

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

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DATE: APRIL 8, 2020

FROM: SAMUEL MARTINEZ, Executive Officer 
JEFFREY LUM, LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #7: LAFCO SC#450 – City of San Bernardino Irrevocable Agreement No. 2020-002 for Sewer Service (Assessor Parcel Numbers 0262-041-09, -13, -18 and -20)

INITIATED BY:

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

RECOMMENDATION:

Staff recommends that the Commission approve LAFCO SC#450 by taking the following actions:

1. For environmental review as a responsible agency:
 - a. Certify that the Commission has reviewed and considered the environmental assessment and Mitigated Negative Declaration prepared by the County of San Bernardino for a Minor Use Permit to construct a 321,496 sq. ft. industrial warehouse facility with a 10,000 sq. ft. office space on the approximately 20-acre project site, 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

In 2019, the County Land Use Services Department (LUSD) processed and approved a Minor Use Permit (MUP) for the construction of a 321,496 sq. ft. industrial warehouse facility with 10,000 sq. ft. office space on the 21.2-acre project site. The Conditions of Approval for the project includes the requirement to connect to the City of San Bernardino’s sewer facilities (Conditions 113) and requires LAFCO approval of the contract (Item 2, Condition 116). A copy of the Conditions of Approval for the project is included as Attachment #3 to this report.

It should be noted that 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).

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/developer, 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 connecting to City of San Bernardino existing 15-inch sewer main in Cajon Boulevard, adjacent to the proposed development.

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 \$61,634.26 in sewer fees. The following table provides the breakdown of fees:

FEES	COST	TOTAL
Sewer Capacity Fee	\$26,238.38	\$26,238.38
Sewer Connection Fee	\$330.02/3,000 sf	\$35,366.70
Sewer Lateral Inspection Fee	\$29.18	\$29.18
	Total Sewer Fees	\$61,634.26

In addition, the City identified an Outside City Sewer Service Permit fee of \$1,321. The property owner/developer will also be responsible for the entire cost of the construction and installation of the sewer improvements to the project.

ENVIRONMENTAL DETERMINATION:

The County prepared an Initial Study and Mitigated Negative Declaration for a Minor Use Permit to construct and operate a 321,496 sq. ft. industrial warehouse facility with a 10,000 sq. ft. of office space on the 20-acre project site. 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 sewer service from the City of San Bernardino.

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 four (4) adjacent parcels identified as Assessor Parcel Numbers 0262-041-09, 0262-041-13, 0262-041-18, and 0262-041-20, 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. The requirement for sewer connection is a condition of approval 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 four (4) adjacent parcels, Assessor Parcel Numbers 0262-041-09, 0262-041-13, 0262-041-18, and 0262-041-20, which are generally located on the north side of Cajon Boulevard, approximately 2,500 feet south of the intersection of Kendall Drive and Cajon Boulevard, in the community of Verdemon 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 \$61,634.26 (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/developer shall bear all costs to complete improvements needed to extend the sewer service to the proposed development.
4. During the period from November 2018 to March 2019, acting as the CEQA lead agency, the County prepared an environmental assessment for a Minor Use Permit (MUP) to construct a 321,496 sq. ft. industrial warehouse facility with a 10,000 sq. ft. of office space on the approximately 20-acre project site. 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.

LAFCO’s environmental consultant, Tom Dodson and Associates, has reviewed the County’s environmental assessment and recommends that, if the Commission approves LAFCO SC#450, 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.

SM/jl

Attachments:

1. [Vicinity Map](#)
2. [City of San Bernardino's Application and Contract](#)
3. [County Conditions of Approval for the Minor Use Permit](#)
4. [Tom Dodson and Associates' Response Including the County's Environmental Assessment for the Minor Use Permit](#)
5. [Draft Resolution #3305](#)