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11/10/2016

TO: Local Agency Formation Commission

**FROM: George J. Spiliotis, Executive Officer
Crystal M. Craig, Local Government Analyst
Adriana Romo, Local Government Analyst**

SUBJECT: LAFCO 2014-20-5 - REORGANIZATION TO INCLUDE ANNEXATION 07-ANX-01A TO THE CITY OF BEAUMONT (ASM BEAUMONT BUSINESS CENTER), CONCURRENT ANNEXATION TO THE BEAUMONT-CHERRY VALLEY WATER DISTRICT, AND CONCURRENT DETACHMENTS FROM COUNTY SERVICE AREA 152 AND THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT.

EXECUTIVE SUMMARY: This report addresses an uninhabited reorganization including an annexation to the City of Beaumont of approximately 45 acres. The subject annexation consists of a single privately owned parcel. The reorganization also includes annexation of the same territory to the Beaumont-Cherry Valley Water District (BCVWD).

This item has been continued numerous times since May 2015, as the emphasis associated with this proposal has been on the City of Beaumont's fiscal health and ability to extend municipal services to the proposed annexation.

The continuances allowed the City to develop a financial plan. The "Work Out Plan to Sustainability" has been presented to the Council. However, completion of the process, including determination of sustainable service levels and revenues, could take one to two years. A provisional plan of services has been submitted for the Commission's consideration in identifying the minimum levels of service that could be expected.

Although, there are concerns that service levels could be reduced beyond those presented, staff is supportive of the small expansion of the municipal boundaries in this area. The projected demand from the net 21 acres is minimal.

The staff recommendation is for approval for this relatively small expansion of municipal services to the City of Beaumont. If the Commission is not comfortable with the Provisional Plan of Service, it can continue this proposal until the City completes its "Work Out Plan to Sustainability" process and can determine sustainable levels of service.

GENERAL INFORMATION:

APPLICANT: ASM Beaumont Investors, 20320 SW Birch Street, #110, Newport Beach, CA 92660.

LOCATION: Generally located within the northwest quarter of Section 7, T3S R1W, south of State Route (SR-60) 60, east of Jack Rabbit Trail, north of the prolongation of 4th Street and west of the future Potrero Boulevard alignment.

POPULATION: The site is vacant and uninhabited.

REGISTERED VOTERS: The Registrar of Voters reports that this proposal contains no registered voters within the annexation boundaries, making this proposal legally uninhabited.

ACREAGE: The total area of the reorganization is approximately 45 acres of uninhabited and undeveloped territory.

CEQA DETERMINATION: The Hidden Canyon II project and Mitigated Negative Declaration were approved by the City of Beaumont in January, 2008. This reorganization represents a portion of the previously approved Hidden Canyon II project.

The City of Beaumont, as lead agency, under the California Environmental Quality Act (CEQA), has adopted a Mitigated Negative Declaration for the reorganization, as submitted. The City of Beaumont in adopting the Mitigated Negative Declaration has complied with all the California Environmental Quality Act (CEQA) and all appropriate State Guidelines in regards to the proposed boundaries.

As a responsible agency under CEQA, the Commission is required to review the environmental documentation prepared by the lead agency and consider the information and environmental impacts identified.

PROPERTY TAX EXCHANGE: Both the City of Beaumont and the County of Riverside have adopted corresponding master property tax resolutions. Those resolutions call for the City to receive 25 percent of the County General Fund allocation, and 100 percent of the allocation for structural fire protection.

EXISTING CONDITIONS: The 45 acre parcel is currently vacant. Approximately half the site is within existing freeway, future freeway and other road rights-of-way.

LAND USE PLANS: Currently, the General Plan land use designation under Riverside County's Zoning Ordinance is Rural Residential (R-R), which permits development of one residence on a minimum parcel size of five acres. The zoning for the area under Riverside County is Controlled Development (W-2-20), permitting residential uses on 20,000 square foot minimum parcel size.

The City of Beaumont General Plan Land Use Element assigned the proposed annexation area as Commercial/Industrial Overlay, which "permits either industrial or commercial land uses or a combination of both." The City wanted to maintain flexibility for that portion depending on market conditions.

The City of Beaumont adopted Pre-zoning Ordinance No. 922 with a pre-zoning designation of Commercial General (C-G) to correlate with the underlying General Plan Land Use designation.

The current proposal allows for the development of 498,000 square feet of commercial/industrial uses on a 24 acres site within the parcel. The commercial/industrial portion was to be located along major transportation corridors such as SR-60 and Potrero Boulevard.

SIGNIFICANT ISSUES:

BOUNDARIES: There is a gap between the subject site and the City boundaries to the east and west. The smaller gap to the west is the subject of a pending incomplete annexation application as shown on the attached exhibit (LAFCO 2013-11-5 - Hidden Canyon - Timoteo Land).

FINANCIAL ABILITY TO PROVIDE SERVICES: A factor to consider when reviewing a proposal is "the ability of the newly formed or receiving entity to provide the services which are the subject

of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change" (Govt. Code Sec. 56668(k)).

Over the past two years, several events in the City of Beaumont have cast doubts on the City's financial ability to extend services and delayed this proposed annexation. The first of those incidents was the \$43 million Transportation Uniform Mitigation Fee (TUMF) judgment against the City in 2014. In April of 2015, the City's FY 12-13 Audit revealed an unrestricted negative net position of \$32.7 million in Governmental Activities and a negative unassigned General Fund Balance close to \$7 million. The audit further reported, "These conditions raise substantial doubt about its ability to continue as a going concern."

In May of the same year, the State Controller's Office (SCO) discovered a discrepancy in the amount of expenditures the City reported to the SCO, which was \$50 million less than what was reported in the City's FY 12-13 financial statements. After investigating the matter, the SCO's developed a report that identified questionable financial transactions of the City and presented several recommendations. Also, during this time, the City's Certified Public Accountant (CPA) May 2015 Report confirmed that the City had been using restricted funds for general fund operations.

These events lead staff to follow-up with the City to ask specifically whether it could sustain existing levels of service, while extending services to the proposed annexation. These concerns were echoed in reports to the Council by City staff. Due to the uncertainty surrounding the City's fiscal condition, we have repeatedly continued this item to allow the City to develop a financial plan, its "Work Out Plan to Sustainability". As reported previously, we also asked the City to prepare a new Plan of Services, based on sustainable service levels. Through the Work Out Plan process, the City would determine sustainable levels of service.

Progress to Date: On the road to recovery, the City has made difficult budget decisions. A year ago, the City decreased its FY 2015-16 General Fund Budget by \$4 million, which was achieved

by the elimination of 23.5 positions (-\$1.5 million), salary reductions (-\$1.5 million), and reducing contracts (-\$1 million). It is also estimated that the FY 2015-16 General Fund has generated a surplus of \$1.4 million due to greater than anticipated revenues.

In June of this year, City management presented the Council with the Work Out Plan. The Plan lays out alternative scenarios with various assumptions. The goal is for the City to become fiscally solvent by the Plan horizon of FY 2022-23. In this context, "fiscally solvent" includes eliminating the current negative General Fund balance, currently estimated at \$7-10 million, establishing self-insurance reserves for general liability and employment claims, increasing annual street maintenance to avoid irreparable damage to the City's road network, and building a general fund balance (reserve) of at least 16 percent.

The options presented would require decreased expenditures beyond the reductions made in FY 15-16 and increased revenues. Decreased expenditure options include labor negotiations and reorganizing services to achieve greater economies of scale. Increased revenue suggestions include voter approved revenue measures, the sale of surplus assets, renegotiating franchise agreements, and entering into cell tower leases. Under the most favorable scenarios, the City would achieve its goal just beyond the Plan's horizon. The City is just beginning a public outreach and visioning process that will ultimately determine appropriate service levels and methods of revenue generation. The City is on the right track to recovery and is evaluating options to meet standard levels of service. However, this is a process that will take several years, even under favorable circumstances.

In September of this year, the City General Fund received a repayment of approximately \$5 million, previously advanced to the Wastewater Enterprise Fund in 2014. This significantly improves the City's negative fund balance position, which was estimated at negative \$7.47 million in June of this year.

PROVISION OF SERVICES: At our December 2015 meeting, it was noted that the Plan of Services that was submitted with the

annexation proposal in October 2014 was no longer valid. It was prepared based on FY 2012-13 service levels. At the July 28th meeting, as an alternative to waiting for the conclusion of the Work Out Plan process, staff requested the City to prepare a provisional plan of services. This option was offered in light of the relatively small size and low service demand of this annexation. The provisional plan was to describe the minimum levels of services that could be expected by the City based upon available revenues and expected obligations. This could be considered a "worst case scenario" for services. The objective was to allow the Commission to determine if these minimum service levels were sufficient for this particular annexation. The provisional Plan of Service was recently submitted.

The plan indicates that the City could extend the full range of municipal services to the annexation area upon development. A few of the services are highlighted from that plan.

Police Protection: Presently, the Riverside County Sheriff's Department provides service to this area. The department provides these services from the Cabazon Station, approximately 15.5 miles away at 50290 Main Street in Cabazon. This station also serves the contract City of Calimesa and the unincorporated Pass area.

Upon annexation, the City of Beaumont Police Department would provide law enforcement services. The City's police department is approximately 2.7 miles away at 550 E. Sixth Street in Beaumont.

The City of Beaumont Police Department is staffed with 38 sworn officers serving a population of 45,000, about 0.89 sworn officers per 1,000 residents. City Police Department Staff indicates that current response times to businesses along west 4th Street proximate to the annexation area would average approximately 4.6 minutes.

Fire Protection: The City currently contracts with the County of Riverside Fire Department. There will be no change in service.

The existing fire station that serves this area is Station 66, Beaumont City Fire Station located at 628 Maple Avenue in Beaumont. Station 66 is approximately 2.5 miles to the east of

the proposed annexation site. This station houses a Medic Engine staffed with three personnel around the clock. The Battalion Chief is also located at this station. Additional equipment includes a reserve engine and squad truck. The average response time is 3 minutes, 24 seconds. As of 2014, approximately 80% of calls from this station were responded to within five minutes. The annexation area is just beyond four minute response range.

The second responder to the subject area would be Station 20; located at 1550 E. 6th Street Beaumont, CA 92223 which is approximately 4 miles to the east from the proposed annexation site. The operational costs of this CAL FIRE Station are shared by the Cities of Banning and Beaumont and the County of Riverside.

There are no existing fire stations on the south side of Interstate-10 freeway.

ROADS: There is currently no access to the subject property. Access will require an approximate one-half mile extension of Fourth Street from the east. The Potrero Boulevard interchange was recently approved by the City Council. The subject site includes the proposed rights-of-way for portions of the interchange and the Potrero Boulevard alignment south of I-10.

WATER SERVICES: One of the factors that must be considered in the review of a proposal is the timely availability of water supply (Govt. Code Sec. 56668 (1)). Initially there were concerns regarding water supply. However, Beaumont-Cherry Valley Water District (BCVWD) has provided an extensive response regarding water supply and demand. Overall, the additional information provided by BCVWD indicates that by the mid-2020s the District would need new water supplies to meet its demand projections through 2035. BCVWD has indicated it is working to develop new local water supplies inclusive of a stormwater capture project, implementation of a groundwater extraction system in San Timoteo Creek, and implementation of a high nitrate groundwater extraction system at the mouth of Little San Gorgonio Creek in Edgar Canyon. Based on the demand projections, beyond these local supplies, the District would require substantial new imported water supplies. Water supply projections are based on three different scenarios. Depending

on the scenario, additional imported water supplies are needed as early as 2023 and as late as 2028.

The annual water demand of the annexation area would be approximately 22 acre-feet and is very insignificant in comparison to the BCVWD's water portfolio. With the adoption of San Gorgonio Pass Water Agency (SGPWA) capacity fee, new water rights will be sought to purchase additional water supplies to meet the water demands of the Pass Area retailers, including BCVWD. While there is no guarantee that water will be available, the local and regional agencies charged with providing water service are planning and taking the necessary steps to secure adequate water supplies. As noted at our last meeting, the requirement for the Commission to consider the timely availability of water supply is linked to planning efforts. Verification of supply occurs later, at the development stage.

WASTEWATER SERVICES: The City of Beaumont provides wastewater service, including collection, secondary level treatment and disposal, at a secondary level within the city limits.

Last year, the Commission requested additional information of city staff regarding the wastewater treatment plant (WWTP) nearing capacity. The City provided a table showing projected demand and treatment capacity through 2030 and the assumptions assumed. The City table reports the average daily flows for 2015 as 2.9 mgd and the closest the WWTP demand would come to treatment capacity is in 2019 at 87.5% of capacity. These projections were based on an average of 500 dwelling units with daily effluent discharges of 280 gallons per day (gpd).

Since that time, the City has further refined its wastewater treatment projections to correspond with the average growth rate over the past five years (350 equivalent dwelling units (EDU) per year). Also assumed in the daily flows is the City's standard sewer generation rate per EDU of 225 gpd. The City's projections are currently as follows:

Year	EDUs	Average Daily Flows (MGD)	Capacity (MGD)
2015	13,644	3,070,000	4,000,000
2016	13,994	3,148,750	4,000,000
2017	14,344	3,227,500	4,000,000
2018	14,694	3,306,250	4,000,000
2019	15,044	3,385,000	4,000,000
2020	15,394	3,463,750	6,000,000
2021	15,744	3,542,500	6,000,000
2022	16,094	3,621,250	6,000,000
2023	16,444	3,700,000	6,000,000
2024	16,794	3,778,750	6,000,000
2025	17,144	3,857,500	6,000,000
2026	17,494	3,936,250	6,000,000
2027	17,844	4,015,000	8,000,000

Source: May 17, 2016 City Council Meeting; Item 8i. City of Beaumont Response to the Santa Ana Regional Water Quality Control Board.

Based on these numbers, the City estimates its WWTP will not reach its capacity of 4.0 mgd until 2027.

The City is evaluating different options to determine whether it will pursue expansion of its existing WWTP, or whether it will join Yucaipa Valley Water District (YVWD) to develop a regional wastewater collection system. Studies and planning are currently underway. Based on the City's staff report to the Council regarding wastewater, all construction, whether it be related to the WWTP expansion or upgrade to connect to YVWD's wastewater collection system, would begin in March of 2018 and be completed in March of 2020, prior to the WWTP reaching its treatment capacity of 4.0 mgd.

Due to the size of the subject annexation, the minimal anticipated discharge of the proposed site, and the anticipated growth the City has included in its wastewater treatment capacity projections, there is adequate capacity to extend wastewater services to the proposed annexation. Wastewater service is not a significant concern for this proposal.

Long term concerns still remain. The sewer fund is solvent and generating a growing balance; however, staff is concerned that the City's overall financial position will negatively impact the

City's ability to issue bonds for large capital projects, such as wastewater treatment plant expansion.

TAXES AND ASSESSMENTS: The City of Beaumont assesses a 3 percent utility user tax. The previously approved utility tax applies to telephone, gas, electricity and cable television. Pursuant to Government Code Section 57330, territory annexed to a city or district shall be subject to any previously approved tax, assessment, fee or charge of that local agency.

DETACHMENT FROM COUNTY SERVICE AREA (CSA) 152: CSA 152 has been used in the past by the County to fund programs to comply with the Federal Clean Water Act. Many cities in the County have annexed to this CSA and continue to levy assessments for that same purpose. Since the City of Beaumont has not opted to annex to CSA 152, the territory will be detached from the CSA.

DETACHMENT FROM COUNTY WASTE RESOURCES MANAGEMENT DISTRICT (RCWRMD): On March 24, 1994, the Commission approved the formation of the RCWRMD as a separate financial and legal entity to operate and finance solid waste facilities in Riverside County. The District became effective on May 2, 1994. As part of the Commission's action, it determined that future annexations to cities should detach from the RCWRMD unless those cities have annexed to the District. This is based on an understanding between the County and the Council of Governments (COGs) that annexation of cities to RCWRMD will be accomplished in an organized fashion to ensure appropriate representation on the governing board of the District. Therefore, staff will recommend concurrent detachment from the RCWRMD.

LAFCO Factors-Government Code 56668: This code describes several factors to be considered in the review and approval of a proposal. Information pertaining to each factor is listed and a staff response is provided for in an attachment to this report.

COMMENTS FROM AFFECTED AGENCIES/INTERESTED PARTIES: Staff received comments from the **City of Calimesa** in September 2015. A letter from Mayor Joyce McIntire requests that the Commission deny this annexation. The City of Calimesa is concerned by the traffic impacts as a result of development in the City of Beaumont that has created heavy impacts to the Cherry Valley Boulevard/I-10 interchange. In addition, the City of Calimesa is

concerned about Beaumont's financial and administrative ability to provide the services and infrastructure within its current boundaries. The City of Calimesa states it has been impacted by the amount of residential homes near Calimesa's city boundary.

Comments were received from **Calimesa Council Member, Jim Hyatt** in September, 2015 regarding the lack of fire stations within the City of Beaumont and that 22% of the calls that Calimesa's Fire Station #21 receives come from Beaumont's Summerwind development, located within Tukwet Canyon. In addition, the City of Calimesa is impacted by the traffic from new residential developments within Beaumont, since the City of Beaumont lacked contribution in the WRCOG TUMF program in mitigating traffic impacts.

Correspondence has also been received from **Libi Uremovic** who is in opposition to the annexation proposal. The letter provides an update of events on the City's financial condition.

CONCLUSIONS:

ASM Beaumont Investors has initiated this proposal to extend municipal services to accommodate future site development of commercial/industrial uses. Warehouse has been mentioned as the likely use.

This annexation had been repeatedly continued due to the City's serious financial issues and to allow the City to complete its "Work Out Plan to Sustainability" and related tasks. As an alternate to waiting for completion of the entire Work Out Plan process, the City was allowed to submit a provisional Plan of Services.

The provisional plan was to describe the minimum levels of services that could be expected by the City based upon available revenues and expected obligation, essentially a "worst case scenario" for services. The objective was to allow the Commission to decide this month if these minimum service levels were sufficient for this particular annexation. The applicant has submitted the updated provisional Plan of Service.

The provisional Plan of Service is based on existing levels of service. The City's position is that the current levels, which

have been reduced over the last two years, represent the lowest levels of service that can be expected. Staff has two concerns with this assumption. First and most significantly, the City has yet to address the TUMF judgement in any of its projections. At \$43 million plus accrued interest, this is the City's most significant obligation. Additionally, the City's own Work Out Plan recognized additional reductions might be necessary. On the other hand, the City recently took a major step toward paying down the deficit in its General Fund fund balance. This could have the effect of achieving solvency sooner than originally projected in the Work Out Plan.

The financial position of the City remains the most significant concern with this annexation. While challenges will continue, this annexation could also be a small part of the long-term solution, as the proposed project is for commercial/industrial uses. This project could stimulate revenue and add employment opportunities.

Staff is supportive of the small expansion of the municipal boundaries in this area. The City is making strides in correcting the deficit that has existed for several years. Approval could be supported by considering the following three factors:

1. the proposed commercial/industrial uses, which are generally fiscally neutral or slightly positive;
2. the strong desire of the landowner to annex, and
3. the relatively low demand for services from this small non-residential project.

If the Commission is not comfortable with the Provisional Plan of Service that has been presented, it can continue this proposal until the City completes its "Work Out Plan to Sustainability" process and determines sustainable levels of service.

SPECIFIC RECOMMENDATIONS:

Based upon the factors outlined above, IT IS RECOMMENDED that the Commission adopt a resolution taking the following actions:

1. Find that the City of Beaumont, as lead agency, under the California Environment Quality Act (CEQA), has prepared a

Mitigated Negative Declaration, which includes the proposed change of reorganization. The City, in adopting the Mitigated Negative Declaration, has complied with the provisions of the California Environmental Quality Act (CEQA) and all appropriate State Guidelines, and the Commission has reviewed and considered the environmental documentation.

2. Based on the environmental documentation prepared by the Lead Agency, and pursuant to CEQA Guidelines Sections 15162, 15163 and 15164, find the following:
 - a. There have not been any substantial changes proposed to the project as analyzed in the negative declaration that require major revisions of the CEQA documents because of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
 - b. There have not been any substantial changes with respect to the circumstances under which the proposed project is undertaken that require major revisions of the CEQA documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
 - c. There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the negative declaration was adopted that shows any of the following:
 - (1) the project will have one or more significant effects not discussed in the previous EIR;
 - (2) significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (3) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative;

- (4) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Accordingly, NO FURTHER ENVIRONMENTAL DOCUMENTATION IS REQUIRED.

3. Find, that there are no direct or indirect environmental effects of the propose change of reorganization. Therefore, pursuant to CEQA Guidelines Sections 15096 (g), there are no mitigation measures to be adopted by LAFCO for the proposed change of reorganization.
4. Determine the proposed reorganization is consistent with the spheres of influence of the City of Beaumont and Beaumont-Cherry Valley Water District and all other affected local agencies;
5. Determine the proposed reorganization is legally uninhabited;
6. Approve, **LAFCO 2014-20-5-REORGANIZATION TO INCLUDE ANNEXATION 07-ANX-01A TO THE CITY OF BEAUMONT (ASM BEAUMONT BUSINESS CENTER), CONCURRENT ANNEXATION TO THE BEAUMONT-CHERRY VALLEY WATER DISTRICT, AND CONCURRENT DETACHMENTS FROM COUNTY SERVICE AREA 152 AND THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT**, as depicted in the attached Exhibit subject to the following terms and conditions:
 - a. In accordance with Government Code Sections 56886(t) and 57330, the subject territory shall be subject to the levying and collection of any previously authorized charge, fee, assessment or tax of the City of Beaumont and the Beaumont-Cherry Valley Water District.
 - b. The City of Beaumont shall defend, indemnify, and hold harmless the Riverside County Local Agency Formation Commission ("LAFCO"), its agents, officers, and employees from any claim, actions, or proceedings against LAFCO, its agents, officers, and employees to attach, set aside, void, or annul and approval of LAFCO concerning this proposal.

7. Pursuant to Government Code Section 56662 (d) waive Protest Proceedings, and make the following determinations:
 - a. The affected territory is legally uninhabited.
 - b. All owners of land have given their written consent to the proposal.
 - c. No subject agency has submitted written opposition to a waiver of protest proceedings.

8. Direct the Executive Officer to prepare and execute a Certificate of Completion upon receipt of required processing fees required by Section 54902.5 (made payable to the State Board of Equalization) and compliance with applicable terms and conditions.

Respectfully submitted,

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