LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO

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DATE: FEBRUARY 11, 2009

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: **AGENDA ITEM #8** – Review and Approval of Engagement of the Firm Rosenow Spevacek Group Inc to Perform the Independent Financial Analysis of LAFCO 3076

RECOMMENDATION:

1. Authorize the Executive Officer to contract with the firm of Rosenow Spevacek Group Inc. to perform the independent financial analysis of LAFCO 3076 not to exceed $25,000.

2. Authorize the Executive Officer to request a deposit of $12,500 from the San Bernardino Valley Municipal Water District and the San Bernardino Valley Water Conservation District.

BACKGROUND INFORMATION:

At the January 21, 2009 hearing the Commission directed LAFCO staff to contract to have prepared an independent financial analysis of the conclusions and anticipated effects of the proposal LAFCO 3076 – Consolidation of the San Bernardino Valley Municipal Water District (MUNI) and the San Bernardino Valley Water Conservation District (Conservation District). Following the January hearing, LAFCO staff convened a meeting with the General Manager of MUNI and the Conservation District to review potential firms to perform the Commission's required study. LAFCO staff provided an outline of four firms from our standing list of consultants who performed this type of work with the recommendation of one firm, Rosenow Spevacek Group (RSG). The Conservation District provided a list of its three firms for consideration, which also included RSG. MUNI did not provide a list of firms other than to note that Rogers Anderson Malody and Scott, another firm on the Commission's

consultant list, had performed work for all three agencies and should be considered.

It was agreed at the meeting of February 3, 2009, that LAFCO would request that RSG review the listing of the agencies and their respective law firms to determine if it had contracted for work with any of them. In addition, LAFCO staff requested a proposal to provide for the requested financial analysis. Attached to this report is RSG's response to both requests. MUNI indicated its belief that RSG should be removed from consideration on the basis of its association with Rutan and Tucker, law firm providing General Counsel duties to the Conservation District. Conservation District indicated that since the work was "with" Rutan and Tucker and not "for" the firm, it did not believe they should be disqualified. So, not surprisingly, there is a controversy related to the choice of a firm to provide the Commission's requested study.

LAFCO staff believes that RSG can provide an ethical wall while completing the study outlined in its proposal and believes that such a report can be done in a timely manner. While LAFCO staff understands the position of MUNI due to the contentious nature of this proposal, the scope of work clearly outlines under Task #3 RSG's method to address this concern. LAFCO staff would add to this task that "representative" would mean an employee of the Districts or their legal representatives. LAFCO staff believes that the scope of work identified in the proposal along with the additions identified will allow for the independent analysis requested by the Commission and under its direction.

The actions recommended for the Commission are to authorize the Executive Officer to engage RSG to prepare the independent financial analysis and to request the deposit of one-half the not to exceed contract amount from each District, $12,500. This deposit will be handled in the same manner as all Commission required deposits, providing an accounting of expenditures and refund of any funds on deposit at the closure of the contract.

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Attachments