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10/25/2007**

TO: Local Agency Formation Commission

FROM: Wayne M. Fowler, Sr. Local Government Analyst

**SUBJECT: LAFCO 2007-40-3&5 - SPHERE OF INFLUENCE
AMENDMENT (removal) TO THE CITY OF PERRIS AND
REORGANIZATION TO INCLUDE INCORPORATION OF MENIFEE
VALLEY, CONCURRENT DETACHMENT FROM THE RIVERSIDE
COUNTY WASTE RESOURCES MANAGEMENT DISTRICT,
DISSOLUTION OF COUNTY SERVICE AREAS 33, 86, 138 & 145
AND DETACHMENTS FROM COUNTY SERVICE AREAS 43, 80, 84,
AND 146.**

PRIOR AGENDAS/RELATED ACTIONS: Numerous hearings in relation to COI, UC designations and SOI.

EXECUTIVE SUMMARY:

This report provides an overview of the proposed incorporation of Menifee Valley as the 25th or 26th city in Riverside County. In order for the Commission to approve an incorporation, State law requires that it find the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. The Comprehensive Fiscal Analysis (CFA) studied incorporation using three different boundary options, referred to as study areas 1, 2, and 3. The CFA shows that boundary study area 3 shows the strongest fiscal viability of the options studied. The CFA projects for study area 3, budget surpluses for the first 4-years, then deficits in the next 2-years, followed by surpluses for the next 3-years and a deficit in the last year of the study. Even with the deficits, the CFA shows the proposed city able to maintain a minimum 10 percent reserve through the projection period. The CFA concludes the incorporation of Menifee Valley is fiscally viable.

The staff recommendation is for conditional approval.

BACKGROUND:

The incorporation proponents submitted the application to LAFCO on April 9, 2007. The application included a resolution of the Board of Supervisors requesting LAFCO initiate proceedings for the Incorporation of Menifee Valley.

Residents of Menifee have been discussing incorporation since the beginning of the 1990's. In 1991 a first attempt at incorporation was filed with LAFCO (91-50-3). This proposed incorporation shared many of the same boundaries with today's incorporation proposal. The 1991

Incorporation of Menifee Valley

proposal was later abandoned because of the newly enacted revenue neutrality provisions of the Cortese-Knox Local Government Reorganization Act of 1985. Riverside LAFCO in an attempt to establish boundaries for areas which may one day incorporate created the "Community of Interest"(COI) designation which allowed a community to establish a set of boundaries and gave them an initial two-year study period to review their future options. Menifee Valley was the second community in the County to apply for the COI designation in 1993 (LAFCO 93-49-3) which was approved by the Commission June 23, 1994. The COI designation was a two step process, with the initial step being the two year study period as the COI, and then a second approval of the community as an "Unincorporated Community" (UC) which is a five year designation. Menifee Valley was granted the UC designation April 1997, exactly 10 years to the month before today's application for incorporation was filed. The boundaries established for the UC are the same boundaries as study area 1 filed with the incorporation. Thus the boundaries of Menifee Valley have been largely established for a decade.

GENERAL INFORMATION:

APPLICANT: The proposal has been initiated by resolution of application of the Riverside County Board of Supervisors at the request of Menifee Valley Incorporation Committee (MVIC). The County has designated Mr. Joe Daugherty from the MVIC as its agent for purposes of processing the proposal.

LOCATION: The proposed incorporation area is generally north of the City of Murrieta, south of the City of Perris, east of the cities of Lake Elsinore and Canyon Lake and west of the unincorporated community of Winchester.

POPULATION: The population for Menifee Valley, is estimated to be 55,298 for study area 1, 56,322 for study area 2 and 60,467 for study area 3, as of July 1, 2006.

REGISTERED VOTERS: The Registrar reports there are 26,304 voters within study area 1, 26,685 voters within study area 2 and 27,912 votes within study area 3.

AREA: The area of the proposed city for each boundary alternative, is approximately 41.1 square miles for study area 1, approximately 43 square miles for study area 2 and approximately 48.5 square miles for study area 3.

CEQA DETERMINATION: The Commission is the lead agency for any incorporation. BonTerra Consulting was retained by LAFCO to conduct an initial study of the incorporation pursuant to CEQA. The resulting analysis indicates the proposed incorporation has no significant environmental impacts. Therefore, it is recommended that the Commission adopt a Negative Declaration for the incorporation. The Initial Study/Negative Declaration is included with this staff report.

Incorporation of Menifee Valley

PROPERTY TAX EXCHANGE: The Commission is required to determine the amount of property taxes transferred to a new city. Incorporation of a new city does not increase property taxes to affected property owners. New cities receive a share of existing property taxes from other agencies in correlation to services that are to be transferred to the new city.

When only a portion of the services provided by an agency are being transferred to a new city, the transfer is determined pursuant to a formula defined in Government Code Section 56810. This formula is applicable to general fund services transferred from the County to the new city. The transfer is the product of two numbers, a) the net cost of services to be transferred and b) the proportion of County General Fund property taxes relative to all general purpose revenue, also known as the "Auditor's Ratio".

The base year transfer is then adjusted for increases in assessed value each year. In addition to the General Fund transfer, the city would receive all of the Structural Fire Tax generated within the affected area since it will assume responsibility for all fire protection services. The property tax transfer calculation is detailed in Exhibits 1 and 2 for each of the boundaries alternatives in the Appendix to the CFA.

EXISTING CONDITIONS: Over the past two decades Menifee Valley has been transitioning, like many other communities, from a predominantly rural residential area to a more mixed use suburban community. The Menifee Valley comprises a wide variety of residential uses ranging from very large lot estates, single-family tracts, multi-family residential, mobile home parks and the original Del Webb Sun City development. Existing commercial and industrial uses are primarily located along primary road intersections with Interstate 215. These include Ethanic Road, McCall Blvd., Newport Road and Scott Road. Most of the higher density residential and existing commercial uses are located between Rouse Road and Garbani Road. Major connector roads into the community include Briggs Road and Goetz Roads. Most of the residential development has taken place within the central portion of the proposed incorporation. Dry farming is still practiced in decreasing amounts in the southern portion of the incorporation boundaries. The proposed incorporation has three interchanges along the Interstate located at McCall Blvd, Newport Road and $\frac{3}{4}$ Scott Road. The proposed city under boundary alternative 3 would also share an interchange with the City of Perris at Hwy 74.

LAND USE PLANS: The County's General Plan calls for continued urbanization of the area, including continued development of the existing commercial nodes and corridors. State law allows newly incorporated cities 30 months to adopt their general plans. Among the first actions required of a new city council is to adopt all County ordinances, including those establishing zoning. Therefore,

Incorporation of Menifee Valley

incorporation itself has no direct impact on land uses.

SIGNIFICANT ISSUES:

FISCAL VIABILITY: The determination of fiscal feasibility is typically the central issue in the evaluation of an incorporation proposal. The following sections analyze different aspects of the fiscal issue.

Statutory Requirements: State law prohibits the Commission from approving an incorporation unless it finds that the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. Section 56800 requires the Executive Officer to prepare, or cause to be prepared, a Comprehensive Fiscal Analysis (CFA) of incorporation. The CFA is the basis for the Commission's determination of feasibility.

Policy and Approach: Commission Policy allows the CFA to be managed in one of two ways. Incorporation proponents can directly hire and manage a consultant to prepare the draft CFA. Under this scenario, proponents are directly responsible for consultant selection, payment, and the timing of the analysis. Alternatively, LAFCO can retain a consultant to prepare the CFA with funds deposited by the proponents. LAFCO manages the consultants work as long as funds are on deposit. The first model was utilized for the Menifee CFA.

The proponents have retained Gary Thompson, GST Consulting to prepare the required fiscal analysis. A Public Review Draft CFA was released and published on the Commission's website August 30, 2007. Comments from public agencies, residents and property owners were received through October 1, 2007. The comments resulted in several revisions to the analysis and is reflected in the initial Public Hearing Draft CFA transmitted to the Commission with this staff report.

Several Commission policies guide the development and evaluation of the CFA. Some of the most significant ones are listed below:

CFA Requirements-*In order to minimize the likelihood of forming a city that cannot sustain itself, the following principles shall govern the preparation of the CFA:*

- Costs of services should be based upon existing levels of service.
- All revenue estimates/projections shall be conservative.
- Extreme care shall be taken to ensure that all costs are accounted for.
- Costs for functions that are not being directly assumed from another agency (e.g. the County) should use similarly sized cities as a basis for estimates. This is especially applicable to administrative functions.

Incorporation of Menifee Valley

- While State law only requires an analysis of the city's first three years, the Riverside LAFCO requires an analysis projecting out a minimum of eight years. Many State subventions for new cities are based on a calculated population of three times the number of registered voters for the first seven years after incorporation. This formula, which typically greatly exceeds actual population, provides a temporary source of enhanced revenue-a "bonus" to help new cities get started. The purpose of the increased time frame is to capture the fiscal status of the city at the point when state subventions are based upon actual population. This analysis allows the Commission and the community to gauge the long-term viability of incorporation.
- Section 56720 requires that the Commission, in approving an incorporation, find that the new city will have sufficient revenue to provide public services and facilities and a "reasonable reserve". Consistent with OPR Guidelines the CFA should include an appropriation for contingency of at least 10 percent and an additional reserve of 10 percent.

Contingency and Reserves: As noted above, the Commission cannot approve an incorporation unless it finds that the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. Practical implementation of this requirement exists in both adopted Commission Policy and the OPR Incorporation Guidelines. Consistent with the OPR Guidelines, Commission policy requires an annual contingency of 10 percent (OPR recommends 10-20%) as well as a reserve of 10 percent. The contingency acts as a cushion or hedge against variations between actual costs and revenues and those projected in the CFA. The CFA conservatively assumes the full amount of contingency is appropriated and expended each year. It is not carried over from year to year in the CFA model. A 10 percent operating reserve is also identified. That 10 percent operating reserve and any remaining surpluses are assumed to be carried over from year to year in the CFA.

OPR Guidelines explain the necessity for both an appropriation for contingency and a reserve as follows:

- A new city has no historical track record on the cost or level of services required to meet the expectations of the newly incorporated community.
- Unanticipated expenditures could occur due to major disasters, emergencies, liability claims, and litigation settlements.
- Local finances may be subject to changes based on the State's budget.
- Changing economic conditions could result in a decrease in general fund revenues.
- Funds may have to be budgeted for non-road-related capital improvement projects. As the new city grows in staffing and

Incorporation of Menifee Valley

assumes services from the county and outside contractors, there will be a need for new facilities, vehicles and other major equipment.

Augmentation from County: On July 31st, the Board of Supervisors took action to provide a revenue augmentation to new cities. The payments will be based on the net savings the County would have realized had the area been incorporated in the base year (FY 2005-06). For Wildomar and Menifee, the base year savings is increased by 3 percent annually and payments will be provided for a period of ten fiscal years. The Board action also stipulated that if sales tax revenue exceeds projections shown in the CFA, the augmentation will be reduced by a like amount for that year. There is a risk inherent in this conditional augmentation in that increased sales tax revenue beyond the CFA projections coupled with losses in other revenues could result in a net loss in total revenues. Given that most other revenue sources are less subject to large fluctuations, this is not seen as a large risk.

Results of CFA: The conclusion of the CFA is that the incorporation of Menifee Valley as proposed under study area 3, is fiscally viable. Based upon an effective date of October 1, 2008, the analysis indicates Menifee Valley would experience a surplus of over \$4.9 million in the initial or transition year. A transition year surplus is typical for most incorporations, as the new city receives many significant revenues while the County is required to continue providing municipal services through the end of the fiscal year. This provides the new city with a decidedly positive cash flow by fiscal year end to comfortably manage start-up costs such as leasing office space, beginning staff recruitment, including consultants, and hiring initial management staff to prepare required filings and other administrative necessities. (It should be noted that the City is required to reimburse the County for those transition year services over a five year period.) For the baseline scenario, the CFA shows operating surpluses averaging \$1.6 million in the first two fiscal years (FY 2009-10 and 2010-11). However, the substantial carryover from the first year, the new city is expected to continue existing service levels and maintain a minimum 10 percent (averaging over 20%) reserve.

Sensitivity Analysis: The CFA included a sensitivity analysis to analyze the impact of a 50% reduction in projected commercial development in years 6 through 10. The purpose of the analysis is to demonstrate the proposed city's ability to absorb a downturn in commercial development in the later years. This analysis is in addition to the already deleted 3 years of \$200,000 annual sales tax for FY 08/09-FY10/11 for the existing Target store building to remain vacant for a period of time after the relocation to the new Countryside Marketplace to account for a potential time lag in re-leasing the building. The CFA demonstrates that the proposed incorporation would be impacted with the downturn in commercial development, but sufficient operation and excess reserves remain to

Incorporation of Menifee Valley

absorb the deficits. Another concern is the housing market with the slow down or flattening out of housing values. Not only will there be fewer numbers of new housing built, but the assessed value of existing homes when sold is lower than anticipated. The CFA has treated this issue with extreme conservatism and projects a much smaller rate of growth in the assessed value throughout the analysis. Staff while concerned is confident in the CFA projections.

BOUNDARIES: The CFA reviewed three boundary alternatives, referred to as study areas in the CFA. Boundary study area 1 is the Menifee Valley UC boundaries and comprises an area of approximately 41.1 square miles. Study area 2 is the area of the UC with an additional 1.9 square miles of territory, giving a land area of some 43 square miles. Study area 3 includes the UC, study area 2 plus an additional 5.5 square miles of territory, giving a total area of approximately 48.5 square miles. With the exception of the additional study areas, the boundaries of Menifee Valley have been fairly well established by the Commission since the establishment of the UC in 1997. There is no controversy as to whether any inhabited areas should be included or excluded. Since study area 3 is the fiscally strongest boundary for the incorporation, boundary discussion will focus only on the boundaries of study area 3. There are two proposed boundary amendments to the proposed incorporation boundaries. One is a 20 acre parcel which was the subject of an annexation into the City of Lake Elsinore (LAFCO 2007-32-3 Christensen) This parcel is located adjacent to the Cottonwood Hills annexation (LAFCO 89-58-1) to Lake Elsinore and service wise would be considered an extension of those services coming from and through the City of Lake Elsinore. The removal of this 20 acre parcel would have no effect on the fiscal viability of the incorporation. The Christensen annexation was supported by the Menifee Incorporation Committee.

The second boundary amendment is in the extreme southern portion of the incorporation boundaries. Letters received from Benchmark Pacific and the City of Murrieta have requested that the project known as Murrieta Hills be removed from the proposed incorporation. This project is two full sections of land south of Keller Road and west of Interstate 215. The territory is situated along the northern boundary of the City of Murrieta. The landowner and the City have been working on this project for approximately 3 years and hope to shortly be submitting to LAFCO an application for annexation into the City of Murrieta. The removal of this territory will not have a significant effect on the CFA or the fiscal viability of the proposed incorporation of Menifee Valley. The Menifee Valley Incorporation Committee has tentatively supported the removal of this project from the incorporation boundaries as the project is residential (see attached letter). The incorporation committee does have some concerns about a 15 acre area in the land use plan designated as Mixed Use. This 15 acre area is adjacent to Keller Road, and the incorporation committee is concerned that mixed use may indicate either commercial or retail land uses. The incorporation committee would not be supportive of losing retail or commercial land use. Staff does not

Incorporation of Menifee Valley

consider that potential loss of this territory to be significant to the future city, and supports the request of the landowner and the City of Murrieta for removal of this territory from the incorporation boundaries.

Study area 3 boundaries includes a small portion of the City of Perris's sphere of influence. This area comprises fewer than 35 acres of territory located south of Matthews Road and east of Trumble Road. This area is the site of several mixed land uses. Removal of this area from the City of Perris's sphere of influence will not have any significant effect upon the City of Perris and staff recommends that this area be included within the proposed incorporation boundaries.

REORGANIZATION SERVICES: The fiscal analysis assumes that the level of services provided by the County and other affected agencies will be maintained at the same level as provided in the base year (FY 2005-06). The array and level of services currently provided are described in the CFA.

TAXES AND ASSESSMENTS: No additional general taxes, special taxes or assessments are proposed in conjunction with the incorporation. Continuation of taxes, assessments and charges associated with the maintenance of parks and CSA functions and transfer of responsibility for those services are an assumption of the CFA and should be a condition of any approval of this proposal.

DISSOLUTION & DETACHMENT FROM CSAs 33, 43, 80, 84, 86, 138, 145 AND 146: Unless the Commission specifically waives detachment, this territory would be detached from all CSAs by operation of law if incorporated. CSAs 33, 43, 80, 84, 138, and 145 provide street lighting to several areas within the Menifee Valley incorporation area. CSA 86 also provides road maintenance in the Quail Valley area, and CSA 145 provides parks and collection of Quimby fees. CSA 146 provides no services. As proposed, the City would assume the services and revenue of the CSAs, if incorporated. The attached exhibit depicts the CSA boundaries within the Wildomar area.

WAIVER OF AUTOMATIC DETACHMENT FROM CSA 152: CSA 152 has been used in the past by the County to fund programs to comply with the Federal Clean Water Act, such as street sweeping. Many cities in the County have annexed to this CSA and continue to levy assessments for that same purpose. If the Commission approves this proposal, it should make specified findings in order to waive automatic detachment from County Service Area 152, since the proponents have not indicated they want to detach 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 (incorporations are implied) should

Incorporation of Menifee Valley

detach from the RCWRMD unless those cities have annexed to the District. This is based on an understanding between the County and the 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 if incorporation is approved.

COMMENTS FROM AFFECTED AGENCIES/INTERESTED PARTIES: Numerous comments have been received pertaining to the fiscal analysis, the environmental analysis and the proposal in general. Those comments received during the review periods for the CFA and Initial Study have been included along with the related responses the revised documents included with this staff report. Any additional comments are also attached to this report. Comments have also been received from interested individuals, mostly either supporting the proposed incorporation or opposing the proposal. One letter commenting on the CFA, which was delivered after the comment period for the CFA will be discussed here. The letter from a Mr. Steven Beutz, in Lake Elsinore made three comments in relation to the CFA.

The first comment is that "No Revenue Neutrality Determination Made with Respect to Road Funds". This issue was raised with the Wildomar CFA and was addressed in the State Controllers Office's review of the CFA. The SCO found there was no specific statutory authority to include restricted funds, such as the Road Fund, in the revenue neutrality calculation. (Note: With the exception of Measure A, road fund revenues received by cities which are allocated on a different basis, according to a different code subdivision, than those received by counties. It is not a reallocation or transfer of the same funds from the County to the new city. Therefore, it is staff's opinion that on that basis alone they would not be included in a revenue neutrality calculation.)

The second Comment concerns the "10-year County Augmentation Represents an Illegal Transfer of Public Funds". The first point made in this comment discusses the "flaw" in the CFA's revenue neutrality determinations because it failed to consider road fund revenues. This is answered in the paragraph above. The second point made in the comment is that the statue on revenue neutrality (Code Section 56815) does not contemplate a scenario under which a county would pay a newly incorporated city. This issue was addressed in the SCO's review of the Wildomar CFA which stated that the "SCO has reviewed the Cortese-Knox-Hertzberg Act and found no specific reference that would preclude the county from assisting a city" and "...it is within the authority of a county board of supervisors to provide financial assistance to any governmental entity within their sphere of influence". The third point made is that the county augmentation represents an illegal gift of public funds in violation of Section 6, Article 16 of the state constitution, and that the county augmentation represents losses to the county in the millions of dollars in taxpayer funds. This issue is addressed above.

Incorporation of Menifee Valley

The third comment on "Structural Fire Fund revenues Must be Excluded from Calculations of Property Tax Transfer". Again this issue is one which was covered in the Wildomar incorporation CFA's review by the SCO. The SCO analysis on the Wildomar CFA confirmed the methodology historically used by Riverside LAFCO and documented in the CFA is correct. That is, the portion of fire services supported by the General Fund is included in the net cost of services calculation mentioned earlier in this report, while all of the Structural Fire Tax generated within the area will be transferred to the city.

PROCEEDINGS FOLLOWING COMMISSION ACTION: Actions and procedures for annexations and other boundary changes are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Section 56000 states that the Act "provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts."

Section 57000 et seq. sets forth the procedure following approval of a proposal by the Commission. If disapproved by the Commission, no further proceeding shall take place. If approved, an election would be called by the Board of Supervisors. The ballot would include the question of incorporation, inclusive of any terms and conditions established by the Commission, and the election of the first city council members. This statutory process cannot be altered by action of the Commission or any other entity.

EFFECTIVE DATE: CKH requires the Commission to establish a specific effective date for a new city with certain limitations. The effective date must be included in the terms and conditions of any approval of the proposal. The effective date assumed in the CFA, October 1, 2008, is recommended.

FINDINGS, DETERMINATIONS, TERMS AND CONDITIONS: In recognition of the grave and almost irreversible nature of incorporations, the Legislature has placed a higher standard of Commission review for their approval compared to other types of proposals. For example, and as noted earlier, the Commission must make a specific finding regarding fiscal viability. Furthermore, pursuant to Section 56803, if the Commission approves the incorporation it must accept or reject each of the findings and recommendations made in the Executive Officer's report and the Comprehensive Fiscal Analysis. If the Commission rejects a finding or recommendation, this Section requires findings to be made by the Commission which present the basis for any rejection. The required findings and determinations, as well as recommended terms and conditions are attached.

If the Commission approves this proposal, in addition to legally required findings, there are numerous determinations, terms and conditions included as part of the staff recommendation. These are critical elements of the Commission's action that determine how the matter is set for election, the form of government of the new city, the transfer of taxes and assessments, the disposition of facilities and the

Incorporation of Menifee Valley

first actions of the newly elected council. The Commission resolution ordering incorporation and the approved terms and conditions are referenced in the ballot question. A few determinations, terms and conditions merit some discussion below.

Typically this Commission has not transferred property in conjunction with approval of an incorporation. The Commission has determined that the disposition of facilities and other assets would be subject to negotiation between the new city and the County.

As noted earlier, the Board of Supervisors has taken action to provide a revenue augmentation to the new city for the first ten years of incorporation. Inasmuch as the CFA relies on that revenue source, staff is recommending a condition memorializing that action as part of the Commission approval.

Perhaps the most non-standard term and condition is one addressing regional issues. Staff is recommending requiring the new city to initiate efforts to participate in regional programs. By facilitating participation in WRCOG, the MSHCP, RCTC and the TUMF program, continuity in these programs can be maximized and the new city can participate in regional planning and take advantage of regionally available revenues. The condition is consistent with consideration of regional growth goals and policies as permitted by Section 56668.5.

CONCLUSIONS:

As noted earlier, the primary factor for the Commission to consider in almost any incorporation is financial feasibility. The CFA demonstrates under the baseline scenario that the new city will be able to sustain current service levels and maintain reasonable reserves. Under scenarios that assume an economic downturn and a delay in projected sales tax revenues, the city is still viable, due to the large carryover from the transition year.

The question for the Commission is how conservatively to view the revenue estimates. The retail square footage assumptions are reasonably conservative. Projected retail commercial development over the next five years is consistent with projects currently under construction and in process with the County. This does not even account for other projects that might be submitted and implemented during that time frame. The CFA shows that delays can be weathered. In the absence of some evidence that there is a likelihood of the project not occurring, staff is reasonably comfortable recommending approval.

If incorporation is approved by the Commission and ultimately approved by the voters, it will be incumbent upon the new city government to exercise extreme prudence during the first few years of operation. While this counsel should be applicable to any new city, the reliance on continued carryovers from the transition year surplus makes this caveat all the more significant in the case of Menifee Valley.

Incorporation of Menifee Valley

SPECIFIC RECOMMENDATIONS:

Based on the factors outlined above, IT IS RECOMMENDED that the Commission:

1. Amend the sphere of influence of the City of Perris by removing approximately 35 acres of territory located south of Matthews Road, west of Sherman Road and east of Trumble Road as shown on the attached exhibit.
2. Find that the sphere of influence amendment is exempt from CEQA as it can be seen with certainty that the removal of this single sphere of influence area of approximately 35 acres will not have a significant impact on the environment.
3. Adopt the attached Statement of Determinations concerning the sphere of influence amendment.
4. Find the Commission, as lead agency pursuant to CEQA, has prepared an initial study on the proposed reorganization. Based upon the entire record before the Commission, including the initial study, the Commission finds there is no substantial evidence that the proposal will have a significant effect on the environment. The Commission adopts a negative declaration and finds that the adoption of a negative declaration reflects the Commission's independent judgment and analysis as lead agency.
5. Approve LAFCO 2007-40-3&5—REORGANIZATION TO INCLUDE INCORPORATION OF MENIFEE VALLEY, CONCURRENT DETACHMENT FROM THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT, AND DETACHMENTS FROM COUNTY SERVICE AREAS 33, 43, 80, 84, 86, 138, 145 AND 146, as depicted in the attached Exhibit, study area 3, subject to the recommended terms and conditions attached to this report.
6. Make the findings and determinations attached to this report.
7. Pursuant to the Cortese Knox Hertzberg Local Government Reorganization Act of 2000, order the reorganization subject to confirmation of the voters and request the Board of Supervisors to call an election on the subject reorganization, subject to the attached findings, determinations, terms and conditions.

Respectfully submitted,

Wayne M. Fowler
Sr. LGA

George J. Spiliotis
Executive Officer

FINDINGS AND DETERMINATIONS

Based on the entire record of the Commission's proceedings, the Commission hereby makes the following findings and determinations.

- a. Pursuant to Government Code Section 56720(a), find the reorganization including incorporation of the proposed City of Menifee Valley is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including but not limited to, the policies of Government Code Sections 56001, 56300, 56301 and 56377, and the policies of the Riverside County Local Agency Formation Commission.
- b. The Commission has reviewed the spheres of influence of affected local agencies and finds the reorganization is consistent with those spheres of influence, as amended.
- c. Find the Commission has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56800 and the State Controller's report prepared pursuant to Government Code Section 56801.
- d. Find the Commission has reviewed the Executive Officer's staff report and recommendations prepared pursuant to Government Code Section 56665 and the testimony presented at its public hearings.
- e. Find the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation.
- f. Pursuant to Section 56803, the Commission accepts each of the findings and recommendations in the Executive Officer's report and the comprehensive fiscal analysis prepared pursuant to Government Code Section 56800.
- g. Pursuant to Section 56886, determine that existing agencies cannot provide needed services in a more efficient and accountable manner. Incorporation will allow for increased local accountability. Contracting services such as police and fire protection will still allow the city to take advantage of economies of scale associated with a large organization, while allowing public service levels and priorities to be established locally.
- h. Pursuant to Section 56810, determine the base year property tax to be transferred from the County to the City of

Menifee Valley is \$7,606,135, which is inclusive of \$3,786,907 in property taxes to be transferred from the County General Fund and all Structural Fire Protection property taxes generated within the subject area. The base year amount shall be adjusted by the county auditor to the fiscal year in which the new city receives its initial allocation, in accordance with Revenue and Taxation Code Section 95 et seq.

- i. Determine that a provisional appropriations limit of \$26,049,674 is established pursuant to Government Code Section 56812. A permanent appropriations limit will be proposed by the city council and established by the voters of the new city at the first municipal election held following the first full fiscal year of operation.
- j. Pursuant to Section 56815, determine that the amount of revenue transferring from the county to the new city is substantially equal to the cost of services similarly transferred. Furthermore, the calculation required by Section 56815 in the Comprehensive Fiscal Analysis indicates that there is no negative fiscal impact requiring mitigation.
- k. Pursuant to Section 57116 (d), the election to confirm the question of incorporation shall also present the choice of name for the city, choosing either Menifee Valley or Menifee.
- l. The City shall be incorporated as a general law city.
- m. The City shall be governed by a five member city council elected at large.
- n. The City shall have the City Manager form of government with a five member city council elected at large at the same election as the incorporation question.
- o. The city council shall appoint a city manager, who shall appoint a city clerk and city treasurer.
- p. The question of incorporation, all related boundary changes, and all terms and conditions shall be presented as one question on the ballot and in accordance with Sections 57133 and 57134.
- q. Pursuant to Section 57118, the election shall be held within the entire territory proposed to be reorganized.
- r. Pursuant to Section 57116, the election to confirm the question of incorporation shall also present the question

of whether members of the city council in future elections shall be elected by district or at large.

- s. Determine the proposed reorganization is legally inhabited.
- t. The reasons for the proposed reorganization include the following:
 - Increased local control over planning, public service provision and infrastructure
 - Locally accountable government for the community
 - Preserve the community's identity, environment and heritage
 - Retain local revenues for benefit in the community
 - Provide the community a greater voice and promote increased citizen participation
- u. The regular county assessment roll shall be utilized.
- v. The affected territory will not be taxed for any existing bonded indebtedness of any agency whose boundaries are changed as a result of this reorganization. Any existing bonded indebtedness of the County or any other affected agency whose boundaries are not changed shall remain in effect.

TERMS AND CONDITIONS

- a. The effective date of the incorporation shall be October 1, 2008.
- b. The election and terms of office for members of the City Council shall be subject to Government Code Sections 57377-57379, inclusive.
- c. With the exception of local parks owned by the County, the disposition of public facilities, land and fees shall be subject to negotiation between the County of Riverside and the new City. Local parks owned by the County shall be transferred to the new city upon incorporation. Parks owned by Valley-Wide Recreation & Park District will remain with VWRPD.
- d. The County shall provide an annual revenue augmentation to the City consistent with its action taken on July 31, 2007, as reflected in the Comprehensive Fiscal Analysis.
- e. Pursuant to Government Code Section 57376, the City Council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all County ordinances previously applicable shall remain in full force and effect as City ordinances for a period of 120 days thereafter, or until the City Council has enacted ordinances superseding them, whichever shall occur first. Enforcement of continuing County ordinances in the incorporated area shall be with the City, except insofar as enforcement services are furnished in accordance with Government Code Section 57384.
- f. Pursuant to Section 57384, the County of Riverside shall continue to furnish all services provided to the area prior to incorporation. Such services shall be furnished for the remainder of the fiscal year during which the incorporation becomes effective or until the City Council requests discontinuance of the services, whichever occurs first. The new City shall be obligated to reimburse the County Riverside for the net cost of services provided in accordance with the provisions of Section 57384(b).
- g. In accordance with Section 57385, all roads and highways or portions thereof within the subject territory, which had been accepted into the County road system prior to the adoption of the resolution of application, shall become city streets on the effective date of incorporation.
- h. Notwithstanding subdivision (b) of Section 57385, all roads accepted into the county road system subsequent to the

adoption of the resolution of application and prior to the effective date of incorporation shall become city streets on the effective date of incorporation.

- i. In accordance with Government Code Sections 56886(t), the City shall have the authority to continue the levying and collection of any previously authorized charge, fee, assessment or general or special tax levied within the subject territory by the County or other subject agency, including, but not limited to, transient occupancy tax, franchise fees, business license fees, property transfer tax, sales and use tax, and any taxes, assessments, fees or charges by County Service Areas 33, 43, 84, 86, 138, 145 and 146.
- j. In accordance with Section 56886(u), the authority and responsibility for special assessment districts associated with the Menifee Valley Landscape Maintenance District and CSAs 33, 43, 80, 84, 86, 138, 145 and 146 shall be transferred to the new city upon incorporation.
- k. The County of Riverside shall defend, indemnify, and hold harmless the Riverside County Local Agency Formation Commission ("LAFCO"), its agents, officers, and employees from any claim, action, or proceeding against LAFCO, its agents, officers, and employees to attach, set aside, void, or annul an approval of LAFCO concerning this proposal.
- l. In accordance with Government Code Section 56375 (n), waive automatic detachment from County Service Area 152 based upon the following findings:
 - i. County Service Area (CSA) 152 is a funding mechanism for the implementation of the National Pollutant Discharge Elimination System (NPDES) emanating from the Federal 1972 Clean Water Act, and re-authorized under the Federal 1987 Clean Water Act.
 - ii. Detachment would deprive the area's residents services needed to ensure their health, safety or welfare.
 - iii. Waiving detachment will not affect the ability of the City to provide any service.
- m. At the earliest possible time after the effective date, the City shall take necessary actions to participate in regional agencies, plans and programs, specifically including Western Riverside Council of Governments, Riverside County Transportation Commission, Multi-Species Habitat Conservation Plan and the Transportation Uniform Mitigation Fee Program.

**STATEMENT OF DETERMINATIONS FOR
SPHERE OF INFLUENCE AMENDMENT
TO THE CITY OF PERRIS(removal)**

1. THE PRESENT AND PLANNED LAND USES IN THE AREA, INCLUDING AGRICULTURAL AND OPEN SPACE USES:

This single approximately 35 acre area on the southeast corner of Matthews Road and Trumble Road contains several mixed uses, with the large arprimarily as a cement processing plant.

2. THE PRESENT AND PROBABLE NEED FOR PUBLIC FACILITIES AND SERVICES IN THE AREA:

Regardless of the ultimate use of this parcel, the demand for public services within this 35 acre area will be insignificant.

3. THE PRESENT CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES WHICH THE AGENCY PROVIDES OR IS AUTHORIZED TO PROVIDE:

Regardless of the ultimate use of this parcel, the demand for public services for these 35 acres will not be significant. The exclusion of this area from the incorporation will create an unincorporated pocket of territory which would be more expensive and difficult for delivery of services.

4. THE EXISTENCE OF ANY SOCIAL OR ECONOMIC COMMUNITIES OF INTEREST IN THE AREA:

The subject site is at the northern boundary of the proposed Menifee Valley Incorporation. It should logically be included in the proposed incorporation boundaries.