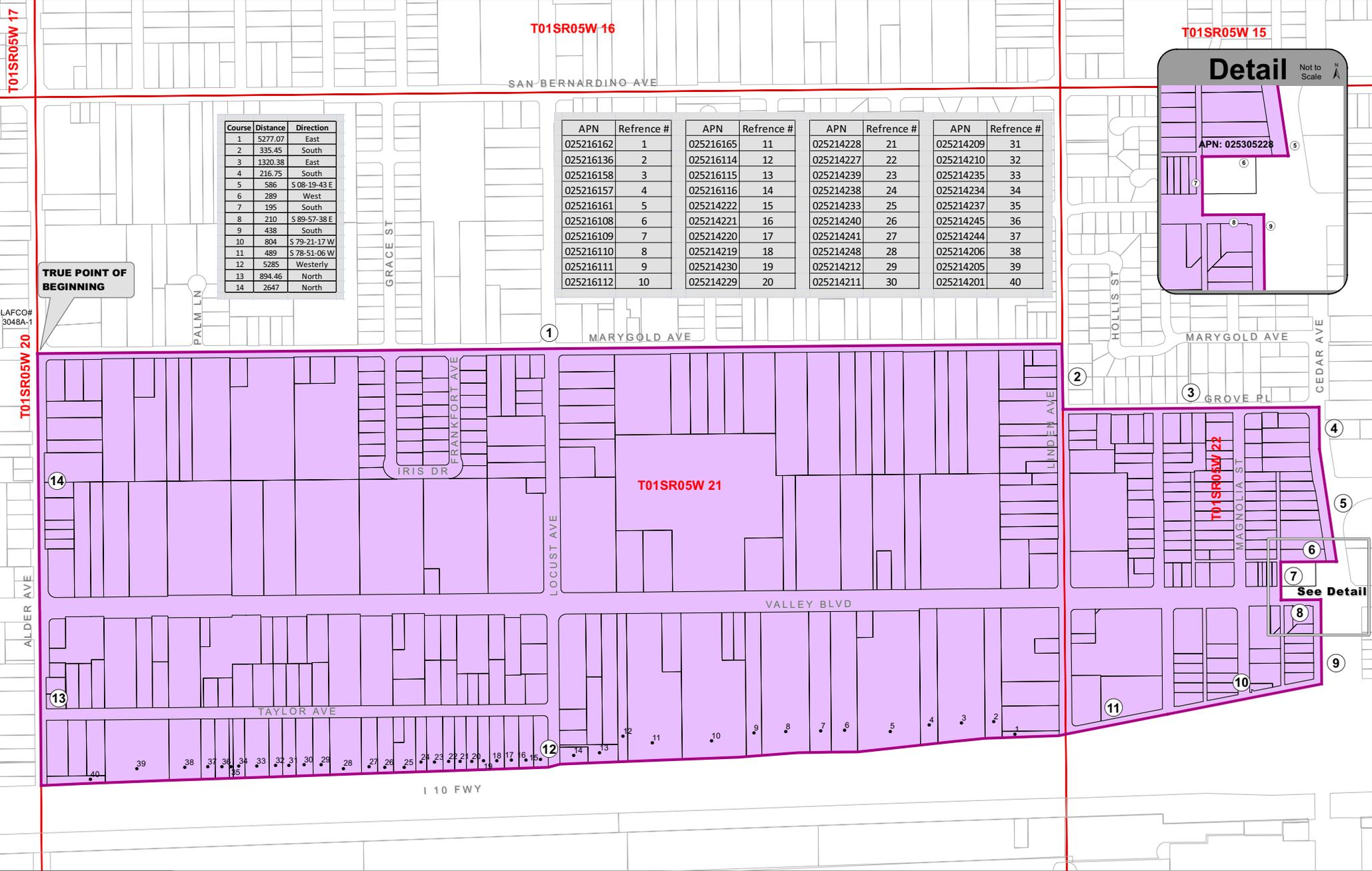
APPROVED AS TO FORM:

By _____
Jimmy L. Gutierrez
City Attorney

RECOMMENDED:

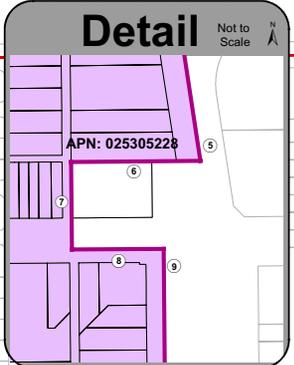
By _____
Marcus L. Fuller
Public Works Director/City Engineer

Approved as to Legal Form	Reviewed by Contract Compliance	Presented to BOS for Signature
► _____ County Counsel Dawn M. Messer	► _____ James A. Oravets	► _____ Department Head Jeffrey O. Rigney
Date _____	Date _____	Date _____



Course	Distance	Direction
1	5277.07	East
2	335.45	South
3	1320.38	East
4	216.75	South
5	586	S 08-19-43 E
6	289	West
7	195	South
8	210	S 89-57-38 E
9	438	South
10	804	S 79-21-17 W
11	489	S 78-51-06 W
12	5285	Westerly
13	894.46	North
14	2647	North

APN	Reference #						
025216162	1	025216165	11	025214228	21	025214209	31
025216136	2	025216114	12	025214227	22	025214210	32
025216158	3	025216115	13	025214239	23	025214235	33
025216157	4	025216116	14	025214238	24	025214234	34
025216161	5	025214222	15	025214233	25	025214237	35
025216108	6	025214221	16	025214240	26	025214245	36
025216109	7	025214220	17	025214241	27	025214244	37
025216110	8	025214219	18	025214248	28	025214206	38
025216111	9	025214230	19	025214212	29	025214205	39
025216112	10	025214229	20	025214211	30	025214201	40



TRUE POINT OF BEGINNING

LAFCO# 3048A-1

T01SR05W 20

ALDER AVE

T01SR05W 16

T01SR05W 15

T01SR05W 21

T01SR05W 22

COUNTY SERVICE AREA 70, ZONE BL

Those portions of Section 21 and 22, Township 1 South, Range 5 West, S.B.M., in the unincorporated territory of the County of San Bernardino, State of California.

- Parcel Index Number
- Ⓢ Course Number
- ▭ CSA 70 Zone BL - Containing 305.3 Acres, More or Less
- ▭ Parcels
- ▭ Section Lines



Revised 11/12/2013
THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION

Ryan S. Hunsicker 11/12/13
 Ryan S. Hunsicker Date
 Deputy County Surveyor
 PLS 8302 Exp. 12/31/2013
 Job Number 00128CPO

COUNTY SERVICE AREA 70, ZONE BL

Those portions of Section 21 and 22, Township 1 South, Range 5 West, S.B.M., in the unincorporated territory of the County of San Bernardino, State of California, lying within the following described boundary:

Beginning at a point being the centerline intersection of Alder Avenue and Marygold Avenue, said intersection also being a point on the west line of said Section 21, said Township and Range and also being a point on the east boundary of the existing City of Fontana, per Annexation No. 168, Island 4, LAFCO 3048A-1;

1. Thence Leaving said west line and said existing City boundary, following along said centerline of Marygold Avenue East a distance of 5277.07 feet, more or less to the centerline intersection of Linden Avenue, said point also being a point on the west line of said Section 22, said Township and Range;
2. Thence along said centerline of said Linden Avenue and said west line, South a distance of 335.45 feet, more or less to the centerline intersection of Grove Place;
3. Thence leaving said west line and along said centerline of Grove Place, East a distance of 1320.38 feet, more or less to the centerline intersection of Cedar Avenue;
4. Thence along said centerline of Cedar Avenue, South a distance of 216.75 feet, more or less to an angle point in said centerline;
5. Thence continuing along said centerline, South $8^{\circ} 19' 43''$ East a distance of 586 feet, more or less to the easterly prolongation of that parcel of land described in Grant Deed to HHI San Bernardino in Doc # 2010-0200734, Official Records of said County;
6. Thence West along said easterly prolongation and the north line of said Grant Deed a distance of 289 feet, more or less to the northwest corner of said Deed;
7. Thence South along the west line of said Grand Deed and its southerly prolongation a distance of 195 feet, more or less to the original centerline of Valley Boulevard, as shown on Parcel Map No. 14988, PMB 182 pages 94 to 95, records of said County;
8. Thence along said original centerline of Valley Boulevard, South $89^{\circ} 57' 38''$ East a distance of 210 feet, more or less to the centerline of Cedar Avenue to the south;
9. Thence along said centerline of Cedar Avenue, South a distance of 438 feet, more or less to the northerly right-of-way of Interstate Highway 10;
10. Thence leaving said Cedar Avenue and along said northerly right-of-way, South $79^{\circ} 21' 17''$ West a distance of 804 feet, more or less to an angle point;

COUNTY SERVICE AREA 70, ZONE BL

11. Thence continuing along said northerly right-of-way, South 78° 51' 06" West a distance of 489 feet, more or less to the centerline of Linden Avenue, as shown on Record of Survey Book 122/8-21, records of said County;
12. Thence continuing along said northerly right-of-way, Westerly along its various courses a distance of 5285 feet, more or less to the centerline of Alder Avenue, as shown on said Record of Survey Book 122/8-21, said point also being a point on the West Line of Section 21, said Township and Range and being a point on said existing boundary of the City of Fontana per Annexation No. 168, Island 26, LAFCO 3048A-3;
13. Thence leaving said northerly right-of-way of Interstate Highway 10 and along said centerline of Alder Avenue, said West Line of Section 21 and said existing City boundary, North a distance of 894.64 feet, more or less to said original centerline of Valley Boulevard;
14. Thence continuing along said centerline of Alder Avenue, said Section Line and said existing boundary, North a distance of 1326.48 feet, more or less to the centerline of Marygold Avenue, being the **Point of Beginning**;

Containing 305.3 Acres, more or less.

Revised 11/07/2013

This legal description was prepared by me or under my direction.

 11/12/13

Ryan S. Hunsicker Date
Deputy County Surveyor

PLS 8302, Expiration; December 31, 2013



1 **WHEREAS**, a properly noticed public hearing concerning the proposed rates and charges set forth in
2 this Resolution was held on June 12, 2012, as required by law; and

3
4 **WHEREAS**, written protests regarding the revised schedule for water and sewer rates and charges were
5 accepted from the public and considered before the close of the public hearing; and

6
7 **WHEREAS**, a tally of the written protests against the revised schedule of water and sewer rates and
8 charges shows that less than a majority of the property owners have submitted written protests against
9 the revised schedule of water and sewer rates and charges;

10
11 **NOW, THEREFORE**, it is hereby **ORDERED** and **DETERMINED**, as follows:

12 Section 1. The foregoing recitals are true and correct and the City Council hereby so finds and
13 determines.

14 Section 2. Effective January 1, 2013, water and sewer rates and charges are increased and
15 established in the amounts as set forth in the "Water Rates" and "Sewer Rates" attached hereto and
16 incorporated by reference as Exhibit A and Exhibit B, respectively.

17 Section 3. Effective January 1, 2013, the City will offer *Low Income* and *Senior Citizen* Discount
18 programs that will provide for a 20% discount on the flat rate sewer rate and base water rate as noted in
19 Exhibit A and Exhibit B respectively. The *Low Income* discount program is applicable to all households
20 in the respective service area who can effectively demonstrate that the total household income of the
21 property represented is equal to or lower than the "Low Income" levels as set annually by the Housing
22 and Urban Development department for the County of San Bernardino. Annual confirmation of
23 household income is required to remain in the program. Non-compliance with the annual application
24 process is cause for suspension or disqualification from the program. The *Senior Citizen* Discount
25 program requires that the account holder of the utility account be at age 65 or older at the time of the
26 application for the program. There is no annual qualification required for the Senior Citizen Discount
27 program. The Council reserves the right to amend, augment, limit or suspend the discount programs at
28 any time.

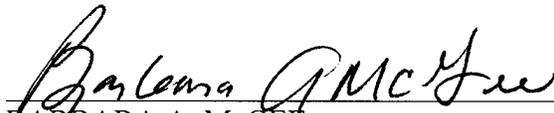
1 Section 4. Effective January 1, 2013, the delinquency penalty percentage shall increase from
2 1.5% to 10%.

3 Section 5. This Resolution shall take effect from and after the date of its passage and adoption.

4
5 ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk this 26th day of
6 June, 2012.

7
8 
9 GRACE VARGAS
10 Mayor of the City of Rialto

11 ATTEST:

12 
13 BARBARA A. MCGEE
14 City Clerk of the City of Rialto

15
16
17 APPROVED AS TO FORM:

18 
19
20 JIMMY GUTIERREZ
21 City Attorney of the City of Rialto

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)

4 I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
5 Resolution No. 6119 was duly passed and adopted at a regular meeting of the City Council of the City of
6 Rialto held on the 26th day of June, 2012.

7 Upon motion of Council Member Scott, seconded by Council Member Robertson, the foregoing
8 Resolution No. 6119 was duly passed and adopted.

9 Vote on the motion:

10 AYES: Mayor Vargas, Council Members: Robertson, Scott, Palmer

11 NOES: Council Member Baca Jr.

12 ABSENT: None

13 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
14 Rialto this 28th day of June, 2012.

15
16
17 
18 BARBARA A. MCGEE, CITY CLERK

EXHIBIT A

WATER RATES

Line	Water Rate Component	Current	1/1/2013	1/1/2014	1/1/2015	1/1/2016	1/1/2017	Unit
1	Monthly Minimum Charge							
2	<u>Single Family Residences, Multiple Family Connections, Commercial, Landscape, and Industrial Service Customers</u>							
3	1/2" & 5/8" meter	\$12.00	\$16.26	\$21.59	\$28.24	\$29.57	\$29.57	per month
4	3/4" meter	12.00	16.26	21.59	28.24	29.57	29.57	per month
5	1" meter	17.36	23.52	31.24	40.86	42.78	42.78	per month
6	1 1/2" meter	20.92	28.35	37.64	49.24	51.55	51.55	per month
7	2" meter	60.16	81.52	108.25	141.60	148.25	148.25	per month
8	3" meter	127.95	173.37	230.24	301.15	315.31	315.31	per month
9	4" meter	217.13	294.21	390.71	511.05	535.07	535.07	per month
10	6" meter	449.02	608.42	807.98	1,056.84	1,106.52	1,106.52	per month
11	8" meter	645.23	874.29	1,161.05	1,518.66	1,590.03	1,590.03	per month
12	Fire Hydrant Water	127.95	173.37	230.24	301.15	315.31	315.31	per month
13								
14	Volume Charge for Monthly Consumption							
15	<u>All Customers Except those Noted Below</u>							
16	1 - 5 Units	\$0.428	\$0.58	\$0.77	\$1.01	\$1.05	\$1.05	per HCF
17	6 - 30 Units	\$0.674	0.91	1.21	1.59	1.66	1.66	per HCF
18	31 - 60 Units	\$1.069	1.45	1.92	2.52	2.63	2.63	per HCF
19	61 - Over units	\$1.315	1.78	2.37	3.10	3.24	3.24	per HCF
20	<u>Multiple Apartments</u>							
21	Over 49 Units and Mobile Homes	\$0.949	\$1.29	\$1.71	\$2.23	\$2.34	\$2.34	per HCF
22	<u>Landscape</u>							
23	1 to 30 Units	\$1.069	\$1.45	\$1.92	\$2.52	\$2.63	\$2.63	per HCF
24	31 and over units	\$1.315	1.78	2.37	3.10	3.24	3.24	per HCF
25								
26	Fireline							
27	Rate	\$11.010	\$14.92	\$19.81	\$25.91	\$27.13	\$27.13	per inch of line
28	Hydrant							
29	Rate	\$1.320	\$1.79	\$2.38	\$3.11	\$3.25	\$3.25	per HCF
30	Per Day	\$4.265	\$5.78	\$7.67	\$10.04	\$10.51	\$10.51	per day

*Fees shall be adjusted annually every January 1st by the increase in the Consumer Price Index ("CPI") for "All Urban Wage Earners and Clerical Workers" (West urban) category as published by Bureau of Labor Statistics in October of each year. Provided, however, any inflation adjustment shall not exceed the cost of providing the service. Such automatic increases shall not exceed five years.

(Line 14-24) The "Volume Charge for Monthly Consumption" of the water rate recovers costs of purchasing water and the cost of pumping water from our local basins, increased electricity, chemical and natural gas costs and the cost of complying with new Federal and/or State regulations and mandates. The adjustment rate is calculated annually and becomes effective the first day of October. The adjustment charge does not necessarily change annually. It is based on the costs described above for the previous 12 months. Such automatic adjustments shall not exceed five years."

NOTE: notices of any adjustments shall be given pursuant to subdivision (a) of Section 53755, not less than 30 days before the effective date of the adjustment.

Delinquency Rate – Effective January 1, 2013, the existing delinquency rate will be adjusted to 10% of the delinquent amount of the bill charged monthly.

Senior Citizen Discount Program – Effective January 1, 2013, residential customers age 65 and over qualify for a 20% discount on the "Monthly Minimum Charge." Qualifying residents must present the proof of age, residence and a copy of the bill to apply for the program. The discount will apply to all charges applied after the date of application. Applications are available upon request. The discount is not applicable to commercial or industrial customers. The City Council reserves the right to change, augment, modify or eliminate this program at any time.

Low Income Discount Program – Effective January 1, 2013, households who have incomes at or below the Low Income Limits (80% of Median Income) as published annually by the U.S. Department of Housing and Urban Development (HUD) for San Bernardino County qualify for a 20% discount on the "Monthly Minimum Charge." Customers must present proof of identification, proof of income (Rialto Utility Authority, or its designee, reserves the right to request any necessary information to determine the income for the purpose of program acceptance), proof of residence, and a copy of a current bill to apply for the program. Applications are available upon request. The discount is not applicable to commercial or industrial customers. The City Council reserves the right to change, augment, modify or eliminate this program at any time.

EXHIBIT B

SEWER RATES

Customer Type	Current	1/1/2013	1/1/2014	1/1/2015	1/1/2016	1/1/2017	Unit
Group I (1)							
Residential	\$25.97	\$32.46	\$40.58	\$50.72	\$60.19	\$60.19	per month
Residential X 3	77.91	97.39	121.73	152.17	180.56	180.56	per month
Residential PS	27.26	34.08	42.59	53.24	63.18	63.18	per month
Residential Multi.	25.97	32.46	40.58	50.72	60.19	60.19	per month per unit
Group II (1)							
Commercial	\$2.83	\$3.54	\$4.42	\$5.53	\$6.56	\$6.56	per HCF
(includes - Softwater Service, Car Wash, Office Buildings, Cleaners, Department/Retail Stores, Warehouse, Car lots, Equipment Rental, Storage Units, Hospitals, Manufacturing, Indoor Theater, Day Care, Pre School, Disabled Care, Nail/Hair Salon, Church)							
Group III (1)							
Commercial	\$3.33	\$4.16	\$5.20	\$6.50	\$7.72	\$7.72	per HCF
(includes - Hotels /Motels (no restaurant), repair and Service Station, Shopping Center, Recreation Park, Nursery/Florist, Manufacturing - Non-Domestic, Lumber Yard, Nightclub, Bar, Hall)							
Group IV (1)							
Commercial	\$4.25	\$5.31	\$6.64	\$8.30	\$9.85	\$9.85	per HCF
(includes - Hotels /Motels (w/restaurants), Bakeries, Dairy, Supermarkets, Dairy, Meat Market, Mom & Pop, Mortuary, Restaurants, Fast Food, Catering)							
Group V (1)							
Schools -							
Elementary	\$0.36	\$0.45	\$0.56	\$0.70	\$0.83	\$0.83	Per month per student
Junior High	0.85	1.06	1.33	1.66	1.97	1.97	Per month per student
High	0.85	1.06	1.33	1.66	1.97	1.97	Per month per student
Continuation	0.36	0.45	0.56	0.70	0.83	0.83	Per month per student
Adult Education	0.36	0.45	0.56	0.70	0.83	0.83	Per month per student
Group VI (1)							
Large Volume	\$2.83	\$3.54	\$4.42	\$5.53	\$6.56	\$6.56	per HCF
Hospital	2.83	3.54	4.42	5.53	6.56	6.56	per HCF
Commercial Building	2.83	3.54	4.42	5.53	6.56	6.56	per HCF

*Fees shall be adjusted annually every July 1st by the increase in the Consumer Price Index ("CPI") for "All Urban Wage Earners and Clerical Workers" (West urban) category as published by Bureau of Labor Statistics in April of each year. Provided, however, any inflation adjustment shall not exceed the cost of providing the service. Such automatic increases shall not exceed five years. NOTE: notices of any adjustments shall be given pursuant to subdivision (a) of Section 53755, not less than 30 days before the effective date of the adjustment.

The sewer rate recovers costs of treatment of the wastewater, increased electricity, chemical and natural gas costs and the cost of complying with new Federal and/or State regulations and mandates. The adjustment rate is calculated annually and becomes effective the first day of July of each year. The adjustment charge does not necessarily change annually. It is based on the costs described above for the previous 12 months. Such automatic adjustments shall not exceed five years."

Delinquency Rate – Effective January 1, 2013, the existing delinquency rate will be adjusted to 10% of the delinquent amount of the bill charged monthly.

Senior Citizen Discount Program – Effective January 1, 2013, customers age 65 and over qualify for a 20% discount on the "Total Sewer Flat Rate." Qualifying residents must present their proof of age, residence and a copy of their most current bill to apply for the program. The discount will apply to all charges applied after the date of application. Applications are available upon request. For multi-family units the discount can only apply to the units where the qualifying Senior Citizen resides. The discount is applicable for residential customers only. The City Council reserves the right to change, augment, modify or eliminate this program at any time.

Low Income Discount Program – Effective January 1, 2013, households who have incomes at or below the Low Income Limits (80% of Median Income) as published annually by the U.S. Department of Housing and Urban Development (HUD) for San Bernardino County qualify for a 20% discount on the "Total Sewer Flat Rate." Customers must present proof of identification, proof of income (Rialto Utility Authority, or its designee, reserves the right to request any necessary information to determine the income for the purpose of program acceptance), proof of residence, and a copy of a current bill to apply for the program. Applications are available upon request. For multi-family units the discount can only apply to the units where the low income applicants reside. The discount is applicable for residential customers only. The City Council reserves the right to change, augment, modify or eliminate this program at any time.

**December 17, 2013 Board of Supervisors
Agenda Item Approving Planned
Development Permit and Tentative Tract
Development for 190 Unit Affordable
Housing Project**

Attachment 4

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

110

December 17, 2013

**FROM: TOM HUDSON, Director
Land Use Services Department**

**DENA FUENTES, Director
Community Development and Housing Department**

**SUBJECT: PLANNED DEVELOPMENT PERMIT TO ESTABLISH A 190-UNIT
AFFORDABLE HOUSING DEVELOPMENT WITH 13,993 SQUARE FEET TO BE
UTILIZED AS A COMMUNITY LIBRARY AND COMMUNITY CENTER, AND
TENTATIVE PARCEL MAP 19470 TO CREATE TWO PARCELS ON 9 ACRES**

RECOMMENDATION(S)

1. Conduct a public hearing to consider approval of the Bloomington Planned Development Project.
2. Adopt the Mitigated Negative Declaration, pursuant to the California Environmental Policy Act (CEQA), and a Finding of No Significant Impact pursuant to the National Environmental Policy Act (NEPA), for the Bloomington Planned Development Project, based on a finding that the joint Initial Study/Environmental Assessment was completed in compliance with CEQA and NEPA, and that it has been reviewed and considered prior to approval of the Project, and that it reflects the independent judgment of the County of San Bernardino.
3. Adopt the Findings as recommended by the Planning Commission.
4. Approve the Preliminary and Final Development Plans for the Bloomington Planned Development Project subject to the conditions of approval.
5. Approve Tentative Parcel map 19470 subject to the conditions of approval.
6. File a Notice of Determination.

(Presenter: Terri Rahhal, Planning Director, 387-4110)

BOARD OF SUPERVISORS COUNTY GOALS AND OBJECTIVES

Implement the Countywide Vision for Our Future.

Create, Maintain and Grow Jobs and Economic Value in the County.

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

FINANCIAL IMPACT

Approval of this item will not result in Net County Cost (Discretionary General Funding). The Community Development and Housing Department (CDH) is fully funding this project through federal and County Housing Trust Fund sources.

**PLANNED DEVELOPMENT PERMIT TO ESTABLISH A 190-UNIT
AFFORDABLE HOUSING DEVELOPMENT WITH 13,993 SQUARE FEET
TO BE UTILIZED AS A COMMUNITY LIBRARY AND COMMUNITY
CENTER, AND TENTATIVE PARCEL MAP 19470 TO CREATE TWO
PARCELS ON 9 ACRES
DECEMBER 17, 2013
PAGE 2 OF 3**

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BACKGROUND INFORMATION

Approval of this item will authorize development of a mixed-use planned development project, including 190 residential units, a community library and community center space on a nine-acre site in the community of Bloomington. CDH acquired the property located near the corner of Valley Boulevard and Locust Avenue. On February 26, 2013 the Board of Supervisors approved the selection of the Bloomington I Housing Partners, L.P., through a Request for Qualification process, to develop an affordable mixed-generational housing and library development. The Board also authorized the Developer and CDH to enter into a predevelopment loan agreement for pre-development costs associated with studies, planning, and engineering necessary for County Entitlements for the project.

Project Description: The applicant is requesting approval of a Planned Development Permit, including Preliminary and Final Development Plans, to construct a 190-unit multi-family development for low- and very low-income households in and a Tentative Parcel Map to subdivide the property into two parcels. The proposed project would have 70 units marketed for seniors, 120 family units and a 6,950 square foot regional library and additional community-benefit space, which would include medical and counseling facilities. The project is 100% affordable, with 30% of the units being made available to very-low income households.

The project is proposed to be built in two phases. Phase one would consist of the 70 units for seniors which would include 11 Mental Health Services Act (MHSA) units, and the library. The 70 senior units, the library, the 2,200 square foot senior community space, and a leasing office would all be housed in a single building at the site's southeast quadrant, along Valley Boulevard. The senior housing would include one and two-bedroom townhomes, as well as one-bedroom apartment units above the library space. Phase one would also include 36 family units and 2,625 square foot community space and classroom building which would be housed in eight buildings located at the site's northeast quadrant of the project. The family housing is proposed in two-story buildings containing two-bedroom townhomes and in three-story buildings containing two-bedroom, two-story townhomes over three-bedroom stacked flats. The common open spaces, including pool, tot lots, and patio/seating areas are proposed within family areas; but would be accessible to all residents. Phase two would consist of the remaining 84 family units, and located along the westerly portion of the site. Vehicular access to the project site would be provided along Valley Boulevard, via a signalized full-access central main entry driveway, and two secondary exit-only driveways, at the eastern and western boundaries of the site.

Planning Commission: The Planning Commission conducted a hearing on November 21, 2013, and recommended approval of the Project with a vote of 5-0. At the hearing, there were no public comments.

**PLANNED DEVELOPMENT PERMIT TO ESTABLISH A 190-UNIT
AFFORDABLE HOUSING DEVELOPMENT WITH 13,993 SQUARE FEET
TO BE UTILIZED AS A COMMUNITY LIBRARY AND COMMUNITY
CENTER, AND TENTATIVE PARCEL MAP 19470 TO CREATE TWO
PARCELS ON 9 ACRES
DECEMBER 17, 2013
PAGE 3 OF 3**

110

Comment Letters: Prior to the Planning Commission hearing, the Land Use Services Department received three comment letters in response to the public circulation of the joint Initial Study/Environmental Assessment document. Comment letter number one was received from the State Clearinghouse and Planning Unit from the Governor's Office of Planning and Research, on September 20, 2013, acknowledging the close of review period for the environmental document. Comment letter number two was received from the South Coast Air Quality Management District on September 19, 2013. Comment letter three was received from Caltrans-District 8 office, on September 30, 2013. Staff responded to the comments received in comment letters two and three and presented the responses to the Planning Commission on November 21, 2013. These letters, along with staff's responses, are attached to the Planning Commission Staff Report.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bart Brizzee, Principal Assistant County Counsel, 387-5455) on November 25, 2013; Community Development and Housing (Gary Hallen, Deputy Director, 387-4391) on December 2, 2013; Finance (Jessica Brown, Administrative Analyst, 387-4919) on November 25, 2013; and County Finance and Administration (Mary Jane Olhasso, Assistant Executive Officer, 387-4599) on December 3, 2013.



**LAND USE SERVICES DEPARTMENT
PLANNING DIVISION
PLANNING COMMISSION STAFF REPORT**



HEARING DATE: November 21, 2013

AGENDA ITEM # 3

Project Description

APN: **0252-051-06, 0252-051-69, & 0252-051-70**
 APPLICANT: RELATED CALIFORNIA/BLOOMINGTON HOUSING PARTNERS, LP
 COMMUNITY: BLOOMINGTON/FIFTH SUPERVISORIAL DISTRICT
 LOCATION: NORTH SIDE OF VALLEY APPROXIMATELY 300 FEET WEST OF LOCUST AVE.
 PROJECT NO: P201300295
 STAFF: DAVE PRUSCH
 REP(S): WITHEE MALCOM ARCHITECTS
 PROPOSAL: PLANNED DEVELOPMENT PERMIT TO ESTABLISH A 190-UNIT AFFORDABLE HOUSING DEVELOPMENT AND 13,993 SQUARE FEET TO BE UTILIZED AS A COMMUNITY LIBRARY AND COMMUNITY CENTER, AND TENTATIVE PARCEL 19470 MAP TO CREATE TWO PARCELS ON 9.00 ACRES.



85 Hearing Notices Sent On: November 5, 2013
 P.C. Field Inspection Date: November 19, 2013

Report Prepared By: Dave Prusch
 Field Inspected By: Commissioner Mathews

SITE INFORMATION:

Project Size: 9.00 Acres
Terrain: Flat
Vegetation: Ruderal plant community

SURROUNDING LAND DESCRIPTION:

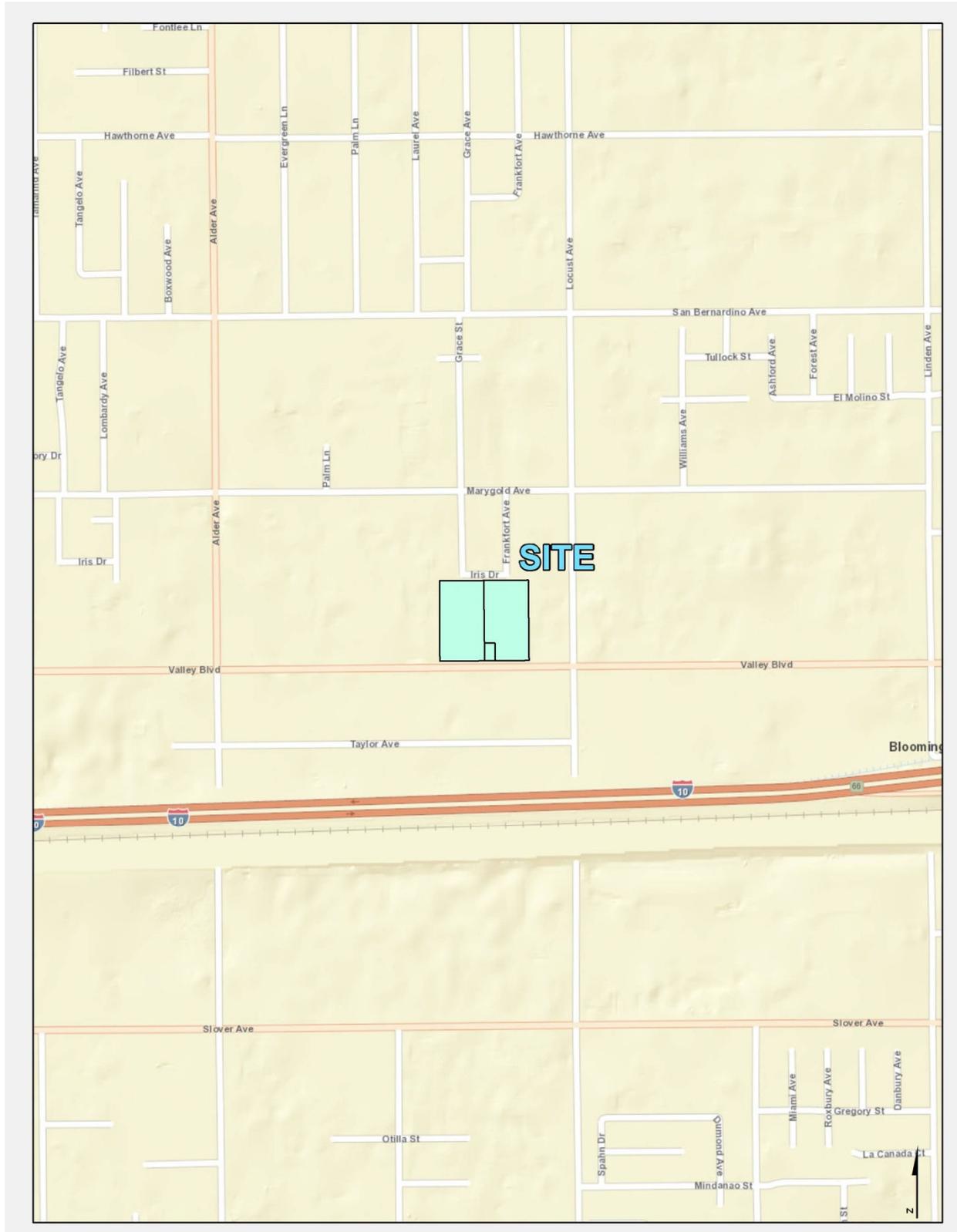
AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT
SITE	Vacant	Bloomington Community Plan –Service Commercial (BL/CS)
North	Iris Drive and a single-family residential subdivision	Bloomington Community Plan - Residential (BL/RS)
South	Valley Boulevard, commercial and industrial uses, and vacant land	Bloomington Community Plan CS-Service Commercial (BL/CS)
East	Commercial and industrial uses	Bloomington Community Plan –Service Commercial (BL/CS)
West	Single-family residential uses and vacant land	Bloomington Community Plan - Service Commercial (BL/CS) CS

	<u>AGENCY</u>	<u>COMMENT</u>
City Sphere of Influence:	Rialto	No Comments Received
Water Service:	Fontana Water Company	Will Serve Letter Received
Sewer Service:	CSA-70 BL (Bloomington)	Will Serve Letter Received

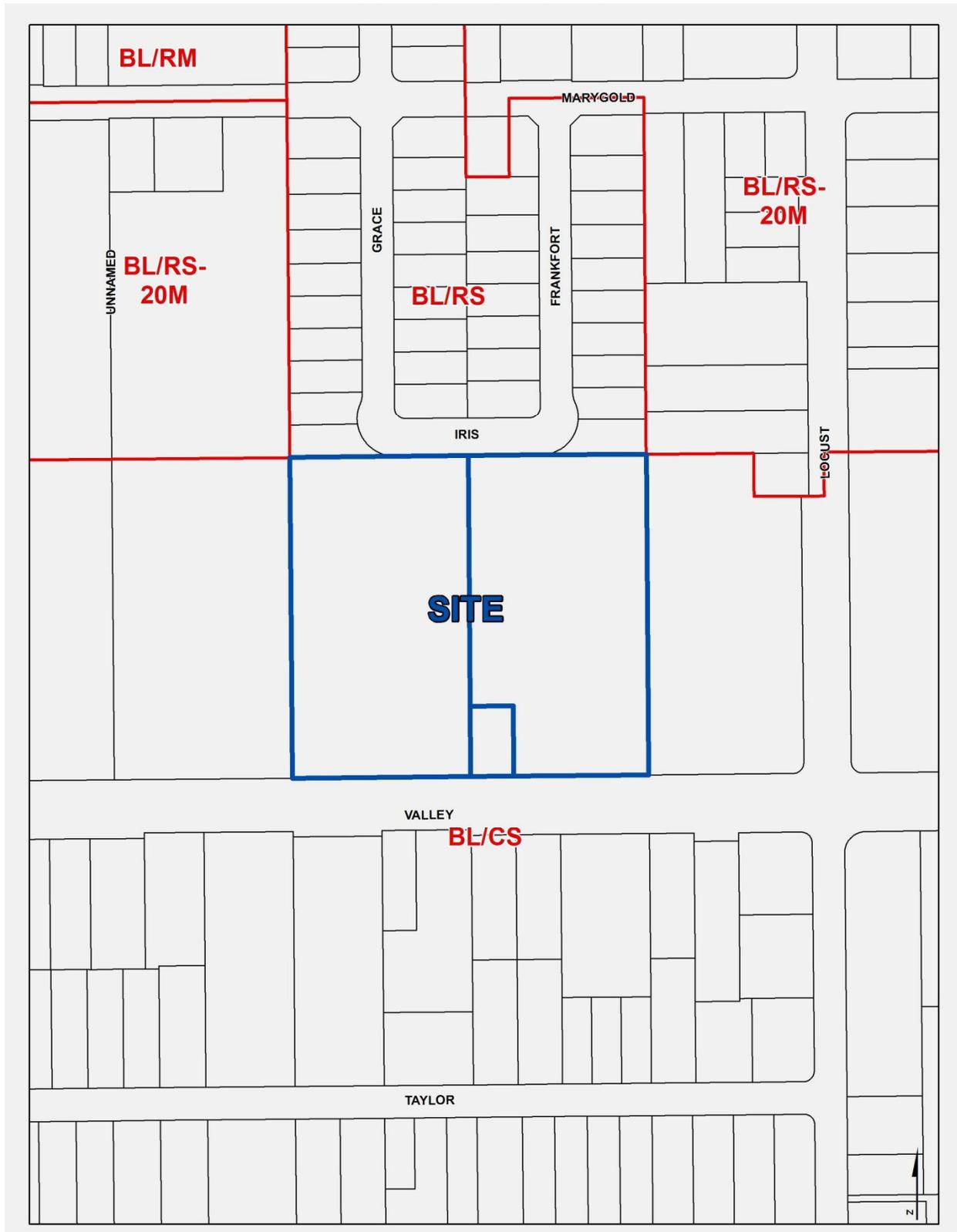
STAFF RECOMMENDATION: That the Planning Commission **Recommend** that the Board of Supervisors **APPROVE** the Planned Development Permit and Tentative Parcel Map 19470.

This project shall be referred to the Board of Supervisors for final action. Therefore, the recommendations of the Planning Commission will not be the final action and cannot be appealed to the Board.

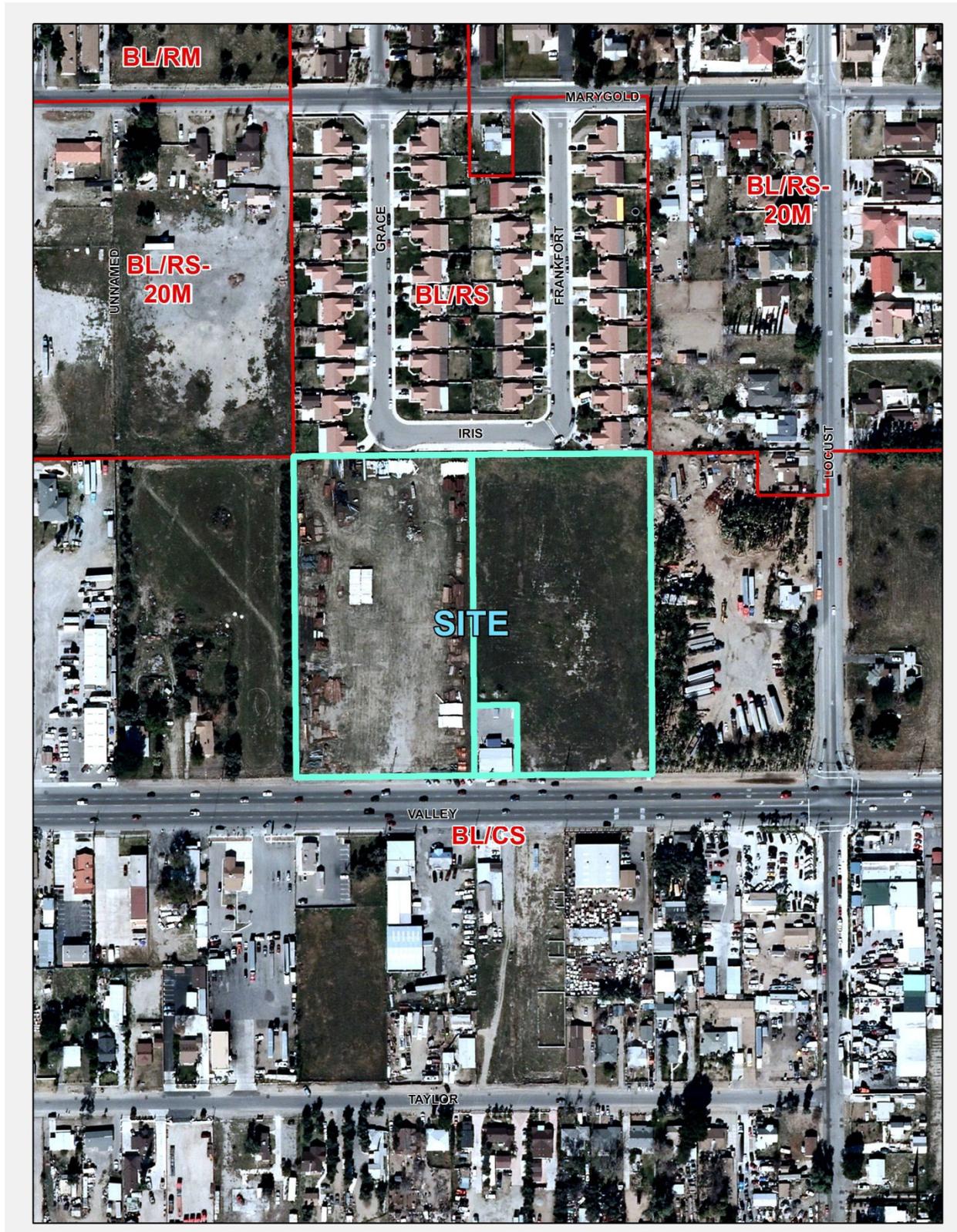
VICINITY MAP



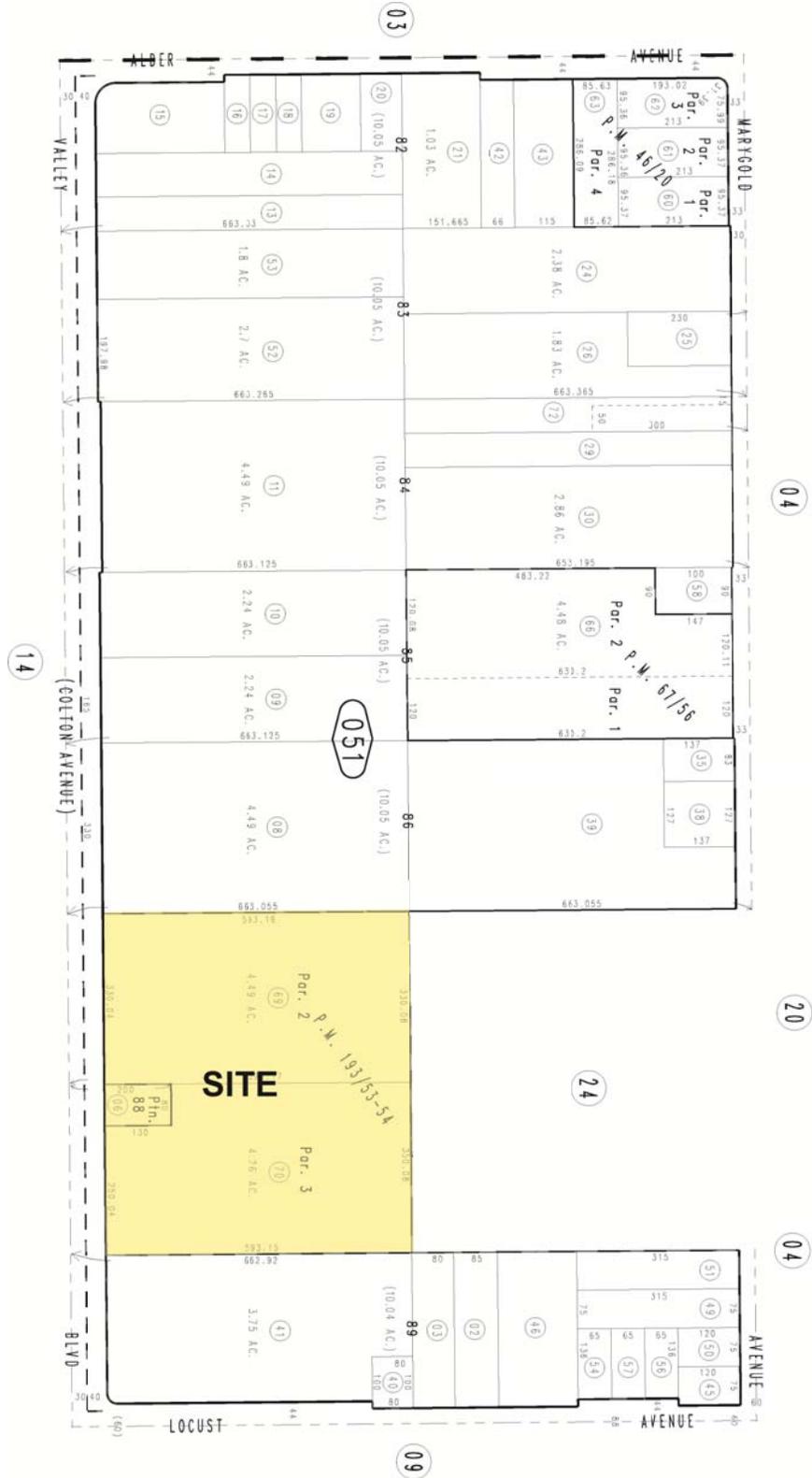
LAND USE ZONING DISTRICT MAP



**AERIAL
MAP**



ASSESSOR'S PARCEL MAP



SITE PHOTOS

View looking northeast from Valley Boulevard



View looking west along Valley Boulevard

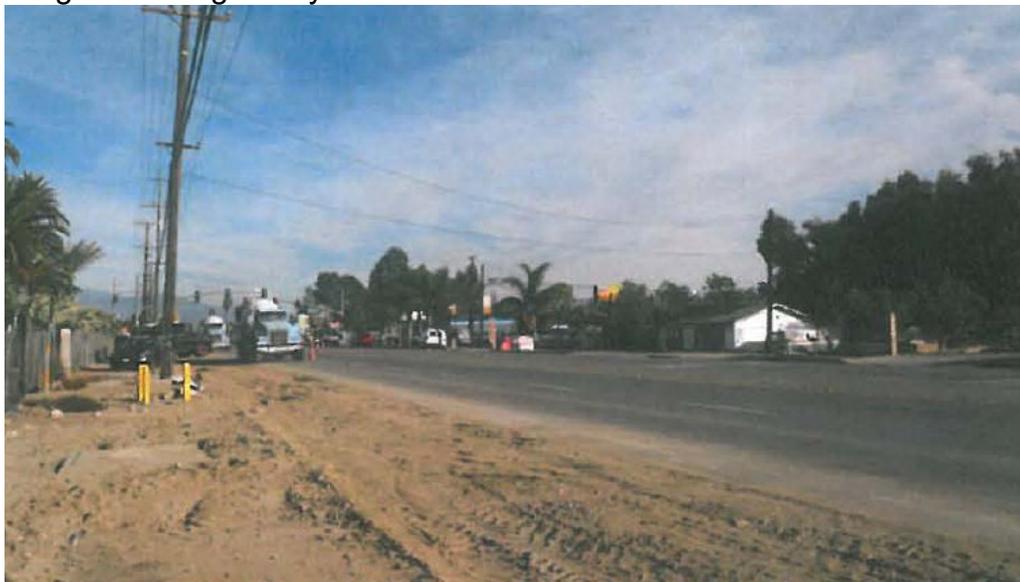


SITE PHOTOS (cont.)

View looking south from Valley Boulevard



View looking east along Valley Boulevard



BACKGROUND

The Community Development and Housing Department (CDH) owns approximately nine (9) acres of real property located near the corner of Valley Boulevard and Locust Avenue in an unincorporated area of the Community of Bloomington. On February 26, 2013 the Board of Supervisors approved the selection of the Bloomington I Housing Partners, L.P. (Developer), through a Request for Qualifications process, to develop an affordable mixed-generational housing and library development (Project). The Board also authorized the Developer and CDH to enter into a pre-development loan agreement for pre-development costs associated with studies, planning, and engineering necessary for County entitlements for the Project. The applicant is requesting approval of a Preliminary and Final Planned Development Permit to construct a 190-unit multi-family development for low- and very low-income households and a Tentative Parcel Map to subdivide the property into two parcels. The proposed Project would have 70 units for seniors, 120 family units, a 6,950 square foot regional library, and community-benefit space, which would include medical and counseling facilities.

The Project is proposed to be built in two phases. Phase one would consist of the 70 units for seniors which would include 11 Mental Health Services Act (MHSA) units, and the library. The 70 senior units, the library, the 2,200 square foot senior community space, and a leasing office would all be housed in a single building in the site's southeast quadrant along Valley Boulevard. The senior housing would include one and two-bedroom townhomes, as well as one-bedroom apartment units above the library space. Phase one would also include 36 family units and a 2,625 square foot community space and classroom building which would be housed in eight buildings located in the northeast quadrant of the Project site. The family housing is proposed in two-story buildings containing two-bedroom townhomes and in three-story buildings containing two-bedroom, two-story townhomes over three-bedroom stacked flats. The common open spaces, including pool, tot lots, and patio/seating areas are proposed within family areas; but would be accessible to all residents. Phase two would consist of the remaining 84 family units located along the westerly portion of the site. Vehicular access to the Project site would be provided along Valley Boulevard, via a signalized full-access central main entry driveway, and two secondary exit-only driveways, at the eastern and western boundaries of the site.

ANALYSIS

The proposed Project requires a Planned Development Permit (PDP), pursuant to County of San Bernardino Development Code (Development Code) Chapters 84.18 and 85.10. The PDP allows flexibility in the application of Development Code standards. In addition, the Project also qualifies for various affordable housing incentives and density bonuses (Development Code Chapter 83.03) that allow the Project to be economically feasible and increase the density above what is allowed. The proposed development is also within the Bloomington Community Plan Area; therefore, is subject to the goals and policies identified in the Bloomington Community Plan as well as the General Plan.

Planned Development Permit. The underlying zoning designation for the site is BL/CS which generally allows for commercial uses and only allows for residential uses as part of a mixed use project with a Planned Development Permit (PDP). In addition, the library use would typically require a Conditional Use Permit; however, may be permitted through a PDP. There is no maximum density in the CS zone; however, as part of the PDP the Planning Commission may make recommendations for the Board of Supervisors to adopt development standards as part of the PDP. The applicant is requesting a proposed density of 21 units per acre. The proposed

density is slightly higher than the allowable density in a Multiple Residential (RM) zone which would allow 20 units per acre. The proposed Project has 42% open space, which exceeds the 40% open space requirement per the Planned Development Standards.

Amenities. The Project would have community rooms for the senior and the family portions of the Project, which would program specific activities for the populations they would be serving. Additional amenities include two tot lots, laundry facilities, barbeque areas, community gardens and a large common pool area. There are pedestrian paths integral to the Project leading the residents to the various amenities and parking areas. The entire site is fenced and the residential areas are gated. The proposed setback to the rear of the Project has been increased to 62 feet due to the proximity of the single family homes to the north. In addition, there are only two story buildings proposed in the rear of the site, all of the three story buildings are within the central and front portions of the site.

Services. In order to provide adequate services to the site, the Project is conditioned to build an eighteen inch sewer line from the Project site east to an existing sewer line in the City of Rialto. The County of San Bernardino Special Districts Department will be requesting that the Board of Supervisors create a new zone, designated BL (Bloomington) for the existing County Service Area 70, which is a special district that provides various services throughout the County. The sewer line will be constructed to serve this Project site, as well as other properties in the area, and will connect to the wastewater disposal system of the City of Rialto. Special Districts has issued a will serve letter for sewer service for this Project.

The Project will have water service provided by the Fontana Water Company, a private water company which provides service in this area of the County and adjacent cities of Fontana, Rialto, Rancho Cucamonga and Ontario. Fontana Water Company has issued a "Will Serve" letter for the Project. There is an existing water line in Valley Boulevard; however, it needs to be upsized. The Fontana Water company is currently working on plans for these improvements and the Project is conditioned to pay its fair share toward these improvements. Although these improvements are necessary for the proposed Project, this also creates an economic incentive for property owners to develop their properties along Valley Boulevard. Other proposed offsite improvements include: storm drain, a traffic signal at the main entry, natural gas, electricity, CATV, and phone.

Parking. Mixed use projects having residential uses are allowed within the CS zone through the PDP approval and parking standards may be established by the PDP. The Project would provide a total of 364 parking spaces, including 307 spaces for the residents and 57 for the library and visitor spaces. Parking for the residents is proposed within carports that would extend along the northern, eastern, and western site perimeters. Guest and library parking would be provided adjacent to the main entrance. The residential portion of the Project would be parked at ratio of 1.0 space per one-bedroom units and 2.0 spaces per two- and three-bedroom units, which is consistent with the parking standards identified in Development Code 83.03.050. In addition, there would be 57 parking spaces for the library. Staff recommends this as adequate due to the fact that there would be a bus stop directly in front of the library and many of the patrons of the library would be students riding bicycles and school buses.

Community Outreach. In order to ensure that constituents of the Community of Bloomington was aware of the proposed Project, two community meetings were held. The first meeting was held at the Gerald Smith Elementary School. At this meeting the proposed Project was described and a variety of architectural styles were presented. There was a "dot" exercise for attendees to place dots on the architecture style that they preferred for the Project, and the Mediterranean style received the majority of the dots. The second community meeting was an

event at the Truth Tabernacle Church, which is a very large property to the north of the site. A large Community event was held so attendees could learn about the proposed Project, the new community Library and several other services that are provided by the County. Several departments from the County attended, including Department of Behavior Health, Fire, Transitional Assistance Department, Pre-school services, Workforce Development, Child Support and Aging and Adult Services. Refreshments, entertainment, and prizes were provided to the attendees. The County estimates that there were approximately 500 people in attendance at this event. Community reaction to the Project was favorable.

Affordable Housing Incentives and Concessions. The proposed Project is 100% affordable with 30% of the units being made available to very low income households; therefore, the Project would be eligible for three incentives or concessions that are allowed under the County Development Code. Incentives or concessions are typically reduced development standards or other regulatory incentives that result in actual cost reductions. There are numerous changes proposed to the Energy Code over the next couple years. Due to the timing for the developer to submit for Tax Credit Financing, they need to submit construction drawings before the end of 2013. If the developer does not obtain the building permit within 180 days, the Project would be subject to the new Energy Code requirements that would result in an increase cost of \$10,000 per unit (over \$1M for phase 1). Therefore, the applicant is requesting a concession from the County's local building code ordinance to allow the Building Official the discretion to grant extensions to building plan approvals, consistent with the state Building Code template.

Green Building Project Amenities. The Project also includes photovoltaic converters on some of the carport roofs to reduce greenhouse gases and offset some of the operating expenses. Bus service is available to the Project, provided by Omnitrans. The nearest existing bus stop to the site is located approximately 0.1-mile east of the site, along the northerly side of Valley Boulevard. The Project applicant is coordinating with Omnitrans to determine the feasibility of potentially establishing a new and/or relocated bus stop immediately south of the Project site along Valley Boulevard.

Project Phasing. The Project will be constructed in two phases, with two parcels being created with a Tentative Parcel Map application, which is being processed concurrently with the Planned Development Permit application. Parcel two will be developed first, with parcel one being developed subsequently. In addition to the two parcels which are being proposed, parcel number two will also include a condominium plan for the purpose of creating a separate legal entity for the library. This condominium plan is being created for financing purposes and liability issues only.

CEQA and NEPA. The Project required not only preparation of an Initial Study, pursuant to CEQA requirements, but also an Environmental Assessment, pursuant to the National Environmental Policy Act (NEPA). A NEPA analysis is required because there is federal funding that is being used to finance the housing Project. Based upon the analysis for the proposed Project as designed with specific mitigation measures, the Project would not result in a significant impact on the quality of the human environment. Therefore a Mitigated Negative Declaration has been prepared pursuant to CEQA requirements. With respect to NEPA requirements, a Finding of No Significant Impact (FONSI) is being proposed for CDH compliance with federal funding requirements administered by HUD. Following is a brief summary of key issues analyzed in the joint IS/EA document:

Aesthetics: The proposed Project will include landscaping around the entire perimeter of the site and will incorporate the design guidelines found in Chapter 83.10 Landscape Standards of

the Development Code. The architectural design of the Project includes a Mediterranean style with articulated massing and a varied mix of building scale that provides an aesthetically appealing skyline. Building materials and exterior color themes include a mix of contemporary earth tones that are complementary to surrounding development. The main entrance to the library will be off of Valley Boulevard and will be accentuated by light blue tiles which will be illuminated from the interior. The library will also have a turret style element which will prominently feature the Bloomington Branch Library and it will also be illuminated. Trees and shrubs in the conceptual landscape plan will accentuate the primary entrance into the Project and throughout the Project providing visual character to the Project.

Traffic: A Traffic Impact Analysis was prepared for this Project by RBF Consulting on June 21, 2013, and revised August 30, 2012. The Traffic Impact Analysis evaluated the potential traffic and circulation improvements required to mitigate impacts and maintain satisfactory levels of service. The Project is estimated to generate a total of approximately 2,135 trip-ends per day on a typical weekday, with approximately 164 a.m. peak hour trips and 199 p.m. peak hour trips. The analysis provides baseline information for the existing year (2013) and forecast year (2015) analysis of conditions, including ambient growth and cumulative development, with and without Project traffic.

The study area for the analysis, including eight (8) existing and future intersections, was determined in cooperation with the County, the City of Rialto and Caltrans. Impacts on each intersection were analyzed based on the analysis methodology and level of service criteria of the agency with jurisdiction over the subject intersection. The traffic analysis identifies off-site improvements required to mitigate impacts on the study area intersections and assigns a fair-share contribution to the cost of the improvements, proportional to the Project's contribution to projected traffic in each intersection. A regional transportation system fee program is in place to fund certain improvements in the study area. This Project will be subject to the regional fee, which will mitigate Project impacts on the fee program facilities.

Air Quality: The Project air quality analysis shows that short-term and long-term emissions from the Project will not exceed the South Coast Air Quality Management District (SCAQMD) established significance thresholds and the impact is considered less than significant with mitigation measures incorporated. The Project provides a residential land use in close proximity to existing commercial development and further promotes a mixed use atmosphere which will reduce trips and vehicle miles traveled. A dust control plan will be required as a mitigation measure to regulate short-term construction activities that could create windblown dust.

Greenhouse Gasses: The County's Greenhouse Gas Emissions Reduction Plan (GHG Plan) was adopted on December 6, 2011 and became effective on January 6, 2012. The GHG Plan establishes a GHG emissions reduction target for the year 2020 that is 15 percent below 2007 emissions. The Plan is consistent with AB 32 and sets the County on a path to achieve more substantial long-term reductions in the post-2020 period. Achieving this level of emissions will ensure that the contribution to greenhouse gas emissions from activities covered by the GHG Plan will not be cumulatively considerable.

The Project GHG analysis used the Screening Tables in the County's GHG Plan. The purpose of the Screening Tables is to provide guidance in measuring the reduction of GHG emissions attributable to certain design and construction measures incorporated into development projects. The analysis and methodology is based upon the GHG Plan, which includes GHG emission inventories, a year 2020 emission reduction target and, the goals and policies to reach the County's emissions reduction target. Projects that garner 100 points using the Screening

Tables would provide the “fair share” contribution of reductions and are considered consistent with the GHG Plan. The GHG Screening Table depicts which performance standards the Project would meet in order to exceed the minimum requirement of 100 points.

The Project includes design features that would reduce Project related GHG emissions. The Project would exceed Title 24 and California Green Building Code requirements by 15 percent. The Project also proposes to install energy efficient lighting throughout the site and photovoltaic converters on the library/Senior housing structure and senior carport roofs. Drought tolerant landscaping, drip irrigation, and low impact development would also be incorporated into the Project design. Recycling bins would be provided throughout the site. The proposed Project would achieve 113 points on the County’s Screening Tables; therefore, the Project’s GHG emissions would be less than significant.

CEQA/NEPA Public Review: On August 21, 2013 the Land Use Services Department sent out the Notice of Availability (NOA) and Notice of Intent (NOI) to adopt a Mitigated Negative Declaration. The Initial Study was also sent to the State Clearing House for circulation. The comment period began on August 21, 2013, which initiated the 30 day review and availability of the Initial Study document. As of the closing date of the comment period, September 19, 2013, a few comment letters have been received and will be provided to the Planning Commission, with staff recommendations/responses at the Planning Commission meeting.

RECOMMENDATION: That the Planning Commission **RECOMMEND** to the Board of Supervisors that the following actions be taken:

- 1) **ADOPT** the Mitigated Negative Declaration pursuant to CEQA requirements and a Finding of No Significant Impact pursuant to the National Environmental Policy Act (NEPA), based on a finding that the joint Initial Study/Environmental Assessment was completed in compliance with CEQA and NEPA, that it has been reviewed and considered prior to approval of the Project, and that the Initial Study/Mitigated Negative Declaration and Environmental Assessment/Finding of No Significant Impact reflects the independent judgment of the County of San Bernardino;
- 2) **APPROVE** Planned Development Permit to establish a 190-unit affordable housing development and 13,993 square feet to be utilized as a community library and community center, and tentative parcel 19470 map to create two parcels on 9.00 acres.
- 3) **APPROVE** Tentative Parcel Map 19470 subject to the conditions of approval; and
- 4) **FILE** the Notice of Determination.

ATTACHMENTS:

- | | |
|------------|---|
| Exhibit A: | Findings |
| Exhibit B: | Conditions of Approval-Planned Development and Tentative Parcel Map |
| Exhibit C: | Initial Study/Environmental Assessment Document |
| Exhibit D: | Responses to Comments |
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CONDITIONS OF APPROVAL

Planned Development Permit (PDP) **Bloomington Housing Project** **GENERAL REQUIREMENTS-FOR ALL PHASES** Conditions of Operation and Procedures

LAND USE SERVICES/ Planning (909) 387-8311

1. **Project Approval Description.** This Planned Development (PD) is approved to be constructed and operated in compliance with the San Bernardino County Code (SBCC), the following conditions of approval, the approved site plan, Preliminary Development Plan, Final Development Plan and any other required and approved reports and/or displays (e.g. elevations). This project includes a Preliminary and Final Development Plan for a 190 unit Multi-Family Residential project that includes 13,993 square feet to be utilized as a County branch library and community center. The Project site is 9 acres in size and is located on the north side of Valley Boulevard between Locust and Alder Avenues in the Community of Bloomington. The project APN is: 0252-051-06, 69 and 70. The project number is P201300295.
 - a) Project signs shall comply with SBCC Chapter 83.13.
 - b) Project landscaping shall comply with SBCC Chapter 83.10
 - c) On-site parking shall comply with the approved Preliminary Development Plan.
 - d) Project construction shall comply with all applicable construction codes including the California Building Codes (CBC) and Uniform Fire Code (UFC).
2. This project is eligible for bonus density, incentives, or concessions, pursuant to Sections 83.03.040 (b) (1) and 83.040 (c) (3), which provide for concessions to be granted in the form of relief from local regulations other than the Development Code. The locally-adopted administrative section of the building code regarding expiration of building plans approvals is a local regulation. The County may grant concessions to an affordable housing project by allowing the Building Official the discretion to grant extension to building plan approvals, consistent with the State Building Code template.
3. **“Developer” Defined.** The term “developer” as used in these conditions of approval for this project and for any development of this project site, includes all of the following: the applicant, the property owner and any lessee, tenant or sub-tenant, operator and/or any other agent or other interested party of the subject project and/or project site and/or any heir or any other successor in interest in the project site or project land use by sale or by lease of all or of a portion of the project site or project land uses and/or any other right given to conduct any land use in any or all of the project structures or any area on the project site.

Effective Date: TBD
Expiration Date: TBD

4. Revisions. Any proposed change to the approved use/activity on the site (e.g. from warehouse to manufacturing); or any increase in the developed area of the site or any expansion or modification to the approved facilities, including changes to structures building locations, elevations, signs, parking allocation, landscaping, lighting, allowable number of occupants (clients and/or employees); or a proposed change in the conditions of approval, including operational restrictions from those shown either on the approved site plan and/or in the conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Planning for review and approval obtained.
5. Continuous Effect/Revocation. All of the conditions of this project are continuously in effect throughout the operative life of the project for the use approved. Failure of the property owner, tenant, applicant, developer or any operator (herein "developer") to comply with any or all of the conditions at any time may result in a public hearing and revocation of the approved land use, provided adequate notice, time and opportunity is provided to the property owner or other party to correct the non-complying situation.
6. Expiration. This project permit approval shall expire and become void if it is not "exercised" within three (3) years of the effective date of this approval, unless an extension of time is approved. The permit is deemed "exercised" when either:
 - a) The permittee has commenced actual construction or alteration under a validly issued building permit, or
 - b) The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060)Occupancy of completed structures and operation of the approved and exercised land use remains valid continuously for the life of the project and the approval runs with the land, unless one of the following occurs:
 - a) Construction permits for all or part of the project are not issued or the construction permits expire before the structure is completed and the final inspection is approved.
 - b) The land use is determined by the County to be abandoned or non-conforming.
 - c) The land use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination.

PLEASE NOTE: This will be the **ONLY** notice given of the approval expiration date. The "developer" is responsible to initiate any Extension of Time application.
7. Extension of Time. Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may

be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)

8. Development Impact Fees. Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.
9. Indemnification. In compliance with SBCC §81.01.070, the developer shall agree, to defend, indemnify, and hold harmless the County or its "indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval.

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

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

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

10. Project Account. The Job Costing System (JCS) account number is P201300295. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works and County Counsel). Upon notice, the "developer" shall deposit additional funds to maintain or return the account to a positive balance. The "developer" is responsible for all expenses charged to this account.

Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$1000.00 shall be in the project account at the time of project approval and the initiation of the Condition Compliance Review. Sufficient funds shall remain in the account to cover all estimated charges that may be made during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and/or operation of each approved use in each approved structure or land use activity area. There shall be sufficient funds (\$500.00) remaining in the account to properly fund file closure and any other required post-occupancy compliance review and inspection requirements (e.g. landscape performance).

11. NOD/MND/CDFG Fees. The California Environmental Quality Act (CEQA) requires that an environmental determination be prepared for this project. County staff completed an environmental initial study for this project and circulated it for review. A Mitigated Negative Declaration (MND) will be issued indicating that all identified impacts were found to be mitigated below a level of significance. A Notice of Determination (NOD) of this finding is required to be filed with a fee (currently \$50). The California Department of Fish and Game (CDFG) requires that an additional fee (currently \$2,156.25) be paid with the NOD filing, unless CDFG issues a determination of "No Biological Effect". The combined fees (\$2,206.25) are required to be paid to the Clerk of the Board with the NOD filing, and the project approval does not become effective until these fees are paid and the filing is posted.
12. Condition Compliance. In order to obtain construction permits for grading, or any new building, final inspection, the developer shall process a Condition Compliance Release Form (CCRF) for each respective building and/or phase of the development through County Planning in accordance with the directions stated in the Approval letter. County Planning shall release their holds on each phase of development by providing to County Building and Safety the following:
 - a) Grading Permits - a copy of the signed CCRF for grading/land disturbance and two "red" stamped and signed approved copies of the grading plans.
 - b) Building Permits - a copy of the signed CCRF for building permits and three "red" stamped and signed approved copies of the final approved site plan.
 - c) Final Inspection - a copy of the signed CCRF for final inspection of each respective building, after an on-site compliance inspection by County Planning.
13. Additional Permits. The property owner, developer, and land use operator are all responsible to ascertain and comply with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies as are applicable to the development and operation of the approved land use and project site. These include:
 - a) State of California: Regional Water Quality Control Board (RWQCB)

- b) County of San Bernardino: Land Use Services - Code Enforcement; Building and Safety, Public Health-Environmental Health Services, Special Districts, Public Works. County Fire, and
 - c) Local: Local Agency Formation Commission (LAFCO),
14. Continuous Maintenance. The property owner and “developer” shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The “developer” shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to:
- a) Annual maintenance and repair inspections shall be conducted for all structures, fencing/walls, walks, parking lots, driveways, and signs to assure proper structural, electrical and mechanical safety and a properly operating irrigation system.
 - b) Graffiti and debris shall be removed immediately with weekly maintenance.
 - c) Landscaping shall be maintained in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated, it shall be done in a manner designed to conserve water, minimizing aerial spraying.
 - d) Erosion control measures shall be maintained to reduce water run off, siltation, and promote slope stability.
 - e) Architectural controls shall be enforced by the property owner to maintain compatibility of theme, materials, unfaded colors, building mass, size and height.
 - f) Signage. All on-site signs, including posted area signs (e.g. “No Trespassing”) shall be maintained in a clean readable condition at all times and all graffiti and vandalism shall be removed and repaired on a regular weekly basis. Signs on the site shall be of the size and general location as shown on the approved site plan or an approved sign plan.
 - g) Parking and on-site circulation requirements, including surfaces, all markings and traffic/directional signs shall be maintained in an unfaded condition as identified on the approved site plan. Any modification to parking and access layout requires County review and approval. The markings and signs shall be clearly defined and legible. These include parking spaces, disabled space and access path of travel, directional designations and signs, stop signs, pedestrian crossing, speed humps “No Parking” “carpool” and “Fire Lane” designations.
 - h) Garage Parking Spaces. All garage (enclosed) parking spaces shall be provided with automatic garage door openers and shall at all times remain clear and uncluttered so as to accommodate the parking of vehicles.
15. Performance Standards. The approved land uses shall operate in compliance with the general performance standards listed in the County Development Code Chapter 83.01, regarding air quality, electrical disturbance, fire hazards (storage of flammable or other hazardous materials), heat, noise, vibration and the disposal of liquid waste. In addition to these, none of the following shall be

perceptible without instruments at any point outside the project boundaries at adjoining property lines:

- a) Odors: No offensive or objectionable odor
- b) Emissions: No emission of dirt, dust, fly ash, and other forms of particulate matter.
- c) Smoke: No smoke from any project source shall be emitted of a greater density than that described in No. 2 on the Ringelmann Chart (as published currently by the United States Bureau of Mines)
- d) Radiation: No dangerous amount of radioactive emissions.
- e) Toxic Gases: No emission of toxic, noxious or corrosive fumes of gases.
- f) Glare: No intense glare that is not effectively screened from view at any point outside the project boundary.

16. Lighting. The glare from any luminous source, including on-site lighting shall not exceed one-half (0.5) foot-candle at property line. All lighting shall be limited to that necessary for maintenance activities and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign alternating no more than once every five seconds.

17. Clear Sight Triangle. Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic.

18. Underground Utilities. There shall be no new above ground power or communication lines extended to the site. All new utilities shall be placed underground in a manner, which avoids disturbing any existing/natural vegetation or the site appearance. Existing utilities on Valley Boulevard frontage shall also be placed underground in coordination with the utility provider.

LAND USE SERVICES/ Code Enforcement (909) 387-4044

19. Enforcement. If any County agency is required to enforce compliance with the conditions of approval, the property owner and "developer" shall be charged for such enforcement activities in accordance with the County Code Schedule of Fees. Failure to comply with these conditions of approval or the approved site plan design required for this project approval shall be enforceable against the property owner and "developer" (by both criminal and civil procedures) as provided by the San Bernardino County Code, Title 8 - Development Code; Division 6 - Administration, Chapter 86.09 - Enforcement.

PUBLIC HEALTH/ Environmental Health Services (DEHS) (909) 387-4666

20. Noise. Noise level shall be maintained at or below County Development Code Standards, Section 83.01.080. For information, please call DEHS at 909-387-4666.
21. Refuse Storage/Removal. All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least 1 time per week, or as often as necessary to minimize public health nuisances. Refuse containing garbage shall be removed from the premises at least 2 times per week, or as often if necessary to minimize public health nuisances, by a permitted hauler to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.0830 et. seq. For information, please call DEHS/LEA at: 800-442-2283.

COUNTY FIRE/ Community Safety (909) 386-8465

22. Fire Jurisdiction. The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein ("Fire Department"). Prior to any construction occurring on any parcel, the developer shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.
23. Additional Requirements. In addition to the Fire requirements stated herein, other on site and off site improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
24. Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work has commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred within 180 days of any previous inspection. After a construction permit or Fire Condition letter becomes invalid and before such previously –approved work recommences, a new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be marked in writing PRIOR to the expiration date justifying the reason that the Fire Condition Letter should be extended.

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

25. Tributary Drainage. Adequate provisions shall be made to intercept and conduct the tributary off site - on site drainage flows around and through the site in a

manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.

26. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
27. Additional Drainage Requirements. In addition to drainage requirements stated herein, other "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
28. Continuous BMP Maintenance. The property owner/"developer" is required to provide periodic and continuous maintenance of all Best Management Practices (BMP) devices/facilities listed in the County approved Water Quality Management Plan (WQMP) for the project. This includes but is not limited to, filter material replacement and sediment removal, as required to assure peak performance of all BMPs. Furthermore, such maintenance activity will require compliance with all Local, State, or Federal laws and regulations, including those pertaining to confined space and waste disposal methods in effect at the time such maintenance occurs.
29. BMP Enforcement. In the event the property owner/"developer" (including any successors or assigns) fails to accomplish the necessary BMP maintenance within five (5) days of being given written notice by County Public Works, then the County shall cause any required maintenance to be done. The entire cost and expense of the required maintenance shall be charged to the property owner and/or "developer", including administrative costs, attorney's fees and interest thereon at the rate authorized by the County Code from the date of the original notice to the date the expense is paid in full.

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

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

PUBLIC WORKS / Traffic Division – Road Section (909) 387-8186

31. Project Vehicles shall not back out into the public roadway
32. The easterly and westerly project driveways along Valley Boulevard will be restricted to right-turn exit only. These driveways will not provide entry access.

PUBLIC WORKS / Solid Waste Management (909) 387-8701

33. Recycling Storage Capacity. The developer shall provide equal space and storage bins for both refuse and recycling materials. This requirement is to assist the County in compliance with the recycling requirements of AB 2176.
34. Mandatory Commercial Recycling. Beginning July 1, 2012 all businesses defined to include a commercial or public entity that generates 4 or more cubic yards of commercial solid waste a week or is a multi-family residential dwelling of 5 units or more to arrange for recycling services. The County is required to monitor business recycling and will require the business to provide recycling information. This Requirement is to assist the County in compliance with the recycling requirements of AB 341.
35. Mandatory Commercial Trash Service. This project falls within a Uniform Handling Service area. If uniform handling service is implemented for all or part of a particular franchise area, all owners or a dwelling or a commercial or industrial unit within the uniform handling area who are required to have uniform handling service shall, upon notice thereof, be required to accept uniform handling service from the grantee holding a franchise agreement and pay the rate of such services. This requirement is a stipulation of County Code Title 4, Division 6, Chapter 5, Section 46.0501.

**PRIOR TO ISSUANCE OF GRADING PERMITS
OR LAND DISTURBING ACTIVITIES**

The following shall be completed:

LAND USE SERVICES/ Building and Safety (909) 387-8311

36. Soils Report. When earthwork quantities exceed 5,000 cubic yards, a new/updated geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits.
37. Geologic Feasibility Report. A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval by the County Geologist and fees paid for the review prior to issuance of grading permits.
38. Prior to the issuance of a grading permit, a San Bernardino County Stormwater Management Plan is required.
39. Grading plans shall show protective measures for structures on adjacent property and within 15 feet of the property line.
40. Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.
41. Submit plans and obtain separate building permits for any required walls, retaining walls or trash enclosures.
42. Any building, sign or structure to be constructed or located on site will require professionally prepared plans approved by Building and Safety.
43. A preliminary grading plan is required. This plan shall delineate the boundary of an adequately sized building pad, driveway and show the location of all existing utility lines, pad elevations and any other data necessary to show that buildable site exists. Natural drainage courses and proposed drainage easements must be shown. Provide the grading plan on a scale sufficient to clearly show the above items. A minimum scale of 1:100 is recommended.
44. Grading Plans. If grading exceeds fifty (50) cubic yards, approved plans will be required.
45. All erosion control planting, landscaping and devices shall be installed upon completion of rough grading.
46. All runoff must be held to pre-development levels per Section 82.13.080 of the San Bernardino County code.

47. Upon completion of rough grading and prior to footing excavations, a compaction report shall be submitted to the Building and Safety Division for review and approval.
48. *Prior to issuance of Grading or Building Permit, the Project shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ, which includes filing a Notice of Intent (NOI) and preparation of a Storm Water Pollution Prevention Plan (SWPPP), and shall provide evidence to the County of compliance with Development Code Section 85.11.030, which requires preparation of Soil Erosion Pollution Prevention Plan.[Mitigation Measure GEO-1 Building and Safety – Prior to Grading]*
49. NPDES. An NPDES permit - Notice of Intent (NOI) - is required on all construction projects of one (1) acre or more prior to issuance of a grading/construction permit. Construction activity includes clearing, grading or excavation that results in the disturbance of at least one (1) acre of land. The WDID number issued by the Regional Water Quality Control Board will be required as evidence of filing the NOI.

COUNTY FIRE/Hazardous Materials Division (909) 386-8463

50. *Prior to site development, the approximately three-foot square patch of diesel fuel stained soil located on APN 0252-051-69 shall be over-excavated and removed, in consultation with the San Bernardino County Fire Department Hazardous Materials Division (Certified Unified Program Agency), pursuant to State and Federal contaminated soil regulations.[Mitigation Measure HAZ-1]*

LAND USE SERVICES/ Planning (909) 387- 8311

51. AQ-Dust Control Plan. The “developer” shall prepare, submit for review and obtain approval from County Planning of both a Dust Control Plan (DCP) consistent with SCAQMD guidelines and a signed letter agreeing to include in any construction contracts/ subcontracts a requirement that project contractors adhere to the requirements of the DCP. The DCP shall include the following requirements:
 - a) *Exposed soil shall be kept continually moist to reduce fugitive dust during all grading and construction activities, through application of water sprayed a minimum of three times each day during dry weather. Watering, with complete coverage of disturbed areas, shall occur at least three times a day, preferably in the mid-morning, afternoon, and after work is done for the day.*
 - b) *The contractor shall ensure that traffic speeds on unpaved roads and the project site areas are reduced to 15 miles per hour or less to reduce PM10 and PM2.5 fugitive dust haul road emissions.*
 - c) *Any portion of the site to be graded shall be pre-watered to a depth of three feet prior to the onset of grading activities.*

- d) *During high wind conditions (i.e., wind speeds exceeding 25 mph), areas with disturbed soil shall be watered hourly and activities on unpaved surfaces shall cease until wind speeds no longer exceed 25 mph.*
- e) *Any area that will remain undeveloped for a period of more than 30 days shall be stabilized using either chemical stabilizers and/or a desert wildflower mix hydro seed on the affected portion of the site.*
- f) *Storage piles that are to be left in place for more than three working days shall be sprayed with a non-toxic soil binder, covered with plastic or revegetated.*
- g) *Imported fill and exported excess cut shall be adequately watered prior to transport, covered during transport, and watered prior to unloading on the project site.*
- h) *Storm water control systems shall be installed to prevent off-site mud deposition.*
- i) *All trucks hauling dirt away from the site shall be covered.*
- j) *Construction vehicle tires shall be washed, prior to leaving the project site.*
- k) *Rumble plates shall be installed at construction exits from dirt driveways.*
- l) *Paved access driveways and streets shall be washed and swept daily when there are visible signs of dirt track-out.*
- m) *Street sweeping shall be conducted daily when visible soil accumulations occur along site access roadways to remove dirt dropped or tracked-out by construction vehicles. Site access driveways and adjacent streets shall be washed daily, if there are visible signs of any dirt track-out at the conclusion of any workday and after street sweeping.*

[Mitigation Measure AQ-1] Prior to Grading Permits/Planning

- 49. *If ground-disturbing activities or removal of any trees, shrubs, or any other potential nesting habitat are scheduled within the avian nesting season (from February 1 to August 31), a pre-construction clearance survey for nesting birds shall be conducted by a qualified biologist within three days prior to any ground disturbing activities. The biologist conducting the clearance survey shall document a negative survey with a brief letter report indicating that no impacts to active bird nests would occur.[Mitigation Measure BIO-1 Prior to Grading Permits/Planning]*
- 50. *If an active avian nest is discovered during the nesting bird clearance survey, construction activities shall stay outside of a 300-foot buffer around the active nest. For raptor species, this buffer shall be 500 feet. A biological monitor shall delineate the boundaries of the buffer area and monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity.[Mitigation Measure BIO-2 Prior to Grading Permits/Planning]*
- 51. *A pre-construction burrowing owl survey shall be conducted by a qualified biologist within three days prior to any ground disturbing activities to document the continued absence of burrowing owl from the Project site. The burrowing owl survey may be conducted, as part of the nesting bird clearance survey. The biologist conducting the survey shall document a negative survey with a brief letter*

report indicating that no impacts to burrowing owls would occur. [Mitigation Measure BIO-3 Prior to Grading Permits/Planning]

52. *Prior to issuance of the Grading or Building Permit, a Cultural Resources Monitoring Plan (CRMP) shall be prepared by a qualified archaeologist. The CRMP shall include the following elements:*
- *Preconstruction cultural resources sensitivity training for earthmoving personnel.*
 - *Documentation of the earthmoving personnel's training (i.e., sign in sheets, hardhat stickers, etc.).*
 - *A signed repository agreement.*
 - *Field and laboratory methods used for recovered artifacts (consistent with repository requirements).[Mitigation Measure CUL-1] Prior to Grading Permits/Planning*
53. *An archaeological monitor meeting the Secretary of the Interior's Standards for archaeologists shall be present on the Project site during the Project's ground disturbance activities.[Mitigation Measure CUL-2] Prior to Grading Permits/Planning.*
54. *Prior to issuance of Grading or Building Permit, the Project shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ, which includes filing a Notice of Intent (NOI) and preparation of a Storm Water Pollution Prevention Plan (SWPPP), and shall provide evidence to the County of compliance with Development Code Section 85.11.030, which requires preparation of Soil Erosion Pollution Prevention Plan. .[Mitigation Measure GEO-1] Prior to Grading Permits/Planning*
55. *Construction Noise. The "developer" shall submit and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce noise impacts during construction, which shall include the following vehicle and equipment emissions and other impacts to air quality by implementing the following measures and submitting documentation of compliance: The developer/construction contractors shall do the following:*
- a) *During the project site excavation and grading, the construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with the manufactures standards.*
 - b) *The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from the noise sensitive receptors nearest the project site.*

- c) *The construction contractor shall limit all construction-related activities that would result in high noise levels between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday excluding holidays.*
- d) *The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and noise sensitive receptors nearest the project site during all project construction.*
- e) *The construction contractor shall limit haul truck deliveries to the same hours specified for construction equipment. To the extent feasible, haul routes shall not pass sensitive land uses or residential dwellings. [Mitigation Measure NOI-1] - Prior to Grading Permit/Planning*

55. Cultural Resources. The developer/property owner shall submit for review and *obtain* approval from County Planning of a letter agreeing to adhere to the following requirements and to include in any construction contracts/subcontracts a provision that project contractors shall also adhere to the following requirements:

- a) *If archaeological, paleontological and/or historical resources are uncovered during ground disturbing activities, all work in that area shall cease immediately until written clearance by County Planning is provided indicating that satisfactory mitigation has been implemented. A qualified expert (e.g. archaeologist or paleontologist), as determined by County Planning in consultation with the County Museum shall be hired to record the find and recommend any further mitigation. The developer shall implement any such additional mitigation to the satisfaction of County Planning.*
- b) *If human remains are uncovered during ground disturbing activities, the San Bernardino County Coroner shall be contacted within 24 hours of the find. If the remains or cultural artifacts are determined to be of Native American origin, the local Native American representative shall also be notified.*

PUBLIC WORKS/Solid Waste Management Division (909) 386-8968

56. *Prior to issuance of the Grading or Building Permit, the Project shall prepare and submit for review to the County's Solid Waste Management Division a Construction and Demolition Solid Waste Management Plan. The Plan shall:*

- *Include measures to ensure that a minimum of 50 percent of the construction waste is diverted;*
- *Estimate the amount of tonnage to be disposed and diverted during construction; and*
- *Provide evidence of what tonnage was actually diverted and disposed of. Disposal/diversion receipts or certifications shall be provided to the County, as part of the Plan. [Mitigation Measure USS-1 – Prior to Grading – Solid Waste Management Division]*

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

57. Drainage Facility Design. A Registered Civil Engineer shall investigate and design *adequate* drainage facilities to intercept and conduct the off-site and on-site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$520 deposit for drainage study review will be collected upon submittal to the Land Development Division.
58. Drainage Easements. Adequate San Bernardino County Drainage Easements (minimum fifteen [15] feet wide) shall be provided over the natural drainage courses, drainage facilities/or concentration of runoff from the site to dewater into private property.
59. Topo Map. A topographic map shall be provided to facilitate the design and review of necessary drainage facilities.
60. Grading Plans. Grading plans shall be submitted for review and approval obtained. A \$520 deposit for grading plan review will be collected upon submittal to the Land Development Division.
61. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
62. Permit. A permit, or authorized clearance, shall be obtained from Land Development Division prior to issuance of a grading permit by County Building and Safety.
63. WQMP. A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A \$2,500 deposit for WQMP review will be collected upon submittal to the Land Development Division. Copies of the WQMP guidance and template can be found at:
http://www.sbcounty.gov/dpw/land/environmental_mgmt.asp
64. WQMP Inspection Fee. The developer shall deposit an inspection fee for the WQMP Inspection Fee in the amount of \$3,600 to Land Development Division.

PUBLIC WORKS/ Solid Waste Management (909) 386-8968

65. CC&D Plan – Part 1. The developer shall prepare, submit, and obtain approval from Solid Waste Management Division (SWMD) of a “Construction Waste Management Recycling Plan (C&D Plan), Part I”. The C&D Plan shall list the types and volumes of solid waste materials expected to be generated from grading and construction. The Plan shall include options to divert from landfill disposal materials for reuse or recycling by a minimum of 50% of total volume.

Upon completion of construction, the developer shall complete SWMD's C&D Plan Part 2". This summary shall provide documentation of diversion of materials including but not limited to receipts or letters documenting material types and weights from diversion facilities or certification reuse of materials on site.

COUNTY FIRE/ Community Safety (909) 386-8465

66. Water System. Prior to any land disturbance, the water system shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using Appendix IIIA of the Uniform Fire Code.

PRIOR TO ISSUANCE OF BUILDING PERMITS

The following shall be completed:

LAND USE SERVICES/ Building and Safety (909) 387-8311

67. Building Plans. Three copies of the proposed professionally prepared building plans shall be submitted for plan review with appropriate fees and approval of these shall be obtained with permits, for any building, sign, or structure (including trash enclosures) to be constructed or located on site.
68. All new buildings shall be designed to include the "Green Building Measures" as outlined in the California Green Building Standards Code.
69. Prior to the issuance of building permits, erosion control devices must be installed at all perimeter openings and slopes. No sediment is to leave the job site.
70. Wall Plans. Submit professionally prepared plans for review and obtain approval with permits for all fences and walls greater than six feet (6') in height and any required walls, retaining walls or trash enclosures.
71. Outdoor Lighting Plans. Three copies of the proposed professionally prepared Outdoor lighting plan shall be submitted for plan review with appropriate fees and approval of these shall be obtained with permits, prior to any lighting installation.
72. Sign Plans. Any building, sign, or structure to be constructed or located on site will require professionally prepared plans approved by the Building and Safety Division.
73. Disabled Access. Provide van accessible parking spaces for the disabled. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide and shall be designated van accessible. The words "NO PARKING" shall be painted on the ground within each eight-foot loading area as specified in the California Building Code.
74. Provide disabled parking in each parking area to serve each accessible building or area.
75. Path of Travel. Provide a path of travel from the disabled parking spaces up to the primary entrance of each accessible building or area.

LAND USE SERVICES/ Planning (909) 387-8311

76. *In the event that cultural resources are exposed during Project construction:*

Mitigation Measures are shown in Italics

- *The monitor/archaeologist shall temporarily halt construction activities in the immediate area of discovery while it is evaluated for significance.*
 - *Construction activities shall continue in the other Project areas.*
 - *While the monitor/archaeologist is not present, work in the immediate area of discovery shall be halted and the monitor/archaeologist notified immediately to evaluate the discovered resource(s).*
 - *The monitor/archaeologist shall determine whether the findings are significant and whether additional work, such as data recovery excavation, is warranted. [Mitigation Measure CUL-4- Prior to Construction/Planning]*
77. *If human remains are discovered during Project construction, the County Coroner shall be notified pursuant to Health and Safety Code Section 7050.5. If the Coroner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission, in accordance with Public Resources Code Section 5097.98. [Mitigation Measure CUL-5 Prior to Construction/Planning]*
78. *If construction-related excavations, trenching, or other forms of ground disturbance are required 5.0 feet or more below the surface, a paleontological monitor shall be present on the Project site during the Project's ground disturbance activities. The paleontological monitor shall be equipped to salvage fossils as they are unearthed, to avoid construction delays, and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates. [Mitigation Measure CUL-6 – Prior to Construction/Planning]*
79. *Prior to issuance of Grading or Building Permit, the Project shall submit to the County for review a Project-specific Water Quality Management Plan, which includes a combination of site design/Low Impact Development Best Management Practices (BMP) (where feasible), source control, and/or treatment control BMPs, including regional treatment systems to address all identified pollutants and any hydrologic conditions of concern. The Project WQMP shall comply with the regulatory requirements outlined in the San Bernardino County Stormwater Program Technical Guidance Document for Water Quality Management Plans Document. [Mitigation Measure HYD-1 Prior to Grading –Land Development Division]*
80. *If unanticipated paleontological resources are encountered during ground disturbing activities:*
- *All work within 50 feet shall halt, until the discovery can be evaluated by a qualified paleontologist.*
 - *The monitor shall determine whether the findings are significant and whether additional work, including recovery and preservation of the find, is warranted.*
 - *If the monitor determines additional work is warranted, a Paleontologic Mitigation Program (PMP) shall be prepared by a qualified paleontologist, pursuant to County Code Section 82.20.030, prior to issuance of a*

Certificate of Occupancy. [Mitigation Measure CUL7- Prior to Construction /Planning]

82. The developer shall submit to County Planning for review and approval landscape and irrigation plans that are designed so that all common area irrigation areas shall be capable of being operated by a computerized irrigation system which includes an ET based controller capable of reading current weather data and making automatic adjustments to independent run times for each irrigation valve based on changes in temperature, solar radiation, relative humidity, rain and wind. In addition, the computerized irrigation system shall be equipped with flow sensing capabilities, thus automatically shutting down the irrigation system in the event of a mainline break or broken head. These features will assist in conserving water, eliminating the potential of slope failure due to mainline breaks and eliminating over-watering and flooding due to pipe and/or head breaks.
83. Landscape and Irrigation Plan. Landscape and Irrigation Plans shall be prepared in conformance with Chapter 83.10, Landscaping Standards, of the County Development Code. The developer shall submit four copies of a landscape and irrigation plan to County Planning.
85. Lighting Plan. The developer shall submit a Lighting Plan for review and obtain approval from County Planning prior to the issuance of a building permit. All lighting shall be designed in a manner consistent with the approved Preliminary Development Plan:
- a) Lighting shall be required on all new development for the purpose of providing illumination to ensure public safety and security. Lighting fixtures shall be functional, coordinated and visually attractive. Lighting shall be required at the following locations:
 - Pedestrian walkways and plazas.
 - Building entries, driveway entries and parking areas.
 - Hazardous locations, such as changes of grade and stairways, shall be well-lit with lower-level supplemental lighting or additional overhead units.
 - b) Lights shall be placed and designed so as not to cause glare or excessive light spillage on neighboring sites or public roadways.
 - Low intensity lamps shall be used especially at the development edge.
 - All lighting shall be hooded and designed with sharp-cutoff luminaries to reflect away from adjoining properties and public thoroughfares.
 - Shielding shall be by internal silvering of the globe or by external opaque reflectors
 - c) All parking lot and driveway lighting shall provide uniform illumination at a minimum level of 0.5 foot candle.
 - d) All light fixtures are to be concealed source fixtures except for pedestrian-oriented accent lights.

- e) Security lighting fixtures are not to project above the fences or roofline of the building and are to be shielded. The shields shall be painted to match the surface to which they are attached. Security lighting fixtures are not to be substituted for parking lot or walkway lighting fixtures and are restricted to lighting only loading and storage locations, or other similar service areas.
 - f) Exterior wall-mounted floodlights are expressly prohibited except for security lighting in areas as noted above.
 - g) All illuminated signs are to be internally illuminated.
 - h) Lighting of building faces is permitted.
 - i) The design of all lighting fixtures and their structural support shall be architecturally compatible with the surrounding buildings.
 - j) Walkway lighting fixtures shall have an overall height not to exceed twelve (12) feet.
 - k) Parking lot fixtures shall have an overall height not to exceed thirty-eight (38) feet or the height of adjacent buildings, whichever is less.
 - l) When walkway lighting is provided primarily by low fixtures, there shall be sufficient peripheral lighting to illuminate the immediate surroundings to ensure public safety.
 - Shatterproof coverings are recommended on low-level fixtures.
86. Phasing Plan. As the Project is to be constructed in phases, the Developer shall submit a detailed phasing plan to County Planning for review and approval. The phasing plan shall be subject to review and approval by County Fire, Public Works, and County Land Use Services (Planning, Building and Safety and Land Development Divisions). The phasing plan shall address emergency access, resident access, construction access, infrastructure, drainage, parking, construction staging, and landscaping and amenities required for each phase. All improvements shall be completed prior to receiving final occupancy for each phase of development as shown on the approved phasing plan. The club house facility shall be completed with phase one of the project.
87. Water. Prior to the issuance of a building permit, the developer shall pay the Fontana Water Company for the construction of water improvements necessary for the project. Proof of payment shall be provided to the Planning Division.”
88. Sewer. Prior to the issuance of a building permit, the developer shall pay the County Special Districts Department for the cost of construction of the sewer improvements necessary for the project, or cause necessary improvements to be built. Proof of compliance, either payment or of construction shall be provided to the Planning Division.

LAND USE SERVICES/ Code Enforcement (909) 387-4044

89. Sign Registration. Prior to installation of any freestanding, wall, roof, projecting or monument sign, an approved sign registration application and plot plan are required.

PUBLIC HEALTH/ Environmental Health Services (DEHS) (909) 387-4666

90. Water. Water purveyor shall be Fontana Water Company
91. Water Letter. Applicant shall procure a verification letter from the water agency with jurisdiction. This letter shall state whether or not water connection and service shall be made available to the project by the water agency. This letter shall reference the Assessor's Parcel Number. For projects with current active water connections, a copy of water bill with project address may suffice. For information, contact the Water Section at 800-442-2283 Letter dated June 20, 2013 on file with EHS.
92. Sewer. Method of sewage disposal shall be provided by a public wastewater collection entity. The project proposes the use of a Zone of County Service Area 70-BL, to accommodate its wastewater needs which will require formation of the zone and the approval of an out-of-agency service agreement with the City of Rialto for acceptance and treatment of effluent. A Form S1, Sewer Service Certification, provided by County Special Districts, indicates that it is financially and physically feasible to install sewer trunk lines to permit adequate sewer service to the property.
93. Wastewater Verification. Developer shall procure a verification letter from the sewerage agency with jurisdiction. This letter shall state whether or not sewer connection and service shall be made available to the project by the sewerage agency. The letter shall reference the Assessor's Parcel Number.
94. The extension of sewer service to this project will require an agreement with the City of Rialto for acceptance of wastewater generated outside its boundaries from the proposed Zone of CSA 70. Such an agreement is required to be reviewed and approved by LAFCO before a will-serve letter or other contractual relationship can be finalized. For further information on this process, contact the LAFCO office at (909) 383-9900, Walter Allison at the City of Rialto at (909) 820-2530 or James Oravets of the County Special Districts Department related to the Zone's provision of service at (909) 383-5940.
95. Submit verification of service approval to DEHS for any project that requires water or sewer connection outside a purveyor's jurisdiction. For information, contact LAFCO at: 909-383-9900.
96. Acoustical Information. Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the DEHS for review and approval. For information and acoustical checklist, contact DEHS at 800-442-2283.

97. Public Swimming Pools. Plans for swimming pool(s) and associated restroom facilities shall be reviewed and approved by DEHS. For information, call DEHS/Plan Check at: 800-442-2283.

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

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

Valley Boulevard (Major Highway (Variance) – 110 feet)

- Street Improvements. Design curb and gutter with match-up paving 43 feet from centerline.
 - Sidewalks. Design sidewalk per County Standard 109 type C.
 - Driveway Approach. Design driveway approach per San Bernardino County Standard 129B. and located per Standard 130.
99. Road Design. Road sections within or bordering the development shall be designed and constructed to Valley Road standards San Bernardino County in accordance with the policies and requirements of the County Department of Public Works and the Master Plan of Highways.
100. Street Improvement Plans. The developer shall submit for review and obtain approval of street improvement plans prior to construction.
101. Utilities. Final plans and profiles shall indicate the location of any existing utility facility or utility pole which would affect construction, and any such utility shall be relocated as necessary without cost to the County.
102. Encroachment Permits. Prior to installation of road and drainage improvements, a permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8039, as well as other agencies prior to work within their jurisdiction.
103. Soils Testing. Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to San Bernardino County and a written report shall be submitted to the Transportation Operations Division, Permits Section of County Public Works, prior to any placement of base materials and/or paving.
104. Open Roads/Cash Deposit. Existing County roads which will require reconstruction shall remain open for traffic at all times, with adequate detours,

during actual construction. A cash deposit shall be made to cover the cost of grading and paving prior to issuance of road encroachment permit. Upon completion of the road and drainage improvement to the satisfaction of the Department of Public Works, the cash deposit may be refunded.

105. Transitional Improvements. Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing shall be required.
106. Street Gradients. Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of County Public Works confirming the adequacy of the grade.

PUBLIC WORKS/Traffic Division (909) 387-8186

107. Based on the traffic study (revised) dated August 14, 2013 from RBF Consulting, the applicant shall submit for approval, traffic signal plans for the intersection of Valley Boulevard and the Project Main Driveway (Center Driveway).
108. Regional Transportation Mitigation Fees. *This project falls within the Regional Transportation Facilities Mitigation Plan for the Rialto Subarea. This fee shall be paid by a cashier's check to the Department of Public Works Business Office. These fees are subject to periodic updates. The Plan fees shall be computed in accordance with the Plan fees in effect as of the date that the building plans are submitted and the building permit is applied for. The current Regional Transportation Fee Plan can be found at the following website:*
http://www.sbcounty.gov/dpw/transportation/transportation_planning.asp
[Mitigation Measure XVI-1] Prior to Building Permit/County Traffic

At this time, based on the current fee schedule, the estimated Regional Transportation Fees for this project are shown in Table 1. As noted above, these are subject to change if the Plan is revised.

Table 1: Current Summary of the Regional Transportation Fees

	Estimated Fee
Phase 1: 106 Units, and Library (6,493 sq. ft.)	\$677,028
Phase 2: 84 Units	\$460,824

COUNTY FIRE/ Community Safety (909) 386-8465

109. Access. The development shall have a minimum of 2 points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. Standard 902.2.1

- a) Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions.
 - b) Multi-Story Road Access Width. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height.
110. Building Plans. Not less than three (3) complete sets of Building Plans shall be submitted to the Fire Department for review and approval.
111. Fire Flow Test. Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to either produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied or you must install an approved fire sprinkler system. This requirement shall be completed prior to combination inspection by Building and Safety.
112. Turnaround. An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sac length shall not exceed six hundred (600) feet; all roadways shall not exceed a 12% grade and have a minimum of forty five (45) foot radius for all turns. Standard 902.2.1
113. Water System Commercial. A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. All fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than three hundred [300] feet from any portion of a structure. [F54]
114. Combustible Protection. Prior to combustibles being placed on the project site, an approved paved road with curb and gutter and fire hydrants with an acceptable fire flow shall be installed. The topcoat of asphalt does not have to be installed until final inspection and occupancy.
115. Fire Sprinkler-NFPA #13R. An automatic fire sprinkler system complying with NFPA Pamphlet #13R and Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit three (3) sets of detailed plans (minimum 1/8" scale) with hydraulic calculations and manufactures specification sheets to the Fire Department for approval. The contractor shall submit plans showing the type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal. [F59]
116. Fire Alarm. A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm

contractor. The fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. Standard 1007.1.1FA. [F62]

117. Fire Lanes. The applicant shall submit a fire lane plan to the Fire Department for review and approval. Fire lane curbs shall be painted red. The "No Parking, Fire Lane" signs shall be installed on public/private roads in accordance with the approved plan. Standard 901.4 [F93]
118. Class I standpipe system. A Class I standpipe system is required. A Fire Department approved fire sprinkler contractor shall submit three (3) sets of hydraulic calculations and detailed plans to the Fire Department for review and approval, showing type of storage and use with the applicable protection system. Commercial and industrial buildings in excess of two hundred thousand (200,000) square feet with an interior area less than four hundred (400) feet in width, shall be equipped with a Class I standpipe system, located at every other access door with a maximum of three hundred (300) feet spacing. Buildings with an interior area greater than four hundred (400) feet in width shall be equipped with a Class I standpipe system located at every access door maximum of one hundred (100) foot spacing. Standpipe connections shall be configured to reach any portion of interior space within two hundred (200) feet in any direction of travel. This system shall be calculated to provide two hundred and fifty (250) gpm @ 100 psi per hose outlet from an adjacent fire sprinkler riser with two hand lines flowing. The two most hydraulically remote outlets are to be included in the design for a total flow of 500 gpm minimum per system. A Fire Department approved fire sprinkler contractor shall submit four (4) sets of hydraulic calculations and detailed plans, showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal. [F70]

PUBLIC WORKS/ Solid Waste Management (909) 386-8701

119. C&D Plan – Part 1. The developer shall prepare, submit, and obtain approval from Solid Waste Management Division (SWMD) of a "Construction Waste Management Recycling Plan (C&D Plan), Part I" **for each phase of the project.** The C&D Plan shall list the types and volumes of solid waste materials expected to be generated from grading and construction. The Plan shall include options to divert from landfill disposal materials for reuse or recycling by a minimum of 50% of total volume. Forms can be found on our website at www.sbcounty.gov/dpw/solidwaste.

Upon completion of construction, the developer shall complete SWMD's C&D Plan Part 2 and shall provide documentation of diversion of materials including but not limited to receipts or letters documenting material types and weights from diversion facilities or certification reuse of materials on site.

**PRIOR TO ISSUANCE OF FINAL OCCUPANCY PERMITS
The Following Shall Be Completed:**

PUBLIC HEALTH – Environmental Health Services Division (800) 442-2283

120. Prior to occupancy of a newly constructed or remodeled apartment complex, hotel, motel, resort, pursuant to San Bernardino County Code 33.101 et. seq., a Certificate of Use request shall be submitted to the Division of Environmental Health Services. For information, call DEHS/Community Environmental Health at: 1-800-442-2283.

DEPARTMENT OF PUBLIC WORKS – Traffic Division (909) 387-8186

121. Based on the traffic study (revised) dated August 14, from RBF Consulting, the applicant shall construct at 100% cost to the applicant all improvements as shown on the approved traffic signal plan, submitted prior to issuance of a building permit, for the intersection of Valley Boulevard and the project main driveway (center driveway).

PUBLIC WORKS / Solid Waste Management (909) 386-8701

122. C&D Plan – Part 2. The developer shall complete SWMD's C&D Plan Part 2". This summary shall provide documentation of actual diversion of materials including but not limited to receipts or letters from diversion facilities or certification reuse of materials on site. The C&D Plan – Part 2 shall provide evidence to the satisfaction of County Solid Waste that demonstrates that the project has diverted from landfill disposal materials for reuse or recycling by a minimum of 50% of total volume of all construction waste.

LAND USE SERVICES/Building and Safety (909) 387-8311

123. Building Occupancy. Any building without specified tenants and uses may receive final inspection for construction purposes only. A Tenant Improvement that identifies the tenant and proposed uses shall be submitted and approved prior to occupancy being granted.
124. Van Accessible Parking. Provide van accessible parking spaces for the disabled. One in every eight accessible spaces, but not less than one, shall be served by an access aisle eight feet wide and shall be designated "Van Accessible". The words "NO PARKING" shall be painted on the ground within each eight-foot wide loading area as specified in the California Building Code.
125. Path of Travel. Provide a path of travel from all parking spaces for the disabled up to the primary entrances of each building.
126. Planning Division Approval. Prior to occupancy all Planning Division requirements and Condition Compliance Release Forms shall be completed.

LAND USE SERVICES/ Planning (909) 387-8311

127. Parking Lot Installed: On-site parking and circulation requirements shall be installed, inspected and approved as being in compliance with the approved Development Plan. The following shall be completed: (MAY BE APPROVED BY PHASE)
- a) Markings. All circulation markings shall be clearly painted and permanently maintained, including arrows painted to indicate direction of traffic flow.
 - b) Crosswalks. All on-site internal pedestrian crosswalks shall be delineated with a minimum 3" white or yellow painted line stripe. All pedestrian crossings in public right-of-way shall be per County Standards.
 - c) Stops. All internal parking lot driveway intersections shall be installed with a painted stop limit line and shall have either a breakaway pole "STOP" sign and/or painted "STOP" lettering on the paving in front of the limit line.
 - d) Parking Space Striping. All paved parking stalls shall be clearly striped and permanently maintained. All paved parking stalls shall be striped with double/hairpin lines with the two lines being located an equal nine inches on either side of the stall sidelines.
 - e) Multi-modal. All required multi-modal amenities (e.g. bike stands, motorcycle parking, mass transit access, carpool preferred parking, vanpool passenger pickup etc.) shall be installed per approved plans.
128. *Upon completion of the earthmoving activities and prior to issuance of the Occupancy Permit, a Cultural Resources Monitoring Report shall be prepared by a qualified archaeologist. [Mitigation Measure CUL-3 Prior to Occupancy/Planning]*
129. On-Site Mobile Noise. *Outdoor activity areas (e.g., balconies, courtyards, etc.) that face Valley Boulevard (i.e., within 120 feet of the edge of the roadway) shall incorporate noise attenuating treatments. These outdoor activity areas shall include a barrier that is at least 42 inches high as measured from the floor. Acceptable materials for the construction of the barrier shall have a weight of 2.5 pounds per square foot of surface area. The barrier may be composed of the following materials: masonry block; stucco veneer over wood framing (or foam core); glass; Plexiglas; or Lexan (1/4 inch thick). The barrier may be constructed of any one or a combination of these materials.[Mitigation Measure NOI-2]*
130. Disabled Parking Installed. Parking for the disabled with paths of travel to the main building entries shall be installed per SBCC §83.11.060. Disabled access parking spaces shall be clearly and continually designated with pavement markings and signs.
131. Lights Installed. All required lighting shall be installed in compliance with the approved lighting plan. All lights used to illuminate the site shall be hooded and designed so as to reflect away from adjoining properties and public thoroughfares. (MAY BE APPROVED BY PHASE)

132. Screening Installed. All required screening and buffering measures shall be installed. Phase II project areas shall be screened from Phase I project areas prior to any construction or grading occurring on Phase II. All rooftop mechanical equipment shall be screened from ground vistas. All trash enclosures shall be screened from public view and shall be double-bin capacity with a rainproof roof.
133. Building Elevations. The building construction shall be completed in conformance with the approved architectural elevations to the satisfaction of County Planning.
134. Landscaping Installed. All proposed landscaping, hardscape, exterior features (benches, walkways, bike racks etc), walls and fencing shall be installed as shown on the approved landscaping plan for each phase of development. All improvements shall be completed prior to receiving final occupancy for each phase of development as shown on the approved phasing plan.(MAY BE APPROVED BY PHASE)
135. GHG – Installation. The developer shall submit for review and obtain approval from County Planning evidence that all GHG reduction measures have been installed, implemented and that specified performance objectives are being met.

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

136. Drainage and WQMP Improvements. All required drainage and WQMP improvements shall be completed by the applicant, inspected and approved by County Public Works.
137. WQMP Final File. An electronic file of the final and approved WQMP shall be submitted to Land Development Division, Drainage Section.

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

136. Road Improvements. All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Public Works.
137. Structural Section Testing. A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Public Works.
138. Parkway Planting. Trees, irrigation systems, and landscaping required to be installed on public right-of-way shall be approved by the County Public Works and Current Planning and shall be maintained by the adjacent property owner or other County-approved entity.

PUBLIC WORKS / Solid Waste Management (909) 386-8968

139. C&D Plan – Part 2. The developer shall complete SWMD's C&D Plan Part 2". This summary shall provide documentation of diversion of materials including but not limited to receipts or letters from diversion facilities or certification reuse of materials on site. The C&D Plan – Part 2 shall provide evidence to the satisfaction of County Solid Waste that demonstrates that the project has diverted from landfill disposal materials for reuse or recycling by a minimum of 50% of total volume of all construction waste.

This summary shall provide documentation of diversion of materials including but not limited to receipts or letters documenting material types and weights from diversion facilities or certification reuse of materials on site.

COUNTY FIRE/ Community Safety (909) 386-8400

140. Street Sign. This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed. Standard 901.4.4 [F72]
141. Hydrant Marking. Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road. Standard 901.4.3. [F80]
142. Residential Addressing. The street address shall be installed on the building with the numbers that are a minimum of four (4) inches in height and with a one half (1/2) inch stroke. The address shall be visible from the street. During the hours of darkness, the numbers shall be internally and electrically illuminated with a low voltage power source. Numbers shall contrast with their background and be legible from the street. Where the building is fifth (50) feet or more from the roadway, additional contrasting four (4) inch numbers shall be displayed at the property access entrances.
143. Commercial Addressing. Commercial and industrial developments of 100,000 sq. ft. or less shall have the street address installed on the building with numbers that are a minimum six (6) inches in height and with a three quarter (3/4) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances. Standard 901.4.4 [F82]
144. Illuminated Site Diagram. The applicant shall submit for review and approval a site diagram plan to the Fire Department. The applicant shall install at each

entrance to a multi-family complex an illuminated diagrammatic representation of the complex, which shows the location of each unit and each fire hydrant. Standard 901.4.4 [F84]

145. Key Box. An approved Fire Department key box is required. The key box shall be provided with a tamper switch and shall be monitored by a Fire Department approved central monitoring service. In commercial, industrial and multi-family complexes, all swing gates shall have an approved fire department Knox Lock. Standard 902.4 [F85]
146. Override Switch. Where an automatic electric security gate is used, an approved Fire Department override switch (Knox ®) is required. Standard 902.4 [F86]
147. Spark Arrestor. An approved spark arrestor is required. Every chimney that is used in conjunction with any fireplace or any heating appliance in which solid or liquid fuel are used, shall have an approved spark arrestor visible from the ground that is maintained in conformance with the Uniform Fire Code. [F87]

END OF CONDITIONS

CONDITIONS OF APPROVAL
GENERAL REQUIREMENTS

Conditions of Operation or Procedure:

LAND USE SERVICES/Planning Division (909) 387-8311

1. Project Approval Description. Tentative Parcel Map (TPM) 19470 is approved to be recorded and constructed in compliance with the conditions of approval, the approved stamped tentative map as designed, the required Composite Development Plan (CDP) and any Covenants, Conditions and Restrictions (C,C & R's) required by this approval. This approval includes the requirements of any approved displays (e.g. slope analysis, landscape plans) and/or approved reports (e.g. traffic study, biological assessment). TPM 19470 is approved to create two parcels on 9 acres for a planned development to include 190 residential units, library and community space.
2. Project Location. The project site is located on the north side of Valley Boulevard, approximately 285 feet west of Valley Boulevard in the Community of Bloomington. The current zoning designation for the project site is (BL/CS) Bloomington Community Plan – Service Commercial. The current APN's for the project site are 0252-051-06, 69 and 70.
3. Zoning Standards (Planned Development). The project is being proposed as a planned development. The County Development Code development standards for a planned development are intended to promote a more efficient use of the land and to create a more desirable and affordable living environment by providing greater design flexibility than would be possible through the strict application of standard development regulations required by a land use zoning district.
4. Expiration/TPM. This Tentative Parcel Map conditional approval shall become null and void, unless all conditions have been completed and the Parcel Map has been deemed complete by the County Surveyor for purposes of recordation within thirty-six (36) months following the approval effective date, unless an extension of time is granted.
5. PLEASE NOTE: This will be the ONLY notice given of the approval expiration date. The "developer" is responsible for initiation of any extension request
6. Extension of Time/TPM. Where circumstances cause delays, which do not permit compliance with the required recordation time limit, the developer may submit for review and approval an application requesting an extension of time. County Planning may grant such requests for extensions of time in compliance with the State Map Act Section 66452.6. An Extension of Time may be granted upon a successful review of an Extension of Time application, which includes a justification of the delay in recordation, a plan of action for completion and submittal of the appropriate fee, not less than 30

days prior to the expiration date. The granting of an extension request is a discretionary action that may be subject to additional or revised conditions of approval.

7. Indemnification. In compliance with SBCC §81.01.070, the “developer” shall agree, to defend, indemnify, and hold harmless the County or its “indemnitees” (herein collectively the County’s elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval.

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

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

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

8. Revisions. Any proposed change to the approved Tentative Parcel Map and/or the conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted for review and approval obtained from County Planning
9. “Developer” Defined. The term “developer” as used in these conditions of approval for this project and for any development of this project site, includes all of the following: the applicant, the property owner and any lessee, tenant or sub-tenant, operator and/or any other agent or other interested party of the subject project and/or project site and/or any heir or any other successor in interest in the project site or project land use by sale or by lease of all or of a portion of the project site or project land uses and/or any other right

given to conduct any land use in any or all of the project structures or any area on the project site.

10. Development Fees. Additional fees may be required prior to issuance of development permits and shall be paid as specified in adopted fee ordinances.
11. NOD/MND/CDFG Fees. The California Environmental Quality Act (CEQA) requires that an environmental determination be prepared for this project. County staff completed an environmental initial study for this project and properly circulated it for review. This study represents the independent judgment of the County acting as lead agency for the project. The project will not have a significant adverse impact on the environment with the implementation of all the required conditions of approval and mitigation measures. A Mitigated Negative Declaration (MND) will be issued indicating that all identified impacts were found to be mitigated below a level of significance. A Notice of Determination (NOD) of this finding is required to be filed with a fee (currently \$50). The California Department of Fish and Game (CDFG) requires that an additional fee (currently \$2,156.25) be paid with the NOD filing, unless CDFG issues a determination of "No Biological Effect". The combined fees (\$2,206.25) are required to be paid to the Clerk of the Board with the NOD filing. The project approval does not become effective, until these fees are paid and the filing is posted.
12. Underground Utilities. All existing and proposed utility lines on or adjacent to the project site shall be placed underground in accordance with requirements of County Development Code Standards and the serving utility companies.
13. Condition Compliance. Condition compliance confirmation for purposes of Final Map recordation will be coordinated by the County Surveyor.
14. Additional Permits. The property owner, developer, and land use operator are responsible to ascertain and comply with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies as are applicable to the development and operation of the approved land use and project site. These include:
 - a. FEDERAL: Identify any federal agencies relative to funding of the housing project
 - b. STATE: Regional Water Quality Control Board, Mojave Air Quality Management District, State Fish and Game, State Fire Marshall
 - c. COUNTY: Land Use Services-Building and Safety/Code Enforcement, County Fire; Public Health-Environmental Health Services, Public Works,
 - d. LOCAL: County Special Districts (Street Lighting and franchise, park and recreation)
15. Project Account. The Job Costing System (JCS) account number is P201300295. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works and County

Counsel). Upon notice, the “developer” shall deposit additional funds to maintain or return the account to a positive balance. The “developer” is responsible for all expenses charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$1,000.00 shall be in the project account at the time of project approval. Sufficient funds shall remain in the account to cover all estimated charges that may be made during each compliance review. All fees required for processing shall be paid in full prior to recordation. There shall be sufficient funds (\$500.00) remaining in the account to properly fund file closure and any other required post-occupancy compliance review and inspection requirements (e.g. mitigation performance).

COUNTY FIRE /Community Safety (909) 386-8465

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

PUBLIC WORKS / County Surveyor / Parcel Map Section (909) 387-8149

17. If any activity on this project will disturb any land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying prior to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor (Section 8771(b) Business and Professions Code).
18. The following conditions are for the occasion where the monuments of record cannot be located and the boundaries must be determined for construction
- a. Record of Survey/Corner Record shall be filed in the following instances:
 - b. Legal descriptions or construction staking based upon a field survey of the boundary or building setbacks.
 - c. Monuments set to mark the property lines.
 - d. Pursuant to applicable sections of the Business and Professions Code.

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

19. Tributary Drainage. Adequate provisions should be made to intercept and conduct the tributary off site – on site drainage flows around and through the site in a manner which

will not adversely affect adjacent or downstream properties at the time the site is developed.

20. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
21. Additional Drainage Requirements. In addition to drainage requirements stated herein, other "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
22. Continuous BMP Maintenance. The property owner/"developer" is required to provide periodic and continuous maintenance of all Best Management Practices (BMP) devices/facilities listed in the County approved Water Quality Management Plan (WQMP) for the project. This includes but is not limited to, filter material replacement and sediment removal, as required to assure peak performance of all BMPs. Furthermore, such maintenance activity will require compliance with all Local, State, or Federal laws and regulations, including those pertaining to confined space and waste disposal methods in effect at the time such maintenance occurs
23. BMP Enforcement. In the event the property owner/"developer" (including any successors or assigns) fails to accomplish the necessary BMP maintenance within five (5) days of being given written notice by County Public Works, then the County shall cause any required maintenance to be done. The entire cost and expense of the required maintenance shall be charged to the property owner and/or "developer", including administrative costs, attorney's fees and interest thereon at the rate authorized by the County Code from the date of the original notice to the date the expense is paid in full.

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

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

PRIOR TO THE ISSUANCE OF GRADING PERMITS

PUBLIC WORKS –COUNTY SURVEYOR – Parcel Map Section (909) 387-8149

25. If any activity on this project will disturb **any** land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying **prior** to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor (Section 8771(b) Business and Professions Code).

LAND USE SERVICES DEPARTMENT/Building and Safety Division- (909) 387-8311.

26. Grading plans shall be submitted to Building and Safety for review and approval prior to grading/land disturbance.
27. Grading plans submitted to Building and Safety for roads not included in the County maintained road system shall include Land Development approved road improvement plans for comparison. When a difference between the grading and road standards occurs, plan review and inspections shall be based on the higher standard.

PRIOR TO RECORDATION OF THE PARCEL MAP

LAND USE SERVICES/ Planning (909) 387-8311

28. CDP/Planning. A Composite Development Plan (CDP) is required to be prepared in compliance with the County Development Code. The CDP shall be submitted to the County Surveyor, who will then circulate the CDP for review and approval by all County agencies requiring CDP notes. Once approved the CDP is permanently filed with County Building & Safety and when developed each parcel shall comply with these Conditions of Approval.
- a) Delineate all setbacks and easements on the CDP.
 - b) The following notes shall be placed on the CDP:
 - “Water- Prior to the issuance of a building permit, a payment will be made to the Fontana Water Company for the construction of the project’s fair share of water improvements necessary for the project. Proof of payment shall be provided to the Planning Division.”
 - “Sewer – Prior to the issuance of a building permit, a payment will be made to the County Special Districts Department for the cost of construction of the sewer improvements necessary for the project, or cause necessary improvements to be built. Proof of compliance, either payment or of construction shall be provided to the Planning Division.”

ENVIRONMENTAL HEALTH SERVICES/ Water & Waste Water Division (909) 387-4666

29. Water Purveyor. The water purveyor shall be the Fontana Water Company, or, if not available, EHS approved. Applicant shall procure a verification letter from the water agency with jurisdiction. This letter shall state whether or not water connection and service shall be made available to the project by the water agency. This letter shall reference the Assessor's Parcel Number. (Letter on file dated June 20, 2013).
30. CDP/EHS. Submit evidence of contractual arrangements or installation of water improvements to the Environmental Health Services (EHS) for prior to recordation. A note shall be placed on the Composite Development Plan (CDP) stating, "Water purveyor shall be Fontana Water Company. Proof of installation of water improvements shall be provided prior to the issuance of building permits."
31. Sewer Purveyor. Method of sewage disposal shall be provided by a public wastewater collection entity. The project proposes the use of Zone of County Service Area 70 to accommodate its wastewater needs which will require formation of the zone and the approval of an out-of-agency service agreement with the City of Rialto for acceptance and treatment of effluent. Applicant shall procure a verification letter from the sewer agency with jurisdiction. This letter shall state whether or not sewer connection and service shall be made available to the project by the sewer agency. The letter shall reference the Assessor's Parcel Number. Submit evidence of contractual arrangements or installation of sewer improvements to the Environmental Health Services (EHS) prior to recordation. A note shall be placed on the Composite Development Plan (CDP) stating, "Sewer purveyor shall be County Service Area or Zone. **Proof of installation of sewer improvements shall be provided prior to the issuance of building permits.**"
32. Acoustical. Submit acoustical information sheet demonstrating that the County's exterior and interior residential noise standards will not be exceeded and if exceeded, the manner in which those levels will be mitigated to an acceptable level. Submit information/analysis to the Environmental Health Services (EHS) Division for review and approval.
http://www.sbcounty.gov/dehs/Depts/EnvironmentalHealth/FormsPublications/document/project_acoustial_information.pdf.
33. Submit verification of service approval to EHS for any project that requires water or sewer connection outside the purveyor's jurisdiction. For information, contact LAFCO at (909) 383-9900.
34. The extension of sewer service to this project will require an agreement with the City of Rialto for acceptance of wastewater generated outside its boundaries for the proposed Zone of CSA 70. Such an agreement is required to be reviewed and approved by LAFCO before a will-serve letter or other contractual relationship can be finalized. For

further information on this process, contact the LAFCO office at (909) 383-9900 or James Oravets of the County Special Districts Department relative to the Zone's provision of service at (909) 387-5940.

LAND USE SERVICES / Building and Safety (909) 387-8311

35. CDP/B&S. The project applicant shall submit for review and approval a Composite Development Plan. The following statements shall be placed verbatim on the CDP:
- "A preconstruction inspection, tree removal plan and permit in compliance with the County's Plant Protection and Management Ordinance, shall be approved prior to any land disturbance and/or removal of any trees or plants."
 - "Natural Drainage Course(s)/Easement(s) shall not be occupied or obstructed unless specific approval from Land Development Engineering/Drainage Review is provided".
36. Delineate all easements on the Composite Development Plan (CDP).

COUNTY FIRE /Community Safety (909) 386-8465

37. Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.
38. Additional Requirements. In addition to the Fire requirements stated herein, other onsite and offsite improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
39. Fire-CDP. The project applicant shall submit for review and approval a Composite Development Plan. The following statements shall be placed verbatim on the CDP.
- "Jurisdiction. The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein ("Fire Department"). Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department."
40. Fire Requirements. Individual lot owners shall be required to provide their own fire protection measures as determined and approved by the Fire Department prior to any

building permit issuance. Fire protection measures may include Fire Department approval of:

- Individual fire protection water-systems (e.g. fire flow) for each lot.
- Automatic fire sprinklers for all structures.
- Surfacing of access roads and driveways.

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

41. Drainage Facility Design. A Registered Civil Engineer shall investigate and design adequate drainage facilities to intercept and conduct the off-site and on-site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$520 deposit for drainage review will be collected upon submittal to the Land Development Division.
42. Topo Map. A topographic map shall be provided to facilitate the design and review of necessary drainage facilities.
43. Drainage Easements. Adequate San Bernardino County Drainage Easements (minimum fifteen [15] feet wide) shall be provided over the natural drainage courses, drainage facilities/or concentration of runoff from the site to dewater into private property.
44. Grading Plans. Grading plans shall be submitted for review and approval obtained. A \$520 deposit for grading plan review will be collected upon submittal to the Land Development Division.
45. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
46. Permit. A permit, or authorized clearance, shall be obtained from Land Development Division prior to issuance of a grading permit by County Building and Safety.
47. WQMP. A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A \$2,500 deposit for WQMP review will be collected upon submittal to the Land Development Division. Copies of the WQMP guidance and template can be found at: (http://www.sbcounty.gov/dpw/land/environmental_mgmt.asp)
48. CDP/LDD - Drainage. A Composite Development Plan (CDP) is required and the following shall be delineated or noted on the CDP with confirmation and approval obtained from the LDD, prior to recordation of the Final Map (Statements in quotations shall be verbatim):

- “Natural Drainage.” Natural Drainage Course(s) and/or Easement(s) shall not be occupied or obstructed, unless specific approval is given by Land Development Division/Drainage Section for each lot/parcel.”
- “Grading Plans.” Grading plans shall be submitted to Land Development Division for review and approval obtained prior to issuance of grading permits for each parcel. Submit necessary fees per the latest fee schedule for review, inspection and approval.”
- “Additional Drainage Improvements.” At the time each lot/parcel is developed, a California Registered Civil Engineer (RCE) shall prepare/design complete drainage improvement plans and profiles. After these are submitted for review and approval additional "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time.”
- “Drainage and WQMP Improvements.” Prior to issuance of Building Permit, all required drainage and WQMP improvements shall be completed by the applicant, inspected and approved by County Public Works. Submit necessary fees per the latest fee schedule for review, inspection and approval.”
- “WQMP Operations and Maintenance.” Operation and maintenance (O&M) requirements for all Source Control, Site Design, and Treatment Control BMPs shall be identified within the Water Quality Management Plan (WQMP). All maintenance or replacement of BMPs proposed as part of the WQMP are the sole responsibility of the Owner in accordance with the terms of the WQMP Agreement.”
- “WQMP Final File.” Prior to Occupancy, an electronic file of the final and approved WQMP shall be submitted to the Land Development Division, Drainage Section.”

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

49. Road Dedication/Improvement. The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications, plans and permits for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. These shall be submitted to the Land Use Services Department, located at 385 N. Arrowhead Ave, San Bernardino CA 92415-0187. Phone: (909) 387-8311.
Valley Boulevard (Major Highway (Variance) – 110')
- Street Improvements. Design curb and gutter with match up paving 43 feet from centerline.
 - Sidewalks. Design sidewalks per County Standard 109 type C.
 - Driveway Approach. Design driveway approach per San Bernardino County Standard 129B, and located per Standard 130.
50. Road Design. Road sections within and/or bordering the project site shall be designed to Valley Road Standards of San Bernardino County, and to the policies and

requirements of the County Department of Public Works and in accordance with the Master Plan of Highways.

51. Improvement Securities. All required public road, drainage, WQMP, and utility improvements for subdivisions shall be bonded in accordance with County Development code unless constructed and approved prior to recordation. Submit necessary fees, per the latest fee schedule, for new securities.
52. Maintenance Bond. Once all required public road, drainage, WQMP, and utility improvements have been constructed and approved, a maintenance bond for a period of one year shall be required to insure satisfactory condition of all improvements. Submit necessary fees, per the latest fee schedule, for new securities.
53. Street Improvement Plans. The developer shall submit for review and obtain approval of street improvement plans prior to recordation.
54. Utilities. Final plans and profiles shall indicate the location of any existing utility facility or utility pole which would affect construction, and any such utility shall be relocated as necessary without cost to the County.
55. Encroachment Permits. Prior to installation of road and drainage improvements, a permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8039, as well as other agencies prior to work within their jurisdiction.
56. Soils Testing. Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to San Bernardino County and a written report shall be submitted to the Transportation Operations Division, Permits Section of County Public Works, prior to any placement of base materials and/or paving.
57. Open Roads/Cash Deposit. Existing County roads, which will require reconstruction, shall remain open for traffic at all times, with adequate detours, during actual construction. A cash deposit shall be made to cover the cost of grading and paving prior to issuance of road encroachment permit. Upon completion of the road and drainage improvement to the satisfaction of the Department of Public Works, the cash deposit may be refunded.
58. Transitional Improvements. Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing, shall be required as necessary.

59. Street Gradients. Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of County Public Works confirming the adequacy of the grade.
60. CDP/LDD – Roads. A Composite Development Plan (CDP) is required and the following shall be delineated or noted on the CDP with confirmation and approval obtained from the LDD prior to recordation of the Final Map (Statements in quotations shall be verbatim):
- “Encroachment Permit. At the time each lot/parcel is developed, an encroachment permit or other authorized clearance from each affected agency shall be required for all construction in the right-of-way of any jurisdiction, including the County and State. A copy of each permit shall be submitted to Public Works for review and approval obtained, prior to any project construction in any affected right-of-way of any jurisdiction.”
 - “Cash Deposit. At the time each lot/parcel is developed, a cash deposit shall be paid to Public Works prior to issuance of a County encroachment permit. The cash deposit is to assure completion of the required grading and paving in County right-of-way. The deposit shall cover all costs, including administration, contracting, construction and inspection. Upon completion of the County road and drainage improvements to the satisfaction of County Public Works, the cash deposit can be refunded.”
 - “Improvements Constructed. Prior to final approval or occupancy of any structure on any lot/parcel, all required on-site and off-site road and drainage improvements (public and private) shall be fully constructed by the applicant, inspected and approved by County Public Works. However, completion of road and drainage improvements does not imply acceptance for maintenance by the County.”
 - “Open Roads. At the time each lot/parcel is developed, existing County roads which require reconstruction by the project shall remain open for traffic at all times, with adequate Public Works approved detours, during actual construction.”
 - “Structural Section Testing. Prior to occupancy, a thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to the County Public Works.”

PUBLIC WORKS –COUNTY SURVEYOR – Parcel Map Section (909) 387-8149

61. A Parcel Map is required in compliance with the Subdivision Map Act and the San Bernardino County Development Code.
62. Subdivider shall present evidence to the County Surveyor's Office that he has tried to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.

63. Easements of record not shown on the tentative map shall be relinquished or relocated. Lots affected by proposed easements or easement of record, which cannot be relinquished or relocated, shall be redesigned.
64. Prior to approval for recordation, all fees required under actual cost job number PM 19470 shall be paid in full.
65. The following note shall be placed on the CDP:
 - “Condominium Map. Prior to issuance of building permits on Parcel 2, a condominium map shall be recorded to reflect the library’s status as a legally-separate parcel.”

PUBLIC WORKS –TRAFFIC DIVISION – (909) 387-8186

66. The following note shall be placed on the CDP:
 - “This project falls within the Regional Transportation Development Mitigation Fee Plan for the Rialto Subarea. This fee shall be paid by a cashier’s check to the Department of Public Works Business Office. The plan fees shall be computed in accordance with the Plan fees in effect as of the date that the building plans are submitted and the building permit is applied for. These fees are subject to change. The current Regional Transportation Development Mitigation Plan can be found at the following website:http://www.sbcounty.gov/dpw/transportation/transportation_planning.asp”

END OF CONDITIONS – TPM 19470 P201300295

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: JANUARY 6, 2014
FROM: MICHAEL TUERPE, Project Manager
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: Agenda Item #7: Consideration of Contract with County of San Bernardino Auditor-Controller/Treasurer/Tax Collector for Continued Payroll and Accounting Services

RECOMMENDATION:

Staff recommends that the Commission continue the consideration of the new contract with the County Auditor for payroll and accounting services to the February 19, 2014 hearing.

BACKGROUND:

In June 2013, the County notified LAFCO that changes in payroll reporting in the Internal Revenue Code as a result of the Affordable Care Act require the establishment of a payroll reporting relationship (in this case the relationship between the County and LAFCO). At the July hearing, the Commission directed the Executive Officer to negotiate a contract with the County for payroll reporting and accounting services and obtain its own federal and state identification numbers. By November the County had not finalized a draft contract for Commission review, and at the November hearing the Commission continued the consideration to the January 2014 hearing.

As of the date of this report, the County still has not finalized a draft contract. Therefore, LAFCO staff cannot provide a draft contract for Commission review. The Assistant Auditor has assured LAFCO staff that payroll services will continue in the same manner as before and it will continue to deposit and pay LAFCO's payroll taxes as LAFCO's "reporting agent", using LAFCO's separate Federal and State Employer Identification Numbers.

CONCLUSION:

Staff will continue to work with Auditor staff on the new contract and provide that document to LAFCO Legal Counsel as soon as possible to allow for his review prior to the February hearing. Staff will continue to work with the County to ensure that payroll reporting and accounting services take place appropriately and that any questions on the proposed contract are provided to the County expeditiously. Staff recommends that the Commission continue this matter to the February 19, 2014 hearing for consideration.

MT/KRM

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: JANUARY 7, 2014 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
MICHAEL TUERPE, Project Manager
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #8: LAFCO 3176 - Service Reviews for the Daggett,
Newberry, and Yermo Community Services Districts

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Note the receipt of and file this report.
2. Authorize the Executive Officer to negotiate with the Special Districts Risk Management Authority for special training on issues such as governance, principal act requirements, etc.
3. Increase the allocation for LAFCO 3176 by \$5,000 to accommodate the costs of the special training session (this does not require an amendment to the LAFCO FY 2013-14 budget).

BACKGROUND:

At the November 20 hearing, as a part of the Executive Officer's Report, the Commission heard public comment from the president of the Yermo Community Services District regarding the off-cycle service review of the Newberry, Daggett, and Yermo CSDs. In response to those comments, the LAFCO Executive Officer stated that information regarding the questions raised would be provided as a part of the January 15 agenda.

In addition, as a part of the review of questions related to governance included in Service Reviews, the Commission has previously expressed interest in providing governance information and education to new special district board members. Methods that have been briefly discussed include having an entity such as the California Special Districts Association (CSDA) conduct training for agencies lacking resources to provide this education to their Board members.

The information provided below will respond to both of these questions raised by the Commission.

Questions on Off-Cycle Service Review for the Daggett, Yermo and Newberry CSDs:

As noted above, the President of the Board of Directors of the Yermo CSD provided comments during the Executive Officer's report on the manner in which the off-cycle review was being conducted by LAFCO staff. Those comments were:

Comment #1: The constituents of the Yermo CSD are not happy that their district has been perceived to have the same issues as those of the Newberry CSD; that the constituents feel that by LAFCO's initiation of a special study for the three neighboring CSDs, as recommended by the Grand Jury's report, they are being corralled into the same category as Newberry CSD. The residents of both Yermo and Daggett feel like the LAFCO Commission is punishing them for Newberry's shortcomings and for no other apparent reason, as conveyed to the board President.

Among the possible reorganization scenarios presented in LAFCO's 2009 service review of the same three districts, the Grand Jury report identified that the following two scenarios merit further review, along with more robust analysis of governance and reorganization options. The Newberry CSD portion of the 2012-13 Grand Jury report is included as Attachment #1. The quotations are taken directly from the Grand Jury report.

- Removing the Newberry CSD fire protection powers with concurrent annexation of the Newberry area by the San Bernardino County Fire Protection District (County Fire); "or ,
- "More substantially, consolidating the Newberry CSD with two adjacent community services districts, to allow for 'economies of scale and provide the opportunity for streamlined governance and compliance with CSD law'."

LAFCO staff's response to the comments identified by the President Smith are that in order to properly analyze the second reorganization option identified by the Grand Jury, the service review needs to encompass all three CSDs. Lacking inclusion would not provide for a proper service review and not comply with the Grand Jury recommendation. Therefore, the Commission included Daggett and Yermo CSDs in the off-cycle service review (second round service review most likely would occur in 2015). The direction was not punitive in nature and the more detailed review should address any questions regarding the operation of the districts, most importantly the questions of financial benefit.

Comment #2: The President of Yermo CSD states that his district was informed of the items that staff was requesting for the review only a few days prior to the scheduled site visit, that the list was comprehensive, and that it would require time and resources that the district does not currently have to compile all the information.

The listing below outlines communication and correspondence between LAFCO staff and the three affected districts. Between September 26 and November 18, LAFCO staff was in contact with the general managers of each district outlining the study needs and parameters, requesting documents, as well as scheduling an on-site meeting.

- September 18 – Commission directed staff to undertake an immediate off-cycle service review in response to Recommendation #15 from the FY 2012-13 Grand Jury Report related to the Newberry Community Services District. The service review was expanded to include the region as previously defined by the Commission.
- September 26 – letter from LAFCO staff to the general managers of each district notifying the districts of the service review along with a request for financial and service documents.
- Late October through mid-November - phone conversations with the general managers of each district to schedule the meeting and to request documents.
- Early November – LAFCO staff conducted interviews with the Fort Irwin Fire Department stationed at Daggett Airport and San Bernardino County Fire Protection District.
- November 18 – letter from LAFCO staff to the general managers of each district to provide the topics for discussion at the meeting, to have a written record of the scheduled meeting, and to memorialize phone conversations and items previously requested (Attachment #2).
- November 21 – site interviews with each district.
- December 16 and 18 – letter from LAFCO staff to the general managers of each district on outstanding items.

In communication by the Yermo CSD it requested that LAFCO provide the topics to be discussed at the November 21 meeting as well any specific questions. LAFCO staff informed the district that that information would not be available until shortly before the meetings. The letter dated November 18 provides the topics for discussion at the meeting, a written record of the scheduled meeting, and memorializes phone conversations and items previously requested. The listing of requested items in the November 18 letter was drafted specifically so that the districts would mainly have to provide copies of existing documents and answer a few questions. Based upon this outline, at the November 21 meeting the districts provided most of the requested documents and were able to answer all of questions from the letter.

Comment #3: The President of Yermo CSD requested that the Commission help these small districts instead of criticizing them, as they feel the Commission is currently doing by virtue of the Special Study Service Review.

As with each of LAFCO's service reviews, staff assists the districts in shoring up deficiencies before and after the issuance of the final report. For example, if an agency lacks an appropriations limit, LAFCO staff provides the appropriate information to assist the districts. It is important to note that this service review is not a standard service review; it is an off-cycle review in response to a Grand Jury recommendation that identifies specific reorganization scenarios. Staff will analyze the data, provide a fiscal impact analysis for each possible reorganization scenario, and provide recommendations based upon the analysis.

In response to prior comments/direction of the Commission to seek to educate the local governments we review about the laws which govern their operations, staff has been in contact with the Special Districts Risk Management Authority (SDRMA) about options to conduct local training. LAFCO staff's position in reviewing this option is that it is recognized that the three-community area is classified as a disadvantaged community. Further, in general each district has either experienced high turnover amongst directors, or has had difficulty in attracting enough candidates for an election thus requiring appointments in-lieu of election. For example, Newberry CSD has three new members since August.

In December LAFCO staff contacted SDRMA about the possibility of conducting a special training session in the community on board governance. This would provide training and access to resources that the districts may not have otherwise. The intent would be to offer this training to all special districts in the county. SDRMA has identified that training can be tailored primarily for CSDs (relevant for this service review), with parallel dialogue regarding other types of districts (i.e. public cemetery districts) worked into the training.

Staff recommends that the Commission provide direction to staff to review the options in more detail with SDRMA for a special training session and authorize the Executive Officer to negotiate with SDRMA for this training. At this time, SDRMA has identified that there would be no cost for any CSD that attends. There may be a cost for those districts not a member of SDRMA and not a CSD, which would be borne by the Commission. Staff's analysis of the LAFCO budget does not indicate that funds need to be transferred from Contingencies to accommodate this activity, at this time. However, staff recommends that the Commission consider this cost as a part of the service review (LAFCO 3176) and increase the service review allocation by the maximum amount of \$5,000. This action would not require an amendment to the LAFCO FY 2013-14 budget.

ANTICIPATED TIMELINE:

At this time, staff anticipates that the service review will be presented to the Commission in April or May. Below is the anticipated timeline of remaining milestones:

- Second site interview with Newberry CSD due to high turnover of the district board since November 21 meeting (*tentative mid to late January*).
- CSDA to conduct special training session in the community (*tentative February/March*).
- Issue draft staff report to the districts, LAFCO Commissioners in the region (current Service Review practice), San Bernardino Fire Protection District, and the County (First District, Administrative Office, Special Districts Department, and Department of Airports) (*tentative February/March*).
- Site visit with the districts to review draft staff report with notification to those who receive the draft staff report (*tentative March/April*).
- Conduct a community meeting to review the draft staff report (*tentative March/April*).
- Issue the final report and present at a LAFCO hearing (*tentative April/May*).

Staff believes that this response addresses the concerns expressed at the November hearing as well as providing a more detailed outline of the Service Review process for LAFCO 3176. In the interim, staff will be happy to answer any questions of the Commission, the districts, or the public on the off-cycle service review.

KRM/MT

Attachments:

1. Excerpt from 2012-13 Grand Jury Report
2. Letters dated November 18, 2013 to Daggett, Newberry, and Yermo CSDs

Excerpt from 2012-13 Grand Jury Report

Attachment 1

NEWBERRY COMMUNITY SERVICES DISTRICT

BACKGROUND

The Grand Jury received multiple citizen complaints regarding Newberry Community Services District. Issues reviewed were regarding practices, Policy and Procedures and Board actions of the agency.

Due to the numerous issues involved and the detailed information to review, the Grand Jury requested the assistance of an outside consultant. The report that follows is a combination of the Grand Jury and the outside consultant's efforts.

RECOMMENDATIONS

- 13-26. The recommendations within the following report in the Governance Section, numbered 1-3 be responded to appropriately.
- 13-27. The recommendations within the following report in the Accounting and Financial Management Section, numbered 4-7 be responded to appropriately.
- 13-28. The recommendations within the following report in the Internal Controls Section, numbered 8-15 be responded to appropriately.

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Due Date</u>
Newberry Community Services District	1 through 3 4 through 5 8 through 14	09/28/13
LAFCO	15	09/28/13
San Bernardino County Auditor/Controller	6 and 7	09/28/13

NEWBERRY COMMUNITY SERVICES DISTRICT

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Introduction

Purpose

The Grand Jury received multiple citizen complaints regarding Newberry Community Services District's (NCS D or District) activities.

Background

Community Services Districts are special districts provided for in the State Government Code by the California Legislature to enable residents and property owners in California's diverse communities to achieve local governance, provide needed public facilities, and supply public services. Community Services Districts may be any of the following:

1. A permanent form of governance that can provide locally adequate levels of public facilities and services;
2. An effective form of governance for combining two or more special districts that serve overlapping or adjacent territory into a multifunction special district;
3. A form of governance that can serve as an alternative to the incorporation of a new city; or,
4. A transitional form of governance as the community approaches cityhood.

Community Services Districts are legal entities, defined within State Government Code, with powers:

1. To adopt and enforce rules for administration, operation, and services;
2. To sue and be sued;
3. To acquire real and personal property;
4. To appoint employees, define their qualifications and duties;
5. To engage counsel and other professional services; and,
6. To enter into contracts and joint powers agreements

Community Services Districts are required to have an elected Board of Directors. The Board of Directors are responsible for making policies that ensure District's staff are providing chartered services in a responsible, regulatory compliant, and cost effective manner. State Code prescribes rules governing the manner in which a Board must post public notices of meetings, conduct their meetings, and record actions taken at meetings. Community Services District Board of Directors and their meetings are subject to the Ralph M. Brown Act which requires all Board business, but for specific exemptions such as personnel matters and legal advice, to be conducted in public along with certain other conduct related provisions.

NCS D consists of a five member elected Board of Directors. Current Board makeup consists of three men and two women each living within the Districts boundaries. The Board meets monthly to review Districts Operations and Financials in an open public format. Responsibilities of the

Board include oversight of the NCSF Fire Department, public street lighting, and parks and recreation upkeep and maintenance.

In order to execute their responsibilities, a Community Services District's Board of Directors has the ability to:

1. Obtain legal counsel on matters such as:
 - a. Brown Act compliance.
 - b. Employment related laws.
 - c. Bidding and procurement laws.
 - d. Advice on contracts and memorandums of understanding.
2. Obtain financial advice on planning, investments, accounting, and taxes issues.
3. Hire auditors to:
 - a. Ensure an accurate accounting of all District monies.
 - b. Review the District's system of internal controls.
4. Hire subject matter experts for advice on areas of specific concern.
5. Attend training specifically designed for Special District Board members.
6. Raise revenues via special taxes, benefit assessments, and by charging certain fees.
7. Direct the hiring of qualified staff in sufficient quantities, such that: State and county code requirements are met; a system of internal controls and checks-and-balances are in place; minutes of meetings are taken; bills are paid on time and accurately recorded; and to ensure the services, with which the District has been empowered to provide, are adequately provided. Positions may include a Treasurer, a Board Secretary, and administrative and functional department staff as required.

The Newberry Community Services District was formed on December 15, 1958. The District has been specifically empowered by the County of San Bernardino and the County's Local Agency Formation Commission (LAFCO) to provide the following services:

1. Water, including for management, domestic use, irrigation, sanitation, fire protection, and recreational purposes.
2. Fire Protection, including structural, watershed, suppression, and prevention.
3. Street lighting.
4. Parks and Recreation, including local park development, operation, and maintenance.
5. Sewers, including planning and engineering.

Scope

Utilizing the regulatory framework established for Community Services Districts, as outlined above, the Grand Jury took the following actions to evaluate the issues raised in the citizens' complaints:

1. Subpoenaed financial documents, Board of Director's Meeting Minutes, District Bylaws, District Policy and Procedure manuals, banking records, and certain other district records.
2. Observed District Board of Directors' meetings.
3. Inspected certain facilities.

4. Conducted interviews.
5. Reviewed documentation provided by the District for compliance with State and County code, with its own policies and procedures, and for the adequacy of a system of internal controls.
6. Retained a management consulting firm with expertise in public agency matters and public agency accounting requirements.

Financial Period Reviewed

Financial information reviewed was based primarily upon the District's 2011-2012 fiscal year, which ended on June 30, 2012 and utilized information from the District's General Ledger as of that date.

Acknowledgements

The Grand Jury would like to thank the personnel from the Newberry Community Services District and others for their insight into the finances and operations of the District. In particular, we would like to thank the immediate past General Manager and staff for their efforts in compiling and indexing the many documents required for this review.

Executive Summary

The Grand Jury received multiple citizen complaints of activities conducted by the Newberry Community Services District.

To accomplish these objectives, the Grand Jury reviewed various District documents and records; observed Board of Directors' meetings; inspected certain facilities; conducted interviews; and, retained a management consulting firm with expertise in public agency matters.

A summary of the findings and recommendations contained in this report are presented on the pages that follow, by report section number.

Section 1. Governance

Newberry Springs Community Services District (NCSO) Board meetings are not conducted in accordance with rules of order or professional conduct recognized as best practices in public sector organizations. In addition, the NCSO does not consistently record or post official minutes in a timely manner, in violation of the District's own policies, and compromising the ability of Board members to recall official actions when reviewing the minutes for accuracy. A clear violation of California's Open Meeting Law, also known as the Brown Act, was observed by the Grand Jury and has been the topic of concern by members of the Newberry Springs community.

Further, members of the Board have attended mandatory ethics training. However, expanded trainings on leadership and effectively chairing public meetings are available through the California Special District Association, the Special District Leadership Foundation, the California State Association of Counties, and other bodies.

The Board should attend such trainings, and adopt and adhere to expanded, formal policies and rules regarding conduct at public meetings. In addition, NCSO management should take steps to ensure that records of official Board action are routinely recorded, approved for accuracy, and indexed for timely access by the public.

Based on these findings, the NCSO Board of Directors should:

1. The NCSO Board should direct the General Manager to develop proposed policies and rules for conducting public meetings, based on *Roberts Rules of Order* and other accepted standards for parliamentary procedure.
2. Seek to attend courses offered by the CSDA and CSAC on the roles and functions of elected officials, including those offered on leadership and conducting public meetings.
3. Direct the General Manager to begin and maintain a process to record, transcribe, post and safeguard official Board minutes within two weeks of any Board meeting, in accordance with the District's current policy.

Section 2. Accounting and Financial Management

The NCSO has not completed annual financial audits for the previous three fiscal years (2009-2010, 2010-2011, and 2011-2012). State Government Code requires public agencies, including special districts, to conduct annual financial audits within 12 months of the end of each fiscal year. The Board of Directors failure to execute this responsibility is in noncompliance with California Government Code at Section 26909 and 61118 for 2009-2010 and 2010-2011. Further, while State Code requires the County Auditor-Controller to ensure such audits are completed, efforts to monitor and enforce this provision have had limited effectiveness.

Financial reports required by State Government Code to be filed with the State Controller's Office have been submitted by NCSO, but were based upon unaudited and unverified data. Contrary to State code requirements, the District's FY 2011-12 annual report of financial transactions to the State Controller has not been reviewed by an independent public accountant to ensure that it agrees with the official records of the District. The financial information that has been provided, while unaudited, indicates some financial instability, which further underlies the need for regular financial audits.

NCSO lacks basic accounting procedures and controls. Specifically, District does not have: (1) a hierarchical account numbering system; (2) a financial or accounting manual; or, (3) a consistent system to classify expenditures carried out by the District. Further, the District lacks a consistent method for authorizing, classifying, and documenting expenditures from purchase cards.

Based on these findings, the NCSO Board of Directors should direct the General Manager to:

4. Re-adopt a numerical and hierarchical account numbering structure for use in the District's general ledger and income statement.
5. Work with the Board, County Auditor, and utilize resources such as the California Special Districts Association to develop a basic accounting manual.
6. Create purchase card procedures that require District staff to include documentation showing the purpose and justification for all expenditures.

The Auditor Controller should:

7. Revise *Outside Audit Report* procedures to include corrective actions for special districts that do not comply with State audit requirements for an extended period of time. Such corrective actions could include conducting audits and billing the districts for Auditor-Controller staff time or hiring an outside certified public accountant to conduct the audit and billing the district for the accountant's work.
8. Work with the Newberry Community Services District General Manager to determine a feasible approach to comply with audit requirements established in State Government Code Section 26909. Such approaches could, with the *unanimous* request of the Board of Directors and the *unanimous* approval of the Board of Supervisors, include:

- (a) A biennial audit covering a two-year period;

- (b) An audit covering a five-year period, if the District's annual revenues do not exceed an amount specified by the Board of Supervisors; or,
- (c) An audit conducted at specific intervals, as recommended by the County Auditor-Controller, which shall be completed at least once every five years.

Section 3. Internal Controls

The District has By-laws and a Policy Handbook that contain some internal controls to help protect the District's financial and capital assets against the potential risk of loss or misuse. However, these policies remain insufficient for minimizing risk exposure to potential fraud and abuse. For example, the District's policies on purchase cards do not include spending and transaction limits to ensure that there are sufficient funds to pay for expenditures, segregate duties of purchase approvals and reconciliation to prevent potential fraud, or provide mechanisms for handling disputes and unauthorized charges.

In addition, the policies adopted to establish internal controls are not consistently implemented by Board members and District personnel, further exposing the District to unnecessary costs and potential misuse of District tax dollars for personal benefits. Violations of policies that indicate weak internal controls include:

- The lack of documentation for purchase card expenditures;
- Significant expenditures made with purchase cards without required Board approval;
- Lack of timely payments for purchase card billing statements to avoid potential penalties and fees;
- Reimbursement of expenses without sufficient documentation to ensure they were for District business; and,
- The lack of several key documents and tools such a log of all communication with District Counsel, a policy handbook for the Fire Department, and a catalog of retained District records.

Multiple resignations and terminations by the Board of key personnel within the organization during the audit period coincided with breakdowns in internal controls and the ability of the organization to respond by reassigning functions or implementing compensating controls is limited.

Finally, the District does not have an adequate Capital Management Asset System to control inventory and record key information central to making maintenance and replacement decisions.

Based on these findings, the NCSB Board of Directors should:

9. Revise its purchase card policies to:

- (a) Exclude Board members from the use of purchase cards in order to be in compliance with the State Master Services Agreement for purchase cards,

subsequently relinquish any purchase cards currently issued to Board members, and

- (b) Include additional policies to ensure that there are sufficient funds for paying authorized purchase card transactions, prevent potential fraud and abuse through unauthorized and/or inappropriate purchases, and avoid unnecessary penalties and fees from late payments, such as:
 - (i) Spending and transaction limits for each cardholder;
 - (ii) Clearly segregated duties for approving, executing, and reconciling purchases among the General Manager, Treasurer, and other purchase cardholders;
 - (iii) A process for handling disputes and unauthorized purchases; and,
 - (iv) A requirement that purchase cardholders use personal funds to pay for transactions that lack the timely submission of sufficient documentation of the transaction and purpose, as well as any subsequent penalties and fees that result from the delay in submitting such documentation.

10. Diligently review the list of disbursements to be approved on the consent agenda prior to scheduled Board meetings and (a) discuss questionable disbursements with the General Manager and/or (b) request to pull questionable disbursements from the consent agenda for public discussion and review.

The General Manager should:

- 11. Train all participants in the purchase card program on the new and revised policies and procedures for purchase cards.
- 12. Review consultants or vendors with a single invoice over \$5,000, or multiple invoices that, together, exceed \$5,000 to ensure that they have a contract or total expenditure approved by the Board of Directors at a meeting. If the contract was not approved by at least two Board members, or no contract exists, steps should be taken to bring the purchase(s) into compliance with the Policy Handbook.
- 13. Carefully review all requests for reimbursements, including supporting documentation, against the policies and procedures in the District Policy Handbook prior to approval.
- 14. Establish the following to ensure that the District is in compliance with the Policy Handbook and maintains adequate internal controls:
 - (a) District Legal Counsel Log;
 - (b) Policy handbook for the Fire Department; and,
 - (c) Catalog of all retained District records.

15. Establish a Capital Asset Management System that records capital asset information such as the purchase date, condition it was in at the time of purchase, warranties, maintenance history, usage statistics, original useful life, remaining useful life, and replacement costs.

The Local Agency Formation Commission (LAFCO) should:

16. Review suggestions made in its 2009 report and include more robust analysis of governance and reorganization options for the next Service Review of the District, scheduled for 2014.

1. NCSO Governance

As a public entity, the NCSO is bound by various laws embedded in the California State Government Code, which establish rules for open meetings and the retention of official records. In addition, best practices are employed by government entities around the world to ensure that the deliberations of public bodies are clearly communicated, and actions are well articulated and accurately recorded. Further, best practices establish various protocol for members of the public to be provided with the opportunity to comment on matters before elected bodies or on matters of general concern, in an orderly, respectful and efficient manner.

NCSO Public Meetings

Because the NCSO is a public entity that derives its authority from the voters, it is incumbent upon members of the elected Board of Directors to establish policies, procedures and rules that govern the manner in which it conducts the public's business. Based on a review of records, testimony from individual Board members and observations at public meetings, the Grand Jury found that: (1) the Board has not formalized a robust policy framework, rules or protocol for conducting public meetings; (2) individual members of the Board and other persons often exhibit inappropriate behavior during public meetings; and, (3) records of official action are not consistently prepared or otherwise completed in a timely manner.

Open Government Policy Framework and Rules Are Weak

NCSO Policy 5070 establishes the "Rules of Order for Board and Committee Meetings." Although loosely based on well-regarded rules defining parliamentary procedures, Section 5070.1.1 states that "These rules of order are intended to be informal and applied flexibly. The Board prefers a flexible form of meeting and, therefore, does not conduct its meetings under formalized rules – Roberts Rules of Order." Subsection 5070.1.1.1 further states that "If a Director believes order is not being maintained, then he/she should raise a point of order – not requiring a second – to the President. If the ruling of the President is not satisfactory to the Director, then it may be appealed to the Board. A majority of the Board will govern and determine the point of order."

The intended flexibility of these Rules of Order is emphasized in other sections of the policy. Subsection 5070.5.1 states that "The President shall take whatever actions are necessary and appropriate to preserve order and decorum during Board meetings, including public hearings. The President may eject any person or persons making personal, impertinent or slanderous remarks, refusing to abide by a request from the President, or otherwise disrupting the meeting or hearing." Further, Subsection 5060.6.1 states that "By motion made, seconded and approved by a majority vote, the Board may, at its discretion and at any meeting: a) temporarily suspend these rules in whole or in part; b) amend these rules in whole or in part; or, c) both." The remainder of the Policy addresses procedures for individual Directors to obtain the floor; and, offering, commenting and moving motions to a vote.

Although different parliamentary procedures have been developed over the years, *Roberts Rules of Order* are generally considered to be the standard for local government entities in the United

States. The *Institute for Local Government*¹ states that formalized rules of order are necessary to “guide the discussion and decision-making process.” Although following parliamentary procedure is not required in California, it is considered to be a best practice, makes public meetings more efficient, and reduces the chances of official actions being declared illegal or challenged for procedural deficiencies.

Further, the League of California Cities, in the organization’s publication *Open and Public IV*, has made the observation that there are certain key principles and goals that should be considered when government bodies develop their policies regarding public meetings:

- A legislative body's need to get its business done smoothly;
- The public's right to participate meaningfully in meetings, and to review documents used in decision-making at a relevant point in time;
- A local agency's right to confidentially address certain negotiations, personnel matters, claims and litigation; and,
- The right of the press to fully understand and communicate public agency decision-making.

Although prepared in the context of the State’s Open Meeting Law (i.e., the “Brown Act”), these principles support the concept that in order to operate effectively, meetings require rules and procedures to ensure orderly, efficient, and productive sessions in a calm, professional setting. The limitations of the District’s current policy, including the desire for “flexibility” embedded in the policy foundation, do not support the accomplishment of these goals. The League of California Cities continues by stating, “An explicit and comprehensive public meeting and information policy, especially if reviewed periodically, can be an important element in maintaining or improving public relations. Such a policy exceeds the absolute requirements of the law . . . A narrow legalistic approach will not avoid or resolve potential controversies. An agency should consider going beyond the law, and look at its unique circumstances and determine if there is a better way to prevent potential problems and promote public trust.”

As will be discussed below, the public trust appears to have been damaged in the NCSD, in part by the manner in which public meetings are conducted, the behavior of Directors during public meetings and inconsistencies with the preparation and maintenance of official records of action. As a first step toward improving public access and communication, the NCSD should adopt more robust policies regarding parliamentary procedure, adhering to the basic principles of *Roberts Rules of Order*, which have been in existence and used by local government agencies in the United States for well over 100 years. When developing these policies, the District should consult with the California Special District Association (CSDA), which can provide resources and make suggestions regarding best practices for special district organizations.

Members of the Board Exhibit Inappropriate Behavior at Public Meetings and May Have Acted in Violation of California Law

¹An affiliate of the California State Association of Counties (CSAC) and the League of California Cities.

As part of the Grand Jury's investigation, members attended NCSB Board meetings and listened to numerous tape recordings of other meetings to assess the effect of the weak policy foundation on proceedings. The following observations were made:

- Before the start of Board meetings, members of the public who wish to address the Board fill out a "Request to Be Heard" card and are provided with three minutes to voice their concerns. Although this is a typical practice in government organizations, members of the public were also permitted to engage in discussions at any time during the meeting, without filing the required Request to be Heard Card. Often, members of the public spoke to individual directors without going through the President and, although some persons would raise their hand to be recognized, in many instances other persons would simply begin to speak without being recognized. Sometimes, multiple conversations occurred simultaneously and discussions between persons in the audience were conducted separately while the Board merely watched and listened.
- In several instances, members of the Board engaged in arguments with one another and members of the public. During these exchanges, the meetings were disrupted as people talked over one another and made sarcastic and snide remarks. In some instances, the arguments between Board members became overly heated, causing some members to walk out while the meeting proceeded. In another instance, a Board member challenged a member of the public who had just finished addressing the Board. This resulted in a brief shouting match between the two. In another instance, a member of the public was talking loudly during the meeting and, when asked by a Board member to be silent, the person responded with an obscene gesture.
- Some Board members were seen slouching in their chairs, keeping their heads down and speaking in voices that could barely be heard by the audience. Such behavior gives the impression that these members are indifferent and/or disinterested in the proceedings, is disrespectful and unprofessional.
- The unprofessional behavior of the Board has been observed for some time by previous employees and members of the public. In March 2012, the resignation letter submitted by a former Fire Chief, stated that his departure was due, in part, to ". . . the public fights and bickering so prevalent on the NCSB Board."
- At the February 26, 2013 meeting of the Board, an argument started regarding whether the Board member could remove an agenda item without a vote of the Board. The item in question concerned an accusation that a sitting member of the Board had committed fraud and conspiracy. During recess, three members of the Board (a quorum) were observed talking together in private, which is a clear violation of the Brown Act. The Newberry Springs Community Alliance, which describes itself as a ". . . grassroots organization of residents and property owners fostering an improvement of Newberry Springs through the engagement of educating the community" regularly blogs critical comments about the Board. In March 2013, this organization blogged "The CSD Board has had a hard time holding a single meeting that doesn't contain a Brown Act violation."

These examples of poor behavior by Board members, and the inability of the President to control both Board member and audience interaction, suggest that the individual members of the Board

have not yet developed the necessary skills to lead or participate in public meetings in a professional manner. Combined with more robust policies, procedures and rules defining parliamentary procedures, Board members should be provided with training on duties, responsibilities and behavior as elected officials.

Further, it is clear that members of the Board may not be familiar with the requirements of the California Open Meeting Law or Records Retention Act, as discussed in the section, below. Accordingly, the City Attorney should be requested to develop and lead workshops on these topics to ensure that current and future Board members have the background and knowledge to adhere to these laws.

Board Members Have Not Been Provided With Appropriate Training

Assembly Bill 1234 requires that all board members of special districts complete a two-hour, on-line Ethics Compliance Training Course after joining the Board. Based on records maintained by the District, all Board members have received this training. The California Special District Association (CSDA) provides training for elected officials and managers of special districts, including various orientation trainings, leadership summits, and related topics such as human relations and resource management. Other courses are provided through the Special District Leadership Foundation, and guides are available through the State Board of Equalization and other bodies. In addition, other trainings are offered by Statewide organizations, such as the California State Association of Counties (CSAC) that may be helpful to the District's leadership. For example, CSAC has an agreement with California State University Northridge to provide special courses for elected officials and managers that can be attended to obtain credit towards a Master Degree in Public Administration. In addition, CSAC offers courses through the *Institute for Excellence in County Government*, which may be beneficial to the District directors, including:

- The Art and Practice of Elected Leadership;
- Getting Things Done: Working Effectively to Achieve Objectives;
- Chairing and Managing Effective Public Meetings;
- Making Impressions: Media Interviewing;
- Negotiation and Collaboration in Complex Environments; and,
- Advanced Practice in Negotiation.²

Although these courses are designed for County elected officials, the topics and content can also be applied to the operations of the NCSO. The members of the Board should explore the opportunity for attending selected courses, with the goal of improving the conduct of public meetings and interactions with each other and members of the public.

Records of Board Actions Are Not Complete or Prepared in a Timely Manner

² Go to http://www.csac.counties.org/sites/main/files/file-attachments/2013-winter-spring-publish_3.pdf to view a complete description of available courses for the Spring 2013 schedule.

NCSD Policy 5060.1.1 states that:

Copies of a meeting's minutes shall be posted for a minimum of 10 days on the NCSD website within 14 (days) of NCSD meeting for public review. Copies of meeting minutes shall be distributed to Directors as part of the information packet for the next regular meeting of the Board, at which time the Board will consider approving the minutes as presented or with modifications. Once approved by the Board, the official minutes shall be kept in a fireproof vault or in a fire-resistant cabinet.

The NCSD does not adhere to this policy.

During the period of this review, the Grand Jury found that Board minutes were not being consistently recorded, posted and secured in the manner prescribed by Policy 5060.1.1. Minutes were generally not transcribed promptly and were not ready for approval at the next regularly scheduled Board meeting. When copies of minutes were requested, the current General Manager reported that she had to look in several locations before they were located. A number of Board minutes were audio recorded but not transcribed for weeks or months later, resulting in some Board members not recalling what actions were taken on agenda items when presented with the written notes for approval.

Members of the Grand Jury reviewed the written notes and listened to numerous audio recordings of Board meetings. The background noise on some recordings made it difficult to hear or understand who was speaking and, in some cases, what was being said. Some audio recordings were started after the meetings were called to order and no references to the dates of the meetings were heard. This creates difficulties with providing an accurate written record of Board proceedings, even when the audio recordings are transcribed. For example, the Board minutes from the August 28, 2012 meeting included a typed side-note that stated the notes "... are not transcripts of the meetings; only the hi-lights and hopefully accurate."

To ensure that there are accurate records of official actions, the Board should direct the General Manager to begin and maintain a process to record, transcribe, post, and safeguard official Board minutes within two weeks of any Board meeting, in accordance with the District's current policy.

Conclusions

NCSD Board meetings are not conducted in accordance with rules of order or professional conduct recognized as best practices in public sector organizations. In addition, the NCSD does not consistently record or post official minutes in a timely manner, in violation of the District's own policies, and compromising the ability of Board members to recall official actions when reviewing the minutes for accuracy. A clear violation of California's Open Meeting Law, also known as the Brown Act, was observed by the Grand Jury and has been the topic of concern by members of the Newberry Springs community.

Further, members of the Board have attended mandatory ethics training. However, expanded trainings on leadership and effectively chairing public meetings are available through the California Special District Association, the Special District Leadership Foundation, the California State Association of Counties, and other bodies.

The Board should attend such trainings, and adopt and adhere to expanded, formal policies and rules regarding conduct at public meetings. In addition, NCSD management should take steps to

ensure that records of official Board action are routinely recorded, approved for accuracy, and indexed for timely access by the public.

Recommendations

The NCSB Board of Directors should:

- 1 The NCSB Board should direct the General Manager to develop proposed policies and rules for conducting public meetings, based on *Roberts Rules of Order* and other accepted standards for parliamentary procedure.
- 2 Seek to attend courses offered by the CSDA and CSAC on the roles and functions of elected officials, including those offered on leadership and conducting public meetings.
- 3 Direct the General Manager to begin and maintain a process to record, transcribe, post and safeguard official Board minutes within two weeks of any Board meeting, in accordance with the District's current policy.

Costs and Benefits

There would be minimal cost for the members of the Board to attend leadership and other training offered by CSDA and CSAC.

Parliamentary procedures recognized throughout the world would be followed by the NCSB Board, and the Board members would receive the training necessary to provide leadership and ensure a more professional atmosphere at public meetings. The risk of Directors violating California Open Meeting Laws and the California Records Act would be reduced.

2. Accounting and Financial Management

NCSO Lacks State-Mandated Financial Audits

NCSO has not completed annual financial audits for fiscal years 2009-2010, 2010-2011, and 2011-2012. NCSO is therefore not in compliance with State Government Code Section 26909 for 2009-2010 and 2010-2011, which requires annual audits of financial condition for all special districts within 12 months of the end of a fiscal year.

The State Controller's Office prescribed minimum auditing requirements for special districts, set out in Title 2, Section 1131.2 of the California Code of Regulations, consist of 17 general statements that county auditors or independent accounting firms should consider in preparing an audit program. These 17 statements include the following important steps, among others:

- A proper study and evaluation of the existing internal control and the financial organizational structure;
- A review of the district's report of financial transactions to the State Controller to see that it agrees with official records of the district for the period. The State Controller should be informed of any material difference;
- A determination that expenditures were properly documented, authorized and incurred and are proper charges to the fund and appropriation against which they have been charged; and,
- A verification of all assets and liabilities in accordance with generally accepted auditing standards.

The failure to follow these and the other requirements set out by the State Controller has led to negative consequences for NCSO including: (1) putting NCSO out of compliance with State Code; (2) leaving residents and taxpayers without a reasonable assurance that financial statements are presented fairly and accurately; and, (3) putting the District at greater risk of waste, fraud and abuse due to the absence of any review of internal controls.

The lack of audited financial statements is also not consistent with industry best practices, such as those promulgated by the *Institute for Local Government*, which notes that "audited financial reports alert governing body members if there are irregularities in financial practices and financial reporting."³

³ The Institute for Local Government is an affiliate of the California State Association of Counties and the League of California Cities. The best practices information can be found online at this address: http://www.ca-ilg.org/sites/main/files/file-attachments/resources_3r_Financial_Reporting_and_Accounting.pdf

Auditor-Controller Monitoring of Audit Requirements Has Had Limited Effectiveness with NCS D

State code places responsibility on the County Auditor-Controller for making sure special districts are audited annually or on a different frequency under certain restrictions. Specifically, Section 26909 of the State Government Code requires county auditors to:

Either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided.

The Internal Audits Section of the County Auditor-Controller, which is responsible for performing operational and financial audits of special districts, has taken steps to monitor special districts' compliance with State auditing requirements. However, these efforts have not been successful with NCS D.

The Auditor-Controller has procedures that call for repeated, increasingly assertive correspondence with general managers and district boards that have not completed a financial audit on time. In the case of NCS D's FY 2011-12 audit, the Auditor-Controller relied on the District's general manager's and its certified public accountant's assertions that a contract was in place to conduct audit services. However, as noted later in this section, the work performed by the certified public accountant does not comply with State audit requirements.

The enforcement of Section 26909 is somewhat complicated by the Code's requirement that any costs incurred by the county auditor, including any contracts with accountants, be borne by the special district. County Auditor-Controller management staff has asserted to our audit team that there has been some hesitancy to enforce the annual audit requirement on NCS D due to the District's budgetary constraints. However, there has been no formal steps taken or analysis conducted by the Auditor-Controller to determine the most cost effective method of complying with State audit requirements.

NCS D and Auditor-Controller Have Not Pursued Potential Alternatives to Annual Audits

Neither NCS D nor the Auditor-Controller have studied or pursued potential alternatives to annual audits allowed for in the State Government Code under certain restrictions. Specifically, Government Code Section 26909 allows for the following three alternatives if requested unanimously by the special district's governing board and unanimously approved by the Board of Supervisors:

1. A biennial audit covering a two-year period;
2. An audit covering a five-year period, if the special district's annual revenues do not exceed an amount specified by the Board of Supervisors; or,
3. An audit conducted at specific intervals, as recommended by the County Auditor, which shall be completed at least once every five years.

Given the District's relatively small budget of approximately \$250,000 per year, the Auditor-Controller and District Board members should consider these alternatives, which would require fewer resources to be devoted to financial audits, but would still be in compliance with State requirements.

2011-12 Financial Review Did Not Meet Minimum Audit Requirements

Financial reports required by State Government Code to be filed with the State Controller's Office have been submitted by NCSO, but were based upon unaudited and unverified data. Contrary to State code requirements, the District's FY 2011-12 annual report of financial transactions to the State Controller has not been reviewed by an independent public accountant to ensure that they agree with the official records of the District.

In September 2012, NCSO contracted with a certified public accountant for audit services covering financial transactions in FY 2011-12. The Auditor stated the District did not provide adequate or sufficient documentation to complete an audit and express an audit opinion. However, these services did not meet the minimum requirements prescribed by the State Controller's Office for audits of special districts. Rather, in his transmittal letter to the District's Board of Directors the certified public accountant stated that his work was limited to putting together the financial report that must be filed annually with the State Controller. Further, the letter states that "I have not audited or reviewed the financial statements referred to above and accordingly do not express an opinion or any other form of assurance on them."

The State Controller's prescribed minimum audit requirements are contained in the California Code of Regulations (Title 2, Section 1131.2). As previously mentioned, these minimum requirements include the statement that:

the district's report of financial transactions to the State Controller should be reviewed to see that it agrees with the official records of the district for the period. The State Controller should be informed of any material difference.

The General Manager should prepare the District's financial statements on an annual basis before they are reviewed by the Auditor-Controller or a certified public accountant to ensure they are an accurate reflection of the District's financial condition.

Financial Data Reported to State Controller Indicate Financial Instability and Structural Deficits

Although the data provided to the State Controller's Office is unaudited, a review of such data indicates financial instability, which further underlies the need for regular financial audits. As seen in Table 2.1 below, the District appears to have run a deficit in FY 2009-10 of approximately \$18,000 or about 8 percent of total revenues. Further, the lighting and lighting maintenance function has run deficits ranging from \$41,142 to \$5,011 from FY 2008-09 to FY 2010-11 and the Recreation and Park Function has run deficits of approximately \$25,000 in FY 2009-10 and about \$2,300 FY 2010-11. NCSO management has been unable to identify the cause(s) of these deficits. Additionally, the District's methodology for assigning district-wide costs such as Director's fee, office costs, and accounting and legal fees between the three functional departments is not documented, and therefore cannot be verified.

Table 2.1**NCSD Expenditure Data Reported to State Controller**

Activity	FY 2008-09 Revenues	FY 2008-09 Expenditures	FY 2009-10 Revenues	FY 2009-10 Expenditures	FY 2010-11 Revenues	FY 2010-11 Expenditures
Fire Protection	\$152,701	\$119,179	\$124,762	\$112,437	\$136,411	\$109,611
Lighting and Lighting Maintenance	3,434	44,576	2,141	7,152	2,210	8,698
Recreation and Park	155,645	142,136	98,935	124,115	100,563	102,910
Total	\$311,780	\$287,891	\$225,838	\$243,704	\$239,184	\$221,219

Source: State Controller's Office

NCSD Lacks Sufficient Accounting Procedures and Controls

NCSD lacks sufficient accounting procedures and controls. According to State Government Code 61053, NCSD must:

adopt a system of accounting and auditing that shall completely and at all times show the district's financial condition. The system of accounting and auditing shall adhere to generally accepted accounting principles.

However, the District does not have: (1) a hierarchical account numbering system; (2) a financial or accounting manual; or, (3) a consistent system to classify expenditures carried out by the District. Further, although the State Controller requires special districts to use the modified accrual basis of accounting, it is not employed at NCSD.

NCSD Lacks Account Numbering System and Financial Manual

Beginning in FY 2012-13, the District abandoned utilizing its numerical and hierarchical account structure in favor of an accounting scheme based on account titles. A fundamental objective of accounting is to accurately classify transactions such as expenditures and receipts into proper "buckets" or accounts. Accounts are generally identified utilizing a numeric or alpha-numeric scheme. Accounting identifiers are usually broken down into some type of hierarchical components to accommodate data correlation and reporting activities. The numerical assignment of an accounting identifier also facilitates system to system and intra-system exchanges of data, such as from a Purchase Order system to the General Ledger. The abandonment of account numbers inhibits accurate and efficient hand-offs of accounting data for establishment and performance measurement of budgets and future growth into new and more sophisticated computer system interfaces.

NCSD lacks a financial or accounting manual, which would provide guidance to the General Manager and other staff on how to create and maintain District accounts and prepare the District's income statement, general ledger, and annual financial statement. In addition, a

financial or accounting manual would assist the staff in using modified accrual based accounting, which is required by the State Controller for non-enterprise funds.

The lack of a financial or accounting manual may have led to the following odd general ledger and income statement entries observed by the Grand Jury from FY 2011-12:

- On the District's Income Statement, a revenue line title "Deposits Not Recorded" shows a value of \$121,248.76, which is 47 percent of the District's fiscal year revenue. No explanation was found for the purpose or intended usage of this account.
- Account 5100 titled "Directors Stipend" reflects amounts that are not in increments of \$50 even though Directors are paid \$50 per authorized meeting.
- Account 5101 titled "Secretary Salary" reflects payments made to five individuals ranging from \$39.67 to \$12,640.02. However, the District did not have five secretaries during FY 2011-12.

Expenditures Not Consistently Classified to Support Proper Accounting

NCSD does not consistently classify or document expenditures to allow for proper accounting of the various functions carried out by the District. For example, approximately \$20,000 of purchase card expenditures was placed in a general ledger clearing account because the former General Manager, lacking documentation, could not determine the appropriate cost account. Additionally, a 4,000 gallon Water Tender Truck was acquired via a capital lease, but is being accounted for as an operating lease. This misstates both the District's assets and liabilities. The failure to properly classify expenditures leaves the District non-compliant with the State Code requirement to adopt a system of accounting and auditing that shall completely and at all times show the District's financial condition. It also affects the accuracy of the District's State-mandated financial reporting.

District Has Weak Check Reconciliation Process

NCSD's check reconciliation process has been deficient. The District's FY 2011-2012 account for workers' compensation insurance was overstated by the value of one extra quarterly payment in the amount of \$2,172, which resulted from a voided check not being reversed off the books. This is an indicator of a weak check reconciliation process.

Reconciling bank statements to check registers and to General Ledger account balances is a fundamental management practice and a basic internal control process. This process ensures the bank's records are in-line with the District's records, and that any voided or un-cashed checks are identified for follow-up and corrective action if needed. A check that has been voided must also have its charged reversed on the accounting ledgers. Failure to reverse an entry in the accounting ledger will overstate expenditures and under-state the District's actual cash position. The General Manager has indicated that improvements to the check reconciliation process have been implemented. Identifying any additional prior year problems requires the completion of outstanding audit work.

Conclusions

The Newberry Community Services District (NCS D) has not completed annual financial audits for the previous three fiscal years (2009-2010, 2010-2011, and 2011-2012). State Government Code requires public agencies, including special districts, to conduct annual financial audits within 12 months of the end of each fiscal year. The Board of Directors failure to execute this responsibility is in noncompliance with California Government Code at Section 26909 and 61118 for 2009-2010 and 2010-2011. Further, while State Code requires the County Auditor-Controller to ensure such audits are completed, efforts to monitor and enforce this provision have had limited effectiveness.

Financial reports required by State Government Code to be filed with the State Controller's Office have been submitted by NCS D, but were based upon unaudited and unverified data. Contrary to State code requirements, the District's FY 2011-12 annual report of financial transactions to the State Controller has not been reviewed by an independent public accountant to ensure that it agrees with the official records of the District. The financial information that has been provided, while unaudited, indicates some financial instability, which further underlies the need for regular financial audits.

NCS D lacks basic accounting procedures and controls. Specifically, District does not have: (1) a hierarchical account numbering system; (2) a financial or accounting manual; or, (3) a consistent system to classify expenditures carried out by the District. Further, the District lacks a consistent method for authorizing, classifying, and documenting expenditures from purchase cards.

Recommendations

The Newberry Community Services District Board of Directors should direct the General Manager to:

- 4 Re-adopt a numerical and hierarchical account numbering structure for use in the District's general ledger and income statement.
- 5 Work with the Board, County Auditor, and utilize resources such as the California Special Districts Association to develop a basic accounting manual.

The Auditor Controller should:

- 6 Revise *Outside Audit Report* procedures to include corrective actions for special districts that do not comply with State audit requirements for an extended period of time. Such corrective actions could include conducting audits and billing the districts for Auditor-Controller staff time or hiring an outside certified public accountant to conduct the audit and billing the district for the accountant's work.
- 7 Work with the Newberry Community Services District General Manager to determine a feasible approach to complying with audit requirements established in State Government Code Section 26909. Such approaches could, with the *unanimous* request of the Board of Directors and the *unanimous* approval of the Board of Supervisors, include:

- (a) A biennial audit covering a two-year period;
- (b) An audit covering a five-year period, if the District's annual revenues do not exceed an amount specified by the Board of Supervisors; or,
- (c) An audit conducted at specific intervals, as recommended by the County Auditor-Controller, which shall be completed at least once every five years.

Costs and Benefits

The costs of implementing with these recommendations would include District staff time to draft and adopt policies and procedures.

The benefits of implementing these recommendations would include stronger controls over accounting and management of the District's finances and greater transparency in the reporting of the District's financial condition. The benefits would also include compliance with State Government Code audit requirements for special districts.

3. Internal Controls

According to the Government Finance Officers Association (GFOA), the purpose of internal controls is to protect government's financial and capital assets against the potential risk of loss or misuse. Further, internal controls are needed to ensure that all financial transactions are properly authorized and data in financial reports are reliable. Although there are references to internal controls in the NCSO By-laws and Policy Handbook, they are (1) insufficient for ensuring that the District's assets are protected against potential loss or misuse and (2) are not consistently implemented by District Board members and personnel.

Deficient Internal Controls for District Expenditures

NCSO revenues are used to procure materials, supplies and services for District business through purchase cards, contracts with outside contractors and consultants, and reimbursement of expenses made by District Board members and personnel. The Policy Handbook requires various protocols for approval of such expenditures, along with sufficient documentation to ensure that expenditures were appropriately tied to District business. However, sufficient documentation of required approval and/or explanations for the appropriateness of the expenditures were not always provided to the Grand Jury.

CAL-Card Purchase Cards

The California Department of General Services has a Master Services Agreement (MSA) with U.S. Bank for purchase card services. Local tax funded agencies such as the District are able to participate in the MSA and obtain CAL-Cards (purchase cards) by submitting required documentation, including a signed Local Agency Addendum to the MSA. Advantages of participating in the CAL-Card program include: (1) no cost for participation; (2) rebates for average transactions, volume sales and prompt payment; and, (3) streamlined purchases by eliminating the need for extensive advertising, bidding and contracting procedures.⁴

Insufficient Internal Control Policies and Procedures

In accordance with the U.S. Bank CAL-Card Program Administrator Guide, the District adopted purchase card policies on July 26, 2011.⁵ However, based on a comparison with GFOA recommended internal control best practices for purchase cards, these policies are not adequate to ensure that the District can minimize the risk of costly, unnecessary, and/or inappropriate purchases. Table 3.1 below illustrates that the District lacks a few key internal control policies such as spending and transaction limits, reconciliation procedures, and a process for handling disputes and unauthorized purchases.

⁴ California Department of General Services, CAL-Card (Purchase Card), <http://www.dgs.ca.gov/pd/Programs/CALCard.aspx>

⁵ District Policy Handbook: Policy Number 3075.

Table 3.1**Government Finance Officer Association (GFOA) Best Practices vs. District Purchase Card Policies**

GFOA Best Practices	District Policy Number 3075	Grand Jury Comments
Clear guidelines on the appropriate use of purchasing cards	3075.3.2 All purchasing card expenses shall be reasonable and necessary to the furtherance of District business. No personal expenses shall be charged on a District purchasing card.	
Spending and transaction limits for each cardholder, both per transaction and on a monthly basis		Spending and transaction limits ensure that the District has sufficient funds to pay for expenditures. The Policy Handbook fails to mention spending limits. The District did not provide the Grand Jury with additional internal usage guidelines for purchase cards.
Review and approval process	3075.3.3¹ The Treasurer shall review and approve purchasing card transactions by the cardholders.	
Timely reconciliation by cardholders and supervisors		Reconciliation includes verifying that purchased goods and services were received, acceptable, and charged appropriately in the purchase card statement. The Policy Handbook fails to mention reconciliation policies and procedures.
Retention of sales receipts and documentation of purchases	3075.3.3¹ All purchase card expenses shall have third-party documents (receipts) attached and the District purpose annotated by the cardholder.	
Segregation of duties for payment approvals, accounting, and reconciliation	3075.3 A purchasing card shall be issued to the General Manager and the Treasurer. Purchasing cards shall not be issued to members of the Board of Directors without a majority vote of approval by the Board. 3075.3.3¹ (Above)	Although both the General Manager and Treasurer are issued a purchase card, only the Treasurer shall review purchases. This is a failure to segregate approval of use from actual use. The Policy Handbook fails to mention reconciliation policies and procedures.
Procedures for handling disputes and unauthorized purchases		If reconciliation occurs on a consistent basis and errors are identified, there should be a process for preventing payment for unauthorized or incorrect charges. The Policy Handbook fails to mention procedures for handling disputes and unauthorized purchases.

Source: "GFOA Best Practice: Purchasing Card Programs," Approved February 2011 and District Policy Handbook, 2012.

¹3075.3.3 is listed twice in the District Policy Handbook.

Segregation of Duties

The District is in violation of the State MSA by allowing District Board members to be purchase cardholders, with a majority vote of approval by the Board.⁶ The MSA explicitly states that the CAL-Card Program is available for use by individual government employees. Pursuant to California Government Code 6140, Board members are responsible for determining policies such as budgets and programs, while the General Manager, a government employee, is responsible for implementing them.

Despite the segregation of duties between policy making and implementation of those policies, such as making purchases, two District Board members⁷ were issued purchase cards and incurred \$10,059 and \$7,985, or a total of \$18,044 in expenditures in FY 2011-12. This represents approximately 25 percent of the total FY 2011-12 expenditures of \$70,767 incurred through purchase cards. When District Board members make purchases of this magnitude, the General Manager and/or Treasurer, as government employees, are placed in an awkward position of approving expenditures for those with the power to terminate their employment. Such conditions diminish the District's ability to effectively implement internal controls.

The State Master Services Agreement and U.S. Bank CAL-Card Program guides identify at least four distinct roles and their respective duties within any agency participating in the purchase card program. The segregation of duties prevents any single person from taking advantage of the purchase card program to make unauthorized and/or personal purchases. In contrast, the District Policy Handbook identifies the General Manager, Treasurer, and any other potential cardholder, but the duties of each are not as clearly defined or segregated.

According to the MSA participating agencies should have the following:

- **Program Coordinator/Administrator:** An individual responsible for management and oversight of the purchase card program, including following contract terms, ensuring timely payment of invoices, developing and enforcing agency policy, procedures and training. A Purchasing Officer or equivalent typically maintains this position.
- **Approving Official:** An individual responsible for monitoring, reviewing, and approving the purchases of assigned cardholders. A Budget Manager for which the funds are to be expended by the assigned cardholders typically maintains this position.
- **Billing Officer:** An individual responsible for the timely management and oversight of the invoice reconciliation and payment process. An Accounting Officer or equivalent typically maintains this position.
- **Cardholder:** An individual designated by the Program Coordinator/Administrator and Approving Official to receive a purchase card and make purchases.

⁶ Approval by the Board of Directors assumes a "yes" vote by at least two Board members, the minimum number of members to achieve a majority when there are three Board members present to establish quorum and take action.

⁷ As of the writing of this report, the Grand Jury could not verify if the two Board members received the necessary approval from other Board members to receive purchase cards.

The District is violating the best practice of segregating duties because the Treasurer appears to serve in at least three of the above roles and perform the following duties simultaneously: (1) recommending internal usage guidelines for the purchasing cards to the Board for approval (Program Coordinator/Administrator duty), (2) approving purchases of assigned cardholders (Approving Official duty), and (3) making purchases on behalf of the District with an issued purchase card (Cardholder duty). Additionally, no personnel are explicitly assigned invoice reconciliation and payment responsibilities (Billing Officer duty) in the District Policy Handbook. It is more appropriate for the General Manager to serve in the function of Program Coordinator/Administrator and Approving Official while the Treasurer serves as the Billing Officer.

Because of the small size of the District, it may be acceptable to issue purchase cards to both the General Manager and Treasurer. However, approving and reconciling purchases should be conducted by someone other than the person making purchases, as recommended by GFOA best practices. Therefore, if both the General Manager and Treasurer continue to make purchases with issued purchase cards, the Treasurer should approve and reconcile the General Manager's purchases and vice versa.

The District should revise its Policy Handbook to (a) exclude Board members as purchase cardholders and (b) include internal controls such as (i) spending and transaction limits; (ii) clearly segregated duties for approving, executing, and reconciling purchases among the General Manager, Treasurer, and other purchase cardholders; and, (iii) a process for handling disputes and unauthorized purchases. Purchase cards issued to Board members should be subsequently relinquished. Additionally, the General Manager should train all staff involved in the purchase card program of the new and revised purchase card policies.

Inconsistent Implementation of Policies and Procedures

In addition to lacking key internal controls for purchase card expenditures, the District has failed to provide consistent documentation to ensure that the internal controls that do exist are executed and serving its purpose(s).

Lack of Receipts make it Difficult to Conclude Appropriate Expenditures

The District spent \$70,767 in FY 2011-12, but the District did not provide receipts explaining what individual charges on the U.S. Bank statements were for. Without such documentation, it is impossible to verify if the charges met the Policy Handbook's criteria of "reasonable and necessary" expenses for District businesses or if personal expenses were charged to the purchase cards and paid for with District tax dollars. For example, typical purchase card expenditures in FY 2011-12 included fuel at a gas station. However, there was an instance when one cardholder made three separate fuel purchases on the same day. Without documentation and further explanation, it is difficult to determine if significant travel for district business occurred on the same day, requiring multiple fueling, or if multiple cars, including personal cars, were fueled with the same District purchase card. Going forward, the Treasurer or General Manager should not approve payment of purchase card transactions without the submission of sufficient documentation demonstrating the appropriateness of the purchase(s). If a cardholder fails to timely submit receipts and other documentation, the cardholder should be held responsible for paying the purchase with their own funds and any subsequent late fees or penalties caused by delays in submitting receipts and/or payment.

Significant Expenditures Occurred without Board Approval

In September of 2011, a single transaction totaling \$11,277 was charged for a purchase from NUVAIR. Three additional purchases from NUVAIR occurred on the same date, resulting in a total of \$12,587 charged to the same purchase card. The initial transaction and aggregate transactions for the same vendor exceed \$5,000. District Policy 3040.2 states that any purchase or expense greater than \$5,000 must be submitted to the Board of Directors for approval. However, approval for the NUVAIR purchase was not recorded in Board meeting minutes. Therefore, internal controls are insufficient to ensure that purchase card transactions comply with other District expenditure policies.

Lack of Timely Payments of Billing Statements

Although the Policy Handbook requires that all purchase card bills shall be paid in a timely manner to avoid late fees and finance charges, half of the billing statements in FY 2011-12 showed that a payment was not previously submitted. The District was not charged any late penalties or fees because their subsequent payments still met the terms of the purchase card agreement. According to the State MSA, the full amount of each participating agency's monthly balance or billing cycle, with the exception of reported fraud or disputed items, is due within 45 days⁸ from the billing cycle date of the invoice. According to District personnel and Board members, payments for a billing statement were made after receiving the subsequent billing statement(s) due to the lack of verification of expenditures.

The General Manager should be designated the role of Program Coordinator/Administrator and ensure that purchase cards are paid in a timely manner. By (a) imposing spending and transaction limits and (b) requiring either the General Manager or the Treasurer approve all purchases prior to incurring actual costs based on the (i) appropriateness of the purchase and (ii) availability of funds, the District can ensure that there are sufficient funds available to pay for all expenditures. By requiring cardholders to pay for any charges that do not have sufficient documentation to justify and verify purchases on the bank statement, the District should have sufficient documentation to reconcile and pay the bank statements in a timely manner and/or have an additional source of revenue, other than District tax dollars, to pay for disputed or unauthorized purchases.

Outside Contracts and Consultants

Requiring Board approval for consultant contracts and expenditures over \$5,000 is an essential internal control to ensure that significant funds are not committed to consultants or vendors that are unqualified, unnecessarily costly, and/or participants in fraud or abuse. Open, public discussions among Board members regarding contracts and expenditures could provide a control to help prevent Board members from personally benefiting from the selection of particular contractors or consultants. The General Manager should diligently review consultants or vendors with a single invoice over \$5,000, or multiple invoices that, together, exceed \$5,000 to ensure that they have a contract or total expenditure approved by the Board of Directors at a meeting. If the contract was not approved by at least two Board members, or no contract exists, steps should be taken to bring the procurement into compliance with the Policy Handbook.

⁸ The total number of days could be adjusted depending on the postmark date of the invoice and/or payment.

Reimbursements

While the Policy Handbook may allow reimbursements of expenses directly related to District business, the Board appears to have violated its policies by allowing a Board member to be reimbursed for a personal cell phone and internet bill on May 26, 2012. Policy 2270.3.18 states that the District is not responsible for maintaining or payment of personal internet accounts or related software. Additionally, the District By-laws state that Board members may authorize reimbursement for expenditures made for “operating supplies, or new and replacement items for office use and also for travel expenses.”⁹ The Board members approved the disbursement and the General Manager issued a check equivalent to the entire amount of a personal cell phone and home internet bill. Even if some of the personal cell phone and home internet services were used for District business, there was no additional documentation to justify what portion of the cell phone and home internet bill justified reimbursement.

To improve enforcement of District policies and enhance internal controls against inappropriate use of District funds, the General Manager should review all requests for reimbursements, including supporting documentation, against the policies and procedures in the District Policy Handbook. Further, all Board members should carefully review the list of disbursements to be approved on the consent agenda prior to the scheduled Board meeting and (a) discuss questionable disbursements with the General Manager and/or (b) request to pull questionable disbursements from the consent agenda for public discussion and review.

Violations of other Policies Indicate Weak Internal Controls

The Board of Directors has approved District policies to ensure efficient, effective and economical District operations and use of tax funds. However, violations of these policies expose the District to the risk of misuse of tax funds through poor and weak operations.

Lack of a District Legal Counsel Log

In 2009, the Board of Directors adopted a policy to maintain a log of all communication with District Legal Counsel, including the date of the communication, method of communication, and approximate length of time for communication for telephone and in-person communications. However, District personnel reported that no such log was available. The log is supposed to serve as a tool for District personnel to verify District Legal Counsel invoices and expenditures. The Policy Handbook restricts communication with District Legal Counsel to the President of the Board or his/her designee. Therefore, the log also serves as a tool for other District personnel and Board members to be aware of the frequency of District Legal Counsel communication and question any possible misuse of District Legal Counsel for personal benefit, *before* receiving a bill. The District should immediately establish a District Legal Counsel Log to be in compliance with the Policy Handbook and maintain an important control over legal expenditures.

Lack of a Policy Handbook for the Fire Department

A policy handbook, specifically for the operation of the Newberry Springs Fire Department, has not been adopted by the Board, even though a Board policy adopted in 2009 requires one. A

⁹ District By-laws, Article III, Internal Organization, #15.

draft policy handbook for the Fire Department was initiated in 2012, three years after the adoption of the policy. However, approval of the policy is not recorded in Board meeting minutes in 2012 or 2013, as of the writing of this report. The GFOA recognizes that establishing policies and procedures is a critical element of creating and maintaining internal controls. Without policies and procedures, the District cannot ensure that the Fire Department is operating efficiently, nor can it adequately evaluate the performance of Fire Department personnel, including the Fire Chief. The District should immediately adopt a policy handbook for the Fire Department.

Poor Implementation of Record Retention Policies

Despite having guidelines in the Policy Handbook for record retention, the manner in which District records are stored and maintained make it difficult to ascertain whether the District is: (i) providing for the identification, maintenance, safeguarding and disposal of records in the normal course of business; (ii) ensuring prompt and accurate retrieval of records; and, (iii) ensuring compliance with legal and regulatory requirements.

During the course of the investigation, the Grand Jury experienced significant delays in retrieving critical documents. For example, a subpoena was issued in September, 2012 for the latest version of Board approved By-laws and Policies and Procedures. Board approval was initiated on January 24, 2012, although items were not fully remitted to the Grand Jury until March 5, 2013, after a subsequent request in February 2013. However, according to the District's retention record policy, adopted pursuant to California Government Code 60201,¹⁰ these records should be with District personnel and maintained to ensure "prompt and accurate retrieval." Grand Jury members observed several unmarked cardboard boxes in various locations throughout the District office that contained District records, and there was no central log describing the contents of each box and their location, potentially contributing to the delay in record retrieval.

The lack of a proper records management system impedes any third party's ability to determine if the District has been complying with laws and regulations. In contrast, the Secretary of State's guidelines on record management state that proper record management is beneficial because it improves customer service, increases staff efficiency, and allocates scarce resources. The District should catalog all remaining records by category and the catalog should remain in a central location that is easily accessible by District personnel. Any records that exceed the retention periods adopted in the District's policies should also be disposed of.

Staff Vacancies Contribute to Weak Internal Controls

The management staff of the NSCD has been unstable in recent years, with multiple resignations and terminations by the Board of key personnel within the organization. This pattern has been particularly apparent in 2012, as follows:

- The previous General Manager, who also performed the functions of Board Secretary and Treasurer due to vacancies, resigned and was rehired twice during 2012. A third resignation,

¹⁰California Government Code 60201 states that the legislative body of districts may adopt a record retention schedule that complies with guidelines provided by the Secretary of State. It also prohibits districts from destroying certain records, including minutes of any Board meetings.

in July 2012, resulted in the hiring of the current General Manager in October 2012, who resigned on May 22, 2013. The position was vacant at the time this report was finalized.

- The Treasurer position has been vacant since April 2012 and the duties have been assumed temporarily by a member of the Board.
- The Fire Chief, who had been employed by the District since at least 2007, was dismissed by the Board in March 2012. An Interim Fire Chief, hired shortly after the previous incumbent, was dismissed six months later in September 2012. His replacement, a second Interim Fire Chief hired in September, was dismissed by the Board five months later in February 2013. The position of Fire Chief remains vacant, as of the writing of this report, with day-to-day management duties being assumed by a Fire Captain.

With only eight authorized positions, this amount of turnover at the highest levels of the organization is disruptive to operations and result in short-term weaknesses in internal control.

According to testimony received during the Grand Jury's investigation, the Board generally terminated employees due to performance concerns expressed by some members. Conversely, some resignations have reportedly occurred because of the dysfunction of the Board and an environment where individuals feel as though they have been treated unfairly. This was alleged by the Fire Chief in his March 2012 resignation letter, who stated that his resignation was, in part, due to ". . . the public fights and bickering so prevalent on the Board."

According to other testimony, it is sometimes difficult to recruit employees because of the remote location of the NCSO, the small size of the organization, the limited number of hours and pay offered to employees, and other factors. In addition, given recent turnover history and the culture of the organization, some prospective employees may be reluctant to apply. For example, statements were made that hiring a new Fire Chief has been difficult because of the limited number of potential applicants and the recent history of terminations.

Although a close examination of these factors could not be conducted, given the limited resources available to the Grand Jury, the impacts on the organization have been substantial. As stated separately in this section, the breakdown in internal controls has been significant in some instances and the ability of the organization to respond by reassigning functions or implementing compensating controls is limited.

In July 2009, the Local Agency Formation Commission (LAFCO) of San Bernardino County issued a *Service Review and Sphere of Influence Update for the Newberry Community Service District*. Among the various observations made in that report, it was suggested that possible improvements should be examined, including: (1) removing the NCSO fire protection powers from the District and reassigning them to the County; or – more substantially – (2) consolidating the NCSO with two adjacent community services districts, to allow for "economies of scale and provide the opportunity for streamlined governance and compliance with CSD law." These two suggestions merit further review, and more robust analysis of governance and reorganization options should be included in LAFCO's next Service Review of the District, scheduled for 2014.

NCSD Needs an Adequate Capital Asset Management System

The District's management of capital assets is weak compared to GFOA best practices to ensure that entities assess assets, appropriately plan, and budget for any capital maintenance and replacement needs. According to District personnel, an inventory of capital assets only occurs at the time, and with the assistance, of the annual audit. There is no Capital Asset Management System to record the date an asset was purchased, the condition it was in at the time of purchase, warranties, maintenance history, usage statistics, original useful life, remaining useful life, and replacement costs. Such information is important for District personnel and the Board to review when making key decisions, such as whether to approve an agreement for the consignment and sale of a water tender that was obtained in 2009, or to pursue the various repairs for equipment charged to purchase cards in FY 2011-12. In addition, an adequate Capital Asset Management System should prevent loss or misuse of capital assets through central recording and inventory control. The District should establish a Capital Asset Management System.

Conclusions

The District has By-laws and a Policy Handbook that contain some internal controls to help protect the District's financial and capital assets against the potential risk of loss or misuse. However, these policies remain insufficient for minimizing risk exposure to potential fraud and abuse. For example, the District's policies on purchase cards do not include spending and transaction limits to ensure that there are sufficient funds to pay for expenditures, segregate duties of purchase approvals and reconciliation to prevent potential fraud, or provide mechanisms for handling disputes and unauthorized charges.

In addition, the policies adopted to establish internal controls are not consistently implemented by Board members and District personnel, further exposing the District to unnecessary costs and potential misuse of District tax dollars for personal benefits. Violations of policies that indicate weak internal controls include:

- The lack of documentation for purchase card expenditures;
- Significant expenditures made with purchase cards without required Board approval;
- Lack of timely payments for purchase card billing statements to avoid potential penalties and fees;
- Reimbursement of expenses without sufficient documentation to ensure they were for District business; and,
- The lack of several key documents and tools such a log of all communication with District Counsel, a policy handbook for the Fire Department, and a catalog of retained District records.

Multiple resignations and terminations by the Board of key personnel within the organization during the audit period coincided with breakdowns in internal controls and the ability of the

organization to respond by reassigning functions or implementing compensating controls is limited.

Finally, the District does not have an adequate Capital Management Asset System to control inventory and record key information central to making maintenance and replacement decisions.

Recommendations

The Board of Directors should:

- 8 Revise its purchase card policies to:
 - (a) Exclude Board members from the use of purchase cards in order to be in compliance with the State Master Services Agreement for purchase cards, subsequently relinquish any purchase cards currently issued to Board members, and
 - (b) Include additional policies to ensure that there are sufficient funds for paying authorized purchase card transactions, prevent potential fraud and abuse through unauthorized and/or inappropriate purchases, and avoid unnecessary penalties and fees from late payments, such as:
 - (i) Spending and transaction limits for each cardholder;
 - (v) Clearly segregated duties for approving, executing, and reconciling purchases among the General Manager, Treasurer, and other purchase cardholders;
 - (vi) A process for handling disputes and unauthorized purchases; and,
 - (vii) A requirement that purchase cardholders use personal funds to pay for transactions that lack the timely submission of sufficient documentation of the transaction and purpose, as well as any subsequent penalties and fees that result from the delay in submitting such documentation.
- 9 Diligently review the list of disbursements to be approved on the consent agenda prior to scheduled Board meetings and (a) discuss questionable disbursements with the General Manager and/or (b) request to pull questionable disbursements from the consent agenda for public discussion and review.

The General Manager should:

- 10 Train all participants in the purchase card program on the new and revised policies and procedures for purchase cards.
- 11 Review consultants or vendors with a single invoice over \$5,000, or multiple invoices that, together, exceed \$5,000 to ensure that they have a contract or total expenditure

approved by the Board of Directors at a meeting. If the contract was not approved by at least two Board members, or no contract exists, steps should be taken to bring the purchase(s) into compliance with the Policy Handbook.

- 12 Carefully review all requests for reimbursements, including supporting documentation, against the policies and procedures in the District Policy Handbook prior to approval.
- 13 Establish the following to ensure that the District is in compliance with the Policy Handbook and maintains adequate internal controls:
 - (a) District Legal Counsel Log;
 - (b) Policy handbook for the Fire Department; and,
 - (c) Catalog of all retained District records.
- 14 Establish a Capital Asset Management System that records capital asset information such as the purchase date, condition it was in at the time of purchase, warranties, maintenance history, usage statistics, original useful life, remaining useful life, and replacement costs.

The Local Agency Formation Commission (LAFCO) should:

- 15 Review suggestions made in its 2009 report and include more robust analysis of governance and reorganization options for the next Service Review of the District, scheduled for 2014.

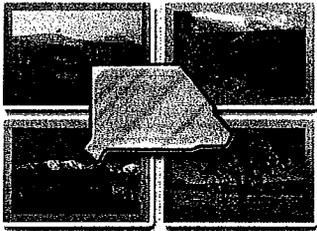
Costs and Benefits

Implementing these recommendations will require additional staff time, but should be done with existing resources.

Proper internal controls over District expenditures through purchase cards, contracts, and reimbursements should prevent subsequent unauthorized, inappropriate or unnecessary costs. Additionally, a good records management system would help the District (i) increase staff efficiency when key documents are easily accessible and (ii) ensure compliance with legal and regulatory requirements.

**Letters dated November 18, 2013 to
Daggett, Newberry, and Yermo CSDs**

Attachment 2



LAFCO

Local Agency Formation Commission for San Bernardino County

215 North D Street, Suite 204
San Bernardino, CA 92410-0400
909.383.9900 | Fax: 909.383.9901
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KATHLEEN ROLLINGS-McDONALD
Executive Officer

SAMUEL MARTINEZ
Assistant Executive Officer

MICHAEL TUERPE
Project Manager

REBECCA LOWERY
Clerk to the Commission

LEGAL COUNSEL

CLARK H. ALSOP

November 18, 2013

Beryl Bell, President
Daggett Community Services District
PO Box 308
Daggett, CA 92327-0308

RE: LAFCO 3176 – Service Reviews for the Daggett, Newberry, and Yermo Community Services Districts

Dear Ms. Bell:

As discussed on the phone, Michael Tuerpe, LAFCO Project Manager, is scheduled for a site interview with your district on Thursday, November 21, 2014 to discuss the off-cycle service review initiated by the Commission. This service review is in response to Recommendation #15 from the FY 2012-13 Grand Jury Report related to the Newberry Community Services District but was expanded to include the region as previously defined by the Commission. As was indicated by Mr. Tuerpe, we are providing a list of documents that are needed for this review, information that is being requested of the district, and questions for the report. Additional information may be requested at the meeting or in the future based upon these responses.

Below is a list of documents that we are requesting copies of, or access to, during the meeting (Mr. Tuerpe will be bringing a scanner should copies not be available for our files). Should any of these not be available at the meeting, please identify which ones and the timeframe for submission of the information to the LAFCO office.

- Financial reports submitted to State Controller for FY 2011-12 and 2012-13
- Fire plans or studies within the past ten years
- Water plans or studies within the past ten years
- Water quality (consumer confidence) reports for the past five years
- Capital improvement plan and budget
- Past five adopted budgets
- Past two appropriations limit adoptions to include the calculations and resolutions per Article XIII B of the State Constitution and CSD Law in Government Code 61113
- Board of Director agendas and minutes for the past 12 months

Please provide a written response to the following. Should any of this information not be available at the meeting, please identify which ones and the timeframe required for compiling and submitting to the LAFCO office.

- Location of each fire station (active and inactive) and its associated personnel and equipment
- Staff roster by position for the district's general operations and fire operations
- Fire response data for the past five years to include number of responses (within your agency and outside your agency) and response times by call-type
- Number of active water connections
- Number of active water connections within Yermo CSD
- List of water facilities to include number of tanks and capacities, number of wells and capacities

Please provide a response to the following questions. These may be provided in writing or discussed with Mr. Tuerpe at the meeting who will make a written record of the discussion.

- Does your district have an appointed Treasurer? If so, is this position bonded?
- Has a water inter-tie been established between the Daggett and Yermo water systems? If no, are there plans for such an inter-tie? What are the impediments to establishing an inter-tie?

Among the possible reorganization scenarios presented in LAFCO's 2009 report, the Grand Jury report identifies that the following two scenarios merit further review, along with more robust analysis of governance and reorganization options. The quotations are taken directly from the Grand Jury report.

- Removing the Newberry CSD fire protection powers with concurrent annexation of the Newberry area by the San Bernardino County Fire Protection District (County Fire); "or more substantially",
- "Consolidating the Newberry CSD with two adjacent community services districts, to allow for 'economies of scale and provide the opportunity for streamlined governance and compliance with CSD law'."

At the meeting, Mr. Tuerpe will discuss these two scenarios as well as the following scenarios to be addressed in the report.

- Removing fire protection powers from all three CSDs with concurrent annexation of the areas by County Fire.
- Formation of a Joint Powers Authority for fire protection and emergency medical services between three CSDs.
- Formation of a Joint Powers Authority for fire protection and emergency medical services between three CSDs, County Fire, and the military fire departments at the Yermo Annex and Daggett Airport.
- Dissolution of Newberry CSD and concurrent formation of a County Service Area, whereby the County Board of Supervisors would act as the board of directors with the County's Special Districts Department providing administration.
- Consolidation of Yermo CSD and Daggett CSD with dissolution of Newberry CSD and concurrent formation of a County Service Area for the Newberry area.

A response to these scenarios will be requested as a part of the districts' review of the draft staff report.

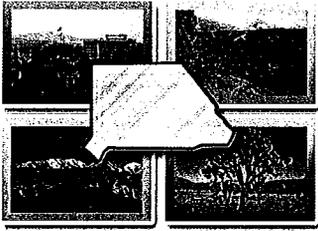
Should you have any questions, please feel free to contact either me or Michael Tuerpe at the number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Rollings-McDonald". The signature is fluid and cursive, with a large initial "K" and "M".

KATHLEEN ROLLINGS-McDONALD
Executive Officer

KRM/MT



LAFCO

**Local Agency
Formation Commission**
for San Bernardino County

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MICHAEL TUERPE
Project Manager

REBECCA LOWERY
Clerk to the Commission

LEGAL COUNSEL

CLARK H. ALSOP

November 18, 2013

Robert Royalty, President
Newberry Community Services District
PO Box 206
Newberry Springs, CA 92365

RE: LAFCO 3176 – Service Reviews for the Daggett, Newberry, and Yermo Community Services Districts

Dear Mr. Royalty:

As discussed on the phone, Michael Tuerpe, LAFCO Project Manager, is scheduled for a site interview with your district on Thursday, November 21, 2014 to discuss the off-cycle service review initiated by the Commission. This service review is in response to Recommendation #15 from the FY 2012-13 Grand Jury Report related to the Newberry Community Services District but was expanded to include the region as previously defined by the Commission. As was indicated by Mr. Tuerpe, we are providing a list of documents that are needed for this review, information that is being requested of the district, and questions for the report. Additional information may be requested at the meeting or in the future based upon these responses.

If possible, please provide a copy of district's response to the FY 2012-13 County Grand Jury findings in advance of the meeting. This can be emailed to Mr. Tuerpe at mtuerpe@lafco.sbcounty.gov. This will allow him to review the response for discussion at the meeting. Should this not be available prior to the meeting, please have a copy available upon his arrival.

Below is a list of documents that we are requesting copies of, or access to, during the meeting (Mr. Tuerpe will be bringing a scanner should copies not be available for our files). Should any of these not be available at the meeting, please identify which ones and the timeframe for submission of the information to the LAFCO office.

- Financial reports submitted to State Controller for FY 2011-12 and 2012-13
- Fire plans or studies within the past ten years
- Water plans or studies within the past ten years
- Capital improvement plan and budget
- Past five adopted budgets
- Past two appropriations limit adoptions to include the calculations and resolutions per Article XIII B of the State Constitution and CSD Law in Government Code 61113
- Board of Director agendas and minutes for the past 12 months

Please provide a written response to the following. Should any of this information not be available at the meeting, please identify which ones and the timeframe required for compiling and submitting to the LAFCO office.

- Location of each fire station (active and inactive) and its associated personnel and equipment
- List of all short and long-term debt to include activity and principal remaining as of June 30, 2013
- Staff roster by position for the district's general operations and fire operations
- Listing of all equipment sold within the past five years. Please identify when the sale occurred, the sale price, and the use of the funds.
- Fire response data for the past five years to include number of responses (within your agency and outside your agency) and response times by call-type
- List of all donations to the Newberry community center or Newberry senior center to include dates and amounts for the past five years

Please provide a response to the following questions. These may be provided in writing or discussed with Mr. Tuerpe at the meeting who will make a written record of the discussion.

- Does your district have an appointed Treasurer? If so, is this position bonded?
- Please describe current status of the district's road service. Does the district still own the road grader? If it has been sold, please identify when the sale occurred, the sale price, and the use of the funds.
- Please provide an update on:
 - Status of Station 392, located on Silver Valley USD property and leased for \$1 per year.
 - Coordination with Mojave Water Agency to place connection points at strategic locations along the Mojave River Pipeline.
 - Agreement with Santa Fe Railroad for access to the 220,000 gallon railroad water tank located near Elementis Specialties Plant.
 - Completion of the FY 2010-11 and FY 2011-12 audits.

Among the possible reorganization scenarios presented in LAFCO's 2009 report, the Grand Jury report identifies that the following two scenarios merit further review, along with more robust analysis of governance and reorganization options. The quotations are taken directly from the Grand Jury report.

- Removing the Newberry CSD fire protection powers with concurrent annexation of the Newberry area by the San Bernardino County Fire Protection District (County Fire); "or more substantially",
- "Consolidating the Newberry CSD with two adjacent community services districts, to allow for 'economies of scale and provide the opportunity for streamlined governance and compliance with CSD law'."

At the meeting, Mr. Tuerpe will discuss these two scenarios as well as the following scenarios to be addressed in the report.

- Removing fire protection powers from all three CSDs with concurrent annexation of the areas by County Fire.
- Formation of a Joint Powers Authority for fire protection and emergency medical services between three CSDs.
- Formation of a Joint Powers Authority for fire protection and emergency medical services between three CSDs, County Fire, and the military fire departments at the Yermo Annex and Daggett Airport.
- Dissolution of Newberry CSD and concurrent formation of a County Service Area, whereby the County Board of Supervisors would act as the board of directors with the County's Special Districts Department providing administration.
- Consolidation of Yermo CSD and Daggett CSD with dissolution of Newberry CSD and concurrent formation of a County Service Area for the Newberry area.

A response to these scenarios will be requested as a part of the districts' review of the draft staff report.

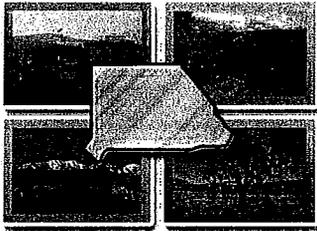
Should you have any questions, please feel free to contact either me or Michael Tuerpe at the number listed above.

Sincerely,



KATHLEEN ROLLINGS-McDONALD
Executive Officer

KRM/MT



LAFCO

**Local Agency
Formation Commission**
for San Bernardino County

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San Bernardino, CA 92416-0480
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Established by the State of California
to serve the Citizens, Cities, Special Districts
and the County of San Bernardino

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Assistant Executive Officer

MICHAEL TUERPE
Project Manager

REBECCA LOWERY
Clerk to the Commission

LEGAL COUNSEL

CLARK H. ALSOP

November 18, 2013

Michelle Berndt, General Manager
Yermo Community Services District
PO Box 206
Yermo, CA 92398-0206

RE: LAFCO 3176 – Service Reviews for the Daggett, Newberry, and
Yermo Community Services Districts

Dear Ms. Berndt:

As discussed on the phone, Michael Tuerpe, LAFCO Project Manager, is scheduled for a site interview with your district on Thursday, November 21, 2014 to discuss the off-cycle service review initiated by the Commission. This service review is in response to Recommendation #15 from the FY 2012-13 Grand Jury Report related to the Newberry Community Services District but was expanded to include the region as previously defined by the Commission. As was indicated by Mr. Tuerpe, we are providing a list of documents that are needed for this review, information that is being requested of the district, and questions for the report. Additional information may be requested at the meeting or in the future based upon these responses.

Below is a list of documents that we are requesting copies of, or access to, during the meeting (Mr. Tuerpe will be bringing a scanner should copies not be available for our files). Should any of these not be available at the meeting, please identify which ones and the timeframe for submission of the information to the LAFCO office.

- Financial reports submitted to State Controller for 2012-13
- Fire plans or studies within the past ten years
- Water plans or studies within the past ten years
- Capital improvement plan and budget
- Past two appropriations limit adoptions to include the calculations and resolutions per Article XIII B of the State Constitution and CSD Law in Government Code 61113
- Board of Director agendas and minutes for the past 12 months

Please provide a written response to the following. Should any of this information not be available at the meeting, please identify which ones and the timeframe required for compiling and submitting to the LAFCO office.

- Location of each fire station (active and inactive) and its associated personnel and equipment

- Staff roster by position for the district's general operations and fire operations
- Fire response data for the past five years to include number of responses (within your agency and outside your agency) and response times by call-type
- Number of active water connections
- List of water facilities to include number of tanks and capacities, number of wells and capacities

Please provide a response to the following questions. These may be provided in writing or discussed with Mr. Tuerpe at the meeting who will make a written record of the discussion.

- Does your district have an appointed Treasurer? If so, is this position bonded?
- Has a water inter-tie been established between the Daggett and Yermo water systems? If no, are there plans for such an inter-tie? What are the impediments to establishing an inter-tie?
- Please describe the district's role with Yermo Water and the present receiver. What entity is responsible for issuing Consumer Confidence Reports? How much does the district receive for its service? Is there any resolution of the disposition of the Yermo Water Company?
- Provide an update on the arrangement with the Silver Valley Unified School District for use of the community park, whereby Yermo CSD pays for all maintenance costs for the park and allows the School District use of the park. In turn, the School District pays all the water and electricity costs for the park.

Among the possible reorganization scenarios presented in LAFCO's 2009 report, the Grand Jury report identifies that the following two scenarios merit further review, along with more robust analysis of governance and reorganization options. The quotations are taken directly from the Grand Jury report.

- Removing the Newberry CSD fire protection powers with concurrent annexation of the Newberry area by the San Bernardino County Fire Protection District (County Fire); "or more substantially",
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At the meeting, Mr. Tuerpe will discuss these two scenarios as well as the following scenarios to be addressed in the report.

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- Consolidation of Yermo CSD and Daggett CSD with dissolution of Newberry CSD and concurrent formation of a County Service Area for the Newberry area.

A response to these scenarios will be requested as a part of the districts' review of the draft staff report.

Should you have any questions, please feel free to contact either me or Michael Tuerpe at the number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Rollings-McDonald". The signature is fluid and cursive, with the first name "Kathleen" being the most prominent.

KATHLEEN ROLLINGS-McDONALD
Executive Officer

KRM/MT

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
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DATE: JANUARY 7, 2014
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



**SUBJECT: AGENDA ITEM # 9 – WORKSHOP PRESENTATION ON THE
MECHANISMS TO PROVIDE FOR MANAGEMENT OF OPEN SPACE
AND HABITAT PRESERVATION LANDS**

BACKGROUND:

In August of 2010 the Commission initiated the sphere of influence establishment process for County Service Area 120 (hereafter “CSA 120” or the “District”). Over the next approximately 18 months LAFCO staff was in consultation with the County regarding staff’s position for a coterminous sphere and the desire of the County to expand the CSA 120 sphere territory. These discussions culminated in February 2012 when the County Board of Supervisors initiated a proposal which requested that the sphere of influence establishment include approximately 53 square miles (35,200 acres) outside CSA 120 boundaries.

Staff is currently preparing the materials necessary to present LAFCO 3157 Sphere of Influence Establishment for CSA 120 along with the required Service Review for Habitat Preservation for Commission consideration. As part of the review process, it is first and foremost necessary that the Commission understand the purpose of this agency whose power is limited to the following:

Open space and habitat conservation including, but not limited to, the acquisition, preservation, maintenance, and operation of land to protect unique, sensitive, threatened, or endangered species, or historical or culturally significant properties. Any setback or buffer requirements to protect open-space or habitat lands shall be owned by a public agency and maintained by the county service area so as not to infringe on the customary husbandry practices of any neighboring commercially productive agricultural, timber or livestock operations

As the first step in this process, staff has requested that the State and Federal agencies which typically require habitat conservation mitigation as part of their permitting process provide information on that process and their requirements. At the hearing, information will be provided by the California Department of Fish and Wildlife, the Santa Ana Regional

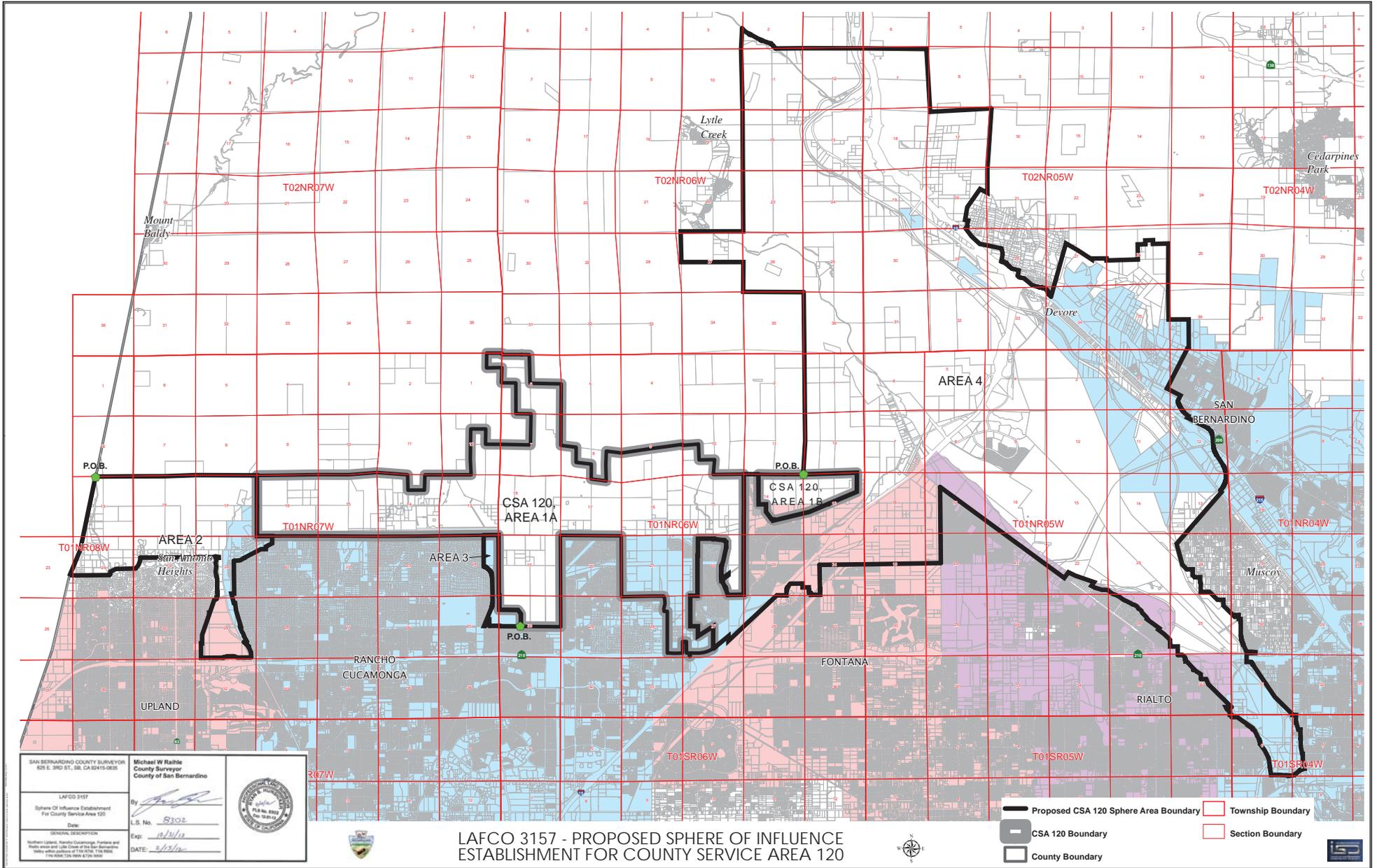
Water Quality Control Board, the U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service on their roles related to these activities.

As a workshop session no discussion of the proposal will take place. However, it is anticipated that a question and answer session at the close of the presentations will be conducted. As noted above, no action is to be taken at this hearing. However, if the Commission has direction on any questions it wishes to be answered as a part of the service review or the sphere establishment for CSA 120 they can be directed to staff. Staff will be happy to answer any questions prior to or at the hearing.

KRM:

ATTACHMENT:

Map of LAFCO 3157 Sphere of Influence Establishment for County Service Area
120



SAN BERNARDINO COUNTY SURVEYOR
 825 E. 3RD ST., SB, CA 92410-0835

Michael W Raible
 County Surveyor
 County of San Bernardino

LAFCO 3157
 Sphere Of Influence Establishment
 For County Service Area 120

By: *[Signature]*
 U.S. No. 8102
 Exp. 12/31/12
 Date: 2/13/12

SEAL OF SAN BERNARDINO COUNTY SURVEYOR
 MICHAEL W. RAIBLE
 PLS No. 8102
 Exp. 12/31/12

LAFCO 3157 - PROPOSED SPHERE OF INFLUENCE
 ESTABLISHMENT FOR COUNTY SERVICE AREA 120



- Proposed CSA 120 Sphere Area Boundary
- Township Boundary
- CSA 120 Boundary
- Section Boundary
- County Boundary

