

Draft Resolution #3175

Attachment 5

PROPOSAL NO.: LAFCO SC#373

HEARING DATE: MAY 15, 2013

RESOLUTION NO. 3175

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO SC#373 – CITY OF FONTANA PRE-ANNEXATION AGREEMENT NO. 13-00001 FOR SEWER SERVICE (ASSESSOR PARCEL NUMBERS 0231-051-09 & 0231-051-10)

On motion of Commissioner _____, duly seconded by Commissioner _____ and carried, the Local Agency Formation Commission adopts the following resolution:

WHEREAS, Government Code Section 56133 requires the Local Agency Formation Commission to review and approve or deny applications for agencies to provide services outside their existing boundaries; and,

WHEREAS, an application for the proposed service extension in the County of San Bernardino was filed with the Executive Officer of this Local Agency Formation Commission in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 *et seq.*), and the Executive Officer has examined the application and determined that the filings are sufficient; and,

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

WHEREAS, the public hearing by this Commission was held upon the date and at the time and place specified in the notice of public hearing and in order or orders continuing the hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written protests; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the contract, in evidence presented at the hearing;

NOW, THEREFORE, BE IT RESOLVED, that the Local Agency Formation Commission of the County of San Bernardino does hereby determine, find, resolve and order as follows:

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DETERMINATIONS:

SECTION 1. FINDINGS. The following findings are noted in conformance with Commission policy:

1. The project area encompasses two (2) adjacent parcels (Assessor Parcel Numbers 0231-051-09 and 0231-051-10) that make up Tentative Tract 18822 proposed for development of 20 single-family residential lots. Both parcels are within the sphere of influence assigned the City of Fontana and are anticipated to become a part of that City sometime in the future. The parcels will receive water service from the Fontana Water Company. The application requests authorization to receive City of Fontana sewer service.

The sewer connection is a requirement identified in the County's conditions of approval for Tentative Tract 18822. 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 to Annex No. 13-00001 is being considered for the provision of sewer service by the City of Fontana to several parcels, Assessor Parcel Numbers 0231-051-09 and 0231-051-10. This contract will remain in force in perpetuity for these parcels or until such time as the area will be annexed.
3. The fees charged this project by the City of Fontana in order to receive sewer service are identified as totaling \$233,822.20 (a breakdown of charges is on file in the LAFCO office). Payment of these charges 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 project.
4. In December 2012, acting as the CEQA lead agency, the County of San Bernardino, as a function of its review of Tentative Tract 18822 to create 20 lots on 5 acres, prepared an environmental assessment and adopted a Negative Declaration which indicates that approval of the project will not have a significant adverse impact on the environment. The County's Initial Study and Mitigated Negative Declaration have been reviewed by the Commission's staff and Environmental Consultant who have found them to be adequate for the service contract decision even though the Commission was not afforded an opportunity to review and comment on the document prior to County adoption.

The Commission certifies that it has reviewed and considered the County's Negative Declaration and environmental effects as outlined in the Initial Study prior to reaching a decision on the project and finds the information substantiating the Negative Declaration is adequate for its use in making a decision as a CEQA responsible agency. The Commission finds that it does not intend to adopt alternatives or mitigation measures for this project as all changes, alterations and mitigation measures are within the responsibility and jurisdiction of the County and/or others, and are self-mitigating through implementation of the Conditions of Approval.

The Commission, as a responsible agency, notes that this proposal is exempt from Department of Fish and Game fees because the filing fee was the responsibility of the County, as the CEQA lead agency. The Commission directs its Clerk to file a Notice of Determination within five (5) working days with the San Bernardino County Clerk of the Board of Supervisors.

