

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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**DATE:** MAY 10, 2016   
**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer  
SAMUEL MARTINEZ, Assistant Executive Officer  
**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** Agenda Item #9: LAFCO 3201 – Reorganization to include Annexations to the City of Rialto and the West Valley Water District and Detachments from San Bernardino County Fire Protection District and its Valley Service Zone, Fontana Fire Protection District, County Service Area SL-1 and County Service Area 70 (Lytle Creek Ranch)

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**INITIATED BY:**

City of Rialto Council Resolution

**RECOMMENDATION:**

The staff recommends that the Commission approve LAFCO 3201 by taking the following actions:

1. Modify LAFCO 3201 to include the detachment from the Fontana Fire Protection District to clarify service responsibilities for the future.
2. With respect to the environmental review:
  - a. Certify that the Complete Final Environmental Impact Report (EIR) and other related environmental documents prepared by the City of Rialto for the Lytle Creek Ranch Specific Plan project have been independently reviewed and considered by the Commission, its staff and its Environmental Consultant;
  - b. Determine that the Complete Final EIR for the project prepared by the City is adequate for the Commission's use as a California Environmental Quality Act (CEQA) Responsible Agency for its determinations related to LAFCO 3201;
  - c. Determine that the Commission does not intend to adopt alternatives or mitigation measures for the Lytle Creek Ranch Specific Plan project and that the mitigation measures identified for the project are the responsibility of the City and others, not the Commission;

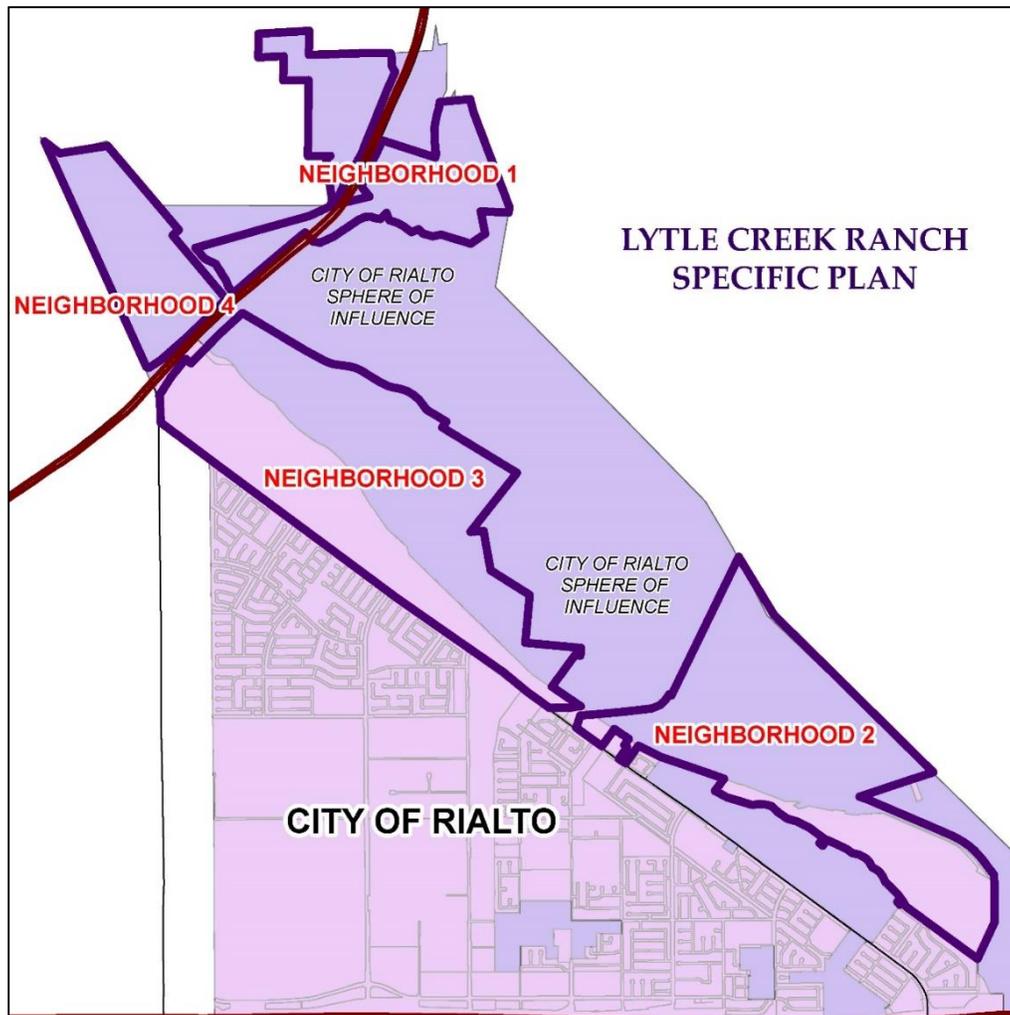
- d. Adopt the Facts, Findings and Statement of Overriding Considerations as presented by the Commission’s Environmental Consultant and attached to the staff report; and,
  - e. Direct the Executive Officer to file the Notice of Determination within five days and find that no further Department of Fish and Game filing fees are required by the Commission’s approval since the City, as CEQA lead agency, has paid said fees.
3. Approve LAFCO 3201, as modified, with the following determination and conditions:
- a. Determination – The Commission determines that approval of LAFCO 3201 will make the existing unincorporated “El Rancho Verde” community completely surrounded by the City of Rialto. Since the entire reorganization area of LAFCO 3201 is a master planned community that cannot be developed unless the area is annexed, the Commission determines, pursuant to the provision of Government Code Section 56375(m), to waive the restrictions on the creation of a totally surrounded island contained within Government Code Section 56744 because it would be detrimental to the orderly development of the community and it further determines that the area to be surrounded cannot reasonably be annexed to another city or incorporated as a new city.
  - b. Conditions:
    - Prior to the issuance of the Certificate of Completion for the reorganization to include annexations and detachments, the City of Rialto shall initiate the annexation of the five North Rialto Islands identified in this staff report. Compliance with this condition of approval shall be deemed completed upon the issuance of the Certificate(s) of Filing for the five North Rialto Islands either individually or as a reorganization; and,
    - The standard terms and conditions that include, but are not limited to, the “hold harmless” clause for potential litigation costs, continuation of fees, charges, assessments, and the identification that the transfer of utility accounts will occur within 90 days of the recording of the Certificate of Completion.
4. Adopt LAFCO Resolution No. 3222 setting forth the Commission’s terms, conditions, findings and determinations.

**BACKGROUND:**

For more than 20 years the staff of the Local Agency Formation Commission have been involved in discussions with the City of Rialto and the landowners regarding the delivery of service to the parcels owned by the Lytle Creek Land Company (known by various names throughout its processing). Some of the territory has developed under the County, now known as Rosena Ranch, and the majority of the remaining lands are slated to be developed under the City of Rialto’s jurisdiction. After much review, litigation, modification and public

involvement, in September 2015, the City of Rialto (City) submitted an application for reorganization to include a portion of the project within its boundaries. The City is proposing multiple jurisdictional changes that include annexations to the City of Rialto and the West Valley Water District, and detachments from the San Bernardino County Fire Protection District, its Valley Service Zone, the Fontana Fire Protection District, County Service Area SL-1 and County Service Area 70. The reorganization is generally located along the Lytle Creek Wash area, northerly of the 210 Freeway, easterly of Riverside Avenue, and southerly of the I-15 Freeway, within the City of Rialto's northern sphere of influence.

The Lytle Creek Ranch Specific Plan (Specific Plan), which encompasses a total of approximately 2,447 acres, is a master planned community with the potential for 8,407 residential homes and 850,000 square feet of commercial development along with ancillary facilities such as schools, public and private open space/parks and recreation facilities, streets and other public facilities. The Specific Plan has four (4) distinct neighborhoods: Neighborhood 1 is approximately 417 acres, Neighborhood 2 is approximately 802 acres, Neighborhood 3 is approximately 969 acres, and Neighborhood 4 is approximately 260 acres.



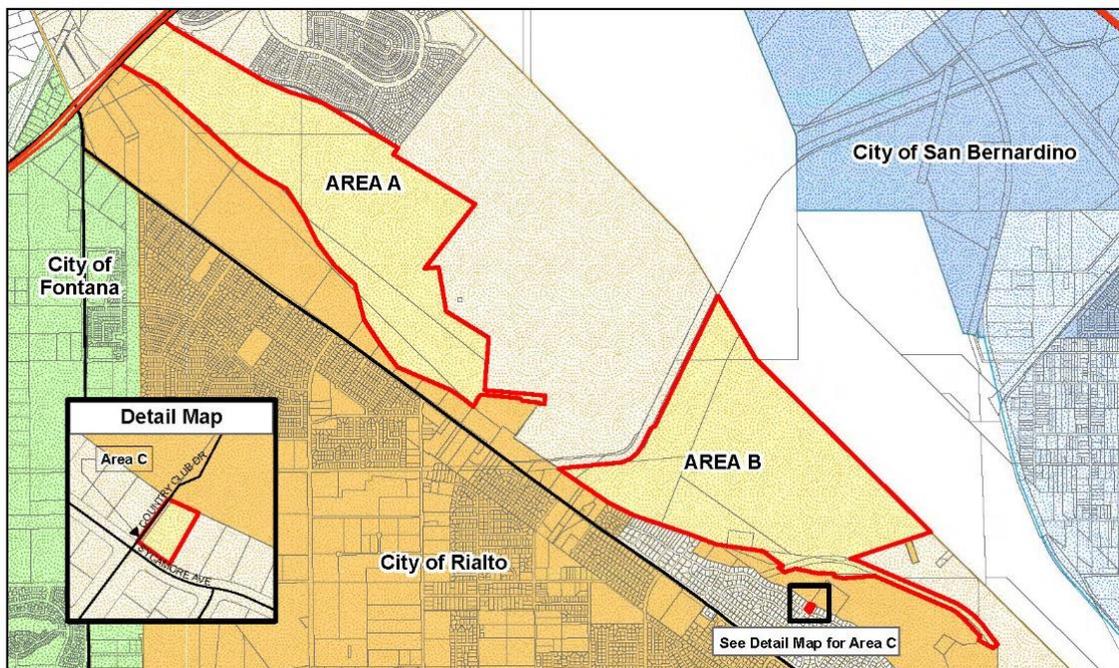
The Specific Plan's Neighborhoods 1 and 4 are entirely unincorporated areas while Neighborhoods 2 and 3 both have areas that are already within the City and areas that are unincorporated. The City originally adopted the General Plan Amendment (GPA No. 29), the Specific Plan (Specific Plan No. 12), and Pre-annexation/Development Agreement for the project in July 2010. However, a lawsuit was filed in August 2010 challenging the certified Environmental Impact Report (EIR) for the project. To satisfy the terms of the judgement, the City rescinded all of its previous approvals, and recirculated the EIR in February 2012. In July 2012, after multiple public hearings, the City certified the Complete Final EIR, and re-adopted the General Plan Amendment, the Lytle Creek Ranch Specific Plan and the Pre-annexation/Development Agreement for the project.

Due to unresolved service delivery issues related to fire and sewer services in Neighborhoods 1 and 4, the application proposal submitted by the City (and supported by the landowner) only includes the annexation of the unincorporated areas within Neighborhoods 2 and 3 of the Specific Plan. The future development of Neighborhoods 1 and 4 are anticipated to proceed through the County and its service mechanisms.

*Jurisdictional Changes Being Proposed:*

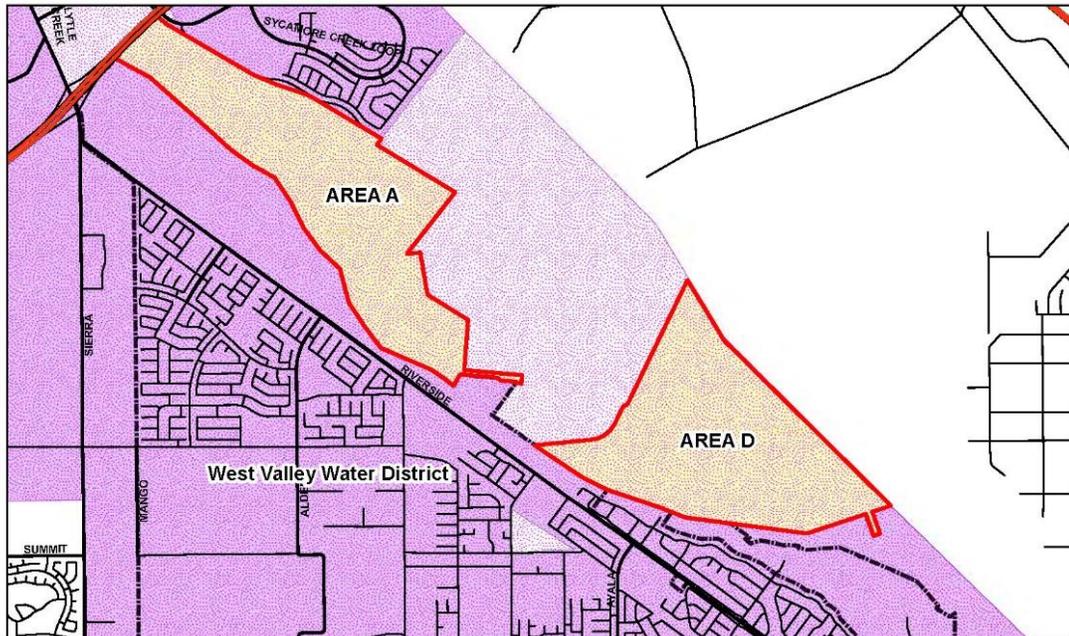
Due to the complexity of the changes proposed through this reorganization, staff is providing a more detailed description for the individual changes. Through the processing of the changes, staff has attempted to verify all overlying agencies and provide for a reorganization that provides for a clear and efficient service delivery. The reorganization proposal includes the following changes:

- *Areas A, B, & C – Annexation to the City of Rialto and Detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, and County Service Area 70*



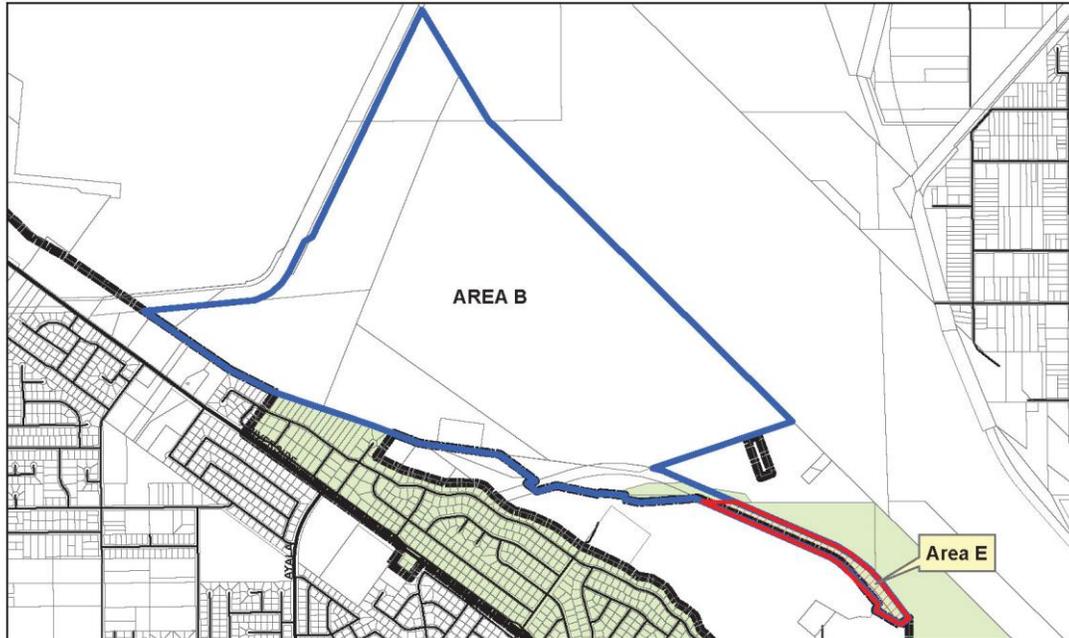
Area A encompasses approximately 568 acres generally bordered by the I-15 Freeway on the north, parcel lines on the east and south, and parcel lines (existing City of Rialto boundaries) on the west, generally northeasterly of the intersection of Locust and Riverside Avenues. Area B encompasses approximately 573 acres generally bordered by parcel lines on the north, east, and south, and parcel lines (existing City of Rialto boundaries) on the west, generally northeasterly of the El Rancho Verde Community. Area C is a single parcel encompassing approximately 0.46 acres generally bordered by Country Club Drive on the west, parcel line (existing City of Rialto boundary) on the north, a parcel line on the east, and Sycamore Avenue on the south.

- *Areas A & D – Annexation to the West Valley Water District*



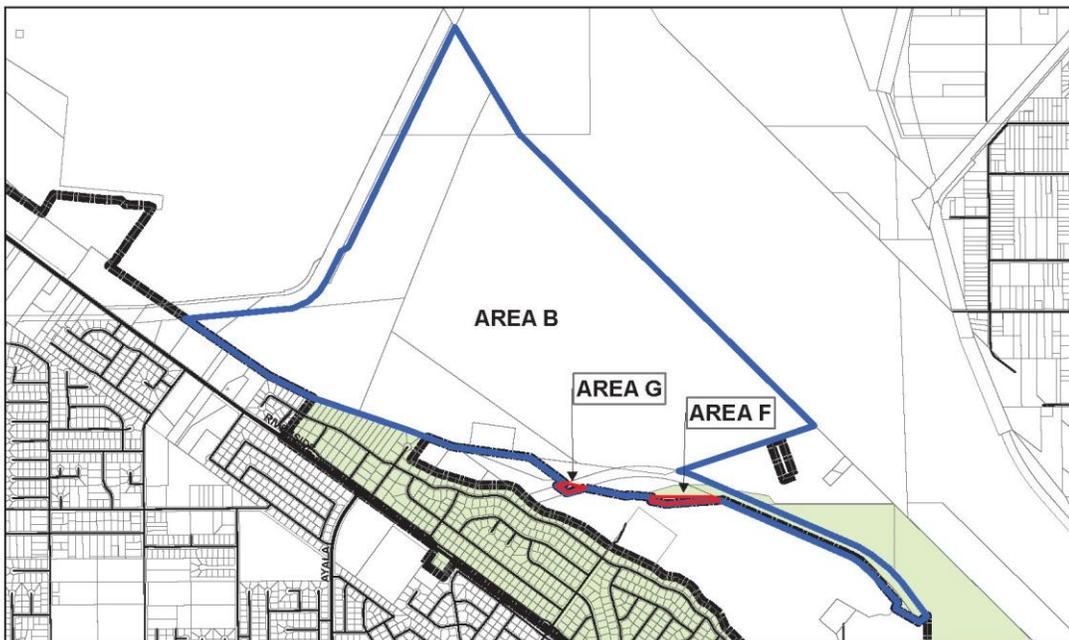
Area A encompasses approximately 568 acres (see description above). Area D, which is slightly smaller than the area being annexed into the City as this boundary conforms to the existing boundary of the West Valley Water District, encompasses approximately 539 acres generally bordered by parcel lines on the north and east, and parcel lines (existing West Valley Water District boundaries) on the south and west, which is a portion of Area B.

- *Area E – Detachment from County Service Area SL-1*



Area E encompasses approximately 13 acres that generally includes the San Bernardino County Flood Control Channel area located within the reorganization area.

- *Areas F & G – Detachment from County Service Area SL-1 and Fontana Fire Protection District (modified by LAFCO staff to be included in the reorganization)*



Area F is a single parcel encompassing approximately 1.65 acres generally bordered by parcel lines on the north and east, and parcel lines (Existing city of Rialto boundary) on the south and west. Area G encompasses approximately 0.65 acres that generally includes a portion of the San Bernardino County Flood Control Channel located within the reorganization area.

*Detachment from the Fontana Fire Protection District:*

During the processing of the application, it was identified—through the Assessor’s Office listing of overlying agencies by Tax Rate Area (TRA)—that the Fontana Fire Protection District currently exists within TRA 106028 (shown above as Areas F and G). This was unexpected since the boundaries of the Fontana Fire Protection District, as defined through the processing of LAFCO 3000, were to reflect the boundaries of the City of Fontana and its unincorporated sphere of influence.

Part of the County Fire Reorganization proposal included renaming the former Central Valley Fire Protection District (Central Valley FPD) to Fontana Fire Protection District and detaching those portions that were outside of the City of Fontana and its unincorporated sphere of influence, and annexing those pieces into County Fire. Staff has verified that this issue is associated with Central Valley FPD and verified that these two areas were indeed part of the former district and were inadvertently left off from the areas that were being annexed as a function of that reorganization. Therefore, in order to clarify service responsibilities this proposal has been expanded to include the detachment of these two areas, Areas F and G, from the Fontana Fire Protection District.

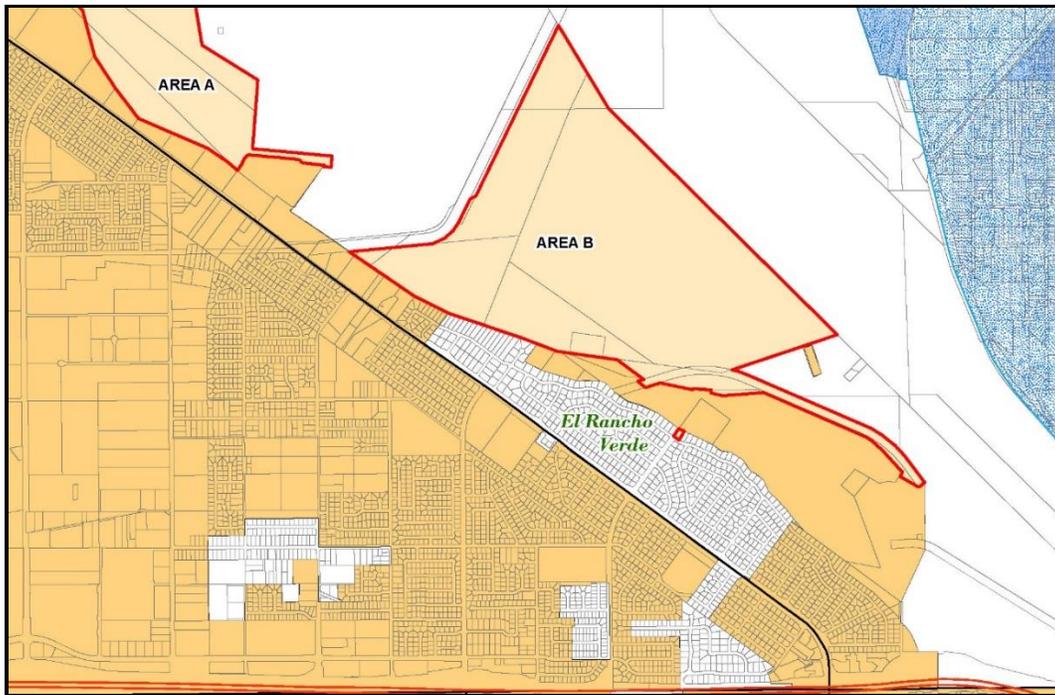
The rest of the report will provide the Commission with the information related to the four major areas of consideration required for a jurisdictional change – boundaries, land uses, service issues and the effects on other local governments, and environmental considerations.

**BOUNDARIES:**

The reorganization proposes to annex the unincorporated areas within Neighborhoods 2 and 3 of the Lytle Creek Ranch Specific Plan and excludes any additional territory that is not a part of Specific Plan project. This has resulted in three boundary issues to be considered by the Commission:

1. *Creation of a Totally Surrounded Island:*

The area being annexed in Neighborhood 2 (Area B) completely surrounds the unincorporated area commonly known as the “El Rancho Verde” community. See illustration below:



The El Rancho Verde Country Club opened in 1958 and the community around it began to develop from the 1960's up to the late 1970s. The Country Club was annexed to the City of Rialto in 1997 (LAFCO 2820 and 2824). The remaining unincorporated portion of the El Rancho Verde community is currently a substantially surrounded unincorporated island area that, should LAFCO 3201 be approved by the Commission, will become totally surrounded by the City. The area of this island is approximately 212 acres; therefore, it exceeds the 150-acre threshold for an "island" annexation procedure allowed under Government Code Section 56375.3. The boundary issue to be considered is the statutory prohibition against creating an island as outlined in Government Code Section 56744. The Commission has the following options, in the staff view, to address the unincorporated El Rancho Verde community:

- A. Expand LAFCO 3201 to include the entire El Rancho Verde community as a part of Area B;
- B. Require the City of Rialto to initiate a separate reorganization to include annexation to address the El Rancho Verde community as a condition of approval for LAFCO 3201; or,
- C. Approve LAFCO 3201 making the determinations required by Government Code Section 56375(m) regarding the El Rancho Verde community which are that the imposition of the restrictions within GC 56744 would be detrimental to the orderly development of the community and that the area to be enclosed is so located that it cannot be reasonably annexed to another city or incorporate as a new city.

With regard to option A, the residents of the El Rancho Verde community—from the very beginning of the City’s consideration of the specific plan —have expressed opposition to the project and have also historically opposed any annexation to the City of Rialto. Therefore, in staff’s view, expansion of the proposal to include the unincorporated El Rancho Verde community would likely result in the termination of the proceedings for LAFCO 3201 since the addition of this area will make the proposal legally inhabited and the registered voters within El Rancho Verde would then decide the fate of the reorganization in its entirety.

Option B would require the City to submit a separate reorganization proposal to annex the El Rancho Verde community. Even though the annexation of the El Rancho Verde community will be a ministerial action for the Commission pursuant to Government Code Section 56375(a)(4) that requires the Commission to approve the annexation of unincorporated “surrounded” territory provided the mandatory determinations are made, it still has to go through a protest proceedings since—as identified earlier—it does not qualify under the expedited island provisions outlined in Government Code Section 56375.3. Since the area is legally inhabited and based on historic area opposition to annexation, the proposal to annex El Rancho Verde is anticipated to be unsuccessful at the protest proceedings, resulting in termination of the proposal.

Option C allows for the completion of LAFCO 3201 on the basis that the Specific Plan requires annexation into the City of Rialto in order to be entitled and to receive the municipal level service the Specific Plan requires. Meanwhile, the El Rancho Verde community will continue to be an unincorporated community and will continue to be served by the San Bernardino County Fire Protection District and its Valley Service Zone for fire protection and emergency medical response (provided by the City through mutual aid), West Valley Water District for retail water service, County Service Area SL-1 (streetlights) and CSA 70 P-13 (landscaping) along with the participation in the El Rancho Verde Municipal Advisory Council (MAC) to address its governance and service delivery.

Given that the El Rancho Verde community is legally inhabited and due to the historic opposition by the residents of the community to annexation, staff supports choosing option C, making the determination required by Government Code Section 56375(m), which is as follows:

**The Commission determines that approval of LAFCO 3201 will make the existing unincorporated “El Rancho Verde” community completely surrounded by the City of Rialto. Since the entire reorganization area of LAFCO 3201 is a master planned community that cannot be developed unless the area is annexed, the Commission determines, pursuant to the provision of Government Code Section 56375(m), to waive the restrictions on the creation of a totally surrounded island contained within Government Code Section 56744 because it would be detrimental to the orderly development of the community and it further determines that the area to be surrounded cannot reasonably be annexed to another city or incorporated as a new city.**

2. Exclusion Area Between Neighborhoods 2 and 3

As outlined on the maps above, the territory proposed for annexation within the City of Rialto (Areas A and B) and within the West Valley Water District (Areas A and D) leaves a large piece of unincorporated territory within the sphere of influence area assigned the City of Rialto and West Valley Water District outside the reorganization. This unincorporated sphere of influence area is a single parcel that is an existing sand and gravel mine owned and operated by Cemex (see aerial below).



Cemex currently has a vested right for mineral extraction and an approved reclamation plan that is effective for a period of 25 years and is to expire in 2028 (with a 2-year revegetation monitoring period). The determination as a vested operation is in accordance to the California Surface Mining and Reclamation Act of 1975 (SMARA), Section 2776 and the County's Development Code. As such, its continuing operation, in accordance with the approved reclamation plan and other applicable requirements, shall continue under the jurisdiction of the County and State.

Moreover, the City does not have any adopted goals or policies promoting the development of new mineral extraction activities within the community and the City's General Plan and does not preclude development in areas in proximity to existing and/or former mineral resource areas. On the other hand, the County's General Plan and its Development Code incorporate design, development, and performance standards that seek to protect the public health and safety as well as prevent damaging effects to surrounding properties.

The Commission is directed by statute to protect and preserve open space uses and the mineral resources which may exist within these areas. Specifically, Government Code Section 56301 outlines the purposes of a Commission as:

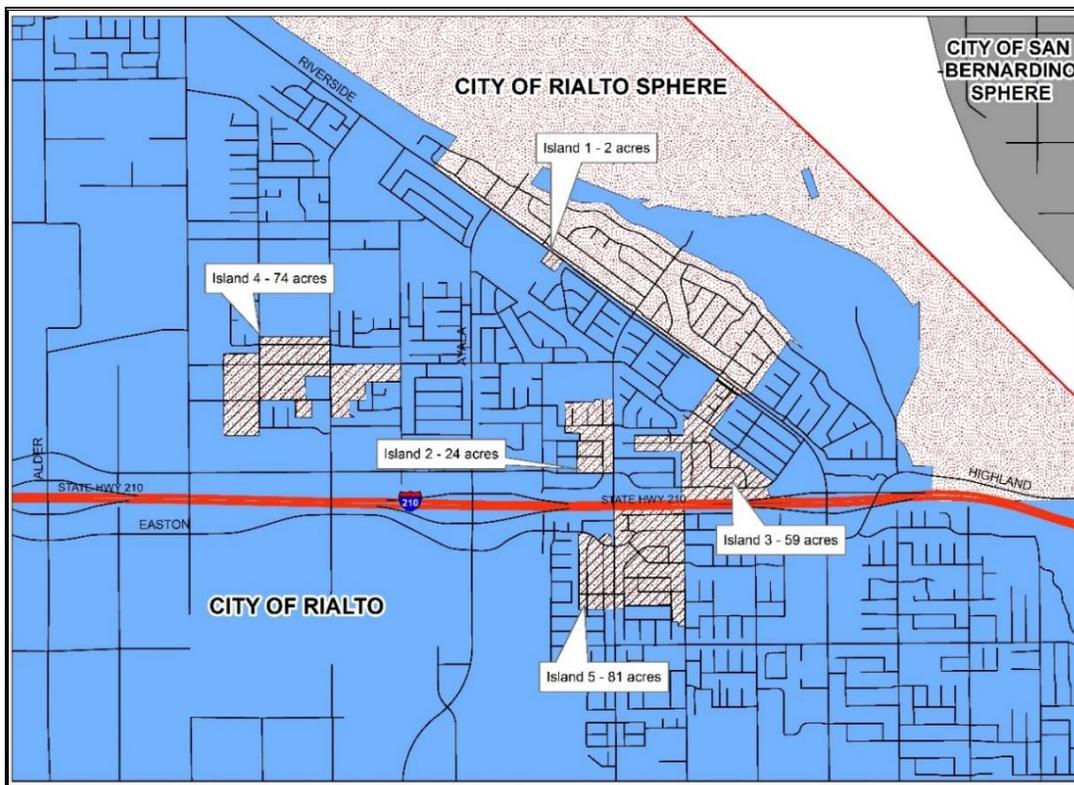
*“Among the purposes of a commission are discouraging urban sprawl, **preserving open-space** and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances... (Emphasis added)*

Open space is defined, pursuant to Government Code Section 65560, as those “used for the managed production of resources, including but not limited to, forest lands rangelands, agricultural lands and areas of economic importance for the production of food... and areas containing major mineral deposits, including those in short supply.”

For these reasons, it is LAFCO staff’s position that the Cemex property should remain under the County’s land use authority. Therefore, LAFCO staff supports retaining the Cemex parcel in unincorporated status.

3) Annexation of the North Rialto Islands:

There are five unincorporated islands in the northern part of the City of Rialto that generally qualify as an “island annexation” under the provisions of Government Code Section 56375.3. The map below provides the location of these five islands.



Prior to 2011 it had been the practice of this Commission to require Cities/Towns, when annexing large development-related proposals, to require the municipality to annex its islands that meet the criteria of Government Code Section 56375.3.

In 2007, the Commission considered an annexation proposal to the City of Rialto (LAFCO 3066) that staff recommended include a condition requiring the City to initiate the North Rialto Islands (four islands identified at that time instead of five). The City objected to the conditioning of LAFCO 3066, an annexation that was intended to build over 700 homes along the City's southerly boundaries, with the requirement to annex the four northern islands citing its position that there was no connection between the two areas. The City went on to say that the islands should be tied to a future development in the north – which is the Lytle Creek Ranch project. In response to the City's position, the Commission modified its recommendation to instead – move forward with the approval of LAFCO 3066, with the determination that the City was to initiate the annexation of the four islands within a year (Copies of LAFCO Resolution No. 2961 and minutes from the April 18, 2007 hearing included as part of Attachment #4). Compliance with that determination remains unfulfilled.

In September 2011, the Commission modified its Island Annexation Policy removing the requirement for a City to initiate the annexation of its islands when considering a major development application based upon the passage of SB 89. Instead, the Commission's policy directs staff to place an item on the Commission agenda to review a City's islands that meet the criteria pursuant to Government Code Section 56375.3 if it submits a large development-related reorganization/annexation (those developments exceeding 500 units and/or 500,000 sq. feet of commercial/industrial land uses).

Following the City's submission of LAFCO 3201, staff, pursuant to Commission policy, presented an information item at the December Commission hearing reviewing the development application in general and the potential for annexation of the five North Rialto Islands. LAFCO staff identified, at that time, that LAFCO 3201 presents the last known opportunity for the Commission to look at requiring the annexation of the North Rialto Islands as a companion action. Staff provided information related to the ad valorem property tax transfer process for San Bernardino County and the City's existing utility tax that ends in 2018. Projections on revenues and expenditures estimates related to the islands were also discussed which showed a cash balance available to fund reserves and or capital replacement. At that hearing, the City of Rialto disputed the information presented by the staff identifying that the islands would be a financial drain on the City and the service needs were higher than projected. Nonetheless, the Commission then directed staff to include a discussion of the islands as part of its review of LAFCO 3201.

Following the Commission's consideration, the City of Rialto hired a consultant, Stan Hoffman and Associates, to prepare a plan for service and fiscal impact analysis to determine the costs for providing service to the five unincorporated islands. The Plan for Service and Fiscal Impact Analysis for the North Rialto Islands is included as Attachment #5 to this report. In general, the City's fiscal impact analysis indicate that the annexation of the five islands would be unsustainable. However, these assumptions, as stated by a City representative, looked at the worst case scenario for service delivery and obligation

for the area. LAFCO staff questions some of the assumptions identified in the document which are presented below:

- a. The analysis that LAFCO staff prepared previously that showed a surplus was based on the same criteria that the same consultant used in preparing the Plan for Service for the Lytle Creek Ranch project, which include revenues from In Lieu Property Tax (Sales and Use Tax) as well as In Lieu Property Tax of VLF.
- b. The City included a \$338,047 fire service cost for an area that the City already serves through its mutual aid agreement with County Fire. The document also goes on to say that the agreement with County Fire will no longer be available and that the City will incur additional costs for fire service in the City's southern area. However, in review of this position with the County Administrative Office, this statement was disputed. In addition, as identified earlier, the unincorporated El Rancho Verde community will continue to be unincorporated and will continue to receive fire service through the City of Rialto under the 2012 mutual aid agreement; therefore, staff questions the elimination of the agreement as identified by the Plan for Service. For these reasons, staff disputes the inclusion of additional fire costs in the analysis.
- c. The document inadvertently identified that the islands would be annexed into West Valley Water District (for water service) when, in fact, the areas are already within the District and the majority of the areas are developed currently receiving water service from the District.
- d. Another discussion item identified in the study is the capital improvements for roads (including sidewalks, tree removal, handicap ramps, sewer, etc.). LAFCO staff agrees that these are costs that may be applicable in the future. However, it should be noted that there are streets within the City that—to this day—still do not have sidewalks and/or disabled ramps nor is there a timeline to address all the areas without sidewalks as confirmed with City staff. In addition, staff has also verified and again confirmed with City staff that there are areas within the City that do not have sewer service.
- e. One additional revenue source that the City and its consultant failed to include in the analysis is the revenue to be generated from the Development Agreement for the Lytle Creek Ranch project. As identified in the City's staff report related to its consideration and approval of the Pre-annexation/Development Agreement for the Lytle Creek Ranch Specific Plan dated June 26, 2012 (included as part of Attachment #2), this fee was increased by \$630 per unit to support the annexation of the five North Rialto Islands. Based on the total number of units identified in the City's Plan for Service and Fiscal Impact Analysis for LAFCO 3201, which is 6,260 units, the additional Development Agreement fee to be generated is \$3,943,800. Although the Development Agreement Fee is intended to go to the City's General Fund and can be used for any lawful City purpose, it should be noted that the additional fee was added in order to absorb "the potential cost of annexing the County islands." Therefore, this should be a revenue restricted to support the services to be delivered following the annexation of the five North Rialto Islands.

OPTIONS:

The following are the options available for addressing the North Rialto Islands as part of the Commission's consideration of LAFCO 3201:

- The Commission could require the initiation of the five North Rialto Island as a condition of approval for LAFCO 3201. Compliance with this requirement would be deemed completed upon issuance of the Certificate(s) of Filing for the five North Rialto Islands either collectively in a reorganization proposal or individually. The Certificate of Completion for LAFCO 3201 would not be issued until this condition had been completed;
- The Commission could a determination that the City of Rialto be required to initiate the five North Rialto Islands within one year of the approval of LAFCO 3201; or,
- The Commission could determine to approve LAFCO 3201 without the requirement to address the five North Rialto Islands.

Because of the direct relationship of the reorganization area with the five North Rialto Islands, the City's previous assertion that the North Rialto Islands should be tied to the Lytle Creek Ranch project for annexation to clarify service delivery relationships, the fact that the Pre-annexation/Development Agreement includes an additional development agreement fee in anticipation for the costs associated to annexing the five North Rialto Islands, and the staff position that LAFCO 3201 presents the last opportunity for the Commission to look at requiring the annexation of the five North Rialto Islands, LAFCO staff believes that the imposition of a condition of approval would be the appropriate action to take in order to address the five North Rialto Islands. Therefore, staff recommends the Commission include the following condition in its approval of LAFCO 3201:

**Prior to the issuance of the Certificate of Completion for the reorganization to include annexations and detachments, the City of Rialto shall initiate the annexation of the five North Rialto Islands identified in this staff report. Compliance with this condition of approval shall be deemed completed upon the issuance of the Certificate(s) of Filing for the five North Rialto Islands either individually or as a reorganization.**

**LAND USE:**

The reorganization area is primarily vacant. The existing uses directly surrounding the different areas are as follows:

- Area A – the area is surrounded by a combination of the I-15 Freeway and residential development (Rosena Ranch) on the northwest, a combination of vacant lands and the County Sheriff's station on the northeast, vacant land, the Lytle Creek Wash, and an industrial use (sand and gravel mine and concrete production) on the east, and a

combination of a commercial/industrial use and vacant lands (within the City of Rialto) on the south and southwest.

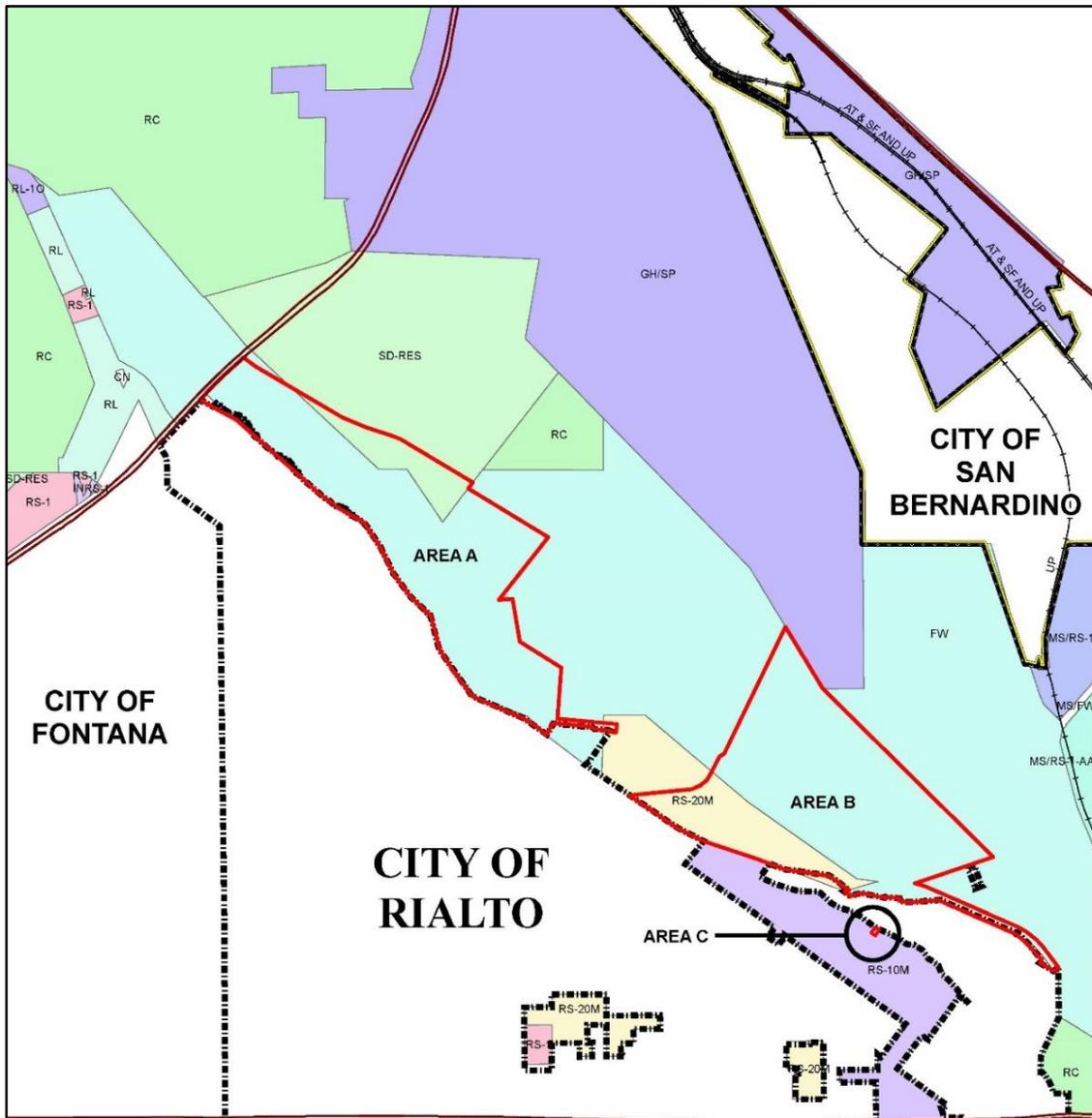
- Area B – the area is surrounded by a combination of vacant lands, the County Sheriff's station, and the Lytle Creek Wash on the north and east, the former El Rancho Verde Golf Club (within the City of Rialto) and residential development on the south, and a combination of vacant lands and an industrial use (sand and gravel mine and concrete production) on the west.
- Area C – the parcel is surrounded by the former El Rancho Verde Golf Club (within the City of Rialto) on the north, residential development on the east, Sycamore Drive on the south, and Country Club Drive on the west.

Existing uses surrounding Areas D, E, F, and G are not being described since these areas are wholly within Area B (with the exception of the City of Rialto non-contiguous parcel that is being included as part of Area D).



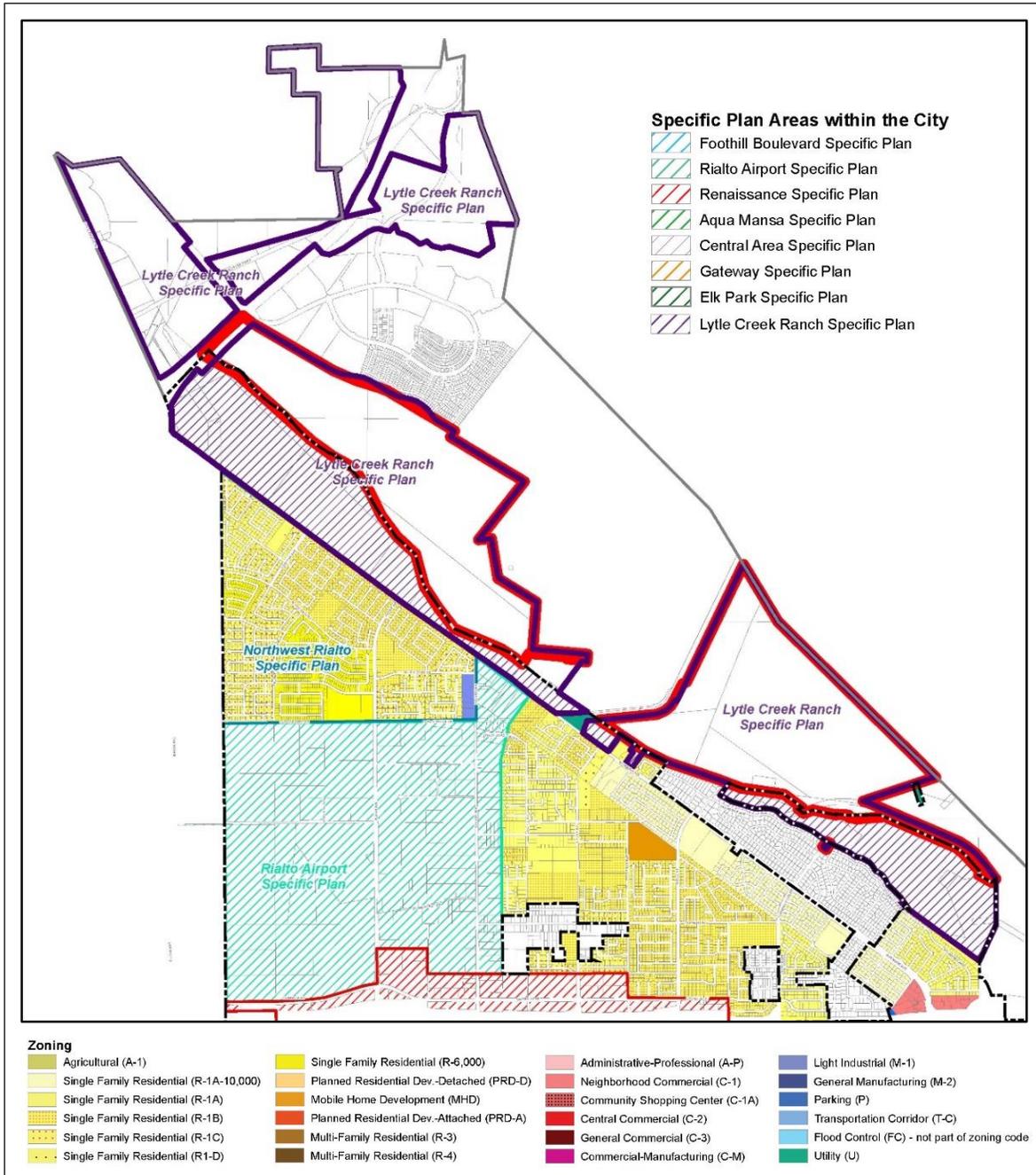
*County Land Use Designations:*

The County's current land use designations for the reorganization area are SD-RES (Special Development-Residential), RS-20M (Single Residential, 20,000 sq. ft. minimum lot size), RS-10M (Single Residential, 10,000 sq. ft. minimum lot size), and FW (Floodway).



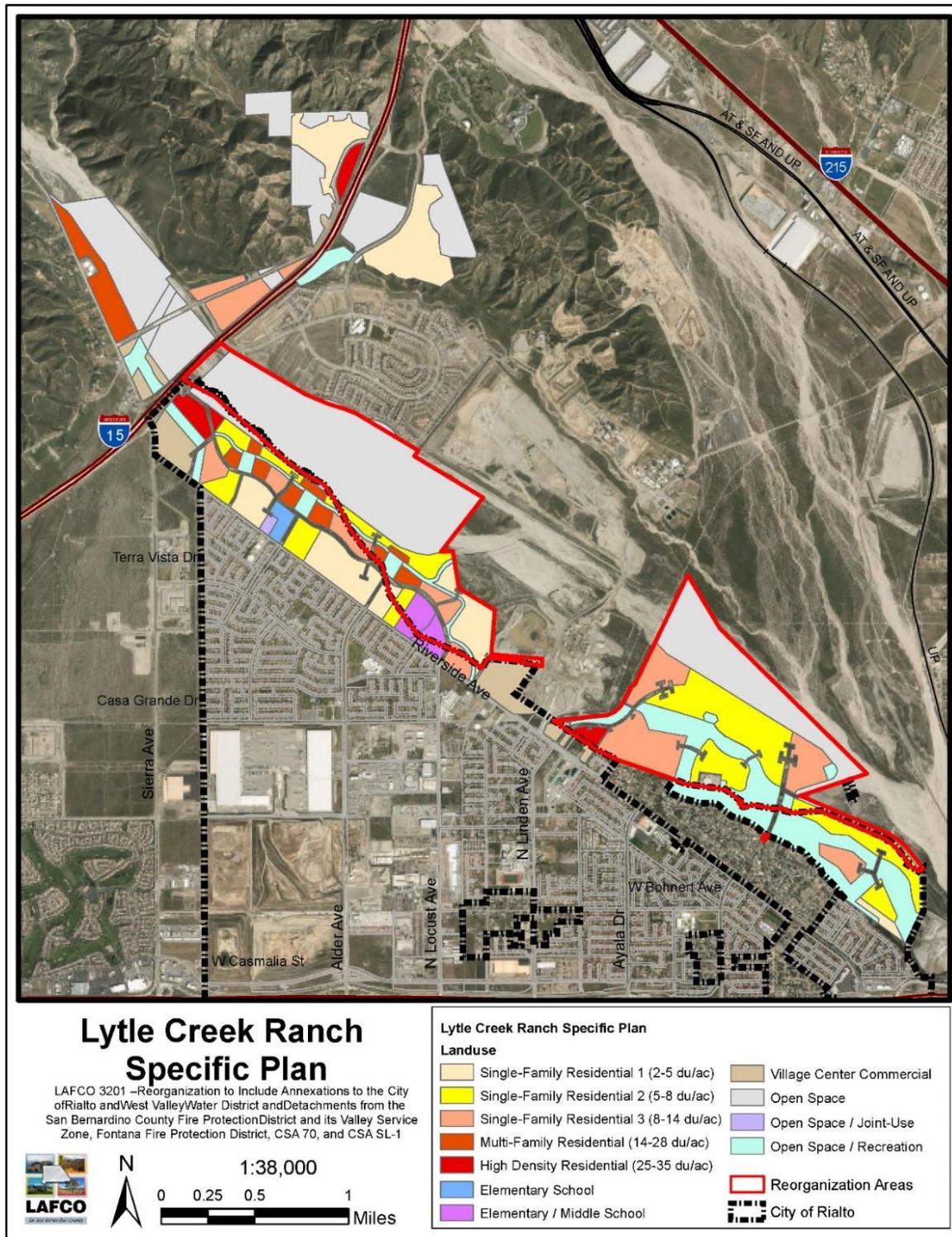
*City's General Plan:*

The City of Rialto has assigned the reorganization area a "Specific Plan" land use designation overlay and a pre-zone as "Lytle Creek Ranch Specific Plan", which will take effect upon completion of the annexation process.



*City's Pre-Zone Designations:*

Through the adoption of the Lytle Creek Ranch Specific Plan, the City has identified the ultimate land uses within the project area.



A complete copy of the Specific Plan was provided to the Commission on April 21, 2016 as a part of the Environmental Documents for LAFCO 3201 distribution and is included as part of Attachment #2. The following is a general description of each of the Specific Plan's underlying zone designations that are placed within the reorganization area:

- Single-Family Residential One (SFR-1). This category will only include single-family detached residential development ranging in density from 2 to 5 dwelling units/acre (du/ac).
- Single-Family Residential Two (SFR-2). This category will include single-family detached and attached residential development ranging in density from 5 to 8 du/ac.
- Single-Family Residential Three (SFR-3). This category will include a combination of single-family detached and attached residential product types at densities ranging from 8 to 14 du/ac.
- Multi-Family Residential (MFR). This category will include only attached housing products such as, but not limited to, townhomes, attached row homes, condominiums, stacked flats, garden courts, motorcourts, and apartments with densities ranging from 14 to 28 du/ac.
- High Density Residential (HDR). This category will include only high density residential products such as, but not limited to, condominiums, stacked flats, podium units, and apartments with densities ranging from 25 to 35 du/ac.
- Elementary/Middle School (ES/MS). A 14-acre elementary/middle school is planned in Neighborhood III.
- Open Space / Recreation (OS/R). The Land Use Plan identifies planning areas that may develop as "Open Space/Recreation." These areas will consist of a mix of recreation types including, but not limited to, neighborhood parks, mini parks, private recreation centers, and trails and walkways. The permitted uses and the development standards for the OS/R category apply to all planning areas designated as "Open Space/Recreation."
- Open Space (OS). The "Open Space" areas in Lytle Creek Ranch are intended to stay preserved in their existing, natural state. Land within this category is designed to protect important natural resources located within the Lytle Creek Ranch Specific Plan.

The City's Lytle Creek Ranch Specific Plan underlying zone designations are the pre-zoning for the proposal area as required by Government Code Section 56375(a)(7). Once annexed, pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for a period of two (2) years following annexation. The law allows for a change in designation if the City Council makes the finding, at a public hearing, that a substantial change in circumstance has occurred that necessitates a departure from the underlying zone designations outlined in the application made to the Commission.

It is the staff's position that the land uses identified in the City's Lytle Creek Ranch Specific Plan require a broad range of municipal services which can be most effectively and efficiently provided by the City of Rialto and the West Valley Water District.

**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. Due to the vacant nature of the lands currently, government service requirements are minimal – primarily law enforcement and fire protection. The current service providers within the reorganization area include the West Valley Water District (portion), the San Bernardino County Fire Protection District and its Valley Service Zone, County Service Area 70 (multi-function entity) and County Service Area SL-1 (streetlighting). In addition, the regional independent special districts, Inland Empire Resource Conservation District and the San Bernardino Valley Municipal Water District (State Water Contractor), overlay the reorganization area.

As identified earlier, a portion of reorganization area was inadvertently retained within the Fontana Fire Protection District as a result of the County Fire Reorganization (see discussion related to the Detachment from the Fontana Fire Protection District, page 6).

**Plan for Service:**

The City of Rialto has provided a "Plan for Service" for this proposal as required by law and Commission policy. The Plan includes a Fiscal Impact Analysis outlining its ability to provide its range of services to the area. Included with the materials for review is a Pre-annexation/ Development Agreement, approved by the City and the project proponent, outlining land use assumptions, financing and services requirements for the reorganization area.

The West Valley Water District has provided a Plan for Service to provide retail water service, as required by law, to the areas outside its boundaries proposed for annexation.

Copies of the City of Rialto's certified Plan for Service and Fiscal Impact Analysis and the signed Development Agreement are included as a part of Attachment #2. The Plan for Service prepared and certified by the West Valley Water District is included as Attachment #3.

- **Water Service:**

Water service to the reorganization areas is to be provided by the West Valley Water District, as outlined in its Plan for Service. Current storage facilities are sufficient to supply the existing Peak Day Demand within its existing system with some excess capacity. However, the District will have to construct new off-site facilities including a 5.4 million gallon of storage facility and the pump stations/pipelines needed to serve the project. The water facilities required for this development will be funded by the capacity charge fees, which are assessed and collected by the District on all new development.

All onsite improvements will be constructed and funded by the developer. The choice of financing mechanism is not known at this time. Options for funding the development of the backbone infrastructure could be through a Mello-Roos Community Facilities District, or other bond financing vehicles.

- Sewer Service:

There is no sewage collection system within the area at the present time. The Plan for Service anticipates the extension of sewer service to the project by the City of Rialto. In 2003, the City contracted with Veolia, a private company, to provide operation and management services to its water and wastewater treatment and collection systems. Veolia manages the City's water and wastewater system, provides for billing and customer service, and oversees the capital improvement program to upgrade its aging facilities. Under the public-private concession arrangement, the City retains full ownership of its water and wastewater systems, retains all water rights and supply, and possesses the rate-setting authority associated with the facilities.

The Lytle Creek Ranch project is expected to generate an average sewage flow of nearly 1.3 MGD when fully developed. The peak sewage flow rate is projected to be about 3.6 MGD. The collection system will require upgrades to either two or four lift stations (Alternative 1 proposes upgrades to both the Ayala Avenue and the Cactus Avenue Lift Stations while Alternative 2 proposes upgrades to four lift stations – the Ayala Avenue, the Cactus Avenue, the Lilac Avenue, and the Sycamore Avenue Lift Stations). Approximately 9,135 linear feet of existing 12" to 30" transmission lines downstream from the four lift stations would also require upgrading to serve the proposed development. The City of Rialto Wastewater Treatment Plant has an existing treatment capacity of 11 MGD. While it has some existing reserve capacity, full build-out of the proposed development would require an expansion of the facility. The City levies two capital facilities fees related to wastewater - a wastewater collection fee and a wastewater treatment fee.

All onsite improvements would be constructed and funded by the developer. The options for financing these required backbone improvements like those listed above for water service, are also not known at this time.

- Fire Protection:

The area is within the boundaries of the San Bernardino County Fire Protection District and its Valley Service Zone; however, fire protection and emergency medical response services are currently provided by the City of Rialto under existing agreements with County Fire. Approval of LAFCO 3201 will transfer jurisdiction for structural fire protection and paramedic services to the City of Rialto upon completion of the reorganization. The Rialto Fire Department maintains a mutual aid agreement with the San Bernardino County Fire Protection District (last updated in 2012) for the continuing service delivery. Therefore, no change in actual service provider will take place.

- Law Enforcement:

Law enforcement is currently provided within the area by the County Sheriff's Department while traffic control is the responsibility of the California Highway Patrol. Approval of LAFCO 3201 will transfer all law enforcement responsibilities to the City of Rialto.

- Park and Recreation:

Regional park and recreation services are currently provided by the County Regional Parks system. The closest regional park is Glen Helen Regional Park, which has various recreation activities. Due to the primarily vacant nature of the reorganization area, local park amenities are not currently provided. The City of Rialto has a variety of parks and recreation facilities. The Specific Plan includes a number of public parks (operated and maintained by the City) as well as private parks (maintained by a Homeowners Association).

- Solid Waste

Solid waste services are currently provided within the reorganization area and within the City of Rialto by Burrtec Industries. No change in service provider will occur through the annexation.

As required by Commission policy and State law, the Plans for Service submitted by the City of Rialto and the West Valley Water District show that the extension of their services to the reorganization area are required to provide the level of service anticipated by the Lytle Creek Ranch Specific Plan. Such service extensions will exceed current service levels provided through the County as the area is primarily vacant at the present time.

### **ENVIRONMENTAL CONSIDERATIONS:**

The City's processing of the Lytle Creek Ranch Specific Plan project included the preparation and certification of an Environmental Impact Report that was finalized by the City. However, as mentioned earlier, a lawsuit was filed challenging the certified Environmental Impact Report, but the litigation has since been resolved. LAFCO's Environmental Consultant, Tom Dodson and Associates, has reviewed the City's Complete Final Environmental Impact Report (EIR), which includes the Draft EIR, the Final EIR, the Recirculated Portions of the EIR, and the Final Recirculated Portions of the Draft EIR, and indicated that the City's environmental documents are adequate for the Commission's use as a responsible agency for LAFCO 3201. Copies of the City's Complete Final EIR and all associated documents, were provided to Commissioners on April 21, 2016. Mr. Dodson has indicated in his letter to the Commission, included as Attachment #6 to this report, the actions that are appropriate for the review of LAFCO 3201, which are:

- Certify that the Commission, its staff, and its Environmental Consultant have individually reviewed and considered the environmental assessment by the City of Rialto;
- Determine that the Complete Final EIR is adequate for the Commission’s use in making its decision related to LAFCO 3201;
- Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the project. Mitigation measures required for the project are the responsibility of the City and others, not the Commission;
- Adopt the Facts, Findings and Statement of Overriding Considerations as presented by Mr. Dodson, which are the conclusions made regarding the significance of a project in light of the impacts and mitigation measures that have been identified. A copy of this Statement is included as a part of Attachment #6 to this report; and,
- Direct the Executive Officer to file the Notice of Determination within five 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.

**CONCLUSION:**

Sometime in the late 1980s, the project proponent, Lytle Development, began planning the development of all of its landholdings in and around the Lytle Creek area. This was represented by the original request for expansion of the City of Rialto sphere of influence in 1989. The first development project was originally called “The Villages at Lytle Creek Specific Plan” being processed through the City of Rialto. This plan was eventually abandoned because of issues related to circulation and other public services and concerns related to the impacts on endangered species in the area. After the original proposal was withdrawn from the City of Rialto, the North Village portion of the project (Lytle Creek North, which is now known as Rosena Ranch) was processed through the County and approved in 2001.

As noted above, the Lytle Creek development projects have been in the making for more than 25 years and LAFCO staff has been involved to varying degrees in this process since its inception. The final piece of the original proposal, which is now known as the Lytle Creek Ranch Specific Plan, requires a broad range and level of municipal services that are only available through the City of Rialto and the West Valley Water District (for water service). The reorganization area will benefit from the extension of the City’s services and the West Valley Water District’s water service based upon the anticipated development for Neighborhoods 2 and 3 of the Lytle Creek Ranch Specific Plan with 6,260 residential homes and 668,732 square feet of commercial development along with ancillary facilities such as schools, public and private open space/parks and recreation facilities, streets and other public facilities.

However, the approval of this proposal calls into question the issues related to surrounding the unincorporated El Rancho Verde community and the need to review the northern five

islands of unincorporated territory. In this report, LAFCO staff has addressed these issues as follows:

- Due to the historic opposition of the El Rancho Verde residents to annexation to the City of Rialto, staff believes that the determinations required by Government Code Section 56375(m) can be applied (as discussed on Pages 7 thru 9 of this report); and,
- With respect to the five North Rialto Islands, staff recommends a condition of approval requiring the City to initiate the annexation of these islands under the provisions of Government Code Section 56385.3 prior to the completion of LAFCO 3201. This represents the culmination of several efforts by the Commission to require that the islands be addressed by the City of Rialto, from the development of Las Colinas, to the consideration of the El Rivino Annexation. It is staff's position that approval of the condition represents a good government approach to the delivery of the full range of services to the island areas and because the question of financing a portion of the service obligation has been addressed as a component of the development agreement for the placing a per parcel charge on the Lytle Creek Ranch Specific Plan.

Therefore, for these reasons, and those outlined throughout the staff report, staff recommends approval of LAFCO 3201 as outlined on page one of this report.

### **DETERMINATIONS:**

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

1. The reorganization proposal is legally uninhabited containing no registered voter within any of the reorganization areas as certified by the Registrar of Voters as of October 14, 2015.
2. The County Assessor's Office has determined that the total assessed value of land and improvements within the reorganization area is \$10,294,424 (land--\$9,187,660; improvements--\$1,106,764) as of November 5, 2015.
3. The reorganization area is within the spheres of influence of the City of Rialto and the West Valley Water District.
4. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, a newspaper of general circulation within the reorganization area. As required by State law, individual notice was provided to affected and interested agencies, County departments, and those individual and agencies having requested such notice.
5. LAFCO has provided individual notice to the landowners within the reorganization area (totaling 6) and to landowners and registered voters surrounding the reorganization area (totaling 3,144) in accordance with State law and adopted

Commission policies. Comments from landowners and registered voters and any affected local agency in support or opposition will be reviewed and considered by the Commission in making its determination.

6. The City of Rialto processed Annexation No.170, General Plan Amendment No. 29, Specific Plan No. 12, and the Pre-Annexation and Development Agreement for Lytle Creek Ranch Specific Plan (SCH No. 2009061113) which pre-zoned the reorganization area as Lytle Creek Ranch Specific Plan with the following underlying specific plan zone designations: Single-Family Residential One (SFR-1), Single-Family Residential Two (SFR-2), Single-Family Residential Three (SFR-3), Multi-Family Residential (MFR), High Density Residential (HDR), Elementary/Middle School (ES/MS), Open Space/Recreation, and Open Space (undisturbed). These pre-zone/specific plan zone designations are consistent with the City's General Plan and surrounding land uses within the City and in the County. Pursuant to the provisions of Government Code Section 56375(e), these pre-zone designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council.
7. The Southern California Associated Governments (SCAG) adopted its 2016-2040 Regional Transportation Plan and Sustainable Communities Strategy (RTP-SCS) pursuant to Government Code Section 65080. LAFCO 3201 includes the southern portion of the I-15 Freeway, which is part of the RTP-SCS's State highway improvement (expansion/rehabilitation) program adding two express lanes in each direction for completion by 2030 and adding high-occupancy vehicle (HOV) lane in each direction for completion by 2039. The Sustainable Communities Strategy includes, among others, determinations related to the need for residential densities for multi-family residential and housing for all segments of the population, which approval of LAFCO 3201 will support.
8. As a CEQA responsible agency, the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has reviewed the City's environmental documents for the reorganization proposal and has indicated that the City's environmental assessment for the Lytle Creek Ranch Specific Plan are adequate for the Commission's use as CEQA responsible agency. Copies of the City's Complete Final EIR and all associated documents were provided to Commission members on April 21, 2016 and are also included as Supplemental Documents for LAFCO 3201 – Environmental Documents Related to the City of Rialto's Approval of the Lytle Creek Ranch Specific Plan. Mr. Dodson has prepared his recommended actions for LAFCO 3201, which are outlined in the narrative portion of the Environmental Considerations section (page \_ of the staff report). Attachment #4 provides the Facts, Findings and Statement of Overriding Considerations prepared for the Commission's use in addressing this project.
9. Upon reorganization, the City of Rialto will extend its services as required by the progression of development. The Fiscal Impact Analysis portion of the Plan for Service certified by the City provides a general outline of the anticipated revenues/costs for the reorganization area and the overall Lytle Creek Ranch Specific Plan. The Plan indicates that revenues are anticipated to be sufficient to provide the

level of services identified through the City and other agencies. Through the identified financing mechanisms, the Plan shows that the level of service will be adequate for the development anticipated and that the revenues anticipated are sufficient to provide for the infrastructure and ongoing maintenance and operation of these services.

The West Valley Water District has submitted a plan for the extension of water service to the proposed development. The Plan for Service submitted by the West Valley Water District outlines the service to be extended by the District and its ability to serve the project.

These plans identify that the revenues to be provided through the transfer of property tax revenues and existing and potential financing mechanisms are anticipated to be sufficient to provide for the infrastructure and ongoing maintenance and operation of the services to be provided from the City of Rialto and the West Valley Water District. A copy of the City's Plan for Service is included as a part of Attachment #2 to this report and the West Valley Water District's Plan for Service is included as Attachment #3 to this report.

10. The areas in question are presently served by the following public agencies:

County of San Bernardino  
Inland Empire Resource Conservation District  
San Bernardino Valley Municipal Water District  
San Bernardino County Fire Protection District and its Valley Service Zone  
(fire protection)  
Fontana Fire Protection District (portion)  
West Valley Water District (portion)  
County Service Area SL-1 (streetlights)(portion)  
County Service Area 70 (multi-function unincorporated area Countywide)

The areas will be detached from the San Bernardino County Fire Protection District, its Valley Service Zone, Fontana Fire Protection District, County Service Area SL-1 and County Service Area 70 as a function of the reorganization. None of the other agencies are affected by this proposal as they are regional in nature.

11. The reorganization proposal complies with Commission policies and directives and State law that indicate the preference for areas proposed for urban intensity development to be included within a City so that the full range of municipal services can be planned, funded, extended, and maintained.
12. The reorganization area can benefit from the availability and extension of municipal-level services from the City of Rialto and the water service from the West Valley Water District, as evidenced by their Plans for Service.
13. This proposal will have an effect on the City of Rialto's ability to achieve its fair share of the regional housing needs as it proposes the addition of 619 single-family units,

563 multi-family units, and 2,005 senior single-family units, for a total of 3,187 residential units.

14. With respect to environmental justice, the following profile was generated using ESRI's Community Analyst with regard to race and income within the City of Rialto and within areas adjacent to the reorganization area (2015 population data):

The City of Rialto has a citywide population of 70.7 percent that is of Hispanic origin. Based on information taken from the adjacent unincorporated El Rancho Verde and Rosena Ranch communities, said areas have an Hispanic origin population of 50.1 percent and 48 percent, respectively, which are lower than the City's overall data. With regard to income, the City of Rialto has a citywide median household income of \$49,205. Again, based on information taken from the two adjacent unincorporated communities, said areas reflect a higher median household income of \$75,499 and \$76,024, respectively.

Therefore, LAFCO staff believes that the reorganization area would benefit from the extension of services and facilities from the City of Rialto and the West Valley Water District and, at the same time, would not result in unfair treatment of any person based on race, culture or income.

15. The County of San Bernardino and the City of Rialto 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.

However, since the proposal has been expanded by the Commission to include the detachment from Fontana Fire Protection District, a renegotiation of property tax transfer may be requested by any of the affected agencies. Such a renegotiation process is outlined within Section 99(b)(7) of the Revenue and Taxation Code.

16. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

KRM/sm

Attachments:

1. [Vicinity Maps and Reorganization Area Maps](#)
2. [City of Rialto Application and Plan for Service/Fiscal Impact Analysis, Pre-annexation and Development Agreement including City Council Staff Report Approving the Pre-annexation and Development Agreement, and Lytle Creek Ranch Specific Plan](#)
3. [West Valley Water District Plan for Service](#)
4. [North Rialto Islands Vicinity Map and Copy of LAFCO Resolution 2961 for LAFCO 3066 and excerpt from the Minutes of April 18, 2007 Commission Hearing](#)
5. [City of Rialto's North Rialto Islands Annexation Plan for Service and Fiscal Impact Analysis](#)

6. [Letter from Tom Dodson and Associates and Facts, Findings and Statement of Overriding Considerations, and Environmental Documents Related to the City of Rialto's Approval of the Lytle Creek Ranch Specific Plan](#)
7. [Draft Resolution No. 3222 for LAFCO 3201](#)