

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: OCTOBER 10, 2018 
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Project Manager
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #6: LAFCO SC#432 – Request for Exemption from Provisions of Government Code Section 56133 for Agreement between Hesperia Water District and County Service Area 64 for Wastewater Collection Services

RECOMMENDATION:

Staff recommends that the Commission:

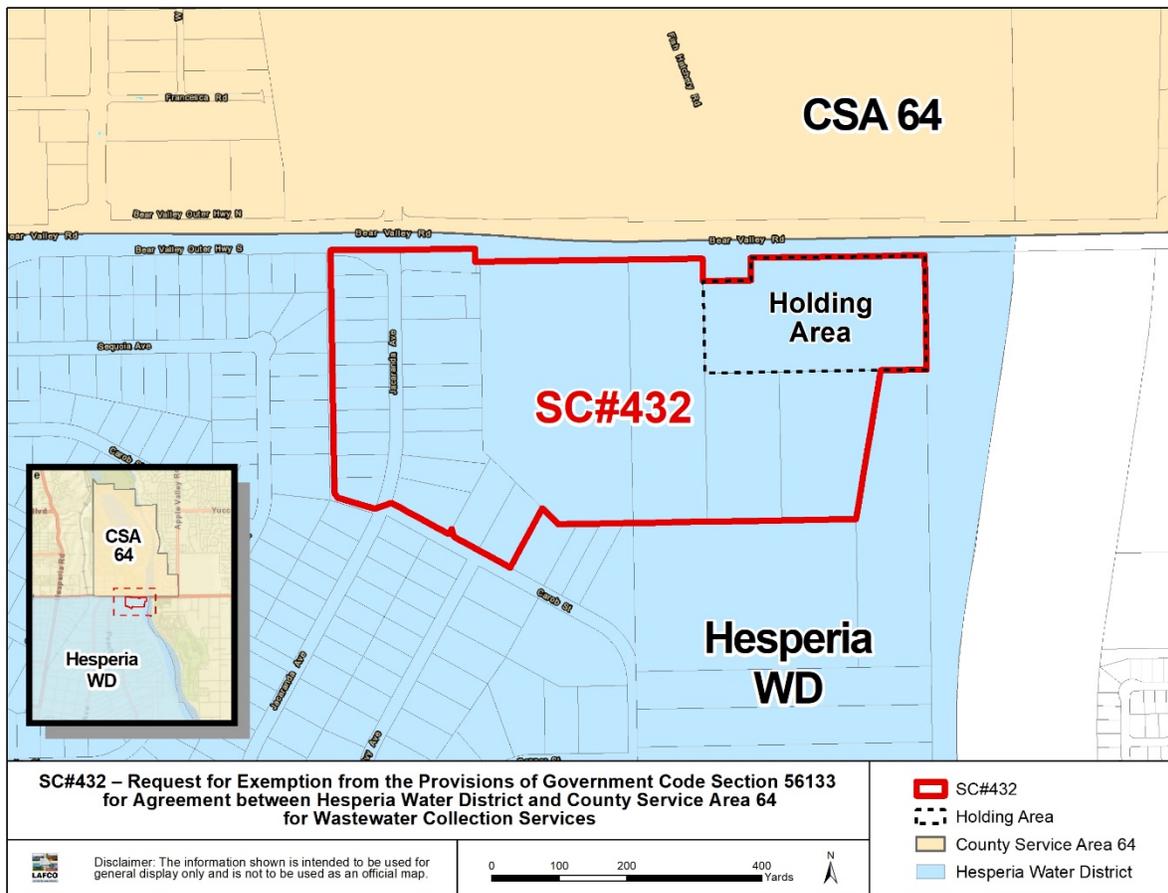
Determine that LAFCO SC#432 complies with the exemption provisions outlined within Government Code Section 56133 (e) and, therefore, does not require Commission approval.

BACKGROUND:

The Hesperia Water District (“HWD”) submitted a letter dated September 24, 2018 requesting the Commission determine that the proposed agreement between the HWD and County Service Area 64 (“CSA 64”) 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 is for CSA 64 to provide wastewater collection service to a proposed shopping center project generally located south of Bear Valley Road (Victor Valley College), west of the Mojave River, north of Carob Street, and east of Jacaranda Avenue, within the northeastern-most portion of HWD. According to the materials provided by HWD, the contract with CSA 64 is necessary because the HWD’s wastewater collection facilities are located uphill and about 6,500 feet to the west. HWD

has completed, and CSA 64 has approved, a CSA 64 sewer system capacity study dated August 2017 which determined that sufficient capacity exists in the system to provide sewer service to the project.



A copy of the exemption request letter (Attachment #1) and signed agreement (Attachment #2) are included as a part of this report.

The request 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 is based on the following facts:

1. The agreement is between the HWD and CSA 64 both of which are public agencies.
2. The public service to be provided is wastewater collection, which both agencies actively provide. Therefore, this is a substitute for public services currently being provided in compliance with requirements of 56133 (e).
3. The level of service to be provided through this contractual relationship is consistent with the level of service currently provided by each agency.

CONCLUSION:

Based on the determinations outlined above, staff recommends that the Commission determine that pursuant to Government Code Section 56133 (e), the wastewater collection agreement between the Hesperia Water District and County Service Area 64 is exempt from further review and approval by the Commission.

SM/MT

Attachments:

1. [LAFCO SC#432 Request for Exemption dated September 24, 2018](#)
2. [Copy of Agreement for Service between HWD and CSA 64](#)