

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: JULY 1, 2014 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #7: LAFCO SC#389 – City of Fontana Pre-Annexation Agreement No. 13-00002 for Sewer Service (APNs 0232-051-11, 12, 18, 26, 27, 35, 36, 37, 38, and 42)

INITIATED BY:

City of Fontana, on behalf of property owner

RECOMMENDATION:

1. For environmental review, take the following actions as a responsible agency:
 - Certify that the Commission has reviewed and considered the County's environmental assessment and Mitigated Negative Declaration, including the Addendum prepared by LAFCO's Environmental Consultant;
 - Determine that the Addendum, together with the County's environmental assessment, are adequate for the Commission's use as a CEQA Lead Agency for its consideration of LAFCO SC#389;
 - Adopt the Addendum as presented by the Commission's Environmental Consultant that provides additional information and environmental assessment to supplement the Mitigated Negative Declaration adopted by the County that addresses the modification in acreage and the parcel configuration of the revised project proposal;
 - Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for this project; that all mitigation measures are the responsibility of the County of San Bernardino and/or others, not the Commission; and,
 - Note that this proposal is exempt from Department of Fish and Wildlife fees because the filing fee was the responsibility of the County, as CEQA lead

agency, and direct the Executive Officer to file the Notice of Determination within five (5) days of this action.

2. Approve SC#389 authorizing the City of Fontana to extend sewer service outside its boundaries to the project area comprised of 10 parcels identified as Assessor Parcel Numbers (APN) 0232-051-11, 12, 18, 26, 27, 35, 36, 37, 38, and 42; and,
3. Adopt LAFCO Resolution #3183 setting forth the Commission’s determinations and approval of the agreement for service outside the City of Fontana’s boundaries.

BACKGROUND:

The City of Fontana has submitted a request for approval of a pre-annexation agreement that outlines the terms by which it will extend sewer service outside its boundaries. The agreement relates to a proposed development that includes multiple parcels, APN 232-051-11, 12, 18, 26, 27, 35, 36, 37, 38, and 42, generally located south of Foothill Boulevard and easterly of Sultana Avenue, within the City of Fontana’s western sphere of influence (see Figure 1 below). Attachment #1 also provides a location and vicinity map of the site along with a map outlining the location of the infrastructure to be extended.

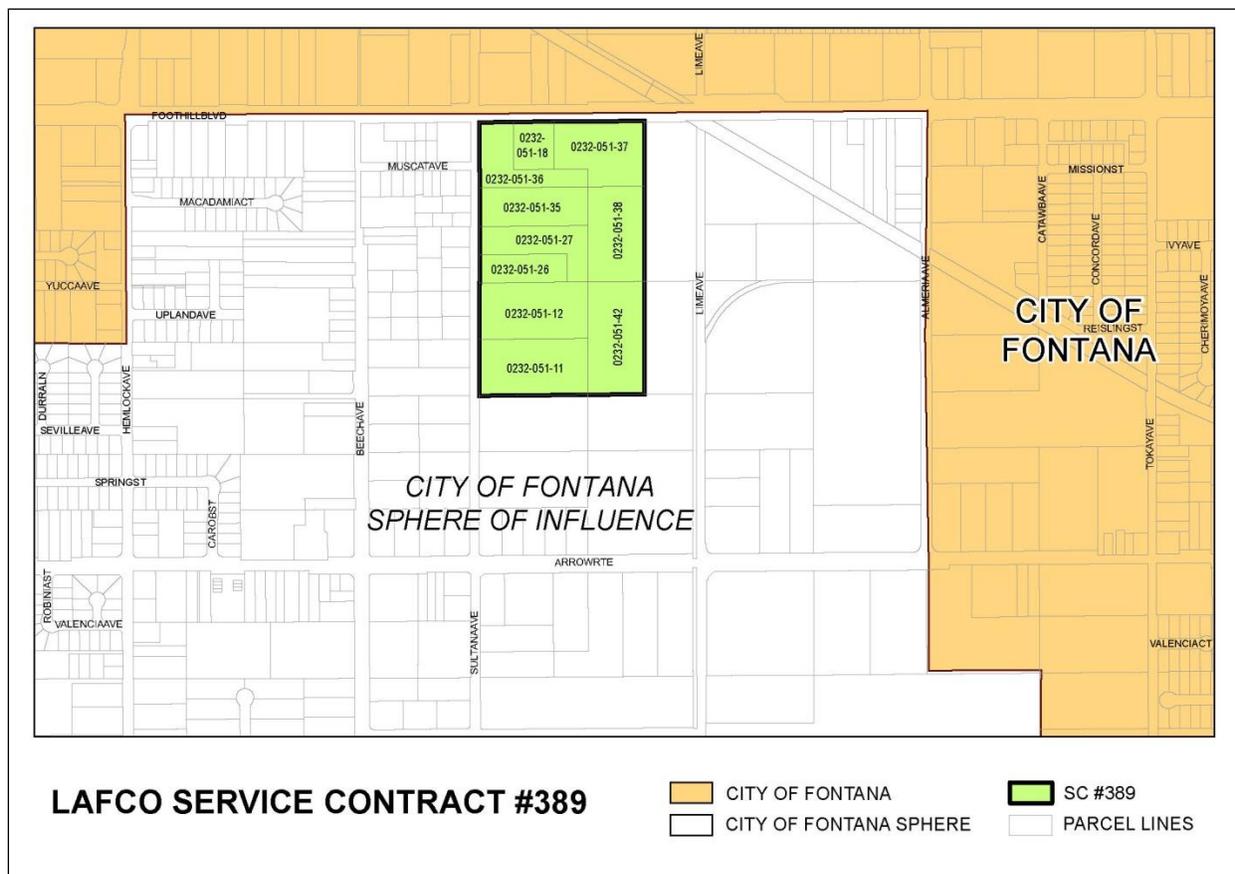


FIGURE 1 – Vicinity Map

In October 2012, the Commission considered and approved LAFCO SC#368, which was the original service contract that was issued for the project. However, since the Commission’s approval of the original service contract, the property owners have been working with the County’s Land Use Services Department on revisions to the project that involves the inclusion of additional parcels and the reconfiguration of the original project site. Figure 2 below shows the difference between the original proposal and the revised project area.

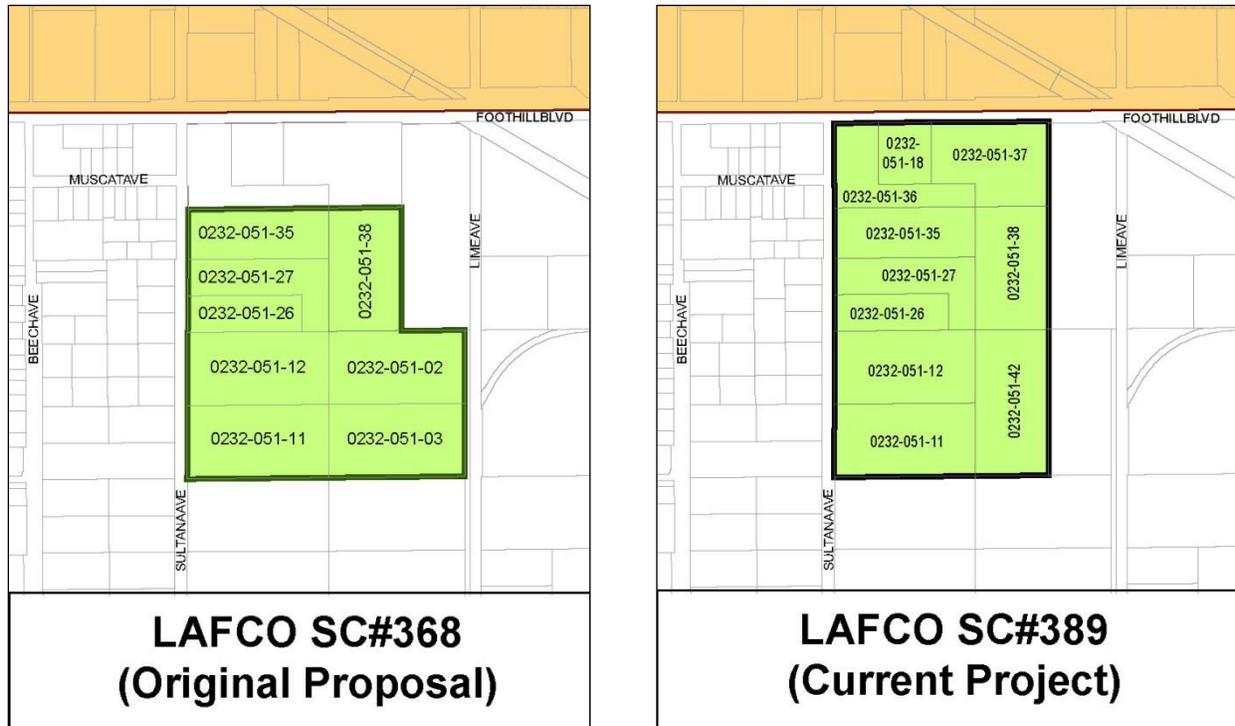


FIGURE 2 – Project Comparison between LAFCO SC#368 and LAFCO SC#389

The original Conditional Use Permit that was processed through the County was to establish a maximum 647,244 sq. ft. industrial building to be used as a high-cube warehouse/distribution facility with a maximum 12,000 sq. ft. of office space on the eight (8) parcels for a total of approximately 31.16 acres. The revised project (through a “Revision to an Approved Action” process) establishes an industrial building not to exceed 728,304 sq. ft. on approximately 37 acres and a parcel merger to combine the parcels for the new configuration into a single lot. The new Conditions of Approval for this project again includes the requirement to connect to the City of Fontana’s sewer facilities prior to issuance of building permits (Conditions 84 & 85) and require LAFCO approval of the contract (Condition 88). A copy of the new Conditions of Approval is included as Attachment #3 to this report.

It should be noted that the project area is currently contiguous to the City’s boundaries along Foothill Boulevard and is therefore capable of being annexed into the City. However, the City’s annexation policy defers annexation of contiguous property within its western

sphere area by using a pre-annexation agreement subject to the provisions outlined in the MOU between the City and the County for the provision of sewer service. In addition, the developer had processed its original project through the County, which was, at that time, not contiguous to the City. The changes made to the original approval, which has now made the project site contiguous to the City, were logically processed through the County as a revision to an already approved action. For these reasons, the area is not being annexed into the City at this time and will continue to be developed in the County.

Therefore, the City (on behalf of the property owner), has submitted a new pre-annexation agreement for the new reconfigured project site that includes additional parcels and is requesting that the Commission review and approve the extension of sewer service pursuant to the provisions of Government Code Section 56133. Authorization of this agreement is required before the City can take the final actions to implement the terms of the agreement.

PLAN FOR SERVICE:

The City’s application (included as Attachment #2 to this report) indicates that the proposed project will be served by extending a 24-inch sewer line approximately 400 feet along Sultana Avenue from an existing 24-inch sewer main in Foothill Boulevard.

Pursuant to the Commission’s application requirements for service contracts, information has been provided regarding all financial obligations for the extension of service outside the agency’s boundaries. The City of Fontana has identified an estimated cost of \$458,316.56 in development impact fees and sewer connection fees for the extension of sewer service to the project (see Contract Application Form included as part of Attachment #2).

The following table shows the City’s Development Impact Fee breakdown:

Description of Fees/Charges	Fee		Total
Fire Facilities Fee ¹	\$ 0.05/sq.ft.	728,304	\$36,415.20
Storm Drain Fee ¹	\$10,194.00/ac	36.55 acres	\$372,590.72
Sewer Connection Master Fee	\$ 876.61/EDU ²	7.9287 EDUs	\$6,950.38
Sewer Facilities Expansion Fee ³	\$ 5,107.00/EDU	7.9287 EDUs	\$40,491.87
TOTAL			\$456,448.17

¹ Since the project is located within the City’s infill area, this Development Impact Fee reflects a 50% reduction.

² EDU = Equivalent Dwelling Unit (Number of Fixture Units x Coefficient = EDU)
 107 (number of plumbing fixtures) x 0.0741 (sewage factor) = 7.9287 EDUs

³ The Sewer Facilities Expansion Fee is a pass through fee that is collected by the City on behalf of the Inland Empire Utilities Agency. This fee is not subject to a 50% reduction.

The Development Impact Fees (Infill Program) shall apply so long as the program remains in effect as of the date of the actual sewer connection. The property owner shall pay these amounts at the time the sewer permit is issued as set forth in the pre-annexation agreement.

The Table below is the City’s sewer connection charges:

Description of Fees/Charges	Fee	Total
Sewer Deposit ¹	4 x monthly rate x number of EDUs	\$1,843.89
Sewer Connection Permit Fee	\$25.00	\$25.00
TOTAL		\$1,868.89

¹ Sewer deposit fee calculated at \$1,843.89 (as of July 1, 2014)
 4 x monthly rate x number of EDUs
 4 x (\$19.76 [sewer fee] + \$19 [industrial surcharge] x 1.5 times in-city sewer rate) + 7.9287
 4 x (\$58.14) x 7.9287 = \$1,843.89

In addition, the property owner will be responsible for hiring a contractor for the connection of the proposed development to the City’s existing sewer system. The costs of all improvements needed to extend the sewer to the proposed development are also borne by the property owner. Also, future users of the sewer service will be charged \$58.14 per EDU per month, which is the outside city month sewer rates for industrial development—approximately 1.5 times the in-City monthly sewer rate. The higher rates charged are intended to help offset the costs for service delivery outside the City’s corporate boundaries.

ENVIRONMENTAL DETERMINATION:

The County prepared an Initial Study and Mitigated Negative Declaration for a Conditional Use Permit to establish a 647,244 sq. ft. industrial building with a 12,000 sq. ft. of office area, to be used as a high cube warehouse/distribution facility on a total of approximately 31.16 acres. The revised Conditional Use Permit establishes an industrial building not to exceed 728,304 sq. ft. on approximately 37 acres.

The Commission’s Environmental Consultant, Tom Dodson and Associates, has prepared an Addendum to the County’s environmental assessment to address the modification in acreage and the parcel configuration of the revised project proposal. Mr. Dodson has determined that if the Commission approves LAFCO SC#389, the Addendum, together with the County’s environmental assessment, are adequate for the Commission’s use as a lead agency under CEQA.

Mr. Dodson has indicated that the necessary environmental actions to be taken by the Commission are as follows:

- a) Certify that the Commission, its staff and its Environmental Consultant, have independently reviewed and considered the County’s environmental assessment and Negative Declaration, including the Addendum prepared by LAFCO’s Environmental Consultant;
- b) Determine that the Addendum, together with the County’s environmental assessment, are adequate for the Commission’s use as a CEQA Lead Agency for its consideration of LAFCO SC#389;
- c) Adopt the Addendum as presented by the Commission’s Environmental Consultant that addresses the sewer service extension to the project;

- d) 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, not the Commission; and,
- e) Direct the Executive Officer to file the 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 County has paid said fees for its environmental determination.

CONCLUSION:

Staff has reviewed this request for the provision of sewer service by the City of Fontana outside its corporate boundaries against the criteria established by Commission policy and Government Code Section 56133. The project to be served, which is comprised of several parcels, is within the sphere of influence assigned the City of Fontana and is anticipated to become a part of the City sometime in the future. The development of the warehouse/distribution facility requires that it receive sewer service, which is only available from the City of Fontana. Staff supports the City's request for authorization to provide sewer service to the proposed project since its facilities are adjacent to the anticipated development, and there is no other existing entity available to provide this service within the area.

FINDINGS:

1. The project area, comprised of several parcels identified as APNs 0232-051-11, 0232-051-12, 0232-051-18, 0232-051-26, 0232-051-27, 0232-051-35, 0232-051-36, 0232-051-37, 0232-051-38, and 0232-051-42, is within the sphere of influence assigned the City of Fontana and is anticipated to become a part of that City sometime in the future. The project will receive water service from the Fontana Water Company. The application requests authorization to receive City of Fontana sewer service.

The sewer connection requirement is a condition of approval as identified in the County's revised Conditional Use Permit to establish an industrial building to be used as a high-cube warehouse and distribution facility not to exceed 728,304 sq. ft. on approximately 37 acres. Therefore, approval of the City's request for authorization to provide sewer service is necessary in order to satisfy this condition of approval.

2. The City of Fontana's Pre-Annexation Agreement No. 13-00002 being considered is for the provision of sewer service by the City of Fontana to 10 parcels, APNs 0232-051-11, 0232-051-12, 0232-051-18, 0232-051-26, 0232-051-27, 0232-051-35, 0232-051-36, 0232-051-37, 0232-051-38, and 0232-051-42, generally located south of Foothill Boulevard and easterly of Sultana Avenue. This contract will remain in force in perpetuity for the proposed development or until such time as the area is annexed. Approval of this application will allow the property owner and the City of Fontana to proceed in finalizing the contract for the extension of this service.

3. The fees charged this project by the City of Fontana for sewer service are identified as totaling \$458,316.56 (for a breakdown of fees, see table on page 3). Payment of these fees is required prior to connection to the City's sewer facilities. In addition, the property owner shall bear all costs to complete improvements needed to extend the sewer service to the proposed development.
4. During the period from October 2011 to November 2011, acting as the CEQA lead agency, the County prepared an environmental assessment for a Conditional Use Permit to establish a 647,244 (Maximum) sq. ft. industrial building with a 12,000 sq. ft. of office area, to be used as a high cube warehouse/distribution facility on a total of approximately 31.16 acres.

In addition, the Commission's Environmental Consultant, Tom Dodson and Associates, prepared an Addendum to the County's environmental assessment to address the modification in acreage and the parcel configuration of the revised project proposal.

Mr. Dodson has reviewed the County's Initial Study and Mitigated Negative Declaration issued for the proposed project. Mr. Dodson recommends that, if the Commission approves LAFCO SC#389, the Addendum together with the County's environmental assessment, are adequate for the Commission's use as lead agency. The Commission will not be adopting alternatives or additional mitigation measures, as these are the responsibility of the County and/or others. A copy of Mr. Dodson's response and recommendation regarding the Commission's review and necessary actions to be taken, the Addendum, and the County's environmental documents and Conditions of Approval for the project are included as Attachment #4 to this report.

KRM/sm

Attachments:

1. [Vicinity Map and Map of the Contract Area](#)
2. [City of Fontana's Application and Contract](#)
3. [County's Conditions of Approval for the Revision to an Approved Action \(Conditional Use Permit\) for the Proposed "High Cube" Warehouse Distribution Facility Increasing the Entitled Building Area from 647,244 Sq. Ft. to 728,304 Sq. Ft. and Increasing the Land Area from 31.16 Acres to 34.91 Acres](#)
4. [Tom Dodson and Associates' Response and Addendum](#)
5. [Draft Resolution #3183](#)