

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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**DATE:** DECEMBER 6, 2016  
**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer  
SAMUEL MARTINEZ, Assistant Executive Officer  
**TO:** LOCAL AGENCY FORMATION COMMISSION



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**SUBJECT:** Agenda Item #6: Consideration of Request for Exemption from Government Code Section 56133 for LAFCO SC#410 for Out-of-Agency Service Agreement for Sewer Service by City of Fontana to the County of San Bernardino's Crisis Residential Treatment Facility

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## RECOMMENDATION:

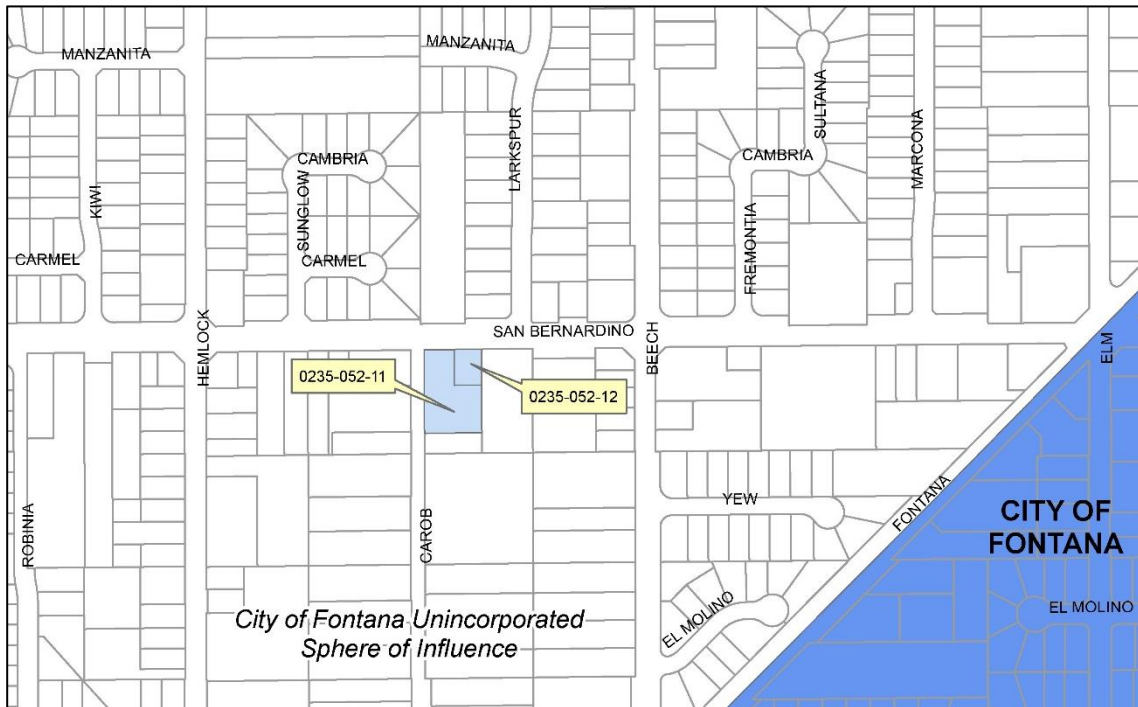
Determine that LAFCO SC#410 complies with the exemption provisions outlined within Government Code Section 56133 (e) and, therefore, does not require Commission approval.

## BACKGROUND:

On November 2, 2016, the City of Fontana (City) submitted a request that the Commission determine that the proposed pre-annexation agreement between the City and the County of San Bernardino (County) is exempt from the provisions of Government Code Section 56133 as outlined in Subsection (e). Per the Commission's policy, this is being presented to the Commission since the exemption request is development-related.

The agreement relates to two adjacent parcels, Assessor Parcel Numbers (APNs) 0235-052-11 & 0235-052-12, to be connected to the City of Fontana's sewer facilities. The parcels, which are owned by the County of San Bernardino, are generally located at the southeast corner of San Bernardino and Carob Avenues, within the City of Fontana's western sphere of influence. The request is to receive sewer service from the City of Fontana as it currently serves other parcels along San Bernardino Avenue. A copy of the exemption request letter (Attachment #1) and draft agreement (Attachment #2) are included as a part of this report.

The County of San Bernardino’s Department of Behavioral Health is proposing to build a new Crisis Residential Treatment (CRT) facility on both parcels. The 11,900 square foot 16-bed facility will be used specifically for providing crisis intervention for individuals diagnosed with mental health and/or substance use disorders. Below is a map showing the location of the two parcels.



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

*“(e) This section does not apply to... ..[t]wo or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.”*

In the present case, staff believes that the exemption outlined above applies to the provision of sewer service by the City of Fontana to the County of San Bernardino’s proposed facility on the basis of the following facts:

1. The agreement is between the City of Fontana and the County of San Bernardino, both of which are public agencies.

2. The public service to be provided is sewer service – a service already being provided by the City of Fontana within the area. The service to be provided is in-lieu of the County developing the infrastructure (i.e. package treatment plant) to serve the proposed development.
3. The level of service to be provided through this contractual relationship is consistent with the level of service contemplated by the County of San Bernardino for the proposed facility.

**CONCLUSION:**

Based on the determinations outlined above, the staff is recommending that the Commission determine that pursuant to Government Code Section 56133 (e), the Pre-Annexation Agreement between the City of Fontana and the County of San Bernardino exempt from further review and approval by the Commission. The City of Fontana is scheduled to approve the contract at its December 13, 2016 City Council meeting. The County Board of Supervisors will be considering the item at its December 20, 2016 meeting, which will include approval of the Pre-annexation Agreement and approval of the project including authorization to release construction documents for public bidding in order to award the construction contract by February 2017.

KRM/sm

Attachments:

1. City of Fontana Letter Dated November 2, 2016
2. Unsigned Pre-Annexation Agreement with Exhibits