

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

215 North D Street, Suite 204
San Bernardino, CA 92415-0490 • (909) 383-9900 • Fax (909) 383-9901
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: JUNE 9, 2008

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #5 – Discussion of Implementation Methodology for Condition No. 30 for Resolution No. 2989 Approving LAFCO 3000 – County Fire Reorganization

RECOMMENDATION:

Staff recommends that the Commission acknowledge that the implementation of the provisions of Condition No. 30 to transfer the administration and governance of County Community Facilities District #2002-02 shall be accomplished by the signing of an Administration Agreement which will be succeeded to by the establishment of the Central Valley Fire Protection District (to become the Fontana Fire Protection District) as a subsidiary district of the City of Fontana.

BACKGROUND:

On April 23, 2008, LAFCO staff was informed by County Special District and Fire staffs that issues had arisen regarding the implementation of Condition No. 30 of LAFCO Resolution No. 2989. That Condition reads as follows:

Condition No. 30. Upon the effective date of this reorganization, the administration of County Community Facilities District 2002-02 shall transfer to the Fontana Fire Protection District. The County of San Bernardino, through its Land Use Services Department, shall continue to implement Conditions of Approval upon new development within the San Sevaine Redevelopment Area to annex to CFD 2002-2 for funding of fire protection services and to pay the annual special tax outlined in the formation documents of Community Facilities District No. 2002-2 for operation and maintenance funding for fire service within this area pursuant to Government Code Section 56886(t). Exhibit QQ provides a map of the area in which new development projects shall be required to annex to CFD 2002-2 to provide funding for operation and maintenance.

The County has taken the position that the transfer of governance for County Community Facilities District 2002-02 to the Fontana Fire Protection District (the renamed Central Valley Fire Protection District) could not be accomplished. The position taken is that the Mello-Roos Community Facilities District Act of 1982 does not expressly authorize such a transfer. LAFCO staff and Legal Counsel maintain the position that the transfer of governance can take place pursuant to the provisions of Government Code Section 56886(u). The importance of this difference in opinion is that failure to implement Condition No. 30 means that a Certificate of Completion for LAFCO 3000 can not be issued; therefore, the entire reorganization would not take place by the July 1, 2008 anticipated date.

Since this dispute in implementation arose following completion of the reconsideration period and the protest period for LAFCO 3000, a meeting of affected parties (County Fire, County Administrative, and City of Fontana staffs) was convened on May 8, 2008 to discuss options. At that time, LAFCO staff indicated that their primary concern was maintaining the completion schedule for the overall County Fire Reorganization which was in peril due to the late breaking dispute. At the meeting, options for addressing the area of dispute and moving LAFCO 3000 forward were discussed by all the affected parties. LAFCO staff and Legal Counsel identified to the group that, due to the pressing timeframe and the importance of completing the County Fire Reorganization, the pragmatic approach would be to address the future governance of CFD 2002-02 through an agreement approved and signed by the County Board of Supervisors without conceding a change in overall position. General consensus from those present was for this approach.

On June 10, 2008 the County Board of Supervisors is scheduled to adopt an "Administration Agreement", a copy of which is attached to this staff report, which will accomplish this. LAFCO staff is recommending that the Commission acknowledge that the provisions of Condition No. 30 related to the transfer of governance of County Community Facilities District #2002-02 will be accomplished through this contractual arrangement rather than the obligations being assumed by the Fontana Fire Protection District.

/krm

Attachment:

1. Board of Supervisors Agenda Item For Contract Dated June 10, 2008
2. Maps of Community Facilities District 2002-02