

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: JANUARY 6, 2014 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
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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.

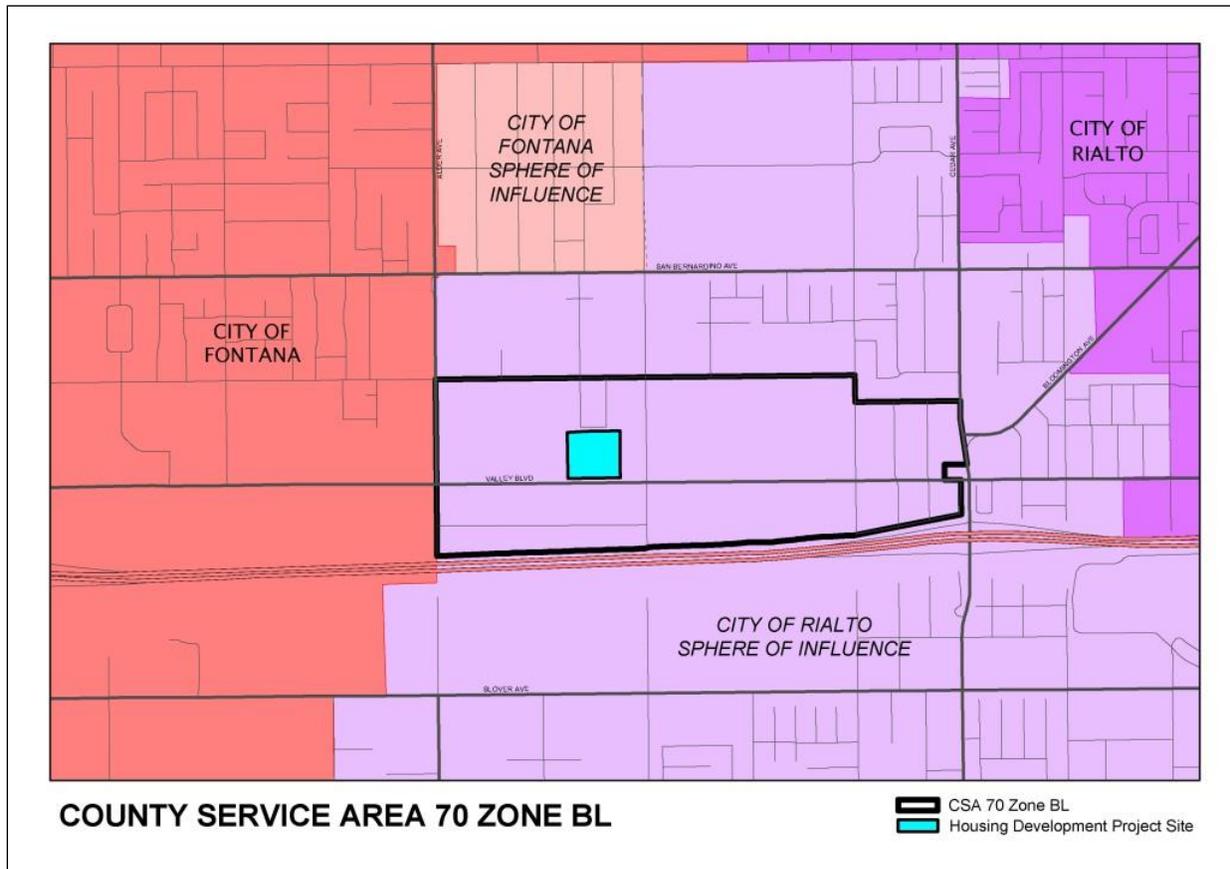


Figure 1 – Vicinity Map

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](#)