

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: JULY 3, 2014



FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #11: LAFCO 3171A – Reorganization to include Detachment from the City of Redlands and Annexations to San Bernardino County Fire Protection District and its Valley Service Zone and County Service Area 70 and its Zone EV-1

INITIATED BY:

Landowner Petition, TREH Partners, LLC

RECOMMENDATION:

Staff is recommending that the Commission approved LAFCO 3171A, by taking the following actions:

1. With respect to environmental review:
 - a) Certify that the Commission, its staff, and its Environmental Consultant have independently reviewed and considered the County's Initial Study and Mitigated Negative Declaration for: 1) General Plan Amendment to change the official County land use district from East Valley/General Commercial (EV/CG) to East Valley/Special Development (EV/SD) for Parcels 0292-072-04, 10 and 11, and to assign a land use designation of EV/SD for Parcels 0292-072-07 and 12 currently within the City of Redlands; 2) Conditional Use Permit for the construction of a 777,620 square foot industrial building with 30,000 square feet of office area to be used as a high cube warehouse distribution facility on 34.22 acres; and 3) Tentative Parcel Map 19500 for a one lot subdivision;

- b) Determine that the County's environmental assessment and Mitigated Negative Declaration are adequate for the Commission's use as a CEQA Responsible Agency for its consideration of LAFCO 3171A;
 - c) Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the project; that the mitigation measures identified in the County's environmental document are the responsibility of the County of San Bernardino and/or others, not the Commission; and,
 - d) Direct the Executive Officer to file a Notice of Determination within five (5) days and find that no further Department of Fish and Wildlife filing fees are required by the Commission's approval of LAFCO 3171A since the County, as lead agency, has paid said fees.
2. Approve LAFCO 3171A, with the following terms and conditions:
- Prior to issuance of the Certificate of Completion the County of San Bernardino and City of Redlands shall approve the amendment to Agreement No. 03-0856 to include the reorganization area as part of the apportionment of Sales and Use Tax revenue and the provision of municipal services within the unincorporated "Donut Hole" area. This amendment was authorized by the signing of Resolution No. 2013-193 for the County and Resolution No 7320 by the City of Redlands and the signing of the letters of intent by the City and County. This condition shall be completed within six months of the Commission's approval of LAFCO 3171A as authorized pursuant to Government Code Section 56885.5(b);
 - Prior to issuance of the Certificate of Completion the County and City of Redlands shall execute an agreement that outlines the sharing of County General Fund property tax revenues including future growth related to the five parcels within the project area as well as the continuing obligation for road maintenance for road widths detaching from the City. This obligation was agreed to by the signing of Resolution No. 2013-193 for the County and Resolution No. 7320 by the City of Redlands and the signing of the letters of intent by the City and County. This condition shall be completed within six months of the Commission's approval of LAFCO 3171A as authorized pursuant to Government Code Section 56885.5(b); and,
 - The standard LAFCO terms and conditions that include the "hold harmless" clause for potential litigation costs by the applicant, and the continuation of fees, charges, assessments currently authorized by the annexing agencies.
3. Waive protest proceedings, as permitted by Government Code Section 56662(d), with 100% landowner consent to the reorganization; and,

4. Adopt LAFCO Resolution #3185 setting forth the Commission’s determinations and conditions of approval concerning the reorganization proposal.

BACKGROUND INFORMATION:

LAFCO 3171A is a reorganization proposal to detach approximately 35 acres from the City of Redlands (hereinafter the “City”). The reorganization proposal also includes the annexation to the San Bernardino County Fire Protection District (hereinafter “SBCFPD” or “County Fire”) and its Valley Service Zone, County Service Area (CSA) 70 and its Zone EV-1.

As shown in Figure 1 below, the reorganization area is generally located at the northwest corner of San Bernardino Avenue and the Interstate 210 Freeway, within the unincorporated area known as the “Donut Hole” in Redlands. Location and vicinity maps are included as Attachment #1 to this report.

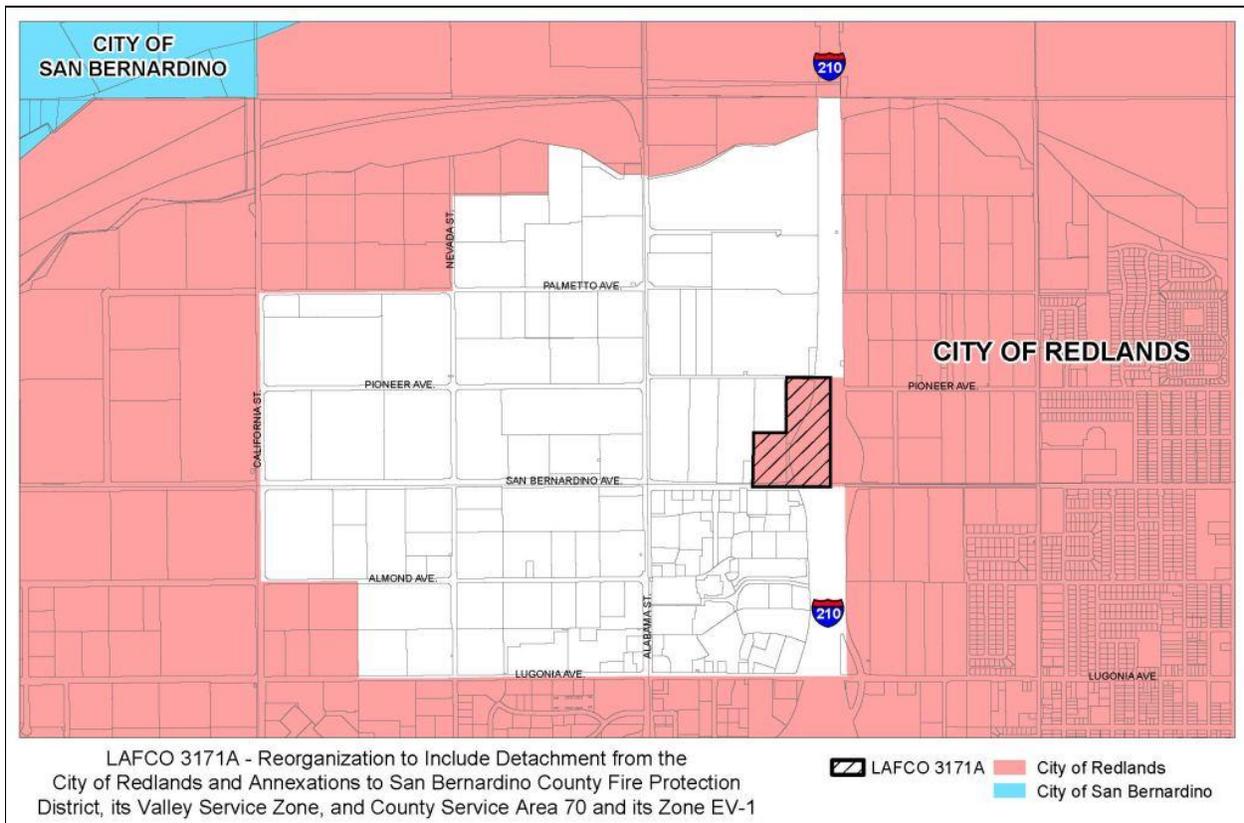


Fig. 1: LAFCO 3171A Vicinity Map

This proposal is unusual in that it proposes the detachment of territory anticipated for urban development rather than the expansion of the City’s boundary to include the additional parcels. Some may question this occurrence but those familiar with the history of the Donut Hole understand the significance. Specifically, the entire area of the Donut Hole was

removed from the sphere of influence of the City of Redlands by action authorized by Government Code Section 56429 effective October 18, 2000 through approval of LAFCO Resolution No. 2689. The significance of the legislation to the current proposal is that territory removed from the City of Redlands sphere of influence under 56429 can only be returned based upon its criteria, which states: (1) the area must contain 100 acres, and (2) contain at least 100 acres zoned for commercial or industrial uses. The development project contemplated is for approximately 38 acres, 10 acres of which are within the City of Redlands. LAFCO staff was contacted on several occasions by the proponents and their consultants about a means to expand the City but were unable to determine an appropriate parcel configuration to meet the criteria. In order to proceed with their development project, they determined that it would require a detachment from the City of Redlands.

The proposal was originally initiated in September 2012 by landowner petition and was given the identifier LAFCO 3171. It began the standard LAFCO review process which required the request for a Plan for Service from the County for the San Bernardino County Fire Protection District, its Valley Service Zone and County Service Area (CSA) 70 and its Zone EV-1, environmental assessment and the property tax transfer process as outlined in Revenue and Taxation Code Section 99. Since this was the first straight detachment from a City processed in more than 40 years, it required some discussion on the completion of the required processes. The property tax transfer process was not completed within the statutory time period and the original proposal was terminated. Thereafter, the property owner reinitiated the application proposal on July 3, 2013, LAFCO identified the application as LAFCO 3171A, and the City and County adopted property tax transfer resolutions that contained unique provisions related to sales tax sharing agreements, property tax revenues to be shared for contract provided services and an ongoing obligation for road maintenance more fully described in the narrative that follows.

The primary reason for submitting this reorganization proposal is to consolidate the landowner's five parcels under a single jurisdiction in order to facilitate the development that is anticipated to cover all five parcels. Three of the five parcels, Assessor Parcel Numbers (APN) 0292-072-04, 0292-072-10, and 0292-072-11, are in the County's jurisdiction while the other two parcels, APNs 0292-072-7 and 0292-072-12, are currently in the City's jurisdiction (see Fig. 2 below). The Commission's approval of LAFCO 3171A will detach the two parcels from the City and place the entire project site in the County's jurisdiction.

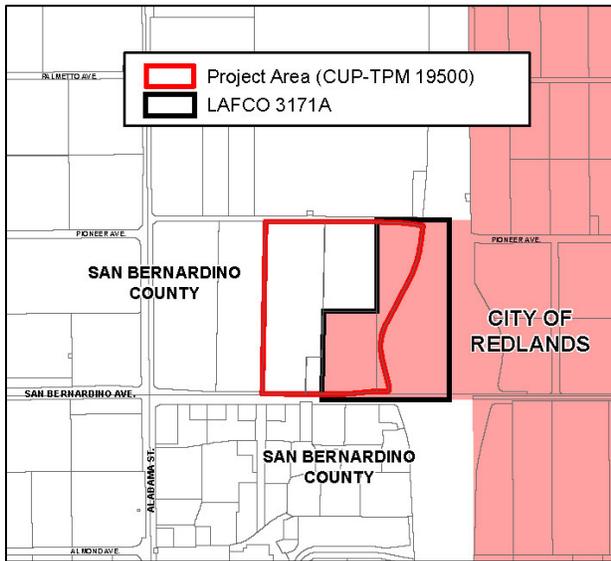


Fig. 2 - Vicinity Map of Project Area

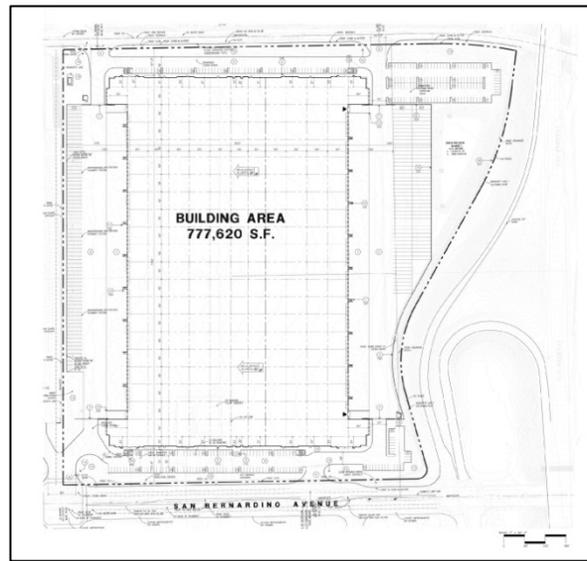


Fig. 3 – Project Area Site Plan

Since the proposal was being detached from the City of Redlands, it required the application of a General Plan and Zoning designation through the County. It was determined during the processing of the proposal that the simplest means to achieve this was for the project proponent to submit the development proposal to the County for processing which would address the environmental assessment of the action. On June 3, 2014, the County Board of Supervisors adopted the General Plan Amendment of the East Valley Area Plan from East Valley/General Commercial to East Valley/Special Development (EV/SD) and assigned a land use designation of EV/SD for parcels 0292-072-07 and 0292-072-12, approved the Conditional Use Permit for the construction of a 777,620 square foot industrial building to be used as a “high cube” warehouse distribution facility including 30,000 square feet of office space on 34.22 acres, and approved Tentative Parcel Map 19500 (see Fig. 3 above), subject to completion of the Commission’s approval of LAFCO 3171A.

This report will provide the Commission with the information related to the four major areas of consideration required for a jurisdictional change – boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations.

BOUNDARIES:

The proposed reorganization area comprises approximately 35 acres, generally bordered by the centerline of Pioneer Avenue (existing City boundaries) on the north, the apparent centerline of the Interstate 210 Freeway on the east, the centerline of San Bernardino Avenue (existing City boundaries) on the south, and parcel lines (existing City boundaries) on the west. The proposal was originally submitted including only the two parcels under their ownership for development purposes. LAFCO staff amended the proposal to take the

detachment to the centerline of the 210 Freeway to provide for more efficient and clearer boundary delineation.

The proposed detachment from the City of Redlands present no boundary concerns since the detachment includes the westerly right-of-way area of the I-210 Freeway, which includes the southbound off-ramp. Inclusion of the freeway right-of-way area to the apparent centerline not only provides for a logical boundary, but is also an easily identifiable boundary definition between the County and the City. Therefore, LAFCO staff supports the boundaries being detached from the City of Redlands as presented.

LAND USE:

Existing Land Uses:

The reorganization proposal is a combination of the two vacant parcels being detached from the City and the westerly right-of-way area of the I-210 Freeway. Surrounding land uses include the rest of the I-210 Freeway right-of-way and vacant land to the east (within the City), vacant land (currently) on the south, a combination of vacant land and a single-family residence on the west, and an existing warehouse distribution facility on the north (see Fig. 4 below).



Fig. 4 - LAFCO 3171A Aerial Map

City's General Plan:

The City's General Plan land use designation for the reorganization area is Commercial. Commercial uses include retail stores, hotels, motels, automobile sales and service, offices, and entertainment and cultural facilities.

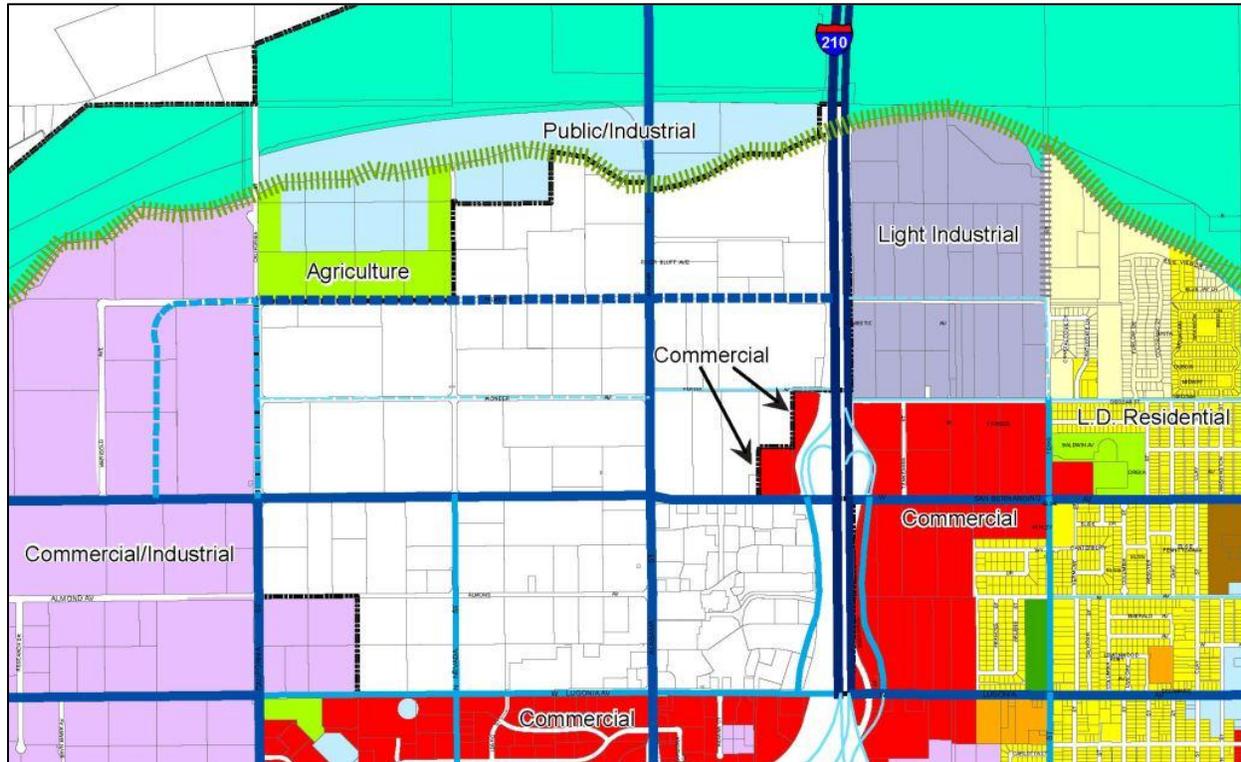


Fig. 5 - City's General Plan Map

County's Assigned Land Use Designation:

The County, through its approval process of the General Plan Amendment, Conditional Use Permit, and tentative parcel map for the warehouse distribution facility project, has assigned the two parcels within the City of Redlands a land use designation of East Valley/Special Development. This land use assignment will become effective upon completion of LAFCO 3171A. As outlined above, the land use determination between the County and City for the reorganization area is generally compatible and is consistent with surrounding land uses.

SERVICE ISSUES AND EFFECTS ON OTHER LOCAL GOVERNMENTS:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. The City of Redlands is the current service provider within the reorganization area. In addition, the following regional entities overlay the reorganization area: Inland Empire Resource Conservation District, the San

Bernardino Valley Municipal Water District (the State Water Contractor), and the San Bernardino Valley Water Conservation District.

The detachment of the territory from the City of Redlands requires the placement of the properties into service providers associated with the unincorporated County area. These include the San Bernardino County Fire Protection District and its Valley Service Zone (structural fire protection and emergency response provider). However, it should be noted that this service is currently provided by the City of Redlands through a contractual arrangement for the entirety of the Donut Hole and County Service Area 70 and its Zone EV-1. The County has provided a "Plan for Service" for this proposal as required by law and Commission policy.

Of particular note in this discussion is that following the removal of this territory from the City of Redlands sphere of influence in 2000, a contractual relationship for the provisions of law enforcement, fire protection, water and sewer service were approved by the City of Redlands and County of San Bernardino. In 2003, the County and City approved Agreement No. 03-0856 related to the apportionment of Sales and Use Tax revenue for the provision of municipal services by the City of Redlands within the unincorporated area commonly known as the "Donut Hole". This contract is valid through August 12, 2028 or until the Donut Hole area is annexed into the City.

The Plan for Service is included as Attachment #3 to this report for Commission review. In general, it identifies the following:

- The City provides for sewage collection and treatment within the Donut Hole area through its contract with the County (Contract #03-0856). No change will occur to this service provider through the reorganization. The proposed warehouse distribution facility will require sewer service; therefore, the City will be connecting the project to its sewer facilities. The property owner will be responsible for all costs associated with the extension of sewer service to the project while operation and maintenance costs will be fully funded from the City's user fees.
- The City provides for water service within the Donut Hole area through its contract with the County (Contract #03-0856). No change will occur to this service provider through the reorganization. The proposed warehouse distribution facility will require water service; therefore, the City will be connecting the project to its water facilities. Again, the property owner will be responsible for all costs associated with the extension of water service to the project while operation and maintenance costs will be fully funded from the City's user fees.
- The City provides law enforcement within the Donut Hole area through its contract with the County (Contract #03-0856). No change will occur to this service provider through the reorganization. However, traffic collisions will be investigated by the California Highway Patrol within the unincorporated area.

- Fire protection and paramedic jurisdiction will shift from the City of Redlands to the San Bernardino County Fire Protection District and its Valley Service Zone. However, no change will occur to the current service provider since the County contracts with the City to provide fire protection and medical emergency response through its Contract #03-0856.
- Streetlighting will shift from the City to County through its CSA 70 Zone EV-1. CSA 70 EV-1 maintains and operates streetlights within the Donut Hole. Financing for the fees, installation, and on-going utility costs for streetlights is through its Community Facilities District, CFD 2010-1. The conditions of approval adopted for the development project identifies that annexation to CFD 2010-1 will be required at the time of development.
- Storm Drain – CSA 70 EV-1 owns and maintains a public storm drain system which the parcels to be detached are tributary to the system. Therefore, the project, when and if developed, will be required to pay its fair share of approximately \$24,331 per acre prior to connection to the storm drain. This reciprocity requirement is outlined in the reimbursement agreement between CSA 70 EV-1 and Mountain Grove Partners, LLC. It was identified that operation and maintenance costs for the storm drain are funded through CSA 70 EV-1; however, no such funding stream has been identified by staff.

In September 2013, as part of the County and City actions to approve the property tax transfer resolution for LAFCO 3171A, the County and City indicated the intent to amend Contract #03-0856 to include the reorganization area as part of the overall contract area pending approval of LAFCO 3171A. The County's action through adoption of Resolution No. 2013-193 and the City of Redlands action through adoption of Resolution NO. 7320 specifically references the need to amend Contract 03-0856 and to enter into a new agreement for the sharing of property tax revenues associated with the project and the continuing maintenance of road widths currently a part of the City. Copies of these signed letters are as Attachment #4 to this report.

Staff is recommending that as a condition of approval the amendment of Contract #03-0856 and the new agreement for sharing of property tax revenues be executed and submitted to LAFCO prior to the issuance of the Certificate of Completion. Government Code Section 56885.5(b) allows for holding the Certificate of Completion for completion of the condition for no more than six months.

As required by Commission policy and State law, the Plan for Service submitted by the County indicates that the extension of its services will maintain current service levels and notes that the service provider for fire protection, law enforcement, water, and sewer will remain unchanged following completion of this proposal.

ENVIRONMENTAL CONSIDERATIONS:

The County prepared an Initial Study and Mitigated Negative Declaration for its review of the proposed project, which included a General Plan Amendment and assignment a land use designation for Parcels 0292-072-07 and 12 currently within the City of Redlands; a Conditional Use Permit for the construction a high cube warehouse distribution facility and a tentative parcel map on 34.22 acres. The County's environmental assessment has been reviewed by the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, and has determined that the County's documents are adequate for Commission use. Mr. Dodson outlines his recommendations in a letter that is included as part of Attachment #5 to this report.

Mr. Dodson has indicated that if the Commission chooses to approve LAFCO 3171A, the necessary environmental actions to be taken by the Commission, as a responsible agency under CEQA, are as follows:

- Certify that the Initial Study and Mitigated Negative Declaration prepared by the County for the General Plan Amendment and assignment of a land use designation of East Valley/Special Development for Parcels 0292-072-07 and 0292-072-12; the Conditional Use Permit for the construction of a 777,620 square foot industrial building with 30,000 square feet of office area to be used as a high cube warehouse distribution facility and Tentative Parcel Map 19500 for a one lot subdivision on 34.22 acres, have been independently reviewed and considered by the Commission, its staff, and its Environmental Consultant;
- Determine that the County's environmental assessment and Mitigated Negative Declaration are adequate for the Commission's use as CEQA Responsible Agency for its consideration of LAFCO 3171A;
- Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the project; that the mitigation measures identified in the County's environmental documents are the responsibility of the County and/or others; and,
- Direct the Executive Officer to file a Notice of Determination within five (5) days and find that no further Department of Fish and Wildlife filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.

Waiver of Protest Proceedings:

The Registrar of Voters has certified that the study area is legally uninhabited and the County Assessor's Office has verified that the study area possesses 100% landowner consent to the reorganization from the private parcels. The additional territory is public highway and its right-of-way which is excluded from the definition of landowner by Government Code Section 56048. Therefore, if the Commission approves LAFCO 3171A and none of the affected agencies submit written opposition to a waiver of protest

proceedings, staff is recommending pursuant to Government Code Section 56662(d) that protest proceedings be waived and that the Executive Officer be directed to complete the action following completion of the mandatory reconsideration period of 30-days and the conditions of approval attached to the proposal.

CONCLUSION:

While unique in its action to detach a developing area from a City, this proposal complies with the development needs for the project area. It is staff's position that this reorganization is a straightforward boundary change based upon the Donut Hole sphere statute and should be supported. LAFCO 3171A was submitted after efforts to include the area within the City of Redlands failed and is required in order to facilitate the development of a high cube warehouse distribution facility. The County has been processed the land use entitlements for the project, the City has been apprised of the development processing and the detachment of the parcels from the City of Redlands needs to be completed before the applicant can finalize County entitlements for the proposed project.

For these reasons, and those identified within this report, staff recommends approval of LAFCO 3171A.

DETERMINATIONS:

The following determinations are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/reorganization proposal:

1. The County Registrar of Voters Office has determined that the reorganization area is legally uninhabited, containing zero (0) registered voters as of June 2, 2014.
2. The County Assessor has determined that the total assessed value of land within the reorganization area is \$4,043,000; the freeway and its right-of-way are tax exempt parcels.
3. Commission review of this proposal has been advertised in *The Sun*, a newspaper of general circulation within the reorganization area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
4. LAFCO staff has provided individual notice to the landowners and registered voters surrounding the reorganization area (totaling 31) in accordance with State law and adopted Commission policies. To date, no written comments in opposition have been received.
5. The reorganization area was included in the County's approval of a General Plan Amendment, a Conditional Use Permit and Tentative Parcel Map 19500 that assigned a land use designation of EV/SD (East Valley/Special Development) for

APN 0292-072-07 and 0292-072-12, the two parcels being detached from the City of Redlands.

The Southern California Associated Governments (SCAG) adopted its 2012-2035 Regional Transportation Plan and Sustainable Communities Strategy pursuant to Government Code Section 65080. LAFCO 3171A has no direct impact on SCAG's Regional Transportation Plan.

6. As a function of its review for the General Plan Amendment and assignment of land use designation for the two parcels currently within the City of Redlands, the Conditional Use Permit for the construction a high cube warehouse distribution facility, and Tentative Parcel Map 19500 on 34.22 acres, the County acted as the lead agency for the environmental assessment for the reorganization proposal.

The Commission's Environmental Consultant, Tom Dodson and Associates, reviewed the County's Initial Study and Mitigated Negative Declaration and has indicated that it is his recommendation that the County's Initial Study and Mitigated Negative Declaration are adequate for the Commission's review of LAFCO 3171A as a responsible agency under CEQA. The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the Environmental Considerations portion of this report. Mr. Dodson's response and the County's environmental assessment and Conditions of Approval are included as Attachment #6 to this report.

7. The area in question is presently served by the following local agencies:

- City of Redlands
- Inland Empire Resource Conservation District
- San Bernardino Valley Municipal Water District (the State Water Contractor)
- San Bernardino Valley Water Conservation District

The area will be detached from the City of Redlands and annexed into the San Bernardino County Fire Protection District and its Valley Service Zone and County Service Area 70 and its Zone EV-1 as a function of the reorganization. None of the other agencies are affected by this proposal as they are regional in nature.

8. The County has submitted a plan for the extension of municipal services to the reorganization area, as required by law. This plan is included as part of Attachment #3 to this report, which indicates that the County can, at a minimum, maintain the level of service delivery and can improve the level and range of selected services currently available in the area.
9. The reorganization proposal would be for the benefit and interest of the property owner of the parcels being detached from the City as required by Government Code Section 56668.3(2). The entitlement of its proposed development project is subject to the Commission's approval of LAFCO 3171A. In addition, current and future

landowners and/or residents within the City could also benefit from the reorganization proposal through economic growth and potential job creation anticipated upon completion of the proposed development project.

10. This proposal will not assist in the County's ability to achieve its fair share of the regional housing needs since the reorganization area is zoned for industrial use and the proposed development is for a warehouse distribution facility.
11. With respect to environmental justice, the reorganization area will not result in unfair treatment of any person based on race, culture or income.
12. The County of San Bernardino and the City of Redlands have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
13. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

KRM/sm

Attachments:

1. [Vicinity and Location Maps of the Reorganization Area](#)
2. [Application Materials Submitted by the Property Owner](#)
3. [Plan for Services Prepared by the County](#)
4. [County Board Agenda Item Dated September 10, 2013 with Resolution No 2013-193 and Signed Letter of Intent to Amend Agreement No. 03-0856 and Letter of Intent Regarding Apportionment of Property Taxes Related to LAFCO 3171A and City of Redlands Resolution No. 7320](#)
5. [Response from Tom Dodson and Associates, and the County's Environmental Assessment and Mitigated Negative Declaration for the Project, including Conditions of Approval](#)
6. [Draft Resolution No. 3185](#)