

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

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DATE: OCTOBER 12, 2016
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: Agenda Item #5: LAFCO SC#409 – City of San Bernardino Irrevocable Agreement to Annex No. 2016-218 for Sewer Service (Assessor Parcel Numbers 0266-012-13, 0266-021-28 & -29, and 0266-021-49 & -51)

INITIATED BY:

City of San Bernardino, on behalf of the property owner/developer

RECOMMENDATION:

Staff recommends that the Commission approve LAFCO SC#409 by taking the following actions:

1. For environmental review as a responsible agency:
 - a. Certify that the Commission has reviewed and considered the County's environmental assessment and Mitigated Negative Declaration prepared by the County of San Bernardino for a Conditional Use Permit to Establish a 315,000 Sq. Ft. High Cube Warehouse with 8,000 Sq. Ft. of Office on Approximately 20.68 Acres, and found them to be adequate for Commission use;
 - b. Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for this project; that all mitigation measures are the responsibility of the County of San Bernardino and/or others, not the Commission, and are self-mitigating through implementation of the Conditions of Approval; and,
 - c. Note that this proposal is exempt from Department of Fish and Wildlife fees because the filing fee was the responsibility of the County as CEQA

lead agency, and direct the Executive Officer to file a Notice of Determination within five (5) days of this action.

2. Approve LAFCO SC#409 authorizing the City of San Bernardino to extend sewer service outside its boundaries to the project area comprised of five (5) adjacent parcels identified as Assessor Parcel Numbers 0266-012-13, 0266-021-28, 0266-021-29, 0266-021-49, and 0266-021-51; and,
3. Adopt LAFCO Resolution #3238 setting forth the Commission’s determinations and approval of the agreement for service outside the City of San Bernardino’s boundaries.

BACKGROUND:

The City of San Bernardino (hereinafter the “City”) has submitted a request for approval of an Irrevocable Agreement to Annex that outlines the terms by which it will extend sewer service. The agreement relates to a proposed development on five (5) contiguous parcels, Assessor Parcel Numbers (APNs) 0266-012-13, 0266-021-28, 0266-021-29, 0266-021-49, and 0266-021-51, comprising approximately 20.68 acres, generally located at the southwest corner of Palm Avenue and the natural extension of Industrial Parkway, within the City of San Bernardino’s northwestern sphere of influence. Figure 1 below outlines the location of the contract area and Attachment #1 includes the vicinity map of the site along with a map outlining the location of the infrastructure to be extended.

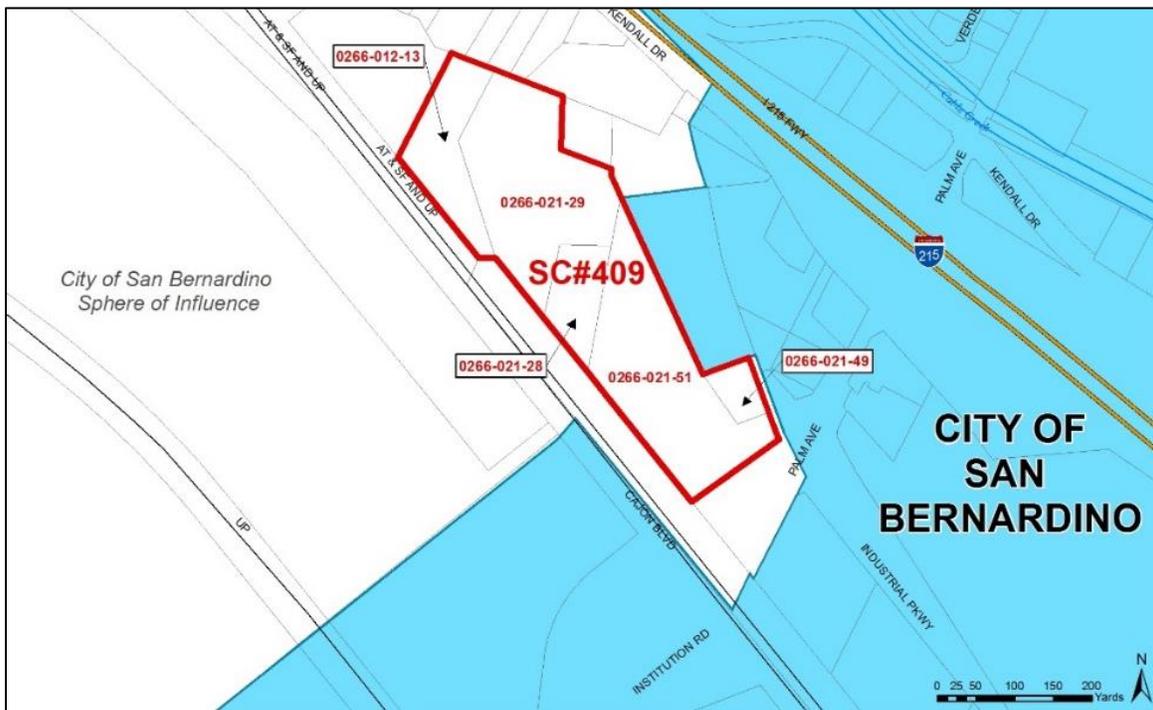


FIGURE 1 – Vicinity Map

In 2009, the County Land Use Services Department (LUSD) processed and approved a Conditional Use Permit (CUP) for the development of a warehouse facility on the 20.68-acre project site. The County LUSD approved a revision to the original CUP (Revision to Approved Action) in July 2015 and again in August 2016 as a result of a boundary change due to the realignment of Palm Avenue. The Conditions of Approval for the project includes the requirement to connect to the City of San Bernardino’s water and sewer facilities (Conditions 35, 36, 102, and 103) and require LAFCO approval of the contract (Condition 104). A copy of the Conditions of Approval for the project is included as Attachment #3 to this report.

In May 2010, the Commission confirmed that the provision of water service by the City of San Bernardino within the area previously served by the San Bernardino Water Utilities Corporation—which includes the parcels associated with the proposed development—is exempt from LAFCO review (LAFCO SC#352). Therefore, the provision of water service to the project is exempt from LAFCO.

However, the extension of sewer service will require a contract with the City for the provision of service outside its boundaries. Therefore, the City, on behalf of the property owner/develop, has requested that the Commission authorize the extension of sewer service to the project site pursuant to the provisions of Government Code Section 56133. Authorization of this agreement is required before the City can take the final actions to implement the terms of the agreement.

PLAN FOR SERVICE:

The City’s application (included as Attachment #2 to this report) indicates that sewer service will be provided by extending an 8-inch sewer main approximately 250 linear feet along Industrial Parkway.

Pursuant to the Commission’s application requirements for service contracts, information must be provided regarding all financial obligations for the extension of service outside an agency’s boundaries. The City of San Bernardino has identified an estimated cost of \$316,729.16 in sewer fees. The following table provides the breakdown of fees:

FEES	COST	TOTAL
Sewer Connection Fee - Industrial	\$335.02 per 3,000 sq. ft.	\$34,842.08
Sewer Capacity – Industrial (22,400 GPD)	\$12.45 per est. GPD	\$278,880.00
Sewer Capacity Outside Service Area Fee	\$1,300.00	\$1,300.00
Inspection Fee	\$29.18	\$29.18
Off-site Improvement Permit	\$1,677.90	\$1,677.90
	Total Sewer Fees	\$316,729.16

In addition, the property owner/developer will be responsible for the entire cost of the construction and installation of the sewer improvements to the project estimated at \$20,000.00. The City has indicated that there is no rate difference for providing service outside the City's boundaries; therefore, the warehouse facility will be charged the normal in-City monthly rate for sewer service.

ENVIRONMENTAL DETERMINATION:

The County prepared an Initial Study and Mitigated Negative Declaration for a Conditional Use Permit to establish a 315,000 sq. ft. industrial building with 8,000 sq. ft. of office and a 25,000 sq. ft. multi-tenant retail/office building on a total of approximately 20.68 acres. The County then approved a revision to the original Conditional Use Permit that has reduced the original project, which now only includes the 315,000 sq. ft. industrial building with 8,000 sq. ft. office.

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the County's environmental assessment and the Mitigated Negative Declaration for the proposed project site. Mr. Dodson's analysis indicates that the County's Initial Study and Mitigated Negative Declaration are adequate for the Commission's use as a CEQA responsible agency.

Mr. Dodson has indicated that the necessary environmental actions to be taken by the Commission are as follows:

- a) Certify that the Commission, its staff and its Environmental Consultant, have independently reviewed and considered the County's environmental assessment and Mitigated Negative Declaration;
- b) Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the project; that the mitigation measures identified in the County's environmental documents are the responsibility of the County and/or others, not the Commission; and,
- c) Direct the Executive Officer to file the Notice of Determination within five (5) days and find that no further Department of Fish and Wildlife filing fees are required by the Commission's approval since the County, as lead agency, has paid said fees for its environmental determination.

CONCLUSION:

The proposed development of the warehouse facility approved by the County of San Bernardino requires that it receive water and sewer service from the City of San Bernardino.

For water service, the Commission has previously confirmed that the provision of water service within the area previously served by the San Bernardino Water Utilities Corporation—which includes the parcels associated with the proposed development—is exempt from LAFCO review.

However, for sewer service, the property owner/developer must show proof of its ability to connect to the City of San Bernardino’s sewer infrastructure in order for the proposed development to proceed - which is the Commission’s authorization for this agreement.

Staff has reviewed this request for the provision of sewer service from the City of San Bernardino outside its corporate boundaries against the criteria established by Commission policy and Government Code Section 56133. The parcel to be served is within the sphere of influence assigned the City of San Bernardino and is anticipated to become a part of the City sometime in the future. Staff supports the City’s request for authorization to provide sewer service to the proposed project since its facilities are adjacent to the anticipated development, and there is no other existing entity available to provide this service within the area.

DETERMINATIONS:

1. The project area, which is comprised of five (5) adjacent parcels identified as Assessor Parcel Numbers 0266-012-13, 0266-021-28, 0266-021-29, 0266-021-49, and 0266-021-51, is within the sphere of influence assigned the City of San Bernardino and is anticipated to become a part of that City sometime in the future. For water service, the Commission has previously confirmed that the provision of water service within the area previously served by the San Bernardino Water Utilities Corporation—which includes the parcels associated with the proposed development—is exempt from LAFCO review. Therefore, the application requests authorization to receive City of San Bernardino sewer service only.

The requirement for water and sewer connection are conditions of approval as identified in the County’s conditions of approval for the warehouse facility. Therefore, approval of the City’s request for authorization to provide sewer service is necessary in order to satisfy the conditions of approval for the project.

2. The Irrevocable Agreement to Annex being considered is for the provision of sewer service by the City of San Bernardino to the project site comprised of five (5) adjacent parcels, Assessor Parcel Numbers 0266-012-13, 0266-021-28, 0266-021-29, 0266-021-49, and 0266-021-51, which are generally located at the southwest corner of Palm Avenue and the natural extension of Industrial Parkway, within the City of San Bernardino’s northwestern sphere of influence. This contract will remain in force in perpetuity for the proposed development or until such time as the project area is annexed. Approval of this application will

allow the property owner/developer and the City of San Bernardino to proceed in finalizing the contract for the extension of this service.

3. The fees charged by the City of San Bernardino for sewer service are identified as totaling \$316,729.16 (for a breakdown of fees, see table on page 3). Payment of these fees 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 development.
4. During the period from July 2008 to June 2009, acting as the CEQA lead agency, the County prepared an environmental assessment for a Conditional Use Permit (CUP) to establish a 315,000 sq. ft. high cube warehouse with 8,000 sq. ft. of office and a 25,000 sq. ft. multi-tenant retail/office building on approximately 20.68 acres. The County's environmental assessment indicates that the project would not have a significant effect on the environment through its development under the Conditions of Approval that has been prepared for the proposed project. It should also be noted that the approved revision to the original CUP is smaller than the original project.

LAFCO's environmental consultant, Tom Dodson and Associates, has reviewed the County's environmental assessment and recommends that, if the Commission approves LAFCO SC#409, the County's Initial Study and Mitigated Negative Declaration are adequate for the Commission's use as CEQA responsible agency. The Commission will not be adopting alternatives or additional mitigation measures, as these are the responsibility of the County and/or others and are considered self-mitigating through implementation of the Conditions of Approval. Attachment #4 to this report includes a copy of Mr. Dodson's response and recommendation regarding the Commission's environmental review and the necessary actions to be taken.

KRM/sm

Attachments:

1. Vicinity Map and Maps of the Contract Area
2. City of San Bernardino's Application and Contract
3. County Conditions of Approval for the Conditional Use Permit
4. Tom Dodson and Associates' Response Including the County's Environmental Assessment for the Conditional Use Permit to Establish a 315,000 Sq. Ft. High Cube Warehouse with 8,000 Sq. Ft. of Office on Approximately 20.68 Acres
5. Draft Resolution #3238