VENTURA LOCAL AGENCY FORMATION COMMISSION

AGENDA

Wednesday September 16, 2015

9:00 A.M.
Hall of Administration, Board of Supervisors Hearing Room
800 S. Victoria Avenue, Ventura CA

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Agenda Review
   Consider and approve, by majority vote, minor revisions to Commission items and/or attachments and any item added to, or removed/continued from, the LAFCo agenda and changes to the order of business to accommodate a special circumstance.

5. Commission Presentations and Announcements

6. Public Comments
   This is an opportunity for members of the public to speak on items not on the agenda.

   The Ventura Local Agency Formation Commission encourages all interested parties to speak on any issue on this agenda in which they have an interest, or on any matter subject to LAFCo jurisdiction. It is the desire of LAFCo that its business be conducted in an orderly and efficient manner. All speakers are requested to fill out a Speaker Card and submit it to the Clerk before the item is taken up for consideration. All speakers are requested to present their information to LAFCo as succinctly as possible. Members of the public making presentations, including oral and visual presentations, may not exceed five minutes unless otherwise increased or decreased by the Chair, with the concurrence of the Commission, based on the complexity of the item and/or the number of persons wishing to speak. Speakers are encouraged to refrain from restating previous testimony.

COMMISSIONERS AND STAFF

COUNTY:	CITY:	DISTRICT:	PUBLIC:
Linda Parks	Carl Morehouse, Vice Chair	Bruce Dandy	Lou Cunningham, Chair
John Zaragoza	Janice Parvin	Elaine Freeman	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Carmen Ramirez	Mary Anne Rooney	David J. Ross
Executive Officer	**Analyst**	**Office Manager/Clerk**	**Legal Counsel**
Kai Luoma, AICP	Andrea Ozdy	Richelle Beltran	Michael Walker

CONSENT ITEMS

7. Minutes of the Ventura LAFCo July 15, 2015 Meeting
8. Budget to Actual Reports: June and July 2015
9. Professional Services Agreement for Audit Services – Vavrinek, Trine, Day & Co., LLP
   Adopt a Resolution approving a professional services agreement for audit services for fiscal year ended June 30, 2015 with Vavrinek, Trine, Day & Co., LLP for an amount not to exceed $8,487 and authorizing the Chair to execute the agreement.
   RECOMMENDED ACTION: Approval of Items 7 and 9 and Receive and File Item 8

PUBLIC HEARING ITEMS

10. LAFCo 15-11(S1-S2) and 15-11 City of San Buenaventura Sphere of Influence Amendments and Reorganization – Olivas Park Drive Extension
    An amendment to the sphere of influence of the City of San Buenaventura to include a 6.65-acre site; an amendment to the sphere of influence of the Montalvo Community Services District to remove the 6.65-acre site; annexation of the 6.65-acre site to the City of San Buenaventura and the Ventura Port District; and detachment of the 6.65-acre site from the Ventura County Resource Conservation District, Ventura County Fire Protection District, Ventura County Service Area (CSA) No. 32, and CSA No. 33.
    RECOMMENDED ACTION: Approval

11. LAFCo 15-08S City of Santa Paula Sphere of Influence Review/Update
    Review the sphere of influence for the City of Santa Paula and determine that no update is necessary (Option 1); adopt a Resolution making determinations and updating the sphere of influence for the City of Santa Paula to remove most of the Adams Canyon Expansion Area from the sphere of influence for the City of Santa Paula (Option 2); or adopt a Resolution making determinations and updating the sphere of influence for the City of Santa Paula to remove most of the Adams Canyon and all of the Fagan Canyon Expansion Areas from the sphere of influence of the City of Santa Paula (Option 3).
    Continued from May 20, 2015, Item 10
    RECOMMENDED ACTION: Approval of Option 1, Option 2, or Option 3

CLOSED SESSION

12. Pursuant to Government Code Section 54957, the Ventura Local Agency Formation Commission will meet in closed session to consider the following item:

    Public Employee Performance Evaluation – Title: LAFCo Executive Officer

ACTION ITEM

13. Compensation of the Executive Officer
    Consideration of granting a merit increase for the LAFCo Executive Officer.
    MATERIALS WILL BE AVAILABLE AT THE MEETING

EXECUTIVE OFFICER'S REPORT

CALAFCO Conference update.
The next LAFCo meeting will be held on October 21, 2015.

INFORMATIONAL ITEMS

Application Received:
LAFCo 15-15 – Waterworks District No. 1 Annexation – Toll Brothers
LAFCo 15-16 – OASA - City of Ventura - Los Angeles Avenue

COMMISSIONERS' COMMENTS

ADJOURNMENT

WEB ACCESS:

LAFCo Agendas, Staff Reports and Adopted Minutes can be found at: www.ventura.lafco.ca.gov

Written Materials **-** Written materials relating to items on this Agenda that are distributed to the Ventura Local Agency Formation Commission (LAFCo) within 72 hours before they are scheduled to be considered will be made available for public inspection at the LAFCo office, 800 S. Victoria Avenue, Administration Building, 4th Floor, Ventura, CA 93009-1850, during normal business hours. Such written materials will also be made available on the Ventura LAFCo website at www.ventura.lafco.ca.gov, subject to staff's ability to post the documents before the meeting.

Public Presentations **-** Except for applicants, public presentations may not exceed five (5) minutes unless otherwise increased or decreased by the Chair, with the concurrence of the Commission. Any comments in excess of this limit should be submitted in writing at least 10 days in advance of the meeting date to allow for distribution to, and full consideration by the Commission. Members of the public who wish to make audio-visual presentations must provide and set up their own hardware and software. Set up of equipment must be complete before the meeting is called to order. All audio-visual presentations must comply with the applicable time limit for oral presentations and thus should be planned with flexibility to adjust to any changes to the time limit established by the Chair. For more information about these policies, please contact the LAFCo office.

Quorum and Voting **–** The bylaws for the Ventura LAFCo Commissioner's Handbook provide as follows:
1.1.6.1 Quorum: Four (4) members shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.
1.1.6.2 Voting: Unless otherwise provided by law or these By-Laws, four affirmative votes are required to approve any proposal or other action. A tie vote, or any failure to act by at least four affirmative votes, shall constitute a denial.

Americans with Disabilities Act **-** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the LAFCo office (805) 654-2576. Notification 48 hours prior to the meeting will enable LAFCo to make reasonable arrangements to ensure accessibility to this meeting.

Disclosure of Campaign Contributions **-** LAFCo Commissioners are disqualified and are not able to participate in any proceeding involving an "entitlement for use" if, within the 12 months preceding the LAFCo decision, the Commissioner received more than $250 in campaign contributions from the applicant, an agent of the applicant, or any financially interested person who actively supports or opposes the LAFCo decision on the matter. Applicants or agents of applicants who have made campaign contributions totaling more than $250 to any LAFCo Commissioner in the past 12 months are required to disclose that fact for the official record of the proceeding.

Disclosures must include the amount of the contribution and the recipient Commissioner and may be made either in writing to the Clerk of the Commission prior to the hearing or by an oral declaration at the time of the hearing.
The foregoing requirements are set forth in the Political Reform Act of 1974, specifically Government Code section 84308.

VENTURA LOCAL AGENCY FORMATION COMMISSION

MEETING MINUTES

Wednesday July 15, 2015

Agenda Item 7

Hall of Administration, Board of Supervisors Hearing Room
800 S. Victoria Avenue, Ventura CA

OPENING

1. Call to Order

   Chair Cunningham called the meeting to order at 9:03 A.M.

2. Pledge of Allegiance

   Commissioner Dandy led the Pledge of Allegiance.

3. Roll Call

   The following Commissioners were present:
   Commissioner Dandy
   Commissioner Freeman
   Commissioner Parks
   Commissioner Parvin
   Commissioner Zaragoza
   Chair Cunningham
   Alt. Commissioner Ramirez
   Alt. Commissioner Rooney

   Alternate Commissioner Ramirez sat as a voting member due to the absence of city member Morehouse.

4. Agenda Review

   Chair Cunningham requested that Item 11, appointment of the alternate public member, be heard before Item 5.

Motion: Approve
Moved by Elaine Freeman; seconded by Linda Parks

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

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OPENING, CONTINUED

5. Commission Presentations and Announcements
   Commissioner Ramirez commented that she attended the CALAFCO University course, LAFCO and Litigation: Looking Forward from Lessons Learned, and encouraged Commissioners to attend future courses.

6. Public Comments
   There were no public comments.

CONSENT ITEMS

7. Minutes of the Ventura LAFCo May 20, 2015 Meeting
8. Budget to Actual Report: May 2015

Motion: Approve Item 7 and Receive and File Item 8
Moved by Janice Parvin; seconded by Elaine Freeman

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

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PUBLIC HEARING ITEMS

9. Gold Coast Transit District Municipal Service Review Report and LAFCo 15-09S Sphere of Influence Determination

   A. Regarding the Municipal Service Review for the Gold Coast Transit District (GCTD), it is recommended that the Commission take the following recommended actions:
      1. Accept the Municipal Service Review report prepared for the GCTD (with any modifications made by the Commission at the public hearing); authorize the Executive Officer to make any necessary non-substantive changes to the report; and direct staff to prepare and distribute a final GCTD Municipal Service Review report to all affected local agencies; and
      2. Adopt a Resolution making findings that acceptance of the GCTD Municipal Service Review report is exempt from the California Environmental Quality Act (CEQA) pursuant to § 15061(b)(3) of the CEQA Guidelines, and approving statements of determinations as required under Government Code § 56430.

   B. Regarding the determination of the sphere of influence for the GCTD, it is recommended that the Commission take one of the following recommended actions:
      1. Adopt a Resolution making findings that the determination of the GCTD sphere of influence is exempt from CEQA pursuant to § 15061(b)(3) of the CEQA Guidelines, determining the sphere of influence (to encompass all of Ventura County, Option 1) subject to Government Code § 56426.5(b), and making written statements of its determinations pursuant to Government Code § 56425(e); or
      2. Adopt a Resolution making findings that the determination of the GCTD sphere of influence is exempt from CEQA pursuant to § 15061(b)(3) of the CEQA Guidelines, determining the sphere of influence (to encompass the GCTD's current service area only, Option 2) subject to Government Code § 56426.5(b), and making written statements of its determinations pursuant to Government Code § 56425(e).

   Chair Cunningham opened the public hearing. Andrea Ozdy presented the staff report; the following persons gave public comment: Steve Kueny, Eric Levitt, Scott Mitnick, Steve Rosenberg, and Vic Kamhi; Chair Cunningham closed the public hearing.

Motion: Approve 9(A) and 9(B)(1)
Moved by Linda Parks; seconded by John Zaragoza

Vote: Motion carried 4-3
Yes: Bruce Dandy, Linda Parks, Carmen Ramirez, and John Zaragoza
No: Elaine Freeman, Janice Parvin, and Lou Cunningham

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PUBLIC HEARING ITEMS, CONTINUED

10. LAFCo 15-12S Hidden Valley Municipal Water District Sphere of Influence Review/Update
    A. Determine that the sphere of influence update for the Hidden Valley Municipal Water District (HVMWD) is exempt from the California Environmental Quality Act (CEQA) pursuant to § 15061(b)(3) of the CEQA Guidelines;
    B. Review and update the sphere of influence for the HVMWD pursuant to Government Code § 56425(g);
    C. Determine that no municipal service review is necessary for the HVMWD pursuant to Government Code § 56430(a); and
    D. Adopt a Resolution making determinations and updating the sphere of influence for the HVMWD.

    Chair Cunningham opened the public hearing. Andrea Ozdy presented the staff report; with no public speakers, Chair Cunningham closed the public hearing.

Motion: Approve
Moved by Bruce Dandy; seconded by Elaine Freeman

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

ACTION ITEMS

11. Appointment of the Alternate Public Member
    Approval of the Ad Hoc Alternate Public Member Selection Committee's recommendation to appoint David J. Ross to fill the LAFCo alternate public member vacancy for the unexpired term ending January 1, 2017.

Motion: Approve
Moved by Bruce Dandy; seconded by Janice Parvin

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

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ACTION ITEMS, CONTINUED

12. Commissioner's Handbook Section 1.1.3.3 – Public Member and Alternate
    Adoption of a Resolution amending Section 1.1.3.3 – Public Member and Alternate of the Commissioner's Handbook.
    CONTINUED FROM MAY 20, 2015
    REQUIRES SIX AFFIRMATIVE VOTES (4/5THS VOTE)

    Kai Luoma presented the staff report.

Motion: Approve as modified: with the replacement of the words "in terms of" with the word "including" in the following sentence to read: In selecting the public member and alternate public member, the Commission shall encourage diversity in the makeup of the Commission including geography, gender, and culture
Moved by John Zaragoza; seconded by Carmen Ramirez

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

13. 2015 – 2016 CALAFCO Board of Directors Nominations
    Authorization for the Chair to submit nominations for the 2015 – 2016 CALAFCO Board of Directors for the city member and public member seats as approved by the Commission.

    Kai Luoma presented the staff report.

Motion: Nominate David J. Ross for the public member position
Moved by Linda Parks; seconded by Carmen Ramirez

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

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ACTION ITEMS, CONTINUED

14. 2015 – 2016 CALAFCO Board of Directors Election – Voting Delegates
    Approval of the Commission's designation of a voting delegate and an alternate for the 2015 – 2016 CALAFCO Board of Directors election.

    Kai Luoma presented the staff report.

Motion: Nominate Lou Cunningham as the voting delegate
Moved by Janice Parvin; seconded by John Zaragoza

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

Motion: Nominate Carmen Ramirez as the alternate voting delegate
Moved by John Zaragoza; seconded by Linda Parks

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

15. 2015 CALAFCO Achievement Award Nominations
    Determine whether the Commission wishes to submit nominations for the 2015 CALAFCO Achievement Awards.

    Kai Luoma presented the staff report.

Motion: Nominate LAFCo 13-16 Lake Sherwood Community Services District – Reorganization (Divestiture and Formation) for project of the year
Moved by Janice Parvin; seconded by Linda Parks

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

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ACTION ITEMS, CONTINUED

16. 2015 – 2016 CALAFCO Strategic Plan
    Receive and file the 2015 – 2016 CALAFCO Strategic Plan adopted by the CALAFCO Board of Directors on May 8, 2015.

    Kai Luoma presented the staff report.

Motion: Receive and File
Moved by Bruce Dandy; seconded by Lou Cunningham

Vote: Motion carried 7-0
Yes: Bruce Dandy, Elaine Freeman, Linda Parks, Janice Parvin, Carmen Ramirez, John Zaragoza, and Lou Cunningham

EXECUTIVE OFFICER'S REPORT
The next LAFCo meeting will be September 16, 2015. The Agricultural Mitigation workshop will be held on September 10, 2015. The following presentations will be made: Henry Gonzales, Ventura County Agricultural Commissioner, will present regarding the conversion of agricultural land in the County over the last few years; John Lowrie, Assistant Director of the Department of Conservation, will present on the department's programs and grants for agricultural mitigation conservation programs such as easements and other mitigation options; EJ Remson of The Nature Conservancy (TNC) will give an update on TNC's efforts for conservation in the County; Michael Walker will present regarding LAFCo's legal obligations under CEQA; and Kai Luoma will provide an overview of LAFCo's mandate to preserve agriculture in Ventura County. Invitations will be sent out this week.

COMMISSIONERS' COMMENTS
Commissioner Freeman updated the Commission on Senate Bill No. 88.

DRAFT

ADJOURNMENT
Chair Cunningham adjourned the meeting at 11:03 A.M.

These Minutes were approved on September 16, 2015.

Motion: _____

Second: _____

Yes: _____

No: _____

Abstain: _____

_____ _____
Date Lou Cunningham, Chair, Ventura Local Agency Formation Commission

DRAFT

VENTURA LOCAL AGENCY FORMATION COMMISSION

STAFF REPORT

Meeting Date: September 16, 2015

(Consent)

Agenda Item 8

TO: LAFCo Commissioners

FROM: Kai Luoma, Executive Officer

SUBJECT: Budget to Actual Reports – June and July 2015

RECOMMENDATION:

Receive and file the Budget to Actual Reports for June of the 2014-2015 Fiscal Year (FY) and July of the 2015-2016 FY.

DISCUSSION:

Pursuant to the Commissioner's Handbook policies, the Executive Officer is to provide monthly budget reports to the Commission as soon as they are available. The attached reports have been prepared with the assistance of the County Auditor-Controller staff. No adjustments to the budget are being recommended at this time.

Attachments:

1. Budget to Actual Report, June 2015
2. Budget to Actual Report, July 2015

COMMISSIONERS AND STAFF

COUNTY:	CITY:	DISTRICT:	PUBLIC:
Linda Parks	Carl Morehouse, Vice Chair	Bruce Dandy	Lou Cunningham, Chair
John Zaragoza	Janice Parvin	Elaine Freeman	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Carmen Ramirez	Mary Anne Rooney	David J. Ross
Executive Officer:	**Analyst**	**Office Manager/Clerk**	**Legal Counsel**
Kai Luoma, AICP	Andrea Ozdy	Richelle Beltran	Michael Walker

VENTURA LOCAL AGENCY FORMATION COMMISSION

LAFCo
September 16, 2015
Item 8, Attachment 1

UNADJUSTED BUDGET TO ACTUAL FY 2014-15
YEAR TO DATE ENDING JUNE 30, 2015
Fund 7920, Organization 8950

Summary	Budget	Adj.Budget	To Date
Estimated Sources	641,949	641,949	664,314
Appropriations	641,949	641,949	583,986

		BUDGET			ACTUAL YTD				
Account Number	Title	Budget	Proposed Adjustments	Adjusted Budget	Actual	Encumbered	Total Revenue/ Obligation	Variance Favorable (Unfavorable)	
FUND BALANCE									
	Beginning Balance	446,877		446,877	446,876.69		446,876.69	0.00	
5331	Committed	100,000		100,000	100,000.00		100,000.00	0.00	
5395	Unassigned	256,877		256,877	256,876.69		256,876.69	0.00	
5395	Unassigned - Appropriated	90,000		90,000	90,000.00		90,000.00	0.00	
REVENUE									
8911	Interest Earnings	2,700		2,700	2,153.88		2,153.88	(546.12)	80%
9372	Other Governmental Agencies	519,249		519,249	519,249.00		519,249.00	0.00	100%
9772	Other Revenue - Miscellaneous	30,000		30,000	52,910.78		52,910.78	22,910.78	176%
	Total Revenue	**551,949**	**0**	**551,949**	**574,313.66**		**574,313.66**	**22,364.66**	104%
	TOTAL SOURCES	641,949	0	641,949	664,313.66		664,313.66	22,364.66	103%
EXPENDITURES									
1101	Regular Salaries	310,000		310,000	311,015.72		311,015.72	(1,015.72)	100%
1105	Overtime	0		0	0.00		0.00	0.00	0%
1106	Supplemental Payments	11,500		11,500	11,841.78		11,841.78	(341.78)	103%
1107	Term/Buydown	24,500		24,500	13,801.51		13,801.51	10,698.49	56%
1121	Retirement Contribution	63,000		63,000	64,207.42		64,207.42	(1,207.42)	102%
1122	OASDI Contribution	18,500		18,500	19,413.62		19,413.62	(913.62)	105%
1123	FICA - Medicare	4,700		4,700	4,814.66		4,814.66	(114.66)	102%
1124	Safe Harbor	0		0	0.00		0.00	0.00	0%
1126	POB Debt Service	0		0	0.00		0.00	0.00	0%
1128	Retirement Health Contribution	5,300		5,300	7,236.00		7,236.00	(1,936.00)	137%
1141	Group Insurance	23,000		23,000	23,116.42		23,116.42	(116.42)	101%
1142	Life Ins/Dept. Heads & Mgmt.	150		150	137.03		137.03	12.97	91%
1143	State Unempl	400		400	376.51		376.51	23.49	94%
1144	Management Disability Ins.	750		750	1,804.58		1,804.58	(1,054.58)	241%
1165	Worker Compensation Ins	2,900		2,900	2,577.44		2,577.44	322.56	89%
1171	401K Plan	11,500		11,500	5,819.68		5,819.68	5,680.32	51%
	Salaries and Benefits	**476,200**	**0**	**476,200**	**466,162.37**	**0.00**	**466,162.37**	**10,037.63**	**98%**
2033	Voice/Data ISF	2,500		2,500	2,288.00		2,288.00	212.00	92%
2071	General Insurance Alloca - ISF	2,000		2,000	958.00		958.00	1,042.00	48%
2125	Facil/Matls Sq. Ft. Alloc. - ISF	15,000		15,000	14,532.00		14,532.00	468.00	97%
2128	Other Maint	500		500	0.00		0.00	500.00	0%
2141	Memberships & Dues	7,100		7,100	6,709.00		6,709.00	391.00	94%
2154	Education Allowance	1,000		1,000	0.00		0.00	1,000.00	0%
2158	Indirect Cost Recovery	12,200		12,200	12,134.00		12,134.00	66.00	99%
2172	Books & Publications	300		300	331.26		331.26	(31.26)	110%
2174	Mail Center - ISF	2,500		2,500	1,917.26		1,917.26	582.74	77%
2176	Purchasing Charges - ISF	100		100	75.99		75.99	24.01	76%
2177	Graphics Charges - ISF	500		500	417.97		417.97	82.03	84%
2178	Copy Machine Charges - ISF	750		750	19.74		19.74	730.26	3%
2179	Miscellaneous Office Expense	4,000		4,000	5,888.39		5,888.39	(1,888.39)	147%
2181	Stores ISF	50		50	59.02		59.02	(9.02)	118%
2191	Board Members Fees	4,500		4,500	2,205.53		2,205.53	2,294.47	49%
2192	Information Technology - ISF	2,500		2,500	2,904.33		2,904.33	(404.33)	116%
2195	Specialized Services/Software	1,500		1,500	0.00		0.00	1,500.00	0%
2197	Public Works - Charges	3,000		3,000	1,520.59		1,520.59	1,479.41	51%
2199	Other Prof & Spec Service	10,000		10,000	8,000.00		8,000.00	2,000.00	80%
2203	Accounting and Auditing Services	4,500		4,500	3,200.00		3,200.00	1,300.00	71%
2205	GSA Special Services ISF	100		100	39.95		39.95	60.05	40%
2214	County GIS Expenses	21,500	(1,000)	20,500	13,577.41		13,577.41	6,922.59	66%
2261	Public & Legal Notices	5,000	1,000	6,000	5,215.42		5,215.42	784.58	87%
2283	Records Storage Charges	350		350	388.13		388.13	(38.13)	111%
2293	Computer Equipment <5000	3,100		3,100	3,079.88		3,079.88	20.12	99%
2304	County Legal Counsel	22,500		22,500	16,855.75		16,855.75	5,644.25	75%
2521	Transportation Charges ISF	0		0	0.00		0.00	0.00	0%
2522	Private Vehicle Mileage	7,000		7,000	5,408.62		5,408.62	1,591.38	77%
2523	Conf. & Seminars Expense	12,000		12,000	9,520.73		9,520.73	2,479.27	79%
2526	Conf. & Seminars Expense ISF	500		500	40.00		40.00	460.00	8%
2528	County Motor Pool	500		500	536.58		536.58	(36.58)	107%
	Services and Supplies	**147,050**	**0**	**147,050**	**117,823.55**	**0.00**	**117,823.55**	**29,226.45**	**80%**
6101	Contingency	18,699		18,699	0.00		0.00	18,699.00	0%
	TOTAL EXPENDITURES	**641,949**	**0**	**641,949**	**583,985.92**	**0.00**	**583,985.92**	**57,963.08**	**91%**
							0.00		

VENTURA LOCAL AGENCY FORMATION COMMISSION

BUDGET TO ACTUAL FY 2015-16
YEAR TO DATE ENDING JULY 31, 2015 (8.33% of year)
Fund O720, Division/Unit 6170

Summary	Budget	Adj.Budget	To Date
Estimated Sources	678,977	678,977	89,031
Appropriations	678,977	678,977	30,631

		BUDGET			ACTUAL YTD				
Account Number	Title	Budget	Proposed Adjustments	Adjusted Budget	Actual	Encumbered	Total Revenue/ Obligation	Variance Favorable (Unfavorable)	
FUND BALANCE									
	Beginning Balance	437,204		437,204	437,204.43		437,204.43	0.00	
5700	Committed	100,000		100,000	100,000.00		100,000.00	0.00	
5995	Unassigned	262,204		262,204	262,204.43		262,204.43	0.00	
5995	Unassigned - Appropriated	75,000		75,000	75,000.00		75,000.00	0.00	
REVENUE									
8911	Investment Income	2,500		2,500	(283.95)		(283.95)	(2,783.95)	-11%
9371	Other Governmental Agencies	576,477		576,477	13,743.00		13,743.00	(562,734.00)	2%
9790	Miscellaneous Revenue	25,000		25,000	571.98		571.98	(24,428.02)	2%
	Total Revenue	**603,977**	**0**	**603,977**	**14,031.03**		**14,031.03**	**(589,945.97)**	2%
	TOTAL SOURCES	678,977	0	678,977	89,031.03		89,031.03	(589,945.97)	13%
EXPENDITURES									
1101	Regular Salaries	320,000		320,000	14,650.56		14,650.56	305,349.44	5%
1106	Supplemental Payments	13,000		13,000	591.62		591.62	12,408.38	5%
1107	Terminations (Buydowns)	15,000		15,000	0.00		0.00	15,000.00	0%
1121	Retirement Contribution	66,500		66,500	2,901.72		2,901.72	63,598.28	4%
1122	OASDI Contribution	20,500		20,500	941.27		941.27	19,558.73	5%
1123	FICA Medicare	5,500		5,500	220.14		220.14	5,279.86	4%
1128	Retiree Health Payment 1099	14,500		14,500	1,447.20		1,447.20	13,052.80	10%
1141	Group Insurance	23,500		23,500	1,149.38		1,149.38	22,350.62	5%
1142	Life Insurance for Department Heads and Management	150		150	6.69		6.69	143.31	4%
1143	State Umeployment Insurance	400		400	17.75		17.75	382.25	4%
1144	Management Disability Insurance	2,500		2,500	108.57		108.57	2,391.43	4%
1165	Worker Compensation Insurance	2,900		2,900	112.26		112.26	2,787.74	4%
1171	401K Plan	12,500		12,500	236.73		236.73	12,263.27	2%
	Salaries and Benefits	**496,950**	**0**	**496,950**	**22,383.89**	**0.00**	**22,383.89**	**474,566.11**	**5%**
2032	Voice Data ISF	2,500		2,500	0.00		0.00	2,500.00	0%
2071	General Insurance Allocation ISF	2,000		2,000	0.00		0.00	2,000.00	0%
2114	Facillities and Materials Sq. Ft. Allocation ISF	15,000		15,000	0.00		0.00	15,000.00	0%
2116	Other Maintenance ISF	1,000		1,000	0.00		0.00	1,000.00	0%
2131	Memberships and Dues	7,100		7,100	6,160.00		6,160.00	940.00	87%
2158	Cost Allocation Plan Charges	15,800		15,800	0.00		0.00	15,800.00	0%
2163	Books and Publications	500		500	0.00		0.00	500.00	0%
2164	Mail Center ISF	2,500		2,500	0.00		0.00	2,500.00	0%
2165	Purchasing Charges ISF	100		100	0.00		0.00	100.00	0%
2166	Graphics Charges ISF	500		500	0.00		0.00	500.00	0%
2167	Copy Machine Charges ISF	500		500	0.00		0.00	500.00	0%
2168	Stores ISF	50		50	0.00		0.00	50.00	0%
2179	Miscellaneous Office Expenses	5,500		5,500	974.42		974.42	4,525.58	18%
2181	Board and Commission Member Compensation 1099	5,000		5,000	350.00		350.00	4,650.00	7%
2185	Attorney Services (County Counsel)	22,500		22,500	0.00		0.00	22,500.00	0%
2199	Other Professional and Specialized Non ISF	15,000		15,000	(3,200.00)		(3,200.00)	18,200.00	-21%
2202	Information Tech ISF	2,500		2,500	0.00		0.00	2,500.00	0%
2203	County Geographical Information Systems Expense ISF	21,500		21,500	0.00		0.00	21,500.00	0%
2205	Public Works ISF Charges	3,000		3,000	0.00		0.00	3,000.00	0%
2206	Special Services ISF	100		100	0.00		0.00	100.00	0%
2221	Publications and Legal Notices	5,000		5,000	651.11		651.11	4,348.89	13%
2244	Storage Charges ISF	500		500	0.00		0.00	500.00	0%
2261	Computer Equipment < $5,000	3,100		3,100	332.14		332.14	2,767.86	11%
2262	Furniture and Fixtures < $5,000	2,000		2,000	0.00		0.00	2,000.00	0%
2272	Conferences / Seminars ISF (Training ISF)	500		500	0.00		0.00	500.00	0%
2273	Education Training Conferences and Seminars	2,000		2,000	0.00		0.00	2,000.00	0%
2291	Private Vehicle Mileage	7,000		7,000	634.80		634.80	6,365.20	9%
2292	Travel Expenses (Conferences / Seminars)	19,000		19,000	2,344.80		2,344.80	16,655.20	12%
2303	Motorpool ISF	500		500	0.00		0.00	500.00	0%
	Services and Supplies	**162,250**	**0**	**162,250**	**8,247.27**	**0.00**	**8,247.27**	**154,002.73**	**5%**
6101	Contingency	19,777		19,777	0.00		0.00	19,777.00	0%
	TOTAL EXPENDITURES	**678,977**	**0**	**678,977**	**30,631.16**	**0.00**	**30,631.16**	**648,345.84**	**5%**
							0.00		

Note: Amounts with "( )" in the ACTUAL column reflect FY15 accruals in excess of actual expenditures to date

VENTURA LOCAL AGENCY FORMATION COMMISSION

STAFF REPORT

Meeting Date: September 16, 2015
(Consent)

Agenda Item 9

TO: LAFCo Commissioners

FROM: Kai Luoma, Executive Officer

SUBJECT: Professional Services Agreement for Audit Services – Vavrinek, Trine, Day & Co., LLP

RECOMMENDATION:

Adopt the attached resolution approving a professional services agreement for audit services for fiscal year ended June 30, 2015, with Vavrinek, Trine, Day & Co., LLP for an amount not to exceed $8,487 and authorizing the Chair to execute the agreement.

BACKGROUND:

Commissioner's Handbook Policy Section 2.3.6.1 (Attachment 1) provides for annual audits of the LAFCo financial statements by an independent accounting firm. Vavrinek, Trine, Day & Co., LLP (VTD) has completed audits of the financial statements for Fiscal Years 2010 - 2013.

In August 2013, staff issued a request for proposals for an outside audit of the LAFCo financial statements for the fiscal year ended June 30, 2013 with an option for extension for the fiscal years ending June 30, 2014 and June 30, 2015. After reviewing all eligible proposals, staff selected VTD as the firm that provided the most advantageous proposal with regard to qualifications, related experience and cost. VTD completed the 2013 and 2014 audits under this proposal and staff decided to exercise the option to extend the proposal to cover the audit for 2015.

In an engagement letter (Agreement) dated August 26, 2015, VTD proposes to audit the LAFCo 2014-15 financial statements at a cost not to exceed $8,487 (Exhibit A of Attachment 2). Work is scheduled to begin in December and final reports would be issued no later than March 2016. Commissioner's Handbook Section 2.5.4 provides that any contract or agreement greater than $5,000 shall be presented to the Commission for approval and execution (Attachment 1).

COMMISSIONERS AND STAFF

COUNTY:	CITY:	DISTRICT:	PUBLIC:
Linda Parks	Carl Morehouse, Vice Chair	Bruce Dandy	Lou Cunningham, Chair
John Zaragoza	Janice Parvin	Elaine Freeman	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Carmen Ramirez	Mary Anne Rooney	David J. Ross
Executive Officer:	**Analyst**	**Office Manager/Clerk**	**Legal Counsel**
Kai Luoma, AICP	Andrea Ozdy	Richelle Beltran	Michael Walker

DISCUSSION:

The Agreement has been reviewed by the Ventura County Auditor-Controller's staff, which has agreed to prepare the LAFCo financial statements, and by LAFCo legal counsel. In accordance with the Handbook policies, staff is recommending that the Commission adopt the attached resolution (Attachment 2) approving the Agreement and authorizing the Chair to execute it.

Attachments:
1. Commissioner's Handbook Sections 2.3.6.1 – Independent Auditor Role and 2.5.4 - Contract Approval and Execution
2. Resolution to authorize and execute a Professional Services Agreement with Vavrinek, Trine, Day & Co., LLP

SECTION 2.3.6 AUDITS

2.3.6.1 Independent Auditor Role: For the two-year period between July 1, 2007 and June 30, 2009, LAFCo shall arrange for a single audit of its financial statements to be conducted by an independent accounting firm. All subsequent year financial statements shall be audited annually thereafter. LAFCo staff, the Commission, and any Commission committee appointed for the purpose of audit oversight are authorized to communicate directly with the independent accounting firm.

SECTION 2.5.4 CONTRACT APPROVAL AND EXECUTION

LAFCo hereby delegates to the Executive Officer or designee the authority to approve and execute contracts and agreements for $5,000.00 or less, provided sufficient funds are contained in the appropriate line item of the LAFCo budget. In order to expedite work, the Executive Officer is authorized to make minor modifications as may be necessary and to approve increases in contracts in an amount not to exceed $500, provided sufficient funds are contained in the appropriate line item of the LAFCo budget. Any contract or agreement greater than $5,000.00, any amendment to a contract or agreement which would cause the total amount of the contract or agreement to exceed $5,500.00, or any contract or agreement for any amount where there are not sufficient funds contained in the appropriate line item of the LAFCo budget, shall be presented to the Commission for approval and execution.

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION TO AUTHORIZE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT FOR AUDIT SERVICES WITH VAVRINEK, TRINE, DAY & CO., LLP

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Section 56000 et seq. of the California Government Code) requires each Local Agency Formation Commission to adopt an annual budget; and

WHEREAS, the policies of the Ventura Local Agency Formation Commission provide for independent audits of its annual financial statements; and

WHEREAS, the policies of the Ventura Local Agency Formation Commission provide that any contract or agreement authorizing expenditures greater than $5,000 shall be presented to the Commission for approval and execution; and

WHEREAS, an engagement letter containing the terms of a professional services agreement to audit the LAFCo financial statements for fiscal year ended June 30, 2015 between Vavrinek, Trine, Day & Co., LLP and the Ventura Local Agency Formation Commission dated August 26, 2015 was duly considered on September 16, 2015;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Ventura Local Agency Formation Commission as follows:

(1) The engagement letter containing the terms of a professional services agreement for audit services between Vavrinek, Trine, Day & Co., LLP and the Ventura Local Agency Formation Commission ("Agreement") dated August 26, 2015 as set forth in the attached Exhibit A is approved.

(2) The Chair is directed to execute the Agreement.

This resolution was adopted on September 16, 2015.

	AYE	NO	ABSTAIN	ABSENT
Commissioner Cunningham	☐	☐	☐	☐
Commissioner Dandy	☐	☐	☐	☐
Commissioner Freeman	☐	☐	☐	☐
Commissioner Morehouse	☐	☐	☐	☐
Commissioner Parks	☐	☐	☐	☐
Commissioner Parvin	☐	☐	☐	☐
Commissioner Zaragoza	☐	☐	☐	☐
Alt. Commissioner Bennett	☐	☐	☐	☐
Alt. Commissioner Ramirez	☐	☐	☐	☐
Alt. Commissioner Rooney	☐	☐	☐	☐
Alt. Commissioner Ross	☐	☐	☐	☐

Dated: _____ _____

Chair, Ventura Local Agency Formation Commission

Attachments: Exhibit A

Vavrinek, Trine, Day & Co., LLP
Certified Public Accountants

VALUE THE DIFFERENCE

LAFCo
September 16, 2015
Item 9, Exhibit A

August 26, 2015

Ventura Local Agency Formation Commission
800 S. Victoria Avenue
Ventura, CA 93009-1850

We are pleased to confirm our understanding of the services we are to provide Ventura Local Formation Commission (LAFCo) for the fiscal year ended June 30, 2015. We will audit the financial statements of the governmental activities and the general fund, including the related notes to the financial statements, which collectively comprise the basic financial statements of LAFCo as of and for the fiscal year ended June 30, 2015. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement LAFCo's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to LAFCo's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1) Management's Discussion and Analysis
2) General Fund Budgetary Comparison Schedules

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of the accounting records of LAFCo and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of LAFCo's financial statements. Our report will be addressed to Commissioners of Ventura LAFCo. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or may withdraw from this engagement.

10681 Foothill Blvd., Suite 300 Rancho Cucamonga, CA 91730 Tel: 909.466.4410 www.vtdcpa.com Fax: 909.466.4431

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that LAFCo is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of LAFCo's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Management Responsibilities

Management is responsible for establishing and maintaining effective internal controls, including evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse that we report.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites to consider the consistency of other information in the electronic site with the original document.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to LAFCo; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Vavrinek, Trine, Day & Co., LLP (VTD) and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the oversight agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of VTD personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven years after the report release date or for any additional period requested by an oversight agency. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the parties contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit on approximately December 2015 and to issue our reports no later than March 2016. Roger Alfaro is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed $8,487. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comments received during the period of contract. Our most recent peer review accompanies this letter.

Vavrinek, Trine, Day & Co., LLP has owners that are not licensed as certified public accountants as permitted under Section 5079 of the California Business and Professions Code. It is not anticipated that any of the non-licensee owners will be performing audit services for LAFCo.

We appreciate the opportunity to be of service to LAFCo and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Roger Alfaro
Of Vavrinek, Trine, Day & Co., LLP

RA:gbl

150582

Attachment

RESPONSE:

This letter correctly sets forth the understanding of Ventura Local Agency Formation Commission.

By: _____

Title: _____

Date: _____

YANARI WATSON MCGAUGHEY P.C.

DALE M. YANARI (1947-2004) ◆ RANDY S. WATSON ◆ G. LANCE MCGAUGHEY
FINANCIAL CONSULTANTS/CERTIFIED PUBLIC ACCOUNTANTS

System Review Report

May 25, 2012

To the Partners of
Vavrinek, Trine, Day & Co., LLP
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Vavrinek, Trine, Day & Co., LLP (the firm) applicable to non-SEC issuers in effect for the year ended December 31, 2011. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Vavrinek, Trine, Day & Co., LLP applicable to non-SEC issuers in effect for the year ended December 31, 2011, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass, pass with deficiency(ies)* or *fail*. Vavrinek, Trine, Day & Co., LLP has received a peer review rating of pass.

Yanari Watson McGaughey P.C.

Yanari Watson McGaughey P.C.

9250 EAST COSTILLA AVENUE, SUITE 450
GREENWOOD VILLAGE, COLORADO 80112-3647
(303) 792-3020
FAX (303) 792-5153
web site: www.ywmcpa.com

VENTURA LOCAL AGENCY FORMATION COMMISSION

STAFF REPORT

Meeting Date: September 16, 2015

Agenda Item 10

LAFCo Case: City of San Buenaventura Sphere of Influence Amendments (LAFCo 15-11 S1-S2) and Reorganization (LAFCo 15-11) – Olivas Park Drive Extension

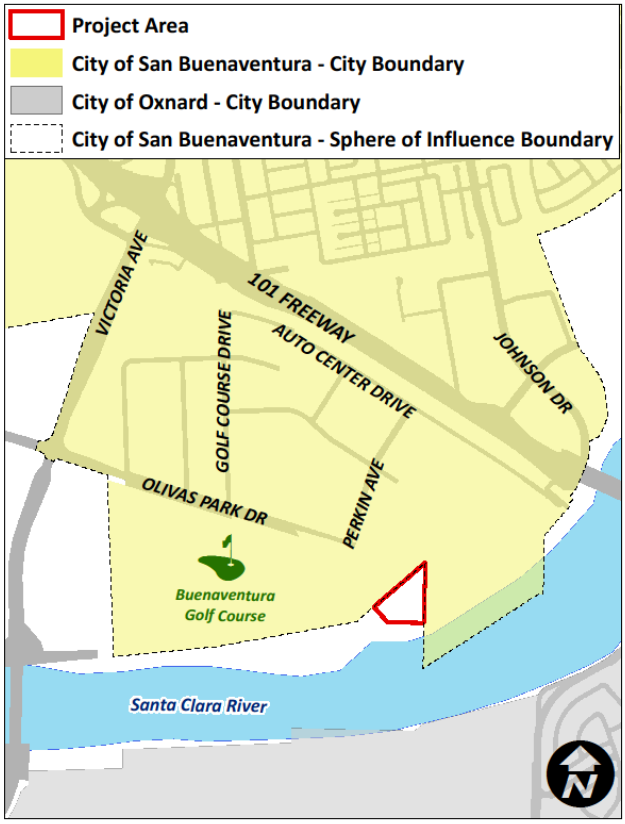
Project: The project involves the following requested actions to allow the annexation of territory to the City of Ventura which would enable the extension of Olivas Park Drive and the construction of a levee and floodwall along the Santa Clara River:

Sphere of Influence Amendments (Attachments 1 and 2):

- Amendment to the sphere of influence of the City of San Buenaventura to include a 6.65-acre site [LAFCo 15-11(S1)].
- Amendment to the sphere of influence of the Montalvo Community Services District (MCSD) to remove the same 6.65-acre site [LAFCo 15-11(S2)].[1]

Reorganization Proposal (Attachment 3):

- Annexation of the same 6.65-acre site to the City of San Buenaventura and the Ventura Port District.
- Detachment of the same 6.65-acre site from the Ventura County Resource Conservation District (VCRCD), Ventura County Fire Protection District (VCFPD), Ventura County Service Area No. 32 (CSA 32), and Ventura County Service Area No. 33 (CSA 33).



[1] Although the City's submitted request is to amend the MCSD sphere for the 6.65-acre site, staff recommends that an approximately 32.95-acre area be removed from the sphere, as discussed later in the staff report.

COMMISSIONERS AND STAFF

COUNTY:	CITY:	DISTRICT:	PUBLIC:
Linda Parks	Carl Morehouse, Vice Chair	Bruce Dandy	Lou Cunningham, Chair
John Zaragoza	Janice Parvin	Elaine Freeman	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Carmen Ramirez	Mary Anne Rooney	David J. Ross
Executive Officer:	**Analyst**	**Office Manager/Clerk**	**Legal Counsel**
Kai Luoma, AICP	Andrea Ozdy	Richelle Beltran	Michael Walker

Size: Sphere of influence amendment: Approximately 6.65 acres (as proposed), and approximately 32.95 acres (as recommended).
Reorganization: Approximately 6.65 acres.

Location: The project area (known as Assessor's Parcel Number 179-0-050-030) is located generally southeast of the intersection of Olivas Park Drive and Perkin Avenue, south of the 101 Freeway, and north of the Santa Clara River. The territory is immediately south of the existing City of San Buenaventura municipal boundary.

Proponent: City of San Buenaventura, by resolution.

Notice: This matter has been noticed as prescribed by law.

Recommendations:

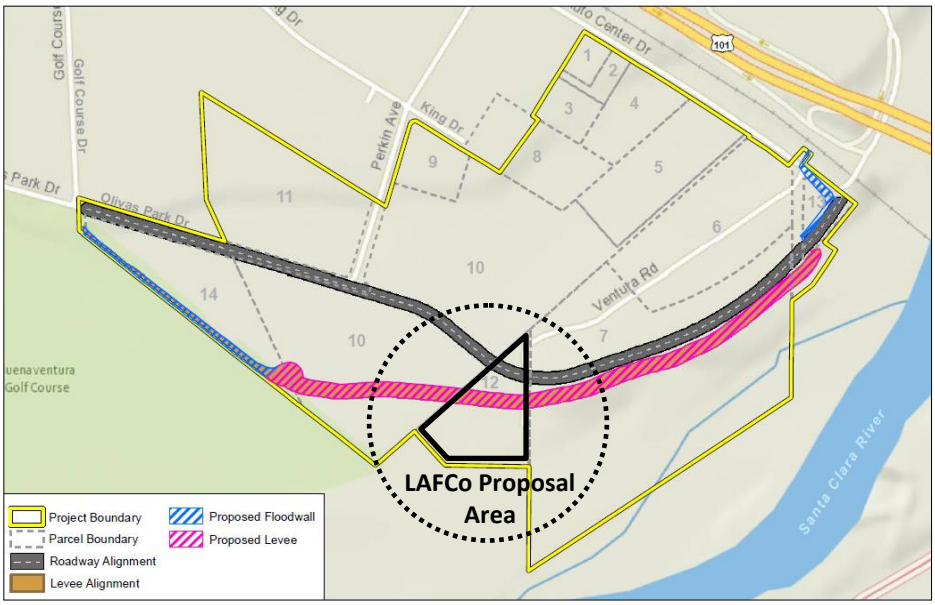
A. Certify that the Commission has reviewed and considered the information contained in the Environmental Impact Report (EIR) titled "Olivas Park Drive Extension Project" prepared for the City of San Buenaventura dated June 2014 and the Addendum to the EIR prepared by the City as the lead agency, and adopt the lead agency's findings, mitigation measures, and statement of overriding considerations (Attachment 4).
B. Adopt resolution LAFCo 15-11 S1 making determinations and approving a sphere of influence amendment for the City of San Buenaventura (Attachment 5).
C. Adopt resolution LAFCo 15-11 S2 making determinations and approving a sphere of influence amendment for the Montalvo Community Services District (Attachment 6).
D. Adopt resolution LAFCo 15-11 making determinations and approving a reorganization for the City of San Buenaventura (Attachment 7).

Project Description:

Background:

In May 2015, the City Council of the City of San Buenaventura took several actions to allow for development of a 139-acre area, of which nearly 133 acres is already within the City. The actions included amendments to the General Plan for the City's Auto Center Specific Plan, and the amendments enable the realignment of Olivas Park Drive. The development of the 139-acre area would include the construction of a 5,700-foot extension of Olivas Park Drive as a four-lane secondary arterial between Golf Course Drive on the west and Auto Center Drive on the east, an approximately 5,400-foot long levee along the north side of the Santa Clara River, and a floodwall. The City would install infrastructure improvements including new water mains, sewer lines, reclaimed water lines, storm drainage facilities, street lights, traffic signal conduits, and electrical and natural gas lines.

An approximately 330-foot segment of the realigned Olivas Park Drive and a portion of the levee are to be located within the 6.65-acre proposal area, which is the only portion of the overall development project that is not currently located in the City (see map to the right). The 6.65-acre site is currently occupied by the MCSD's wastewater treatment facility. The facility is planned to be abandoned and removed at a later date, at which time the City will take over wastewater treatment service from the MCSD.



The City Council certified an EIR and adopted an Addendum to the EIR for the project. These documents were forwarded to your Commission for review on July 31, 2015.

Request:

The City's request involves sphere of influence amendments to include the territory in the City's sphere and remove it from the MCSD's sphere, and annexation of the proposal area to the City and Ventura Port District. Related, the request includes the detachment of the territory from the VCRCD (which provides soil and water conservation services in unincorporated County areas only); the VCFPD (which provides fire protection and paramedic services to all unincorporated areas in the County and to the Cities of Ojai, Port Hueneme, Camarillo, Thousand Oaks, Moorpark, and Simi Valley); CSA 32 (which monitors and regulates septic systems in all areas outside cities and sanitation districts); and CSA 33 (which provides recreation and parks services in all areas outside cities and recreation and parks districts). If the Commission approves the project, the territory will automatically be included in the Ventura Port District sphere of influence.

General Analysis:

Proposed Sphere of Influence Amendments (LAFCo 15-11 S1 and 15-11 S2)

The request includes two sphere of influence amendments:

- LAFCo 15-11 S1: Expansion of the sphere of the City of San Buenaventura (Attachment 1)
- LAFCo 15-11 S2: Reduction of the sphere of the MCSD (Attachment 2)

Although the 6.65-acre project area containing the MCSD treatment facility is not within the boundaries of the MCSD, it is within the MCSD's sphere of influence. An abutting 26.3-acre parcel to the south (Assessor's Parcel Number 179-0-050-050), owned by the MCSD, is also within the MCSD's sphere. The 26.3-acre parcel contains undeveloped open space including the Santa Clara River bottom.

The City's request for an amendment to the MCSD sphere of influence involves a reduction in the sphere to remove the 6.65-acre property. As the nearly 33-acre area including the treatment facility is not within the MCSD's service area and is not contemplated for future service, it is unnecessary for it to be located within the MCSD sphere. Furthermore, the City's project would involve the decommissioning and demolition of the MCSD treatment facility. Therefore, it is recommended that the approximately 33-acre area be removed from the MCSD sphere.

Government Code § 56425(e) requires that, in determining the sphere of influence of an agency, the Commission consider and prepare a written statement of its determinations. Each of the required factors for Commission consideration, along with staff's analysis, are provided as follows:

1. ***The present and planned land uses in the area, including agricultural and open-space lands.*** **[§ 56425(e)(1)]**

   The 6.65-acre property has a County General Plan designation of *Open Space* and a City General Plan designation of *Commerce* and *Parks & Open Space*. It is fully developed and is currently being used by the MCSD as a wastewater treatment facility. To accommodate new commercial and industrial development within the City to the west, north, and east of the proposal area, the City is pursuing a project that would, in part, involve the extension of Olivas Park Drive and the installation of a levee through the 6.65-acre site. These improvements would necessitate the decommissioning and demolition of the MCSD facility. The approximately 26.3-acre parcel to the south of the MCSD wastewater treatment facility consists mostly of the Santa Clara River and riparian area, is undeveloped, and is not planned for future development.

2. ***The present and probable need for public facilities and services in the area.*** **[§ 56425(e)(2)]**

   Development in the area to be included in the City's sphere would be limited to the construction of the road extension and levee, and therefore the need for additional City services related to the site would be limited to the services related to streets (e.g., maintenance, landscaping, storm drainage). Future commercial and industrial development would occur in areas that are currently located within the City's boundaries. Additionally, due to the planned decommissioning of the MCSD wastewater treatment facility, wastewater generated in the MCSD service area that is currently being treated at the facility

would be routed to the City's facility which has the necessary treatment capacity. The approximately 26.3-acre parcel to the south of the MCSD wastewater treatment facility consists mostly of the Santa Clara River and riparian area, is undeveloped, and is not planned for future development.

3. ***The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide*. [§ 56425(e)(3)]**

   The City has demonstrated that it has the ability to provide the necessary public services within the subject territory. The implementation of the project would not result in new demands on the City that would adversely impact the present capacity of public facilities and adequacy of services that the City is authorized to provide. The approximately 26.3-acre parcel to the south of the MCSD wastewater treatment facility consists mostly of the Santa Clara River and riparian area, is undeveloped, and is not planned for future development.

4. ***The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency*. [§ 56425(e)(4)]**

   The recommended amendments to the spheres of influence of the City of San Buenaventura and the MCSD do not involve territory that is known to be a community of interest. Therefore, the sphere of influence amendments would not result in a detrimental impact to any social or economic communities of interest.

5. ***For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection. . . the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.* [§ 56425(e)(5)]**

   The sphere of influence of the City of San Buenaventura includes Saticoy, which is one of the two communities that the Commission determined met the definition of a disadvantaged unincorporated community [Ventura LAFCo Commissioner's Handbook (Handbook) Section 3.2.5]. The Saticoy Sanitary District provides sewer service to the Saticoy community; therefore, the additional wastewater to be treated at the City's facility following the eventual decommissioning of the MCSD facility will not result in any changes to sewer service for Saticoy. Furthermore, the area to be annexed to the City will be used for road and levee purposes, and thus the annexation will not result in changes to available service within any disadvantaged unincorporated communities.

Reorganization Proposal (LAFCo 15-11)

The reorganization contains the following components:

- Annexation of a 6.65-acre site to the City of San Buenaventura and the Ventura Port District.
- Detachment of the same 6.65-acre site from the VCRCD, VCFPD, CSA 32, and CSA 33.

Government Code § 56668 identifies several factors that the Commission must consider as part of its review of a reorganization proposal. These factors are discussed below.

1. Land Use and Population [Government Code §§ 56668(a), 56668(g), and 56668(n)]

Land Area, Land Use, and Consistency with Plans

The approximately 6.65-acre subject property is currently owned and occupied by the MCSD, which operates a wastewater treatment facility on the site. The existing County General Plan and zoning designation, as well as the existing and proposed designations within the City, are as follows:

Existing County General Plan Designation	County Zoning Designation	Previous City General Plan Designation	New City General Plan Designation	New City Zoning Designation
Open Space	*OS-80 ac/MRP (Open Space, 80 acre minimum parcel size/Mineral Resource Protection Overlay Zone)*	*N/A*	*Commerce* and *Parks & Open Space*	*CPD (Commercial Planned Development)* and *P (Parks)*

The proposed development is consistent with the City's General Plan designations. The proposal area has an existing zoning designation of *Open Space – 80 acre minimum parcel size/Mineral Resource Protection Overlay Zone* in the County and is pre-zoned *Commercial Planned Development* and *Parks* in the City.

The surrounding properties consist of the specified uses, and are designated and zoned as follows[2]:

[2] Note that the surrounding General Plan and zoning designations reflect action taken by the City Council related to the 139-acre City project. The City Council acted to change the surrounding General Plan designation from *Agriculture* to *Commerce*, and surrounding zoning from residential and various industrial zoning designations to *Commercial Planned Development*, *Manufacturing Planned Development*, and *Parks.*

	Current Use	Jurisdiction	General Plan Designation	Zoning Designation
North	Agriculture and Retail Commercial	City	*Commerce*	*CPD (Commercial Planned Development)*
South	Santa Clara River	County	*Open Space*	*OS-80 ac/MRP (Open Space, 80 acre minimum parcel size/Mineral Resource Protection Overlay Zone)*
East	Santa Clara River	City	*Commerce* and *Parks & Open Space*	*CPD (Commercial Planned Development)* and *P (Parks)*
West	Buenaventura Golf Course	City	*Commerce* and *Parks & Open Space*	*CPD (Commercial Planned Development)* and *P (Parks)*

The proposal area is adjacent to the Ventura Auto Center and other commercial development to the north, the Santa Clara River to the south and east, and the Buenaventura Golf Course to the west. Surrounding General Plan and zoning designations will not be altered.

The City establishes the allowable land uses for territory within its jurisdiction. According to the City's General Plan, the proposal area is not within the Hillside Voter Participation Area or on land designated as *Agricultural*. Therefore, voter approval by City residents is not required for the proposal area to be annexed to the City. Based on application materials submitted, it appears that the proposed development is consistent with the City's General Plan.

Likelihood of Growth in the Area

Annexation of the proposal area would allow for the construction of a segment of the 5,700-foot extension of Olivas Park Drive. The Olivas Park Drive extension would facilitate the development of commercial land already located within the City.

Topography, Natural Features and Drainage

The subject property is developed with a wastewater treatment facility, and according to the application materials submitted and a review of the site, is generally level. Surrounding properties are also relatively flat and void of natural features, except to the south where the land slopes toward the Santa Clara River and supports riparian vegetation.

Population

According to the County Registrar of Voters, there are no registered voters in the proposal area. As such, the annexation proposal area is considered to be uninhabited, pursuant to Government Code § 56046.

Regional Transportation Plan

The 2012 "Nine Ventura County Cities" Municipal Service Review (MSR) accepted by the Commission documents that the City's population as of January 1, 2012 was 107,798. The *Growth Forecast* appendix of the *2012-2035 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS)* (adopted by the Southern California Association of Governments in 2012) estimates that the City's population will reach 116,900 by 2020 and 128,800 by 2035. The subject property is proposed for use as a road and levee, and its annexation to the City will not result in any changes to the City's population. LAFCo staff did not identify any conflicts of the proposal with the *RTP/SCS*.

2. Services and Controls – Need, Cost, Adequacy and Availability [Government Code §§ 56668(b), 56668(j), and 56668(k)]

According to the 2012 MSR and the application materials submitted to LAFCo, the City of Ventura provides the following services within its jurisdiction: community development, emergency medical services, fire, floodplain management, general government, golf courses, libraries, parking facilities, parks, police, sewer collection and treatment, streets and highways, street lighting, street trees and landscaping, and water. Increased demand for or impacts to these services would result from the proposed annexation to the City, as follows:

Pursuant to the *Agreement Between the City of San Buenaventura and the Montalvo Community Services District for the Closure of the MCSD Wastewater Treatment Plan and the Extension of Olivas Park Drive* (dated January 26, 2015), upon the future decommissioning and demolition of the MCSD wastewater treatment facility to accommodate the road extension and levee, the City will assume the collection and treatment of an estimated 260,000 gallons per day (gpd) of wastewater generated within the MCSD. As the City currently treats 8.8 million gpd and has the capacity to treat 12 million gpd, it will be able to accommodate the addition of 260,000 gpd.

Financing of lighting, landscaping, and irrigation water to the project area would be provided by the City. An assessment district may be established in the future for costs associated with ongoing maintenance of services and infrastructure to the project site.

The proposal area is within the boundaries of the Oxnard Union High School District and Oxnard Elementary School District. However, the development is not residential in nature, and will not result in an increased demand on school facilities.

3. **Effect of Proposed Action and Alternative Actions [Government Code § 56668(c)]**

Staff has not identified any effects of the proposal on adjacent areas, mutual social and economic interests, or the local government structure of the County.

4. **Conformity with Adopted Commission Policies [Government Code § 56668(d)]**

The proposal is consistent with all the Commission policies for changes of organization that are contained in the Handbook.

5. **Impact on Prime Agricultural Land and Agriculture and Open Space [Government Code §§ 56668(d), 56668(e), and 56377]**

Prime Agricultural Land and Agriculture

In evaluating impacts to agricultural resources, LAFCo must apply the definition of prime agricultural land found in LAFCo law (Government Code § 56064), which includes standards relating to the value of agricultural products and the soils classification determined by the Natural Resources Conservation Service (NRCS). The proposal area is not irrigated, does not support livestock or crops, and is not rated by the NRCS as prime agricultural land. Therefore, the proposal area does not meet the definition of prime agricultural land provided in LAFCo law.

Open Space

In evaluating impacts to open space land, LAFCo must utilize the definition of open space found in LAFCo law (Government Code § 56059). The proposal area is entirely developed with the MCSD wastewater treatment facility and is not "essentially unimproved and devoted to an open-space use" pursuant to Government Code § 56059(b). Therefore, it does not meet the definition of open space provided in LAFCo law.

6. **Boundaries and Lines of Assessment [Government Code § 56668(f)]**

Map Review by County Surveyor

County Surveyor review and certification of the map and legal description are required in order to record the Certificate of Completion (pursuant to Government Code § 57201) and to file the statement of boundary change with the State Board of Equalization (pursuant to Government Code § 57204). As such, the draft resolution for the reorganization (Attachment 7) includes a condition that predicates recordation of a Certificate of Completion upon the approval of a map and legal description by the County Surveyor.

Legal Lot and Lines of Assessment

Handbook Sections 3.1.4.2 and 3.1.4.3 provide that the boundaries of a proposal shall follow lines of assessment or ownership, and that a proposal shall involve only legal lots. The proposal boundaries follow lines of assessment and ownership, and staff has no information to indicate that the lot was not legally created.

7. Applicable Spheres of Influence [Government Code § 56668(h)]

The proposal area is not located within the sphere of influence of the City, and is located within the sphere of the MCSD. In order to accomplish the proposed reorganization, a sphere amendment is required (and has been requested by the City) to include the subject property within the City's sphere of influence. Additionally, the City has requested an amendment to remove the property from the MCSD sphere.

The proposal area is also within the spheres of influence of the Fox Canyon Groundwater Management Agency, Gold Coast Transit District, United Water Conservation District, VCFPD, VCRCD, Ventura County Service Area Nos. 14, 32, and 33, Ventura County Watershed Protection District, and Ventura Regional Sanitation District. The spheres of influence of these agencies would not be affected by the proposal.

8. Regional Housing Needs [Government Code § 56668(l)]

The proposal does not involve the creation of any parcels for residential use. Additionally, pursuant to the application materials submitted, the City's General Plan Housing Element does not identify the proposal area as being necessary in order for the City to meet its regional housing needs obligation.

9. Environmental Justice [Government Code § 56668(o)]

Approval of the proposal would not result in the unfair treatment of any person based on race, culture or income with respect to the provision of municipal services to the proposal area. Staff did not identify any issues regarding environmental justice.

10. Comments and Additional Information [Government Code §§ 56668(i) and 56668(m)]

As of the date of this report, no information or comments have been submitted by any affected local agency or other public agency, landowners, voters, or residents of the affected territory.

California Environmental Quality Act (CEQA):

The project was approved by the City Council on May 11, 2015, at which time an EIR was certified. The EIR focused on the following topics: aesthetics, agricultural resources, air quality, biological resources, greenhouse gases, hazards/hazardous materials, hydrology and water quality, land use and planning, transportation and traffic, and utilities and services systems. The City Council's resolution contains determinations that the project would result in significant impacts that could not be mitigated to less-than-significant levels pertaining to aesthetics and agricultural resources (limited to portions of the City's project that would occur outside the territory subject to LAFCo authority). Additionally, it contains determinations that several environmental impacts could be mitigated to less-than-significant levels. The City Council adopted an Addendum to the EIR, in order to expand the list of LAFCo actions required to accomplish the project. These resolutions are provided as Attachment 4.

The recommended actions include a modification to the City's request (i.e., the removal of additional area from the MCSD sphere of influence). The recommended modification to the requested sphere of influence amendment would involve a net reduction to the existing and requested sphere boundary, and would not result in a change in regulation, land use, or development. Staff believes that such a modification does not have the possibility to create a significant impact on the environment because "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment" [CEQA Guidelines § 15061(b)(3)]. Therefore, staff recommends that the Commission, as part of its actions for the proposal, adopt the findings provided in the City's EIR and Addendum to the EIR.

Commission Proceedings – Process Considerations:

Pursuant to Government Code § 56662(a), the Commission may make determinations on the reorganization proposal without notice and a hearing and can waive protest proceedings entirely if the following criteria are met:

(1) The territory is uninhabited.
(2) An affected local agency has not submitted a written demand for notice and hearing during the 10-day period following the issuance of the notice of Receipt of Application.
(3) The proposal is accompanied by proof, satisfactory to the Commission, that all the owners of land within the affected territory have given their written consent to the proposal.

According to the County Registrar of Voters, there are no registered voters who reside within the proposal area. As such, the proposal area is considered to be uninhabited (Government Code § 56046). No affected agency has submitted a written demand for notice and hearing. The property owner of the proposal area (the MCSD) has entered into an agreement with the City for the City's eventual assumption of wastewater collection and treatment services currently provided by the MCSD, and has provided written consent in support of the

reorganization. While the project involves components that do require a notice and hearing (i.e., the requested sphere of influence amendments), staff recommends that the Commission waive protest proceedings entirely. The draft resolution approving the reorganization contains the appropriate language to waive protest proceedings (see Attachment 7).

Alternative Actions Available:

A. If the Commission, following public testimony and review of the materials submitted, determines that further information is necessary, an action to continue the hearing should include the specific information desired and specify a date certain for further consideration.

B. If the Commission, following public testimony and review of the materials submitted, determines that the reorganization proposal and/or the sphere of influence amendments should be approved subject to any changes or additions to the terms and conditions recommended, an action to approve should clearly specify any changes or additions to the terms and conditions of approval.

C. If the Commission, following public testimony and review of materials submitted, wishes to deny or modify the reorganization proposal and/or the sphere of influence amendments, the action should include direction that the matter be continued to the next meeting and that staff prepare a new report consistent with the evidence submitted and the anticipated decision.

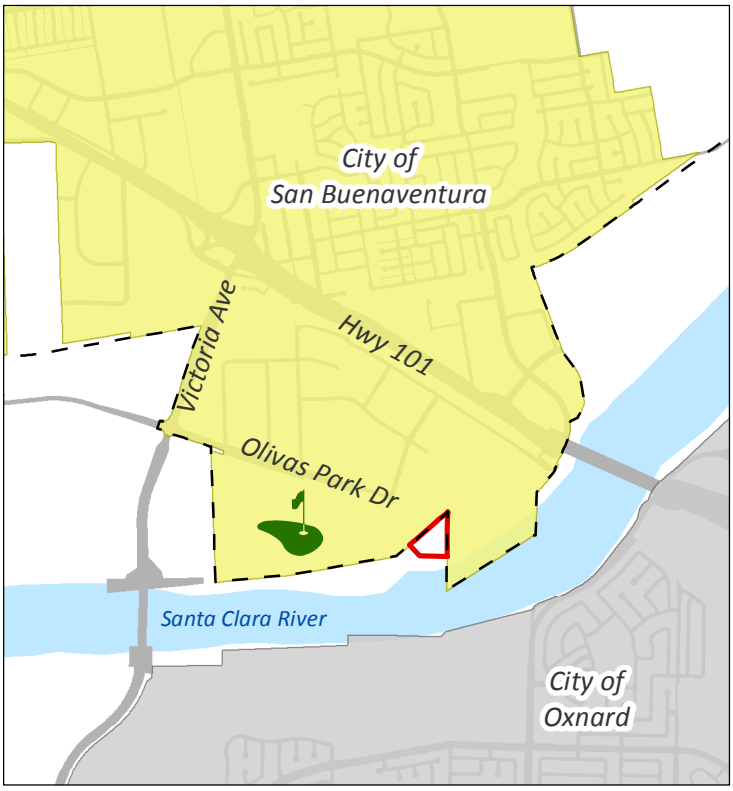
BY: Andrea Ozdy

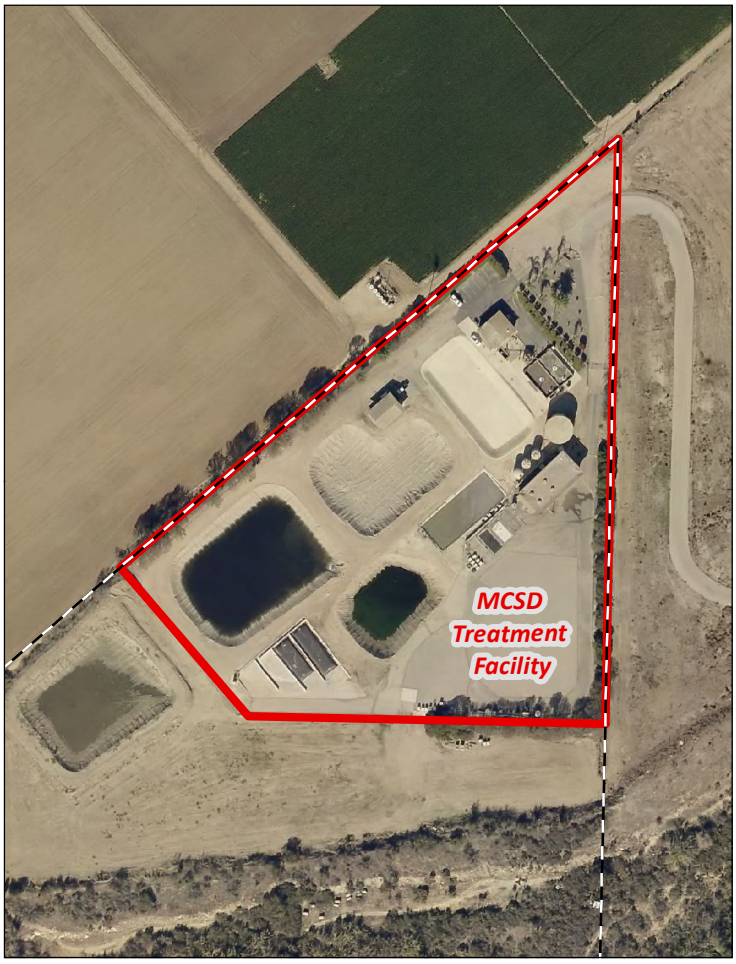
Andrea Ozdy
Analyst

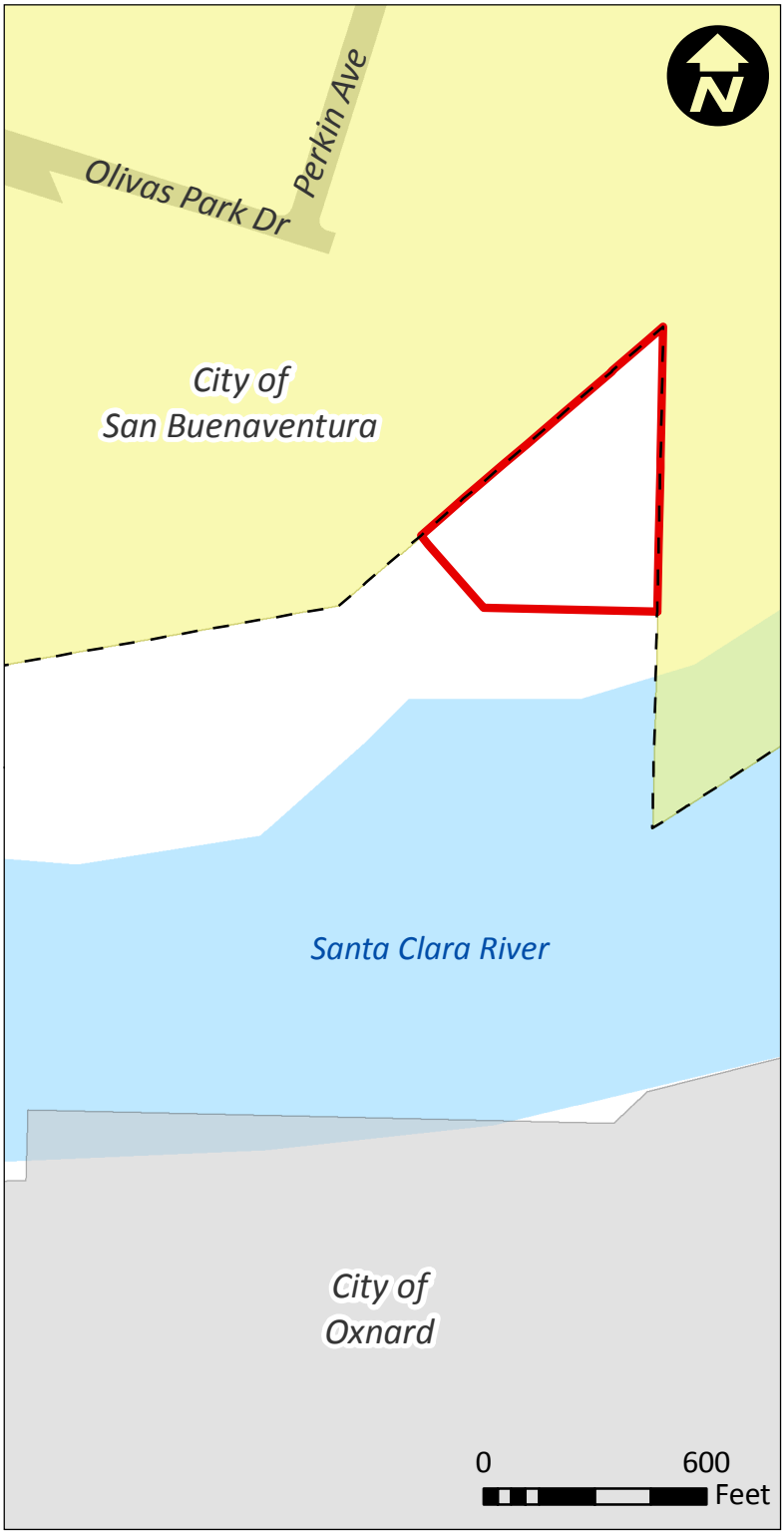
Attachments:

1. Sphere of Influence Amendment (City) Location Map/Aerial Photo
2. Sphere of Influence Amendment (MCSD) Location Map/Aerial Photo
3. Reorganization Proposal Location Map/Aerial Photo
4. City's CEQA Findings, Mitigation Measures, and Statement of Overriding Considerations
5. LAFCo 15-11 S1 Resolution
6. LAFCo 15-11 S2 Resolution
7. LAFCo 15-11 Resolution

LAFCo makes every effort to offer legible map files with the online and printed versions of our reports; however, occasionally the need to reduce oversize original maps and/or other technological/software factors can compromise readability. Original maps are available for viewing at the LAFCo office by request.



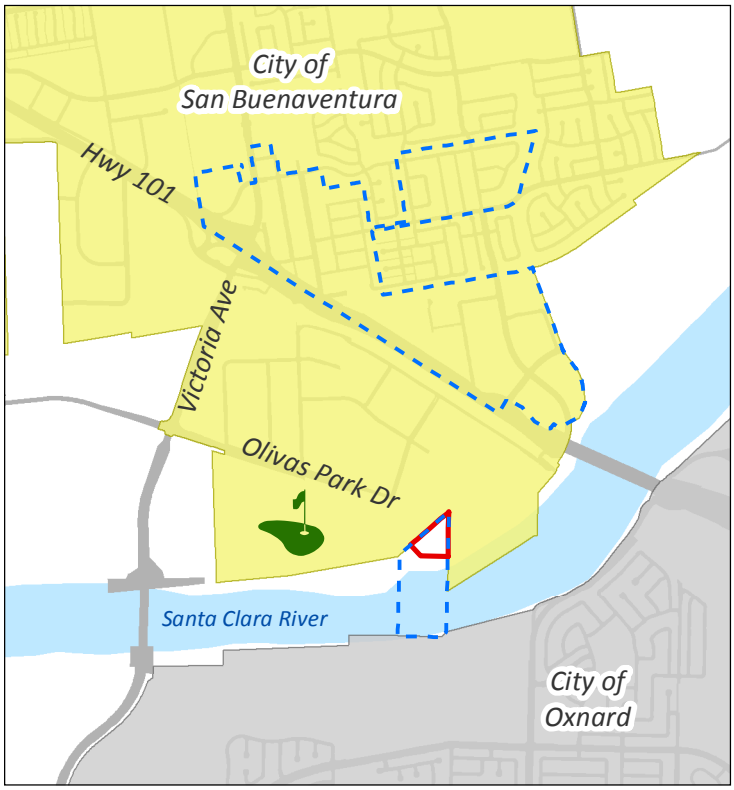


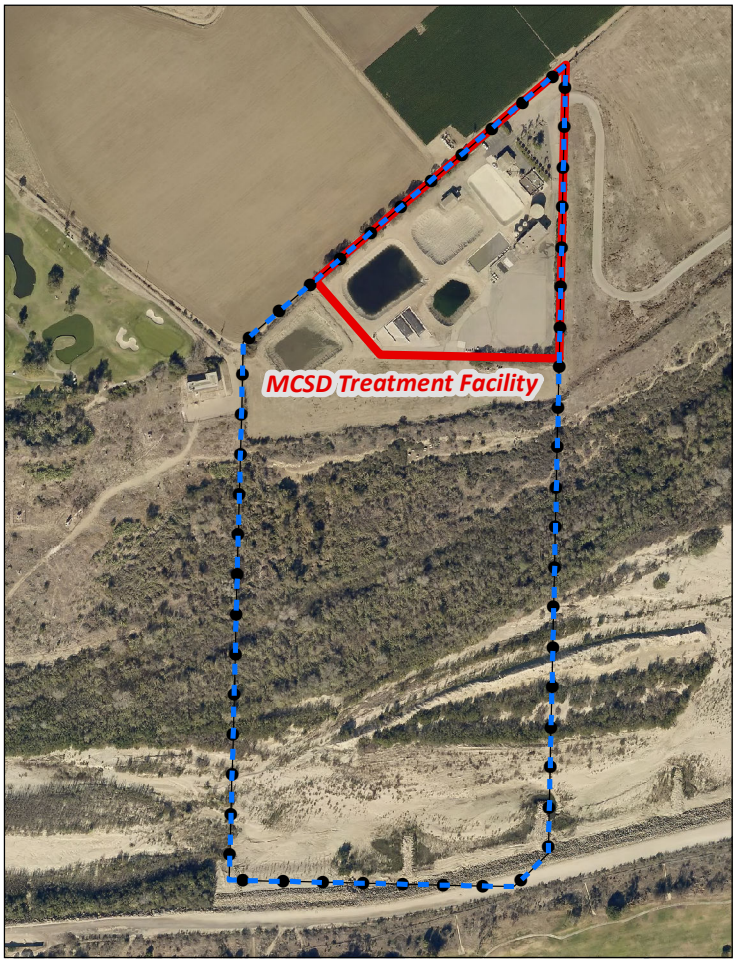


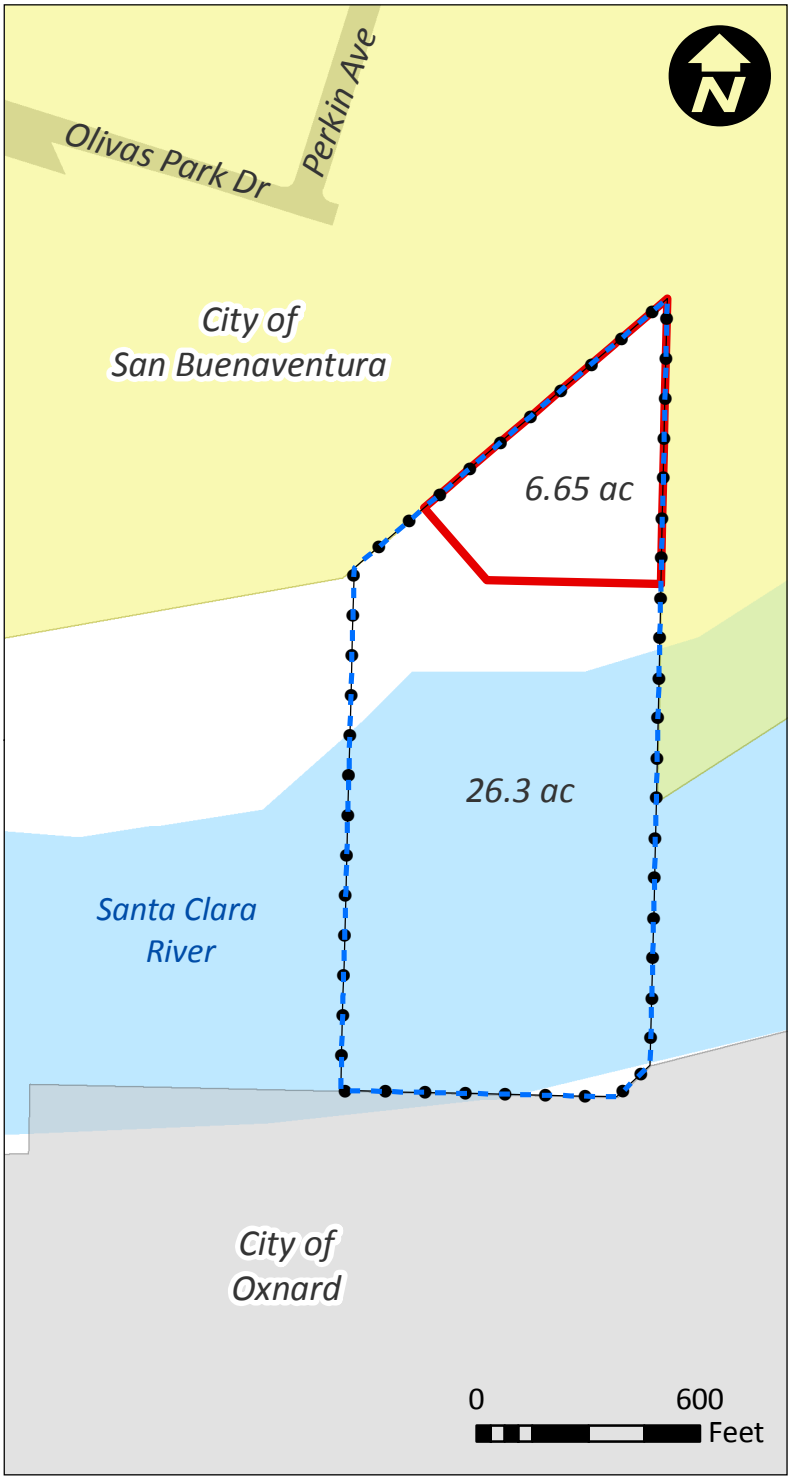
LAFCo 15-11 S1 - Area Proposed to be Included in City Sphere
City of San Buenaventura - Sphere of Influence Boundary
City of San Buenaventura - City Boundary
City of Oxnard - City Boundary

LAFCo 15-11 S1
City of San Buenaventura
Sphere of Influence Amendment (City)
Olivas Park Drive Extension
September 16, 2015

Attachment 1



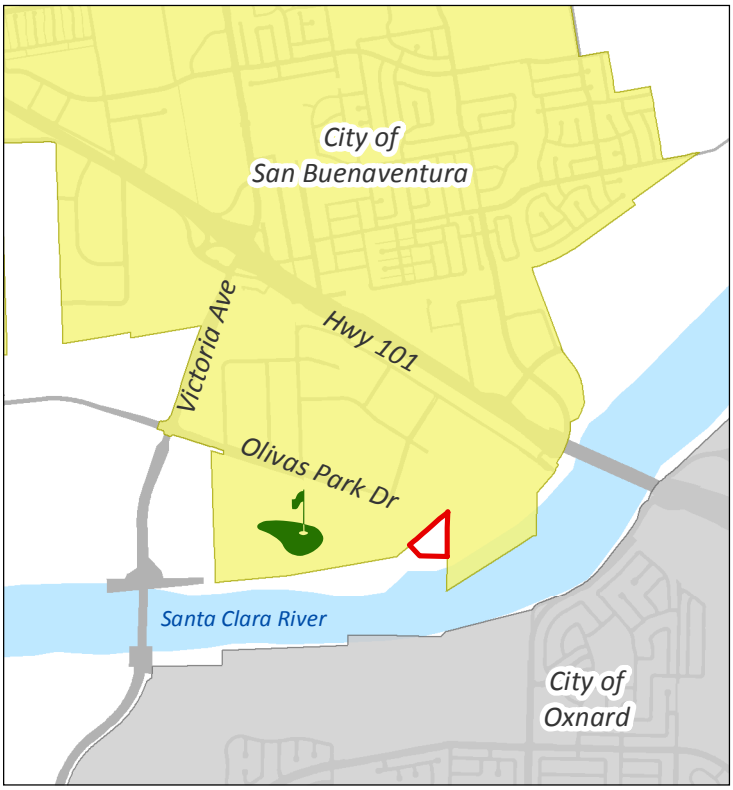


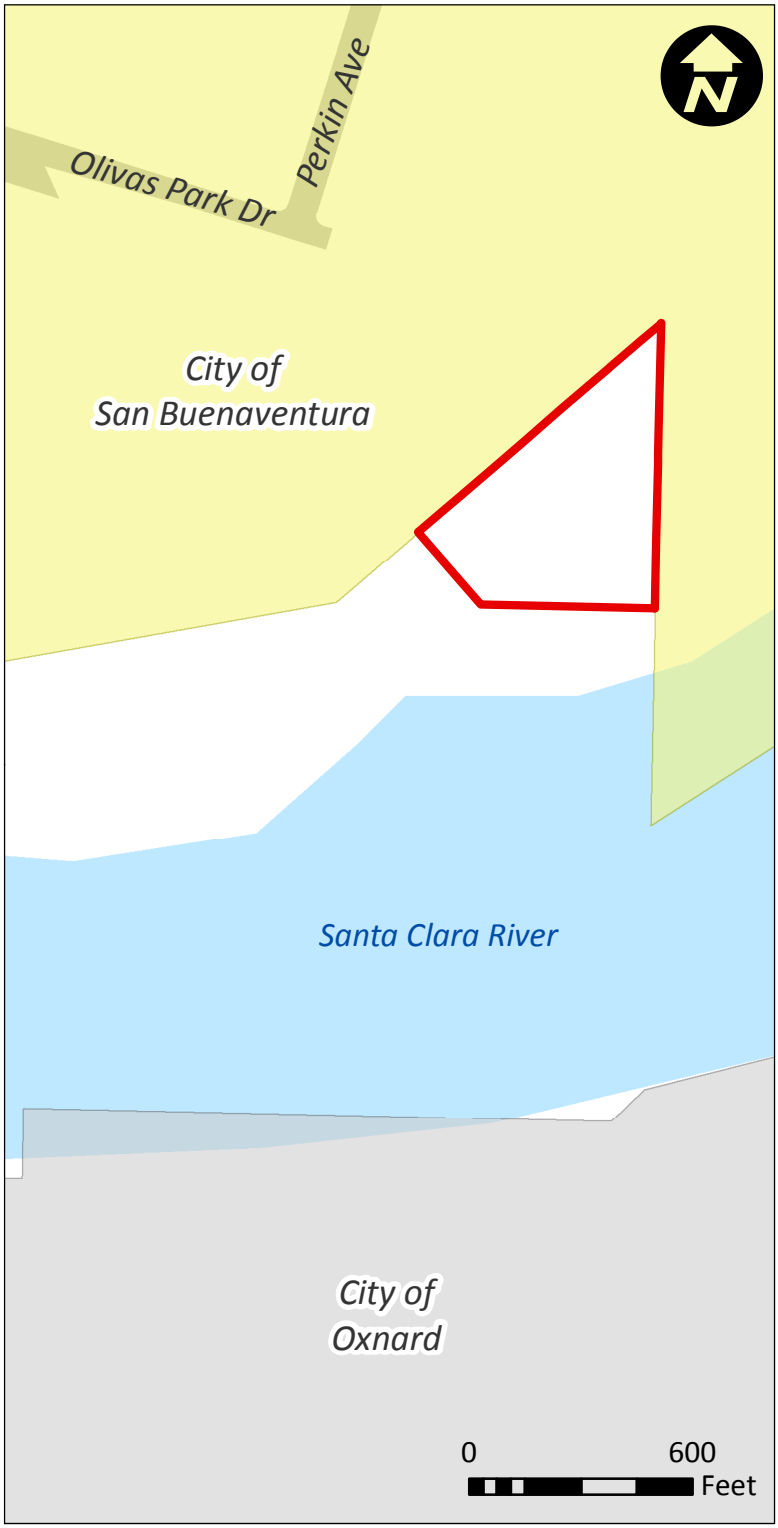


- MCSD - Sphere of Influence Boundary
- Area Proposed to be Removed from MCSD Sphere
- Area Recommended to be Removed from MCSD Sphere
- City of San Buenaventura - City Boundary
- City of Oxnard - City Boundary

LAFCo 15-11 S2
City of San Buenaventura
Sphere of Influence Amendment - Montalvo Community Services District (MCSD)
Olivas Park Drive Extension
September 16, 2015

Attachment 2





Proposal Area

City of San Buenaventura - City Boundary

City of Oxnard - City Boundary

LAFCo 15-11
City of San Buenaventura
Reorganization
Olivas Park Drive Extension
September 16, 2015

Attachment 3

RESOLUTION NO. 2014-041

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT AND ALL RELATED ACTIONS, ADOPTING FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION AND MONITORING AND REPORTING PLAN FOR THE OLIVAS PARK DRIVE EXTENSION PROJECT

PROJECT 1805
CASE NO. EIR-11-10-4397

WHEREAS, on December 12, 2010, the City of San Buenaventura, pursuant to the California Environmental Quality Act ("CEQA"), issued a Notice of Preparation ("NOP") of an Environmental Impact Report ("EIR") for the proposed Olivas Park Drive Extension project ("Project") that was distributed to the State Clearinghouse, responsible agencies, and interested parties for a 30-day review period; and

WHEREAS, the City held an EIR scoping meeting on January 18, 2011 to solicit comments from the public on the proposed project; and

WHEREAS, the City distributed a revised NOP on December 21, 2012 to address several changes to the originally contemplated project; and

WHEREAS, the City received five letter responses to the NOP; and

WHEREAS, a Notice of Availability for the Draft Environmental Impact Report ("DEIR") was filed on August 8, 2013 giving public notice of the availability of the DEIR for review and comment; and

WHEREAS, copies of the DEIR were circulated for public review and comment from August 8, 2013 to September 23, 2013; and

WHEREAS, the proposed Final EIR (EIR-11-10-4397/SCH#1995081004) comprises (i) the DEIR, (ii) list of persons, organizations and public agencies commenting of the DEIR, (iii) comments received from the public and interested agencies, (iv) the proposed Response to Comments, (v) revisions to the text of the DEIR as necessary to reflect changes to the text of the DEIR, (vi) other minor changes to the text of the DEIR, and (vii) all attachments and documents incorporated by reference into the Final EIR; and

WHEREAS, a Mitigation Monitoring and Reporting Program ("MMRP") has been prepared to meet the requirements of CEQA Section 21081.6 (Exhibit "A"); and

WHEREAS, Findings and a Statement of Overriding Considerations have been prepared to meet the requirements of CEQA Section 21081 and CEQA Guidelines Sections 15091 and 15093 respectively (Exhibit "B").

BE IT RESOLVED by the City Council of the City of San Buenaventura as follows:

SECTION 1: The City Council has reviewed and considered the Final EIR, together with any comments received during the public review process.

SECTION 2: The City Council finds that the Final EIR represents the independent judgment and analysis of the City as Lead Agency.

SECTION 3: The City Council certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.), as amended, and the Guidelines for Implementation of the California Environmental Quality Act ("CEQA Guidelines") (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.).

SECTION 4: The City Council adopts the MMRP drafted to meet the requirements of CEQA Section 21081.6 (Exhibit "A").

SECTION 5: The City Council adopts the Findings and Statement of Overriding Considerations prepared to meet the requirements of CEQA Section 21081 and CEQA Guidelines Sections 15091 and 15093 (Exhibit "B").

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SECTION 6: The location and custodian of the FEIR and other documents constituting the record of proceedings is the City of San Buenaventura Planning Department, 501 Poli St., Room 117, Ventura, California 93001.

PASSED AND APPROVED this 21 day of July, 2014.

ATTEST:

Cynthia M. Rodriguez, MMC
City Clerk

APPROVED AS TO FORM
Juli C. Scott
Interim City Attorney

Keith Bauerle
Assistant City Attorney

Exhibit "A" - Mitigation Monitoring and Reporting Program
Exhibit "B" - Findings and Statements of Overriding Considerations

MITIGATION MONITORING AND REPORTING PROGRAM

CEQA requires adoption of mitigation monitoring and reporting program (MMRP) for the measures necessary to mitigate or avoid significant effects on the environment (Public Resources Code 21081.6). The mitigation monitoring and reporting program is designed to ensure compliance with adopted mitigation measures during project implementation. For each mitigation measure recommended in the Olivas Park Drive Extension Environmental Impact Report (EIR), specifications are made herein that identify the action required and the monitoring that must occur. In addition, a responsible agency is identified for verifying compliance with measures contained in the MMRP.

To implement this MMRP, the City of Ventura will designate a Project Mitigation Monitoring and Reporting Coordinator ("Coordinator"). The coordinator will be responsible for ensuring that the mitigation measures incorporated into the project are complied with during project implementation. The coordinator will also distribute copies of the MMRP to those responsible agencies identified in the MMRP as having partial or full responsibility for implementing certain measures. Failure of a responsible agency to implement a mitigation measure will not in any way prevent the lead agency from implementing the proposed project.

The following table will be used as the coordinator's checklist to determine compliance with required mitigation measures.

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
AGRICULTURAL RESOURCES								
AG-1 Agricultural Conservation Easement. Mitigation shall be provided for the loss of state-designated Prime Farmland and Farmland of Statewide Importance in existence at the time property in the project area containing such state-designated Farmland is developed. Applicants seeking to develop such state-designated Farmland shall cause to be set aside in perpetuity agricultural lands of equivalent acreage (a 1:1 ratio) and with soil and farming conditions equivalent or superior to the state-designated Farmland that the applicant seeks to convert to other uses. The applicant shall either purchase one or more permanent, irreversible agricultural easements for the benefit of the City or other qualifying entity acceptable to the City, or contribute funds to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural easements, to be earmarked for the purchase of permanent, irreversible agricultural easements. The protected acreage equal to the total acreage of, and of equivalent soil and farming conditions to, the state-designated Farmland to be converted shall be set aside prior to the commencement of any development activity.	Verification that an agricultural easement has been purchased or that funds to a qualifying organization or agency have been made.	Prior to issuance of building permits for future private development projects	VCD	Property owners/ project applicants	Easements purchased or funds paid			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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AIR QUALITY								
AQ-2 Energy and Transportation Related Emission Reduction. Future project site developers shall prepare project-specific air quality studies to determine if their proposed development would generate emissions exceeding the 25 lbs/day VCAPCD significance threshold. Project-specific air quality emissions reports may be completed as stand-alone studies or may be incorporated into required CEQA analysis of individual projects. Applicants of development projects determined to exceed the 25 lbs/days threshold shall implement one or more of the following in order to reduce emissions of ROG and NOx to 25 lbs/day or less. • **Energy Efficiency.** The commercial and industrial structures proposed for development within the project area shall be designed to increase energy efficiency 20 percent beyond Title 24 requirements to partially offset the operational emissions associated with daily operation of the proposed project following buildout. Proposed energy conservation measures shall be specified in individual building plans and shall be subject to review and approval by the Inspection Services Division.	Verification that project-specific studies are completed and appropriate project-specific mitigation is required.	Prior to issuance of building permits for future private development projects	VCD	Property owners/ project applicants	Project-specific studies completed and appropriate measures implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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• **Transportation Demand Management Plan.** The applicant shall prepare and implement an on-site Transportation Demand Management (TDM) Plan. In the course of completing the environmental evaluation, the TDM Plan will be reviewed by, and must meet the requirements of, the City Planning Department. • **Air Quality Mitigation Fund.** For any remaining emissions above 25 lbs/day after other mitigation measures are implemented, the applicant shall contribute toward an Air Quality Mitigation Fund to be used to develop regional programs to offset air pollutant emissions associated with implementation of the project area. The total amount that would be contributed to this fund shall be calculated based upon the methodology described in Ordinance 93-37. The fund shall be used to finance City programs to reduce regional air pollutant emissions. Specific mitigation measures that could be undertaken using the fund include, but are not limited to, enhanced public transit service, vanpool programs/subsidies, rideshare assistance programs, clean fuel programs, improved pedestrian and bicycle facilities, and park-and-ride facilities.								

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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BIOLOGICAL RESOURCES								
BIO-1(a) Preconstruction Special Status Wildlife Surveys and Construction Monitoring. Not more than one week prior to vegetation clearing and initial ground disturbance activities within the project site, focused preconstruction surveys for special status wildlife species shall be conducted by qualified biologists within the construction footprint and within a 200-foot survey buffer area. The surveys shall include mapping of current locations of special-status wildlife species for avoidance and relocation efforts and to assist construction monitoring efforts. CDFW species of special concern, which are not federally listed, shall be captured by qualified biologists, when possible, and relocated to adjacent appropriate habitat to the project area (at least 200 feet from the grading limits). In addition, during any construction activities involving vegetation clearing or initial ground disturbance activities, the applicant shall contract with a biologist or biological consulting firm to conduct biological monitoring to avoid and minimize impacts to special status wildlife and protected nesting birds in the path of construction. Wildlife observed during construction activities shall be captured by qualified biologists,	Verification that wildlife surveys have been conducted and appropriate measures have been identified; field monitoring during construction	Surveys to be completed prior to initiation of grading for the road and levee; field monitoring through grading and construction of the road and levee	VPW	City	Survey completed and appropriate avoidance strategies implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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when possible, and relocated to suitable habitat onsite at least 200 feet from the grading limits. If active woodrat nests are found during the peak nesting season (February 1 through May 31), a 50-foot radius buffer area shall be established around the nests and land clearing activities shall be postponed until the end of peak nesting season to protect the nest. Outside of the peak nesting season, nests shall be relocated under the direction of a qualified biologist. Nest material shall be carefully and slowly picked up to allow any woodrats to escape and placed in similar suitable habitat at least 100 feet from the project boundary. CDFW shall be notified and consulted regarding the presence of any special status wildlife species found onsite during the preconstruction surveys or during biological monitoring. If a federally listed species is found prior to or during grading of the site, the USFWS shall also be notified. Only a USFWS approved biologist shall be allowed to capture and relocate listed species. The methods and results of the preconstruction surveys and any relocation efforts during those surveys shall be documented in a brief letter report and submitted to								

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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the City no later than three weeks following the completion of the last survey. The methods and results of the biological monitoring and any relocation efforts conducted during construction shall be documented in a brief letter report and submitted to the City upon completion of vegetation clearance and initial ground disturbance activities.								
BIO-1(b) Conduct Nesting Bird Surveys, Provide Establish Active Nest Avoidance Buffers, and Monitor Active Nests. Vegetation clearing, construction activities, grading activities, staging/mobilization activities (collectively, "development activities") shall avoid any nests of native birds. To the extent feasible, development activities shall be planned to avoid the breeding and nesting season (February 1 – August 31). If the City determines that breeding season avoidance is not feasible, a qualified biologist shall conduct a minimum of three nesting bird surveys, within two weeks, and no more than three days prior to the start of vegetation or nesting habitat disturbance. Weekly bird nesting surveys shall be reinitiated if land clearing and disturbance activities are delayed for more than one week. The nesting bird survey area shall include a buffer around the grading limits of 500 feet. If an	Verification that bird surveys have been conducted and, if necessary, appropriate avoidance measures have been identified	Prior to initiation of grading for the road and levee	VPW	City	Survey completed and appropriate avoidance strategies implemented			

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active bird nest is found, an appropriate buffer shall be established surrounding the nest(s) and shall be flagged for avoidance. The avoidance buffer shall be determined by the monitoring biologist based upon the species nesting and the activity being conducted. If an active nest of a special status bird species is found, a suitable buffer area will be determined in coordination with CDFW/USFWS. If active bird nests are found and avoidance buffers are established, construction work shall be delayed within these areas until after the nesting season or until the young are no longer dependent upon the nest site. Alternatively, construction within the buffer area may be conducted at the discretion of a qualified biological monitor. The biologist shall monitor the active nest(s) during initial disturbance activities and/or development activities to determine if the recommended avoidance buffers are adequate and that the nests are not being stressed or jeopardized. The methods and results of the nesting bird surveys, any nesting bird avoidance efforts as a result of those surveys, and the success of the avoidance buffers shall be documented in a brief letter report and shall be submitted to the City								

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no later than three weeks following the completion of active nest monitoring activities.								
BIO-1(c) Conduct Least Bell's Vireo and Southwestern Willow Flycatcher Surveys. Development activities within 500 feet of the Santa Clara River riparian corridor shall be avoided during the least Bell's vireo (April 10 to July 31) and southwestern willow flycatcher (May 15 to July 17) breeding season. If the City determines that breeding season avoidance is not feasible, a permitted biologist shall conduct focused presence/ absence surveys in accordance with the USFWS protocols for least Bell's vireo (2001) and southwestern willow flycatcher (2003). Any survey methodology that deviates from these protocols shall be approved by the USFWS prior to initiation of the first survey. Surveys shall focus on riparian habitat associated with the Santa Clara River within the project site and adjacent suitable habitat out to 500 feet. Protocol surveys shall be conducted within one year of start of construction (i.e. breeding season prior to), and will continue annually until completion of construction activities if presence is documented in the first year. Documentation of findings, including a negative finding must be submitted to the USFWS for review. If neither species is detected, no further actions are required.	If the breeding season is not avoided, verification that surveys have been conducted and, if necessary, appropriate avoidance measures have been identified	Prior to initiation of grading for the road and levee and annually thereafter until construction is completed	VPW	City	Survey completed and appropriate avoidance strategies implemented			

53

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
If least Bell's vireo or southwestern willow flycatcher are found nesting within the survey area, all project activities shall be halted within 500 feet of the nest site and territory for the remainder of the breeding season. The USFWS and CDFW shall be notified immediately. Should development activities within this zone be required during the breeding season, than additional consultation with USFWS and CDFW shall be required to establish suitable monitoring procedures and buffers to ensure that "take" does not occur. If "take" of least Bell's vireo or southwestern willow flycatcher is necessary to complete development activities, the applicant is required to obtain the applicable regulatory take permit(s). Compensatory mitigation, if necessary, would be determined in coordination with the wildlife agencies.								
BIO-1(d) Conduct Burrowing Owl Surveys. A qualified biologist shall conduct preconstruction clearance surveys prior to ground disturbance activities within all suitable habitat to confirm the presence/absence of burrowing owls (maybe conducted concurrently with BIO-1(a)). The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within seven days prior	Verification that surveys have been conducted prior to all onsite development (road, levee, and future projects) and, if necessary, appropriate avoidance measures have been identified	Prior to initiation of grading for all onsite development	VPW for road and levee; VCD for future private developmen t projects	City of road and levee; property owners/ project applicants for private development projects	Surveys completed and appropriate avoidance strategies implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required. If burrowing owl are detected during the preconstruction clearance surveys, avoidance buffers will be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures. Coordination with the CDFW by a qualified biologist shall occur to establish the appropriate avoidance buffer distances specific for the project's activities and level of expected disturbance. If avoidance of burrowing owls is not feasible, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan will be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993). The Plan shall be approved by the applicable local CDFW office prior to implementation. A qualified biologist shall coordinate with the CDFW to determine the appropriate exclusion methods (passive or active relocation) for the project to relocate burrowing owls to a suitable offsite location. Relocation of owls can only occur during the non-breeding season.								

55

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
BIO-1(e) Provide Restoration/ Compensation for Impacts to Native Vegetation Communities. Development activities shall avoid the loss of native scrub habitat wherever feasible. Avoidance shall be achieved through fencing of areas to be protected with a minimum 50 foot buffer. No construction activities, equipment or materials staging, or any other construction related activities shall be allowed within the protected native scrub areas or the surrounding buffers. Where avoidance is not feasible, the project applicant shall coordinate with the appropriate regulatory agencies, as necessary, regarding appropriate compensation for replacement of lost habitat. Compensatory mitigation for impacts to native vegetation would be determined in coordination with the wildlife agencies (e.g. providing onsite habitat creation through a HMMP or offsite payment into an in-lieu fee program for loss of habitat).	Verification that road and levee design/alignment avoid scrub habitat and that, as necessary, coordination with regulatory agencies has occurred and, as necessary, compensatory mitigation identified	Prior to initiation of grading for the road and levee	VPW	City	Appropriate avoidance and/or compensation measures identified and implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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BIO-1(f) Exclude Invasive Species. Final landscape design for developed areas shall be prepared by a qualified landscape architect such that project landscaping does not introduce invasive nonnative plant species into the vicinity of the project site. The plan shall be reviewed by a qualified botanist and approved by the City prior to installation of any plant materials.	Verification that landscape plans for the road/levee and future onsite private developments do not include invasive species	Prior to construction of the road/levee; prior to issuance of building permits for future onsite private development projects	VPW for the road/levee; VCD for future private developmen t projects	City for road/ levee; property owners/ project applicants for private development projects	Landscape plans that do not include invasive plant species			
BIO-1(g) Sensitive Resources Education. Prior to initiation of all development activities, a qualified biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of all listed and sensitive resource issues on site and within the project area, as well as the general measures that are being implemented to protect these resources. A fact sheet covering these issues, as well as construction BMPs, shall be prepared by the developer for distribution to all contractors, their employees, and other personnel involved with construction of the project.	Verification that educational requirements have been completed	Prior to construction of the road/levee; prior to issuance of grading permits for future onsite private development projects	VPW for the road/levee; VCD for future private developmen t projects	City for road/ levee; property owners/ project applicants for private development projects	Educational requirements completed			

57

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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BIO-2(a) Riparian/Wetland Habitat Impact Avoidance. To the extent practicable, the project shall be designed to avoid impacts to the jurisdictional waters within the project area. The following avoidance/minimization measures are required: • Any material/spoils from project activities shall be located away from jurisdictional areas or sensitive habitat and protected from stormwater run-off using temporary perimeter sediment barriers such as berms, silt fences, fiber rolls, covers, sand/gravel bags, and straw bale barriers, as appropriate. • Only the minimal amount of material needed for the project shall be stored. Materials shall be stored on impervious surfaces or plastic ground covers to prevent any spills or leakage from contaminating the ground and generally at least 50 feet from the top of bank. • Any spillage of material will be stopped if it can be done safely. The contaminated area will be cleaned and any contaminated materials properly disposed of. For all spills the project foreman or designated environmental representative will be notified. • The extent of riparian/wetland vegetation/jurisdictional areas	Field monitoring during grading for and construction of the road and levee	Throughout grading for and construction of the road and levee	VPW	City	Avoidance of riparian/wetland habitat during grading and construction			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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shall be shown on all project plans. • Riparian/wetland habitat adjacent to construction areas that will not be disturbed by the project shall be demarcated with highly visible orange construction fencing installed by the construction contractor under the guidance of a qualified biologist. The fencing shall be maintained throughout the duration of the project and shall be inspected weekly to ensure it is in proper working condition.								
BIO-2(b) Secure Resource Regulatory Permits for Impacts to Jurisdictional Areas. If jurisdictional waters cannot be avoided, minimization measures shall be applied and all necessary resource agency permits shall be obtained. This includes a 401 Certification or WDR from the RWQCB and a SAA from CDFG.	As necessary, verification that necessary regulatory permits have been obtained	Prior to grading for the road and levee	VPW	City	Any required regulatory permits obtained and applicable permit conditions implemented			
BIO-2(c) Jurisdictional Habitat Mitigation. Prepare a Habitat Mitigation and Monitoring Plan (HMMP) that outlines a compensatory mitigation approach for the project in coordination with the RWQCB and CDFG. Impacts to jurisdictional waters shall be mitigated at a minimum 2:1 ratio. It is noted that the final mitigation ratio required by the RWQCB and CDFG for acquisition of regulatory permits may differ.	As necessary, verification that the required HMMP has been prepared	Prior to grading for the road and levee	VPW	City	HMMP that outlines an appropriate compensatory mitigation approach prepared and implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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The HMMP shall identify portions of the site (potentially along the eastern edge of the levee adjacent to the Santa Clara River) that contain suitable characteristics (e.g. hydrology) for restoration and provide adequate acreage to compensate for the anticipated project impacts. It shall provide measurable performance criteria for determining success of the mitigation effort and recommend remedial measures to ensure the performance criteria are met, if necessary. If mitigation must be implemented offsite, suitable mitigation lands shall be identified and purchased in the local vicinity of the site or watershed. The Plan shall discuss preservation of the site through a conservation easement and identify an approach for funding assurance for the long-term management of the conserved land.								
BIO-3(a) Lighting and Sound Restrictions. New sources of lighting and glare shall comply with City standards. The project shall incorporate lighting design features to the extent possible that will reduce the amount and intensity of night lighting in open space areas adjacent to the development. This will involve using lighting only to the extent necessary, using low intensity lights, placing lighting close to the ground when possible, using shields to reduce glare and direct lighting downward, and pointing	Verification that lighting and, as necessary, sound control plans have been completed	Prior to construction of the road/levee; prior to issuance of building permits for future private development projects	VPW for the road/levee; VCD for private developmen t projects	City for the road/levee; property owners/ project applicants for private development projects	Design and implementation of lighting and sound control plans that minimize impacts to wildlife movement corridors			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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lights away from open space areas. Light from onsite sources shall not exceed 0.01 foot-candles as measured at three feet above the ground at the edge of the development. Sound amplification equipment shall be shielded from the Santa Clara River habitat to reduce effects on wildlife movement. Sound levels shall not exceed a Leq of 65 dBA as measured at the edge of the project boundary. Prior to approval of the lighting and sound plans, a qualified biologist shall review lighting and sound plans to ensure that the proposed levels minimize potential impacts on wildlife movement. Within one year after completion of construction when each new development is in operation, a report shall be submitted to the City that, through light and sound level monitoring, confirms that installed equipment do not exceed the specified criteria.								
BIO-3(b) Invasive Weed Prevention. Applicants shall develop and implement Invasive Weed Prevention and Management Programs to prevent invasion of undeveloped native habitat areas by nonnative plant species. A list of target species shall be included, along with measures for early detection and eradication before any species can gain a foothold and	Verification that an appropriate invasive weed prevention and management program has been developed	Prior to grading for the road/ levee; prior to issuance of grading permits for future private development projects	VPW for the road/levee; VCD for private developmen t projects	City for the road/levee; property owners/ project applicants for private development projects	Effective invasive weed prevention and management program developed and implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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outcompete native plant species for resources. All temporarily disturbed areas shall be hydroseeded with a mix of locally native species upon completion of work in those areas. In areas where construction is ongoing, hydroseeding shall occur where no construction activities have occurred within six (6) weeks since ground disturbing activities ceased. If exotic species invade these areas prior to hydroseeding, weed removal shall occur in consultation with a qualified biologist and in accordance with the restoration plan.								
BIO-3(c) Fencing. Fencing shall be installed along the south and eastern project boundaries adjacent to the Santa Clara River (e.g. at the east toe of the levee slope) to prevent unnecessary and unrestricted pedestrian, vehicular, bicycle, equestrian, or urban wildlife access across the levee and into the river area.	Verfication that final plans for the road and levee include appropriate fencing	Prior to construction of the road and levee	VPW	City	Appropriate fencing installed along the southern and eastern boundaries of the levee			
BIO-3(d) Construction Best Management Practices (BMPs). The following BMPs shall be implemented: • Construction fencing shall be installed five (5) feet outside of the disturbance limits of active grading areas. The disturbance areas and fencing shall not encroach closer than 30 feet to sensitive habitats.	Field monitoring during grading for and construction of the road and levee	Throughout grading for and construction of the road and levee	VPW	City	Required BMPs fully implemented throughout grading and construction			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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• Establish appropriate BMPs along construction boundaries to provide erosion and sediment control and contain onsite. • A 15 mph speed limit shall be designated in all construction areas. • All equipment washout and fueling areas shall located within the limits of grading at a minimum of 200 feet from the ephemeral drainage. Washout areas shall be designed to fully contain polluted water and materials for subsequent removal from the site. • Mufflers shall be used on all construction equipment and light trucks shall be in good operating condition. • Spill kits shall be onsite at all times. • Drip pans shall be placed under all stationary vehicles and mechanical equipment. • All trash that may attract predators shall be properly contained, removed from the work site weekly, and disposed of regularly. • Sensitive vegetation removed by accident during construction shall be restored. • Comply with the NPDES State General Construction Permit, the project's Storm Water Pollution Prevention Plan (SWPPP) BMPs to control the discharge of pollutants,								

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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including sediment, into local surface water drainages								
BIO-3(e) Storm Drain BMPs. To minimize the degradation of water quality which could impact sensitive fish and other aquatic resources, all future private and public storm drain facilities that would drain into the Santa Clara River shall incorporate protective BMPs for sediment and pollution control.	Verification that appropriate BMPs are incorporated into development plans for future onsite development projects	Prior to issuance of building permits for future private development projects	VCD	Property owners/ project applicants	Required BMPs fully implemented for all future private development projects			
BIO-4 City Tree Coordination. Prior to initiation of future development projects, applicants shall confirm that the City of Ventura has not approved a tree protection ordinance that is applicable to any trees within the project area. Furthermore, applicants will coordinate with the City's Parks Division for project activities involving the planting, pruning, or removal of any tree located in an existing parkway or easement. Per the City's recommended tree planting requirement for specific roadways with City limits, any trees installed within the Olivas Park Drive right-of-way shall be restricted to island live oak (Quercus tomentella).	Verification that landscape plans for Olivas Park Drive include island live oaks; verification that development plans for future onsite development projects conform to City tree protection requirements	Review of Olivas Park Drive landscape plans prior to construction of the road; review of development plans for private development projects prior to issuance of grading permits	VCD	City for Olivas Park Drive; property owners/ project applicants for future development projects	Inclusion of appropriate trees in landscape plans; verification of compliance with City tree protection requirements			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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GREENHOUSE GAS EMISSIONS								
GHG-1 GHG Emissions Calculations. Future project site developers shall perform project-specific GHG calculations to determine whether their proposed development would generate emissions exceeding the 4.1 metric tons of CO_2E/year per service population threshold, applicable VCAPCD threshold, or recommended City of Ventura threshold in place at the time of development. Project-specific GHG emissions calculations may be completed as stand-alone studies or may be incorporated into required CEQA analysis for individual projects. Applicants of development projects determined to exceed the appropriate threshold, as determined by the City of Ventura, shall implement one or more of the following in order to reduce GHG emissions to below the threshold of significance utilized by the City at the time of development. • **GHG Reduction Plan.** Prior to permit issuance, the applicant shall develop a GHG Reduction Plan that would reduce annual greenhouse gas emissions from the project. The plan will be implemented on site by the project applicant and may include, but is not be limited to, the following components:	Verification that project-specific studies are completed and appropriate project-specific mitigation is required.	Prior to issuance of building permits for future private development projects	VCD	Property owners/ project applicants	Project-specific studies completed and appropriate measures implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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1. Alternative fuel vehicles 2. Energy conservation policies 3. Energy efficient equipment, appliances, heating and cooling 4. Energy efficient lighting 5. Green building and roofs 6. Water conservation and recycling 7. Renewable energy production 8. Off-site vehicle trip reduction 9. Carbon sequestration • **Purchase Carbon Offsets.** If greenhouse gas emissions cannot be reduced to below a level of significance through compliance with a project GHG Reduction Plan, the project applicant shall purchase carbon offsets to reduce GHG emissions below threshold levels. Purchased carbon offsets shall be approved by City staff prior to permit approval.								

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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HAZARDS/HAZARDOUS MATERIALS								
HAZ-1 Soil Management Plan. In the area of the proposed Olivas Park Drive extension and levee alignment, a Soil Management Plan shall be prepared prior to grading to provide procedures for characterization, handling, storage, disposal, and documentation of all soils to be excavated during construction activities. This plan will describe the approach for managing soils consistent with all laws and regulations regarding the excavation, handling, and disposal of impacted soils, including Ventura County Air Pollution Control District (VCAPCD) Rule 55 (Fugitive Dust) and VCAPCD Rule 74.29 (Soil Decontamination Operations) (if applicable). The plan shall be approved by the Los Angeles Regional Water Quality Control Board prior to the issuance of a demolition permit. At the MP Enterprises site (Parcel 13), where lead has been detected in soil samples, the Soil Management Plan shall require additional sampling and analysis for this metal prior to the removal of soil. Any soils that contain lead at levels exceeding the Soluble Threshold Limit Concentration (STLC) shall be excavated and disposed as a hazardous waste. Soils in Parcel 13 that have been identified as containing TPH at	Verification that an appropriate soil management plan has been prepared and implemented.	Verification that a soil plan has been prepared and that appropriate remedial actions have been taken prior to grading for the Olivas Park Drive extension	VPW	City	Implementation of a soil management plan that effectively removes or treats contaminated soil			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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levels exceeding RWQCB action levels shall also be excavated and disposed as a hazardous waste. Upon removal of the concrete pad in Parcel 13, the underlying soil shall be tested for TPH and treated as a hazardous waste if contamination is detected. In the four locations where Toxaphene contamination has been detected, soils shall be excavated and disposed as a hazardous waste. Contaminated soil will either be stockpiled on-site or will be loaded directly onto trucks and covered and transported to an approved off-site disposal/recycling facility. If contaminated soil is stored on-site, it shall be stockpiled on polyethylene or placed in containers approved by the federal Department of Transportation (DOT) until it is transported to an approved off-site disposal/ recycling facility. Disposal of contaminated soils shall occur at an appropriate facility licensed to handle such contaminants and remedial excavation shall proceed under the supervision of an environmental consultant licensed to oversee such remediation. The remediation/disposal program shall be approved by VCEHD. The proponent shall submit all correspondence to VCEHD prior to issuance of grading permits. All proper waste handling and disposal procedures shall be followed. Upon								

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VPW **City of Ventura Public Works Department**

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
completion of the remediation/disposal, a qualified environmental consultant shall prepare a report summarizing the project, the remediation/disposal approach implemented, and the analytical results after completion of the remediation, including all waste disposal or treatment manifests.								
HAZ-2 Site-Specific Analysis and Remediation. Prior to construction of any commercial and/or industrial development within the project area, the developer shall undertake site-specific analysis of potential soil and groundwater contamination. If soil sampling indicates the presence of any contaminant in quantities not in compliance with applicable laws or regulations, the applicant shall coordinate with VCEHD or RWQCB, as appropriate, to develop and implement a program to remediate or manage the contaminated soil or groundwater. If groundwater is determined to have been affected by on-site contamination, or if soil contamination is detected at depths of 20 feet below grade or greater, then a groundwater sampling assessment shall be performed. If contaminants are detected in groundwater at levels that exceed maximum contaminant levels for those constituents in drinking water, then the results of the groundwater sampling shall be forwarded to the	Verification that site-specific soil and groundwater analyses have been conducted for future private development projects and that, as necessary, appropriate remediation or management techniques have been implemented	Prior to issuance of grading permits for future private development projects	VCD	Property owners/ project applicants	Completion of required studies and, as necessary, implementation of remediation that achieves compliance with applicable regulatory standards			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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appropriate regulatory agency (VCEHD, RWQCB, or the State of California Environmental Protection Agency Department of Toxic Substances Control). The agency shall review the data and sign off on the property or determine if any additional investigation or remedial activities are deemed necessary. If contaminated soil is present, disposal of contaminated soils shall occur at an appropriate facility licensed to handle such contaminants and remedial excavation shall proceed under the supervision of an environmental consultant licensed to oversee such remediation. The remediation/ disposal program shall be approved by VCEHD. The applicant shall submit all correspondence to VCEHD prior to issuance of grading permits. All proper waste handling and disposal procedures shall be followed. Upon completion of the remediation/disposal, a qualified environmental consultant shall prepare a report summarizing the project, the remediation/ disposal approach implemented, and the analytical results after completion of the remediation, including all waste disposal or treatment manifests.								

70

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
HAZ-4 Storage Tank Removal. Prior to construction of the Olivas Park Drive extension, the diesel AST in Parcel 12 shall be removed and properly disposed at a licensed facility. The removal of the storage tank shall be conducted in accordance with VCEHD regulations. Once the tank is removed, the underlying soil shall be inspected by a qualified environmental consultant to determine if soil and/or groundwater sampling beneath the storage tank would be necessary. If contaminated soil is identified and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the VCEHD. Remediation options may include, but are not limited to: excavation and removal with offsite disposal or in-situ soil treatment. If contaminated groundwater is identified and contaminants in concentrations exceeding regulatory action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the VCEHD. Remediation options may include, but are not limited to: pumping and treatment, biological remediation, or natural attenuation.	Verification that the referenced tank has been removed and, as necessary, remediation has been conducted in accordance with applicable regulatory standards	Prior to grading for Olivas Park Drive	VPW	City	Removal of the tank and, as necessary, remediation of any residual contamination to achieve applicable regulatory standards			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
HYDROLOGY AND WATER QUALITY								
HWQ-3(a) Erosion Evaluation and Reinforcement. Once the design of the levee has been finalized, stream flow velocity calculations shall be performed by a qualified hydrologist to determine the exact increase near the radio tower and building. If the increase is determined to result in erosion of the fill underlying the building and tower, the structures must be reinforced using rip-rap, soil cement, or similar technique to prevent erosion.	Verification that stream flow analysis has been conducted and, as necessary, appropriate erosion control measures have been incorporated	In conjunction with final levee design	VPW	City	Required calculations completed and, as necessary, erosion control measures incorporated			
HWQ-3(b) Project Timing. Adequate flood protection shall be provided for both the project area and potentially affected areas along the south side of the Santa Clara River in the City of Oxnard prior to project area construction other than the extension of Olivas Park Drive. Construction of the north and south levees shall be coordinated to the extent feasible to ensure that neither the project site nor any developed areas in Oxnard would experience an increase in surface water elevation of more than one foot during a 100-year flood event.	Verification that the levee would not increase flood hazards within the project area and along potentially affected areas in Oxnard	In conjunction with final levee design	VPW	City	No increase in flood hazards due to levee design			
HWQ-5(a) Conditional Letter of Map Revision (CLOMR). Prior to construction of the levee, a CLOMR from FEMA must be obtained to ensure that project design will accommodate flows during the 100-year storm event.	Verification that a CLOMR has been obtained	Prior to levee construction	VPW	City	CLOMR obtained			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
HWQ-5(b) Letter of Map Revision. Prior to issuance of building permits, a Letter of Map Revision (LOMR) from FEMA shall be obtained and the final development shall be sited to assure that no structures are placed within the redefined 100-year Flood Zone.	Verification that a LOMR has been obtained	Prior to levee construction	VPW	City	LOMR obtained			
TRAFFIC AND CIRCULATION								
T-1(a) Dual Left-turn Lanes at Victoria Avenue/Olivas Park Drive Intersection. On the westbound approach of this intersection, dual left-turn lanes shall be installed to improve traffic conditions to LOS B and D during the A.M. and P.M. peak hour periods respectively. The timing of this improvement will be dependent on traffic volume growth at the intersection, as determined through monitoring by the City.	Monitoring of intersection operation and implementation of intersection improvements at such time as they are needed	Monitoring annually; implementation of improvements prior to issuance of additional building permits once the City standard has been exceeded	VPW	City for monitoring; property owners/ project applicants for intersection improvements	Implementation of intersection improvements once City standards are exceeded			
T-1(b) Future Development Monitoring. Monitor traffic at the U.S. 101 Southbound Ramps/Johnson Drive intersection annually to determine whether the threshold of ICU – 0.95 has been reached such that the City's LOS E threshold is exceeded.	Monitoring of intersection operation	Annually	VPW	City	Annual monitoring completed			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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T-1(c) Eliminate Left-turns. Left-turns to the southbound ramp at the U.S. Highway 101 Southbound Ramps/Johnson Drive intersection shall be eliminated and a second northbound through travel lane shall be provided from Auto Center Drive to North Bank Drive. In addition, an exclusive right-turn lane on the northbound approach of the Victoria Avenue/Valentine Road intersection shall be required. Johnson Drive shall be re-striped to provide two northbound through lanes under U.S. Highway 101 and a traffic signal shall be installed at the Motel 6/Johnson Drive intersection. Caltrans approval of the improvements to the U.S. Highway 101 Southbound Ramps/Johnson Drive would be required. OR **T-1(d) P.M. Peak Hour Only Restriction of Left-turns.** Left-turns shall be restricted to the southbound ramp at the intersection during the P.M. peak hour period only. Left-turns shall be allowed during the remainder of the day. This would cause vehicles to divert to the U.S. Highway 101 southbound ramps at Victoria Avenue or make U-turns at the Johnson Drive/Motel 6 Driveway intersection to access southbound U.S. Highway 101 only during the P.M. peak hour between 4:00 P.M.	Verification that the improvements in Measure (c), (d), or (e) are implemented once City standards at the Highway 101 Southbound Ramps/ Johnson Drive intersection have been completed	Prior to issuance of additional building permits once the City standard has been exceeded	VPW	Property owners/ project applicants	Implementation of intersection improvements once City standards are exceeded			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
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and 6:00 P.M. An exclusive right-turn lane on the northbound approach of the Victoria Avenue/Valentine Road intersection and installation of a traffic signal at the Motel 6/Johnson Drive intersection would be required as part of this measure. Johnson Drive shall be re-striped to provide two northbound through lanes under U.S. Highway 101. Caltrans approval of the improvements to the U.S. Highway 101 Southbound Ramps/Johnson Drive intersection would be required. OR **T-1(e) Limit Future Development.** Trip generation restrictions shall be required of future development in the project area, and shall be implemented as a condition of building permit issuance, to prevent an exceedance of the City's LOS E threshold at the Johnson Drive and Highway 101 Southbound Ramps intersection.								

75

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Olivas Park Drive Extension Project Findings and Statement of Overriding Considerations

1.0 CEQA FINDINGS

FINDINGS PURSUANT TO PUBLIC RESOURCES CODE SECTION 21081 AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTIONS 15090, 15091, 15092, 15162 AND 15163.

1.1 CONSIDERATION OF THE Final Environmental Impact Report

The Final Environmental Impact Report (FEIR), Case No. EIR–11–10–4397, was presented to the Ventura Planning Commission and their recommendation was forwarded to the City Council and all voting members of the Council who have reviewed and considered the FEIR, and associated appendices prior to approving this proposal. In addition, all voting members of the City Council have reviewed and considered testimony and additional information presented at or prior to the public hearing on July 21, 2014. The FEIR reflects the independent judgment of the City Council and is adequate for this proposal.

1.2 FULL DISCLOSURE

The City Council finds and certifies that the Final EIR constitutes a complete, accurate, adequate and good faith effort at full disclosure under CEQA. The Council further finds and certifies the Final EIR has been completed in compliance with CEQA.

1.3 LOCATION OF RECORD OF PROCEEDINGS

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of Joe McDermott, Principal Civil Engineer, Public Works Department, City of Ventura.

1.4 FINDINGS ADDRESSING THE ISSUES ANALYZED IN THE FEIR

1.4.1 FINDINGS THAT CERTAIN UNAVOIDABLE IMPACTS ARE MITIGATED TO THE MAXIMUM EXTENT FEASIBLE

The FEIR for the Olivas Park Drive Extension project identifies impacts in two resource areas that cannot be fully mitigated and are therefore considered unavoidable (Class I). The impact areas pertain to the cumulative aesthetic impacts and the conversion of Prime Farmland. To the extent the impacts remain significant and unavoidable such an impact is acceptable when weighed against the overriding social, economic, legal, technical, and other considerations, including beneficial effects of the project to the existing circulation and infrastructure, described in the Statement of Overriding Considerations included herein. For each of these "Class I" impacts identified by the Final EIR feasible changes or alterations have been required in, or incorporated into, th

EXHIBIT B

project to avoid or substantially lessen the significant environmental effect, as discussed below:

a. <u>Cumulative Aesthetic Impacts</u>

Impact: Development facilitated by the proposed project would alter the visual character of the project site by replacing existing agricultural land with a road, levee, and commercial and industrial uses. While this would be a substantial change from current conditions, future development would be visually compatible with surrounding uses. Thus, the project-specific impact to the project site's visual character would be less than significant. However, the project would make a substantial contribution to a significant cumulative visual character impact related to citywide agricultural land conversion. Therefore, cumulative impacts would be significant.

Mitigation Measures: No mitigation measures are available to address the significant cumulative aesthetic impact.

Findings: Impacts from the project's substantial contribution to a significant visual character impact related to citywide agricultural land conversion cannot be mitigated. Such impacts may be prevented only by not converting the agricultural lands in question to other uses. This alternative is discussed in the FEIR at **Section 6.0 Alternatives** and in this document at Section *1.4.4*, and is rejected as infeasible in Section *1.4.4*. The City Council further finds, to the extent the impacts remain significant and unavoidable, that such impacts are acceptable when weighed against the overriding social, economic, and other considerations set forth in the Statement of Overriding Considerations (Section 1.4 of these Findings).

b. <u>Agricultural Resources: Conversion of Prime and Statewide Importance Farmland</u>

Impact: Construction of the roadway extension, levee, and development facilitated by the proposed project would involve the conversion of about 30-31 acres of State-designated Prime Farmland and Farmland of Statewide Importance to non-agricultural use. This would be a Class I, significant and unavoidable, impact.

Mitigation Measures: The City of Ventura participates in a number of programs and policies specifically aimed at conserving agricultural lands both within and adjacent to the City limits. These include the SOAR Ordinance, which requires voter approval for re-designation of agriculturally-designated lands, and two separate greenbelt agreements that maintain farmland between Ventura and the cities of Oxnard and Santa Paula. In addition, the FEIR includes a mitigation measure requiring that future project applicants obtain agricultural conservation easements to preserve agricultural lands that are of equal acreage and quality when compared to those developed for other uses.

for ROG by about 147 lbs./day and would exceed the threshold for NOX by about 172 lbs. However, these impacts are mitigable with incorporation of emissions reduction measures and payment of Air Quality Mitigation Fund fees.

Mitigation Measure: The emissions would be mitigated to a less than significant level at the individual development project phase through implementation of measures such as energy conservation and transportation demand management.

FEIR MM-AQ-2: Energy and Transportation Related Emission Reduction. Future project site developers shall prepare project-specific air quality studies to determine if their proposed development would generate emissions exceeding the 25 lbs./day VCAPCD significance threshold. Project-specific air quality emissions reports may be completed as stand-alone studies or may be incorporated into required CEQA analysis of individual projects. Applicants of development projects determined to exceed the 25 lbs./day threshold shall implement one or more of the following in order to reduce emissions of ROG and NOx to 25 lbs. /day or less.

- **Energy Efficiency.** The commercial and industrial structures proposed for development within the project area shall be designed to increase energy efficiency 20 percent beyond Title 24 requirements to partially offset the operational emissions associated with daily operation of the proposed project following buildout. Proposed energy conservation measures shall be specified in individual building plans and shall be subject to review and approval by the Inspection Services Division.
- **Transportation Demand Management Plan.** The applicant shall prepare and implement an on-site Transportation Demand Management (TDM) Plan. In the course of completing the environmental evaluation, the TDM Plan will be reviewed by, and must meet the requirements of, the City Planning Department.
- **Air Quality Mitigation Fund.** For any remaining emissions above 25 lbs. /day after other mitigation measures are implemented, the applicant shall contribute toward an Air Quality Mitigation Fund to be used to develop regional programs to offset air pollutant emissions associated with implementation of the project area. The total amount that would be contributed to this fund shall be calculated based upon the methodology described in Ordinance 93-37. The fund shall be used to finance City programs to reduce regional air pollutant emissions. Specific mitigation measures that could be undertaken using the fund include, but are not limited to, enhanced public transit service, vanpool programs/subsidies, rideshare assistance programs, clean fuel programs, improved pedestrian and bicycle facilities, and park-and-ride facilities.

Finding: The City Council finds that implementation of the adopted mitigation measure reduces the above impact to a level of insignificance.

FEIR MM-AG-1: **Agricultural Conservation Easement.** Mitigation shall be provided for the loss of state-designated Prime Farmland and Farmland of Statewide Importance in existence at the time property in the project area containing such state-designated Farmland is developed. Applicants seeking to develop such state-designated Farmland shall cause to be set aside in perpetuity agricultural lands of equivalent acreage (a 1:1 ratio) and with soil and farming conditions equivalent or superior to the state-designated Farmland that the applicant seeks to convert to other uses. The applicant shall either purchase one or more permanent, irreversible agricultural easements for the benefit of the City or other qualifying entity acceptable to the City, or contribute funds to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural easements, to be earmarked for the purchase of permanent, irreversible agricultural easements. The protected acreage equal to the total acreage of, and of equivalent soil and farming conditions to, the state-designated Farmland to be converted shall be set aside prior to the commencement of any development activity.

Findings: The City Council finds that the impacts as stated above are substantially reduced by the identified mitigation measure, but not to below a level of significance. However, no other feasible mitigation measures have been identified that could reduce the impacts to below a level of significance. Such impacts may be prevented only by not converting the agricultural lands in question to other uses. This alternative is discussed in the Final EIR at **Section 4.2 Agricultural Resources** and in this document at Section 1.4.4, and is rejected as infeasible in Section 1.4.4. The City Council further finds that although the above new impact would be potentially significant and unavoidable, such impact is acceptable when weighed against the overriding social, economic, and other considerations set forth in the Statement of Overriding Considerations (Section 1.4 of these Findings).

1.4.2 *FINDINGS THAT CERTAIN IMPACTS ARE MITIGATED TO INSIGNIFICANCE*

The FEIR (EIR–11–10–4397) identified several subject areas for which the project is considered to cause or contribute to significant, but mitigable environmental impacts (Class II). For each of these Class II impacts identified by the FEIR feasible changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect, as discussed below:

a. <u>Air Quality</u>

Impact: Operational emissions of reactive organic gases (ROG) and nitrogen oxides (NOx) associated with anticipated maximum development potential of the project area would exceed Ventura County Air Pollution Control District (VCAPCD) thresholds. Emissions associated with the operation of future development on all 14 properties that make up the project site would exceed the 25 lbs./day VCAPCD significance threshold

b. <u>Biological Resources (Special Status and Protected Wildlife Species)</u>

Impact: The proposed project would result in the reduction of native plant communities and man-made habitats, which could affect special status and protected wildlife species. This impact would be Class II, significant but mitigable.

Mitigation Measures: The FEIR identified seven mitigation measures, include surveying, monitoring, design criterion and education that are incorporated into the project and discussed below.

FEIR MM-BIO-1(a): Preconstruction Special Status Wildlife Surveys and Construction Monitoring. Not more than one week prior to vegetation clearing and initial ground disturbance activities within the project site, focused preconstruction surveys for special status wildlife species shall be conducted by qualified biologists within the construction footprint and within a 200-foot survey buffer area. The surveys shall include mapping of current locations of special-status wildlife species for avoidance and relocation efforts and to assist construction monitoring efforts. CDFW species of special concern, which are not federally listed, shall be captured by qualified biologists, when possible, and relocated to adjacent appropriate habitat to the project area (at least 200 feet from the grading limits).

In addition, during any construction activities involving vegetation clearing or initial ground disturbance activities, the applicant shall contract with a biologist or biological consulting firm to conduct biological monitoring to avoid and minimize impacts to special status wildlife and protected nesting birds in the path of construction. Wildlife observed during construction activities shall be captured by qualified biologists, when possible, and relocated to suitable habitat onsite at least 200 feet from the grading limits.

If active woodrat nests are found during the peak nesting season (February 1 through May 31), a 50-foot radius buffer area shall be established around the nests and land clearing activities shall be postponed until the end of peak nesting season to protect the nest. Outside of the peak nesting season, nests shall be relocated under the direction of a qualified biologist. Nest material shall be carefully and slowly picked up to allow any woodrats to escape and placed in similar suitable habitat at least 100 feet from the project boundary.

CDFW shall be notified and consulted regarding the presence of any special status wildlife species found onsite during the preconstruction surveys or during biological monitoring. If a federally listed species is found prior to or during grading of the site, the USFWS shall also be notified. Only a USFWS approved biologist shall be allowed to capture and relocate listed species.

The methods and results of the preconstruction surveys and any relocation efforts during those surveys shall be documented in a brief

letter report and submitted to the City no later than three weeks following the completion of the last survey. The methods and results of the biological monitoring and any relocation efforts conducted during construction shall be documented in a brief letter report and submitted to the City upon completion of vegetation clearance and initial ground disturbance activities.

FEIR MM-BIO-1(b) Conduct Nesting Bird Surveys, Provide Establish Active Nest Avoidance Buffers, and Monitor Active Nests. Vegetation clearing, construction activities, grading activities, staging/mobilization activities (collectively, "development activities") shall avoid any nests of native birds. To the extent feasible, development activities shall be planned to avoid the breeding and nesting season (February 1 – August 31).

If the City determines that breeding season avoidance is not feasible, a qualified biologist shall conduct a minimum of three nesting bird surveys, within two weeks, and no more than three days prior to the start of vegetation or nesting habitat disturbance. Weekly bird nesting surveys shall be reinitiated if land clearing and disturbance activities are delayed for more than one week. The nesting bird survey area shall include a buffer around the grading limits of 500 feet. If an active bird nest is found, an appropriate buffer shall be established surrounding the nest(s) and shall be flagged for avoidance. The avoidance buffer shall be determined by the monitoring biologist based upon the species nesting and the activity being conducted. If an active nest of a special status bird species is found, a suitable buffer area will be determined in coordination with CDFW/USFWS.

If active bird nests are found and avoidance buffers are established, construction work shall be delayed within these areas until after the nesting season or until the young are no longer dependent upon the nest site. Alternatively, construction within the buffer area may be conducted at the discretion of a qualified biological monitor. The biologist shall monitor the active nest(s) during initial disturbance activities and/or development activities to determine if the recommended avoidance buffers are adequate and that the nests are not being stressed or jeopardized.

The methods and results of the nesting bird surveys, any nesting bird avoidance efforts as a result of those surveys, and the success of the avoidance buffers shall be documented in a brief letter report and shall be submitted to the City no later than three weeks following the completion of active nest monitoring activities.

FEIR MM-BIO-1(c): Conduct Least Bell's Vireo and Southwestern Willow Flycatcher Surveys. Development activities within 500 feet of the Santa Clara River riparian corridor shall be avoided during the least Bell's vireo (April 10 to July 31) and southwestern willow flycatcher (May 15 to July 17) breeding season[82] If the City determines that breeding season avoidance is not feasible, a permitted biologist shall conduct

focused presence/ absence surveys in accordance with the USFWS protocols for least Bell's vireo (2001) and southwestern willow flycatcher (2003). Any survey methodology that deviates from these protocols shall be approved by the USFWS prior to initiation of the first survey. Surveys shall focus on riparian habitat associated with the Santa Clara River within the project site and adjacent suitable habitat out to 500 feet. Protocol surveys shall be conducted within one year of start of construction (i.e. breeding season prior to), and will continue annually until completion of construction activities if presence is documented in the first year. Documentation of findings, including a negative finding must be submitted to the USFWS for review. If neither species is detected, no further actions are required.

If least Bell's vireo or southwestern willow flycatcher are found nesting within the survey area, all project activities shall be halted within 500 feet of the nest site and territory for the remainder of the breeding season. The USFWS and CDFW shall be notified immediately. Should development activities within this zone be required during the breeding season, than additional consultation with USFWS and CDFW shall be required to establish suitable monitoring procedures and buffers to ensure that "take" does not occur.

If "take" of least Bell's vireo or southwestern willow flycatcher is necessary to complete development activities, the applicant is required to obtain the applicable regulatory take permit(s). Compensatory mitigation, if necessary, would be determined in coordination with the wildlife agencies.

FEIR MM-BIO-1(d): Conduct Burrowing Owl Surveys. A qualified biologist shall conduct preconstruction clearance surveys prior to ground disturbance activities within all suitable habitat to confirm the presence/absence of burrowing owls (may be conducted concurrently with BIO-1(a)). The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within seven days prior to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required.

If burrowing owl are detected during the preconstruction clearance surveys, avoidance buffers will be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures. Coordination with the CDFW by a qualified biologist shall occur to establish the appropriate avoidance buffer distances specific for the project's activities and level of expected disturbance.

If avoidance of burrowing owls is not feasible, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan will be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993). The Plan shall be approved by the applicable local CDFW office prior to implementation. A qualified biologist shall coordinate with the CDFW to determine the appropriate exclusion

methods (passive or active relocation) for the project to relocate burrowing owls to a suitable offsite location. Relocation of owls can only occur during the non-breeding season.

FEIR MM-BIO-1(e): Provide Restoration/Compensation for Impacts to Native Vegetation Communities. Development activities shall avoid the loss of native scrub habitat wherever feasible. Avoidance shall be achieved through fencing of areas to be protected with a minimum 50 foot buffer. No construction activities, equipment or materials staging, or any other construction related activities shall be allowed within the protected native scrub areas or the surrounding buffers.

Where avoidance is not feasible, the project applicant shall coordinate with the appropriate regulatory agencies, as necessary, regarding appropriate compensation for replacement of lost habitat. Compensatory mitigation for impacts to native vegetation would be determined in coordination with the wildlife agencies (e.g. providing onsite habitat creation through a HMMP or offsite payment into an in-lieu fee program for loss of habitat).

FEIR MM-BIO-1(f): Exclude Invasive Species. Final landscape design for developed areas shall be prepared by a qualified landscape architect such that project landscaping does not introduce invasive nonnative plant species into the vicinity of the project site. The plan shall be reviewed by a qualified botanist and approved by the City prior to installation of any plant materials.

FEIR MM-BIO-1(g): Sensitive Resources Education. Prior to initiation of all development activities, a qualified biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of all listed and sensitive resource issues on site and within the project area, as well as the general measures that are being implemented to protect these resources. A fact sheet covering these issues, as well as construction BMPs, shall be prepared by the developer for distribution to all contractors, their employees, and other personnel involved with construction of the project.

Finding: The City Council finds that implementation of the adopted mitigation measures would reduce the impacts to native plant communities, man-made habitats, and special status and protected wildlife species to a less than significant level.

c. <u>Biological Resources (Jurisdictional Waters/ Riparian Habitats)</u>

Impact: Implementation of the proposed project could result in the loss of jurisdictional waters and wetlands. Impacts would be Class II, significant but mitigable.

Mitigation Measures: The FEIR identified three mitigation measures to address this impact.

FEIR MM-BIO-2(a): Riparian/Wetland Habitat Impact Avoidance. To the extent practicable, the project shall be designed to avoid impacts to the jurisdictional waters within the project area. The following avoidance/minimization measures are required:

- Any material/spoils from project activities shall be located away from jurisdictional areas or sensitive habitat and protected from stormwater run-off using temporary perimeter sediment barriers such as berms, silt fences, fiber rolls, covers, sand/gravel bags, and straw bale barriers, as appropriate.
- Only the minimal amount of material needed for the project shall be stored. Materials shall be stored on impervious surfaces or plastic ground covers to prevent any spills or leakage from contaminating the ground and generally at least 50 feet from the top of bank.
- Any spillage of material will be stopped if it can be done safely. The contaminated area will be cleaned and any contaminated materials properly disposed of. For all spills the project foreman or designated environmental representative will be notified.
- The extent of riparian/wetland vegetation/jurisdictional areas shall be shown on all project plans.
- Riparian/wetland habitat adjacent to construction areas that will not be disturbed by the project shall be demarcated with highly visible orange construction fencing installed by the construction contractor under the guidance of a qualified biologist. The fencing shall be maintained throughout the duration of the project and shall be inspected weekly to ensure it is in proper working condition.

FEIR MM-BIO-2(b): Secure Resource Regulatory Permits for Impacts to Jurisdictional Areas. If jurisdictional waters cannot be avoided, minimization measures shall be applied and all necessary resource agency permits shall be obtained. This includes a 401 Certification or WDR from the RWQCB and a SAA from CDFG.

FEIR MM-BIO-2(c): Jurisdictional Habitat Mitigation. Prepare a Habitat Mitigation and Monitoring Plan (HMMP) that outlines a compensatory mitigation approach for the project in coordination with the RWQCB and CDFG. Impacts to jurisdictional waters shall be mitigated at a minimum 2:1 ratio. It is noted that the final mitigation ratio required by the RWQCB and CDFG for acquisition of regulatory permits may differ.

The HMMP shall identify portions of the site (potentially along the eastern edge of the levee adjacent to the Santa Clara River) that contain suitable characteristics (e.g., hydrology) for restoration and provide adequate acreage to compensate for the anticipated project impacts. It shall provide measurable performance criteria for determining success of the mitigation effort and recommend remedial measures to ensure the performance criteria are met, if necessary. If mitigation must be implemented offsite, suitable mitigation lands shall be identified and purchased in the local vicinity of the site or watershed. The Plan shall

discuss preservation of the site through a conservation easement and identify an approach for funding assurance for the long-term management of the conserved land.

Finding: The City Council finds that implementation of the adopted mitigation measures reduce the above impact to a less than significant level.

d. <u>Biological Resources (Wildlife Movement)</u>

Impact: Implementation of the proposed project could result in indirect impacts to wildlife movement through the Santa Clara River corridor. Impacts would be Class II, significant but mitigable.

Mitigation Measures: The impact to wildlife movement would be mitigated to a less than significant level through implementation of measures such as light and sound restrictions, invasive weed prevention and other BMPs, as discussed below.

FEIR MM-BIO-3(a): Lighting and Sound Restrictions. New sources of lighting and glare shall comply with City standards. The project shall incorporate lighting design features to the extent possible that will reduce the amount and intensity of night lighting in open space areas adjacent to the development. This will involve using lighting only to the extent necessary, using low intensity lights, placing lighting close to the ground when possible, using shields to reduce glare and direct lighting downward, and pointing lights away from open space areas. Light from onsite sources shall not exceed 0.01 foot-candles as measured at three feet above the ground at the edge of the development.

Sound amplification equipment shall be shielded from the Santa Clara River habitat to reduce effects on wildlife movement. Sound levels shall not exceed a Leq of 65 dBA as measured at the edge of the project boundary. Prior to approval of the lighting and sound plans, a qualified biologist shall review lighting and sound plans to ensure that the proposed levels minimize potential impacts on wildlife movement. Within one year after completion of construction when each new development is in operation, a report shall be submitted to the City that, through light and sound level monitoring, confirms that installed equipment do not exceed the specified criteria.

FEIR MM-BIO-3(b): Invasive Weed Prevention. Applicants shall develop and implement an Invasive Weed Prevention and Management Program to prevent invasion of undeveloped native habitat areas by nonnative plant species. A list of target species shall be included, along with measures for early detection and eradication before any species can gain a foothold and outcompete native plant species for resources.

All temporarily disturbed areas shall be hydro seeded with a mix of locally native species upon completion of work in those areas. In areas where construction is ongoing, hydro seeding shall occur where no construction activities have occurred within six (6) weeks since ground disturbing

activities ceased. If exotic species invade these areas prior to hydro seeding, weed removal shall occur in consultation with a qualified biologist and in accordance with the restoration plan.

FEIR MM-BIO-3(c): Fencing. Fencing shall be installed along the south and eastern project boundaries adjacent to the Santa Clara River (e.g. at the east toe of the levee slope) to prevent unnecessary and unrestricted pedestrian, vehicular, bicycle, equestrian, or urban wildlife access across the levee and into the river area.

FEIR MM-BIO-3(d): Construction Best Management Practices (BMPs). The following BMPs shall be implemented:

- Construction fencing shall be installed five (5) feet outside of the disturbance limits of active grading areas. The disturbance areas and fencing shall not encroach closer than 30 feet to sensitive habitats.
- Establish appropriate BMPs along construction boundaries to provide erosion and sediment control and contain onsite.
- A 15 mph speed limit shall be designated in all construction areas.
- All equipment washout and fueling areas shall be located within the limits of grading at a minimum of 200 feet from the ephemeral drainage. Washout areas shall be designed to fully contain polluted water and materials for subsequent removal from the site.
- Mufflers shall be used on all construction equipment and light trucks shall be in good operating condition.
- Spill kits shall be onsite at all times.
- Drip pans shall be placed under all stationary vehicles and mechanical equipment.
- All trash that may attract predators shall be properly contained, removed from the work site weekly, and disposed of regularly.
- Sensitive vegetation removed by accident during construction shall be restored.
- Comply with the NPDES State General Construction Permit, the project's Storm Water Pollution Prevention Plan (SWPPP) BMPs to control the discharge of pollutants, including sediment, into local surface water drainages.

FEIR MM-BIO-3(e): Storm Drain BMPs. To minimize the degradation of water quality which could impact sensitive fish and other aquatic resources, all future private and public storm drain facilities that would drain into the Santa Clara River shall incorporate protective BMPs for sediment and pollution control.

Finding: The City Council finds that implementation of the adopted mitigation measures would reduce the impact to wildlife movement to a less than significant level.

e. <u>Biological Resources (Tree Preservation)</u>

Impact: Implementation of the proposed project could result in tree removal, branch trimming, and/or ground disturbances within drip lines. Impacts would be Class II, significant but mitigable.

Mitigation Measures: The impact to trees would be mitigated to a less than significant level for individual projects through coordination with the City of Ventura Parks Division.

FEIR MM-BIO-4: **City Tree Coordination.** Prior to initiation of future development projects, applicants shall confirm that the City of Ventura has not approved a tree protection ordinance that is applicable to any trees within the project area. Furthermore, applicants will coordinate with the City's Parks Division for project activities involving the planting, pruning, or removal of any tree located in an existing parkway or easement. Per the City's recommended tree planting requirement for specific roadways with City limits, any trees installed within the Olivas Park Drive right-of-way shall be restricted to island live oak (Quercus tomentella).

Finding: The City Council finds that implementation of the adopted mitigation measure would reduce the impact to trees to a less than significant level.

f. <u>Greenhouse Gases (Short Term and Long Term Emissions)</u>

Impact: The proposed project would generate short-term as well as long-term GHG emissions. Total emissions associated with the currently proposed construction and potential future development on the project site would exceed the 4.1 MT CO_2E/yr. per service population threshold and would incrementally contribute to climate change. Impacts would therefore be Class II, significant but mitigable.

Mitigation Measures: The emissions would be mitigated to a less than significant level at the individual development project phase through implementation of measures such as energy conservation and the purchasing of carbon offsets.

FEIR MM-GHG-1: **GHG Emissions Calculations.** Future project site developers shall perform project-specific GHG calculations to determine whether their proposed development would generate emissions exceeding the 4.1 metric tons of CO2E/year per service population threshold, applicable VCAPCD threshold, or recommended City of Ventura threshold in place at the time of development. Project-specific GHG emissions calculations may be completed as stand-alone studies or may be incorporated into required CEQA analysis for individual projects. Applicants of development projects determined to exceed the appropriate threshold, as determined by the City of Ventura, shall implement one or more of the following in order to reduce GHG emissions to below the threshold of significance utilized by the City at the time of development.

- **GHG Reduction Plan**. Prior to permit issuance, the applicant shall develop a GHG Reduction Plan that would reduce annual greenhouse

gas emissions from the project. The plan will be implemented on site by the project applicant and may include, but is not be limited to, the following components:

1. Alternative fuel vehicles
2. Energy conservation policies
3. Energy efficient equipment, appliances, heating and cooling
4. Energy efficient lighting
5. Green building and roofs
6. Water conservation and recycling
7. Renewable energy production
8. Off-site vehicle trip reduction
9. Carbon sequestration

- **Purchase Carbon Offsets**. If greenhouse gas emissions cannot be reduced to below a level of significance through compliance with a project GHG Reduction Plan, the project applicant shall purchase carbon offsets to reduce GHG emissions below threshold levels. Purchased carbon offsets shall be approved by City staff prior to permit approval.

Finding: The City Council finds that implementation of the adopted mitigation measure would the impact related to greenhouse gas emissions to a less than significant level.

g. <u>Hazards/Hazardous Materials (Release of Hazardous Materials During Construction)</u>

Impact: Within the proposed roadway extension and levee alignment on the project site, demolition of existing structures and soil disturbance during construction could release pesticides, TPH, and lead at levels that pose health risks. Impacts to the release of hazardous materials within the roadway alignment would be Class II, significant but mitigable.

Mitigation Measure: The impact associated with construction activities would be mitigated to a less than significant level through implementation of a soil management plant.

FEIR MM-HAZ-1: **Soil Management Plan.** In the area of the proposed Olivas Park Drive extension and levee alignment, a Soil Management Plan shall be prepared prior to grading to provide procedures for characterization, handling, storage, disposal, and documentation of all soils to be excavated during construction activities. This plan will describe the approach for managing soils consistent with all laws and regulations regarding the excavation, handling, and disposal of impacted soils, including Ventura County Air Pollution Control District (VCAPCD) Rule 55 (Fugitive Dust) and VCAPCD Rule 74.29 (Soil Decontamination Operations) (if applicable). The plan shall be approved by the Los Angeles Regional Water Quality Control Board prior to the issuance of a demolition permit.

At the MP Enterprises site (Parcel 13), where lead has been detected in soil samples, the Soil Management Plan shall require additional sampling and analysis for this metal prior to the removal of soil. Any soils that contain lead at levels exceeding the Soluble Threshold Limit Concentration (STLC) shall be excavated and disposed as a hazardous waste. Soils in Parcel 13 that have been identified as containing TPH at levels exceeding RWQCB action levels shall also be excavated and disposed as a hazardous waste. Upon removal of the concrete pad in Parcel 13, the underlying soil shall be tested for TPH and treated as a hazardous waste if contamination is detected. In the four locations where Toxaphene contamination has been detected, soils shall be excavated and disposed as a hazardous waste.

Contaminated soil will either be stockpiled on-site or will be loaded directly onto trucks and covered and transported to an approved off-site disposal/recycling facility. If contaminated soil is stored on-site, it shall be stockpiled on polyethylene or placed in containers approved by the federal Department of Transportation (DOT) until it is transported to an approved off-site disposal/recycling facility. Disposal of contaminated soils shall occur at an appropriate facility licensed to handle such contaminants and remedial excavation shall proceed under the supervision of an environmental consultant licensed to oversee such remediation. The remediation/disposal program shall be approved by VCEHD. The proponent shall submit all correspondence to VCEHD prior to issuance of grading permits. All proper waste handling and disposal procedures shall be followed. Upon completion of the remediation/disposal, a qualified environmental consultant shall prepare a report summarizing the project, the remediation/disposal approach implemented, and the analytical results after completion of the remediation, including all waste disposal or treatment manifests.

Finding: The City Council finds that implementation of the adopted mitigation measure would reduce the impact from the potential release of hazardous materials during construction activities to a less than significant level.

h. <u>Hazards/Hazardous Materials (Release or Use of Hazardous Materials)</u>

Impact: Future development facilitated by the proposed General Plan amendments and zoning changes in the project site could result in the release or use of hazardous materials. Impacts would be Class II, significant but mitigable.

Mitigation Measure: The release of hazardous materials would be mitigated to a less than significant level through implementation of site-specific analysis and remediation for each development.

FEIR MM-HAZ-2: Site-Specific Analysis and Remediation. Prior to construction of any commercial and/or industrial development within the project area, the developer shall undertake site-specific analysis of

potential soil and groundwater contamination. If soil sampling indicates the presence of any contaminant in quantities not in compliance with applicable laws or regulations, the applicant shall coordinate with VCEHD or RWQCB, as appropriate, to develop and implement a program to remediate or manage the contaminated soil or groundwater.

If groundwater is determined to have been affected by on-site contamination, or if soil contamination is detected at depths of 20 feet below grade or greater, then a groundwater sampling assessment shall be performed. If contaminants are detected in groundwater at levels that exceed maximum contaminant levels for those constituents in drinking water, then the results of the groundwater sampling shall be forwarded to the appropriate regulatory agency (VCEHD, RWQCB, or the State of California Environmental Protection Agency Department of Toxic Substances Control). The agency shall review the data and sign off on the property or determine if any additional investigation or remedial activities are deemed necessary.

If contaminated soil is present, disposal of contaminated soils shall occur at an appropriate facility licensed to handle such contaminants and remedial excavation shall proceed under the supervision of an environmental consultant licensed to oversee such remediation. The remediation/disposal program shall be approved by VCEHD. The applicant shall submit all correspondence to VCEHD prior to issuance of grading permits. All proper waste handling and disposal procedures shall be followed. Upon completion of the remediation/disposal, a qualified environmental consultant shall prepare a report summarizing the project, the remediation/disposal approach implemented, and the analytical results after completion of the remediation, including all waste disposal or treatment manifests.

Finding: The City Council finds that implementation of the adopted mitigation measure reduces the impact related to the release of hazardous materials to a less than significant level.

i. <u>Hazards/Hazardous Materials (Site Contamination)</u>

Impact: The MCSD wastewater treatment facility contains soil contamination in the vicinity of an above-ground storage tank for diesel fuel. Impacts from diesel contamination would be Class II, significant but mitigable.

Mitigation Measure: The impact would be mitigated to a less than significant level through removal of the storage tank prior to construction of the project.

FEIR MM-HAZ-4: **Storage Tank Removal.** Prior to construction of the Olivas Park Drive extension, the diesel AST in Parcel 12 shall be removed and properly disposed at a licensed facility. The removal of the storage tank shall be conducted in accordance with VCEHD regulations. Once the tank is removed, the underlying soil shall be inspected by a qualified environmental consultant to determine if soil and/or groundwater sampling

beneath the storage tank would be necessary. If contaminated soil is identified and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the VCEHD. Remediation options may include, but are not limited to: excavation and removal with offsite disposal or in-situ soil treatment. If contaminated groundwater is identified and contaminants in concentrations exceeding regulatory action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the VCEHD. Remediation options may include, but are not limited to: pumping and treatment, biological remediation, or natural attenuation.

Finding: The City Council finds that implementation of the adopted mitigation measure would reduce the impact to a less than significant level.

j. <u>Hydrology and Water Quality (Floodplains and Drainage)</u>

Impact: The proposed project would alter the drainage pattern of the project area through construction of a levee along the northern bank of the Santa Clara River. Levee construction would increase water surface elevations and flow velocities in the Santa Clara River, as well as cause changes to the top width of the river. Changes to the floodplain and floodway would reduce risks associated with floods on the project site, but could place land on the south overbank in Oxnard within the 100-year floodplain. Impacts would be Class II, significant but mitigable.

Mitigation Measures: Impacts related to drainage and floodplains would be mitigated to a less than significant level through implementation of measures such as erosion evaluation and appropriate project timing.

FEIR MM-HWQ-3(a): Erosion Evaluation and Reinforcement. Once the design of the levee has been finalized, stream flow velocity calculations shall be performed by a qualified hydrologist to determine the exact increase near the radio tower and building. If the increase is determined to result in erosion of the fill underlying the building and tower, the structures must be reinforced using rip-rap, soil cement, or similar technique to prevent erosion.

FEIR MM-HWQ-3(b): Project Timing. Adequate flood protection shall be provided for both the project area and potentially affected areas along the south side of the Santa Clara River in the City of Oxnard prior to project area construction other than the extension of Olivas Park Drive. Construction of the north and south levees shall be coordinated to the extent feasible to ensure that neither the project site nor any developed areas in Oxnard would experience an increase in surface water elevation of more than one foot during a 100-year flood event.

Finding: The City Council finds that implementation of the adopted mitigation measures would reduce impacts related to the construction of the

levee and the changes to the floodplain and floodway to a less than significant level.

k. Hydrology and Water Quality (Flooding)

Impact: The proposed project would include the construction of a levee, which would reduce the floodway and floodplain in the project area to protect new and existing structures. Proper engineering would reduce the risk of damage to development in the project area resulting from levee failure. However, because the proposed project would place structures in an area currently designated as a FEMA flood hazard zone, impacts would be Class II, significant but mitigable.

Mitigation Measures: The impact related to the placement of structures in a FEMA flood hazard zone would be mitigated to a less than significant level through implementation of map revisions.

FEIR HWQ-5(a): Conditional Letter of Map Revision (CLOMR). Prior to construction of the levee, a CLOMR from FEMA must be obtained to ensure that project design will accommodate flows during the 100-year storm event.

FEIR HWQ-5(b): Letter of Map Revision. Prior to issuance of building permits, a Letter of Map Revision (LOMR) from FEMA shall be obtained and the final development shall be sited to assure that no structures are placed within the redefined 100-year Flood Zone.

Findings: The City Council finds that implementation of the adopted mitigation measures would reduce the impact related to the FEMA flood hazard zone to a less than significant level.

l. Traffic and Circulation (Local Circulation System)

Impact: Development facilitated by the proposed project would increase traffic levels on the local circulation system. Two of the ten intersections in the study area would operate at levels of service that exceed their performance standards. Impacts would be Class II, significant but mitigable.

Mitigation Measures: Impacts to the local circulation system would be mitigated to a less than significant level through implementation of measures such as intersection design, monitoring, and lane restrictions.

FEIR MM-T-1(a): Dual Left-turn Lanes at Victoria Avenue/Olivas Park Drive Intersection. On the westbound approach of this intersection, dual left-turn lanes shall be installed to improve traffic conditions to LOS B and D during the A.M. and P.M. peak hour periods respectively. The timing of this improvement will be dependent on traffic volume growth at the intersection, as determined through monitoring by the City.

For the U.S. 101 Southbound Ramps/ Johnson Drive interchange, the following mitigation measure would be required:

FEIR MM-T-1(b): Future Development Monitoring. Monitor traffic at the U.S. 101 Southbound Ramps/Johnson Drive intersection annually to determine whether the threshold of ICU – 0.95 has been reached such that the City's LOS E threshold is exceeded.

If the threshold of ICU – 0.95 is reached, either Mitigation Measure T-1(c), T-1(d), or T-1(e) shall be implemented:

FEIR MM-T-1(c): Eliminate Left-turns. Left-turns to the southbound ramp at the U.S. Highway 101 Southbound Ramps/Johnson Drive intersection shall be eliminated and a second northbound through travel lane shall be provided from Auto Center Drive to North Bank Drive. In addition, an exclusive right-turn lane on the northbound approach of the Victoria Avenue/Valentine Road intersection shall be required. Johnson Drive shall be re-striped to provide two northbound through lanes under U.S. Highway 101 and a traffic signal shall be installed at the Motel 6/Johnson Drive intersection. Caltrans approval of the improvements to the U.S. Highway 101 Southbound Ramps/Johnson Drive would be required.

OR

FEIR MM-T-1(d): P.M. Peak Hour Only Restriction of Left-turns. Left-turns shall be restricted to the southbound ramp at the intersection during the P.M. peak hour period only. Left-turns shall be allowed during the remainder of the day. This would cause vehicles to divert to the U.S. Highway 101 southbound ramps at Victoria Avenue or make U-turns at the Johnson Drive/Motel 6 Driveway intersection to access southbound U.S. Highway 101 only during the P.M. peak hour between 4:00 P.M. and 6:00 P.M. An exclusive right-turn lane on the northbound approach of the Victoria Avenue/Valentine Road intersection and installation of a traffic signal at the Motel 6/Johnson Drive intersection would be required as part of this measure. Johnson Drive shall be re-striped to provide two northbound through lanes under U.S. Highway 101. Caltrans approval of the improvements to the U.S. Highway 101 Southbound Ramps/Johnson Drive intersection would be required.

OR

FEIR MM-T-1(e): Limit Future Development. Trip generation restrictions shall be required of future development in the project area, and shall be implemented as a condition of building permit issuance, to prevent an exceedance of the City's LOS E threshold at the Johnson Drive and Highway 101 Southbound Ramps intersection.

Finding: The City Council finds that implementation of the above mitigation measures would reduce traffic impacts to a less than significant level.

1.4.3 *FINDING THAT MITIGATION OF CERTAIN IMPACTS IS WITHIN THE RESPONSIBILITY AND JURISDICTION OF ANOTHER PUBLIC AGENCY*

No mitigation measures identified in the Final EIR are within the responsibility and jurisdiction of another public agency.

1.4.4 *FINDINGS THAT IDENTIFIED PROJECT ALTERNATIVES OR MITIGATION MEASURES ARE NOT FEASIBLE*

All mitigation measures included in the Final EIR are feasible.

The Final EIR examines four alternatives:

- Alternative 1: No Project (no development - no change to existing land uses)
- Alternative 2: Existing General Plan
- Alternative 3: Olivas Park Drive Extension Only
- Alternative 4: Minimal Prime/Statewide Importance Farmland Conversion

a. <u>Alternative 1: No Project</u>

Alternative: The No Project alternative assumes that the proposed Olivas Park Drive extension and levee are not built and that none of the proposed General Plan designation or zoning changes occurs. Thus, the project site would remain in its current condition. Implementation of the No Project alternative would not, however, preclude future development within the project site in accordance with the current Ventura General Plan.

Finding: The City Council finds that the No Project alternative would avoid all of the proposed project's impacts. However, this alternative would not meet any of the project objectives, including: (1) improving circulation in the area by providing a link between Johnson Drive and the current terminus of Olivas Park Drive; (2) protecting existing and future development in the project site vicinity from flooding along the Santa Clara River; (3) allowing for the logical development of the project site vicinity with commercial and industrial uses compatible with those within and around the Ventura Auto Center; and (4) allowing for commercial development that would provide local jobs and increase the City's sales tax base. Therefore, the City Council finds that this alternative is infeasible.

b. <u>Alternative 2: Existing General Plan</u>

Alternative: The Existing General Plan alternative would involve only the extension of Olivas Park Drive connecting the current terminus of Olivas Park Drive and Johnson Drive/Auto Center Drive. The proposed levee would not be constructed and none of the General Plan land use designation or zone changes would occur. Thus, other than the road extension, associated improvements, and closure of the MCSD

wastewater treatment facility, the project site would remain in its current condition since flood conditions would continue to serve as an impediment to development of the area.

Finding: The City Council finds that the Existing General Plan alternative would reduce, but not eliminate certain significant environmental impacts. This alternative would meet project objectives related to improving circulation and protecting future development from flooding. It would also partially meet objectives related to development of the project site with commercial and industrial uses and allowing for commercial development that would provide local jobs and increase the City's sales tax base. However, such objectives would be met to a lesser degree than under the proposed project and the mix of uses that would be developed in the area, including residences, may have compatibility conflicts with the 45 acres of agricultural land that would remain. Therefore, the City Council finds that this alternative is infeasible.

c. Alternative 3: Olivas Park Drive Extension Only

Alternative: The Olivas Park Drive Extension Only alternative would involve only the extension of Olivas Park Drive connecting the current terminus of Olivas Park Drive and Johnson Drive/Auto Center Drive. The proposed levee would not be constructed and none of the General Plan land use designation or zone changes would occur. Thus, other than the road extension, associated improvements, and closure of the MCSD wastewater treatment facility, the project site would remain in its current condition since flood conditions would continue to serve as an impediment to development of the area.

Finding: The City Council finds that the No Project alternative would reduce, but not eliminate certain significant environmental impacts. However, this alternative would not meet the following project objectives: (1) protecting existing and future development in the project site vicinity from flooding along the Santa Clara River; (2) allowing for the logical development of the project site vicinity with commercial and industrial uses compatible with those within and around the Ventura Auto Center; and (3) allowing for commercial development that would provide local jobs and increase the City's sales tax base. Therefore, the City Council finds that this alternative is infeasible.

d. Alternative 4: Minimal Prime/Statewide Importance Farmland Conversion

Alternative: The Minimal Prime/Statewide Importance Farmland Conversion alternative would avoid conversion of Prime and Statewide Importance Farmland to a non-agricultural use. Designated Prime and Statewide Importance farmlands within the project site are mainly limited to Parcel 10, which encompasses about 40 acres. This parcel is already designated Agriculture so this designation would remain in place.

The Olivas Park Drive extension and levee would be built under this alternative and would encompass about 8-9 acres of Prime/Statewide Importance farmland. Therefore, about 22 acres of Prime/Statewide Importance farmland would remain.

Eliminating the development potential for Parcel 10 would reduce commercial development potential by about 500,000 square feet. Thus, overall commercial development potential for this alternative would be just over 700,000 square feet.

Finding: The City Council finds that the Minimal Prime/Statewide Importance Farmland Conversion alternative would reduce, but not eliminate certain significant environmental impacts. This alternative would meet project objectives related to improving circulation and protecting future development from flooding. It would also partially meet objectives related to development of the project site with commercial and industrial uses and allowing for commercial development that would provide local jobs and increase the City's sales tax base. However, such objectives would be met to a lesser degree than under the proposed project. Therefore, the City Council finds that this alternative is infeasible.

1.5 STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA Section 21081(b) and the CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed Olivas Park Drive Extension Project against the unavoidable adverse impacts associated with the proposed project and has adopted all feasible mitigation measures. The City has also examined alternatives to the proposed project, and has determined that adoption and implementation of the proposed project is the most desirable, feasible, and appropriate action.

1.5.1 *SIGNIFICANT UNAVOIDABLE IMPACTS*

The proposed project would result in the following unavoidable significant adverse impact after mitigation:

1. Construction of the roadway extension, levee, and development facilitated by the proposed project would involve the conversion of about 30-31 acres of State-designated Prime Farmland and Farmland of Statewide Importance to non-agricultural use. This would be a significant and unavoidable impact.

2. Development facilitated by the proposed project would alter the visual character of the project site by replacing agricultural land with commercial uses. While this would be a substantial change from current conditions, future development would be visually compatible with surrounding uses. Thus, the project-specific impact to the project site's visual character would be less than significant. However, the project would make a substantial contribution to a significant visual character

impact related to citywide agricultural land conversion. Therefore, cumulative impacts would be significant.

1.5.2 *PROJECT BENEFITS*

The City has balanced the proposed project's benefits against its significant and unavoidable impacts. The City finds that the proposed project's benefits outweigh the significant and unavoidable impacts and those impacts, therefore, are considered acceptable in light of the proposed project's benefits. The City finds that each of the following benefits is an overriding consideration, independent of the other benefits, that warrants approval of the proposed project notwithstanding the proposed project's significant and unavoidable impact to agriculture and its contribution to a significant and unavoidable cumulative aesthetic impact. The proposed project would provide several public benefits as described below.

1. *Improved Circulation*: The proposed project would improve circulation through an extension of Olivas Park Drive as a four-lane Secondary Arterial between Golf Course Drive and Auto Center Drive

2. *Flood Protection*: The proposed project includes the construction of a levee/floodwall that would be approximately 5,400 linear feet in length along the north side of the Santa Clara River and terminate 350 feet south of the Southern Pacific Railroad. This would reduce risks associated with floods for both existing and future development on and in the vicinity of the project site.

3. *Future Development:* The proposed project would allow for the logical development of the project site vicinity with commercial uses compatible with those within and around the Ventura Auto Center.

4. *Provision of Local Jobs and Increased Sales Tax Base:* The proposed project would allow for commercial development that would provide local jobs and increase the City's sales tax base.

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss
CITY OF SAN BUENAVENTURA)

I, Roxanne Fiorillo, Deputy City Clerk of the City of San Buenaventura, California, certify that the foregoing Resolution was passed and adopted by the City Council of the City of San Buenaventura at a regular meeting on July 21, 2014, by the following vote:

AYES: Councilmembers Morehouse, Weir, Tracy, Andrews, Monahan, and Mayor Heitmann.

NOES: None.

ABSENT: Deputy Mayor Nasarenko.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the City of San Buenaventura on July 22, 2014.

Roxanne Fiorillo
Deputy City Clerk

CITY OF SAN BUENAVENTURA
1866
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1905
CALIFORNIA

RESOLUTION NO. 2015-024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BUENAVENTURA ADOPTING AN ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT FOR THE OLIVAS PARK DRIVE EXTENSION PROJECT (EIR-11-10-4397/SCH# 1995081004)

PROJECT-1805
CASE NO. EIR-4-15-27627

WHEREAS, on July 21, 2014, the City Council of the City of San Buenaventura authorized filing an application for sphere of influence and reorganization with the Ventura County Local Area Formation Commission (LAFCo) for land annexation and service boundary adjustments in order to accommodate the Olivas Park Drive Extension Project; and

WHEREAS, administrative revisions to the authorized sphere of influence amendment and reorganization application have been determined necessary to meet filing requirements of LAFCo (the "Project");

WHEREAS, on July 21, 2014, the City Council certified the Environmental Impact Report ("EIR") and Mitigation Monitoring and Reporting Program (MMRP) for the Olivas Park Drive Extension Project (EIR-11-10-4397/SCH #1995081004) ("Olivas Park Drive Extension EIR") pursuant to the California Environmental Quality Act ("CEQA") and the Guidelines thereto ("CEQA Guidelines"); and

WHEREAS, CEQA Guidelines Section 15164 provides that an addendum to an EIR shall be prepared when only minor technical changes, or changes which do not create new significant impacts, would result; and

WHEREAS, Addendum No. 1 (EIR-4-15-27627) to the Olivas Park Drive Extension EIR has been prepared for the Project; and

WHEREAS, the current MMRP required by the Olivas Park Drive Extension EIR remains applicable to the Project.

BE IT RESOLVED by the City Council of the City of San Buenaventura as follows:

SECTION 1: All proceedings having been duly taken as required by law, and upon review of the information provided in the staff report for the May 11, 2015, public hearing, consideration of the testimony given at the public hearing, as well as other pertinent information, the City Council of San Buenaventura hereby finds the following:

A. The information contained in the Olivas Park Drive Extension EIR and Addendum No. 1 (EIR-4-15-27627) has been reviewed and considered by the City Council.

B. The Addendum has been completed in compliance with CEQA and reflects the City's independent judgment and analysis.

C. There are no substantial changes proposed to the Project and no substantial changes with respect to the circumstances under which the Project is to be undertaken that would require major revisions to the Olivas Park Drive Extension EIR.

D. No new information of substantial importance has become available showing that the Project would have any significant effects not discussed previously in the Olivas Park Drive Extension EIR or that any significant effects previously examined would be substantially more severe than those analyzed in the Olivas Park Drive Extension EIR.

E. No new information of substantial importance has become available showing that mitigation measures or alternatives previously found not to be feasible are in fact feasible which would substantially reduce any significant effects, but that the Project proponents decline to adopt, or that there are any considerably different mitigation measures or alternatives not previously considered which would substantially reduce any significant effects, but that the Project proponents decline to adopt.

F. Pursuant to CEQA Guidelines Section 15164, only minor technical changes or additions are necessary.

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SECTION 2: Based on the above findings, the City Council of the City of San Buenaventura hereby adopts Addendum No. 1 (EIR-4-15-27627) and the attached MMRP.

PASSED AND ADOPTED this 11th day of May, 2015.

ATTEST:

Cynthia M. Rodriguez, MMC
City Clerk

APPROVED AS TO FORM
Gregory G. Diaz
City Attorney

By: 5-4-15
Jennifer Lee Date
Assistant City Attorney

EXHIBIT LIST:

Exhibit "A" – Mitigation Monitoring and Reporting Program

MITIGATION MONITORING AND REPORTING PROGRAM

CEQA requires adoption of mitigation monitoring and reporting program (MMRP) for the measures necessary to mitigate or avoid significant effects on the environment (Public Resources Code 21081.6). The mitigation monitoring and reporting program is designed to ensure compliance with adopted mitigation measures during project implementation. For each mitigation measure recommended in the Olivas Park Drive Extension Environmental Impact Report (EIR), specifications are made herein that identify the action required and the monitoring that must occur. In addition, a responsible agency is identified for verifying compliance with measures contained in the MMRP.

To implement this MMRP, the City of Ventura will designate a Project Mitigation Monitoring and Reporting Coordinator ("Coordinator"). The coordinator will be responsible for ensuring that the mitigation measures incorporated into the project are complied with during project implementation. The coordinator will also distribute copies of the MMRP to those responsible agencies identified in the MMRP as having partial or full responsibility for implementing certain measures. Failure of a responsible agency to implement a mitigation measure will not in any way prevent the lead agency from implementing the proposed project.

The following table will be used as the coordinator's checklist to determine compliance with required mitigation measures.

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
AGRICULTURAL RESOURCES								
AG-1 Agricultural Conservation Easement. Mitigation shall be provided for the loss of state-designated Prime Farmland and Farmland of Statewide Importance in existence at the time property in the project area containing such state-designated Farmland is developed. Applicants seeking to develop such state-designated Farmland shall cause to be set aside in perpetuity agricultural lands of equivalent acreage (a 1:1 ratio) and with soil and farming conditions equivalent or superior to the state-designated Farmland that the applicant seeks to convert to other uses. The applicant shall either purchase one or more permanent, irreversible agricultural easements for the benefit of the City or other qualifying entity acceptable to the City, or contribute funds to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural easements, to be earmarked for the purchase of permanent, irreversible agricultural easements. The protected acreage equal to the total acreage of, and of equivalent soil and farming conditions to, the state-designated Farmland to be converted shall be set aside prior to the commencement of any development activity.	Verification that an agricultural easement has been purchased or that funds to a qualifying organization or agency have been made.	Prior to issuance of building permits for future private development projects	VCD	Property owners/ project applicants	Easements purchased or funds paid			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
AIR QUALITY								
AQ-2 Energy and Transportation Related Emission Reduction. Future project site developers shall prepare project-specific air quality studies to determine if their proposed development would generate emissions exceeding the 25 lbs/day VCAPCD significance threshold. Project-specific air quality emissions reports may be completed as stand-alone studies or may be incorporated into required CEQA analysis of individual projects. Applicants of development projects determined to exceed the 25 lbs/days threshold shall implement one or more of the following in order to reduce emissions of ROG and NOx to 25 lbs/day or less. • **Energy Efficiency.** The commercial and industrial structures proposed for development within the project area shall be designed to increase energy efficiency 20 percent beyond Title 24 requirements to partially offset the operational emissions associated with daily operation of the proposed project following buildout. Proposed energy conservation measures shall be specified in individual building plans and shall be subject to review and approval by the Inspection Services Division.	Verification that project-specific studies are completed and appropriate project-specific mitigation is required.	Prior to issuance of building permits for future private development projects	VCD	Property owners/ project applicants	Project-specific studies completed and appropriate measures implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
• **Transportation Demand Management Plan.** The applicant shall prepare and implement an on-site Transportation Demand Management (TDM) Plan. In the course of completing the environmental evaluation, the TDM Plan will be reviewed by, and must meet the requirements of, the City Planning Department. • **Air Quality Mitigation Fund.** For any remaining emissions above 25 lbs/day after other mitigation measures are implemented, the applicant shall contribute toward an Air Quality Mitigation Fund to be used to develop regional programs to offset air pollutant emissions associated with implementation of the project area. The total amount that would be contributed to this fund shall be calculated based upon the methodology described in Ordinance 93-37. The fund shall be used to finance City programs to reduce regional air pollutant emissions. Specific mitigation measures that could be undertaken using the fund include, but are not limited to, enhanced public transit service, vanpool programs/subsidies, rideshare assistance programs, clean fuel programs, improved pedestrian and bicycle facilities, and park-and-ride facilities.								

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
BIOLOGICAL RESOURCES								
BIO-1(a) Preconstruction Special Status Wildlife Surveys and Construction Monitoring. Not more than one week prior to vegetation clearing and initial ground disturbance activities within the project site, focused preconstruction surveys for special status wildlife species shall be conducted by qualified biologists within the construction footprint and within a 200-foot survey buffer area. The surveys shall include mapping of current locations of special-status wildlife species for avoidance and relocation efforts and to assist construction monitoring efforts. CDFW species of special concern, which are not federally listed, shall be captured by qualified biologists, when possible, and relocated to adjacent appropriate habitat to the project area (at least 200 feet from the grading limits). In addition, during any construction activities involving vegetation clearing or initial ground disturbance activities, the applicant shall contract with a biologist or biological consulting firm to conduct biological monitoring to avoid and minimize impacts to special status wildlife and protected nesting birds in the path of construction. Wildlife observed during construction activities shall be captured by qualified biologists,	Verification that wildlife surveys have been conducted and appropriate measures have been identified; field monitoring during construction	Surveys to be completed prior to initiation of grading for the road and levee; field monitoring through grading and construction of the road and levee	VPW	City	Survey completed and appropriate avoidance strategies implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
when possible, and relocated to suitable habitat onsite at least 200 feet from the grading limits. If active woodrat nests are found during the peak nesting season (February 1 through May 31), a 50-foot radius buffer area shall be established around the nests and land clearing activities shall be postponed until the end of peak nesting season to protect the nest. Outside of the peak nesting season, nests shall be relocated under the direction of a qualified biologist. Nest material shall be carefully and slowly picked up to allow any woodrats to escape and placed in similar suitable habitat at least 100 feet from the project boundary. CDFW shall be notified and consulted regarding the presence of any special status wildlife species found onsite during the preconstruction surveys or during biological monitoring. If a federally listed species is found prior to or during grading of the site, the USFWS shall also be notified. Only a USFWS approved biologist shall be allowed to capture and relocate listed species. The methods and results of the preconstruction surveys and any relocation efforts during those surveys shall be documented in a brief letter report and submitted to								

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
the City no later than three weeks following the completion of the last survey. The methods and results of the biological monitoring and any relocation efforts conducted during construction shall be documented in a brief letter report and submitted to the City upon completion of vegetation clearance and initial ground disturbance activities.								
BIO-1(b) Conduct Nesting Bird Surveys, Provide Establish Active Nest Avoidance Buffers, and Monitor Active Nests. Vegetation clearing, construction activities, grading activities, staging/mobilization activities (collectively, "development activities") shall avoid any nests of native birds. To the extent feasible, development activities shall be planned to avoid the breeding and nesting season (February 1 – August 31). If the City determines that breeding season avoidance is not feasible, a qualified biologist shall conduct a minimum of three nesting bird surveys, within two weeks, and no more than three days prior to the start of vegetation or nesting habitat disturbance. Weekly bird nesting surveys shall be reinitiated if land clearing and disturbance activities are delayed for more than one week. The nesting bird survey area shall include a buffer around the grading limits of 500 feet. If an	Verification that bird surveys have been conducted and, if necessary, appropriate avoidance measures have been identified	Prior to initiation of grading for the road and levee	VPW	City	Survey completed and appropriate avoidance strategies implemented			

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
active bird nest is found, an appropriate buffer shall be established surrounding the nest(s) and shall be flagged for avoidance. The avoidance buffer shall be determined by the monitoring biologist based upon the species nesting and the activity being conducted. If an active nest of a special status bird species is found, a suitable buffer area will be determined in coordination with CDFW/USFWS. If active bird nests are found and avoidance buffers are established, construction work shall be delayed within these areas until after the nesting season or until the young are no longer dependent upon the nest site. Alternatively, construction within the buffer area may be conducted at the discretion of a qualified biological monitor. The biologist shall monitor the active nest(s) during initial disturbance activities and/or development activities to determine if the recommended avoidance buffers are adequate and that the nests are not being stressed or jeopardized. The methods and results of the nesting bird surveys, any nesting bird avoidance efforts as a result of those surveys, and the success of the avoidance buffers shall be documented in a brief letter report and shall be submitted to the City								

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
no later than three weeks following the completion of active nest monitoring activities.								
BIO-1(c) Conduct Least Bell's Vireo and Southwestern Willow Flycatcher Surveys. Development activities within 500 feet of the Santa Clara River riparian corridor shall be avoided during the least Bell's vireo (April 10 to July 31) and southwestern willow flycatcher (May 15 to July 17) breeding season. If the City determines that breeding season avoidance is not feasible, a permitted biologist shall conduct focused presence/ absence surveys in accordance with the USFWS protocols for least Bell's vireo (2001) and southwestern willow flycatcher (2003). Any survey methodology that deviates from these protocols shall be approved by the USFWS prior to initiation of the first survey. Surveys shall focus on riparian habitat associated with the Santa Clara River within the project site and adjacent suitable habitat out to 500 feet. Protocol surveys shall be conducted within one year of start of construction (i.e. breeding season prior to), and will continue annually until completion of construction activities if presence is documented in the first year. Documentation of findings, including a negative finding must be submitted to the USFWS for review. If neither species is detected, no further actions are required.	If the breeding season is not avoided, verification that surveys have been conducted and, if necessary, appropriate avoidance measures have been identified	Prior to initiation of grading for the road and levee and annually thereafter until construction is completed	VPW	City	Survey completed and appropriate avoidance strategies implemented			

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
If least Bell's vireo or southwestern willow flycatcher are found nesting within the survey area, all project activities shall be halted within 500 feet of the nest site and territory for the remainder of the breeding season. The USFWS and CDFW shall be notified immediately. Should development activities within this zone be required during the breeding season, than additional consultation with USFWS and CDFW shall be required to establish suitable monitoring procedures and buffers to ensure that "take" does not occur. If "take" of least Bell's vireo or southwestern willow flycatcher is necessary to complete development activities, the applicant is required to obtain the applicable regulatory take permit(s). Compensatory mitigation, if necessary, would be determined in coordination with the wildlife agencies.								
BIO-1(d) Conduct Burrowing Owl Surveys. A qualified biologist shall conduct preconstruction clearance surveys prior to ground disturbance activities within all suitable habitat to confirm the presence/absence of burrowing owls (maybe conducted concurrently with BIO-1(a)). The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within seven days prior	Verification that surveys have been conducted prior to all onsite development (road, levee, and future projects) and, if necessary, appropriate avoidance measures have been identified	Prior to initiation of grading for all onsite development	VPW for road and levee; VCD for future private developmen t projects	City of road and levee; property owners/ project applicants for private development projects	Surveys completed and appropriate avoidance strategies implemented			

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Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required. If burrowing owl are detected during the preconstruction clearance surveys, avoidance buffers will be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures. Coordination with the CDFW by a qualified biologist shall occur to establish the appropriate avoidance buffer distances specific for the project's activities and level of expected disturbance. If avoidance of burrowing owls is not feasible, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan will be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993). The Plan shall be approved by the applicable local CDFW office prior to implementation. A qualified biologist shall coordinate with the CDFW to determine the appropriate exclusion methods (passive or active relocation) for the project to relocate burrowing owls to a suitable offsite location. Relocation of owls can only occur during the non-breeding season.								

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VPW **City of Ventura Public Works Department**

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
BIO-1(e) Provide Restoration/ Compensation for Impacts to Native Vegetation Communities. Development activities shall avoid the loss of native scrub habitat wherever feasible. Avoidance shall be achieved through fencing of areas to be protected with a minimum 50 foot buffer. No construction activities, equipment or materials staging, or any other construction related activities shall be allowed within the protected native scrub areas or the surrounding buffers. Where avoidance is not feasible, the project applicant shall coordinate with the appropriate regulatory agencies, as necessary, regarding appropriate compensation for replacement of lost habitat. Compensatory mitigation for impacts to native vegetation would be determined in coordination with the wildlife agencies (e.g. providing onsite habitat creation through a HMMP or offsite payment into an in-lieu fee program for loss of habitat).	Verification that road and levee design/alignment avoid scrub habitat and that, as necessary, coordination with regulatory agencies has occurred and, as necessary, compensatory mitigation identified	Prior to initiation of grading for the road and levee	VPW	City	Appropriate avoidance and/or compensation measures identified and implemented			

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
BIO-1(f) Exclude Invasive Species. Final landscape design for developed areas shall be prepared by a qualified landscape architect such that project landscaping does not introduce invasive nonnative plant species into the vicinity of the project site. The plan shall be reviewed by a qualified botanist and approved by the City prior to installation of any plant materials.	Verification that landscape plans for the road/levee and future onsite private developments do not include invasive species	Prior to construction of the road/levee; prior to issuance of building permits for future onsite private development projects	VPW for the road/levee; VCD for future private developmen t projects	City for road/ levee; property owners/ project applicants for private development projects	Landscape plans that do not include invasive plant species			
BIO-1(g) Sensitive Resources Education. Prior to initiation of all development activities, a qualified biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of all listed and sensitive resource issues on site and within the project area, as well as the general measures that are being implemented to protect these resources. A fact sheet covering these issues, as well as construction BMPs, shall be prepared by the developer for distribution to all contractors, their employees, and other personnel involved with construction of the project.	Verification that educational requirements have been completed	Prior to construction of the road/levee; prior to issuance of grading permits for future onsite private development projects	VPW for the road/levee; VCD for future private developmen t projects	City for road/ levee; property owners/ project applicants for private development projects	Educational requirements completed			

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
BIO-2(a) Riparian/Wetland Habitat Impact Avoidance. To the extent practicable, the project shall be designed to avoid impacts to the jurisdictional waters within the project area. The following avoidance/minimization measures are required: • Any material/spoils from project activities shall be located away from jurisdictional areas or sensitive habitat and protected from stormwater run-off using temporary perimeter sediment barriers such as berms, silt fences, fiber rolls, covers, sand/gravel bags, and straw bale barriers, as appropriate. • Only the minimal amount of material needed for the project shall be stored. Materials shall be stored on impervious surfaces or plastic ground covers to prevent any spills or leakage from contaminating the ground and generally at least 50 feet from the top of bank. • Any spillage of material will be stopped if it can be done safely. The contaminated area will be cleaned and any contaminated materials properly disposed of. For all spills the project foreman or designated environmental representative will be notified. • The extent of riparian/wetland vegetation/jurisdictional areas	Field monitoring during grading for and construction of the road and levee	Throughout grading for and construction of the road and levee	VPW	City	Avoidance of riparian/wetland habitat during grading and construction			

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
shall be shown on all project plans. • Riparian/wetland habitat adjacent to construction areas that will not be disturbed by the project shall be demarcated with highly visible orange construction fencing installed by the construction contractor under the guidance of a qualified biologist. The fencing shall be maintained throughout the duration of the project and shall be inspected weekly to ensure it is in proper working condition.								
BIO-2(b) Secure Resource Regulatory Permits for Impacts to Jurisdictional Areas. If jurisdictional waters cannot be avoided, minimization measures shall be applied and all necessary resource agency permits shall be obtained. This includes a 401 Certification or WDR from the RWQCB and a SAA from CDFG.	As necessary, verification that necessary regulatory permits have been obtained	Prior to grading for the road and levee	VPW	City	Any required regulatory permits obtained and applicable permit conditions implemented			
BIO-2(c) Jurisdictional Habitat Mitigation. Prepare a Habitat Mitigation and Monitoring Plan (HMMP) that outlines a compensatory mitigation approach for the project in coordination with the RWQCB and CDFG. Impacts to jurisdictional waters shall be mitigated at a minimum 2:1 ratio. It is noted that the final mitigation ratio required by the RWQCB and CDFG for acquisition of regulatory permits may differ.	As necessary, verification that the required HMMP has been prepared	Prior to grading for the road and levee	VPW	City	HMMP that outlines an appropriate compensatory mitigation approach prepared and implemented			

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VPW **City of Ventura Public Works Department**

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
The HMMP shall identify portions of the site (potentially along the eastern edge of the levee adjacent to the Santa Clara River) that contain suitable characteristics (e.g. hydrology) for restoration and provide adequate acreage to compensate for the anticipated project impacts. It shall provide measurable performance criteria for determining success of the mitigation effort and recommend remedial measures to ensure the performance criteria are met, if necessary. If mitigation must be implemented offsite, suitable mitigation lands shall be identified and purchased in the local vicinity of the site or watershed. The Plan shall discuss preservation of the site through a conservation easement and identify an approach for funding assurance for the long-term management of the conserved land.								
BIO-3(a) Lighting and Sound Restrictions. New sources of lighting and glare shall comply with City standards. The project shall incorporate lighting design features to the extent possible that will reduce the amount and intensity of night lighting in open space areas adjacent to the development. This will involve using lighting only to the extent necessary, using low intensity lights, placing lighting close to the ground when possible, using shields to reduce glare and direct lighting downward, and pointing	Verification that lighting and, as necessary, sound control plans have been completed	Prior to construction of the road/levee; prior to issuance of building permits for future private development projects	VPW for the road/levee; VCD for private developmen t projects	City for the road/levee; property owners/ project applicants for private development projects	Design and implementation of lighting and sound control plans that minimize impacts to wildlife movement corridors			

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VPW **City of Ventura Public Works Department**

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
lights away from open space areas. Light from onsite sources shall not exceed 0.01 foot-candles as measured at three feet above the ground at the edge of the development. Sound amplification equipment shall be shielded from the Santa Clara River habitat to reduce effects on wildlife movement. Sound levels shall not exceed a Leq of 65 dBA as measured at the edge of the project boundary. Prior to approval of the lighting and sound plans, a qualified biologist shall review lighting and sound plans to ensure that the proposed levels minimize potential impacts on wildlife movement. Within one year after completion of construction when each new development is in operation, a report shall be submitted to the City that, through light and sound level monitoring, confirms that installed equipment do not exceed the specified criteria.								
BIO-3(b) Invasive Weed Prevention. Applicants shall develop and implement Invasive Weed Prevention and Management Programs to prevent invasion of undeveloped native habitat areas by nonnative plant species. A list of target species shall be included, along with measures for early detection and eradication before any species can gain a foothold and	Verification that an appropriate invasive weed prevention and management program has been developed	Prior to grading for the road/ levee; prior to issuance of grading permits for future private development projects	VPW for the road/levee; VCD for private developmen t projects	City for the road/levee; property owners/ project applicants for private development projects	Effective invasive weed prevention and management program developed and implemented			

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
outcompete native plant species for resources. All temporarily disturbed areas shall be hydroseeded with a mix of locally native species upon completion of work in those areas. In areas where construction is ongoing, hydroseeding shall occur where no construction activities have occurred within six (6) weeks since ground disturbing activities ceased. If exotic species invade these areas prior to hydroseeding, weed removal shall occur in consultation with a qualified biologist and in accordance with the restoration plan.								
BIO-3(c) Fencing. Fencing shall be installed along the south and eastern project boundaries adjacent to the Santa Clara River (e.g. at the east toe of the levee slope) to prevent unnecessary and unrestricted pedestrian, vehicular, bicycle, equestrian, or urban wildlife access across the levee and into the river area.	Verfication that final plans for the road and levee include appropriate fencing	Prior to construction of the road and levee	VPW	City	Appropriate fencing installed along the southern and eastern boundaries of the levee			
BIO-3(d) Construction Best Management Practices (BMPs). The following BMPs shall be implemented: • Construction fencing shall be installed five (5) feet outside of the disturbance limits of active grading areas. The disturbance areas and fencing shall not encroach closer than 30 feet to sensitive habitats.	Field monitoring during grading for and construction of the road and levee	Throughout grading for and construction of the road and levee	VPW	City	Required BMPs fully implemented throughout grading and construction			

Key: VCD City of Ventura Community Development Department
VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
• Establish appropriate BMPs along construction boundaries to provide erosion and sediment control and contain onsite. • A 15 mph speed limit shall be designated in all construction areas. • All equipment washout and fueling areas shall located within the limits of grading at a minimum of 200 feet from the ephemeral drainage. Washout areas shall be designed to fully contain polluted water and materials for subsequent removal from the site. • Mufflers shall be used on all construction equipment and light trucks shall be in good operating condition. • Spill kits shall be onsite at all times. • Drip pans shall be placed under all stationary vehicles and mechanical equipment. • All trash that may attract predators shall be properly contained, removed from the work site weekly, and disposed of regularly. • Sensitive vegetation removed by accident during construction shall be restored. • Comply with the NPDES State General Construction Permit, the project's Storm Water Pollution Prevention Plan (SWPPP) BMPs to control the discharge of pollutants,								

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VPW **City of Ventura Public Works Department**

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
including sediment, into local surface water drainages								
BIO-3(e) Storm Drain BMPs. To minimize the degradation of water quality which could impact sensitive fish and other aquatic resources, all future private and public storm drain facilities that would drain into the Santa Clara River shall incorporate protective BMPs for sediment and pollution control.	Verification that appropriate BMPs are incorporated into development plans for future onsite development projects	Prior to issuance of building permits for future private development projects	VCD	Property owners/ project applicants	Required BMPs fully implemented for all future private development projects			
BIO-4 City Tree Coordination. Prior to initiation of future development projects, applicants shall confirm that the City of Ventura has not approved a tree protection ordinance that is applicable to any trees within the project area. Furthermore, applicants will coordinate with the City's Parks Division for project activities involving the planting, pruning, or removal of any tree located in an existing parkway or easement. Per the City's recommended tree planting requirement for specific roadways with City limits, any trees installed within the Olivas Park Drive right-of-way shall be restricted to island live oak (Quercus tomentella).	Verification that landscape plans for Olivas Park Drive include island live oaks; verification that development plans for future onsite development projects conform to City tree protection requirements	Review of Olivas Park Drive landscape plans prior to construction of the road; review of development plans for private development projects prior to issuance of grading permits	VCD	City for Olivas Park Drive; property owners/ project applicants for future development projects	Inclusion of appropriate trees in landscape plans; verification of compliance with City tree protection requirements			

Key: VCD City of Ventura Community Development Department
VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
GREENHOUSE GAS EMISSIONS								
GHG-1 GHG Emissions Calculations. Future project site developers shall perform project-specific GHG calculations to determine whether their proposed development would generate emissions exceeding the 4.1 metric tons of CO_2E/year per service population threshold, applicable VCAPCD threshold, or recommended City of Ventura threshold in place at the time of development. Project-specific GHG emissions calculations may be completed as stand-alone studies or may be incorporated into required CEQA analysis for individual projects. Applicants of development projects determined to exceed the appropriate threshold, as determined by the City of Ventura, shall implement one or more of the following in order to reduce GHG emissions to below the threshold of significance utilized by the City at the time of development. • **GHG Reduction Plan.** Prior to permit issuance, the applicant shall develop a GHG Reduction Plan that would reduce annual greenhouse gas emissions from the project. The plan will be implemented on site by the project applicant and may include, but is not be limited to, the following components:	Verification that project-specific studies are completed and appropriate project-specific mitigation is required.	Prior to issuance of building permits for future private development projects	VCD	Property owners/ project applicants	Project-specific studies completed and appropriate measures implemented			

Key: **VCD** **City of Ventura Community Development Department**
VPW **City of Ventura Public Works Department**

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
1. Alternative fuel vehicles 2. Energy conservation policies 3. Energy efficient equipment, appliances, heating and cooling 4. Energy efficient lighting 5. Green building and roofs 6. Water conservation and recycling 7. Renewable energy production 8. Off-site vehicle trip reduction 9. Carbon sequestration • **Purchase Carbon Offsets.** If greenhouse gas emissions cannot be reduced to below a level of significance through compliance with a project GHG Reduction Plan, the project applicant shall purchase carbon offsets to reduce GHG emissions below threshold levels. Purchased carbon offsets shall be approved by City staff prior to permit approval.								

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
HAZARDS/HAZARDOUS MATERIALS								
HAZ-1 Soil Management Plan. In the area of the proposed Olivas Park Drive extension and levee alignment, a Soil Management Plan shall be prepared prior to grading to provide procedures for characterization, handling, storage, disposal, and documentation of all soils to be excavated during construction activities. This plan will describe the approach for managing soils consistent with all laws and regulations regarding the excavation, handling, and disposal of impacted soils, including Ventura County Air Pollution Control District (VCAPCD) Rule 55 (Fugitive Dust) and VCAPCD Rule 74.29 (Soil Decontamination Operations) (if applicable). The plan shall be approved by the Los Angeles Regional Water Quality Control Board prior to the issuance of a demolition permit. At the MP Enterprises site (Parcel 13), where lead has been detected in soil samples, the Soil Management Plan shall require additional sampling and analysis for this metal prior to the removal of soil. Any soils that contain lead at levels exceeding the Soluble Threshold Limit Concentration (STLC) shall be excavated and disposed as a hazardous waste. Soils in Parcel 13 that have been identified as containing TPH at	Verification that an appropriate soil management plan has been prepared and implemented.	Verification that a soil plan has been prepared and that appropriate remedial actions have been taken prior to grading for the Olivas Park Drive extension	VPW	City	Implementation of a soil management plan that effectively removes or treats contaminated soil			

Key: VCD City of Ventura Community Development Department
VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
levels exceeding RWQCB action levels shall also be excavated and disposed as a hazardous waste. Upon removal of the concrete pad in Parcel 13, the underlying soil shall be tested for TPH and treated as a hazardous waste if contamination is detected. In the four locations where Toxaphene contamination has been detected, soils shall be excavated and disposed as a hazardous waste. Contaminated soil will either be stockpiled on-site or will be loaded directly onto trucks and covered and transported to an approved off-site disposal/recycling facility. If contaminated soil is stored on-site, it shall be stockpiled on polyethylene or placed in containers approved by the federal Department of Transportation (DOT) until it is transported to an approved off-site disposal/ recycling facility. Disposal of contaminated soils shall occur at an appropriate facility licensed to handle such contaminants and remedial excavation shall proceed under the supervision of an environmental consultant licensed to oversee such remediation. The remediation/disposal program shall be approved by VCEHD. The proponent shall submit all correspondence to VCEHD prior to issuance of grading permits. All proper waste handling and disposal procedures shall be followed. Upon								

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
completion of the remediation/disposal, a qualified environmental consultant shall prepare a report summarizing the project, the remediation/disposal approach implemented, and the analytical results after completion of the remediation, including all waste disposal or treatment manifests.								
HAZ-2 Site-Specific Analysis and Remediation. Prior to construction of any commercial and/or industrial development within the project area, the developer shall undertake site-specific analysis of potential soil and groundwater contamination. If soil sampling indicates the presence of any contaminant in quantities not in compliance with applicable laws or regulations, the applicant shall coordinate with VCEHD or RWQCB, as appropriate, to develop and implement a program to remediate or manage the contaminated soil or groundwater. If groundwater is determined to have been affected by on-site contamination, or if soil contamination is detected at depths of 20 feet below grade or greater, then a groundwater sampling assessment shall be performed. If contaminants are detected in groundwater at levels that exceed maximum contaminant levels for those constituents in drinking water, then the results of the groundwater sampling shall be forwarded to the	Verification that site-specific soil and groundwater analyses have been conducted for future private development projects and that, as necessary, appropriate remediation or management techniques have been implemented	Prior to issuance of grading permits for future private development projects	VCD	Property owners/ project applicants	Completion of required studies and, as necessary, implementation of remediation that achieves compliance with applicable regulatory standards			

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VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
appropriate regulatory agency (VCEHD, RWQCB, or the State of California Environmental Protection Agency Department of Toxic Substances Control). The agency shall review the data and sign off on the property or determine if any additional investigation or remedial activities are deemed necessary. If contaminated soil is present, disposal of contaminated soils shall occur at an appropriate facility licensed to handle such contaminants and remedial excavation shall proceed under the supervision of an environmental consultant licensed to oversee such remediation. The remediation/ disposal program shall be approved by VCEHD. The applicant shall submit all correspondence to VCEHD prior to issuance of grading permits. All proper waste handling and disposal procedures shall be followed. Upon completion of the remediation/disposal, a qualified environmental consultant shall prepare a report summarizing the project, the remediation/ disposal approach implemented, and the analytical results after completion of the remediation, including all waste disposal or treatment manifests.								

Key: **VCD** **City of Ventura Community Development Department**
VPW **City of Ventura Public Works Department**

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
HAZ-4 Storage Tank Removal. Prior to construction of the Olivas Park Drive extension, the diesel AST in Parcel 12 shall be removed and properly disposed at a licensed facility. The removal of the storage tank shall be conducted in accordance with VCEHD regulations. Once the tank is removed, the underlying soil shall be inspected by a qualified environmental consultant to determine if soil and/or groundwater sampling beneath the storage tank would be necessary. If contaminated soil is identified and contaminants in concentrations exceeding regulatory thresholds or action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the VCEHD. Remediation options may include, but are not limited to: excavation and removal with offsite disposal or in-situ soil treatment. If contaminated groundwater is identified and contaminants in concentrations exceeding regulatory action levels are detected, a remediation program shall be implemented to reduce contaminants to within acceptable levels as determined by the VCEHD. Remediation options may include, but are not limited to: pumping and treatment, biological remediation, or natural attenuation.	Verification that the referenced tank has been removed and, as necessary, remediation has been conducted in accordance with applicable regulatory standards	Prior to grading for Olivas Park Drive	VPW	City	Removal of the tank and, as necessary, remediation of any residual contamination to achieve applicable regulatory standards			

Key: **VCD** **City of Ventura Community Development Department**
VPW **City of Ventura Public Works Department**

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
HYDROLOGY AND WATER QUALITY								
HWQ-3(a) Erosion Evaluation and Reinforcement. Once the design of the levee has been finalized, stream flow velocity calculations shall be performed by a qualified hydrologist to determine the exact increase near the radio tower and building. If the increase is determined to result in erosion of the fill underlying the building and tower, the structures must be reinforced using rip-rap, soil cement, or similar technique to prevent erosion.	Verification that stream flow analysis has been conducted and, as necessary, appropriate erosion control measures have been incorporated	In conjunction with final levee design	VPW	City	Required calculations completed and, as necessary, erosion control measures incorporated			
HWQ-3(b) Project Timing. Adequate flood protection shall be provided for both the project area and potentially affected areas along the south side of the Santa Clara River in the City of Oxnard prior to project area construction other than the extension of Olivas Park Drive. Construction of the north and south levees shall be coordinated to the extent feasible to ensure that neither the project site nor any developed areas in Oxnard would experience an increase in surface water elevation of more than one foot during a 100-year flood event.	Verification that the levee would not increase flood hazards within the project area and along potentially affected areas in Oxnard	In conjunction with final levee design	VPW	City	No increase in flood hazards due to levee design			
HWQ-5(a) Conditional Letter of Map Revision (CLOMR). Prior to construction of the levee, a CLOMR from FEMA must be obtained to ensure that project design will accommodate flows during the 100-year storm event.	Verification that a CLOMR has been obtained	Prior to levee construction	VPW	City	CLOMR obtained			

Key: **VCD** **City of Ventura Community Development Department**
VPW **City of Ventura Public Works Department**

Mitigation Measure.	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
HWQ-5(b) Letter of Map Revision. Prior to issuance of building permits, a Letter of Map Revision (LOMR) from FEMA shall be obtained and the final development shall be sited to assure that no structures are placed within the redefined 100-year Flood Zone.	Verification that a LOMR has been obtained	Prior to levee construction	VPW	City	LOMR obtained			
TRAFFIC AND CIRCULATION								
T-1(a) Dual Left-turn Lanes at Victoria Avenue/Olivas Park Drive Intersection. On the westbound approach of this intersection, dual left-turn lanes shall be installed to improve traffic conditions to LOS B and D during the A.M. and P.M. peak hour periods respectively. The timing of this improvement will be dependent on traffic volume growth at the intersection, as determined through monitoring by the City.	Monitoring of intersection operation and implementation of intersection improvements at such time as they are needed	Monitoring annually; implementation of improvements prior to issuance of additional building permits once the City standard has been exceeded	VPW	City for monitoring; property owners/ project applicants for intersection improvements	Implementation of intersection improvements once City standards are exceeded			
T-1(b) Future Development Monitoring. Monitor traffic at the U.S. 101 Southbound Ramps/Johnson Drive intersection annually to determine whether the threshold of ICU – 0.95 has been reached such that the City's LOS E threshold is exceeded.	Monitoring of intersection operation	Annually	VPW	City	Annual monitoring completed			

Key: VCD City of Ventura Community Development Department
VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
T-1(c) Eliminate Left-turns. Left-turns to the southbound ramp at the U.S. Highway 101 Southbound Ramps/Johnson Drive intersection shall be eliminated and a second northbound through travel lane shall be provided from Auto Center Drive to North Bank Drive. In addition, an exclusive right-turn lane on the northbound approach of the Victoria Avenue/Valentine Road intersection shall be required. Johnson Drive shall be re-striped to provide two northbound through lanes under U.S. Highway 101 and a traffic signal shall be installed at the Motel 6/Johnson Drive intersection. Caltrans approval of the improvements to the U.S. Highway 101 Southbound Ramps/Johnson Drive would be required. OR **T-1(d) P.M. Peak Hour Only Restriction of Left-turns.** Left-turns shall be restricted to the southbound ramp at the intersection during the P.M. peak hour period only. Left-turns shall be allowed during the remainder of the day. This would cause vehicles to divert to the U.S. Highway 101 southbound ramps at Victoria Avenue or make U-turns at the Johnson Drive/Motel 6 Driveway intersection to access southbound U.S. Highway 101 only during the P.M. peak hour between 4:00 P.M.	Verification that the improvements in Measure (c), (d), or (e) are implemented once City standards at the Highway 101 Southbound Ramps/ Johnson Drive intersection have been completed	Prior to issuance of additional building permits once the City standard has been exceeded	VPW	Property owners/ project applicants	Implementation of intersection improvements once City standards are exceeded			

Key: VCD City of Ventura Community Development Department
VPW City of Ventura Public Works Department

Mitigation Measure	Implementation Requirement	Timing	Monitoring Department	Funding	Standard for Success	Compliance Verification		
						Initial	Date	Comments
and 6:00 P.M. An exclusive right-turn lane on the northbound approach of the Victoria Avenue/Valentine Road intersection and installation of a traffic signal at the Motel 6/Johnson Drive intersection would be required as part of this measure. Johnson Drive shall be re-striped to provide two northbound through lanes under U.S. Highway 101. Caltrans approval of the improvements to the U.S. Highway 101 Southbound Ramps/Johnson Drive intersection would be required. OR **T-1(e) Limit Future Development.** Trip generation restrictions shall be required of future development in the project area, and shall be implemented as a condition of building permit issuance, to prevent an exceedance of the City's LOS E threshold at the Johnson Drive and Highway 101 Southbound Ramps intersection.								

Key: **VCD** **City of Ventura Community Development Department**
VPW **City of Ventura Public Works Department**

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VENTURA COUNTY CLERK AND RECORDER
Hall of Administration, Main Plaza
800 South Victoria Avenue
Ventura, CA 93009
805-654-2295 http://recorder.countyofventura.org

MARK A. LUNN

CLERK AND RECORDER

Receipt for Services

Cashier	PAREDERO			**Batch #**	841986
Customer	OLIVAS PARK DRIVE EXTENSION PROJECT	**Date:**	07/24/2014	**Time:**	12:06:50PM

Doc. Type	Instrument No	GF Number	Rec Fees	PCOR	Survey Fees	Taxes	Total
CEIR	20140724-10013297-0		3,079.75	0.00	0.00	0.00	3,079.75
					Total Fee:		**3,079.75**

CHECK	4365	3,029.75
CHECK	4364	50.00
	Payment Total:	**3,079.75**

LAFCO 15-11 S1

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING THE CITY OF SAN BUENAVENTURA SPHERE OF INFLUENCE AMENDMENT – OLIVAS PARK DRIVE EXTENSION

WHEREAS, Government Code § 56425 et seq. requires the Local Agency Formation Commission (LAFCo or Commission) to develop and determine the sphere of influence of each local governmental agency within the County; and

WHEREAS, a written request has been filed with the LAFCo Executive Officer pursuant to Government Code § 56428 for the amendment of the City of San Buenaventura (City) sphere of influence; and

WHEREAS, at the times and in the manner required by law, the LAFCo Executive Officer gave notice of the consideration of this item by the Commission; and

WHEREAS, the sphere of influence amendment item was duly considered at a public hearing on September 16, 2015, as specified in the notice of hearing; and

WHEREAS, the Commission heard, discussed, and considered all oral and written testimony for and against the sphere of influence amendment including, but not limited to, testimony at the public hearing on September 16, 2015 and the LAFCo staff report and recommendations.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Commission as follows:

(1) The LAFCo Staff Report and recommendations dated September 16, 2015 are adopted; and

(2) The Commission has considered the criteria set forth in Government Code § 56425(e) and determines as follows:

a. ***The present and planned land uses in the area, including agricultural and open-space lands.*** **[§ 56425(e)(1)]**

The 6.65-acre property has a County General Plan designation of *Open Space* and a City General Plan designation of *Commerce* and *Parks & Open Space*. It is fully developed and is currently being used by the Montalvo Community Services District (MCSD) as a wastewater treatment facility. To accommodate new commercial and industrial development within the City to the west, north, and east of the proposal area, the City is pursuing a project that would, in part, involve the extension of Olivas Park Drive and the installation of a levee through the 6.65-acre site. These improvements would necessitate the decommissioning and demolition of the MCSD facility.

b. ***The present and probable need for public facilities and services in the area.*** **[§ 56425(e)(2)]**

Development in the area to be included in the City's sphere would be limited to the construction of the road extension and levee, and therefore the need for additional City services related to the site would be limited to the services related to streets (e.g., maintenance, landscaping, storm drainage). Future commercial and industrial development would occur in areas that are currently located within the City's boundaries. Additionally, due to the planned decommissioning of the MCSD wastewater treatment facility, wastewater generated in the MCSD service area that is currently being treated at the facility would be routed to the City's facility which has the necessary treatment capacity.

c. ***The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide*****. [§ 56425(e)(3)]**

The City has demonstrated that it has the ability to provide the necessary public services within the subject territory. The implementation of the project would not result in new demands on the City that would adversely impact the present capacity of public facilities and adequacy of services that the City is authorized to provide.

d. ***The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency*. [§ 56425(e)(4)]**

The recommended amendment to the sphere of influence of the City does not involve territory that is known to be a community of interest. Therefore, the sphere of influence amendment would not result in a detrimental impact to any social or economic communities of interest.

e. ***For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection. . . the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.* [§ 56425(e)(5)]**

The sphere of influence of the City includes Saticoy, which is one of the two communities that the Commission determined met the definition of a disadvantaged unincorporated community (Ventura LAFCo Commissioner's Handbook Section 3.2.5). The Saticoy Sanitary District provides sewer service to the Saticoy community; therefore, the additional wastewater to be treated at the City's facility following the eventual decommissioning of the District facility will not result in any changes to sewer service for Saticoy. Furthermore, the area to be annexed will be used for road and levee purposes, and thus its annexation to the City will not result in changes to available service within any disadvantaged unincorporated communities.

(3) The sphere of influence amendment for the City is hereby approved to include the area as generally depicted in Exhibit A attached hereto; and

(4) The Commission certifies that it has reviewed and considered the information contained in the environmental impact report (EIR) entitled "Olivas Park Drive Extension Project" prepared for the City and Addendum to the EIR prepared by the City; and

(5) The Commission hereby adopts the lead agency's findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program (Attachment 4 of the Staff Report); and

(6) The Commission directs staff to file a Notice of Determination in accordance with § 15094 and § 15096(i) of the CEQA Guidelines; and

(7) This sphere of influence amendment approval shall not become effective until a Certificate of Completion has been recorded for "LAFCO 15-11 CITY OF SAN BUENAVENTURA REORGANIZATION – OLIVAS PARK DRIVE EXTENSION"; and

(8) LAFCo staff is directed to have the official Geographic Information System (GIS) sphere of influence data maintained for the Ventura LAFCo by the Ventura County Information Technology Services Department as the official sphere of influence record for the City amended consistent with this action.

This resolution was adopted on September 16, 2015.

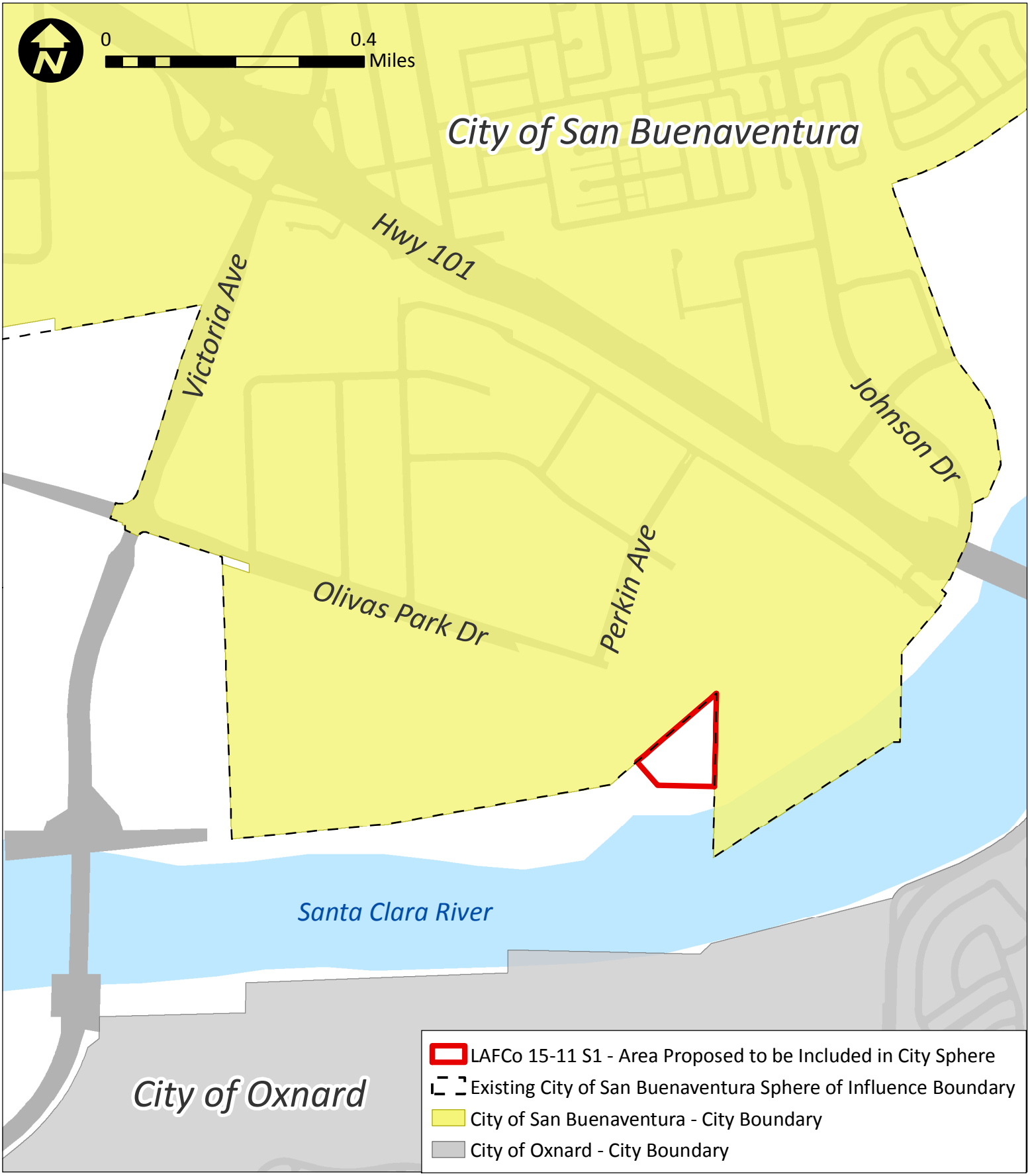
	AYE	NO	ABSTAIN	ABSENT
Commissioner Cunningham	☐	☐	☐	☐
Commissioner Dandy	☐	☐	☐	☐
Commissioner Freeman	☐	☐	☐	☐
Commissioner Morehouse	☐	☐	☐	☐
Commissioner Parks	☐	☐	☐	☐
Commissioner Parvin	☐	☐	☐	☐
Commissioner Zaragoza	☐	☐	☐	☐
Alt. Commissioner Bennett	☐	☐	☐	☐
Alt. Commissioner Ramirez	☐	☐	☐	☐
Alt. Commissioner Rooney	☐	☐	☐	☐
Alt. Commissioner Ross	☐	☐	☐	☐

_____ _____

Date **Lou Cunningham, Chair, Ventura Local Agency Formation Commission**

Attachment: Exhibit A

c: City of San Buenaventura
Montalvo Community Services District
Oxnard Union High School District
Oxnard Elementary School District
Southern California Edison
Sempra Energy/Gas Company
Ventura County Assessor's Office
Ventura County Auditor/Controller
Ventura County Elections Office – Registrar of Voters
Ventura County Fire Protection District
Ventura County IT Services – GIS Officer
Ventura County Planning Division
Ventura County Resource Conservation District
Ventura County Service Area No. 32
Ventura County Service Area No. 33
Ventura County Sheriff's Department – EOC
Ventura County Surveyor's Office
Ventura County Watershed Protection District



LAFCo 15-11 S1
City of San Buenaventura
Sphere of Influence Amendment (City)
Olivas Park Drive Extension
September 16, 2015

Exhibit A

LAFCO 15-11 S2

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING THE MONTALVO COMMUNITY SERVICES DISTRICT SPHERE OF INFLUENCE AMENDMENT – OLIVAS PARK DRIVE EXTENSION

WHEREAS, Government Code § 56425 et seq. requires the Local Agency Formation Commission (LAFCo or Commission) to develop and determine the sphere of influence of each local governmental agency within the County; and

WHEREAS, a written request has been filed with the LAFCo Executive Officer pursuant to Government Code § 56428 for the amendment of the Montalvo Community Services District (MCSD or District) sphere of influence; and

WHEREAS, at the times and in the manner required by law, the LAFCo Executive Officer gave notice of the consideration of this item by the Commission; and

WHEREAS, the sphere of influence amendment item was duly considered at a public hearing on September 16, 2015, as specified in the notice of hearing; and

WHEREAS, the Commission heard, discussed, and considered all oral and written testimony for and against the sphere of influence amendment including, but not limited to, testimony at the public hearing on September 16, 2015 and the LAFCo staff report and recommendations.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Commission as follows:

(1) The LAFCo Staff Report and recommendations dated September 16, 2015 are adopted; and

(2) The Commission has considered the criteria set forth in Government Code § 56425(e) and determines as follows:

a. ***The present and planned land uses in the area, including agricultural and open-space lands.*** **[§ 56425(e)(1)]**

The 6.65-acre property has a County General Plan designation of *Open Space* and a City of San Buenaventura (City) General Plan designation of *Commerce* and *Parks & Open Space*. It is fully developed and is currently being used by the MCSD as a wastewater treatment facility. To accommodate new commercial and industrial development within the City to the west, north, and east of the proposal area, the City is pursuing a project that would, in part, involve the extension of Olivas Park Drive and the installation of a levee through the 6.65-acre site. These improvements would necessitate the decommissioning and demolition of the MCSD facility. The approximately 26.3-acre parcel to the south of the MCSD wastewater treatment facility consists mostly of the Santa Clara River and riparian area, is undeveloped, and is not planned for future development.

b. ***The present and probable need for public facilities and services in the area.*** **[§ 56425(e)(2)]**

Development in the area to be included in the City's sphere would be limited to the construction of the road extension and levee, and therefore the need for additional City services related to the site would be limited to the services related to streets (e.g., maintenance, landscaping, storm drainage). Future commercial and industrial development would occur in areas that are currently located within the City's boundaries. Additionally, due to the planned decommissioning of the MCSD wastewater treatment facility, wastewater generated in the MCSD service area that is currently being treated at the facility would be routed to the City's facility which has the necessary treatment capacity. The approximately 26.3-acre parcel to the south of the MCSD wastewater treatment facility consists mostly of the Santa Clara River and riparian area, is undeveloped, and is not planned for future development.

c. ***The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide*****. [§ 56425(e)(3)]**

The City has demonstrated that it has the ability to provide the necessary public services within the subject territory. The implementation of the project would not result in new demands on the City that would adversely impact the present capacity of public facilities and adequacy of services that the City is authorized to provide. The approximately 26.3-acre parcel to the south of the MCSD wastewater treatment facility consists mostly of the Santa Clara River and riparian area, is undeveloped, and is not planned for future development.

d. ***The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency*. [§ 56425(e)(4)]**
The recommended reduction to the sphere of influence of the District does not involve territory that is known to be a community of interest. Therefore, the sphere of influence amendment would not result in a detrimental impact to any social or economic communities of interest.

e. ***For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection. . . the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.* [§ 56425(e)(5)]**
The sphere of influence of the City includes Saticoy, which is one of the two communities that the Commission determined met the definition of a disadvantaged unincorporated community (Ventura LAFCo Commissioner's Handbook Section 3.2.5). The Saticoy Sanitary District provides sewer service to the Saticoy community; therefore, the additional wastewater to be treated at the City's facility following the eventual decommissioning of the District's facility will not result in any changes to sewer service for Saticoy. Furthermore, the area to be annexed will be used for road and levee purposes, and thus its annexation to the City will not result in changes to available service within any disadvantaged unincorporated communities.

(3) The sphere of influence amendment for the District is hereby approved to include the area as generally depicted in Exhibit A attached hereto; and

(4) The Commission certifies that it has reviewed and considered the information contained in the environmental impact report (EIR) entitled "Olivas Park Drive Extension Project" prepared for the City and Addendum to the EIR prepared by the City; and

(5) The Commission hereby adopts the lead agency's findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program (Attachment 4 of the Staff Report); and

(6) The Commission directs staff to file a Notice of Determination in accordance with § 15094 and § 15096(i) of the CEQA Guidelines; and

(7) This sphere of influence amendment approval shall not become effective until a Certificate of Completion has been recorded for "LAFCO 15-11 CITY OF SAN BUENAVENTURA REORGANIZATION – OLIVAS PARK DRIVE EXTENSION"; and

(8) LAFCo staff is directed to have the official Geographic Information System (GIS) sphere of influence data maintained for the Ventura LAFCo by the Ventura County Information Technology Services Department as the official sphere of influence record for the City amended consistent with this action.

This resolution was adopted on September 16, 2015.

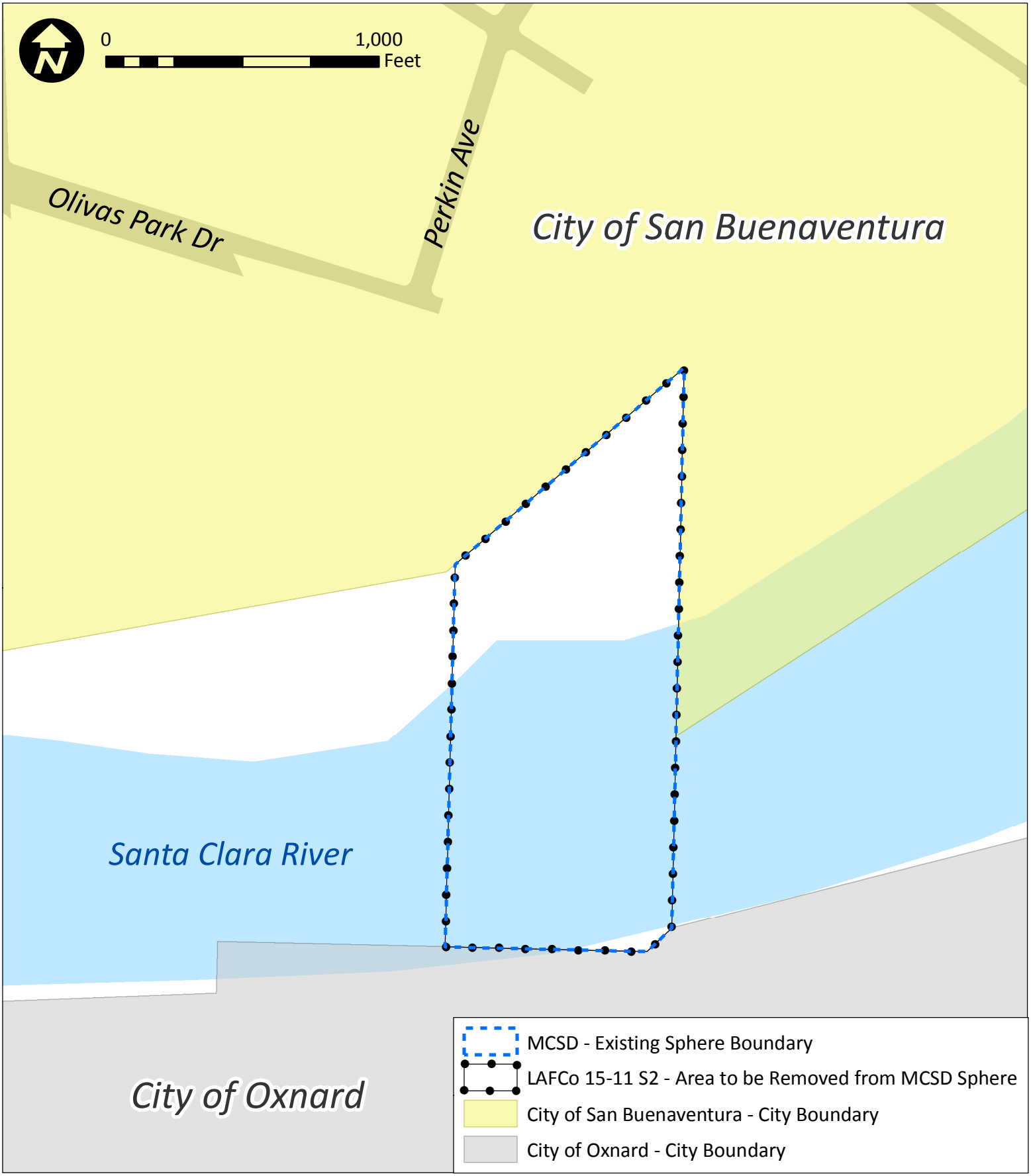
	AYE	NO	ABSTAIN	ABSENT
Commissioner Cunningham	☐	☐	☐	☐
Commissioner Dandy	☐	☐	☐	☐
Commissioner Freeman	☐	☐	☐	☐
Commissioner Morehouse	☐	☐	☐	☐
Commissioner Parks	☐	☐	☐	☐
Commissioner Parvin	☐	☐	☐	☐
Commissioner Zaragoza	☐	☐	☐	☐
Alt. Commissioner Bennett	☐	☐	☐	☐
Alt. Commissioner Ramirez	☐	☐	☐	☐
Alt. Commissioner Rooney	☐	☐	☐	☐
Alt. Commissioner Ross	☐	☐	☐	☐

_____ _____

Date **Lou Cunningham, Chair, Ventura Local Agency Formation Commission**

Attachment: Exhibit A

c: City of San Buenaventura
Montalvo Community Services District
Oxnard Union High School District
Oxnard Elementary School District
Southern California Edison
Sempra Energy/Gas Company
Ventura County Assessor's Office
Ventura County Auditor/Controller
Ventura County Elections Office – Registrar of Voters
Ventura County Fire Protection District
Ventura County IT Services – GIS Officer
Ventura County Planning Division
Ventura County Resource Conservation District
Ventura County Service Area No. 32
Ventura County Service Area No. 33
Ventura County Sheriff's Department – EOC
Ventura County Surveyor's Office
Ventura County Watershed Protection District



LAFCo 15-11 S2
Montalvo Community Services District (MCSD)
Sphere of Influence Amendment
Olivas Park Drive Extension
September 16, 2015

Exhibit A

LAFCO 15-11

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING THE CITY OF SAN BUENAVENTURA REORGANIZATION – OLIVAS PARK DRIVE EXTENSION; ANNEXATION TO THE CITY OF SAN BUENAVENTURA AND VENTURA PORT DISTRICT, AND DETACHMENT FROM THE VENTURA COUNTY RESOURCE CONSERVATION DISTRICT, VENTURA COUNTY FIRE PROTECTION DISTRICT, AND VENTURA COUNTY SERVICE AREA NOS. 32 AND 33

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Ventura Local Agency Formation Commission (LAFCo or Commission) pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (§ 56000 et seq. of the California Government Code); and

WHEREAS, notice was provided at the times and in the manner required by law; and

WHEREAS, the proposal was duly considered on September 16, 2015; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony for and against the proposal including, but not limited to, the LAFCo Staff Report (which contains the recommendations, and a discussion of applicable spheres of influence and local plans and policies); and

WHEREAS, all landowners within the affected territory have consented to the proposal; and

WHEREAS, the affected territory has fewer than twelve registered voters and is considered uninhabited; and

WHEREAS, information satisfactory to the Commission has been presented that no subject or affected agencies have submitted written opposition to the proposal; and

WHEREAS, the Commission finds the proposal to be in the best interest of the landowners and present and future inhabitants within the City of San Buenaventura (City) and within the affected territory, and the organization of local governmental agencies within Ventura County.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Ventura Local Agency Formation Commission as follows:

(1) The LAFCo Staff Report dated September 16, 2015 and recommendation for approval of the proposal are adopted.

(2) The proposal will lead to planned, orderly, and efficient development.

(3) The reorganization is hereby approved, and the boundaries are established as generally set forth in the attached Exhibit A.

(4) The boundaries of the proposal are found to be definite and certain as approved.

(5) The subject proposal is assigned the following distinctive short form designation: **LAFCO 15-11 CITY OF SAN BUENAVENTURA REORGANIZATION – OLIVAS PARK DRIVE EXTENSION**.

(6) The Commission certifies that it has reviewed and considered the information contained in the environmental impact report entitled "Olivas Park Drive Extension Project" prepared for the City as lead agency, as well as all comments received, and determines that there are not any feasible mitigation measures or feasible alternatives, within the power and authority of LAFCo, which would substantially lessen or avoid any significant effect on the environment [CEQA Guidelines § 15096(g)].

(7) The Commission hereby adopts the lead agency's findings (Attachment 4 of the Staff Report), Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program.

(8) The Commission directs staff to File a Notice of Determination in accordance with § 15094 and § 15096(i) of the CEQA Guidelines.

(9) The Commission determines that the project is in compliance with Government Code § 56741 as the territory to be annexed to the City is located within one county and is contiguous with the boundaries of the City.

(10) The affected territory is uninhabited as defined by Government Code § 56046, no affected local agency has submitted a written demand for notice and hearing, and all

the owners of land within the affected territory have given their written consent to the proposal. Therefore, pursuant to Government Code § 56662(a), the Commission hereby makes determinations upon the proposal without notice and hearing, and waives conducting authority proceedings entirely.

(11) The property owner of the affected territory shall be liable for all taxes, charges, fees or assessments that are levied on similar properties within the City.

(12) **This reorganization shall not be recorded until all LAFCo fees have been paid and until fees necessary for filing with the State Board of Equalization have been submitted to the LAFCo Executive Officer.**

(13) **This reorganization shall not be recorded until a map and legal description consistent with this approval and suitable for filing with the State Board of Equalization have been submitted to the LAFCo Executive Officer.**

This resolution was adopted on September 16, 2015.

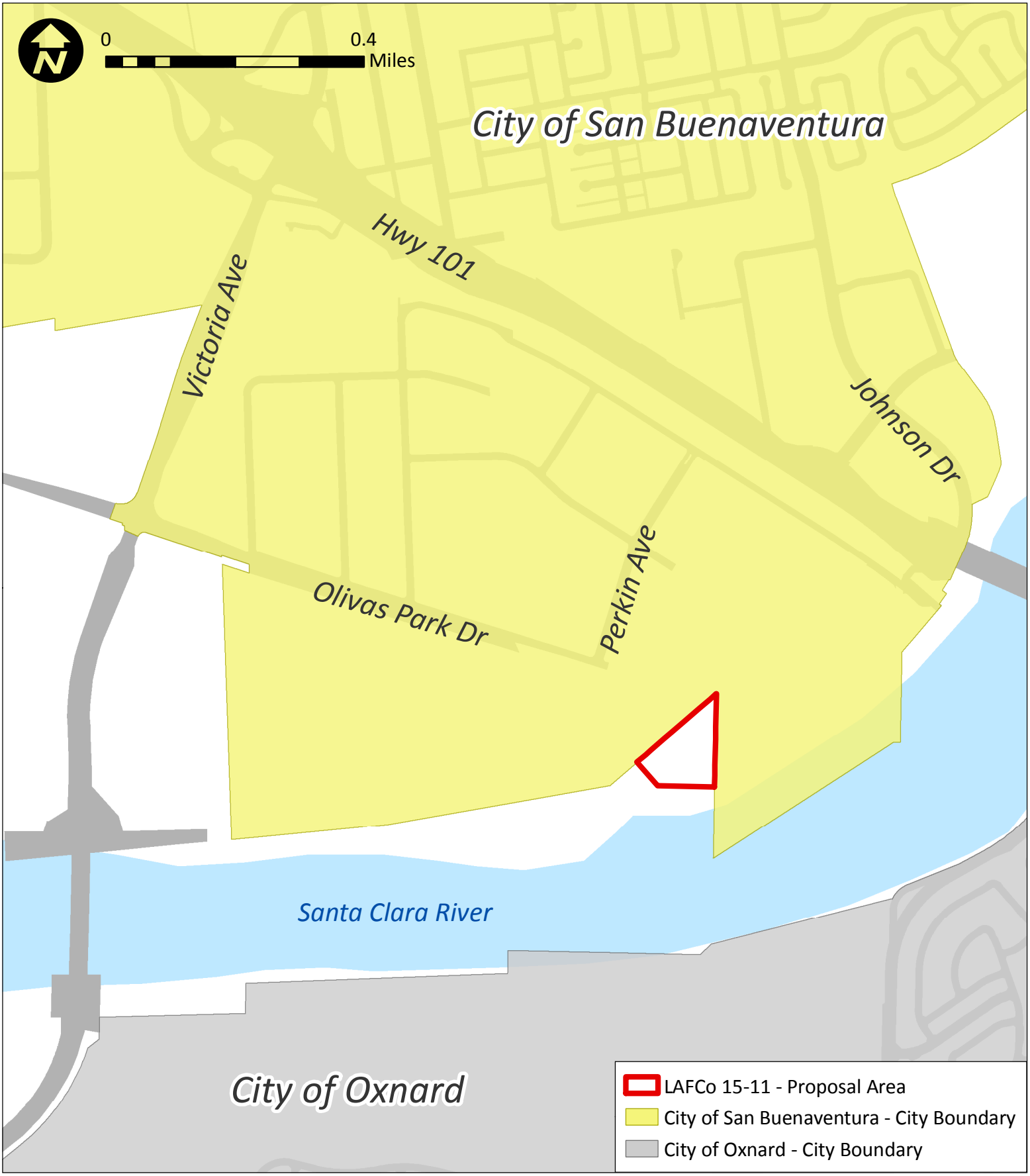
	AYE	NO	ABSTAIN	ABSENT
Commissioner Cunningham	☐	☐	☐	☐
Commissioner Dandy	☐	☐	☐	☐
Commissioner Freeman	☐	☐	☐	☐
Commissioner Morehouse	☐	☐	☐	☐
Commissioner Parks	☐	☐	☐	☐
Commissioner Parvin	☐	☐	☐	☐
Commissioner Zaragoza	☐	☐	☐	☐
Alt. Commissioner Bennett	☐	☐	☐	☐
Alt. Commissioner Ramirez	☐	☐	☐	☐
Alt. Commissioner Rooney	☐	☐	☐	☐
Alt. Commissioner Ross	☐	☐	☐	☐

_____ _____

Date **Lou Cunningham, Chair, Ventura Local Agency Formation Commission**

Attachment: Exhibit A

c: City of San Buenaventura
Montalvo Community Services District
Oxnard Union High School District
Oxnard Elementary School District
Southern California Edison
Sempra Energy/Gas Company
Ventura County Assessor's Office
Ventura County Auditor/Controller
Ventura County Elections Office – Registrar of Voters
Ventura County Fire Protection District
Ventura County IT Services – GIS Officer
Ventura County Planning Division
Ventura County Resource Conservation District
Ventura County Service Area No. 32
Ventura County Service Area No. 33
Ventura County Sheriff's Department – EOC
Ventura County Surveyor's Office
Ventura County Watershed Protection District



LAFCo 15-11
City of San Buenaventura
Reorganization
Olivas Park Drive Extension
September 16, 2015

Exhibit A

VENTURA LOCAL AGENCY FORMATION COMMISSION

STAFF REPORT

Meeting Date: September 16, 2015

(*Continued from meeting of May 20, 2015*)

Agenda Item 11

TO: LAFCo Commissioners

FROM: Kai Luoma, Executive Officer

SUBJECT: LAFCo 15-08S City of Santa Paula Sphere of Influence Review/Update

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This item was continued from the May 20 LAFCo meeting to allow the City of Santa Paula additional time to prepare for the hearing and for LAFCo staff to review and prepare responses to comment letters that were received.

The recommendations, background, and discussion contained in the May 20 Staff Report (Attachment 1) remain applicable. This Staff Report provides a more detailed background of the history of the City sphere of influence and how it relates to the City Urban Restriction Boundary (CURB). It also provides some general and specific responses to the many comments that have been submitted on the matter.

RECOMMENDATIONS:

It is recommended that the Commission approve one of the following options:

Option 1 - Review the sphere of influence for the City of Santa Paula and determine that no update is necessary.

Option 2 - Adopt the Resolution (Attachment 4) making determinations and updating the sphere of influence for the City of Santa Paula to remove most of the Adams Canyon Expansion Area from the sphere of influence for the City of Santa Paula.

Option 3 - Adopt the Resolution (Attachment 5) making determinations and updating the sphere of influence for the City of Santa Paula to remove most of the Adams Canyon and all of the Fagan Canyon Expansion Areas from the sphere of influence for the City of Santa Paula.

COMMISSIONERS AND STAFF

COUNTY:	CITY:	DISTRICT:	PUBLIC:
Linda Parks	Carl Morehouse, Vice Chair	Bruce Dandy	Lou Cunningham, Chair
John Zaragoza	Janice Parvin	Elaine Freeman	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Carmen Ramirez	Mary Anne Rooney	David J. Ross
Executive Officer:	**Analyst**	**Office Manager/Clerk**	**Legal Counsel**
Kai Luoma, AICP	Andrea Ozdy	Richelle Beltran	Michael Walker

BACKGROUND

Sphere of influence review / update

Consistent with its adopted work plan, in November 2012, the Commission accepted Municipal Service Reviews (MSRs) for nine of the ten cities within the County (no MSR was prepared for the City of Port Hueneme). Also in November 2012, following acceptance of the MSRs, the Commission reviewed and reaffirmed the spheres of influence for the Cities of Moorpark, Ojai, Oxnard, and Thousand Oaks. The Commission also reviewed and updated the sphere of influence for the City of Camarillo to remove approximately 20 acres of agricultural land. In 2013, the Commission reviewed and reaffirmed the spheres of influence for the Cities of Fillmore and Simi Valley. The Commission also reviewed and updated the sphere of influence for the City of San Buenaventura to remove approximately 65 acres of agricultural land.

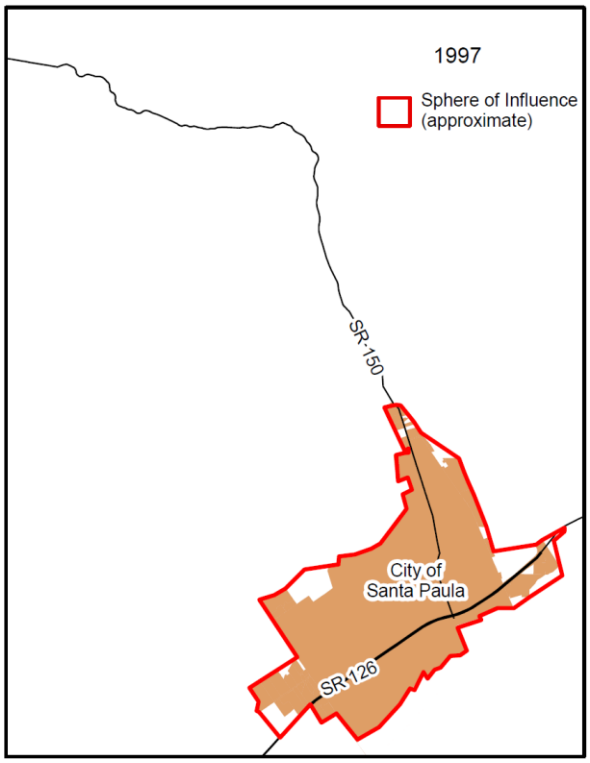
The sphere of influence for the City of Santa Paula was scheduled to be reviewed and possibly updated by the Commission in January 2013, but the matter was continued to the March 2013 meeting. At that time, the Commission was provided with the same three options regarding the City sphere of influence that are recommended in this Staff Report. A motion to approve Option 2 (to remove most of Adams Canyon from the sphere of influence) failed on a 3-3 vote. A second motion to approve Option 1 (to determine that no update to the sphere of influence is necessary) also failed on a 3-3 vote. Thus, the sphere of influence for the City of Santa Paula was the only review of a city sphere of influence for which the Commission took no action: it was neither updated nor reaffirmed by the Commission.

In February 2015, the City of Santa Paula Planning Commission was scheduled to consider a development proposal on approximately 50 acres of land located within the Adams Canyon Expansion Area, which would require annexation to the City. The 79-unit hillside residential project involved the grading of two million cubic yards of earth and the deposition of several hundred thousand cubic yards of earth in three canyons located north of the project site and also within the Adams Canyon Expansion Area. LAFCo staff provided a comment letter to the City outlining a number of issues with the development proposal and provided the letter to the LAFCo Commission in March 2015. At the March 2015 LAFCo meeting, the Commission directed staff to schedule the review (and possible update) of the City sphere of influence for a subsequent meeting. As noted, the matter was scheduled for the May 2015 LAFCo meeting and continued to the September 2015 meeting.

History of the sphere of influence and CURB in Adams and Fagan Canyon areas

Since the City Council's adoption of the General Plan Update in 1998 and LAFCo's approval of a sphere amendment in 2000, both the Adams Canyon and Fagan Canyon Expansion Areas have been the focus of several development proposals. In addition, both Expansion Areas have been subject

to voter initiatives regarding development. The following timeline outlines the history of various events that have affected past development proposals in each Expansion Area:

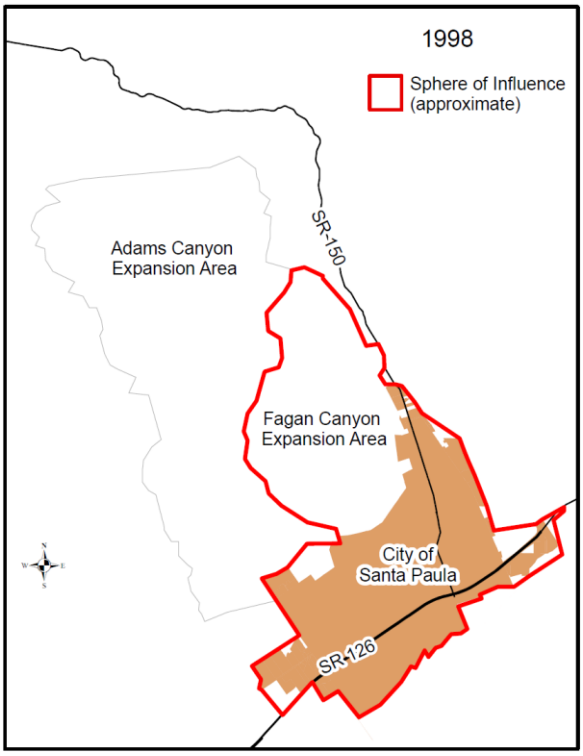


1997: The Adams Canyon and Fagan Canyon Expansion Areas are not identified in the City General Plan and are not included in the City sphere of influence (see inset to right).

1998:

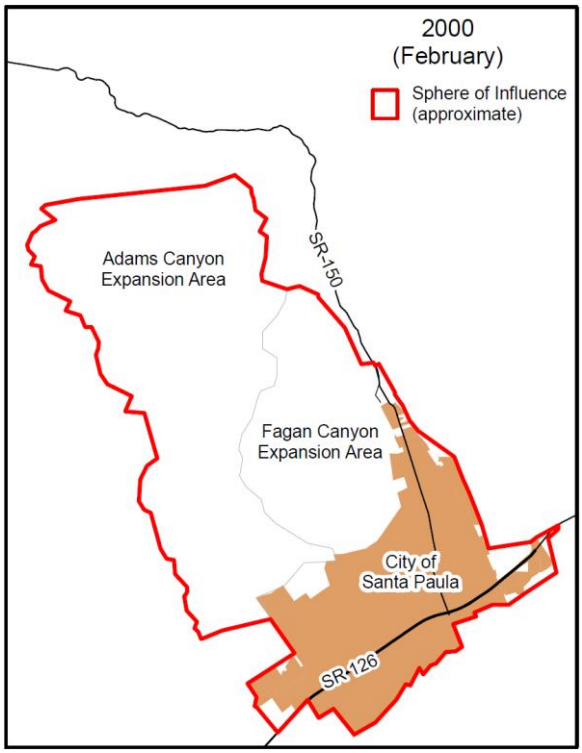
- The City amends its General Plan to identify the City's two Expansion Areas to the north of the City. The General Plan Update did not include a land use map, infrastructure plan, circulation plan, or open space plan for either Expansion Area.

  - Fagan Canyon:
    - 2,173 acres (3.4 square miles)
    - 450 residential units
    - Limited commercial development.
  - Adams Canyon:
    - 5,413 acres (8.5 square miles)
    - 2,250 residential units and a population of 6,750
    - 152,000 square feet of commercial development,
    - 2 hotels, 2 golf courses, schools, and recreational uses.



- The City submits a request to LAFCo to include both Expansion Areas within the City sphere. LAFCo approves the inclusion of only Fagan Canyon (2,173 acres) in the sphere of influence (see inset to right). Adams Canyon is not included within the sphere of influence based on the Commission's concerns over the City's ability to provide services in this area.
- The City submits a request for reconsideration for the inclusion of Adams Canyon in the sphere.

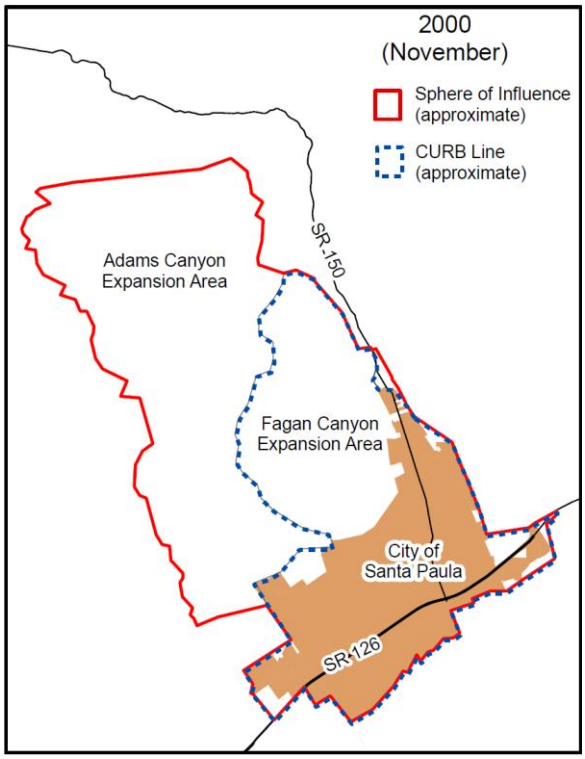
1999: City submits a "White Paper Report" to LAFCo outlining how services would be provided to Adams Canyon. The White Paper Report conclusions are based on development of 2,250 units with a population of 6,750, 152,000 square feet of commercial development, 2 hotels and 2 golf courses in Adams Canyon.



2000:

- February: Based largely on information submitted in the White Paper Report, LAFCo amends the sphere of influence to include the 5,413-acre Adams Canyon Expansion Area (see inset to right).
- November: City voters approve Save Open-Space and Agricultural Resources (SOAR) to include Fagan Canyon Expansion Area within the CURB. Adams Canyon is not included within the CURB (see inset below).

2002: City voters reject a developer-backed initiative to amend the CURB line to include the Adams Canyon Expansion Area to allow for potential annexation and development consistent with the General Plan.



2003: City voters approve an amendment to the CURB to include a 32-acre parcel abutting the City (the Peck/Foothill Property). (See top inset next page).

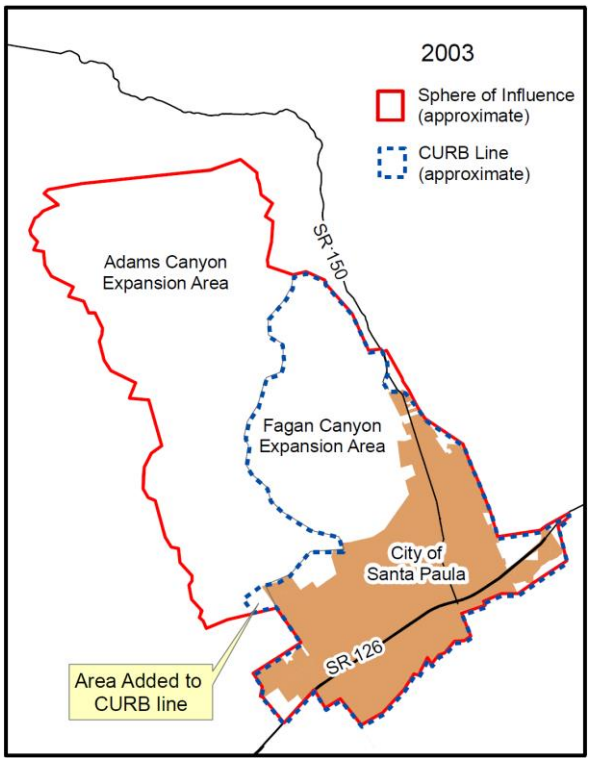
2005: The City Council approves a General Plan amendment and development project in the Fagan Canyon Expansion Area, which increases the number of residential units in the Area from 450 to 2,155, and includes commercial development, schools, and other uses.

2006:

- City residents gather enough signatures to place a referendum on the ballot to overturn the City

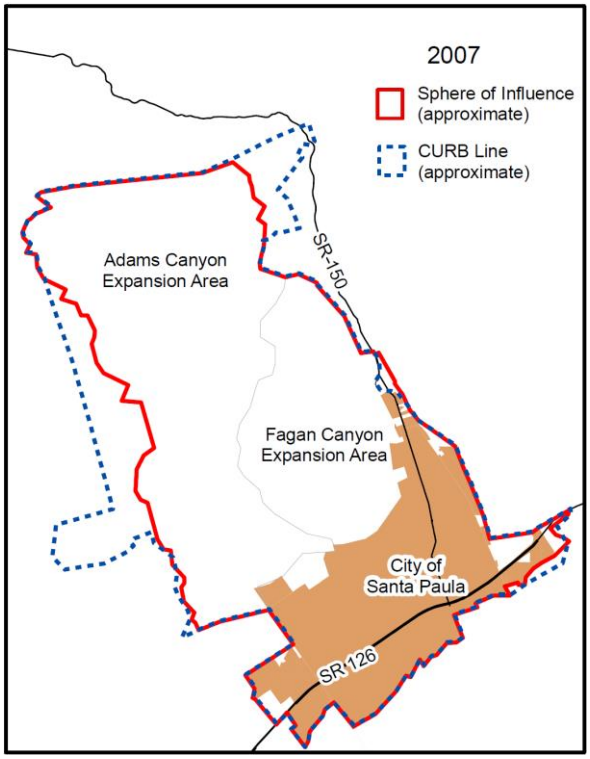
Council's approval of the Fagan Canyon development project.

- The City Council rescinds its approval of the previously-approved development project in Fagan Canyon and places the project on the ballot.
- Voters reject the Fagan Canyon project.
- City voters reject a second developer-backed initiative to include the Adams Canyon Expansion Area within the CURB to allow for the potential annexation and development of 495 dwelling units.
- After collecting enough signatures to qualify for the ballot, voters approve a measure that requires voter approval in order to increase development density on any property over 81 acres in size through 2020. This measure applies to all lands within the City's General Plan planning area.



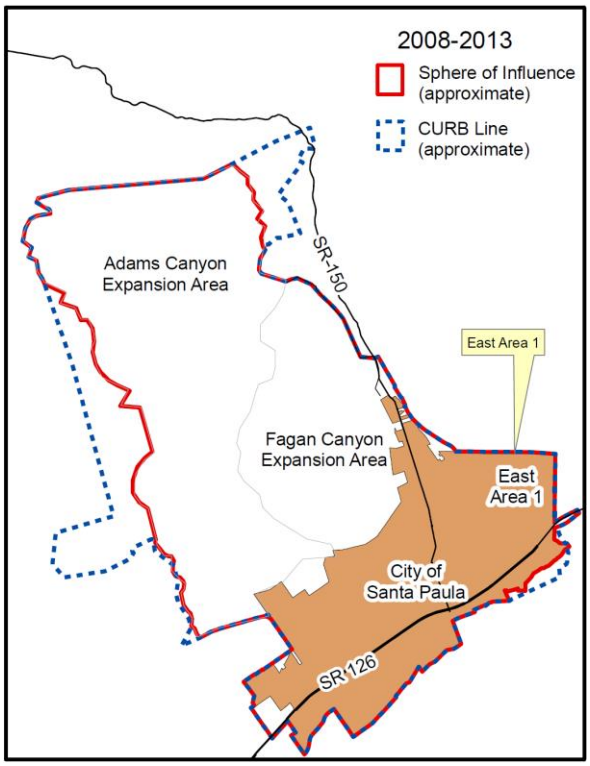
2007:

- May: City voters approve a third developer-backed initiative to increase the size of the CURB and amend the General Plan's allowable uses in the Adams Canyon Expansion Area (see lower inset to right). The initiative did not include a land use map, infrastructure plan, circulation plan, or open space plan for the Expansion Area. The approved initiative:
  - Increases the size of the CURB to include an additional 6,578 acres (10.3 sq. mi) for a total of 8,751 acres (13.7 sq. mi) north of the City.
  - Increases the size of the Adams Canyon Expansion Area to include an additional 1,165 acres (from 5,413 acres (8.5 sq. mi.) to 6,578 acres (10.3 sq. mi.)).
  - Reduces the maximum number of units from 2,250 to 495.
  - Eliminates the 150,000 square feet of potential commercial development.



- Reduces the number of hotels and golf courses from 2 each to 1 each.

- June: LAFCo reviews and updates the City sphere of influence and makes no changes to the sphere of influence north of the City.



2008: City voters amend the CURB to include the 550-acre East Area 1 development site, to allow for development of:
- 1,500 residential units
- 150,000 square feet of light industrial
- 285,000 square feet of commercial
- 376,000 square feet of civic uses
- Parks and open space

2011: LAFCo approves an amendment to the City sphere of influence and annexation of the East Area 1 development site (see inset to right).

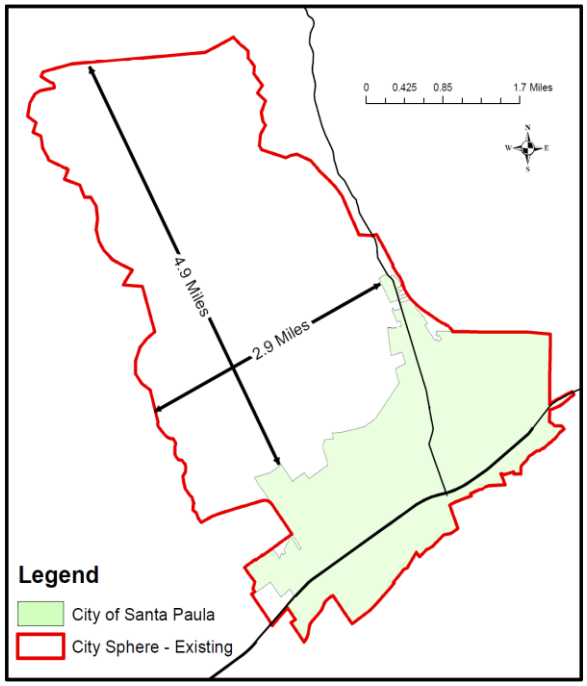
2013: The East Area 1 sphere of influence amendment and annexation become effective.

DISCUSSION

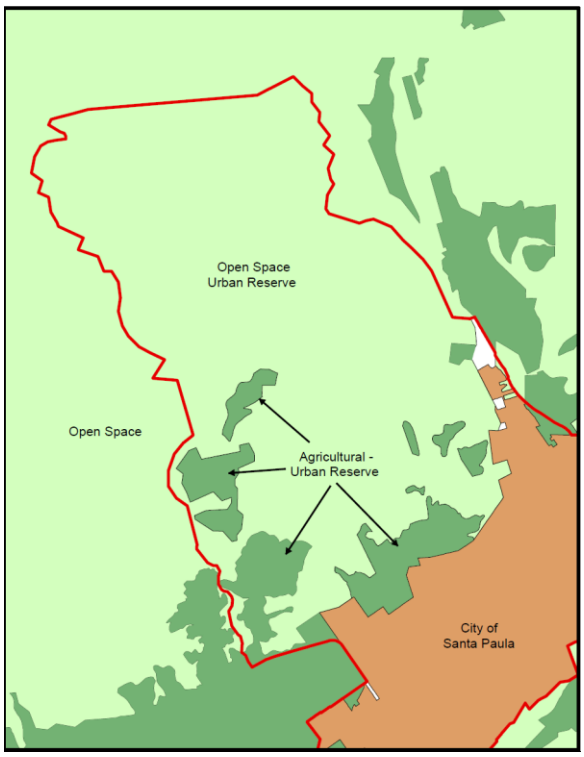
The current sphere of influence is discussed in detail in the March 2013 and May 2015 Staff Reports (both are contained in Attachment 1). Following is a brief summary of the current sphere of influence within the Adams and Fagan Canyon Expansion Areas.

	Unincorporated area within sphere	Area per General Plan	Residential units per General Plan
Adams Canyon Expansion Area	5,413 acres (8.5 sq. mi.)	6,578 acres (10.3 sq. mi.)	495
Fagan Canyon Expansion Area	2,173 acres (3.4 sq. mi.)	2,173 acres (3.4 sq. mi.)	450
Total	**7,586 acres (11.9 sq. mi)**	**8,751 acres (13.7 sq. mi)**	**945**

The City's current sphere of influence extends nearly 5 miles north of the City and up to nearly 3 miles east to west (see inset to right). It contains more unincorporated territory than any other city sphere of influence in the County and is the only city's sphere in which the amount of unincorporated territory is greater than the territory within the corresponding city.



With over 1,000 total acres (1.6 square miles) of unincorporated agricultural land, it is second only to the approximately 1,175 acres of unincorporated agricultural land within the City of Oxnard's sphere of influence. With approximately 6,626 acres (10.3 square miles) of undeveloped unincorporated open space land (see inset to lower right), it exceeds the total amount of unincorporated undeveloped open space land within all of the other city spheres of influence combined (approximately 4,800 acres).



The current size of the City is 3,653 acres (5.7 square miles) with an estimated population in 2014 of 30,441. If the area within the sphere of influence where to be annexed to the City and developed consistent with the allowable uses in the General Plan, it would represent a more than 300% increase in the physical size of the City to accommodate an approximately 9% increase in the City's population.

The City's General Plan provides no land use plan, circulation plan, infrastructure/public facilities plan, or open space plan for the area within the sphere of influence north of the City.

<u>COMMENTS RECEIVED:</u>

Five comment letters were received prior to the May 20 meeting, but after the May 20 Staff Report was prepared. One was from the City of Santa Paula and four were from Latham and Watkins, LLP, a law firm that represents R.E. Holdings (the owner of a

majority of the property within the Adams Canyon Expansion Area). These letters and a summary of their content is as follows:

- City of Santa Paula, May 19, 2015 – Regarding LAFCo's authority to review the City's sphere of influence and the purported need to prepare an updated municipal service review.
- Latham and Watkins, May 19, 2015 – Regarding the purported failure of the May 20, 2015 Staff Report to provide a sufficient basis to remove Adams Canyon from the City sphere of influence.
- Latham and Watkins, May 15, 2015 - Regarding the application of LAFCo's Handbook policies.
- Latham and Watkins, May 15, 2015 - Regarding the California Environmental Quality Act (CEQA).
- Latham and Watkins, May 15, 2015 - Regarding the purported need to prepare a MSR.

Each of these letters and staff's response to the points within them are attached (Attachment 2 is regarding the letter from Santa Paula; Attachment 3 is regarding the letters from Latham and Watkins). The letters do not raise any issues that would preclude the Commission from taking any of the three recommended options: LAFCo's authority to review the City's sphere is clearly explained in the May 20 Staff Report; the Staff Reports provide a sufficient basis to support an action to remove territory from the sphere if the Commission chooses to do so; the removal of territory from the sphere would not conflict with any of the Commission's policies; the three recommended options are exempt from CEQA, as explained in the May 20 Staff Report; and there is no requirement that a new MSR be prepared.

Some of the comments received pertain to issues that require additional clarification, as the comments are either not entirely accurate or broach matters that were not fully covered in previous staff reports. Each comment is generally summarized below in italics followed by staff's response.

- *Comment: LAFCo is being unfair, arbitrary, capricious, and/or punitive by singling out only the City of Santa Paula for a sphere of influence review before it is scheduled to next do so in 2017.*

  As explained in the "Background" section of this report, the City's sphere of influence is the only city sphere for which the Commission took no action to either update or reaffirm it as part of its reviews of all of the city spheres in 2012 and 2013. In addition, the City Planning Commission recently took an action to recommend that the City Council approve a development project within the Adams Canyon Expansion Area and sphere of influence that would include LAFCo action to annex a portion of the project site to the City. Based on these circumstances, it is reasonable at this time to review the sphere of influence.

- *Comment: City voters established the CURB to be substantially coterminous with the sphere of influence in the Expansion Areas.*

As can be seen from the history of the City's sphere of influence and CURB, the location of the sphere of influence and CURB do not correspond with each other in the Expansion Areas. The CURB did not affect the location of the sphere of influence, as the sphere was established before the CURB existed. Additionally, the location of the sphere of influence played only a minor role in the location of the CURB in the Expansion Areas. For instance, when the CURB was first established to include the Fagan Canyon Expansion Area in 2000, only approximately 25% of the CURB was located coterminous with the sphere of influence (the CURB covered less area than the sphere). When the CURB was amended to include the Adams Canyon Expansion Area in 2007, only approximately 37% of the amended CURB was established to generally follow, or be coterminous with, the sphere of influence (the CURB covered more area than the sphere).

- *Comment: LAFCo policies recognize the importance of CURBs and the will of the voters in establishing spheres of influence.*

  Regarding spheres of influence, LAFCo policies recognize CURBs only insofar as they establish that city spheres of influence should not extend beyond them. CURBs are not recognized in any other way in the determination of a sphere of influence.

  CURBs and spheres of influence serve different purposes. CURBs and their related SOAR ordinances are matters of local policy that apply only to a particular city. LAFCo is not subject to them. The location of a CURB is established and controlled by city voters and generally specifies where a city may, and where it may not, consider allowing development to occur. A sphere of influence is established and amended by LAFCo. A sphere of influence for a city is the location where LAFCo, after having exercised its independent judgment to consider and make various written determinations, has determined the city's "probable physical boundaries and service area" to be (Govt. Code § 56076). Thus, the location of a CURB and the location of a sphere of influence represent different things and they may or may not align.

  Commissioner's Handbook Section 4.2.1 provides that "sphere of influence boundaries should coincide with, or cover lesser area than," a CURB line. Pursuant to this policy and the definition of a sphere of influence, a sphere of influence should coincide with a CURB only if the Commission determines that the location of the CURB also represents the probable physical boundaries and service area of the city. However, if the Commission determines that a CURB line does not represent the probable boundaries and service area of a city, and a lesser area does, the sphere of influence should cover lesser area than the CURB. Thus, it is LAFCo's independent determination of the probable physical boundaries and service area of the City, not the location of the CURB, which is to determine the location of the sphere of influence.

- *Comment: Removing the Expansion Areas from the sphere of influence would conflict with the will of City voters.*

  As noted in the history section of this report, the City General Plan envisioned development in both Expansion Areas before the voters established the CURB. However, the General Plan did not include any type of land use, infrastructure, circulation, public facilities, or open space planning for the Expansion Areas, as is required by state general plan law. In 2000, the City's voters amended the General Plan to establish the CURB, which included the Fagan Canyon Expansion Area. In 2007, the voters amended the General Plan to reduce the level of development envisioned for Adams Canyon and include the Adams Canyon Expansion Area within the CURB. However, the voters were not provided a land use plan, or any other plan, as part of either initiative. Thus, the actions of the voters did not correct the deficiencies in the City General Plan.

  Moreover, the actions of city voters apply only to the city. They do not apply to LAFCo. LAFCo is an independent agency that must exercise its independent judgment to achieve its purposes as outlined in state law. Govt. Code § 56425 provides that LAFCo must determine a sphere of influence for each city "[i]n order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development…of the county and its communities". Basing the location of a sphere of influence solely on the location of a voter-established CURB would be an unlawful abdication of LAFCo authority and responsibility.

- *Comment: Removing territory from the sphere of influence would conflict with the City General Plan.*

  There is no provision in LAFCo law or in Ventura LAFCo's local policies pertaining to spheres of influence that mandate that spheres of influence be consistent with a general plan. Indeed, if LAFCo's actions were required to be consistent with a general plan, there would be little purpose for the existence of LAFCos. As explained above, LAFCo must exercise its independent judgement in determining a sphere of influence. Though LAFCo often looks to general plans to help inform it of land use, infrastructure, and service plans when considering a sphere of influence, its determinations need not be consistent with it. In this case, the City General Plan contains no such plans for the Expansion Areas. In addition, should the Commission choose to reduce the size of the sphere of influence, it has determined that the current location of the sphere is *not* the probable physical boundary and service area of the City, thus, the City General Plan would not be the probable general plan for the area and there would be little purpose in considering consistency with it.

- *Comment: Removing territory from the sphere of influence would displace the development envisioned by the City General Plan for that territory to another location.*

  This premise is cited repeatedly in comments that were submitted. The Expansion Areas are located within the unincorporated County area and are subject to the County's General Plan and zoning ordinances. The City has no jurisdiction in the Expansion Areas and its General Plan has no force or effect, thus the development envisioned by it is theoretical and speculative. If territory were to be removed from the sphere of influence, there would be no change in the existing land use conditions: the City would continue to have no jurisdiction and its General Plan would continue to have no force or effect and City development would remain theoretical and speculative. Nonexistent development potential cannot be displaced.

- *Comment: Removing Adams Canyon from the sphere of influence would contradict the findings and actions made by the Commission when it included Adams Canyon in the sphere of influence in 2000.*

  The inclusion of the Adams Canyon Expansion Area within the sphere of influence occurred prior to changes in LAFCo law that now require the preparation of a municipal service review in order to update a sphere of influence. LAFCo's approval of the inclusion of Adams Canyon in the sphere in 2000 was primarily based on the analysis and conclusions provided by the City in a "White Paper Report". The White Paper Report described in general terms the City's plans for providing/funding services in Adams Canyon; however, the Report included no actual land use, infrastructure, circulation, or open space plans. In addition, the analysis and conclusions in the White Paper Report were based on a level of development in Adams Canyon that has since been substantially reduced, as indicated in the following table:

	Allowable Uses in 2000	Current Allowable Uses
Residential units	2,250	495
Commercial	152,000 sq. ft.	0
Hotels	2	1
Golf courses	2	1

  The findings and determinations that were made by LAFCo in 2000 were based on now outdated information and a level of potential development that no longer exists. As a result, the findings/determinations made by LAFCo in 2000 are no longer applicable or relevant.

Attachments: (1) May 20, 2015 Staff Report (excluding some repetitive attachments)
(2) Responses to May 19, 2015 letter from City of Santa Paula

(3) Responses to May 15 and May 19, 2015 letters from Latham and Watkins
(4) Resolution to remove most of the Adams Canyon Expansion Area from sphere
(5) Resolution to remove most of the Adams Canyon and all of the Fagan Canyon Expansion Areas from sphere

VENTURA LOCAL AGENCY FORMATION COMMISSION

STAFF REPORT

Meeting Date: May 20, 2015

LAFCo 15-08S
September 16, 2015
Item 11, Attachment 1

TO: LAFCo Commissioners

FROM: Kai Luoma, Executive Officer

SUBJECT: LAFCo 15-08S City of Santa Paula Sphere of Influence Review/Update

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RECOMMENDATIONS:

It is recommended that the Commission approve one of the following options:

Option 1 - Review the sphere of influence for the City of Santa Paula and determine that no update is necessary.

Option 2 - Adopt the attached Resolution (Attachment 3) making determinations and updating the sphere of influence for the City of Santa Paula to remove most of the Adams Canyon Expansion Area from the sphere of influence for the City of Santa Paula.

Option 3 - Adopt the attached Resolution (Attachment 4) making determinations and updating the sphere of influence for the City of Santa Paula to remove most of the Adams Canyon and all of the Fagan Canyon Expansion Areas from the sphere of influence for the City of Santa Paula.

BACKGROUND:

LAFCos are required, as necessary, to review and update the spheres of influence for each local agency a minimum of once every five years. The sphere of influence for the City of Santa Paula was last reviewed by the Commission beginning in 2012 as part of the 2008-2012 Work Plan that was adopted by the Commission in 2007. As part of the 2012 review, the Commission accepted a Municipal Service Review (MSR) and made written determinations regarding the City's current and future provision of services (Attachment 1 is the Resolution adopted by the Commission accepting the MSR and approving the written determinations in 2012). On March 20, 2013, based on the

COMMISSIONERS AND STAFF

COUNTY:	CITY:	DISTRICT:	PUBLIC:
Linda Parks	Carl Morehouse, Vice Chair	Bruce Dandy	Lou Cunningham, Chair
John Zaragoza	Janice Parvin	Elaine Freeman	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Carmen Ramirez	Mary Anne Rooney	Vacant
Executive Officer:	**Analyst**	**Office Manager/Clerk**	**Legal Counsel**
Kai Luoma, AICP	Andrea Ozdy	Richelle Beltran	Michael Walker

determinations of the MSR, the Commission considered three options to review and/or update the City's sphere of influence. The options were the same as those outlined under the "Recommendations" section of this report and discussed in greater detail starting on page 15 of this Staff Report. The Staff Report prepared for the March 20, 2013 LAFCo meeting is attached to this Report as Attachment 2. After substantial public testimony, a motion was made to adopt Option 2; however, the motion failed on a 3-3 vote. A second motion was made to adopt Option 1; however, that motion also failed on a 3-3 vote. As a result, the Commission took no action regarding the City sphere of influence and it remained in place without change.

In March 2015, LAFCo staff informed the Commission that the City of Santa Paula Planning Commission was scheduled to consider a development project and annexation proposal for territory located within the Adams Canyon Expansion Area. The 79-unit subdivision on approximately 35 acres proposes extensive grading on and off the site, as well as the deposition of hundreds of thousands of cubic yards of earth into three canyons also located within the Adams Canyon Expansion Area. At the March 18 LAFCo meeting, the Commission directed staff to schedule a review of the City's sphere of influence for the May 20 LAFCo meeting.

DISCUSSION:

Spheres of Influence

LAFCo law defines a "sphere of influence" as "a plan for the probable physical boundaries and service area of a local agency, as determined by the commission." (Govt. Code § 56076) The sphere of influence for a city is an important benchmark because it defines the primary area within which urban development is to be encouraged. Indeed, for an area to be annexed to a city, it must be located within that city's sphere of influence. In a 1977 opinion, the California Attorney General stated that an agency's sphere of influence should "serve as an essential planning tool to combat urban sprawl and provide well planned, efficient urban development patterns, giving appropriate consideration to preserving prime agricultural and other open-space lands" (60 Ops.Cal.Atty.Gen. 118, 120).

A local agency formation commission may revise the sphere of influence of a city or district at any time the commission determines it is necessary to do so to carry out the commission's purposes and responsibilities. Accordingly, a commission's power to revise a sphere of influence is not limited to the five-year review set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) nor to the submission of a proposal for a change of organization.

Government Code section 56425 is the opening section in the portion of CKH that governs spheres of influence. Section 56425(a) provides, "In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its

communities, *the commission shall develop and determine the sphere of influence of each local governmental agency within the county* and enact policies designed to promote the logical and orderly development of areas within the sphere." (Italics added.) Nothing in CKH says the commission's power to "develop and determine" spheres of influence is limited to particular circumstances, such as the five-year review or a proposal for a change of organization. To the contrary, the power is expressly given to the commission "to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities." The broad purpose for which the power is given counsels against construing the power too narrowly. (This, in turn, is supported by Government Code section 56107(a), which provides that CKH as a whole "shall be liberally construed to effectuate its purposes.")

Furthermore, Government Code section 56427 provides, "The commission shall adopt, amend, or revise spheres of influence after a public hearing called and held for that purpose." Nothing in CKH indicates that the commission's power to call and hold a public hearing to "amend" or "revise" a sphere of influence is limited to the five-year review or actions initiated by others.

In fact, Government Code section 56428(a) provides, "Any person or local agency may file a written request with the executive officer requesting amendments to a sphere of influence ... adopted by the commission." Government Code section 56428(f) says the request can be, but does not have to be, "considered and studied as part of the periodic review of spheres of influence required by Section 56425." Nothing in CKH indicates that the Legislature intended to give "[a]ny person" the power to trigger a sphere of influence revision at any time but to withhold that power from the commission itself, the very body the Legislature charged with the "responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities." Such an interpretation of CKH would be contrary to the Legislature's mandate that CKH is to be "liberally construed to effectuate its purposes."

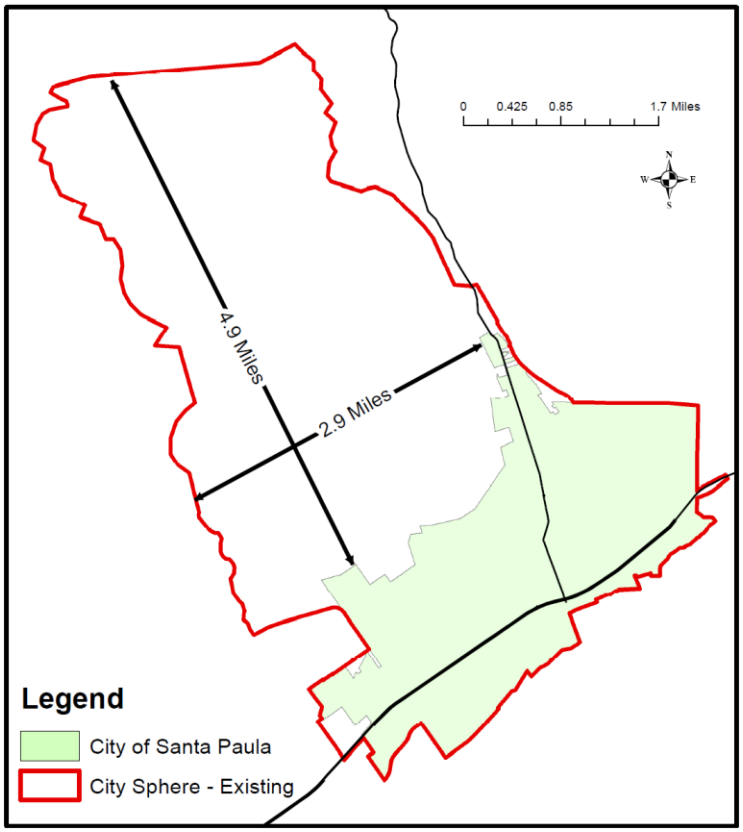
Summarizing these (and predecessor) statutes, one court stated, "A sphere of influence is a *flexible planning and study tool to be reviewed and amended periodically as appropriate*." (*City of Agoura Hills v. Local Agency Formation Com.* (1988) 198 Cal. App. 3d 480, 490, italics added.) Consistent with this, your Commission has adopted a local policy that provides that your commission "shall review and update, as necessary, the adopted sphere of influence of each local agency *not less than* once every five years." (Commissioner's Handbook, rule 4.1.4(a), italics added.)

Thus, your commission may, at any time it determines it is necessary and appropriate to do so, review and revise the sphere of influence of a city or district.

City of Santa Paula Sphere of Influence

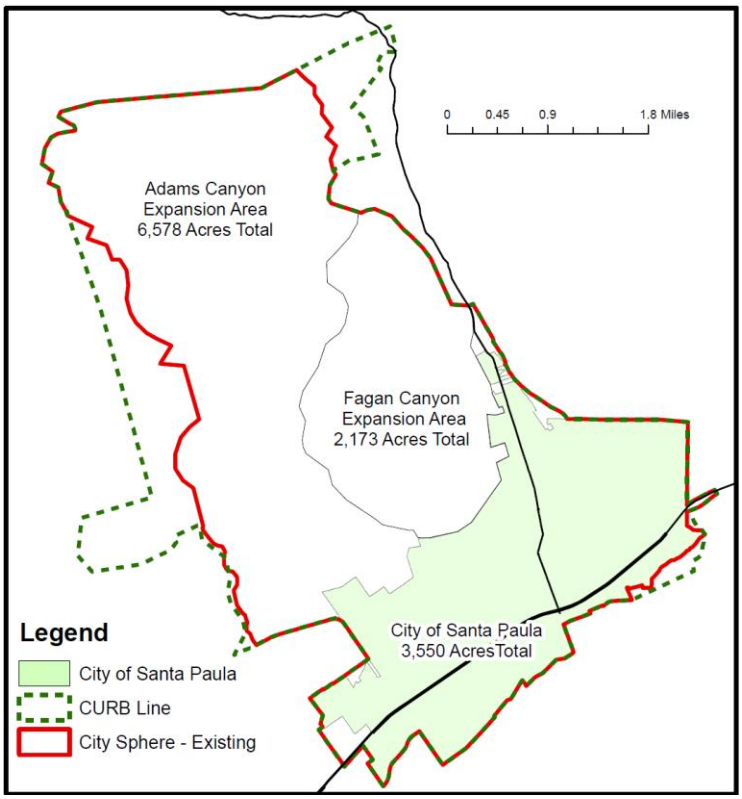
The "Background" section of the March 20, 2013 staff report (beginning on page 1 of Attachment 2) describes in detail the City's sphere of influence and explains the history that led to its current location. No changes have been made to the City's sphere of influence since 2013.

The City's sphere of influence contains approximately 7,783 acres of unincorporated land, more than the spheres of influence for any other city in the County. The majority of this land (approximately 7,586 acres or 11.85 square miles) is located in an area that extends up to approximately five miles north of the City (see inset to right).



City of Santa Paula General Plan

The City General Plan divides the area to the north of the City into two "Expansion Areas" totaling approximately 8,750 acres, or 13.7 square miles. These are the "Adams Canyon Expansion Area" and the "Fagan Canyon Expansion Area" (see inset to right). The Adams Canyon Expansion Area encompasses approximately 6,600 acres, approximately 5,400 of which are located within the sphere of influence. The Fagan Canyon Expansion Area encompasses approximately 2,175 acres, all of which are located within the sphere of influence.



Proposed land uses within the Expansion Areas have been subject to a number of

actions by the City and City voters since 2000 and are discussed in detail on pages 16-17 of the March 20, 2013 Staff Report (Attachment 2). Currently, the City General Plan allows for the following land uses within the Expansion Areas:

Expansion Area	Use/Acreage
Adams Canyon - 6,578 acres (5,413 acres within current sphere of influence)	Residential - 495 dwelling units
	One resort hotel
	One golf course
	One school - 40 acres
	Recreation - 100 acres
	Open space - 200 acres
Fagan Canyon - 2,173 acres	Single family residential - 450 dwelling units on 1,953 acres
	Commercial - 76,230 square feet on 5 acres
	Active parks - 7 acres
	Open space - 208 acres

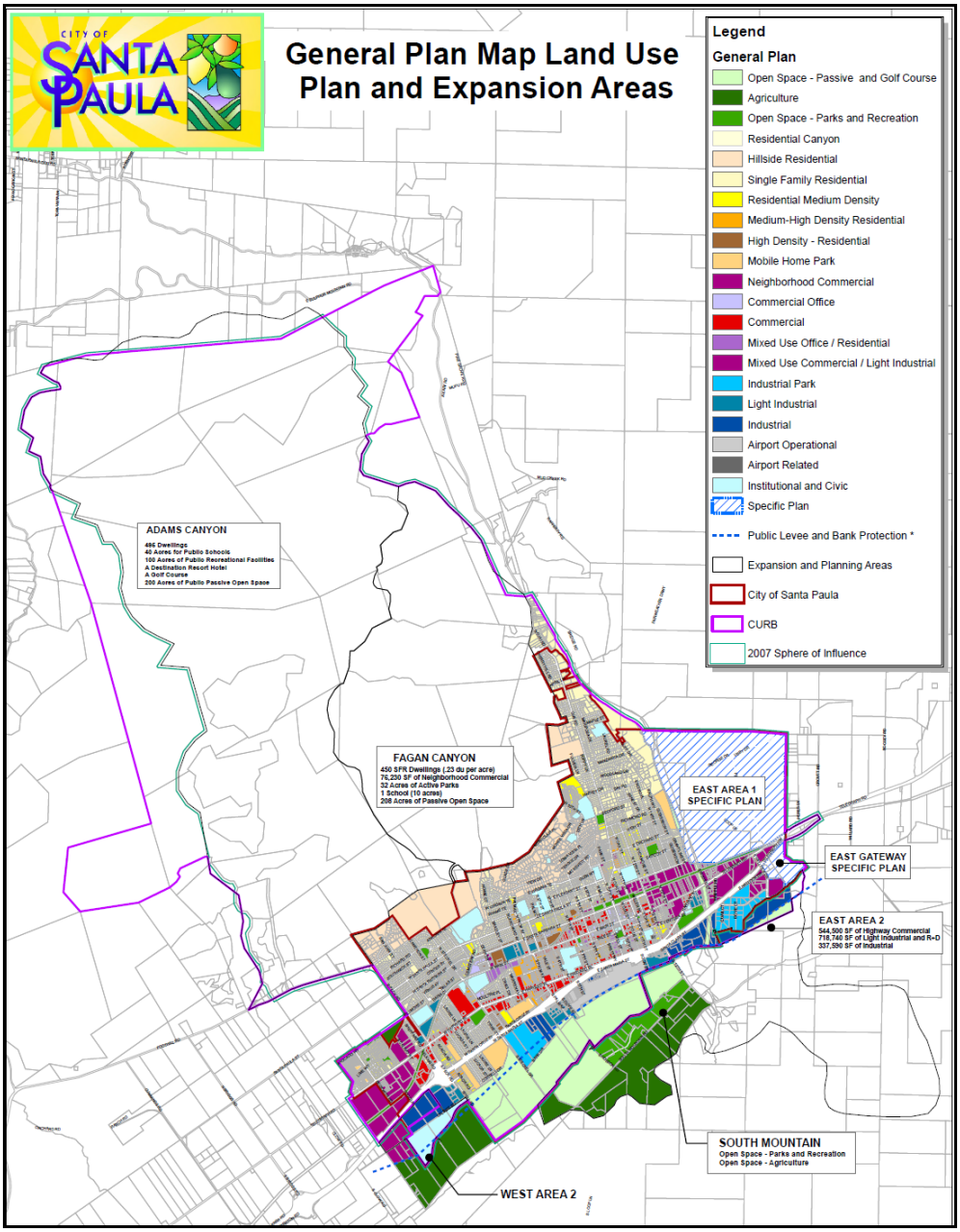
Though the City General Plan lists the uses that are allowed within each Expansion Area, the General Plan does not address future development within the Expansion Areas to the degree required by state general plan law. Indeed, it is unknown, even in the most general terms, where within the 13.7 square miles contained in the Expansion Areas any house, road, public facility, park, school, or other use is to be located.

The inadequacy of the General Plan as it applies to the Expansion Areas is discussed in more detail in the March 20, 2013 staff report. In summary, for the territory within the two Expansion Areas, the City General Plan does not include the following required components of a General Plan:

- A land use plan/map that designates the proposed general distribution and general location and extent of the uses of the land (see the City General Plan Map Land Use Plan on the following page).
- A circulation plan consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, and other local public utilities and facilities, all correlated with the land use element of the plan.
- A plan for the conservation, development, and utilization of natural resources including water and its hydraulic force, soils, rivers and other waters, wildlife, minerals, and other natural resources.
- An Open Space Plan that identifies open space for the preservation of natural resources, managed production of resources (including agriculture), recreation, and public health and safety.

The only change to the General Plan that has occurred since March 2013 of which staff is aware is the certification of the Housing Element by the State Department of Housing and Community

Development. The Housing Element identifies the two Expansion Areas as potential sites for market-rate housing in the future. However, neither site is necessary in order for the City to meet its regional housing needs obligation.

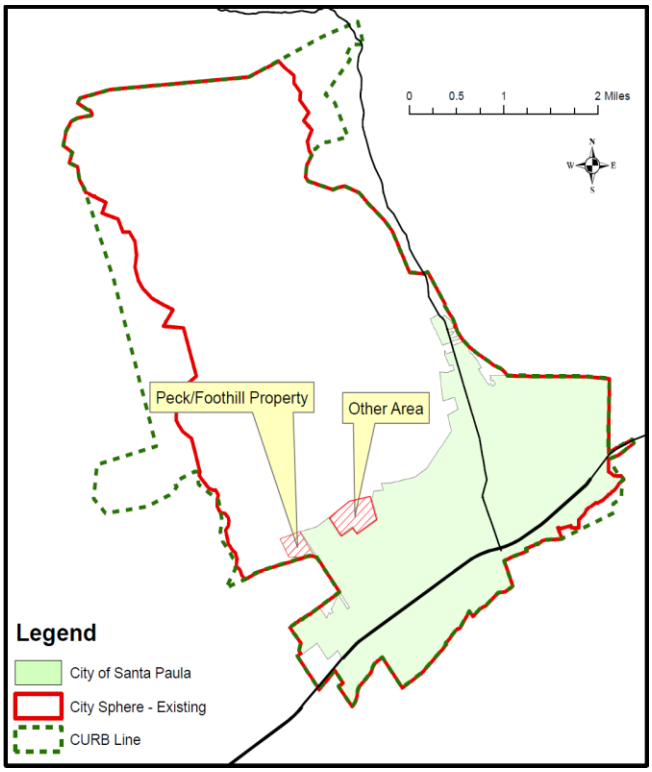


Because the General Plan does not plan for the Expansion Areas consistent with the requirements of state law, it does not provide a reliable means by which to determine the location and extent of potential future development and service needs within either Expansion Area.

Without adequate planning, it is difficult, if not impossible, to determine if a sphere of influence accurately denotes the probable boundaries and service area of a city. For instance, the Adams Canyon Expansion Area is 6,578 acres in size. Based on the allowed uses identified in the City General Plan, the amount of acreage devoted to development could be estimated as follows:

City General Plan	Acreage
Residential - 495 dwelling units	600 acres (1 acre lots plus 20% for roads, other)
One resort hotel	100 acres
One golf course	200 acres (according to the Golf Course Superintendent Association of America for courses in resort areas)
One school	40 acres (per City General Plan)
Recreation	100 acres (per City General Plan)
Open Space	200 acres (per City General Plan)
TOTAL	**1,240 acres**

Based on the above estimates, approximately 1,240 acres within the Adams Canyon Expansion Area would be devoted to the allowable uses identified by the City General Plan. Of the 6,578 acres identified as being within the Expansion Area, approximately 5,300 acres (over 8.3 square miles or 81% of the Expansion Area) would remain undeveloped and would not need urban services. Under this (or a similar) scenario, the current sphere of influence would not be consistent with the probable service area of the City.



There are two subareas, one within and one adjacent to the Adams Canyon and Fagan Canyon Expansion Areas, that warrant special consideration: the "Peck/Foothill Property" and the approximately 100 acres of undeveloped land denoted as "Other Area" (see inset). In 2003, voters elected to include the 32-acre Peck/Foothill property within the CURB line. It became part of the Adams Canyon Expansion Area as part of the vote to include Adams Canyon within the CURB in 2007. The City is currently processing an application for development of 79 residential units on this 32-acre site. This development is not associated with the larger development that was envisioned for the remainder of Adams Canyon in 2007. The "Other Area" is not a part of either Expansion Area and was within the sphere prior to 2000. It is

identified on the General Plan land use map for "Hillside Residential" development. Therefore, the general location, type, and density of planned development of this area are known, and thus its service needs can be anticipated. Staff recommends that both of these areas remain within the sphere.

County of Ventura General Plan

In 2014, the Commission adopted policies requiring that for changes of organization and changes to spheres of influence, LAFCo must consider the impacts to agriculture and existing open space lands as defined by the County's General Plan. Because this policy was adopted in 2014, the March 20, 2013 staff report did not specifically evaluate the potential impact that development of the area as part of the City might have on County-designated agricultural and open space lands.

The territory is in the unincorporated County, and the County's General Plan and Zoning Ordinance regulate land use. The County General Plan (see inset to right) designates approximately 6,626 acres of the territory as "Open Space – Urban Reserve" and this area is zoned "Open Space" with 160-acre minimum lot sizes. Approximately 960 acres are designated "Agricultural – Urban Reserve" and zoned "Agricultural Exclusive" with 40-acre minimum parcel sizes. The "Urban Reserve" designation acknowledges that the area is currently within the City's sphere, but does not grant any land use or development potential beyond that allowed for under the "Open Space" or "Agricultural" designation. The table below indicates the County General Plan designations/acreages for the sphere of influence area within each Expansion Area.

Given the fact that the entirety of the Expansion Areas consists of existing open space and agricultural lands, any development within them is likely to result in adverse impacts. However, because the City's General Plan does not contain a land use plan/map that identifies the extent and location of any land uses within the Expansion Areas, the full degree of these impacts of developed as part of the City cannot be determined.

	Agricultural – Urban Reserve	Open Space – Urban Reserve
Adams Canyon Expansion Area (5,413 acres within sphere)	710 acres	4,703 acres
Fagan Canyon Expansion Area (2,173 acres within sphere)	250 acres	1,923 acres
Total	**960 acres**	**6,626 acres**

Determining a Sphere Of Influence

Govt. Code § 56425(e) provides that in determining a sphere of influence, the Commission must prepare written determinations with respect to five areas of consideration. Each of these considerations is listed below followed by a brief discussion. Additional information and discussion related to these determinations can be found in the March 20, 2013 staff report:

(1) *The present and planned land uses in the area, including agricultural and open-space lands.*

Present Uses: The approximately 7,586 acres within the Adams and Fagan Canyon Expansion Areas that are within the sphere of influence are primarily undeveloped open space land, with agriculture (orchards) in limited areas.

Planned Uses - County: The County General Plan land use designates approximately 87% of the territory within the sphere of influence north of the City as "Open Space", with the remaining 13% designated "Agricultural". Thus, the planned uses are open space and agricultural uses.

Planned Uses – City: The City General Plan does not identify the location or extent of any planned land use designations within either Expansion Area, including agricultural and open-space lands.

(2) *Present and Probable Need for Public Facilities and Services in the Area.*

The territory in the Adams and Fagan Canyon Expansion Areas is primarily undeveloped open space land with agriculture (orchards) in some areas, thus there is no present need for public facilities and services in the area. The County's Agricultural and Open Space General Plan and zoning designations will allow for the existing uses to continue, thus there is no probable need for public facilities and services in the area.

The City's current General Plan does not include many of the basic requirements of a general plan for the Expansion Areas. Because the City has not identified the location or extent of land uses within the Expansion Areas, the location of urban development that would be in

need of public facilities and services is not known. Therefore, it is unknown whether the current sphere represents the probable boundary and service area of the City.

(3) *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

The City's current General Plan does not include many of the basic requirements of a General Plan for the Expansion Areas. Information is not available to determine if the City's public facilities and services are adequate for future development within the Expansion Areas because the location, extent, and service needs of future development have not been identified or analyzed.

(4) *Social or Economic Communities of Interest in the Area.*

Staff is not aware of any social or economic communities of interest within or adjacent to the current sphere of influence.

(5) *Any disadvantaged unincorporated community within the existing sphere of influence.*

As defined by Section 56033.5 of the Government Code, a "Disadvantaged Unincorporated Community" (DUC) is a community with an annual median household income that is less than 80 percent of the statewide annual median household income. There are no DUCs within or contiguous to the City sphere of influence.

VENTURA LAFCo COMMISSIONER'S HANDBOOK

The Commissioner's Handbook (Handbook) is a compendium of the Commission's local policies. Division 4 contains policies and standards related to determining, updating, and amending sphere of influence boundaries. As discussed below, particular sections of the Handbook pertaining to spheres of influence merit consideration with regard to the sphere for Santa Paula.

Section 4.2.1 – Consistency with Voter Approved Growth Boundaries

Section 4.2.1 of the Handbook provides:

> "For cities that have enacted ordinances that require voter approval for the extension of services or for changing general plan designations, sphere of influence boundaries should coincide with, or cover lesser area than, voter approved growth boundaries."

This policy does not indicate a preference that the CURB line is to be the basis for a sphere boundary, only that the maximum extent of the sphere is to be the CURB line. A sphere may cover

less area where appropriate. The current City sphere of influence is consistent with this policy, as it covers lesser area than the CURB (the CURB extends beyond the sphere of influence to include approximately 1,165 acres that are not within the sphere of influence). In addition, each of the options to reduce the size of the sphere of influence presented to the Commission in this report is consistent with this policy, as each would result in the sphere of influence covering lesser area than the CURB.

CURBs and their related ordinances (often referred to as SOAR ordinances) are matters of local policy. Generally speaking, they limit a city's ability to extend services or change land use designations for area outside the CURB without the approval of city voters. The approval of city voters to amend the CURB merely authorizes the city to consider future development in that area. Though the location of the CURB as established by the voters may be one of the considerations of LAFCo when determining a sphere of influence, the action of a city's voters to amend the CURB does not obligate LAFCo to recognize the CURB as the probable future boundaries of the city. LAFCo must independently evaluate the appropriateness of including territory within a city's sphere of influence based on relevant provisions of LAFCo law and local LAFCo policies.

Section 4.3.1 – General Standards

This section provides that LAFCo favors sphere boundaries that, among other standards, "[c]oincide with existing and planned service areas." (4.3.1.1(a)) As discussed in this report, there is insufficient land use, infrastructure, and public facility planning for the Expansion Areas. Therefore, it appears that the current sphere does not represent the planned service area for the City.

This section also provides that LAFCo discourages sphere boundaries that, among other standards, "create areas where it is difficult to provide services." (4.3.1.2(b)) The sphere extends approximately 5 miles north of City boundaries and is approximately 3 miles wide. The area contains rugged topography, steep slopes, narrow canyons, and areas subject to flooding and landslides. Given the size of the area and the variety of constraints, it can be assumed that the provision of services to certain areas would be difficult. However, in the absence of adequate land use and infrastructure planning, the level of difficulty with providing services to the Expansion Areas is unknown.

Section 4.3.2 – Agriculture and Open Space Preservation

As noted previously in this report, in 2014 the Commission amended its policies pertaining to determining spheres of influence so that consideration is given to potential impacts to agricultural and existing open space lands as identified by the County's General Plan. Several hundred acres within the Expansion Areas are used for agriculture and appear to meet the definition of prime agricultural land pursuant to LAFCo law (Govt. Code § 56064). Several thousand acres of the

territory is considered to be open space and is devoted to open space uses, as defined by LAFCo law (Govt. Code §§ 56059 and 56060).

Pursuant to Handbook section 4.3.2.1:

> "LAFCo will approve sphere of influence amendments and updates which are likely to result in the conversion of prime agricultural or existing open space land use to other uses only if the Commission finds that the amendment or update will lead to planned, orderly, and efficient development."

In order for an update to result in "planned, orderly, and efficient development", the Commission must determine that five specific criteria have been met. Though this policy most often applies to updates that expand a sphere, it is equally applicable to updates that retract a sphere. Indeed, Section 4.1.2 defines a sphere update to be, in short, a "modification of a sphere". Furthermore, Section 4.1.4(c) acknowledges that sphere updates can include the removal of territory from a sphere. Therefore, it is appropriate for the Commission to consider this policy in the context of this sphere update. Thus, in order for the area to remain within the sphere, the Commission should determine that it meets the five specified criteria, each of which is listed and discussed below.

(a) The territory is likely to be developed within 5 years and has been designated for non-agricultural or open space use by applicable general and specific plans.

Though not specified in the Handbook, LAFCo's practice has been to consider the general plan of a city to be the applicable general plan for any changes to that city's sphere of influence. However, this policy assumes that the city general plan is complete and consistent with the requirements of state law for the affected area. As explained in this report, the City's current General Plan does not include many of the basic requirements of a general plan for the Expansion Area, and thus should not be considered to be the applicable general plan. Moreover, the City General Plan does not designate any territory of the Expansion Areas for non-agricultural or open space use.

The County General Plan designates the entirety of the territory within the Expansion Areas as "Open Space" or "Agricultual".

(b) Insufficient non-prime agricultural or vacant land exists within the sphere of influence of the agency that is planned and developable for the same general type of use.

The 1,500-unit, 500-acre East Area 1 Specific Plan, for which the Commission amended the City sphere, was annexed to the City in February 2013. Therefore, the City sphere contains vacant land that is planned and developable for the same general type of use as that contemplated within the Expansion Areas

(c) The proposal will have no significant adverse effects on the physical and economic integrity of other prime agricultural or existing open space lands.

Due to the inadequacy of land use planning in the Expansion Areas, it is unknown at this time the extent to which development in the area would affect other prime agricultural or existing open space lands.

(d) The territory is not within an area subject to a Greenbelt Agreement adopted by a city and the County of Ventura. If a City proposal involves territory within an adopted Greenbelt area, LAFCo will not approve the proposal unless all parties to the Greenbelt Agreement amend the Greenbelt Agreement to exclude the affected territory.

The area is not within a Greenbelt Agreement.

(e) The use or proposed use of the territory involved is consistent with local plan and policies.

The City General Plan is inconsistent with state requirements and does not adequately plan for the Expansion Areas in terms of the land use map, circulation plan, public facilities plan, open space plan, and conservation plan. As such, the locations and extent of land uses have not been identified or planned for as part of the City General Plan. Attempting to establish consistency with an incomplete plan serves little purpose.

Based on the above analysis, it appears that the current sphere of influence may not "lead to planned, orderly, and efficient development".

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Changes to spheres of Influence are normally considered to be projects subject to CEQA. LAFCo has the sole responsibility for taking action to review and update spheres of influence and is, therefore, considered to be the lead agency for this project. Pursuant to CEQA Guidelines § 15061, once a project is determined to be subject to CEQA, the lead agency shall determine whether the project is exempt from CEQA. A project is exempt from CEQA if, among other factors,

> "The activity is covered by the general rule the CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." (Section 15061(b)(3))

For CEQA purposes, the options presented in this report for the City of Santa Paula sphere of influence review and/or update are exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines, the "general rule" exemption. The options are exempt because it can be seen with certainty that there is no possibility that any of the three options may have a significant effect on the environment because the options either make no modifications to the sphere of influence or reduce the extent of territory that LAFCo has determined to represent the City's probable physical boundaries and service area.

The territory within the Expansion Areas and the sphere of influence are within unincorporated County area and subject to the County General Plan and zoning. The territory consists of primarily undeveloped lands devoted to open space and agricultural uses. These uses are consistent with the County General Plan land use designations and County zoning as discussed previously in this report. The fact that these lands are currently within the sphere of influence for the City does not preclude their development consistent with the County General Plan. Thus, the removal of these lands from the City sphere of influence would result in no greater or lesser development potential than what exists currently. The current and allowable uses would remain consistent with the General Plan.

With respect for the Adam and Fagan Canyon Expansion Areas, the City's General Plan does not contain many of the basic components outlined in state law. As such, the General Plan does not adequately plan for the area. Moreover, because the City has no land use authority within the subject area and no jurisdiction over changes to the sphere of influence, the City General Plan is not applicable. Thus, from a CEQA perspective, LAFCo's actions to update the sphere of influence need not be consistent with the City General Plan.

In addition, the removal of the territory from the sphere of influence does not alter the City's General Plan in any way. Only the City can amend its General Plan. Any development identified in the General Plan for the Expansion Areas would not be displaced to another area by LAFCo's action. If the City determines that development in the Expansion Areas is no longer feasible or desirable, it could choose to amend the General Plan to remove development potential within the Expansion Areas. If the City determines that development is desirable elsewhere, it can pursue an amendment of the General Plan accordingly. However, these would be voluntary actions by the City and the City, as lead agency, would be responsible for complying with CEQA.

COMMISSION OPTIONS

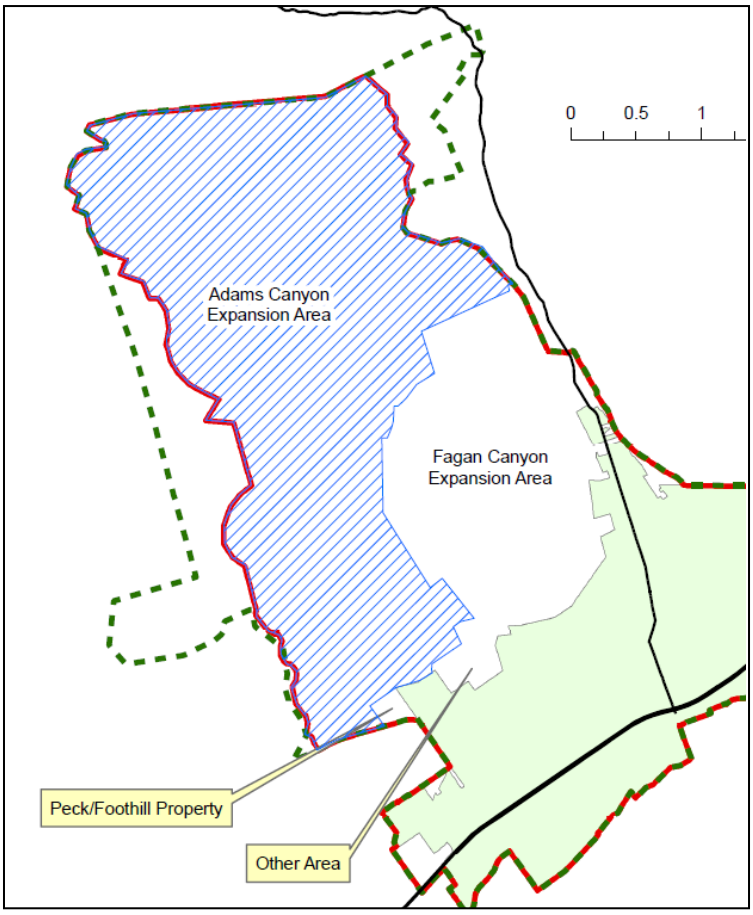
Staff has identified three options available to the Commission regarding the review and/or update of the City sphere of influence, as follows:

- Option 1: No change

  Under this option, no changes would be made to the current sphere. This would allow the City to potentially annex an additional approximately 7,600 acres and expand to approximately three times its current size.

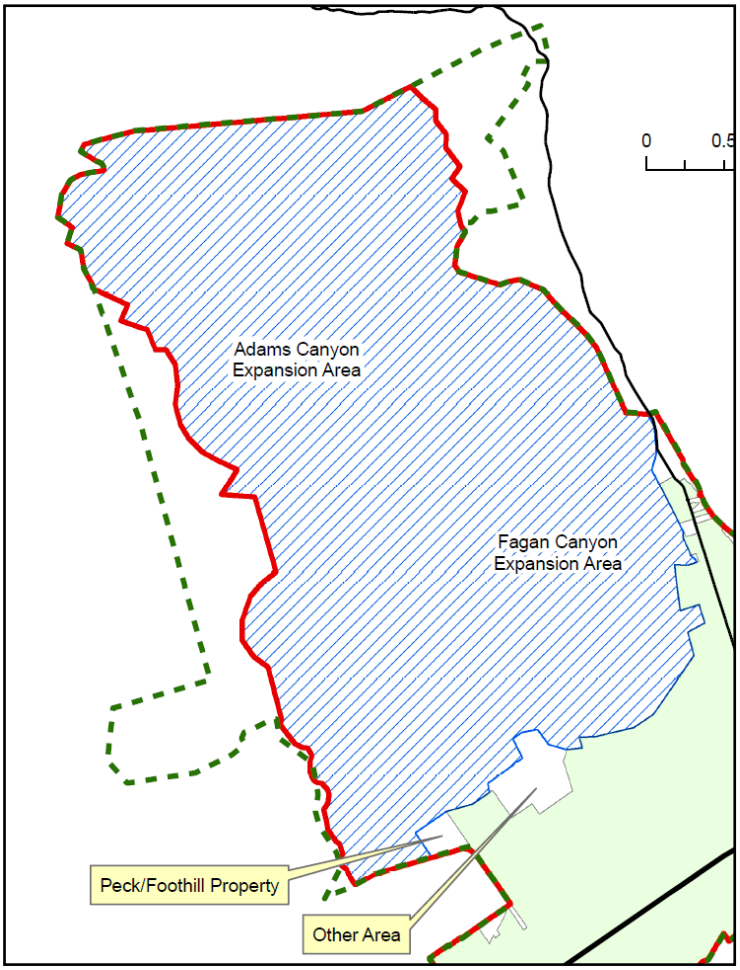
- Option 2: Remove Adams Canyon Expansion Area (See inset to right)

  Under this option, the majority of the 5,413-acre portion of the Adams Canyon Expansion Area would be removed from the sphere of influence. Should the Commission choose this option, it is recommended that the 32-acre Peck/Foothill property remain within the sphere, as the City is currently processing a development proposal on this property. Staff also recommends that approximately 100 acres denoted as "Other Area" be retained in the sphere, as this area has been planned for as part of the General Plan and is identified for residential development.



- Option 3: Remove both Adams Canyon and Fagan Canyon Expansion Areas (See inset to right)

  Under this option, the Commission would remove most of the approximately 7,600 acres of the sphere that are within the Adams Canyon and Fagan Canyon Expansion Areas. Similar to Option 2 above, should the Commission choose this option staff recommends that the 32-acre parcel at the Peck/Foothill intersection and the approximately 100 acres denoted as "Other Area" be retained in the sphere.



Should the Commission choose Option 2 or 3, the City would not be precluded from submitting an application for a concurrent sphere amendment and annexation at any time in the future subsequent to the adoption of a General Plan update and, if desired by the City, adoption of a specific plan.

PUBLIC NOTICE

Regarding public notice, Govt. Code Section 56427 provides:

> The commission shall adopt, amend, or revise spheres of influence after a public hearing called and held for that purpose. At least 21 days prior to the date of that hearing, the executive officer shall give mailed notice of the hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation which is circulated within the territory affected by the sphere of influence proposed to be adopted. The commission may continue from time to time any hearing called pursuant to this section.

Notice of the May 20 hearing was emailed to the City Manager and City Planning Director on April 23, 2015. Notice was also posted at the County Hall of Administration and published in the Ventura

County Star on April 26. Though not required to do so, LAFCo staff emailed the public hearing notice to representatives of the property owners of the majority of the territory within the Expansion Areas on April 27.

Attachments:
(1) Resolution accepting the Municipal Service Review and approving the Statements of Determination for the City of Santa Paula.
(2) March 20, 2013 Staff Report
~~(3) Resolution to remove the Adams Canyon Expansion Area from sphere~~
~~(4) Resolution to remove both the Adams and Fagan Canyon Expansion Areas from sphere~~

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION ACCEPTING THE MUNICIPAL SERVICE REVIEW AND APPROVING THE STATEMENTS OF DETERMINATION FOR THE CITY OF SANTA PAULA

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code §56000 et seq.) requires each Local Agency Formation Commission (LAFCo or Commission) to conduct municipal service reviews prior to or in conjunction with sphere of influence studies and updates; and

WHEREAS, LAFCos are also required, as necessary, to review and update the spheres of influence for all agencies not less than once every five years; and

WHEREAS, the Ventura LAFCo has approved a work plan to conduct municipal service reviews and sphere of influence updates and the municipal service review for the City of Santa Paula is a part of that work plan; and

WHEREAS, the Ventura LAFCo has prepared a report titled "Municipal Service Reviews – Nine Ventura County Cities" that includes the City of Santa Paula; and

WHEREAS, the "Municipal Service Review – Nine Ventura County Cities" report contains draft statements of determinations as required by California Government Code §56430 for the City of Santa Paula; and

WHEREAS, the Ventura LAFCo Executive Officer gave notice of a public hearing by the Commission to consider the "Municipal Service Reviews – Nine Ventura County Cities" report and the statements of determinations necessary to comply with California Government Code §56430 for the City of Santa Paula; and

WHEREAS, the Ventura LAFCo Executive Officer has recommended that the municipal service review for the City of Santa Paula be determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to §15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the municipal service review for the City of Santa Paula and the related recommended statements of determination were duly considered on November 14, 2012, as specified in the notice of hearing; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony for and against the recommended exemption from CEQA, the municipal service review and the written determinations for the City of Santa Paula, including, but not limited to, the "Municipal Service Reviews – Nine Ventura County Cities" report and the Executive Officer's report and recommendations;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Ventura Local Agency Formation Commission as follows:

(1) The service review for the City of Santa Paula as contained in the Municipal Service Reviews – Nine Ventura County Cities report, together with the related statements of determination, are determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to §15061(b)(3) of the CEQA Guidelines.

(2) The Commission directs staff to file a Notice of Exemption as the lead agency under Section 15062.

(3) The Commission accepts the "Municipal Service Reviews – Nine Ventura County Cities" report as presented to the Commission on November 14, 2012, including any corrections and revisions accepted at the public hearing and authorizes the Executive Officer to make other minor, non-substantive revisions to this report for accuracy and completeness.

(4) The Executive Officer's staff report recommending acceptance of the municipal service review report for the City of Santa Paula, dated November 14, 2012, is hereby adopted.

(5) Pursuant to California Government Code §56430 the following statements of determination are hereby approved for the City of Santa Paula:

A. Growth and population projections for the affected area

According to the State Department of Finance, the City's population as of January 1, 2012 was estimated to be 29,882. If the 0.38 percent average annual growth rate of the past 12 years continues, population projections for the City are:

	2012	2015	2020	2025	2030
City Population	29.882	30,224	30,803	31,392	31,993

If all of the anticipated development projects that are identified in the General Plan were to be built, and additional approximately 8,825 residents would be added to the City.

B. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence

As defined by Section 56033.5 of the Government Code, a "Disadvantaged Unincorporated Community" (DUC) is a community with an annual median household income that is less than 80 percent of the statewide annual median

household income. There are no DUCs within or contiguous to the City sphere of influence.

C. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies

Fire services:

- The City's Fire Department provides fire protection and related services within and adjacent to the City.
- The City relies on firefighter/EMT volunteers to operate two engine companies. Based on information obtained in recent budgets, without volunteers, the City's current funding would provide for only a single engine company. However, this volunteer program on which the City has relied since 2005 has enabled the City to meet its response time goals the overwhelming majority of the time.
- Additional fire protection staffing, equipment, and facilities will be required to provide services to future development anticipated in the City's General Plan. Though plans are in place to provide for adequate staffing and facilities to serve the East Area 1 and East Area 2 development projects, no plans appear to be in place to provide and fund the facilities and staffing necessary to provide adequate fire protection services to development anticipated in the Adams and Fagan Canyon Expansion Areas. Without additional fire resources to serve future development, current services may be adversely impacted.

Police services:

- The City's goal is to provide 1 sworn officer per 800 residents. The City's current ratio is 1 sworn officer per 1,150 residents. The ratio has fallen in recent years from a high of 1 officer per 912 residents. The City's decreased staffing levels have corresponded to significant increases in police response times to both emergency and non-emergency calls.
- To maintain or increase the existing ratio of 1 sworn officer to 1,150 residents as well as response times, buildout of the General Plan will require additional officers, support staff, and equipment. The fiscal analysis conducted for the East Area 1 Specific Plan demonstrated that the development would generate adequate revenue to fund additional police personnel. Information is not available at this time to determine whether other future development will provide adequate revenue to fund the additional staffing and equipment that will be needed.

Recreation and park services:

- The City provides a wide range of park facilities and recreation programs.

- The City's goal is to provide 5 acres of park space per 1,000 residents. The City operates and maintains approximately 58 acres of developed parkland and parkland equivalent, a ratio of 5 acres per approximately 2,576 residents.
- To meet the City's parkland goal for the current population, a total of 149 acres of parkland would be necessary.

Solid waste services:

- The City contracts with a refuse collection company for solid waste collection and disposal services. Customers are billed directly by the service provider for these services.
- The sale of the City's waste hauling vehicles provided one-time revenues in 2011-12 ($575,000) and 2012-13 ($858,875). Ongoing revenues of $405,000 in franchise fees and rentals are anticipated.

Streets and highways:

- The City provides street maintenance, street sweeping, landscaping maintenance, and storm drain maintenance services. Street lighting services are provided by a private contractor.
- The streets maintenance function of the Public Works Department has experienced substantial staff reductions since 2009.
- Needed storm drain improvements identified in the 2008 Storm Drain Master Plan have not been funded or constructed.

Potable and recycled water:

- The City provides potable water within and adjacent to the City. The City's water supply comes exclusively from groundwater.
- The City's current groundwater allocation is adequate to meet current demands.
- The City's future water supplies appear to be adequate to meet future demands resulting from anticipated development. However, it is unclear at this time whether future development will generate sufficient revenue to cover the costs to construct, operate, and maintain the infrastructure necessary to deliver potable water, particularly to the Adams and Fagan Canyon Expansion Areas.
- The City anticipates that beginning in 2015, it will provide recycled water from the recently competed Water Recycling Facility to new development anticipated in the General Plan. However, demand projections for recycled water appear to be based on levels of future development that have since been substantially decreased. It is not clear whether it will be cost effective to install and maintain the infrastructure necessary to deliver recycled water to future development, particularly development in the Adams and Fagan Canyon Expansion Areas.

Wastewater:

- The City provides wastewater collection and treatment services to the City and to adjacent areas.
- The City entered into a contract with a private company to finance, design, build, and operate a new wastewater treatment and water recycling facility for 30 years. The new treatment facility was completed in 2010 with a treatment capacity of 4.2 million gallons per day. It appears that the facility has the capacity to provide wastewater treatment services for the City.
- Significant sections of the City's wastewater collection system are currently in poor condition and/or are over capacity and in need of replacement.
- It appears that the new wastewater treatment facility has adequate capacity to accommodate wastewater treatment demands resulting from future development anticipated in the General Plan.
- Future development anticipated in the General Plan will require substantial expansion of the City's wastewater collection system and will result in capacity deficiencies in some portions of the existing system. Information is not available at this time whether future development will generate adequate revenue to cover the costs to construct, upgrade, operate, and maintain the infrastructure necessary to provide wastewater collection, particularly to the Adams and Fagan Canyon Expansion Areas.

D. Financial ability of agencies to provide services

- At present, it appears that the City has the financial ability to provide a full range of municipal services. However, the levels of various services have decreased and service charges/rates paid by residents have increased, which is understandable due to revenue shortfalls and other budget constraints.
- According to the fiscal analysis prepared for the East Area 1 Specific Plan development, for which LAFCo approved a sphere of influence amendment and reorganization in 2011, the development will generate adequate revenue to fully fund all necessary City services.
- Due to their close proximity to existing service infrastructure, streets, and other City facilities the extension of services to the East Area 2 and West Area 2 Planning areas, as well as the Stewart Property, is likely to be cost effective. This is particularly true given that the majority of development in these areas is anticipated to be revenue-generating commercial and industrial uses.
- Given the large geographical extent of the Adams and Fagan Canyon Expansion Areas, the cost of extending, operating, and maintaining service infrastructure and facilities in these areas will likely be substantial based on the level of development anticipated in the current General Plan. Due to the fact that

planning in the way of land use, infrastructure, circulation, and financing for these areas has not yet occurred, the costs to provide services to them, as well as the sources of revenue to cover those costs, have not been identified. Given that development in each expansion area is currently limited to fewer than 500 residential units and a limited amount of revenue-generating commercial development, it is unclear whether development in these areas would be financially feasible.

- The fiscal year 2012-13 adopted budget provides $179,052 for contingencies, or 1.6 percent of General Fund operating expenses. Thus, if actual revenues are 1.6 percent less than anticipated or actual costs are 1.6 percent greater than anticipated, funds may have to be diverted and City operations may be impacted.

E. Status of, and opportunities for, shared facilities

- The City actively cooperates with other agencies as appropriate to share facilities.
- The City has a formal joint use agreement with the Santa Paula Elementary School District for shared park and recreational facilities. Fire dispatch service is shared and provided by the Ventura County Fire Protection District.
- No other obvious additional opportunities for shared facilities were noted.

F. Accountability for community service needs, including governmental structure and operational efficiencies

- The City is locally accountable through an elected legislative body, adherence to applicable government code sections, open and accessible meetings, dissemination of information, and encouragement of public participation.
- The City's accountability to community service needs is reflected in the following objectives as described in the fiscal year 2012-13 adopted budget:
  - Traffic Safety
    - Respond within 30 minutes to all requests from dispatch regarding traffic hazards.
    - Repair/replace all damaged regulatory signs, advisory signs, and informational signs within two week of report.
    - Remove graffiti from all signs, sign posts, and signal light posts within 24 hours of report
    - Repair all City-owned street lighting fixtures within two weeks of report. Forward street lighting repair needs to Southern California Edison with 72 hours of notice.
  - Water Quality

    - Respond within 30 minutes to sewage overflows; contain, report, and clean up overflow.
    - Investigate all customer concerns within 30 minutes.
    - Respond within 30 minutes to low-hazard spills or vehicle collision Hazmat clean up requests.
  - Water Service
    - Respond within 15 minutes to all requests regarding serious system water leaks
    - Respond within 30 minutes to all daytime and after hours requests regarding water distribution.
  - Wastewater
    - Keep leaks and overflows to less than 1 per month.
    - Establish a "hot spots" (problem areas) maintenance program.
- The City maintains a web site that contains basic public information and has made various improvements to it since the 2007 MSR. The City now posts current and past operating and CIP budgets and the General Plan.
- The City could substantially improve its web site for the purpose of local accountability and governance by posting staff reports linked to both City Council and Planning Commission agendas. In addition, due to the fact that the US Census reported that 59 percent of City residents speak other than English at home, the City should consider providing a bilingual format for the website. The City currently provides some public notices in Spanish and provides bilingual staff in each department. Until last year, City Council meetings were simulcast in Spanish.
- Meetings of the City Council are broadcast live by the City's franchise cable TV operator and rebroadcast multiple times in the week following the meeting.
- To achieve operational efficiencies for storm water quality purposes, the City is covered under the County's National Pollutant Discharge Elimination System permit.

G. Any other matter related to effective or efficient service delivery, as required by Commission policy

- No other matters were identified.

This resolution was adopted on November 14, 2012.

	AYE	NO	ABSTAIN	ABSENT
Commissioner Cunningham	☑	☐	☐	☐
Commissioner Long	☑	☐	☐	☐
Commissioner Freeman	☑	☐	☐	☐
Commissioner Morehouse	☑	☐	☐	☐
Commissioner Parks	☑	☐	☐	☐
Commissioner Parvin	☑	☐	☐	☐
Commissioner Pringle	☐	☐	☐	☑
Alt. Commissioner Bennett	☐	☐	☐	☑
Alt. Commissioner Dandy	☑	☐	☐	☐
Alt. Commissioner Smith	☐	☐	☐	☑
Alt. Commissioner Ford-McCaffrey	☐	☐	☐	☐

Date

Chair, Ventura Local Agency Formation Commission

Cc: City of Santa Paula

VENTURA LOCAL AGENCY FORMATION COMMISSION

STAFF REPORT

Meeting Date: March 20, 2013

LAFCo 15-088
May 20, 2015
Attachment 2

TO: LAFCo Commissioners

FROM: Kai Luoma, Deputy Executive Officer

SUBJECT: LAFCo 13-02S City of Santa Paula Sphere of Influence Review
(Continued from January 16, 2013)

RECOMMENDATIONS:

It is recommended that the Commission approve one of the following options:

Option 1 - Review the sphere of influence for the City of Santa Paula and determine that no update is necessary.

Option 2 - Adopt the attached Resolution (Attachment 10) making determinations and updating the sphere of influence for the City of Santa Paula to remove the Adams Canyon Expansion Area from the sphere of influence for the City of Santa Paula, consistent with Option 2 as discussed in the Staff Report.

Option 3 - Adopt the attached Resolution (Attachment 11) making determinations and updating the sphere of influence for the City of Santa Paula to remove both the Adams Canyon and Fagan Canyon Expansion Areas from the sphere of influence for the City of Santa Paula, consistent with Option 3 as discussed in the Staff Report.

BACKGROUND:

Santa Paula Sphere of influence

The Santa Paula sphere of influence (sphere) encompasses approximately 11,330 acres (17.7 square miles), of which approximately 3,550 acres (5.5 square miles) is within the City of Santa Paula boundary and approximately 7,780 acres (12.2 square miles) is unincorporated territory (Attachment 1). This makes it the largest city sphere in the County

COMMISSIONERS AND STAFF

COUNTY:	CITY:	DISTRICT:	PUBLIC:
Kathy Long	Carl Morehouse	Bruce Dandy	Linda Ford-McCaffrey
Linda Parks, Vice Chair	Janice Parvin	Gail Pringle, Chair	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Carol Smith	Elaine Freeman	Lou Cunningham
Executive Officer:	**Dep. Exec. Officer**	**Office Mgr/Clerk**	**Legal Counsel**
Kim Uhlich	Kai Luoma	Debbie Schubert	Michael Walker

despite the fact that Santa Paula is the fourth smallest city by area. In addition, it is the only city in the county for which the area of unincorporated territory within its sphere exceeds the total area within the city boundary. The following table lists the acreage within the boundary of each city and the acreage of unincorporated area within each city's sphere:

City	City Area within Sphere*	Unincorporated Area within Sphere*
Fillmore	2,111	0
Moorpark	7,982	0
Port Hueneme	2,888	0
Thousand Oaks	35,435	1,921
Camarillo	12,594	2,048
San Buenaventura	14,182	2,180
Ojai	2,795	2,364
Oxnard	17,219	2,800
Simi Valley	27,052	4,003
Santa Paula	**3,550**	**7,783**

* Excludes offshore area

More specifically, the amount of unincorporated area within the Santa Paula sphere is more than 2 times larger than the area of the City. The following table lists in order the percentage increase in the size of each city if the unincorporated territory within each sphere were to be annexed:

City	Percentage Increase in City Area if all Territory within Sphere were to be Annexed
Fillmore	0.0%
Moorpark	0.0%
Port Hueneme	0.0%
Thousand Oaks	5.4%
Simi Valley	14.8%
San Buenaventura	15.3%
Oxnard	16.3%
Camarillo	16.4%
Ojai	84.6%
Santa Paula	**219.2%**

In 1998, the City updated its General Plan to (among other revisions) include two "Expansion Areas" north of the City: the 5,413-acre Adams Canyon Expansion Area and the 2,173-acre Fagan Canyon Expansion Area. At the time, both areas were located outside of the City sphere. In 1999, the City filed a request with LAFCo to amend the City sphere to include both Expansion Areas. After multiple meetings involving hundreds of speakers and thousands of pages of correspondence, the Commission initially approved

the inclusion of only the Fagan Canyon Expansion Area within the sphere. The denial of the request to include the Adams Canyon Expansion Area was primarily due to concerns about the capacity of the City to provide services. The City subsequently filed a request for reconsideration accompanied by a white paper report which included a discussion of how the City would provide services. The Commission considered the reconsideration request in 2000 and, partly based on the white paper report, approved the sphere amendment to include both Expansion Areas.

City of Santa Paula White Paper Report – Sphere of Influence

The City's white paper report was intended "to give a broad overview of how Santa Paula will solve some of the more pressing issues" relating to City services and the infrastructure needed to serve proposed development within the Expansion Areas. In short, the white paper outlined the various General Plan policies that might apply to a development project within the Expansion Areas, as well as the City's plans to adopt impact fees and other requirements to which development would be subject. The report acknowledges that little in the way of planning has occurred within the Expansion Areas in terms of land use, circulation, infrastructure, public facilities, and open space. The report specified that the next step after inclusion of these areas within the sphere would be the development of a specific plan for each area, in which planning and the provision of services would be addressed. The white paper also indicates that in order to prepare for development in the Expansion Areas, the City was working on a number of studies, including "detailed infrastructure planning and impact analysis across the boards [sic]." These were to include capital facilities plans for water, sewer, transportation, drainage, parks and recreation, and general services.

In 2005, the City approved a request to amend the General Plan and a specific plan in Fagan Canyon. The approved project increased the number of allowable units in Fagan Canyon from 450 to 2,155 and allowed for an increased amount of commercial development. This project was the subject of a referendum effort and was subsequently rejected by voters, as discussed in more detail later in this report. To date there are no approved specific plans for either Expansion Area and staff is aware of no detailed land use or infrastructure planning for the Expansion Areas having been conducted by the City.

History of Development Proposals in Adams and Fagan Canyons 1998-2007

Since the adoption of the General Plan Update in 1998 and the approval of the sphere amendment in 2000, both the Adams Canyon and Fagan Canyon Expansion Areas have been the focus of several development proposals. In addition, both Expansion Areas have been subject to voter initiatives regarding development. The following timeline outlines the history of various actions that have affected past development proposals in each Expansion Area:

- 1998 – The City of Santa Paula General Plan Update identifies development in the Adams Canyon and Fagan Canyon Expansion Areas. Adams Canyon development was to include up to 2,250 residential units, 152,000 square feet of commercial

development, 2 hotels, 2 golf courses, schools, and recreational uses on 5,413 acres (8.5 square miles). Fagan Canyon was to include up to 450 residential units and a limited amount of commercial development on 2,173 acres (3.4 square miles). The General Plan Update did not include a land use map, infrastructure plan, circulation plan, or open space plan for either Expansion Area.

- 2000
  - LAFCo amends sphere of influence to include both Expansion Areas.
  - City voters approve SOAR to include Fagan Canyon within the City Urban Restriction Boundary (CURB) line. Adams Canyon is not included within the CURB line.
- 2002 – City voters reject a developer-backed initiative to amend the CURB line to include Adams Canyon to allow for potential annexation and development consistent with the General Plan.
- 2003 – City voters approve an amendment to the CURB to include a 32-acre parcel abutting the City (the Peck/Foothill Property).
- 2005 - Santa Paula City Council approves a General Plan amendment and development project in the Fagan Canyon Expansion Area, which allows for the development of up to 2,155 residential units, commercial development, schools, and other uses.
- 2006
  - City residents gather enough signatures to place a referendum on the ballot to overturn the Fagan Canyon development project approved by the City Council in 2005.
  - City Council rescinds approval of the previously approved development project in Fagan Canyon and places the project on the ballot subject to voter approval.
  - Voters reject General Plan amendment and development project in Fagan Canyon.
  - City voters reject a second developer-backed initiative to include Adams Canyon within the CURB line to allow for potential annexation and development of 495 dwelling units.
  - After collecting enough signatures to qualify for the ballot, voters approve a measure that requires voter approval in order to increase development density on property over 81 acres in size through 2020. This measure applies to all lands within the General Plan planning area.
- 2007 - City voters approve a third developer-backed initiative to develop Adams Canyon. The approved initiative amended the General Plan and CURB line to enlarge the Adams Canyon Expansion Area from 5,413 acres to 6,578 acres (10.3 square miles) and allowed for development of up to 495 units, a hotel, and a golf course. As a result, the Adams Canyon Expansion Area and the CURB now include an additional 1,165 acres (1.8 square miles) of territory located outside the current sphere of influence.

The current extent and the number of acres in the Adams Canyon and Fagan Canyon Expansion Areas are depicted on Attachment 2.

East Area 1 Sphere Amendment

The most recent amendment to the City sphere of influence approved by LAFCo occurred in 2011 as part of the East Area 1 Specific Plan project, which included a sphere of influence amendment and reorganization to annex approximately 550 acres to the City to allow for the development of 1,500 residential units and several hundred thousand square feet of commercial and various other uses. The Commission found that the project would lead to the conversion of prime agricultural land. When a sphere of influence amendment will lead to the conversion of prime agricultural land, Commission policies provide that the development must meet five criteria in order to be considered "planned, orderly, and efficient development" (Handbook Section 4.3.2.1). One of these criteria provides that the Commission find that "Insufficient non-prime agricultural or vacant land exists within the sphere of influence of the agency that is planned and developable for the same general type of use." The Commission determined that this criterion could not be met because Adams and Fagan Canyons contained such vacant lands. To address the potential policy inconsistency that would occur if the Commission were to approve the East Area 1 sphere amendment, the Commission adopted the following condition as part of its approval of the East Area 1 sphere of influence amendment:

> "Upon this sphere of influence amendment becoming effective, the Commission directs staff to include an amendment to the City sphere of influence removing the area known as Adams Canyon in conjunction with the next sphere of influence review and update scheduled for the City."

LAFCo Municipal Service Reviews

For each city and special district LAFCo must determine and adopt a sphere of influence. A sphere of influence is defined as a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission (Government Code §56077). Effective January 1, 2001 each LAFCo is required to review and, as necessary, update the sphere of influence of each city and special district on or before January 1, 2008, and every five years thereafter (Government Code §56425(g)). Prior to updating a sphere, LAFCo is required to conduct a municipal service review (MSR) (Government Code §56430).

In March 2007 LAFCo accepted a MSR report for the City. In June 2007, LAFCo reviewed the City of Santa Paula sphere of influence and, in acknowledgment of the action taken by the voters in the previous month to amend the City's CURB to include the Adams Canyon area, reaffirmed the continued inclusion of both the Fagan and Adams Canyon areas in the sphere. However, LAFCo did not include the additional areas to the west and to the northeast of Adams Canyon despite their being included in the CURB due to what was considered by LAFCo staff to be imprecise mapping of the area. In the southwesterly portion of the City, area was removed from the sphere to align it with the City boundary and the CURB, and in the southeasterly part of the City, to align with parcel boundaries rather than the more imprecise floodplain boundaries. And finally, minor changes were made to other portions of the sphere to align it with parcel boundaries.

Based on a work plan for the second round of sphere reviews adopted by the Commission in May 2008, sphere of influence reviews for each of the nine cities was scheduled for completion in 2012. On November 14, 2012, the Commission accepted a MSR for the cities, including Santa Paula. The sphere of influence review/update for the City of Santa Paula was scheduled for the January 16, 2013 LAFCo meeting. The MSR determinations generally found that the City was able to adequately and efficiently provide services within City boundaries and within areas adjacent to City boundaries slated for future annexation. However, the MSR determined that due to insufficient planning for the Expansion Areas, it is unclear whether the City has the ability or capability to efficiently provide services to these areas. At the January 16 meeting, the Commission approved a request by the City to continue the item to the March 20, 2013 meeting.

DISCUSSION:

To determine a sphere of influence, the Commission must make written determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.
(2) The present and probable need for public facilities and services in the area.
(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
(5) The present and probable need for sewer, water, and structural fire protection services of any disadvantage unincorporated community within the existing sphere of influence.

These five considerations are discussed below.

Present and Planned Land Use

The territory in the Adams and Fagan Canyon Expansion Areas is primarily undeveloped land, with agriculture (orchards) in some areas. The County General Plan designates most of the territory as Open Space – Urban Reserve. Several hundred acres are designated Agriculture – Urban Reserve. The "Urban Reserve" designation acknowledges that the area is within the City's sphere.

There are two subareas, one within and one adjacent to, the Adams Canyon and Fagan Canyon Expansion Areas that warrant special consideration: the "Peck/Foothill Property" and the approximately 100 acres of undeveloped land denoted as "Other Area" on Attachment 1. In 2003, voters elected to include the 32-acre Peck/Foothill property within the CURB line. It became part of the Adams Canyon Expansion Area as part of the vote to include Adams Canyon within the CURB in 2007. The City is currently processing an application for development of 79 residential units on this 32-acre site. This development is not associated with the larger development that was envisioned for the remainder of Adams Canyon in 2007. The "Other Area" is not a part of either Expansion Area and has been

within the sphere prior to 2000. It is identified on the General Plan land use map for "Hillside Residential" development. Therefore, the general location, type, and density of planned development of this area are known, and thus its service needs can be anticipated. Staff recommends that both of these areas remain within the sphere.

The City General Plan identifies the following development potential for each Expansion Area:

Expansion Area	Use/Acreage
Adams Canyon - 6,578 acres (5,413 acres within current sphere of influence)	Residential - 495 dwelling units
	One resort hotel
	One golf course
	One school - 40 acres
	Recreation - 100 acres
	Open space - 200 acres
Fagan Canyon - 2,173 acres	Single family residential – 450 dwelling units on 1,953 acres
	Commercial – 76,230 square feet on 5 acres
	Active parks - 7 acres
	Open space - 208 acres

The above table generally represents the current extent of land use planning contained on the City General Plan land use map for the two Expansion Areas (see the City General Plan Land Use Map, Attachment 3). Otherwise, there is limited information as to the general location of land uses, infrastructure, roads, public facilities, natural resources, and hazards within the 13.7 square miles of area contained within the Expansion Areas. This information is required to be part of a General Plan, as discussed below:

- Land Use – The General Plan identifies the type of development that is to occur within the Expansion Areas, such as the overall number of residences and acreage for schools, parks, and commercial uses. However, it contains no land use map depicting where within the Expansion Areas these uses are planned to occur. Govt. Code § 65302 provides that a General Plan shall include "a diagram or diagrams and text setting forth the objectives, principles, standards, and plan proposals" (underline added). Section 65302 continues that the land use element shall designate the "proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land…"
- Circulation: General Plan law requires that a circulation element be included "consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes…and other local public utilities and facilities, all correlated with the land use element of the plan." Though the circulation element identifies which existing streets might be extended to access the Expansion Areas, it contains no circulation

plans for future thoroughfares and transportation routes within the Expansion Areas themselves. In addition, no plans for local public utilities or facilities are included.

- Open Space/Conservation: State law also requires that a conservation element and open space plan are to be included in the General Plan. The City General Plan text discusses the existence of habitat, agriculture, geological hazards, and other resources/hazards within the Expansion Areas; however, no plan/map that identifies the location of the resources to be preserved and the hazards to be avoided is provided.

In January 2013, LAFCo staff met with two property owners in Fagan Canyon, Bruce Dickinson and Mike Mobley, and Simon Malk of Accretive Investments, Inc. a development company. Also in attendance was Ron Rakunas representing the primary property owner in Adams Canyon. At the meeting, LAFCo staff was provided a conceptual development plan for southern Fagan Canyon adjacent to the City boundary. The conceptual plan includes development of up to approximately 1,900 residential units on what appear to be urban-sized lots (likely under 10,000 square feet). Although the plan depicts land uses and roads in greater detail than the General Plan, it does not demonstrate that access, infrastructure, and other public facilities necessary to serve the development are feasible. Moreover, the plan has not yet been submitted to the City for review. It should also be noted that the conceptual development plan is inconsistent with the City General Plan, which currently allows up to 450 units in Fagan Canyon. Any proposed increase in the number of units allowed by the General Plan would be subject to a public vote. As noted previously in this report, voters rejected a 2,155-unit residential development in Fagan Canyon in 2006. Thus, the probable level of services needed in Fagan Canyon is unknown at this time.

The City adopted a growth management ordinance in the 1980s. The ordinance generally restricts new residential development to 124 units per year. Unused units are carried over and added to future years. The City General Plan Land Use Element provides several objectives, policies, and implementation measures which provide that the City is to adhere to the City's Growth Management Ordinance. These include Policy 1.b.b. which provides, "Allow population growth in the City and expansion and planning areas based on the numbers of new dwelling units allowed to be built under the Growth Management Ordinance." According to the City's Housing Element (adopted April 2012), as of January 2008, there were 1,909 accumulated residential units available. In the five years between 2008 and 2013, an additional 620 units will have accumulated, for a total of 2,529. According to the Housing Element, as of 2012 there were 255 units that were approved or were under construction. In addition, the East Area 1 project has been allocated 1,500 units. It appears another 159 units are allocated to vacant residential property within the City. In addition, the City is currently processing a proposal to develop 79 units on the Peck/Foothill property which, if approved, would reduce the number of available units to approximately 541. The General Plan allows for development of up to 495 units in Adams Canyon and 450 units in Fagan Canyon. Thus, it appears that there are currently not an adequate number of units available to develop both the Adams and Fagan Canyon Expansion Areas consistent with the current General Plan. It appears that a General Plan amendment to allow for the development of up to 1,900 units in Fagan Canyon would

substantially increase the disparity between the number of units available and the number of units allowed for under the General Plan.

Present and Probable Need for Public Facilities and Services in the Area

That portion of the Adams and Fagan Canyon Expansion Areas that is within the sphere of influence is generally rectangular in shape and measures approximately 2.5 miles wide by 5 miles long. The primary land use anticipated by the City General Plan in the Expansion Areas is residential. At an average of 3.5 persons per unit, the 945 units allowed within the Expansion Areas would accommodate approximately 3,300 new residents within an area that is larger than the City of Moorpark. From a population perspective, the City General Plan envisions an approximately 220 percent increase in the size of the City to accommodate an approximately 11 percent increase in population. Based on the total acreage within each Expansion Area identified for residential development and the number of residential units allowed for in the General Plan, the overall residential densities envisioned by the City General Plan are as follows:

	Acres	Units	Average Density
Adams Canyon	6,000* acres of potential residential development (9.4 sq. mi.)	495	1 unit / 12.1 acres
Fagan Canyon	1,953 acres of residential development (3.1 sq. mi.)	450	1 unit / 4.3 acres
Total	**7,953 acres (12.5 sq. mi)**	**945**	**1 unit / 8.4 acres**

*Excludes area identified for school (40 acres), recreation (100 acres), open space (200 acres) and hotel/golf course (estimate of 238 acres)

The aforementioned development densities are typically not considered to be urban or even suburban in terms of requiring a full array of urban services. Instead, the overall average total density of 1 unit per 8.4 acres is close to that allowed in the County of Ventura's Open Space General Plan designation (10 acre minimum lot sizes). According to the Guidelines for Orderly Development (which LAFCo has adopted as local policy), residential development is defined as urban if it consists of lots less than two acres in size. If development in this area is to occur on large rural lots, the probable need for urban-type services may not be sufficient to support annexation to the City.

Present Capacity of City Facilities and Adequacy of City Services

The 2012 MSR for the Nine Ventura County Cities includes a determination that the City of Santa Paula's facilities and services are adequate to serve development anticipated for the areas within the sphere of influence that are in close proximity to the City, such as East Area 1 and East Area 2. The MSR notes that the City General Plan does not contain basic land use and infrastructure planning for the Adams and Fagan Canyon Expansion Areas as required by state law. Due in part to this absence of information, the Commission approved the following MSR determinations regarding the City's planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies:

- Fire services: "...no plans appear to be in place to provide and fund the facilities and staffing necessary to provide adequate fire protection services to development anticipated in the Adams and Fagan Canyon Expansion Areas. Without additional fire resources to serve future development, current services may be adversely impacted."

- Police services: "Information is not available at this time to determine whether other future development [including Adams and Fagan Canyon] will provide adequate revenue to fund additional staffing and equipment that will be needed."

- Potable and recycled water: "...it is unclear at this time whether future development will generate sufficient revenue to cover the costs to construct, operate, and maintain the infrastructure necessary to deliver potable water, particularly to the Adams and Fagan Canyon Expansion Areas."

  "...demand projections for recycled water [from the City's Urban Water Management Plan] appear to be based on levels of future development that have since been substantially decreased. It is not clear whether it will be cost effective to install and maintain the infrastructure necessary to deliver recycled water to future development, particularly development in the Adams and Fagan Canyon Expansion Area."

- Wastewater: "Future development anticipated in the General Plan will require substantial expansion of the City's wastewater collection system and will result in capacity deficiencies in some portions of the existing system. Information is not available at this time whether future development will generate adequate revenue to cover the costs to construct, upgrade, operate, and maintain the infrastructure necessary to provide wastewater collection, particularly to the Adams and Fagan Canyon Expansion Areas."

Regarding the City's financial ability to provide services to the Expansion Areas, the Commission determined:

> "Given the large geographical extent of the Adams and Fagan Canyon Expansion Areas, the cost of extending, operating, and maintaining service infrastructure and facilities in these areas will likely be substantial based on the level of development anticipated in the current General Plan. Due to the fact that planning in the way of land use, infrastructure, circulation, and financing for these areas has not yet occurred, the costs to provide services to them, as well as the sources of revenue to cover those costs, have not been identified. Given that development in each expansion area is currently limited to fewer than 500 residential units and a limited amount of revenue-generating commercial development, it is unclear whether development in these areas would be financially feasible."

The level of planning that is necessary to evaluate a City's capacity to efficiently provide services in an area to be included within a sphere can typically be found in a General Plan that has been prepared and adopted consistent with state law. The level of detail need not be that of a specific plan or project entitlements. However, the City's current General Plan does not include many of the basic requirements of a General Plan and thus, does not provide adequate information to determine whether the current sphere represents the probable boundary and service area of the City.

Social or Economic Communities of Interest in the Area

Although LAFCo law does not define a social or economic community of interest, a community of interest is generally understood to be a group of people that can be identified by common social, political, economic, or ethnic similarities. The shared characteristics that contribute to a community of interest may include class or socio-economic status, race, ethnicity/culture, language, religion, occupations/industry, transportation patterns, family structures, population age, housing patterns, trading/shopping patterns, geography/climate, or shared history among other factors. According to City staff, the majority of development in Adams Canyon would likely occur in the northern portion of the Expansion Area where terrain is generally less steep. This area is geographically and physically separated from the remainder of the City by a distance of several miles and by intervening areas of steep topography. A preliminary fiscal analysis provided to the City by the developer in support of the 2007 CURB initiative assumes that an assessment district will fund all on-going operations and maintenance of public facilities and infrastructure. In addition, it assumes that the 495 dwelling units will be sold for an average price of $3 million, have an annual appreciation rate of 3%, and be occupied by households with an average annual income of $600,000, only half of whom will reside there full time. Thus it appears that the plan for this area is intended to result in an exclusive community that is separated geographically, physically, economically, and socially from the remainder of the City.

However, it appears that the development of 495 multimillion-dollar residential units is not certain. Currently, the City is processing a request to subdivide a 32-acre parcel within the Adams Canyon Expansion Area into 79 residential parcels of approximately 10,000 square feet (the Peck/Foothill property). If approved, the number of allowable units remaining within the Expansion Area would be reduced to 416. In addition, according to the white paper report prepared by the City to support inclusion of the Expansion Areas within the sphere in 2000, development proposals in Adams and Fagan Canyons "cannot conform to the hundreds of goals, policies, objectives, and implementation measures obtained in the General Plan if the projects propose nothing but high income housing. The development proposals will need to include the full range of housing types..." It is important to note that one of the factors to be considered by LAFCo in the review of an annexation proposal is the extent to which the proposal will affect a city in achieving its fair share of regional housing needs.

Based on the preliminary fiscal analysis, it appears that the development of a social/economic community of interest comprised of 495 multimillion-dollar homes occupied by high-income households is necessary to ensure that the project is financially feasible.

However, it appears that the development of 495 multimillion-dollar homes may not occur, is inconsistent with the information provided to LAFCo to justify the inclusion of Adams Canyon within the sphere, is inconsistent with the goals, policies, and implementation measures of the City General Plan, and would not help the City in meeting its regional housing needs obligation.

Any disadvantaged unincorporated community within the existing sphere of influence

As defined by Section 56033.5 of the Government Code, a "Disadvantaged Unincorporated Community" (DUC) is a community with an annual median household income that is less than 80 percent of the statewide annual median household income. There are no DUCs within or contiguous to the City sphere of influence.

VENTURA LAFCo COMMISSIONER'S HANDBOOK

The Commissioner's Handbook (Handbook) is a compendium of the Commission's local policies. Division 4 contains policies and standards related to determining, updating, and amending sphere of influence boundaries. As discussed below, two of the Handbook sections pertaining to spheres of influence merit consideration with regard to the sphere for Santa Paula.

Section 4.3.1 – General Standards

This section provides that LAFCo favors sphere boundaries that, among other standards, "[c]oincide with existing and planned service areas." (4.3.1.1(a)) As discussed in this report, there is insufficient land use, infrastructure, and public facility planning for the Expansion Areas. Therefore, it appears that the current sphere does not represent the planned service area for the City.

This section also provides that LAFCo discourages sphere boundaries that, among other standards, "create areas where it is difficult to provide services." (4.3.1.2(b)) The sphere extends approximately 5 miles north of City boundaries and is approximately 2 miles wide. The area contains rugged topography, steep slopes, narrow canyons, and areas subject to flooding and landslides. Given the size of the area and the variety of constraints, it can be assumed that the provision of services to certain areas would be difficult. However, in the absence of adequate land use and infrastructure planning, the level of difficulty with providing services to the Expansion Areas is unknown.

Section 4.3.2 – Agriculture and Open Space Preservation

Several hundred acres within the Expansion Areas are used for agriculture and appear to meet the definition of prime agricultural land pursuant to LAFCo law (Govt. Code § 56064). Most, if not all, of the territory is considered to be open space and is devoted to open spaces uses, as defined by LAFCo law (Govt. Code §§ 56059 and 56060).

Pursuant to this Handbook section, LAFCo will approve a sphere amendment or update that is likely to result in the conversion of prime agricultural or open space land use to other uses only if the Commission finds that the amendment or update will lead to planned, orderly, and efficient development. In order for an update to result in planned, orderly, and efficient development, the Commission must determine that five specific criteria have been met. Though this policy most often applies to updates that expand a sphere, it is equally applicable to updates that retract a sphere. Indeed, Section 4.1.2 defines a sphere update to be, in short, a "modification of a sphere". Furthermore, Section 4.1.4(c) acknowledges that sphere updates can include the removal of territory from a sphere. Therefore, it is appropriate for the Commission to consider this policy in the context of this sphere update. Thus, in order for the area to remain within the sphere, the Commission should determine that it meets the five specified criteria, each of which is listed and discussed below.

(a) The territory is likely to be developed within 5 years and has been designated for non-agricultural or open space use by applicable general and specific plans.

It is unclear whether the territory is likely to be developed within 5 years. No development proposals have been submitted to the City. In addition, the only conceptual development proposal of which staff is aware (the 1,900-unit conceptual plan for Fagan Canyon) will require a public vote and appears to be inconsistent with the City growth management ordinance.

(b) Insufficient non-prime agricultural or vacant land exists within the sphere of influence of the agency that is planned and developable for the same general type of use.

The 1,500-unit, 550-acre East Area 1 Specific Plan, for which the Commission amended the City sphere, was annexed to the City in February 2013. Therefore, the City sphere contains vacant land that is planned and developable for the same general type of use as that contemplated within the Expansion Areas

(c) The proposal will have no significant adverse effects on the physical and economic integrity of other prime agricultural or open space lands.

Due to the inadequacy of land use planning in the Expansion Areas, it is unknown at this time the extent to which development in the area would effect other prime agricultural or open space lands.

(d) The territory is not within an area subject to a Greenbelt Agreement adopted by a city and the County of Ventura. If a City proposal involves territory within an adopted Greenbelt area, LAFCo will not approve the proposal unless all parties to the Greenbelt Agreement amend the Greenbelt Agreement to exclude the affected territory.

The area is not within a Greenbelt Agreement.

(e) The use or proposed use of the territory involved is consistent with local plan and policies.

The City General Plan does not adequately plan for the Expansion Areas in terms of the land use map, circulation plan, public facilities plan, open space plan, and conservation plan.

COMMENTS RECEIVED

As of the writing of this report, LAFCo staff had received five comment letters. Three of these letters (combined as Attachment 7) appear to be from City residents and are summarized below:

- The first letter is from Richard Main, J.D, received January 10, 2013, in which he expresses support for making no changes to the current City sphere so long as development in Adams and Fagan Canyons remains consistent with the levels of development currently allowed for in the General Plan. He does not support increased levels of development, such as the 1,800-2,000 residential units that have been envisioned in Fagan Canyon.

- The second letter from Robert Borrego, dated January 11, 2013, discusses various aspects of the elections affecting development in the Adams Canyon Expansion Area.

- The third letter from Douglas Smith, dated March 11, 2013, expresses support for removing both the Adams Canyon and Fagan Canyon Expansion Areas from the sphere. Mr. Smith cites concerns with development in the Expansion Areas, including, but not limited to, impacts to the environment, water availability, cost of infrastructure and public safety, traffic, and loss of open space.

The fourth letter, dated March 1, 2013, is from Latham & Watkins, LLP, a law firm retained by R.E. Loans, the owner of most of the property within the Adams Canyon Expansion Area (Attachment 8). The final letter, dated March 4, 2013, is from the City of Santa Paula (Attachment 9). Each of these letters is discussed below.

Latham and Watkins letter, dated March 1, 2013

This letter is divided into three general sections. The pertinent points of each section are summarized below followed by staff's response.

- *Section 1*: Under section 1 of the letter, the commenter maintains that the Commission must repeal or amend LAFCo Resolution 10-12S before taking any further action on the City sphere. The commenter appears to be of the understanding that a condition adopted in the resolution obligates LAFCo to remove Adams Canyon from the sphere, thereby biasing the Commission regarding the City sphere update and removing the Commission's objectivity in its determination.

  Response 1: LAFCo Resolution 10-12S, which amended the City sphere, was adopted by the Commission in 2011 to allow for the annexation and development of the East

Area 1 Specific Plan in the City. As part of the approval of the East Area 1 sphere of influence amendment, the Commission adopted a condition directing staff to include an amendment to the City sphere of influence removing the area known as Adams Canyon in conjunction with the next sphere of influence review and update scheduled for the City. The reason for this condition was to avoid a potential policy inconsistency, as discussed previously in this report (as well as the staff reports prepared for the East Area 1 project). Pursuant to this condition, staff has included the removal of Adams Canyon from the sphere among the options available to the Commission as part of the sphere update. However, the condition in no way obligates the Commission to remove Adams Canyon from the City sphere, as the commenter maintains. In fact, staff has included an option that does not involve the removal of Adams Canyon from the sphere. Furthermore, the East Area 1 sphere amendment associated with LAFCo Resolution 10-12S has already been effectuated and the annexation of the East Area 1 Specific Plan was finalized in February 2013.

- *Section 2*: Under section 2 of the letter, the commenter maintains that there is no factual basis in the record for changing LAFCo's decision in 2007 to make only non-substantive changes to the City sphere and it is unclear why LAFCo is considering changing the City sphere when it is not desired by the City. The commenter also notes that the voters amended the CURB line in 2007 to make it coterminous with the sphere.

  Response 2: LAFCos are mandated to review and, as necessary, update the spheres of influence for each agency over which LAFCo exercises jurisdiction at least every five years. This mandate applies whether or not the local agency whose sphere is being reviewed and/or updated desires it. The current sphere review/update for the City was scheduled to occur in 2012 as part of the work plan adopted by the Commission in 2008. LAFCo law outlines the process for updating a sphere, which requires that a municipal service review (MSR) be prepared and that written determinations be adopted by the Commission. As noted in the staff report, a MSR for the City of Santa Paula was prepared and accepted by the Commission in November 2012. Written determinations were also approved by the Commission at that time. In addition, to amend or update a sphere, the Commission must make an additional five written determinations, which were discussed previously in this report. The 2008 work plan, the 2012 MSR, the 2012 MSR written determinations, and this staff report in which the sphere review/update is discussed provide a substantial factual basis in the record regarding the Commission's review and/or update of the City sphere.

  In regards to the CURB line, when the CURB was amended to include Adams Canyon is 2007, only portions of it were established coterminous with the sphere. The majority of the CURB is not conterminous with the sphere. Most of the CURB line extends beyond the sphere and includes over 1,100 acres of territory located outside the sphere.

- *Section 3*: Section 3 of the letter begins on page 2 and ends on page 11. The commenter maintains that the possible changes to the City sphere being contemplated by the Commission warrant the preparation of an environmental impact report (EIR), as they will create conflicts with the City General Plan. To support this conclusion the

commenter cites section X.b. of Appendix G of the CEQA Guidelines which provides that a potentially significant impact to Land Use and Planning may exist if a project will "[c]onflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project..." (note this section of Appendix G is not accurately cited in the letter). On pages 4 through 11 the commenter discusses the various perceived conflicts with the City General Plan in the areas of land use, housing, agricultural lands, growth management, and transportation.

Response 3: Appendix G of the CEQA Guidelines, the legal citation offered by the commenter, expressly states that it is a "sample form" "intended to encourage thoughtful assessment of impacts" but which "do[es] not necessarily represent thresholds of significance" under CEQA. As such, Appendix G by itself does not carry any legal authority. In any event, Appendix G is inapplicable on its face for two separate reasons. First, as noted above, according to Appendix G, a potentially significant impact may occur if the project conflicts with "any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project . . . ." The project under consideration by the Commission is the review and/or update of the City sphere. Spheres of influence are established and amended solely by LAFCo. No other agency has jurisdiction over any aspect of spheres of influence, including updates or amendments. Therefore, as LAFCo is the agency with jurisdiction over decisions concerning the sphere for the City, any associated conflicts with any plans, policies, or regulations adopted by the City would not be a potentially significant impact under Appendix G. Second, Appendix G applies only to "any applicable land use plan, policy, or regulation . . . adopted for the purpose of avoiding or mitigating an environmental effect." There is no evidence that any part of the City General Plan cited by the commenter was adopted for the purpose of avoiding or mitigating an environmental effect. Because the various perceived conflicts with the City General Plan discussed on pages 4 through 11 of the letter are not relevant in a CEQA context, staff has determined that point-by-point responses are not necessary.

- *Comment 4*: In the conclusion on page 11 of the letter, the commenter maintains that the Commission's action regarding the City sphere review/update is subject to CEQA review and that sphere updates are not exempt from CEQA. The commenter claims that it has been demonstrated that any LAFCo action to remove Adams Canyon from the sphere would result in serious conflicts with the City General Plan and therefore an EIR is required under CEQA. The commenter also maintains that LAFCo regulations preclude exempting sphere updates from CEQA. Finally, the commenter notes that changes to spheres of influence require that the Commission make five written determinations.

  Response: As noted in the previous response above, any conflicts resulting between the Commission's action to update the City sphere and the City General Plan would not be considered a potentially significant impact under CEQA.

  The commenter is correct that a sphere update is considered to be a project subject to CEQA review. Pursuant to CEQA Guidelines 15061, once a determination has been

made that a project is subject to CEQA review, the lead agency shall determine whether the project is exempt from CEQA. As discussed in the staff report, staff believes that the sphere update is a project subject to CEQA review and that the project is exempt from CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

The commenter's statement that LAFCo regulations do not allow for a CEQA exemption for a sphere update is unclear. Staff is aware of no such regulations. The commenter may be referring to Commissioner's Handbook Division 1, Chapter 4, which is the Commission's Administrative Supplement to CEQA. Section 1.4.4.3 identifies specific projects/actions that the Commission has determined to meet certain CEQA exemptions. However, this list does not preclude the exemption of other Commission actions/projects not on the list but for which a CEQA exemption may apply. Indeed, Section 1.4.4.2 provides that the Executive Officer is to determine whether an environmental document will be required or whether the project is exempt.

Finally, the five written determinations that are required to be adopted by the Commission in order to update the sphere are discussed in this report.

Letter from the City of Santa Paula, dated March 4, 2013

The letter from The City of Santa Paula expresses concerns with and opposition to the removal of the Adams Canyon and Fagan Canyon Expansion Areas from the sphere. The City's letter is formatted into six sections listed alphabetically. Each section is summarized below followed by staff's response.

- *Section A*: The City notes that spheres of influence are similar to General Plans in that they both are essential tools for providing well-planned, efficient urban development patterns. The City notes that development of Adams and Fagan Canyons is identified throughout the General Plan.

  Response A: As discussed in the staff report, in the over 13 square miles within the Adams and Fagan Canyon Expansion Areas, the City General Plan does not provide a land use map, circulation plan, public facilities plan, open space plan, or conservation plan, all of which are required components of a General Plan pursuant to state law. Though sections of the General Plan text include general references to future development in these areas, little in the way of land use and infrastructure planning has occurred. As a result, it is unknown whether the level of development currently identified in the General Plan will result in well-planned, efficient urban development patterns.

- *Comment B*: The City maintains that the intent of directing development into Adams and Fagan Canyon is to prevent the conversion of prime agricultural lands located to the east and west of the City. According to the City, the removal of these areas from the sphere may force the City to expand into the prime agricultural lands to the east and west.

Response B: The City General Plan encourages development in the Adams and Fagan Canyon areas, in part, to direct development away from agricultural lands to the east and west of the City. However, the East Area 1 Specific Plan (which required a SOAR vote, greenbelt amendment, general plan amendment, sphere of influence amendment, and annexation) includes the conversion of over 400 acres of prime agricultural land to the east of the City. We understand that the City is currently considering an industrial development and annexation that will convert prime agricultural land to the west of the City. Thus, it appears that the intent of the General Plan to preserve prime agricultural land to the east and west of the City by directing development to these canyon areas has not occurred. In addition, there are several hundred acres of prime agricultural lands located within the Adams and Fagan Canyon Expansion Areas. Without a land use plan, it is unknown the extent to which development would convert these agricultural lands.

- *Comment C*: The City maintains that the voter's overwhelming support to expand the CURB line to include the Adams and Fagan Canyon Expansion Areas demonstrates their support for development and annexation of these areas. The City notes that Ventura LAFCo Commissioner's Handbook Section 4.2.1 recognizes the importance of voter-approved growth boundaries in establishing spheres of influence.

  Response C: Section 4.2.1 of the Commissioners Handbook provides that for cities with voter-approved growth boundaries, spheres of influence should coincide with, or cover lesser area than, voter-approved growth boundaries. This policy does not indicate a preference that the CURB line is to be the basis for a sphere boundary, only that the maximum extent of the sphere is to be the CURB line. A sphere may cover less area where appropriate. With regards to establishing the sphere of influence in the Adams and Fagan Canyon Expansion Areas, the CURB line was never a factor in the location of the sphere. When the sphere was amended by LAFCo in 2000 to include the Expansion Areas, the CURB did not exist. The sections where the CURB and sphere are coterminous resulted from the establishment of, and subsequent amendments to, the CURB, not the sphere.

  Measure A7, a developer-backed initiative which amended the General Plan and the CURB line to include the over 6,500-acre Adams Canyon Expansion Area, was supported by 2,485 voters, or approximately 24 percent of the registered voters in the City in 2007. The initiative included no development project, no land use plan, and no environmental review.

- *Comment D:* According to the City, no applications for development projects within the Expansion Areas have been submitted. However, representatives of land owners within the Expansion Areas have indicated to the City that they will soon submit applications for development projects. The City maintains that should the expansion areas be removed from the sphere, the application process for development in the Expansion Areas would increase by up to two years and cost up to an additional $10 million. The City believes that such delays would discourage housing development in the Expansion

Areas, in which case the City would not be able to meets it regional housing needs obligation for the 2014-2021 period.

Response D: LAFCo staff has met with property owners and/or their representatives of both Expansion Areas. The previous owner of Adams Canyon who intended to develop the 495 multimillion-dollar residences is no longer in business. The current owner is in the process of selling, not developing, the area. Though the property owners of Fagan Canyon presented a preliminary development plan to LAFCo staff, the development would be subject to a public vote and appears to be inconsistent with the City's growth management ordinance.

The basis for the claim that the removal of the sphere will result in a two-year increase to the time it takes to process a development application and a $10 million increase to the cost is unclear. The LAFCo application form for a sphere amendment is a single page in length. The application fee to amend a sphere in conjunction with an annexation is $2,650. A concurrent sphere amendment would take no more time for LAFCo to process than an annexation proposal without a concurrent sphere amendment. The City may be referring to the cost and time associated with updating the General Plan to include the Expansion Areas. However, such an update must occur prior to or in conjunction with a development project, regardless of whether the area is within the sphere. The need to update the General Plan is not a function of the location of the sphere.

- *Comment E:* The City maintains that LAFCo staff repeatedly noted in the 2012 MSR that there is a lack of infrastructure in the Expansion Areas and that the lack of infrastructure necessitates the removal of the Expansion Areas from the sphere. The City states that the General Plan deferred land use, infrastructure, open space, and fiscal planning within the Expansion Areas. Such planning is to occur later through development of specific plans. The City also notes that the new wastewater treatment facility was designed to accommodate new growth anticipated in the sphere.

  Response E: The City was provided with a draft of the 2012 MSR for review and comment. The City found that no substantive corrections where necessary. The MSR does not discuss an absence of infrastructure within the Expansion Area; it discusses that there exists insufficient planning in terms of land use, circulation, public facilities, and infrastructure in the Expansion Areas. The General Plan's deferral of planning in the Expansion Areas is acknowledged in the City's letter. It is the absence of sufficient planning that resulted in several MSR determinations that it is unclear whether the City has the capacity and ability to efficiently provide services within the Expansion Areas. Nowhere in the MSR does it conclude that the removal of Adams and Fagan Canyons from the sphere is necessary.

- *Comment F*: The City maintains that there is no compelling or logical reason to exclude the Expansion Areas from the sphere and there has been no change to conditions within the City to necessitate changing the sphere. The City also maintains that overarching LAFCo policies to keep the sphere consistent with voter approved growth

boundaries and limiting development of prime farmland warrant keeping the sphere in its current location.

Response F: The reasons for potentially removing one or both Expansion Areas from the sphere are outlined in LAFCo Resolution 10-12S approving the East Area 1 sphere amendment, the 2012 MSR and its determinations, and this report. Based on information in the 2012 MSR and this report, conditions related to the City have materially changed since the previous MSR was prepared in 2007. It is again noted that LAFCo policies indicate no preference that spheres are to be consistent with voter-approved growth boundaries. It is speculative to conclude that the removal of the Expansion Areas from the sphere would encourage or otherwise result in additional development of prime farmland and associated conflicts with LAFCo policies to preserve prime farmland.

SUMMARY

Pursuant to Govt. Code § 56076:

> "'Sphere of influence' means a plan for the probable physical boundaries and service area of a local agency, as determined by the commission."

Govt. Code Section 56425 provides:

> "In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies subject to the jurisdiction of the commission to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each city and each special district, as defined by Section 56036, within the county and enact policies designed to promote the logical and orderly development of areas within the sphere."

Due to the absence of adequate land use and infrastructure planning within the Adams Canyon and Fagan Canyon Expansion Areas, it is unclear whether the current sphere boundary represents the probable physical boundaries and service area of the City. Thus, there is no certainly that the existing sphere will achieve the intended purposes of a sphere, as outlined above. It remains unclear whether the sphere will result in logical and orderly development or allow the City to advantageously provide for the present and future needs of the City.

COMMISSION OPTIONS

Staff has identified three options available to the Commission regarding the review and/or update of the City sphere of influence, as follows:

- Option 1: No change (Attachment 4)

  Under this option, no changes would be made to the current sphere. This would allow the City to potentially annex an additional 7,783 acres and expand to over three times its current size. With respect to Adams Canyon, it would not address the policy inconsistency related to the Commission's approval of the East Area 1 sphere of influence amendment and annexation, as discussed on page 5 of this report.

- Option 2: Remove Adams Canyon Expansion Area (Attachment 5)

  Under this option, the majority of the 5,413-acre portion of the Adams Canyon Expansion Area would be removed from the sphere of influence. Should the Commission choose this option, it is recommended that the 32-acre Peck/Foothill property remain within the sphere, as the City is currently processing a development proposal on this property. Staff also recommends that approximately 100 acres denoted as "Other Area" be retained in the sphere, as this area has been planned for as part of the General Plan and is identified for residential development. In addition, staff recommends that this option include the expansion of the sphere of influence along the eastern boundary of the Fagan Canyon Expansion Area to better align the sphere with property lines along State Route 150.

  This option would address the potential policy inconsistency related to the Commission's approval of the East Area 1 proposal. This option would allow the City to annex an additional approximately 2,500 acres.

- Option 3: Remove both Adams Canyon and Fagan Canyon Expansion Areas (Attachment 6)

  Under this option, the Commission would remove most of the approximately 7,600 acres of the sphere that are within the Adams Canyon and Fagan Canyon Expansion Areas. Similar to option 2 above, should the Commission choose this option staff recommends that the 32-acre parcel at the Peck/Foothill intersection and the approximately 100 acres denoted as "Other Area" be retained in the sphere.

  Under this option, the level of development that would remain within the City sphere of influence and within the recently annexed East Area 1 Specific Plan would allow for up to approximately 2,120 residential units, 835,000 square feet of commercial development, 1,900,000 square feet of light industrial/research development, and 340,000 square feet of industrial development. Also, this option would address the

potential policy inconsistency related to the Commission's approval of the East Area 1 proposal.

Should the Commission choose Option 2 or 3, the City would not be precluded from submitting an application for a concurrent sphere amendment and annexation at any time in the future subsequent to the adoption of a General Plan update and, if desired by the City, adoption of a specific plan. The preparation of a specific plan and a concurrent sphere of influence amendment and annexation was the process undertaken for the East Area 1 project.

Although not recommended, another possible option would be to increase the current sphere of influence so that the sphere and the CURB are coterminous in the area to the west and northeast of the Adams Canyon Expansion Area. This action would also align the sphere boundary with the boundary of the Adams Canyon Expansion Area, thus adding an additional 1,165 acres to the territory within the sphere. However, as noted previously in this staff report, mapping of the CURB is not precise. In addition, the expansion of the sphere would require the preparation of a CEQA document, which would be problematic given that the location and type of development within the area is unknown.

Summary of Options

	Unincorporated Area in Sphere	Development potential* (per General Plan)
Option 1	7,783 acres	Residential.....2,895 units Commercial.....910,000 sq. ft. Light Industrial/Research.....1,900,000 sq. ft. Industrial .....340,000 sq. ft. Hotel/Golf Course.....1
Option 2	2,500 acres	Residential.....2,570 units Commercial.....910,000 sq. ft. Light Industrial/Research.....1,900,000 sq. ft. Industrial .....340,000 sq. ft.
Option 3	322 acres	Residential.....2,120 units Commercial.....835,000 sq. ft. Light Industrial/Research.....1,900,000 sq. ft. Industrial .....340,000 sq. ft.

*Includes the recently annexed East Area 1 project

CEQA

For CEQA purposes, the options presented in this report for the City of Santa Paula sphere of influence review and/or update are exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines, the "general rule" exemption. The options are exempt because it can be seen with certainty that there is no possibility that any of the three options may have a significant effect on the environment because the options either make no modifications to

the sphere of influence or reduce the extent of territory that LAFCo has determined to represent the City's probable physical boundaries and service area.

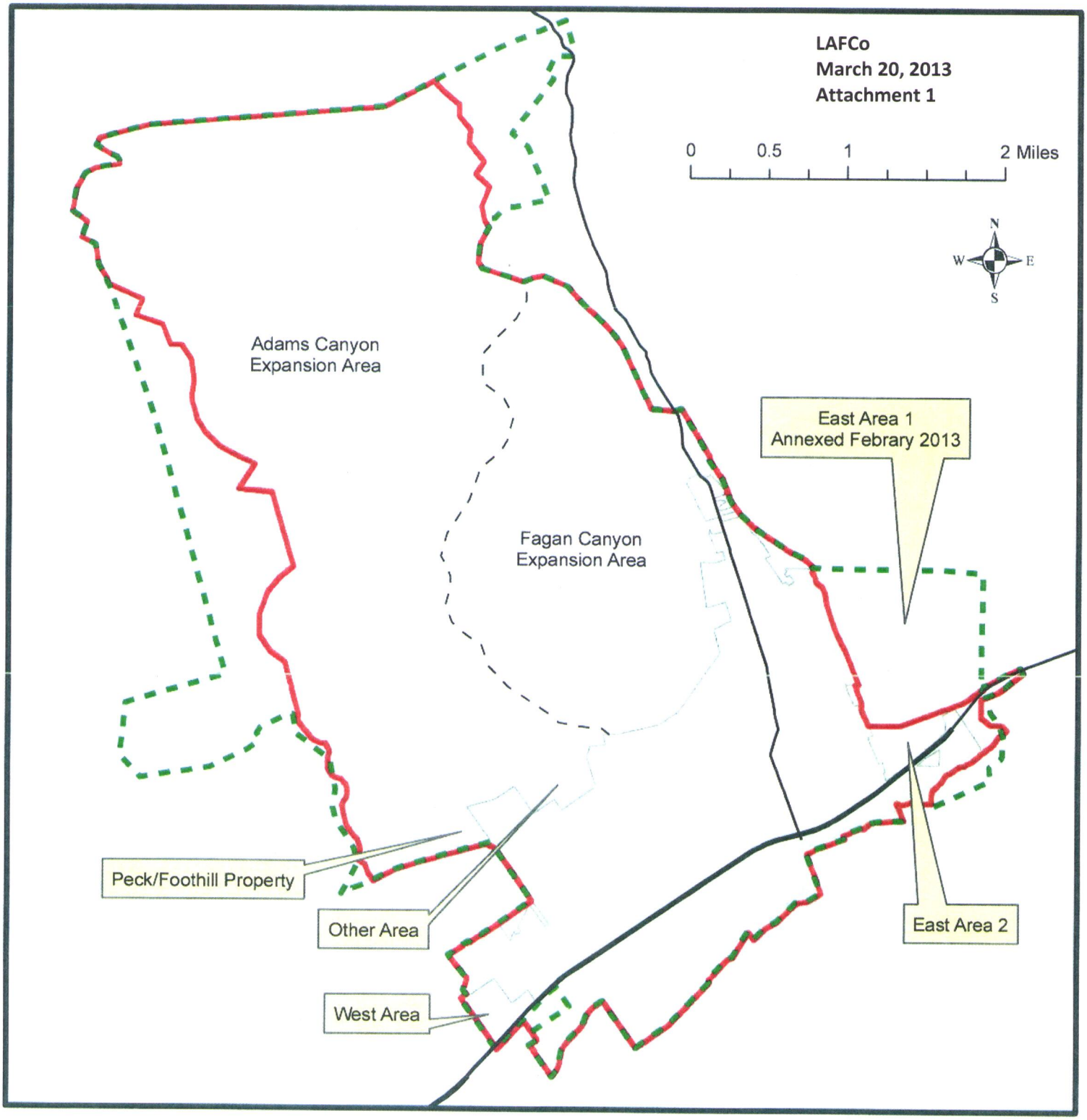
PUBLIC NOTICE

Regarding public notice, Govt. Code Section 56427 provides:

> The commission shall adopt, amend, or revise spheres of influence after a public hearing called and held for that purpose. At least 21 days prior to the date of that hearing, the executive officer shall give mailed notice of the hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation which is circulated within the territory affected by the sphere of influence proposed to be adopted. The commission may continue from time to time any hearing called pursuant to this section.

As indicated previously in this report, this matter was originally scheduled to be considered by the Commission at a public hearing on January 16, but was continued by the Commission to the March 20 meeting at the request of the City. Notice of the January 16 hearing was emailed to the City Manager and Planning Director on December 7, 2012. Notice was mailed to the City Clerk and posted at the County Hall of Administration on December 17, 2012. Notice was also published in the Ventura County Star on December 23, 2012. In addition, at the December 17 Santa Paula City Council meeting, LAFCo staff informed the City Council and all others in attendance that the matter was scheduled to be considered by the Commission at a public hearing on January 16.

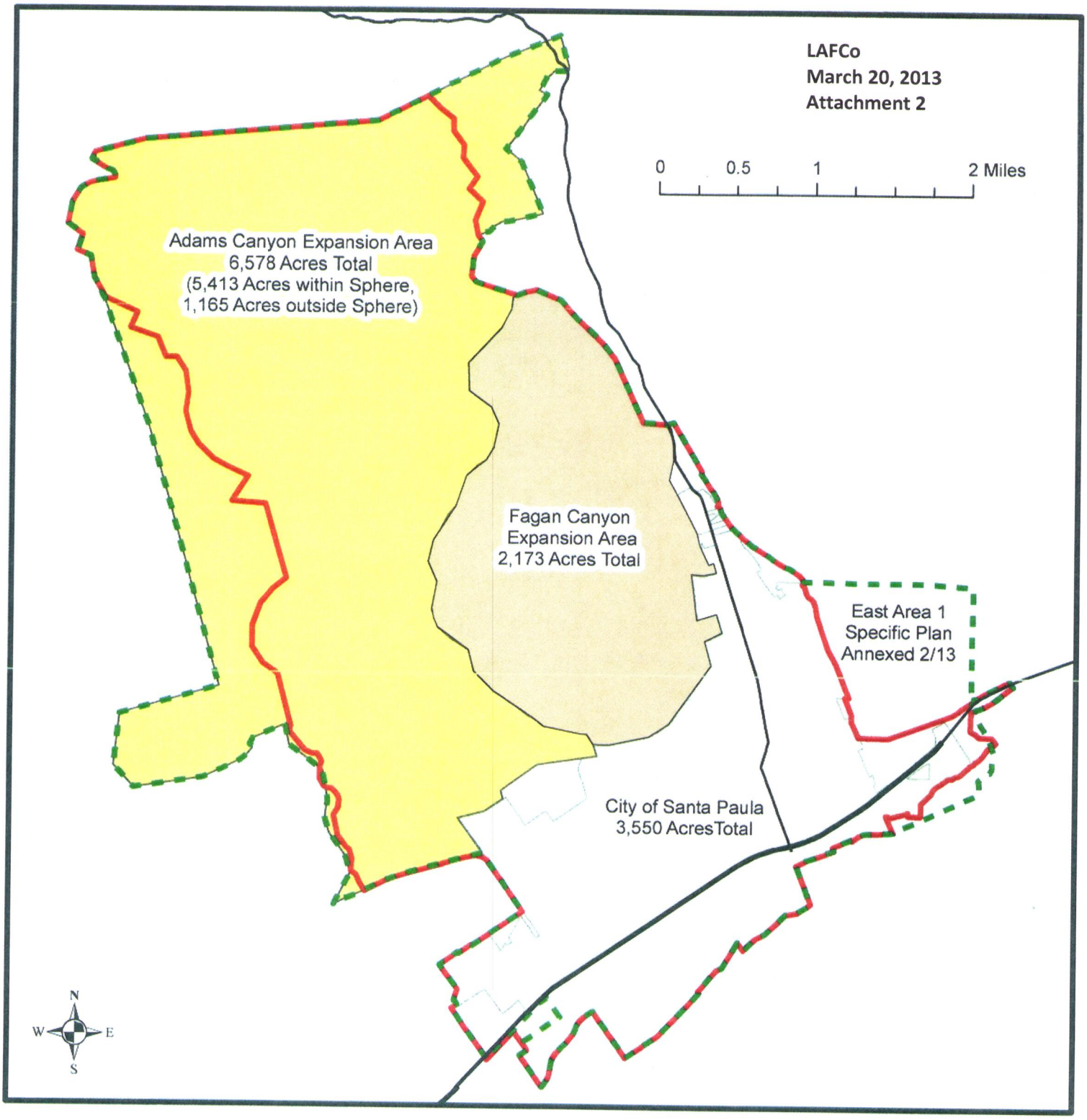
Attachments:
(1) Map of current City sphere of influence
(2) Map of Adams Canyon and Fagan Canyon Expansion Areas
(3) City General Plan land use map
~~(4) Map Option 1 – No change~~
~~(5) Map Option 2 – Removal of Adams Canyon Expansion Area from sphere of influence~~
~~(6) Map Option 3 – Removal of Adams Canyon and Fagan Canyon Expansion Areas from sphere of influence~~
(7) Letters from Richard Main, Robert Borrego, and Douglas Smith
(8) Letter from Latham & Watkins, LLP, dated March 1, 2013
(9) Letter from City of Santa Paula, dated March 4, 2013
~~(10) Resolution to remove the Adams Canyon Expansion Area from sphere~~
~~(11) Resolution to remove both the Adams and Fagan Canyon Expansion Areas from sphere~~



LAFCo 13-02S
City of Santa Paula
Sphere of Influence Review/Update

Legend

- City of Santa Paula
- City Sphere - Existing
- CURB Line



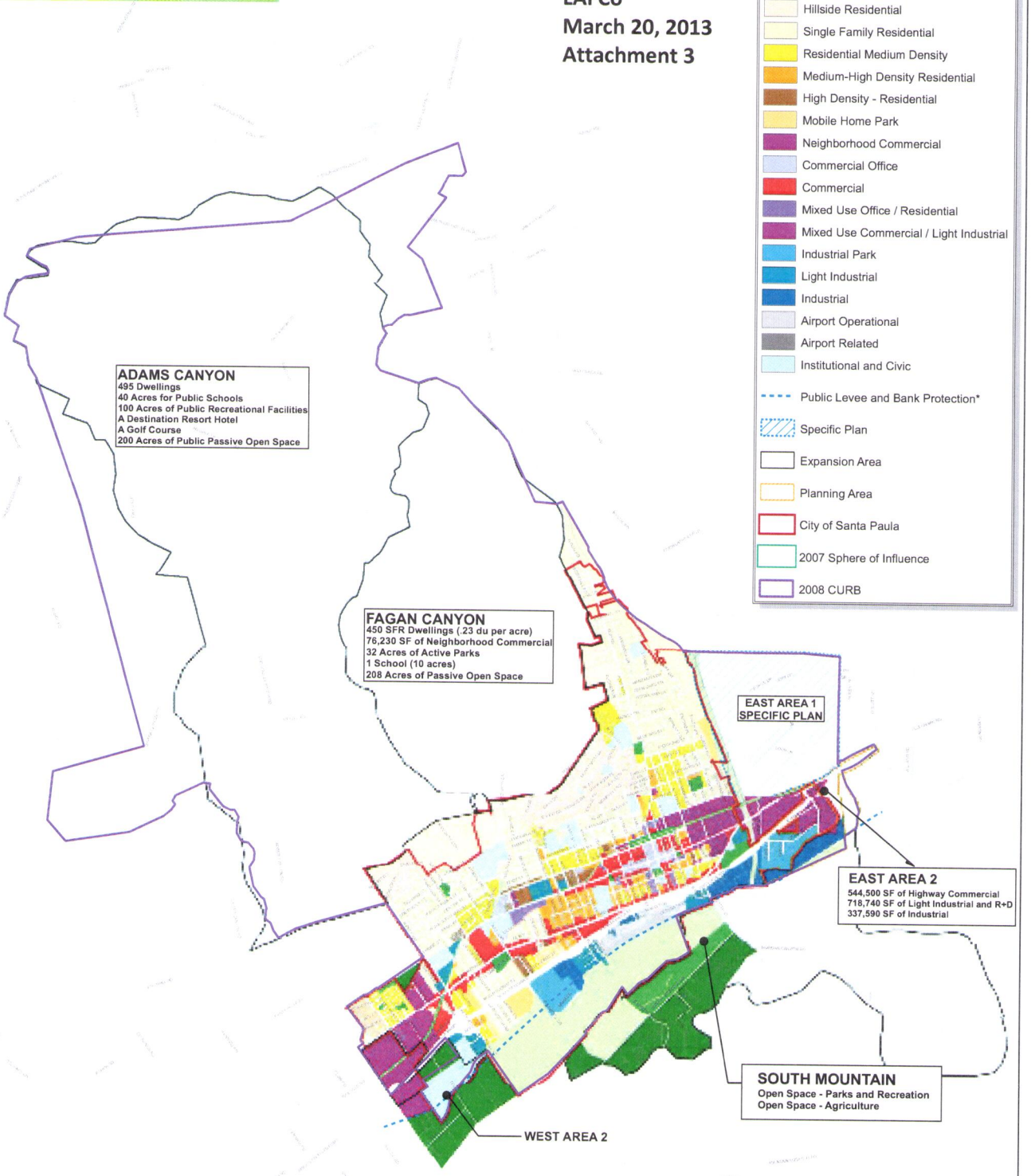
Legend

- City of Santa Paula
- CURB Line
- City Sphere - Existing
- Adams Canyon Expansion Area
- Fagan Canyon Expansion Area

LAFCo 13-02S
City of Santa Paula
Sphere of Influence Review/Update

General Plan Map Land Use Plan and Expansion Areas

LAFCo
March 20, 2013
Attachment 3



*1998 Data, Pending revision by FEMA

Where the Sphere of Influence line is the same as the actual City Limit, it is drawn slightly offset of the City Limit line for graphic clarity.

The information displayed on this map is intended for general reference purposes only, and is not warranted for completeness or accuracy. Please contact City Planning Department for official map.

1. Approved by City Council on April 13, 1998,
2. Amended through Ordinance No. 6351, 10/16/06.
3. Revised 12/10/07, converted to GIS by the County of Ventura, IT Services.
4. Revised 12/18/08, through City Council Resolution No. 6459.
5. Revised 9/20/10 through City Council Resolution No. 6700
(Sphere of Influence related to East Area 1 pending LAFCO approval).

N
W E
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1,800 900 0 1,800 3,600 Feet

Figure LU 5

ADOPTED 9/20/2010

RECEIVED
JAN 0 2013

RICHARD MAIN 15888 FOOTHILL ROAD SANTA PAULA, CA. 93060
Tel: 805-525-2326 email:rzmain@verizon.net

LAFCo
March 20, 2013
Attachment 7

LAFCO,
Attn: Kim Uhlich

Re: Pending Review
Santa Paula City Sphere of Influence
(Fagan Canyon – Adams Canyon)

The undersigned has been involved in land development and land use issues for many years. My family was involved in development of home sites in the U.S. Virgin Islands and in Coral Gables and Naples (Port Royal) Florida in the 1950's through the 1990's. The Virgin Islands property near Christiansted, St. Croix, was mountainous (Seven Hills) about to the same degree as is Fagan Canyon. In the 1970's, the undersigned owned/controlled approximately 800 acres of mountainous terrain in North San Diego County (the Merriam Mountains) which adjoins I-15, north of Escondido and opposite the Lawrence Welk Resort. It stands undeveloped today. This is where LAFCO first popped up on my radar screen.

Several years ago I authored the "81 Acre" development limitation for lands in Santa Paula and then wrote the Referendum which reversed the City Council's approval of a 2000 plus unit planned development for Fagan Canyon, which was then ratified by the voters, and which was upheld by the Appellate Court when challenged in court. Had Fagan been development at that time, at the peak of the overblown housing market 5 years ago, we would now have a huge mess on our hands in Fagan Canyon, as Centex, the developer, went out of business and was absorbed by another developer, many projects abandoned and left in a state of complete disaster. That could be Fagan Canyon today.

We (our citizens group in Santa Paula) did support the plans for Adams Canyon to be developed into 495 "higher end" homes surrounding a golf course (Pinnacle Developers of Phoenix, Az.), and we still do support that plan. We also would support development in Fagan Canyon, but only at a level far below the 1800-2000 units that has been consistently proposed by developers. The developers always say that fewer units "will not pencil out".

P.1/2

That may be true, depending upon the price paid for the raw land, the infrastructure costs associated with development, the state, county and local fees, the then housing market and economy, the amount of profit targeted, and a critical component, frequently overlooked, ***luck.***

The voters of Santa Paula are not stupid. They know what they want by way of development. They do not want the groves, especially west of the city limits, developed into housing tracts. They have spoken multiple times in favor of rational, limited development in the foothills and canyons, and that is why LAFCO and the County should honor the vote of the people and make no significant changes to the City's sphere of influence – at least that is my opinion and the opinion of all the people I have spoken with in Santa Paula.

Economically we are in an "intermission" in California. We do not know when the economy will grow in a significant manner. Sometime the best thing to do is – nothing. We (our group in Santa Paula) believe this is such an issue and such a time.

Respectfully submitted,

Richard Main, J.D.

P.2/2

Kim Uhlich,
Hall of Administration 4th Floor
800 S. Victoria Avenue
Ventura, California

January 11, 2003

Dear Ms. Uhlich;

I am writing in response to LAFCO's review of Adams and Fagan Canyons sphere of influence designation in Santa Paula. Enclosed is a document that may disqualify Bob Gonzales and Jim Tovias from testifying at LAFCO's meeting next week.

In 1997 When Robin Sullivan was Mayor of the city, she asked that a citizens committee be formed to review the city's proposed General Plan that included Limoneira's East Area One, Fagan and Adams Canyon. The committee focused its attention to Adams Canyon. I served on the committee that included a school board member, a city council member, a building contractor, a real estate broker, architect, a bank president, a housing, specialist a house wife,a Head Start Teacher and others. After ten or so meetings where we rotated the chair plus the meticulous review of all the negative environmental impacts if the Adams were developed the committee reported to the city council that with the exception of one committee member all the others voted against the development of Adams Canyon.

The negative impacts identified included the provision of water and sewer services widening of Foothill Road and, the cost of city services. The committee also felt that the development of the canyon constituted leap frog development and that it would not be a part of the rest of the city. Residents there would shop in Ventura only fifteen minutes away and not in Santa Paula. In 2007 the Santa Paula Chamber of Commerce also voted against the development of Adams Canyon.

The first time the Pinnacle Group proposed to develop Adams Canyon it failed to receive voter approval. A couple of years later Pinnacle came back into town an election was already scheduled for Centex's Fagan Canyon development. When Pinnacle came back one of the first things it did was fly, wine and dine about two dozen prominent city residents to Estancia, an impressive Pinnacle project in Arizona. Pinnacle hinted that it is what a developed Adams Canyon would look like.

In order to get ahead of the Centex election , Pinnacle collected signatures for a special election to have a vote on its plan to develop Adams Canyon. They asked individuals coming out Von's Market to sign a petition against child molesters. Once they got their attention they asked them to sign the petition asking for a special election. Enough signatures were gathered to have the election.

When Pinnacle begin it's election campaign it said the development would include a Ojai Valley Inn type hotel, a world class golf course and prepare 495 parcels for mansions to be built. Pinnacle said all this would generate $20 million annually for the city starting

from day one. Twice in letters to the SP Times paper I asked Pinnacle to reveal the source of the $20 million and it ignored my request. I kept asking questions, so to protect its back Pinnacle said that the calculations on the project had been done by a formers City Manager from Fillmore. Pinnacle had a former mayor from Fillmore on its payroll. Towards the end of the campaign Pinnacle said its project would generate $22 million instead of $20 million. After spending $1 million to spread its lies in its effort to gain approval for approval of its plans it failed. About seven months later Pinnacle admitted it had erred on its calculations and the its project would only raise under $6 million. Although Pinnacle lost the election it did not give up. It got together with its most loyal supporters and told them what needed to be done so it could have another opportunity to get into the canyon. These supporters were Bob Gonzales, Jim Tovias and Steve Smead. Bob Gonzales was hired by Pinnacle to help on Measure Y. When the campaign on A7 started the three named above said it was a local citizen driven effort with no participation form Pinnacle. However, before and during the campaign Steve Smead was in and out of Pinnacle's Main Street Office. It appeared as if it were the campaign headquarters for A7. In the end the will of the voters was tainted because they were lied to. First the monumental $22 million lie the false pure citizen driven committee on A7.

When the so-called Citizen's Committee claimed it had no ties to Pinnacle, daily I would daily visit a shoe repair shop that was located next to Pinnacle's campaign headquarters. The shop belonged to a lifetime friend of mine. He told me time and again that the leader of the committee was in and out of Pinnacles headquarters throughout the A-7 campaign. I myself saw him once carrying an armload of what appeared to be voter registration forms.

When a member of the city council said LAFCO was ignoring the wishes of Santa Paula voters if Adams is taken of the city's sphere of influence he should be reminded that the committee got approval of the measure by lying to the voters.

Pinnacle got as far as it did by lies from beginning to end, and the committee aided the organization.

I have a question of LAFCO, based on the work Gonzales and Tovias at Pinnacle's request should they not be deemed as having a conflict of interest that would prohibit then from testifying at LAFCO's hearing on Adams Canyon.

I have enclosed documents including an SP times report by Peggy Kellly that raises questions of conflict of interest of the above named individuals. I ask that you have County Counsel review it. Prior to A-7 Gonzales, Tovias and Smead met with a Pinnacle rep to get their marching orders. Smead and Gonzales were the leading proponents of Measure Y that was voted down.

Sincerely,

veri on
Verizon Message Center

NOTE: Document received by LAFCo in partially illegible condition.

Saturday, Jan 5 at 1:34 PM

From: pkellywriter@aol.com
To: bobbietb@verizon.net
Subject: Re: Tovias

Hi Bobbie

I don't have Works just Word but this is the article...

Jim Tovias tells of financial benefits of Adams Canyon Measure A7

By **Peggy Kelly**
Santa Paula News
Published: **March 28, 2007**

Jim Tovias of Santa Paulans for Quality Growth, whose initiative to bring Adams Canyon into the city's urban development boundary for future growth will be decided by voters with a special May election, talked about the issue at the March Good Morning Santa Paula.

By Peggy Kelly
Santa Paula Times

Jim Tovias of Santa Paulans for Quality Growth, whose initiative to bring Adams Canyon into the city's urban development boundary for future growth will be decided by voters with a special May election, talked about the issue at the March Good Morning Santa Paula. Hosted by Bank of America Bankers Investment Consulting, the Chamber-sponsored event was held at The Grove restaurant [illegible] "Really get this out when I had the opportunity to represent [illegible] Santa Paula. Where the Pinnacle [illegible] Canyon is when we're sponsoring a similar [illegible] a resort. [illegible] talking to you. But [illegible] beautiful facility. [illegible] for Santa Paula. That's the whole purpose [illegible] some information, some projections [illegible] revenue, and I thought [illegible] would be wonderful to change the financial direction of Santa Paula. But we [illegible] involved in the election," one of several that had successfully targeted potential development in the canyon.

"Enough to myself why Santa Paula [illegible] not want this kind of assistance, and [illegible] Measure A failed narrowly defeated in an April special election. "I felt bad [illegible] Santa Paula. A couple of days later, Steve Smeaton, Bob Gonzalez and I got [illegible] started bashing things around." But Pinnacle wanted options to be [illegible] "We thought it's a great [illegible] Pinnacle representatives [illegible] through the county.

"We [illegible] may be [illegible] someone or [illegible] we met with them.

[illegible] on May last year... they said if you don't sign this line we'll reconsider coming back to Santa Paula, but you're on your own. If this doesn't pass, it goes to the courts, and it's over."

Tovias said that there are many "intangible and financial benefits" to bringing the canyon into the CURB.

Although initially "there was a lot of confusion" preparing the initiative, "Steve had to meet with the developers to make sure they would agree with what we did," and the initiative process was hastened.

The measure is "not a development agreement, it's just to move the line" to include Adams Canyon for future growth. "Adams was part of the expansion area an hour ago, and we're just trying to move the line back to where the city intended it to be."

In 2005 planning workshops, "people said they want high-tier homes and are concerned about generating traffic... the measure limits development to 495," Gustom some sites. The 700-acre active park would be paid "100 percent by the developer. We work with it's done... the measure also "creates a connector road so it again cannot ... deflecting traffic concerns to an earlier development bid. "Without Adams, traffic goes right into the downtown" and again, "no one is ever developed. Since the incentive for bringing Adams into the boundary is financial benefit, "We planned to make sure that the figures we threw out are accurate," Tovias listed Adams' one-time fees that would result in millions of dollars to the city, and school districts close to $[illegible] per home.

"A projection came out last year" for Measure Y that stated that the city would receive about $22 million annually at build-out. "We brought in Rob Payne," who prepared the financial report, "and he, Bob, Steve and I met in Bob's. Rob came back and said he made a mistake" in the original projection.

At build-out - projected at 2036 - the city would receive "$5 million annually, and "[illegible]" and net revenue to the community would be about $[illegible] million, a "[illegible] and financial base," said Tovias. "Since Rob was wrong the first time we didn't trust him the second time," and the financial projection - a link is available on the city's website - was verified.

"The city has many serious needs ... the bottom line is that if we can move this [illegible] which approved a development agreement ... the passage of Measure Y" will benefit the city, said Tovias. "The people working on this campaign have no personal agenda... they gain nothing from this."

----Original Message----
From: Bob Borrego < >
To: pkellywriter < >
Sent: Sat, Jan 5, 2013 1:29 pm
Subject: Tovias

Peggy, I inadvertently deleted the e-mail with the attachment regarding Tovias' report to GMSP. If you can send it to me again in Works form I will be indebted to you for life. I don't mean to take advantage of our freindship but I do need the attachment.

RECEIVED
MAR 2013
Ventura LAFCo

Dear Ventura LAFCo,

March 11, 2013

I write to urge you to remove Adams and Fagan Canyons from the sphere of influence of Santa Paula. I have lived in the Santa Paula area since age 5 for 58 years, 13 in the rural area west of town most affected by Adams development, and the last 33 in central SP.

There are local and global reasons why developing these canyons is a bad idea. Globally, consider the significant percentages of the natural environment disturbed by draining wetlands, cutting down swaths of forest – in general, ecosystems overwhelmed by overdevelopment. We've raised atmospheric CO2 levels by about 100 ppm. Average temperatures have risen as much in the last two centuries as they did in a 5000 year period after the last ice age. This carbon excess has acidified our oceans, and on land, hundreds of species have gone extinct due to loss of habitat.

These proposed local developments are typical examples of human behavior ignoring the damage to the Earth. These canyons have little or no connection to our city, making transportation difficult and polluting. They have no extra water to support the influx. The water would have to be imported from already overtaxed groundwater supplies we depend on. These huge areas, almost four times the area of the present city, would have wildlife corridors interrupted by mini-ranch development, further contributing to species extinctions.

The history of this development quest is that it was repeatedly denied by LAFCo, until a narrow 3-2 approval for the city. Since then 3 of 4 city elections about proposed developments have lost. The proposal which won, in 2006, was in the height of the housing bubble, when a majority of city voters, looking through rose colored glasses, foresaw easy money from the 1% who could afford rural canyon estates, to augment city coffers.

Luckily, the housing bubble burst, and now we have a better view of financial realities. I fear it could cost the city more for infrastructure and public safety costs than would be realized from development fees. After two years of drought, water supply realities should be clearer.

Since the city vote on Adams Canyon in 2006, a much more practical area for development, Limoneira's East Area, has been approved. This makes the need to disturb open space in the canyons and clog poor traffic access routes even less wise. Even to develop the East Area, commissioner Wisda has raised serious water supply issues.

Please consider returning control of Adams and Fagan Canyons to county control. The county is more likely to value the preservation of open space, wildlife corridors, and the plight of affected rural residents.

Douglas Smith

Douglas Smith
424 N. 9th Street
Santa Paula, CA 93060
525-4734

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LATHAM&WATKINS LLP

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March 1, 2013

VIA FEDERAL EXPRESS AND EMAIL
Kim Uhlich
Executive Officer
Ventura LAFCO
County Government Center
Hall of Administration, 4th Floor
800 S. Victoria Avenue
Ventura, CA 93009-1850

File No. 049217-0002

Re: Santa Paula Sphere of Influence Decision Scheduled For March 20, 2013

Dear Ms. Uhlich:

We represent R.E. Loans, the owner of over 4,000 acres in the City of Santa Paula's ("City") sphere of influence known as Adams Canyon. We previously provided comments for the Local Agency Formation Commission's ("LAFCO") January 16, 2013 meeting, item 10, "City of Santa Paula Sphere of Influence Review and Update." We are concerned that LAFCO is contemplating an action to amend the Santa Paula Sphere of Influence ("SOI") and remove R.E. Loans' property from the City's sphere of influence without proper diligence and analysis.

1. LAFCO must start with a "clean slate" in making any decision, and must first take action to repeal or amend Resolution 10-12S (2011)

In 2011, for whatever reason, LAFCO voted to direct staff to undertake the procedures necessary to remove Adams Canyon from the City of Santa Paula Sphere. The language of Resolution 10-12S is clear and unequivocal as to the decision that was made--- this was not a decision to direct staff to merely "re-study" the issue. Resolution 10-12S was explicitly contains a specific decision by LAFCO on the removal of property from the Sphere that now prevents LAFCO and its staff at this from objectively analyzing whether or not the removal is an appropriate decision. the proper course of action is for LAFCO to rescind resolution 10-12S and to analyze the impacts of the proposed sphere-of-influence update before committing to it. If LAFCO proceeds to hear the matter in its March meeting without first revisiting Resolution 10-12S and reviewing and setting aside its explicit prior decision on this same issue in 2011, we do not believe that the current LAFCO Commissioners will be able to consider the issue in an unbiased and objective manner, free of the prior commitment made by LAFCO in 2011.

2. No Factual Basis In The Record For Change From Recent Past Decisions.

Second, it is difficult to understand why LAFCO is contemplating a change in the SOI, when it is not desired by the City, the SOI has been confirmed as an area for growth by the voters, and when LAFCO re-affirmed the SOI only 5 years ago. The Ventura County LAFCO re-affirmed the SOI for Santa Paula on June 13, 2007. The LAFCO staff report notes that the SOI for Santa Paula was a controversial action at LAFCO which was originally denied in 1998 and then approved in 2000.

"The sphere of influence for the City of Santa Paula was substantially amended in 2000 to include large areas to the north of the City known as Fagan Canyon and Adams Canyon. This action, based on the City's 1998 General Plan update, was extremely controversial at LAFCO. After multiple meetings with hundreds of speakers and thousands of pages of correspondence, it was originally denied. Then, at the City's request, it was reconsidered and subsequently approved in February 2000. In the fall of 2000 the voters in Santa Paula adopted a SOAR ordinance that established a CURB line that included Fagan Canyon, but not Adams Canyon, the larger of the two canyons and the one located farthest to the west."

The voter's adoption of measure A7 put Adams Canyon within the CURB line and made the CURB line co-terminus with the SOI. The initiative also amended the City's General Plan to incorporate the specific land use densities and infrastructure requirements of the Adams Canyon Development, thereby predicating growth planning in the Santa Paula General Plan on the eventual annexation of the territory within the SOI.

3. Any Change In The Sphere For Adams Canyon Will Cause Major Conflicts With The City of Santa Paula's General Plan

Because the eventual annexation and development of Adams Canyon is included with many detailed provisions of the the City of Santa Paula's General Plan, any change to the SOI by LAFCO would create significant land use impacts to the City General Plan that must be studied in an environmental impact report ("EIR") before action can be taken. Under the CEQA Guidelines, Appendix G, LAFCO must determine whether its proposed sphere change to delete Adams Canyon from the City of Santa Paula Sphere will "conflict with any applicable land use policy or regulation of an agency with jurisdiction over the project." In addition, a change in the SOI by LAFCO would thwart the clear direction from the voters of Santa Paula, that Adams Canyon is the preferred area for growth.

As noted in our January 14, 2013 letter, We believe this SOI update may cause several significant environmental impacts that LAFCO must analyze under CEQA. The update would remove approximately 12 square miles from the City's SOI in the Adams and Fagan Canyon areas. As the City noted in its January 13, 2013 letter to LAFCO, this would make developing this property much more difficult. We have done further research on the significant impacts that may occur and provide detailed comments below. You and your staff have been very helpful in providing documents that we have requested. These and other documents in the record clearly show that significant impacts may occur in the areas of land use, housing, agricultural lands, and growth management among others.

The City's General Plan is predicated on the annexation of the SOI, and therefore LAFCO must analyze and mitigate the impacts of displacing development from the Adams and Fagan Canyon areas to other portions of the City or to the County.[1] These impacts are readily foreseeable. The homes and other amenities planned for the Adams and Fagan Canyon areas will need to be built elsewhere to meet the City's and the County's housing needs.[2] Development at these alternate locations may cause additional impacts related to traffic, noise, air quality, affordable housing, prime agricultural lands and other resources that LAFCO must analyze.

The June 13, 2007 LAFCO staff report on the Sphere of Influence Update acknowledges that CEQA review is required for any change in a Sphere of Influence.[3] Indeed, the 2007 staff report suggests that the City and not LAFCO should perform the analysis when significant impacts will potentially occur. However, whichever jurisdiction takes the role of lead agency, full CEQA review must be completed through an EIR.[4]

The following are areas where significant impacts are likely to occur with a change in the SOI, and must be analyzed in an EIR. This research is still preliminary and we believe that there are many other impact areas that will present themselves in the environmental analysis.

---

[1] The reasonably foreseeable impacts of displacing development from one area to another through increased development restrictions must be analyzed under CEQA. Muzzy Ranch Co. v. Solano County Airport Land Use Commission (2007) 41 Cal.4th 372, 383.

[2] Id. at 382 ("The population of California is ever increasing. Our Legislature has declared that '[t]he availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.'").

[3] "Sphere of influence updates are considered as "projects" under CEQA and LAFCO is the lead agency for these projects." – LAFCO Staff Report for the Sphere of Influence Update for City of Santa Paula June 13, 2007, page 3.

[4] Id at 3 - "For the sphere update process, if sphere of influence changes could be determined to be generally or categorically exempt, or if a simple negative declaration could be prepared without any detailed environmental analysis, the change is being recommended. However, in instances where sphere of influence changes would require detailed or substantial analysis to comply with CEQA, possibly including mitigated negative declarations or EIRs, then such changes are not being recommended. In such instances it is more proper, including both the cost and usefulness of the analysis, to allow a city to be the CEQA lead agency for major sphere changes in conjunction with future sphere amendment and annexation applications that also include land use entitlements."

I. REMOVAL OF THE SOI FROM THE CITY OF SANTA PAULA WILL CAUSE THE PROPERTY TO DEVELOP AT A MUCH LOWER DENSITY, WHICH WOULD UNDERMINE THE STATED GROWTH NEEDS OF THE AREA.

The City of Santa Paula's White Paper on the SOI which was approved by the Santa Paula City Council on October 18, 1999 and submitted to LAFCO as part of the SOI application ("City White Paper"), states that "Adams Canyon and Fagan Canyon have been selected to be the principal residential growth areas for the City." The General Plan calls for the development of 495 residential units in Adams Canyon and 450 units in Fagan Canyon. Previous attempts to develop Adams Canyon as part of the County of Ventura, contemplated far fewer dwelling units. The Adams Canyon Ranch Project processed through the County of Ventura in 2007 proposed only 34 dwelling units on 4,800 acres. This is less than 10% of the growth contemplated by the City of Santa Paula General Plan and approved by voters for Adams Canyon.

Without the SOI area available for annexation and development, the City is not likely to achieve its growth and economic development goals. The SOI area includes planned parks, and schools that the City is counting on to serve the existing population as well as the new residents.

Page LU-28 of the City General Plan states, "The Land Use Plan allows for build-out of existing City lands as well as phased annexations. Table LU-6 illustrates the theoretical new development potential of both existing City lands and the expansion and planning areas, and summarizes the potential development upon full build out of the General Plan. The type and amount of development that actually occurs will depend on market forces and an aggressive marketing plan by the City. The City realizes that total industrial, commercial, and residential build-out may not occur within the 2020 horizon of the General Plan. However, making the land available will eliminate one obstacle and provide an incentive for growth to occur."

Thus, having the SOI available for annexation and development will eliminate an obstacle to growth and provide an incentive for expansion in line with the City's planning paradigm. A direct impact to Land Use and growth potential will occur if the SOI is modified by LAFCO. This must be studied as part of an EIR prior to taking any action.

In addition, the measure making the CURB line co-terminus with the SOI was put in place, specifically to provide the economic growth and public infrastructure necessary to serve the new as well as the existing community. The Statement of Reasons in the initiative states:

The purpose of this initiative is to amend the City of Santa Paula General Plan, including the City Urban Restriction Boundary (CURB) to include Adams Canyon within the CURB...

'This initiative will result in a more vibrant and economically attractive downtown, resulting in more viable retail establishments to serve the Community; enhancing property and sales tax revenues necessary to finance critical police, fire, schools and other public services, including road maintenance, that have too long been underfinanced, leaving the citizens under served. The need for land for educational purposes, as well as public recreational facilities and open space within the City can be accommodated by amending the General Plan to provide for those uses in Adams Canyon.

A change in the SOI would lead to the City's inability to provide the infrastructure, services and amenities contemplated by the initiative and subsequent General Plan amendment, thereby creating a direct impact to land use under CEQA.

II. THE CITY'S GENERAL PLAN IS PREDICATED ON ANNEXATION OF THE SOI.

A. The SOI area is the principal residential growth area of the City. Impacts will occur from restricting this growth.

The City of Santa Paula's White Paper on the SOI, states that "Adams Canyon and Fagan Canyon have been selected to be the principal residential growth areas for the City."

The General Plan at Page LU-18 goes on to note, "The City of Santa Paula embarked on an update of the General Plan to address growth and economic issues. Beginning in 1993, city staff and citizens began studying conditions, opportunities, and constraints. Several expansion areas were developed to test and determine the direction Santa Paula should plan to grow for the year 2020. In 1997, these expansion areas were modified and grouped into three land use scenarios. A preferred growth scenario was selected by the City Council, and that scenario forms the basis of this General Plan. That scenario has been modified as a result of a citizens' initiative known as the Save Open-Space and Agricultural Resources (SOAR) Santa Paula City Urban Restriction Boundary Initiative, as subsequently amended by the voters. The CURB, which modifies the preferred build out scenario to require public involvement is set forth in Figure LU-4a. The Land Use Element of the General Plan in particular, carries out the preferred scenario by calling for expansion outside the existing City limits and recommending several land use and policy changes for the existing City lands." (Emphasis added) The preferred scenario includes expansion of the City into the SOI.

The Santa Paula General Plan Land Use Element is predicated on maintenance of the SOI and future annexation of that area. A major change in the SOI would undermine the assumptions in the General Plan, and significant impacts under CEQA to land use, transportation and circulation, and infrastructure would occur.

B. The Economic Development strategy of the City counts on the eventual annexation of the SOI to achieve the General Plan goals.

Page LU-11 of the General Plan states, "In 1997, the City commissioned a study by Hausrath and Associates to determine the City's potential to capture future development. The Hausrath Land Absorption Study states that:

'Should the City seek higher levels of growth, the strength of projected job growth within the Ventura Market Area indicates the potential for the City to seek redistribution of some of those jobs to its jurisdiction with an aggressive and effective economic development strategy. The City may become more successful than projected in attracting new businesses to the Ventura Market Area that would not have otherwise located in the area.'

Based on this theory, the Land Use Element presents aggressive commercial and industrial development plans based on amending the Sphere of Influence and annexing new lands." (Emphasis added)

If the SOI becomes unavailable for growth, reduced economic activity is likely to occur which could impact the City's ability to provide services to the existing population. In addition, as discussed below, removing the SOI could increase the likelihood of development in other areas in and around the City that have agricultural and other resources that the City has sought to preserve.

III. IMPACTS TO HOUSING

A. The SOI is necessary for the City to meet its housing allocation under the Regional Housing Needs Assessment.

As noted in the City White Paper at page 2, "Adams Canyon and Fagan Canyon have been selected to be the principal residential growth areas for the City." The City's General Plan Housing Element makes it clear that the annexation areas are being counted on to address the impact of too much low income housing on the City and to balance the City's housing stock under the Regional Housing Needs Assessment. LAFCO's own findings in the resolution approving the expansion of the SOI to include Adams Canyon states at finding 7 that, "There is insufficient alternative land available for similar types of uses within the existing sphere."

The Housing Element of the City's General Plan counts on growth in the SOI. Section V of the Housing Element at Goal 3 and Policy 3.3 states:

GOAL 3 - To provide adequate housing sites through appropriate land use and zoning designations to accommodate the City's share of regional housing needs.

Policy 3.3 Pursue phased annexation of land located within the City's Sphere of Influence to provide additional growth opportunities consistent with infrastructure capacities.

The Housing Element of the City of Santa Paula General Plan provides the Regional Housing Needs Assessment (RHNA). Page 38 of the Housing Element notes that "The Housing Action Plan (Chapter V) contains Program 16 to facilitate the annexation of properties in the Sphere of Influence to provide a portion of the sites needed for the planning period. It is important to note that the RHNA methodology, which was adopted by VCOG and SCAG and approved by HCD, assumed annexation and development of the Sphere of Influence during the current planning period." (Emphasis added)

Removal of Adams Canyon from the Sphere of Influence would preclude the development of the housing assumed as part of the City's build out to fulfill the RHNA. In addition, removal of Adams Canyon from the Sphere would impact the methodology used to develop the RHNA for Ventura County by the Ventura County Organization of Governments (VCOG) and Southern California Association of Governments (SCAG), causing broader impacts that could impact RHNA's throughout the County.

B. Additional Upper Income Housing is needed to create a balanced community. The SOI is counted on to produce this housing.

The City White Paper details a unique housing imbalance in the City of Santa Paula. The City White Paper at page 19 notes that "it has long been recognized that Santa Paula has more than its fair share of low and very low income households. According to the 1999 regional Housing Needs Assessment, now underway, Santa Paula has 53% of its households in the low and very low income range. SCAG has determined that the regional fair share for these lower income households is 39%...The Santa Paula General Plan recognizes this problem and seeks to address it by setting goals that 'the housing supply should be balanced to meet the needs of all economic social and ethnic groups…and the City should promote upper income housing as a means to improve community resources.'"

The Adams Canyon area is planned for larger estate housing and upper-income housing that would achieve the desired balance discussed in the City White Paper.

The General Plan has specific goals and policies to encourage development that will effect this balance. Land Use Element Goal 3.1 states, "A healthy balance of land uses and adequate land for all community needs should be provided." Land Use Element policy 3.f.f - "Encourage the development of high quality estate subdivisions," can only be achieved if the SOI is maintained. As noted at Page LU-11, the Adams Canyon annexation area is being counted on to fulfill this goal. The General Plan states, "Therefore, the Land Use Element recommends large land additions through Sphere of Influence amendments. This is to provide a mix of new housing types, with an emphasis on higher-cost housing that would be an alternative to the existing housing stock and would provide a net positive fiscal contributor to the City."

IV. GROWTH NEEDS OF THE CITY WOULD IMPACT PRIME FARMLAND

A. Significant Impacts to Prime Agricultural Land are likely to occur

The CEQA initial study checklist requires that an analysis be conducted to determine if a project will "convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance…to non-agricultural use." Independently, the Ventura County LAFCO sphere of influence policy 4.1.5.3 requires that LAFCO review how the change to a sphere of influence will "impact on adjoining prime agricultural or open space lands."

The City White Paper specifically addresses this issue and states that the Adams Canyon area was chosen as an area of growth for new housing because of the lack of Prime Agricultural Land in the canyon, and to avoid the need to expand housing onto Prime Agricultural Lands or Greenbelt Agreement areas.

Page 1 of the City White Paper states that, "Santa Paula adopted a new General Plan last year after several years of study and community involvement. The Plan recognizes a need for room to grow and it directs that growth toward the least productive agricultural land. The planning process examined all contiguous growth possibilities around the City."

Page 2 notes that, "After excluding Santa Paula Canyon and West Area 1, the General Plan was adopted. It included Adams Canyon, Fagan Canyon…These areas admittedly include agriculture, but to a far lesser extent that the rejected areas." Page LU-23 of the City's General Plan states that as to development of Adams Canyon, " The impact on agriculture would be relatively low due to the predominantly low- value grazing use of the canyon."

Measure A7 which added Adams Canyon within the CURB line specifically states that the "purpose of this initiative is to…preserve prime agriculture by including Adams Canyon in the CURB and directing residential development into the foothills of Adams Canyon."

If the City of Santa Paula is prevented from annexing these areas planned for growth, it will need to extend growth into those areas that have been analyzed and rejected as having greater impacts to agricultural resources. Indeed LAFCO's own findings in the resolution approving the expansion of the SOI to include Adams Canyon states at finding 7 that, "There is insufficient alternative land available for similar types of uses within the existing sphere." Therefore, the pressure for growth into agricultural areas around the City is certain and a direct impact will occur under CEQA.

B. Greenbelt Agreements may be undermined and Prime Agricultural Lands impacted by the need for growth into these areas if the SOI is changed.

The City General Plan at page LU-26 notes that the City of Santa Paula and surrounding jurisdictions are participants in Greenbelt Agreements. The General Plan describes these agreements:

In Ventura County, greenbelts are agreements between public agencies with land use control. They represent a form of mutual regulatory control between two or more jurisdictions concerning urban form, the protection of farmland and open space land, the future extension of urban services/facilities, and annexations. These greenbelts are intended to operate as "community separators" or "buffers" and participating cities agree not to extend municipal services into the greenbelts or annex greenbelt lands.

The General Plan notes that the City specifically rejected Greenbelt Agreement areas for growth due to the Prime Agricultural Lands in those areas and placed them outside the SOI for the City in recognition of these agreements. Indeed the General Plan notes at LU-26 that, "because the lands within a city's sphere of influence are intended for eventual annexation to a city, greenbelt agreements usually involve lands outside a city's sphere of influence." However, although these agreements exist, participant jurisdictions may seek to amend them and annex these territories. Page LU-26 of the General Plan notes the following:

- *Generally, the lands within a greenbelt area are designated "Agricultural" or "Open Space."*
- *Greenbelts have no binding legal authority to regulate land uses. That authority is found in the jurisdiction's general plans and zoning regulations. Greenbelts, together with other planning and regulatory tools have functioned as a deterrent*

to the premature development of farmland and open space lands. Greenbelts, however, do not provide for permanent conservation or preservation.

- *Any party to a greenbelt agreement may elect to terminate their participation in the policy agreement at any time.*

Therefore, the agricultural, Greenbelt Agreement areas are susceptible to development. An amendment to the SOI by LAFCO to exclude from growth the areas that the City General Plan has designated for development, will inevitably push growth into these Greenbelt Agreement areas, where no protections exist, and greater impacts to agricultural resources are assured. CEQA requires that these issues be thoroughly analyzed and disclosed prior to any action to amend the SOI.

C. City Urban Restriction Boundary (CURB) Preserves Agricultural Land and Includes the Sphere of Influence.

Page LU-29 defines the purpose of the CURB. It states that "The City of Santa Paula and surrounding area, often referred to as part of the Heritage Valley, with its unique combination of soils, micro-climate, and hydrology, has become one of the finest growing regions in the world. Agricultural production from the County of Ventura and in particular production from the solids and silt from the Santa Clara River provides beneficial food and fiber to local inhabitants and to the world at large and has achieved international acclaim, enhancing the City's economy and reputation. The purpose of this CURB, as amended is to provide for the reasonable urban growth of the City of Santa Paula and ensure that the development policies, and underlying goals, objectives, principles and policies set forth in the Santa Paula General Plan relating to Land Use are inviolable against transitory short-term political decisions and that agricultural, watershed, and open space lands are not prematurely or unnecessarily converted to other non-agricultural or non-open space uses without public debate and vote of the people."

By eliminating the annexation area that the voters (and the subsequently amended General Plan) specifically placed within CURB, the City may be forced to utilize land for growth within the City that is currently being utilized for agriculture. The purpose of the CURB is to constrain urban sprawl by defining the areas for potential growth away from prime agricultural areas. As noted above, unlike the bulk of land surrounding the City, Adams Canyon has very little agricultural potential and therefore has been designated for growth to avoid encroachment into agriculturally productive areas.

V. HYDROLOGICAL IMPACTS FROM FLOODING

The City of Santa Paula White Paper on the SOI states at page 4 that, "Adams Canyon and Fagan Canyon both drain by way of barrancas flowing into or alongside the City....All will require flood protection improvements as an integral part of their development plans...An important side benefit of the flood protection improvements on Adams Barranca will be the reduction of flooding problems in the existing and proposed industrial-zoned area on the west side of the City...The proposed development in Adams Canyon cannot proceed unless this flooding problem is corrected...The General Plan requires each of the major expansion areas to

have a specific plan prepared and adopted before the annexation and development can occur. Each plan will include a drainage mater plan with a detailed description of the improvements needed and the schedule of construction."

Page LU-12 states, "The Land Use Element addresses flooding as follows:

- Requiring reasonable flood protection measures in all new land development projects.
- Outlining programs to reduce the flood threat from Santa Paula Creek, Fagan Barranca, and Adams Barranca.
- Restricting development adjacent to the Santa Clara River and Santa Paula Creek."

Page LU-23 of the General Plan goes on to state that "Drainage would follow Adams Barranca to the Santa Clara River. Major flood retention facilities would be required within the canyon. With the retention facility, flood threats in the areas west of town adjacent to SR 126 would be reduced, and the water would be used for irrigation and fire protection."

The General Plan Land Use Element relies on improvements in the Adams Canyon area that will be required of future development to solve chronic flooding in the Adams Barranca. The water from flood control infrastructure would also be used for fire protection and agricultural irrigation. Therefore, the elimination of this planned infrastructure, through the development changes that would be required if the SOI were altered, would certainly impact the ability of the area to protect against flooding and could impact agriculture operations that would use the irrigation water from these facilities. The CEQA guidelines are clear that this area must be analyzed as part of an EIR. The CEQA initial study checklist provides that projects that could expose people or structures to a significant risk of loss, injury or death involving flooding, could create a significant impact under CEQA and therefore must be analyzed.

VI. TRANSPORTATION IMPACTS

Amendments to the SOI that displace or discourage development of the area could cause transportation impacts by eliminating the ability for critical road infrastructure to be developed. Measure A7 specifically states that one of the purposes of the initiative to include Adams Canyon in the CURB line is to allow for "the dedication of sufficient right-of-way for the construction of a connection road to Fagan Canyon [which] will reduce the impact of the traffic from Fagan Canyon on existing residential neighborhoods to the south."

Improvements to future and existing roadways have been assumed as part of the Transportation Element of the City General Plan. The General Plan at page CI-29 provides the following list of improvements in Adams Canyon, and within the City:

"Adams Canyon. Primary access for Adams Canyon would be provided via an arterial roadway extending northerly into the canyon from Foothill Road. A secondary access connection to SR 150 is also anticipated. Anticipated improvements on existing streets include widening

Foothill Road from Peck Road to the Adams Canyon access road to four lanes and widening Peck Road from SR 126 to Foothill Road to four lanes. The Foothill Road/Peck Road intersection would be modified to include a sweeping curve and the Foothill Road/Adams Canyon intersection may also be designed with a sweeping curve to encourage the use of Peck Road. The Foothill Road/Adams Canyon intersection will require signalization to accommodate the traffic volume expected for that area."

Precluding development of this area would decrease the funding available to make circulation connections to existing and future roadways, and thus a significant impact would occur.

Conclusion:

As we noted in our letter of January 14, 2013, LAFCO's regulations expressly require CEQA review. The regulations recognize that LAFCO must serve as a lead agency under CEQA when "a sphere of influence update pursuant to Government Code Section 56425" is initiated by LAFCO, such as the one here. Under LAFCO's regulations, only certain specified projects are exempt from CEQA review—these projects do not include sphere-of-influence updates. As such, LAFCO's regulations require it, at a minimum, to prepare an initial study for the proposed sphere-of-influence change. However, we believe that we have shown that there is potential for significant impacts to occur and therefore an EIR is required. Even a cursory look at the attached City of Santa Paula General Plan Land Use Plan and Expansion Areas document shows that any LAFCO action to remove Adams Canyon from the City's Sphere would create serious conflicts with an adopted General Plan.

LAFCO must also comply with the Cortese-Knox-Hertzberg Act before considering the proposed update. Before updating a sphere of influence, the act specifically requires LAFCO to consider, and to "prepare a written statement of its determinations" with respect to the following specific factors:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(5) For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

This analysis has not been completed, and LAFCO must prepare an EIR analyzing the CEQA impacts of its action before considering the sphere-of-influence update.

We appreciate the opportunity to submit these comments. We look forward to playing a constructive role as the proceedings unfold and as LAFCO conducts CEQA review.

Sincerely,

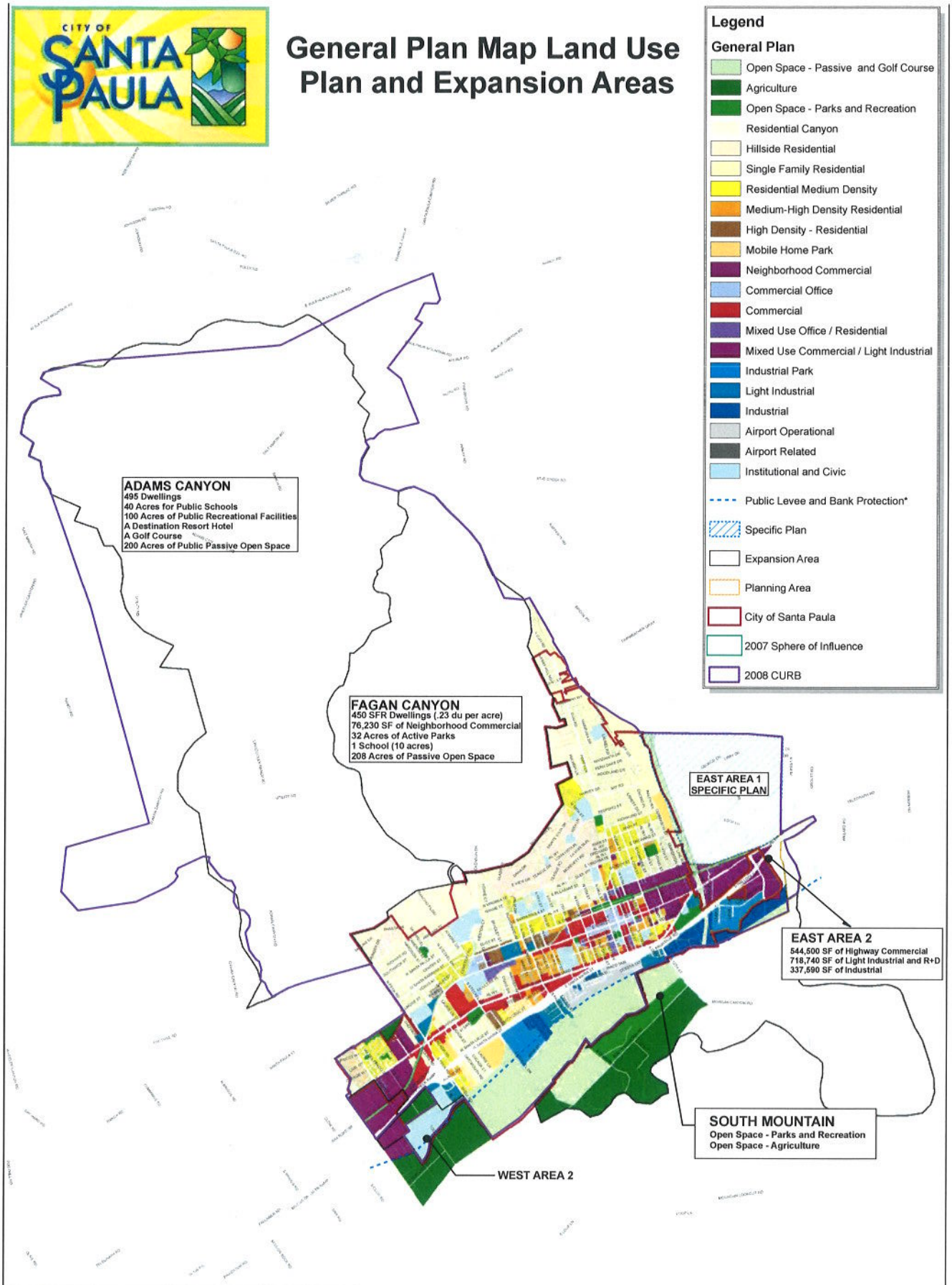
Christopher Garrett

Christopher W. Garrett
at LATHAM & WATKINS LLP

Attachment

cc Ron Rakunas

General Plan Map Land Use Plan and Expansion Areas



*1998 Data, Pending revision by FEMA

Where the Sphere of Influence line is the same as the actual City Limit, it is drawn slightly offset of the City Limit line for graphic clarity.

The information displayed on this map is intended for general reference purposes only, and is not warranted for completeness or accuracy. Please contact City Planning Department for official map.

1. Approved by City Council on April 13, 1998,
2. Amended through Ordinance No. 6351, 10/16/06.
3. Revised 12/10/07, converted to GIS by the County of Ventura, IT Services.
4. Revised 12/18/08, through City Council Resolution No. 6459.
5. Revised 9/20/10 through City Council Resolution No. 6700 (Sphere of Influence related to East Area 1 pending LAFCO approval).

Figure LU 5

ADOPTED 9/20/2010

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March 4, 2013

Ventura County Local Agency Formation Commission
Attn: Kim Uhlich, Executive Officer
800 South Victoria Avenue
Ventura, CA 93009

RE: LAFCo's Review/Update of the City of Santa Paula's Sphere of Influence

Honorable Members of the Commission:

The City appreciates the opportunity to comment on the Ventura County Local Agency Formation Commission's quinquennial review of the City of Santa Paula's sphere of influence pursuant to Public Resources Code §56425(g). The Commission's review is scheduled to occur on March 20, 2013. Through discussions with Executive Officer Kim Uhlich, the City learned that as part of its review the Commission may remove the Adams and Fagan Canyon expansion areas from the City's sphere of influence. We write to convey to the Commission specific and serious concerns in opposition to this potential action and, we appreciate the Commission's consideration of those concerns.

A. *Geographic Constraints and LAFCo Policies Direct Growth to the Current Sphere of Influence Area*

At the outset, we note the importance of adopted spheres of influence as long-range planning tools. As the Commission knows, spheres of influence are designed to guide the future growth of a city. Like general plans, spheres of influence serve as an essential tool for providing well-planned, efficient urban development patterns. As far back as 1998, the City planned for the urbanization and development of Adams and Fagan Canyons, which form the lion's share of the City's current sphere area. City of Santa Paula General Plan (the "General Plan"), at p. LU-20 (1998). Throughout each of the General Plan's elements, both Adams and Fagan Canyons are repeatedly identified as the logical area for the future growth of the City. Expansion into the Adams and Fagan Canyon Areas is now, and has always been, the preferred growth scenario. General Plan at p. LU-18.

B. *The Current Sphere Boundary was Drawn with an Eye Toward Preserving Agricultural Lands*

The City recognizes and supports the Commission's laudable goal of preserving prime agricultural land. *See* Commissioner's Handbook, Specific Policies of the Ventura

County LAFCo, Policy 4.3.2 (2012). Indeed, Santa Paula is world-renown for its orange, lemon and avocado groves and is often referred to as the "Citrus Capital of the World." Consistent with LAFCo policies, the current sphere was drawn with an eye toward preserving the prime agricultural land to the east and west of the City, where much of this citrus is grown. But, unlike the agricultural areas to the east and west, the overwhelming majority of Adams and Fagan Canyons do not contain prime farmland and are generally used for animal grazing. The topography in these canyons greatly limits their use for productive agricultural. Nor are the Adams and Fagan Canyon areas subject to any greenbelt agreement. General Plan at pgs. CO-37 to CO-40. The General Plan states specifically that the impact to agriculture from development in the sphere area "would be relatively low." General Plan at p. LU 23.

To the north -- toward Adams and Fagan Canyons -- is the only area where future growth can occur. As noted above, areas to the east and west are considered prime farmland the conversion of which is considered inconsistent with LAFCo policies. The South Mountain area, which as the name implies is located to the south of the City, contains several heavy industrial uses, including the City's new sewer plant and the Santa Paula Airport, and is located adjacent to the Santa Clara River, which is prone to flooding. It seems only logical to direct future growth to the north, away from South Mountain and fertile farmland to the east and west of the City. Why then, given these geographic constraints, would the Commission consider removing Adams and Fagan Canyons from the City's sphere?

By removing the Adams and Fagan Canyon areas from the sphere of influence, the City may be forced to expand in an easterly or westerly direction, which would result in the invasion of prime farmland that both the City and LAFCo hold inviolable.

C. Santa Paulans Favor Expansion into the Current Sphere Area

LAFCo Policy 4.2.1 recognizes the importance of voter-approved growth boundaries in setting a local jurisdiction's sphere of influence. In 2007, Santa Paula voters overwhelmingly approved an amendment to the City Urban Restriction Boundary to make the CURB line substantially coterminous with the City's current sphere of influence boundary. In addition to adjusting the CURB line to specifically include Adams and Fagan Canyons, Measure A7 also amended the general plan to include specific land use densities and imposed specific infrastructure requirements for those areas. These actions evidence the voter's intent to eventually annex the sphere areas in order to direct the future growth of Santa Paula in that direction. Why would LAFCo interfere with the clear intent of Santa Paula voters?

D. Development in Adams and Fagan Canyons in on the Horizon

Both Adams and Fagan Canyons continue to be the subject of substantial development interest. In 2005, the Council approved development for Fagan Canyon and certified an EIR. Unfortunately, in 2006, the voters voted to reject the development. However, City

staff continues to meet with interested parties regarding both Adams and Fagan Canyons. And at the December 17, 2012, City Council meeting, several owners and their representatives discussed the status of proposed development of the Adams and Fagan Canyon areas and noted that the submittal of development applications will soon occur. Certainly, removing Adams or Fagan Canyons from the current sphere would greatly increase the cost of the development process in these areas. Through our due diligence we have been informed that should Adams and Fagan Canyons be removed from the City's sphere of influence, the application process for those areas would increase in time by as much as two years and in cost by as much as ten million dollars.

While formal applications have not been filed with the City, this reflects the poor economic climate and should not be perceived as a lack of development interest in these sphere areas. Indeed, all of California (and much of the United States) suffered from this unprecedented economic slowdown. This fact then should not be used as justification to remove land from the City's sphere of influence.

With knowledge that potential future uses will require a sphere amendment through LAFCo, with all of the attendant costs and delays, future developers might be unwilling to construct much needed housing in these areas. This is problematic because the City's Regional Housing Needs Assessment for the 2014 to 2021 projection period calls for the development of 1,285 units. Of those, 945 of the units are planned to be built in the Adams and Fagan Canyon areas. Why put another roadblock in the way of future housing construction in the sphere of influence?

E. Infrastructure Needs in the Sphere of Influence Area will Be Addressed at Time of Development Application

Relying on the City's Municipal Services Review, LAFCo staff has repeatedly noted that the removal of Adams and Fagan Canyons from the sphere area is necessary to resolve an apparent lack of infrastructure in that area. The City concedes that the sphere area currently lacks the infrastructure necessary to support a large-scale development. It could be argued that most spheres of influence lack adequate infrastructure capacity. Typically though, such infrastructure deficiencies are handled in the development process through the approval of development agreement or specific plan. The City's General Plan indicates as much. *See* General Plan at p. LU-20 ("Details of siting, design, infrastructure, provision of open space, and financing will be established through the specific plan... Annexation would occur on a case-by-case basis after completion of a Specific Plan and the market and fiscal evaluation.")

It should also be noted that the City's state-of-the-art wastewater treatment facility was designed to accommodate new development in the sphere areas. The sewer rates of our current residents already reflect this increased capacity. As new connections come online in the expansion areas, sewer rates for our current customers will decrease. Other deficiencies noted by LAFCo, including the sizing of pipelines on Harvard

Boulevard, are scheduled for improvement in the near future as part of the City's Capital Improvement Program.

F. Conclusion

No compelling (or even logical) reason exists to justify removing Adams or Fagan Canyon from the City's adopted sphere of influence. Nor have conditions changed in the City or the expansion areas such that a revision of the sphere boundary is necessary. Indeed, overarching LAFCo policies – keeping spheres consistent with voter approved growth boundaries and limiting development in prime farmland – warrant keeping the sphere of influence in its current location.

Leaving the sphere of influence boundary in its current location upholds the prior vote of Santa Paula citizens and provides them and the development community with certainty as to where future growth is likely to occur. Put simply, there is no harm in leaving the sphere of influence in its current location.

Thank you for your consideration of the City's concerns. And, please do not hesitate to contact City Manager Jaime M. Fontes or Planning Director Janna Minsk with any questions.

Very truly yours,

Ralph J. Fernandez
Mayor

c: Vice-Mayor
Councilmembers
City Manager
City Attorney

Reponses to Letter from the City of Santa Paula

The City of Santa Paula submitted a letter, dated May 19, 2015. The letter questions LAFCo's authority to review the City's sphere of influence (SOI) and maintains that a new municipal service review (MSR) must be prepared in order for the Commission to update the SOI. Following are brief summaries of the City's comments and staff's responses to them (the City's letter with corresponding numbered comments is attached to these responses).

1. *Comment*: These comments are introductory and also provide a short background regarding the SOI for the City and the City's intent to update the General Plan.

   Response: No response is necessary.

2. *Comment*: The City cites LAFCo law pertaining to the frequency of SOI reviews and maintains that arbitrarily advancing a scheduled SOI review is inimical to LAFCo's mandate to promote logical and orderly development. The City also maintains that the five-year schedule to review and update SOIs provided for in LAFCo law is "precisely" intended to allow cities time to accommodate their multi-year land use planning and development objectives.

   Response: The decision to revisit the review of the City's sphere of influence in advance of the next scheduled review in 2017 was not arbitrary. As explained in the "Background" sections of the May 20 and September 16, 2015 Staff Reports, when the Commission last reviewed the City sphere of Influence in 2013 it took no action to either update or reaffirm the sphere (it was the only city sphere review for which no action was taken). In March 2015, the Commission was informed that the City was considering approval of a development project within the sphere of influence (in the Adams Canyon Expansion Area) that would require LAFCo action to annex the project site to the City. It was for these reasons that at the March 2015 LAFCo meeting the Commission chose to revisit the review of the City's SOI.

   LAFCo law provides that the Commission shall, as necessary, review and update each SOI every five years (Govt. Code § 56425(g)). This applies to all SOIs, including those for special districts which have no land use planning or development authority (such as cemetery districts, healthcare districts, drainage districts, etc.). The five-year timeframe was a recommendation made by the Commission of Local Governance for the 21st Century in 2000, which concluded that in order to make SOIs more meaningful, they should be updated regularly based upon comprehensive studies. The Committee's recommendation to periodically review SOIs makes no mention of doing so to allow time for cities to meet

their land use planning and development objectives. Thus, LAFCo staff is not aware of any support for the proposition that the five-year timeframe was established "precisely" so that cities may further their land use planning and development objectives.

3. *Comment*: The City maintains that the provisions of LAFCo law that allow the Commission to consider changes to SOIs outside of the five year timeframe does not mean that LAFCo has "unfettered discretion" to review SOIs.

   Response: As discussed on pages 2-3 of the May 20 Staff Report, the Commission may review and revise the SOI of a city or district at any time the Commission determines that it is necessary to do so to carry out the Commission's purposes and responsibilities.

4. *Comment*: The City notes that the May 20 Staff Report states on page 3 that the Commission may choose to update a SOI "at any time it determines it is necessary and appropriate to do so." The City maintains that the Staff Report does not explain why the review of the City's sphere is "necessary and appropriate" now.

   Response: The phrase from page 3 the Staff Report "at any time it determines it is necessary and appropriate to do so" is not a citation of LAFCo law, but merely part of a brief summary of the preceding discussion on pages 2-3 of the May 20 Staff Report regarding the Commissions discretion to review SOIs at any time it chooses to do so. The phrase has no force or effect on LAFCo's discretion to review the City SOI. In any event, the May 20 Staff Report did explain why the review of the SOI is appropriate now.

5. *Comment*: The City notes that LAFCo must prepare a Municipal Service Review (MSR) before, or in conjunction with, but no later than the time it is considering an update to a SOI. LAFCo must also prepare various written determinations regarding population projections and adequacy of services. The City maintains that reliance on the MSR prepared in 2012 in order to update the City SOI in 2015 is "inappropriate and inconsistent with statutory requirements". The City claims that the 2012 MSR does not accurately describe the City's current sewer and water services, park plans, and that the City purchased its Wastewater Recycling Facility, and thus a new review is required.

   Response: Commissioner's Handbook Section 4.1.4 pertains to SOI updates and provides, "Updates that remove territory from a sphere of influence shall not require the preparation of a municipal service review." (Section 4.1.4(c)). Pursuant to this policy, should the Commission choose to remove territory from the City SOI, preparation of a MSR is not required. However, a MSR for the City was prepared and accepted by the Commission in November 2012 and the Commission made the necessary statements of determination pursuant to LAFCo law (Attachment 1 of the May 20 Staff Report). This date is in advance of the September 16, 2015 hearing.

   The City maintains that the MSR does not accurately reflect current service levels; however, it provides no evidence that the conclusions of the MSR regarding future services in the

Expansion Areas are no longer accurate. The 2012 MSR resulted in determinations that were specific to the Adams and Fagan Canyon Expansion Areas. Regarding water, recycled water, and sewer, the MSR determined that it appears that the City will have an adequate water supply, adequate recycled water, and adequate sewer treatment capacity to serve all areas within the SOI. However, because the City has adopted no plans regarding development and services for the Expansion Areas, information is not available to determine if the extension and ongoing operation of water, recycled water, and sewer service and infrastructure in the Expansion Areas is possible or feasible. Regarding the financial feasibility of extending such services, the Commission determined:

> Given the large geographical extent of the Adams and Fagan Canyon Expansion Areas, the cost of extending, operating, and maintaining service infrastructure and facilities in these areas will likely be substantial based on the level of development anticipated in the current General Plan. Due to the fact that planning in the way of land use, infrastructure, circulation, and financing for these areas has not yet occurred, the costs to provide services to them, as well as the sources of revenue to cover those costs, have not been identified. Given that development in each expansion area is currently limited to fewer than 500 residential units and a limited amount of revenue-generating commercial development, it is unclear whether development in these areas would be financially feasible.

LAFCo staff is not aware of any changes that have occurred relating to the City's service plans for the Expansion Areas since the MSR was prepared in 2012. The MSR and the Commission's determinations remain valid and applicable.

6. *Comment*: The City reasserts and incorporates the arguments and objections it raised in written correspondence and testimony when the Commission previously considered updating the City SOI in 2013.

   Response: The City provided written correspondence dated March 4, 2013. The letter can be found as Attachment 9 to the March 20, 2013 Staff Report. Responses to the City's comments can be found beginning on page 30 of the same Staff Report. LAFCo staff has no record of any objections made during public testimony in 2013, as the minutes prepared for LAFCo meetings are action minutes only and do not include such testimony.

7. *Comment*: The letter concludes with a request that the City be allowed to complete the planning process for the SOI before LAFCo takes any action to remove territory from it.

   Response: It should be noted that the City is free to pursue the preparation of land use and development plans regardless of whether the territory to be planned is within the SOI.

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May 19, 2015

Ventura County Local Agency Formation Commission
Attn: Lou Cunningham, Chair
County Government Center
Hall of Administration
800 South Victoria Avenue
Ventura, CA 93009

RE: LAFCo 15-08S City of Santa Paula Sphere of Influence Review and Update

Honorable Members of the Commission:

Item 10 on your May 20, 2015, agenda involves the review and/or update of the City of Santa Paula's Sphere of Influence ("SOI"). In 2013, the Commission reviewed the City's SOI and, after a lengthy hearing, made no revisions to the City's sphere boundary. Also on your agenda as Item 4.A. is Santa Paula's May 5, 2015 request to continue the Commission's review of the SOI. As noted in the request, the City has been diligently working toward the adoption of its 2015/16 Budget and recently completed the purchase of its Wastewater Recycling Facility, both of which have taken an extraordinary amount of Council and City staff time.

At the conclusion of the 2013 Sphere of Influence review, the Commission directed the City to commence the planning process for the Adams and Fagan Canyon sphere areas in the subsequent five-year review period. The City took the Commission's charge to heart. On May 4, 2015, the City Council authorized funding to comprehensively update the General Plan, including an update of the land use and infrastructure policies in the City's sphere areas. We expect the process, together with the required environmental review and public processes, to take up to two years. In order to allow that planning process to conclude, the City requests that the public hearing be continued to 2017 to coincide with the Commission's Schedule for Initiating Spheres of Influence Reviews/Updates Workplan 2013-2017. 1

Having now had the opportunity to review LAFCo Staff's report for Item 10, we feel compelled to also raise several points, which are set forth below. Please know that the City appreciates your consideration of its concerns.

A. Sphere of Influence Reviews are to Occur Every Five Years or as "Necessary"—Neither Circumstance Exists Here

LAFCo is authorized to adopt spheres of influence for each city and special district within its jurisdiction "to promote the logical and orderly development of areas within the sphere."[1] "On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence."[2] Arbitrarily advancing a scheduled sphere of influence review by three years on its own initiative and providing the City with minimal notice is inimical to the Legislature's intent that the Commission promote "logical and orderly development." Land use planning establishes the City's long-term development goals and development often involves several years of planning and processing of project applications. It is precisely for this reason that the Legislature established a regular period for review of amendments to spheres of influence unless a person or local agency requests an amendment (Gov. Code § 56428), which is typically done in connection with a proposed development project. The flexibility necessary to respond to requests for a sphere amendment does not translate into unfettered discretion for LAFCo to review the City's SOI. 2 3

The Staff Report for Item 10 suggests that LAFCo may review and update the City's SOI outside of the five-year schedule "at any time it determines it is *necessary and appropriate* to do so."[3] However, neither the staff report nor the proposed resolutions include a discussion of why review of the City's SOI is either necessary or appropriate now -- only two years removed from the City's last review. The staff report notes that the City is considering a development project and annexation proposal for territory located within the Adams Canyon Expansion Area, but does not conclude that the development makes an SOI update necessary.[4] It does not. If the project is approved, infrastructure and services will be extended to the area, providing capacity for additional development. LAFCo's statutory mandates promote this type of orderly development. 4

B. LAFCo Has not Completed the Reviews Required to Accompany the Proposed SOI Update

LAFCo is required to conduct a review of the municipal services provided in an area "before, or in conjunction with, but no later than the time it is considering an action to... update a sphere of influence..."[5] and prepare a written statement of its determinations with respect to, among others, growth and population projections, present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies related to sewers, municipal and industrial water. 5

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[1] Gov. Code § 56425(a).
[2] Gov. Code § 56425(g).
[3] 2015 Staff Report, p. 3.
[4] 2015 Staff Report, p. 2. It should be noted that staff recommends that the proposed development site remain in the City's SOI under all three options.
[5] Gov. Code § 56430(e).

LAFCo proposes to base its May 20, 2015 decision upon the Municipal Service Review ("MSR") prepared in 2011-2012 in connection with the 2013 SOI review.[6] Reliance on an MSR prepared in connection with a prior SOI review is both inappropriate and inconsistent with statutory requirements. The 2012 MSR does not accurately describe the City's current sewer and water services, which have changed significantly since the time the prior MSR was prepared, nor does it accurately describe the City's current park plans. Further, the City recently completed the purchase of its Wastewater Recycling Facility, which will affect the capacity of the City's public facilities available to serve the SOI. A new review is required so that LAFCo's decision reflects current conditions. 5 (cont)

Nor has LAFCO considered and prepared a written statement of its determinations as required by Gov. Code § 56425(e). How can the Commission make the determinations it is considering when no effort has been made since 2013 to ascertain, for example, the present capacity of public facilities and adequacy of public services?

C. The City Incorporates Objections Raised in 2013

The City raised several additional objections to LAFCo's proposed removal of the Adams and Fagan Canyon areas in 2013 in written correspondence and during public testimony at the March 20, 2013 public hearing. In the interest of avoiding repetition these arguments will not be repeated in this document, but the same objections apply to LAFCo's proposed action today. If LAFCo is going to consider this issue on the merits the City reasserts the arguments and objections raised at that time and incorporates them into the City's objection to the present SOI review and proposed update. 6

D. Conclusion

As noted above, the planning process for the City's sphere areas is underway and should be complete before the Commission scheduled 2017 quinquennial review of the City's SOI. The City asks that it be allowed to complete that process before any action to remove parts of the City's SOI is taken. 7

[6] See draft LACO Resolution 15-085, p. 1 of Attachment 3 and Attachment 4 to the 2015 Staff Report ("WHEREAS, LAFCo accepted a municipal service review of the services provided by the City of Santa Paula (City) and adopted written determinations as required by Government Code Section 56430 on November 14, 2012 for the services provided by the City...").

Thank you for your consideration of the City's concerns. Please do not hesitate to contact City Manager Jaime M. Fontes or Planning Director Janna Minsk with any questions.

Very truly yours,

John T. Procter
Mayor

c: Vice-Mayor
Councilmembers
City Manager
City Attorney

Response to Letters from Latham and Watkins, LLP

Four letters have been submitted from Latham and Watkins, LLP, a law firm that represents R.E. Holdings which owns the majority of the property within the Adams Canyon Expansion Area. These letters are:

- May 19, 2015 – Regarding the Staff Report's failure to provide a sufficient basis to remove Adams Canyon from the City sphere of influence (SOI).
- May 15, 2015 - Regarding the application of LAFCo's Handbook policies.
- May 15, 2015 - Regarding the California Environmental Quality Act (CEQA).
- May 15, 2015 - Regarding the need to prepare a municipal service review (MSR).

The letters are attached to these responses. To avoid responding multiple times to similar comments, staff has numbered the comments of all the letters sequentially and responded in a single set of responses. Several of the letters had attachments that have not been included here in order to avoid confusion. The letters and their attachments were provided to the Commission prior to the May 20 meeting.

Letter regarding the Staff Report's failure to provide a sufficient basis to remove Adams Canyon from the City SOI.

Comments 1-14 are summaries of the comments contained in the May 19, 2015 letter from Latham & Watkins regarding how the Staff Report purportedly fails to provide a sufficient basis for the removal of the Adams Canyon Expansion Area from the City sphere of influence (SOI). Following each comment summary is staff's response.

1. *Comment:* The commenter provides introductory remarks and opines that the Staff Report does not provide a sufficient basis for the removal of Adams Canyon from the SOI.

   Response: No responses to the introductory comments or commenter's opinion are necessary.

2. *Comment:* The commenter recommends that the matter be continued from the May 20 LAFCo meeting and suggests that the additional time can be used by LAFCo to conduct additional studies required by law.

   Response: At the May 20 meeting, the Commission continued the matter to the September 16, 2015 LAFCo meeting. The claim that additional studies are required in order for the

Commission to remove territory from the SOI is unfounded, as addressed in these responses.

3. *Comment*: The commenter cites a number of references supporting a claim that the record must contain substantial evidence to support the Commission's determination and the absence of such evidence is considered a "prejudicial abuse of discretion". The commenter claims that the May 20 Staff Report repeatedly notes that LAFCo lacks information regarding development in Adams Canyon and that the absence of information is not substantial evidence to support removal of Adams Canyon from the sphere.

   Response: As explained in the May 20 Staff Report, the County General Plan currently regulates land uses within the Expansion Areas and would continue to do so regardless of whether either or both of the Expansion Areas are removed from the City SOI. The Staff Report expressly discusses the current and anticipated future land uses as allowed by the County General Plan and Non-Coastal Zoning Ordinance. This constitutes substantial evidence that the future planned development within the area will not require urban services.

   The Staff Report notes that the City lacks information regarding its own plans for urban development in the Expansion Areas that would be in need of urban services. As noted, for the Expansion Areas, the City does not have a land use plan, circulation plan, infrastructure plan, facilities plan, or open space plan. This lack of planning constitutes substantial evidence that the City has not identified or analyzed the location and extent of future land uses, the location of roads and thoroughfares, the location of public facilities and schools, and the location/extent of open space. Because the City has not identified the location of development, it cannot demonstrate that extending services to the area is feasible, cost effective, and would result in orderly and logical development patterns. A SOI is intended to denote the "probable physical boundaries and service area" (underline added) of the City. The absence of adequate land use and infrastructure planning provides substantial evidence that the City cannot demonstrate that the current SOI is the *probable* boundary and service area of the City.

4. *Comment:* The commenter claims that the Staff Report contains only a "brief discussion" for each of the five considerations for which the Commission must make written determinations and notes that there is uncertainty as to future development in Adams Canyon throughout the discussion and that such uncertainty is not substantial evidence to support removing Adams Canyon from the sphere. The commenter also claims that CEQA review and new municipal service review are required.

   Response: The "brief discussion" provided in the Staff Report for each of the required considerations (pages 36-37) is brief due to the fact that the majority of the relevant analysis to be considered is provided in greater detail in other parts of the Staff Report. See also *Response 3* above regarding how the absence of a land use plan and related plans constitutes substantial evidence. Compliance with CEQA is addressed in the responses to

Comments 25-33. The commenter's claim that a new municipal service review is required is addressed in the responses to *Comments 34-47*.

5. *Comment:* The commenter claims that for the first consideration regarding present and planned land uses within the area, the Staff Report improperly ignores the future development in Adams Canyon as described in the City General Plan, including the Housing Element, and it considers only development as described in the County General Plan and that doing so is improper and not supported by substantial evidence.

   Response: The County General Plan currently regulates land use in the area within the Expansion Areas and will continue to do so under any of the three options under consideration by the Commission. The City General Plan does not regulate land use within the Expansion Areas and would continue to not regulate land use under any of the options under consideration by the Commission. This constitutes substantial evidence that the County General Plan, not the City General Plan, is the applicable plan currently and under any of the three options being considered by the Commission. In addition, as discussed on page 5 of the March 20 Staff Report, the City General Plan does not contain many of the basic required components of a General Plan for the Expansion Areas, which constitutes substantial evidence that the City General Plan is not a reliable source to determine the location and extent of potential future land uses and service needs and the feasibility of services in the Expansion Areas. The basis for the claim of impropriety is not made clear by the commenter.

   The Staff Report specifically acknowledges that the City Housing Element refers to the Expansion Areas as potential future sites for residential development (see pages 5-6 of the May 20, 2015 Staff Report). It also notes that residential development identified within the Expansion Areas is not necessary in order for the City to meet its regional housing needs obligation (see response under 28.iii. for additional discussion). Further, the Housing Element provides no information as to the proposed location of the residential development, circulation, infrastructure, service requirements etc. within the Expansion Areas.

   The information provided to the Commission regarding the City and County General Plan is for the Commission's consideration in determining the City's SOI. It is informational only. It is not an evaluation of whether any of the options under consideration by the Commission is consistent with the City General Plan and its policies because there is no requirement that the Commission's actions be consistent with the City General Plan or its policies.

6. *Comment:* Regarding the second and third considerations on the present/probable need for services and the capacity to provide services in the area, the commenter suggests that additional studies should be prepared, including a MSR, to respond to LAFCo's lack of information. The commenter also suggests that the Commission refrain from removing Adams Canyon from the sphere until the City develops its General Plan and/or receives a development proposal.

Response: The City lacks information about its own plans for development in Adams Canyon. Additional studies, including a new MSR, will not rectify the inadequacies of the City General Plan as it applies to the Expansion Areas. Furthermore, the removal of territory from the SOI does not preclude the City from updating its General Plan or a development proposal from being considered by the City and requesting a sphere amendment in the future once adequate planning has occurred. Additionally, it is not LAFCo's responsibility to perform special studies to justify the existing SOI. Rather, LAFCo's determination of the SOI should reflect available information at the time the determination is made.

7. *Comment:* Regarding the final two considerations on economic/social communities of interest and disadvantaged unincorporated communities in the area, the commenter claims that the staff report dismisses these two considerations and provides no evidence or analysis regarding the presence of any such communities.

   Response: The May 20 Staff Report does not dismiss the final two determinations. As noted in the Staff Report (page 10), the Expansion Areas contain undeveloped open space and agriculture. There are no communities of any kind within the Expansion Areas. No additional analysis is necessary. The commenter provides no evidence that such a community may exist.

8. *Comment:* The commenter claims that the Staff Report fails to provide support or reasoning for its departure from the findings made by the Commission in 2000 when it approved the SOI in its current location and that lack of analysis does not constitute substantial evidence.

   Response: There is no requirement that the Commission provide support or reasoning for any departure it may make from its decision to include the area within the SOI in 2000. The only requirement is that there is substantial evidence in the record to support any of the three options as part of the matter before it. Substantial evidence exists to support any of the three options available to the Commission. See also Response to *Comment 3*. Moreover, the action by LAFCo in 2000 to include Adams Canyon within the City SOI was based on now outdated information and a level of development that is no longer permitted, as explained in the response to *Comment 45*.

9. *Comment:* The commenter claims that removal of Adams Canyon from the SOI would conflict with various sections of the Commissioner's Handbook.

   Response: The removal of either or both of the Expansion Areas would not conflict with the cited policies contained in the Commissioner's Handbook, as discussed below in the responses to *Comments 16-25*.

10. *Comment:* The commenter claims that if development in Adams Canyon does not occur as allowed for in the City General Plan, it will result in lost fee revenue to the City and cause an increase in various rates/fees for City residents (particularly water and sewer rates) and that LAFCo is obligated to analyze the rate/fee increases that would occur.

    Response: The Expansion Areas generate no fees for the City. They would continue to generate no fees for the City if they were removed from the SOI. The continued non-receipt of fees is not a loss of the fees and it does not increase the rates of other users. Moreover, there is no requirement that LAFCo evaluate the loss of such hypothetical and speculative fees. The basis for the assertion that LAFCo is obligated to do so not made clear.

11. *Comment:* The commenter claims that he has submitted substantial evidence that an action by the Commission to remove Adams Canyon from the SOI could result in significant impacts to the environment and therefore, the "common sense" exemption from CEQA cannot be utilized.

    Response: The commenter has not provided such substantial evidence, as discussed in the responses to *Comments 26-34*.

12. *Comment*: The commenter claims that the Staff Report ignores the City General Plan without a legal basis and discounts provisions within it. The commenter also claims that the Staff Report provides no legal basis to support the assertion that the General Plan is inconsistent with state law. The commenter claims that the assertion in the Staff Report that the City General Plan does not contain all of the required components has no basis because it contains all of the seven required elements and appendices.

    Response: The City General Plan is discussed throughout the Staff Report. The Staff Report does not, in any place, assert that the General Plan does not contain the required components or elements. The Staff Report and its attachments detail the reasons why the City General Plan does not include the basic components required in a General Plan *for the Expansion Areas* (see pages 4-6 of the May 20 Staff Report).

    Moreover, the Commission is not required to analyze the City or the County General Plan. It has the discretion to consider either General Plan to the extent that it determines is warranted. There is no legal basis for the claim that the Commission is required to consider the City General Plan as part of its determination of the City's SOI. See also the response to *Comment 5* above.

13. *Comment:* The commenter makes a number of claims to support an assertion that there is no substantial evidence to support the Commission removing the majority, but not all, of Adams Canyon from the SOI.

    Response: The Staff Report (pages 7-8) discusses the reasoning for staff's recommendation to retain two areas within the City SOI should the Commission choose to remove the

majority of Adams Canyon. LAFCo has no authority to establish or change zoning, thus the expressed concerns over "impermissible spot zoning" are unfounded.

14. *Comment*: The commenter opines that the Staff Report fails to provide substantial evidence to support a decision to remove Adams Canyon from the City SOI and that additional studies are needed.

    Response: The opinions expressed by the commenter are noted. As discussed above, there exists substantial evidence to support a Commission action to remove either or both Expansion Areas from the SOI.

Letter Regarding the application of LAFCo's Handbook policies.

Comments 15-24 are summaries of the comments contained in the May 15, 2015 letter from Latham & Watkins regarding the application of LAFCo's Handbook policies to the City of Santa Paula SOI.

15. *Comment:* The commenter cites various sections of LAFCo law and case law pertaining to the standard of review that may be applicable to LAFCo actions.

    Response: No response is necessary.

16. *Comment:* The commenter cites various provisions of LAFCo law and opines that the removal of Adams Canyon from the City's SOI would conflict with multiple policies in the Commissioner's Handbook.

    Response: The commenter's opinion is noted.

17. *Comment*: The commenter provides a history of the establishment of Santa Paula's city urban restriction boundary (CURB) and explains the uses that are allowed within it by the City General Plan. The commenter claims that the SOI should be consistent with the CURB and that removal of the Adams Canyon Expansion Area would conflict with Handbook Section 4.2.1 (Consistency with Voter Approved Growth Boundaries) because it would "frustrate the will of the City's voters" and because Section 4.2.1 recognizes the importance of voter-approved growth boundaries in any action to establish or amend SOI boundaries.

    Response: Handbook Section 4.2.1 is discussed on pages 10-11 of the May 20 Staff Report. In short, this policy provides that a SOI should not extend beyond a CURB. It should either coincide with, or cover lesser area than, a CURB; however, it expresses no preference for either. Currently, the City SOI does not coincide with the CURB, it covers less area than the CURB. If the Adams Canyon Expansion Area is removed, the sphere will continue to cover lesser area than the CURB. Removal of either or both of the Expansion Areas from the SOI would not conflict with this policy. CURBs were established by city voters and are matters

of local policy that apply only to the actions of a city. LAFCo is not subject in any way to the provisions of a CURB or related ordinances.

18. *Comment*: The commenter notes that pursuant to Handbook Section 4.3.1.1(a), LAFCo favors SOI boundaries that "coincide with existing and planned service areas." The commenter claims that keeping Adams Canyon within the SOI would coincide with planned service areas of the City because the voters amended the General Plan to allow for annexation and development in Adams Canyon.

    Response: Handbook Section 4.3.1.1(a) is discussed on page 11 of the Staff Report. The policy refers to "planned service areas." As noted, the City has not completed any land use, circulation, public facility, or infrastructure plans in the Expansion Area. In addition, no such plans were included as part of the vote to include Adams Canyon in the CURB. Thus the Expansion Area is not a "planned service area." The Adams Canyon Expansion area contains 6,578 acres. As discussed on page 7 of the May 20 Staff Report, the development allowed for under the City General Plan would likely occupy only a relatively small portion of the Expansion Area, leaving thousands of acres undeveloped. Thus, the area in need of services would not coincide with the current SOI.

19. *Comment*: The commenter notes that Handbook Section 4.3.1.2(b) discourages sphere boundaries that create areas where it is difficult to provide services. The commenter refers to determinations made by the Commission in 2000 that conflict with the May 20 Staff Report.

    Response: The purpose of the comment is unclear and does not speak to the policy issue raised on page 11 of the May 20 Staff Report. The findings made by the Commission in 2000 were based on information that is now outdated and no longer accurate, as explained in the response to *Comment 45*. The findings/determinations made by the Commission in 2000 that are cited by the commenter are no longer relevant or applicable.

20. *Comment*: The commenter maintains that removal of Adams Canyon from the SOI would conflict with the Handbook Appendix A – Guidelines for Orderly Development.

    Response: The Guidelines for Orderly Development have been adopted by LAFCo, the County, and all of the cities within the County. The Guidelines contain policies pertaining to urban development. There are policies that apply to urban development proposed within a city SOI, policies that apply to urban development proposed within an area of interest where a city exists (but outside that city's SOI), and policies that apply to urban development proposed within an area of interest where there is no city. Removal of Adams Canyon from the City's SOI would not conflict with any of these policies, as no urban development is proposed as part of the SOI review/update. It would, however, subject any proposed future urban development within Adams Canyon to a different set of policies, i.e. those that apply to development proposed outside a city SOI.

21. *Comment*: The commenter maintains that removal of the Adams Canyon Expansion Area from the SOI conflicts with Handbook Section 4.3.2 – Agriculture and Open Space Preservation because it: 1) may convert prime agricultural and open space land within Adams and Fagan Canyon and 2) would displace the planned growth within Adams and Fagan Canyons to other areas that may convert prime agricultural and open space lands. The commenter also claims that it would frustrate the will of City voters in establishing the CURB.

    Response: The contention that removal of the Expansion Areas from the SOI may cause the conversion of agricultural or open space lands within the Expansion Areas is unclear. As discussed in the Staff Report and in other responses, removal of the area from the City SOI would not alter the County General Plan's existing land use designations or allow for any development potential that does not already exist. Also, as discussed in the Staff Report on page 14 and under Response 27.i. below, LAFCo's action to remove territory from the SOI would not displace planned growth to another area. As discussed in the response to *Comment 17*, the SOI does not need to be consistent with the CURB.

22. *Comment*: The commenter claims that LAFCo has given no consideration to the criteria set forth in Handbook Section 4.3.3 (Criteria for City Sphere of Influence Amendments for Schools) and that such consideration is required. The basis for the comment is that the City General Plan provides for 40 acres to be set aside for possible development of a school within the Adams Canyon Expansion Area.

    Response: Handbook Section 4.3.3 does not apply to any of the options being considered by the Commission for several reasons: 1) the section applies to SOI amendments, not updates, both of which are defined under Handbook Section 4.1.2 (a SOI amendment is associated with a concurrent proposal for a change of organization or out of agency service agreement), 2) as discussed throughout the staff report, LAFCo's action need not be consistent with the City General Plan, 3) the City General Plan contains no land use plan or public facilities plan that designates where within the 6,578-acre Expansion Area the 40-acre school site is planned, and 4) setting aside 40 acres for possible development of a school does not mean that a school is, or will be, needed or built on that 40 acres.

23. *Comment*: The commentator maintains that, for various reasons, Section 3.2.4 applies to this sphere update.

    Response: Section 3.2.4 (Conformance with Local Plans and Policies) is found under Division 3 of the Handbook and applies only to changes of organization and reorganizations. It is therefore inapplicable to this SOI review/update.

24. *Comment:* The letter concludes that any action to remove Adams Canyon from the City's SOI would conflict with LAFCo policies and be invalid.

Response: As explained above and in the Staff Report, any LAFCo action to remove either or both the Adams Canyon and/or Fagan Canyon Expansion Areas from the City SOI would not conflict with the aforementioned Handbook policies.

Regarding the California Environmental Quality Act (CEQA).

Comments 25-33 are summaries of the comments contained in the May 15, 2015 letter from Latham & Watkins regarding CEQA. Following each comment summary is staff's response.

25. *Comment*: The commenter claims that CEQA procedures have not been followed and that proper environmental review has not occurred in order to remove Adams Canyon from the SOI.

    Response: As explained on pages 13-14 of the May 20 Staff Report and in the responses below, applicable CEQA procedures have been complied with and the appropriate level of environmental review has occurred.

26. *Comment:* The commenter claims that substantial evidence has been presented to conclude that the removal of Adams Canyon from the City SOI would cause significant impacts to the environment. The commenter cites various sections of CEQA and LAFCo law.

    Response: No substantial evidence has been provided to conclude that the removal of the Adams Canyon Expansion Area from the City SOI would result in significant environmental impacts. As explained in the May 20 Staff Report (pages 13-14), staff acknowledges that the action to remove territory from the SOI is a project subject to CEQA and both CEQA and LAFCo law have been complied with.

27. *Comment:* The commenter claims that the removal of the Adams Canyon Expansion Area from the City SOI will result in the environmental impacts in seven general areas.

    Response: The removal of territory from the City sphere would not result in significant impacts in the seven general areas, which are discussed below.

    i. Displace development from the Adams Canyon area to other portions of the City or County.

    As explained on page 14 of the May 20 Staff Report, any action by the Commission to remove territory from the City SOI does not displace development anticipated by the City General Plan. The County General Plan regulates land use within the subject area and will continue to do so under any of the options being considered by the Commission. The City General Plan has no force or effect in the territory contained within the Expansion Areas: It does not regulate land use and has bestowed no development rights to the landowners. The City has no jurisdiction in the Expansion Areas and has no land use authority to allow development and will continue to have no

such authority should the Commission remove territory from the SOI. The development of the Expansion Areas under the City General Plan is hypothetical. Therefore, the claim that the Commission's action will displace anticipated City development and that the impacts of the displaced development must be evaluated is unfounded.

ii. Land use and planning conflicts with the City's General Plan.

See response to Comment 29 below.

iii. Precluding housing necessary to meet the Regional Housing Needs Assessment.

As explained on the pages 5-6 of the May 20 Staff Report, the housing envisioned in the Expansion Areas is not necessary in order for the City to meet its regional housing needs obligation through 2021. The City's housing obligation for the above median income category is to identify adequate sites that would allow for the development of 555 units. The City's 2013-2021 Housing Element identifies sites for 2,113 above median income units, including 945 units in the Expansion Areas (495 and 450 units in Adams Canyon and Fagan Canyon, respectively). Thus, without the 945 housing units envisioned for the Expansion Areas, the City Housing Element identifies sites to accommodate 1,168 above median income units, over twice its 555-unit obligation.

iv. Perpetuating a housing imbalance in the City.

The commenter provides no explanation of how a housing imbalance would be perpetuated or how such an imbalance constitutes an environmental impact. The City's 2013-2021 Housing Element states on page 15:

> "According to the Census Bureau, there were approximately 6,130 jobs in Santa Paula compared to 8,749 housing units, for a jobs-housing ratio of 0.70. This ratio is less than half the desired balance of 1.5 jobs per housing unit, making Santa Paula a "jobs-poor" city."

It appears that the construction of 945 residential units would worsen the current housing imbalance, not improve it.

v. Impacts to prime farmland and prime agricultural lands.

The claim that the Commission's action to remove territory from the City SOI would impact agricultural lands is based on the false premise that such a reduction in the SOI would "displace" the development that the City General Plan envisions for that area to a different area that may contain farmland. As explained in the May 20 Staff Report and the response under "i" above, any decision by the Commission to remove territory from the City SOI would not displace development and would not impact agricultural land.

vi. Hydrological impacts from flooding.

These purported impacts were claimed in correspondence submitted in 2013 and are based on the premise that if Adams Canyon is not allowed to develop as part of the City, then the flood control improvements that would be needed as part of that development cannot be built. However, notwithstanding the fact that the City has no jurisdiction in the area to make such improvements, not building something does not result in a physical change to the environment. Existing conditions would continue to exist resulting in no possible impacts to the environment.

vii. Transportation, traffic, and circulation impacts.

These purported impacts were claimed in correspondence submitted in 2013 and are based on the premise that if Adams and Fagan Canyon are not permitted to develop as part of the City, then the roads and road improvements that would be needed to access them would not be developed, causing significant impacts. Notwithstanding the fact that the City has no land use or circulation plan for the Expansion Areas, if the Expansion Areas are not developed, there is no need to construct any roads to access them or make improvements to existing roads to accommodate traffic generated by them. Not constructing unnecessary roads in an area that is not under the City's jurisdiction is not a significant impact.

28. *Comment*: The commenter expresses an opinion that removing Adams Canyon from the City sphere would conflict with the City General Plan.

    Response: The commenter's opinion is noted. The Commission's actions to reduce the size of the SOI, if it chooses to do so, do not need to be consistent with the City General Plan.

29. *Comment:* The commenter claims that CEQA and case law require review of any conflicts that a project may have with applicable planning documents, including a general plan. The commenter continues that CEQA requires that EIRs and initial studies discuss inconsistencies between a project and applicable general plans, specific plans, and regional plans and for these reasons, LAFCo is required to discuss conflicts between the removal of Adams Canyon from the City SOI and the City General Plan.

    Response: Staff agrees that an EIR and initial study must evaluate such inconsistencies. If an EIR or initial study was required to be prepared for any of the options to update the sphere, they would include such an evaluation. However, no EIR or initial study has been prepared because the project is exempt from CEQA as discussed in the May 20 Staff Report.

    Moreover, the evaluation that is required to occur in an EIR or initial study pertains to inconsistencies between the project and applicable general plans, specific plans, zoning, and/or land use controls. As explained in the May 20 Staff Report, the County's General Plan, zoning, and land use controls are applicable to the Expansion Areas and will continue

to be applicable under any of the options to be considered by the Commission. Thus, CEQA does not require an evaluation of inconsistencies with the City's General Plan, as it is not applicable, and the City has no jurisdiction to adopt zoning or land use controls in the subject area. Any action by the Commission that involves removal of territory from the City SOI would be consistent with the County General Plan.

30. *Comment:* The commenter claims that reasonably foreseeable impacts would result from the "displacement" of development planned in Adams Canyon to other areas and cites a Supreme Court case pertaining to possible consequences of displaced development resulting from a government agency "placing a ban on development in one area of a jurisdiction".

    Response: As explained previously under *Response 27.i.,* no displacement of development would occur. The commenter cites only a portion of the relevant sentence from the cited court case. The sentence states in its entirety, "Depending on the circumstances, a government agency may reasonably anticipate that its placing a ban on development in one area of a jurisdiction may have the consequence, notwithstanding existing zoning or land use planning, of displacing development to other areas of the jurisdiction."

    The Commission's actions to remove territory from the sphere, should it choose to do so, cannot be considered a ban on City development, as the City has no jurisdiction to authorize development in the Expansion Areas. Also, the court refers to displacement of development in "one area of a jurisdiction...to other areas of the jurisdiction" and therefore, the court's opinion does not appear to apply in this case because the Expansion Areas are not within the City's jurisdiction.

31. *Comment:* The commenter claims that a reasonably foreseeable consequence of the removal of Adams Canyon from the SOI is an amendment to the City General Plan that redirects growth to another location, which must be evaluated under CEQA by LAFCo.

    Response: Staff concurs that an amendment to a general plan is generally subject to CEQA review. However, as noted in the Staff Report and these responses (see responses 27.i. and 30), the Commission's action to remove territory from the sphere does not displace development to another location, and therefore, it is not reasonably foreseeable that the City will amend its General Plan to accommodate non-existent displaced growth. In addition, the City is not obligated to amend its General Plan as a result of any LAFCo action and it may or may not choose to do so. If the City chooses to pursue any changes to the General Plan, it would need to comply with CEQA at that time.

32. *Comment:* The commenter claims that the "common sense" exemption can only be used if it has been demonstrated with certainty that there is no possibility that the project will result in any significant impacts to the environment. The exemption cannot be used if a reasonable or fair argument is made to suggest that a potentially significant impact could occur, unless the claims are refuted. The commenter claims that the removal of Adams

Canyon from the SOI would result in the significant impacts discussed in the letter and, thus, LAFCo cannot utilize the "common sense" exemption.

Response: Staff concurs with the circumstances that are required in order to utilize the "common sense" exemption as outlined in CEQA and case law, and has concluded that the "common sense" exemption is appropriate for any of the options being presented to the Commission. No reasonable or fair arguments have been presented to conclude that the recommended CEQA action is not appropriate. The arguments presented are based on unsubstantiated opinion, erroneous information, speculation, false premises, unreasonable assumptions, and incomplete sections of inapplicable court decisions. In addition, each of the claims of a potentially significant impact have been refuted in the Staff Report and these responses to conclude with a certainty that there is no possibility that a significant impact would result.

33. *Comment*: The commenter claims that there is overwhelming evidence that removal of Adams Canyon from the SOI has the potential to cause significant environmental impacts and LAFCo should comply with CEQA before removing Adams Canyon from the sphere until it completes legally adequate environmental review.

    Response: No evidence has been provided that the removal of Adams Canyon would result in significant impacts to the environment. Staff believes that exercising the "common sense" exemption for the SOI update is legally adequate.

Letter regarding the need to prepare a municipal service review

Comments 34-48 are summaries of the comments contained in the May 15, 2015 letter from Latham & Watkins regarding completion of a MSR. Following each comment summary is staff's response.

34. *Comment*: The commenter opines that because LAFCo has not completed a municipal service review (MSR) as required by LAFCo law, it cannot update the City SOI.

    Response: The commenter's opinion is noted. As explained below, a MSR does not need to be prepared for this item.

35. *Comment*: The commenter cites and summarizes various provisions of LAFCo law and sections of the Municipal Service Review Guidelines prepared by the Governor's Office of Planning and Research in 2003 pertaining to the preparation of MSRs.

    Response: Comments noted. The Municipal Service Review Guidelines are merely guidelines and do not have the force of law.

36. *Comment*: The commenter claims that LAFCo did not complete a MSR in advance of the May 20, 2015 hearing. He continues that the last MSR completed by LAFCo was in 2012 and it is outdated, inadequate, and obsolete.

    Response: Handbook Section 4.1.4 pertains to SOI updates and provides, "Updates that remove territory from a SOI shall not require the preparation of a municipal service review." (Section 4.1.4(c)). Pursuant to this policy, should the Commission choose to remove territory from the City SOI, preparation of a MSR is not required. In addition, a MSR for the City of Santa Paula was prepared and accepted by the Commission in November 2012. This date is in advance of the May 20, 2015 hearing.

    The 2012 MSR notes that the City does not provide any services within the Expansion Areas and has adopted no plans on the extent and location of future public services/facilities or the feasibility of constructing, operating, and maintaining those services/facilities within the Expansion Areas. This remains the case today. Thus, the MSR remains valid and is adequate for purposes of removing territory from the SOI if the Commission so chooses.

37. *Comment*: The commenter claims that the MSR does not include recently approved development projects, including the 1,500-unit East Area 1 development, the East Area Gateway commercial development, and the proposed 79-unit Anderson-Hagaman project. The commenter claims that the MSR is thus deficient.

    Response: The basis for this claim is unclear, as the cited development projects are accounted for in the MSR and referred to multiple times throughout the document. One such example pertains to the population projections used in the MSR to evaluate future service needs. Identified are the "East Area 1 Specific Plan" that "would allow for the construction of up to 1,500 residential units and several hundred thousand square feet of other uses"; the "East Area 2 Planning Area" that would allow for "up to approximately 1,600,000 square feet of commercial and industrial uses"; and finally, the 79-unit Anderson-Hagaman proposal is part of the "Adams Canyon Expansion Area" that "would allow for the development of 495 residential units."

38. *Comment*: The commenter notes that the MSR does not include information about the current drought that could threaten City water supplies or result in water savings through drought relief measures.

    Response: The purpose of the comment is unclear. The MSR concluded that the City's water supply was adequate to meet current and future projected demands, including that of Adams Canyon. It appears that the commenter is inferring that the City may not have adequate water to meet the projected needs in Adams Canyon due to the drought. Although no evidence has been provided to support the statement that drought conditions could impact the City's water supply, such evidence would further support removing Adams Canyon from the SOI. In any event, the commenter provides no evidence that the conclusions of the MSR are no longer valid or accurate in regards to Adams Canyon.

39. *Comment*: The commenter claims that the City's budget has increased in the two years since the MSR was completed, rendering it inadequate to inform LAFCo in any decision regarding any changes to the SOI. The commenter notes that the number of funded sworn police officers and fire personnel has increased by two and five, respectively.

Response: The increases in the recent budgets and the funding of additional police and fire personnel improve current levels of service. However, they do not change the conclusions of the MSR regarding how future services would be funded in the Expansion Areas. For fire services, the Commission determined, in part, "no plans appear to be in place to provide and fund the facilities and staffing necessary to provide adequate fire protection services to development anticipated in the Adams and Fagan Canyon Expansion Areas." For police services, the Commission determined, "Information is not available at this time to determine whether other future development will provide adequate revenue to fund the additional staffing and equipment that will be needed." Similar determinations were made for potable water and wastewater services. Regarding the overall financial ability of the City to provide services in the Expansion Areas, the Commission determined:

> Given the large geographical extent of the Adams and Fagan Canyon Expansion Areas, the cost of extending, operating, and maintaining service infrastructure and facilities in these areas will likely be substantial based on the level of development anticipated in the current General Plan. Due to the fact that planning in the way of land use, infrastructure, circulation, and financing for these areas has not yet occurred, the costs to provide services to them, as well as the sources of revenue to cover those costs, have not been identified. Given that development in each expansion area is currently limited to fewer than 500 residential units and a limited amount of revenue-generating commercial development, it is unclear whether development in these areas would be financially feasible.

LAFCo staff is not aware of any changes that have occurred relating to the City's service plans for the Expansion Areas since the MSR was prepared in 2012. Unless evidence is provided to the contrary, the MSR and the Commission's determinations remain valid and applicable.

40. *Comment*: The commenter notes that the 2012 MSR does not reflect the City's 2013-2021 Housing Element.

Response: It is correct that the MSR that was prepared in 2012 does not reflect the City's 2013-2021 Housing Element. However, for the Expansion Areas, the number of housing units evaluated in the MSR is the same as that identified in the 2013-2021 Housing Element (495 units in Adams Canyon and 450 units in Fagan Canyon). The commenter makes no claim and provides no evidence that the MSR is no longer adequate or accurate.

41. *Comment*: The commenter notes that the MSR does not reflect the regional transportation plan and sustainable communities strategy adopted by the Southern California Association of Governments in 2012. He claims that these documents will have a significant impact on planning and development and municipal services, which demonstrates the need to complete a new MSR before considering the SOI update.

    Response: Regional transportation plans and sustainable communities strategies do not regulate land use or supersede a city's land use authority. There is no reason to include them in a MSR and a MSR is not rendered inadequate for their absence. The commenter provides no evidence that these documents will affect planning/development/services in the Expansion Areas. The commenter provides no evidence to demonstrate that the MSR is no longer adequate and accurate.

42. *Comment*: The commenter notes that the 2012 MSR notes that the City's solid waste collection/disposal service was privatized in 2011 and a new MSR could evaluate whether the City supplemented service. The commenter also notes that a new MSR could evaluate the effectiveness of the City's water recycling facility regarding the expectation that it would supply 400 acre-feet of recycled water by 2015.

    Response: The commenter makes two suggestions about what a new MSR "could" evaluate. He provides no evidence to suggest that analysis and conclusions of the MSR are no longer accurate, and that such an evaluation would be necessary in order for the MSR to be valid.

43. *Comment*: The commenter claims that the MSR lacks objectivity and that it was designed to facilitate the removal of Adams Canyon based on a previous action by the Commission.

    Response: The commenter provides no evidence to support this opinion. Prior to LAFCo's adoption of the MSR, staff from the City of Santa Paula reviewed a draft of the MSR and confirmed its accuracy.

44. *Comment*: The commenter claims that the 2012 MSR notes a lack of information necessary to evaluate the capacity of public services/facilities in Adams Canyon and that such lack of information does not constitute substantial evidence.

    Response: See response to *Comment 3*.

45. *Comment*: The commenter claims that any determination that the City would lack adequate services would contradict the findings the Commission made in 2000 when it determined that the City could provide services to the Expansion Areas if they were developed with urban uses. The commenter cites two findings that were made by the Commission, both of which are based on information provided in a "White Paper Report". The commenter claims that LAFCo cannot now make different findings without providing an

evidentiary basis and that the 2012 MSR fails to provide substantial evidence to change these prior findings.

Response: See response to *Comment 8*. The findings made by the commission in 2000 were largely based on a "White Paper Report" prepared by the City in 1999. The commenter appears to argue that the 2012 MSR can be rendered outdated and unreliable in less than three years, yet the 1999 White Paper Report remains accurate and reliable after 16 years. The commenter fails to note that the White Paper Report is obsolete. For instance, it bases its discussion of future services in Adams Canyon (including fire, water supply/demand, sewers, and revenue from impact fees) on potential development of up to 2,250 dwelling units and 6,750 residents in Adams Canyon, a development capacity that has not been allowed for in the General Plan since 2007 (a maximum 495 units are now allowed for). The findings cited by the commenter are based on outdated information and no longer relevant or applicable. The commenter also offers no legal authority for the proposition that, in reviewing a SOI, a commission is bound by a determination of a prior commission.

46. *Comment*: The commenter claims that a new MSR is necessary because since 2000, the City's Wastewater System Master Plan recommends capacity for improvements for the Expansion Areas and that Water Recycling Facility began operations in 2010.

    Response: The 2012 MSR specifically discusses the City's Wastewater System Master Plan and its substantial deficiencies pertaining to future wastewater service for the Expansion Areas. The MSR also discusses the City's recently completed Water Recycling Facility and notes that the projected demand for the recycled water is based on the development of 2,250 residential units in Adams Canyon and 2,155 units in Fagan Canyon, development that is not allowed under the General Plan. The commenter provides no evidence that the MSR is no longer adequate or accurate.

47. *Comment*: The commenter claims that the MSR's discussion of disadvantaged unincorporated communities (DUCs) is cursory and does not disclose whether there is a DUC within or contiguous to the City SOI.

    Response: The MSR cites the definition of a DUC and concludes that there are no DUCs within or contiguous to the City SOI. This conclusion is based on the fact that there are no DUCs within or contiguous to the City SOI. The commenter makes no claims and provides no evidence of the possible existence of a DUC. Pursuant to Handbook Section 3.2.5, the Commission has recognized only the communities of Nyeland Acres and Saticoy as DUCs.

48. *Comment*: The commenter concludes with the opinion that the MSR fails to reflect existing conditions and a new MSR is required in order for the Commission to remove territory from the City SOI.

    Response: The commenter provides no evidence that the MSR is not accurate or valid, particularly as it applies to the Expansion Areas.

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File No. 049217-0004

May 19, 2015

VIA HAND DELIVERY AND EMAIL

Commissioners of the Ventura County LAFCO
Attn: Lou Cunningham, Chair
County Government Center
Hall of Administration, 4th Floor
800 S. Victoria Avenue
Ventura, CA 93009-1850

Re: LAFCO's Staff Report Fails to Provide a Sufficient Basis for a Decision to Remove Adams Canyon from the Sphere of Influence

Dear Commissioners Parks, Zaragoza, Parvin, Morehouse, Dandy, Freeman and Cunningham:

As you know, we represent RE FUTURE, LLC, a California limited liability company and the owner of more than 4,700 acres in the City of Santa Paula's ("City") sphere of influence ("SOI"). This letter concerns Agenda Item 10 for the May 20, 2015 meeting of the Commissioners of the Ventura County Local Agency Formation Commission ("LAFCO"), a review and update of the City's SOI.

The Staff Report for the SOI Review/Update, which was not released until May 15, 2015, presents LAFCO's written determinations required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH Act") for any update of or amendment to the SOI and evidence upon which LAFCO will base its decision. We have worked diligently to prepare a written summary of our concerns, so that LAFCO can consider this analysis before making any decision. 1

We submitted written comments for the record and made an appearance at the March 20, 2013 LAFCO meeting, which also considered an update to the City's SOI and resulted in no change thereto. We are concerned, as we were in 2013, that LAFCO's determinations are not supported by substantial evidence in the record, and that the Staff Report does not provide a sufficient basis for LAFCO to remove Adams Canyon from the SOI. LAFCO's concerns with Adams Canyon appear primarily based in a purported lack of information regarding development plans for the area, not in any actual evidence that development cannot or will not occur in Adams Canyon. Approving Options 2 or 3 to remove Adams Canyon from the SOI based on this purported lack of information would be an imprudent, knee jerk reaction and would fail to

comply with the requirements set forth by state law. Instead, LAFCO should permit the City additional time to update its General Plan, and possibly entertain a more specific development proposal, and LAFCO should complete the study and review required by the CKH Act and the California Environmental Quality Act ("CEQA") so that LAFCO can conduct an informed review of the SOI in compliance with the law. 1 (cont)

I. LAFCO SHOULD CONTINUE AGENDA ITEM 10 TO A LATER MEETING

In a letter dated May 5, 2015, the City requested LAFCO continue its review of the City's SOI, noting the City's efforts to move forward with development plans for Adams and Fagan Canyons, including work on its 2015-16 budget, the recent completion of its purchase of a Wastewater Recycling Facility, and the City's intention to update its General Plan.[1] We understand the City has allocated funds for a General Plan update, which will revise and update development policies for the Adams and Fagan Canyon expansion areas.[2] "Given the complexity of these actions, [the City] fears that [it] will not have sufficient time [to] formally present to the Commission the merits of leaving the City's sphere unchanged" if the meeting proceeds as planned on May 20, 2015.[3] 2

RE FUTURE, LLC, supports the City's request for a continuance to allow the City to updates its General Plan. A continuance should also provide LAFCO an opportunity to conduct the studies and reviews required by the CKH Act and CEQA. When LAFCO updates a SOI, it must prepare a written statement pursuant to Government Code section 56425(e), yet LAFCO's Staff Report repeatedly states that it lacks the information needed to make certain determinations. Additional information and analysis provided by LAFCO and the City during the continuance could allow LAFCO to make a better informed decision when reviewing the SOI.

II. LAFCO'S STAFF REPORT DOES NOT PROVIDE SUBSTANTIAL EVIDENCE TO SUPPORT APPROVAL OF OPTIONS 2 OR 3 TO REMOVE ADAMS CANYON FROM THE SOI

A. The Staff Report Misconstrues the Substantial Evidence Standard

A LAFCO decision that is not supported by substantial evidence in the record will be set aside as a "prejudicial abuse of discretion."[4] LAFCO must "adequately consider all relevant 3

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[1] *See* Staff Report, LAFCO 15-08S City of Santa Paula Sphere of Influence Review and Update, at 6-7 (May 20, 2015) ("Staff Report").

[2] *Id.* "These canyon areas represent the logical future development pattern for Santa Paula." *Id.*

[3] *Id.*

[4] Gov't Code § 56107(c). Even setting aside the CKH Act, LAFCO, like any public agency, is required to make findings in support of a discretionary decision. *See, e.g., Topanga Ass'n for a Scenic Cmty v. County of Los Angeles*, 11 Cal. 3d 506, 515 (1974) (holding that an

factors, and demonstrate a rational connection between those factors, the choice made, and the purposes of the enabling statute."[5] "Substantial evidence" is "relevant evidence that a reasonable mind might accept as adequate to support a conclusion."[6] The absence of specific findings or information to support a decision renders the decision unsupported by substantial evidence.[7]

3 (cont)

The Staff Report repeatedly notes that LAFCO lacks information regarding the potential for development in Adams Canyon.[8] Relying on a lack of information to approve Options 2 or 3 would turn the substantial evidence standard on its head. As discussed in more detail below, the Staff Report fails to provide substantial evidence for a decision to remove Adams Canyon from the City's SOI.

B. The Staff Report's Written Determinations Under the CKH Act Fail to Provide Substantial Evidence Supporting a Decision to Remove Adams Canyon from the SOI

The Staff Report contains only a "brief discussion" of each area required for consideration under Government Code section 56425(e).[9] The Staff Report notes its uncertainty

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agency's findings must "bridge the analytical gap between the raw evidence and the ultimate decision or order.").

[5] *McBail & Co. v. Solano County LAFCO*, 62 Cal. App. 4th 1223, 1228 (1998). For a description of the purposes of the enabling act, see Government Code section 56301 ("Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities.").

[6] *See Hosford v. State Personnel Bd.*, 74 Cal. App. 3d 302, 206 (1977).

[7] *See Glendale Mem'l Hosp. & Health Ctr. v. State Dep't of Mental Health*, 91 Cal. App. 4th 129, 140 (2001)(holding that the absence of specific findings prevents courts from meaningfully reviewing challenged administrative decisions because it forces courts into "unguided and resource-consuming explorations" in which they must "grope through the record to determine whether some combination of credibly evidentiary items … supported the ultimate order or decision of the agency").

[8] *See, e.g.*, Staff Report, at 37 ("[I]t is unknown whether the current sphere represents the probable boundary and service area of the City," and "[i]nformation is not available to determine if the City's public facilities and services are adequate for future development within the Expansion Areas…"); *see also id.* at 40 ("[I]t is unknown at this time the extent to which development in the [Expansion] area would affect other prime agricultural or existing open space lands.").

[9] To the extent the Staff Report incorporates the staff report prepared for the March 20, 2013 LAFCO meeting, we attach hereto as Attachment A our letter, LAFCO's Required Written

throughout such discussions, which illustrates the failure to provide substantial evidence to support the approval of Options 2 or 3 removing Adams Canyon from the SOI, and further emphasizes the need for LAFCO to complete a new Municipal Services Review ("MSR") and environmental review under CEQA before LAFCO can make an informed decision regarding what updates, if any, are needed for the SOI.[10]

LAFCO is required to consider the following issues and make written determinations regarding each when updating a sphere of influence:[11]

> 1) The present and planned land uses in the area, including agricultural and open space lands.
>
> 2) The present and probable need for public facilities and services in the area.
>
> 3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
>
> 4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
>
> 5) The present and probable need for sewers, municipal and industrial water, or structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

4 (cont)

The Staff Report's written determinations are not supported by substantial evidence.

(1) Present and Planned Uses. The Staff Report improperly ignores the City's General Plan description of development in Adams Canyon, including references in the Housing Element, which was updated in 2013, to plans for 450 single-family units in Adams Canyon.[12] As discussed in more detail below in section IV, Staff's election—in this section and others—to

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Determinations Under the Cortese-Knox-Hertzberg Act Regarding the Santa Paula Sphere of Influence Update, dated March 19, 2013, that analyzes the insufficiency of the 2013 Report's written determinations and further refer to our March 1, 2013 letter that is included in the Staff Report at pages 89-101.

[10] For a more detailed discussion of the need for a new MSR and environmental review under CEQA, please refer to two separate letters we submitted to LAFCO on May 15, 2015, separately addressing these issues. *See* Letter from Latham & Watkins LLP to Commissioners of the Ventura LAFCO, LAFCO Must Complete a Municipal Service Review Before It Can Update the Sphere of Influence (May 15, 2015); Letter from Latham & Watkins LLP to Commissioners of the Ventura LAFCO, CEQA Applies to Any Removal of Territory form the City's Sphere of Influence (May 15, 2015).

[11] Gov't Code § 56425(e).

[12] *See* City of Santa Paula 2013-2021 Housing Element, 78 (Aug. 2013), *available at* http://www.ci.santa-paula.ca.us/planning/Housing%20Element_2013-2021.pdf.

reject the City's General Plan in favor of only considering the County's General Plan is improper and not supported by substantial evidence. 5 (cont)

(2)-(3) Public Facilities. When considering the need for public facilities and services in the area, the Staff Report concludes that "it is unknown whether the current sphere represents the probable boundary and service area of the City" because the City's current General Plan does not include sufficient information.[13] Similarly, Staff concludes that "[i]nformation is not available to determine if the City's public facilities and services are adequate for future development within the Expansion Areas because the location, extent, and service needs of future development have not been identified or analyzed."[14] Again, the appropriate response to such lack of information is to perform additional studies, including a new MSR, and to allow the City to further develop its General Plan and receive a more specific development proposal, rather than removing Adams Canyon from the SOI without any substantial evidence on which to base such a decision. 6

A new MSR is of particular importance, because the underlying purpose for the MSR process is to evaluate the availability and adequacy of municipal services needed for potential development.[15]

(4)-(5) Social and Economic Communities of Interest and Disadvantaged Unincorporated Communities. The last two considerations—social or economic communities of interest in the area and disadvantaged unincorporated communities within the SOI—receive only cursory consideration.[16] The Staff Report dismisses these considerations without offering any evidence in support of its conclusions or any discussion or analysis of why no social and economic communities of interest or disadvantaged unincorporated communities exist. Further review could provide Staff additional information on which to base its conclusion. 7

Finally, the Staff Report fails to provide any support or reasoning for its departure from its 2000 findings. In February 2000, LAFCO approved the current SOI that contains Adams Canyon. The findings demonstrated that the City anticipated development in Adams Canyon and, therefore, upgraded its services and facilities.[17] Efforts have moved forward according to those plans. For example, the City constructed a Wastewater Recycling Facility to serve new development. The Staff Report, nonetheless, fails to thoroughly analyze this issue and concludes that information simply is not available to determine if the City can provide services to future development in Adams Canyon. This lack of information cannot constitute substantial evidence. 8

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[13] Staff Report, at 36-37.

[14] *Id.* at 37.

[15] Gov't Code § 56430.

[16] Staff Report, at 37 ("Staff is not aware of any social or economic communities of interest within or adjacent to the current sphere of influence."), 38 ("There are no DUCs within or contiguous to the City sphere of influence.").

[17] *See* Findings 3 and 4, February 2, 2000 Resolution.

C. Removal of Adams Canyon from the City's SOI Would Conflict with Multiple Handbook Policies

As described in more detail below, the Staff Report would impermissibly conflict with the Policies of the Ventura LAFCO set forth in the Commissioner's Handbook ("Handbook").[18]

1. Section 4.2.1 – Consistency with Voter Approved Growth Boundaries

In 2007, City voters approved an initiative (Measure A7) to amend the City's Urban Restriction Boundary ("CURB") to include Adams Canyon and all land within the City's SOI. LAFCO approved the addition of Adams Canyon to the SOI in 2000 and reaffirmed in 2007. The planned development of Adams Canyon set forth in the General Plan and CURB falls plainly within Handbook section 4.2.1, as it embodies voter approved growth boundaries.[19] Removal of Adams Canyon from the SOI would frustrate the will of the City's voters as expressed in Measure A7 and conflict with Handbook section 4.2.1, which recognizes the importance of voter-approved growth boundaries in any action to amend or update SOI boundaries.

Staff, nonetheless, fails to address the conflict between its proposed removal of Adams Canyon from the SOI and Handbook section 4.2.1. The Report states that the current SOI is consistent with this policy, as the SOI covers lesser area than the CURB,[20] but wholly neglects that voters elected to *expand* the SOI, not to limit it. Failure to address the clear intent of the voters fails to comply with Handbook section 4.2.1 and does not provide substantial evidence to support removal of Adams Canyon from the SOI. 9

2. Section 4.3.1 – General Standards

Measure A7 amended the City's General Plan to incorporate the specific land use densities and infrastructure requirements of the Adams Canyon development, thereby predicating growth planning on the eventual annexation of the territory within the SOI, including Adams Canyon. The City's General Plan contains detailed provisions involving the eventual annexation and development of Adams Canyon, such that keeping Adams Canyon within the SOI would

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[18] For a more detailed discussion of the Handbook policies' inconsistency with a decision to remove Adams Canyon from the SOI, please refer to a letter we submitted to LAFCO on May 15, 2015, separately addressing this issue. *See* Letter from Latham & Watkins LLP to Commissioners of the Ventura LAFCO, Application of LAFCO's Handbook Policies to City of Santa Paula Sphere of Influence Decision, May 20, 2015 Ventura LAFCO Meeting (May 15, 2015).

[19] Handbook section 4.2.1 provides in full: "For cities that have enacted ordinances that require voter approval for the extension of services or for changing general plan designations, sphere of influence boundaries should coincide with, or cover lesser area than, voter approved growth boundaries."

[20] Staff Report, at 38.

"coincide with existing and planned service areas."[21] Removal of Adams Canyon from the SOI, on the other hand, directly conflicts with this objective.

Despite the intent of the voters and the existing General Plan, Staff states that it "appears that the current sphere does not represent the planned service area for the City."[22] This statement contradicts the General Plan, as would approval of Options 2 or 3.

Further, Staff assumes that it would be difficult to provide services to certain areas within the SOI due to the size of the area, among other vague constraints, and the alleged absence of land use and infrastructure planning.[23] The General Plan, however, includes land use and infrastructure planning within the SOI, and the 2000 findings contradict the Staff Report's findings.

3. Section 4.3.2 – Agricultural and Open Space Preservation

9 (cont)

Pursuant to Handbook section 4.3.2.1, LAFCO will not approve a SOI amendment or update that is "likely to result in the conversion of prime agricultural or open space land use to other uses" unless LAFCO finds that the update will lead to "planned, orderly, and efficient development."

Staff concluded that "[d]ue to the inadequacy of land use planning in the Expansion Areas, it is unknown at this time the extent to which development in the area would affect other prime agricultural or existing open space lands."[24] Adams Canyon was originally included in the SOI to alleviate and avoid impacts to prime agricultural land.[25] The removal of Adams Canyon from the SOI would displace its planned growth to other areas, including areas with prime agriculture and open space. Therefore, any action by LAFCO to remove Adams Canyon would conflict with Handbook policies against conversion of prime agricultural lands and the specific intent of City voters.

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[21] Handbook section 4.3.1.1.(a) provides that LAFCO favors sphere of influence boundaries that "coincide with existing and planned service areas."

[22] Staff Report, at 38.

[23] *Id.* The Staff Report states that the area's "rugged topography, steep slopes, narrow canyons, and [potential for] flooding and landslides" constrains the City's ability to provide services to certain areas, but the Staff Report features no evidence or analysis in support of this conclusion.

[24] *Id.* at 40.

[25] A key finding for the 2007 voter approved Measure A7 is that "[d]irecting residential development into the foothills of Adams Canyon will reduce the likelihood of the subdivision of valuable farmland on the floor of the Santa Clara River Valley and serve to preserve and protect the Valley floor and its prime agricultural lands for farming."

D. The Staff Report Fails to Analyze the Impacts of Removing Adams Canyon from the SOI on Existing Residents' Water and Sewer Rates

Under the CKH Act, LAFCO is charged with facilitating efficient planning and development of government services to provide for the present and future needs of community residents.[26] The Legislature also made findings regarding the importance of LAFCO in preserving the state's economic well-being.[27] In particular, LAFCO's SOI determinations must "advantageously provide for the present and future needs of the county and its communities."[28] As the City slowly recovers from the recent recession, some families still have difficulty making ends meet, and it is important to ensure residents are not burdened with unnecessary water and sewer rate increases.

Santa Paula recently constructed a new wastewater treatment plant to service its current residents and accommodate anticipated growth. City residents absorb the cost of this plant and the cost of ordinary water and sewer fees in their payments to the Water Enterprise and Wastewater Enterprise Boards. Removing Adams Canyon from the SOI would preclude the anticipated addition of 450 dwelling units[29] identified in the City's General Plan that would share in the cost of water and sewer services and provide additional revenue to the City through various fees. 10

On March 18, 2013, we submitted a letter to LAFCO providing an illustrative summary analysis of the water and sewer rate increases that would occur if Adams Canyon is removed from the SOI, which is attached hereto for reference as Attachment B.[30] Debt service costs associated with the water and sewer bonds are a fixed cost allocated across all water and sewer

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[26] Gov't Code § 56301 ("Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities.").

[27] *Id.* at § 56001 ("The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state.").

[28] *Id.* at § 56424(a).

[29] The 945 units in the SOI's expansion are allocated as 495 in Fagan Canyon and 450 in Adams Canyon. Removal of both Adams and Fagan Canyons from the SOI, therefore, would result in an even greater cost burden to existing residents than removal of only Adams Canyon.

[30] That letter, Letter from Latham & Watkins LLP to Commissioners of the Ventura LAFCO, Potential Impacts on Water and Sewer Rates Resulting from LAFCO's Decision Regarding the Santa Paula Sphere of Influence Scheduled for March 20, 2013 (March 18, 2013), is attached hereto as Attachment B.

service ratepayers in Santa Paula. Consequently, a lower number of ratepayers will result in a higher allocation of fixed costs to each ratepayer. If LAFCO removes Adams Canyon from the SOI, the 945 dwelling units projected in those areas will not pay water and sewer fees, thus driving up costs on existing ratepayers. In addition, removing Adams Canyon from the SOI would decrease other fees paid to the City, including water connection fees, which could potentially be used to pay down the bond service debt resulting in savings for all ratepayers. Other potential fees paid by residents of Adams Canyon, such as annexation fees, water supply hookup fees, and development impact fees, could also absorb portions of maintenance, upgrade, or overhead costs. 10 (cont)

The Staff Report fails to address the rate increase that would occur if Adams Canyon is removed from the SOI. Approval of Options 2 or 3 removing Adams Canyon from the SOI without providing any analysis of these impacts would be a disservice to the community and a violation of LAFCO's obligations under the law.

III. THE COMMON SENSE EXEMPTION TO CEQA DOES NOT APPLY

Staff concedes in its report that the removal of Adams Canyon from the SOI is a "project" subject to CEQA.[31] Staff excused CEQA compliance, however, under the common sense exemption, which applies "[w]here it can be ***seen with certainty*** that there is ***no possibility*** that the activity in question ***may*** have a significant effect on the environment."[32] An agency's decision to use the common sense exemption must be based "on evidence in the record demonstrating that the agency considered possible environmental impacts in reaching its decision."[33] "An agency obviously cannot declare with certainty that there is no possibility that the activity in question may have a significant effect on the environment if it has not considered the facts of the matter."[34] Such facts must be based on substantial evidence. 11

Staff's reliance on the common sense exemption is misplaced, not only because RE FUTURE, LLC, has submitted substantial evidence that the removal of Adams Canyon from the SOI could cause significant environmental impacts,[35] but also because the Staff Report

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[31] Staff Report, at 40 ("Changes to spheres of influence are normally considered to be projects subject to CEQA.").

[32] 14 Cal. Code Regs. § 15061(b)(3) (emphasis added).

[33] *See Davidon Homes v. City of San Jose*, 54 Cal. App. 4th 106, 117 (1997).

[34] *See Muzzy Ranch Co. v. Solano Cnty. Airport Land Use Comm.*, 41 Cal. 4th 372, 387 (2007) (internal citations omitted).

[35] *See* Letter from Latham & Watkins LLP to Commissioners of the Ventura LAFCO, CEQA Applies to Any Removal of Territory form the City's Sphere of Influence (May 15, 2015); Letter from Latham & Watkins LLP to Commissioners of the Ventura LAFCO, City of Santa Paula Sphere of Influence Decision Agenda Item 8, March 20, 2013 Ventura LAFCO Meeting: CEQA Applies to Any Removal of Territory From The City's Sphere of Influence (March 18, 2013); Letter from Latham & Watkins LLP to Commissioners of the Ventura

improperly indicates that any environmental review for the impacts of displaced development should only be performed when the City subsequently amends its General Plan to account for the displaced development. This attempt to pass the buck and avoid performing the required environmental review *prior to* any decision by LAFCO to remove Adams Canyon from the SOI fails to uphold the basic tenets of CEQA.

A "project" under CEQA includes "the whole of an action," including any reasonably foreseeable physical changes to the environment.[36] "Project" does not mean "each separate governmental approval."[37] LAFCO cannot avoid CEQA review by "chopping a large project into many little ones -- each with a minimal potential impact on the environment -- which cumulatively may have disastrous consequences."[38]

11 (cont)

Thus, LAFCO must study the whole of its actions and cannot rely on a subsequent environmental review to fulfill its CEQA obligations when displaced development is reasonably foreseeable. Development in other areas could result in impacts to traffic, greenhouse gas emissions, hydrology, agriculture, recreation, and other resources. In addition, CEQA requires review of consistency with applicable plans, including the Southern California Association of Governments' Regional Transportation Plan/Sustainable Communities Strategy, which is intended to integrate land use and transportation planning in an effort to limit greenhouse gas emissions pursuant to SB 375, the Sustainable Communities and Climate Protection Act of 2008.

IV. STAFF IGNORES THE CITY'S GENERAL PLAN WITHOUT A LEGAL BASIS FOR DOING SO

The Staff Report improperly discounts the provisions and directives of the City's General Plan throughout the Staff Report. Instead Staff relies only on the County's General Plan in its analysis.[39] The Staff Report states that the City's General Plan "does not address future development within the Expansion Areas to the degree required by state general plan law."[40] The Staff Report provides no legal basis for this assertion and fails to cite any law supporting its unfounded conclusion.

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In addition, the Staff Report's assessment is inaccurate, because the City's General Plan contains all elements required by the Government Code. A general plan is presented as a collection of seven "elements": (1) land use; (2) circulation; (3) housing; (4) conservation; (5)

LAFCO, Santa Paula Sphere of Influence Decision Scheduled for March 20, 2013 (March 1, 2013), which is included in the Staff Report at pages 89-101.

[36] *See* 14 Cal. Code Regs. §15378(a); *Muzzy Ranch Co.*, 41 Cal. 4th at 381-82.

[37] *See Save Tara v. City of W. Hollywood*, 45 Cal. 4th 116, 129, n. 8 (2008).

[38] *See Laurel Heights Improvement Ass'n v. Regents of Univ. of California*, 47 Cal. 3d 376, 396 (1988) (internal citations omitted).

[39] Staff Report, at 32.

[40] *Id.*

open-space; (6) noise; and (7) safety.[41] "The level of discussion given to each issue in the general plan depends upon local conditions and the relative local importance of that issue."[42] If a city determines that a specific issue is not locally relevant, the general plan may briefly discuss the reason for that decision, but does not otherwise have to address that issue.[43] The elements and issues must form an integrated, internally consistent plan of which all parts are equally weighed in their application.[44] Further, the General Plan can address each element in "whatever level of detail local conditions require."[45]

It is unclear on what basis Staff relied for its assertion that the City's General Plan does not include the required components. All seven elements and their appendices can be easily found on the City's website and provide a sufficient level of detail.[46] As a result, LAFCO's decision to dismiss the City's General Plan and rely, instead, on the County General Plan is unfounded. In addition, the Staff Report fails to provide any analysis of the County's General Plan, its conflict with LAFCO's previous SOI determination for the City, or its conflict with the City's General Plan, but relies instead on bare conclusions. Any decision by LAFCO to remove Adams Canyon from the SOI, therefore, would not be based on substantial evidence due to the Staff Report's failure to account for provisions of the City's General Plan in its analysis. 12 (cont)

V. THE STAFF REPORT'S PROPOSAL TO DIVIDE ADAMS CANYON IS NOT BASED ON SUBSTANTIAL EVIDENCE

For Options 2 and 3, the Staff Report proposes to retain small portions of Adams Canyon within the SOI while removing the majority of land in Adams Canyon.[47] Staff's arbitrary decision to carve up Adams Canyon is yet another example of its failure to follow proper procedure and perform the appropriate studies. Neither the City's General Plan nor the 2012 MSR analyzes various fragments of Adams Canyon separately. In fact, the Staff Report provides no analysis of this division of Adams Canyon and cites to no studies or environmental review describing the impacts of such a division. Any action to divide Adams Canyon, therefore, cannot be based on substantial evidence. Further, Staff's proposed division of Adams Canyon raises concerns that such actions could constitute impermissible spot zoning.[48] 13

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[41] Gov't Code § 65302. The general plan may also include other topics of local interest. *See* State of California, *General Plan Guidelines*, at 18 (2003) (*General Plan Guidelines*).

[42] *General Plan Guidelines*, at 18.

[43] Gov't Code § 65301.

[44] *See Sierra Club v. Bd. of Supervisors of Kern Cnty.*, 126 Cal. App. 3d 698, 704 (1981).

[45] *DeVita v. Cnty. of Napa*, 9 Cal. 4th 763, 773 (1995)

[46] *See* City of Santa Paula, General Plan, *available at* http://www.ci.santa-paula.ca.us/planning/GeneralPlan.htm.

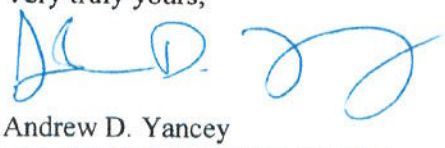
[47] Staff Report at 42-43.

[48] *See Foothill Communities Coalition v. County of Orange*, 222 Cal. App. 4th 1302, 1311-12 (2014); *Avenida San Juan Partnership v. City of San Clemente*, 201 Cal. App. 4th 1256,

VI. CONCLUSION

For the above reasons, the Staff Report fails to provide substantial evidence to support approval Options 2 or 3 to remove Adams Canyon from the SOI. The Staff Report's evidence is speculative, incomplete, or simply incorrect. The uncertainty embedded in the Staff Report demonstrates the prudence of additional study, including a new, updated MSR, and environmental review under CEQA. The lack of substantial evidence also illustrates the need for a continuance to allow the City to further develop its General Plan. Approval of Options 2 or 3 would fail to comply with the CKH Act or CEQA and would constitute a prejudicial abuse of discretion requiring such action to be set aside. 14

Very truly yours,



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Caitlin Beavers, Sespe Consulting, Inc.
Christopher Garrett, Latham & Watkins LLP

1268 (2011); *see also Consaul v. City of San Diego*, 6 Cal. App. 4th 1781, 1801 (1992) ("Zoning may be judicially invalidated if it is arbitrary and unreasonable, if it bears no reasonable relationship to the regional welfare, or if it deprives the landowner of substantially all use of the land.").

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May 15, 2015

File No. 049217-0004

VIA HAND DELIVERY AND EMAIL

Commissioners of the Ventura County LAFCO
Attn: Lou Cunningham, Chair
County Government Center
Hall of Administration, 4th Floor
800 S. Victoria Avenue
Ventura, CA 93009-1850

Re: Application of LAFCO's Handbook Policies to City of Santa Paula Sphere of Influence Decision, May 20, 2015 Ventura LAFCO Meeting

Dear Commissioners Parks, Zaragoza, Parvin, Morehouse, Dandy, Freeman, and Cunningham:

As you know, we represent RE FUTURE, LLC, a California limited liability company and the owner of more than 4,700 acres in the Adams Canyon area of the City of Santa Paula's ("City") sphere of influence. This letter is sent with regard to the May 20, 2015 meeting of the Commissioners of the Ventura County Local Agency Formation Commission ("LAFCO"), at which we understand LAFCO may consider an update to the City's sphere of influence.

We submitted written comments for the record and made an appearance at the March 20, 2013 LAFCO meeting, which also considered an update to the City's sphere of influence and resulted in no change thereto. We are concerned, as we were in 2013, that removing Adams Canyon from the City's sphere of influence would violate policies and procedures with which LAFCO must comply. This letter addresses concern that LAFCO may remove Adams Canyon from the City's sphere of influence even though such action would impermissibly conflict with the Policies of the Ventura LAFCO set forth in the Commissioner's Handbook ("Handbook"), a concern we also expressed in a letter submitted to LAFCO on March 18, 2013. 15

I. STANDARD OF REVIEW APPLICABLE TO LAFCO'S ACTIONS

LAFCO's actions are governed by the Cortese-Knox-Hertzberg Local Government Agency Reorganization Act of 2000 ("CKH Act"). Under the CKH Act, a LAFCO decision that is not supported by substantial evidence in the record will be set aside as a "prejudicial abuse of 16

discretion."[1] In reaching a decision, LAFCO must "adequately consider[] all relevant factors, and [] demonstrate[] a rational connection between those factors, the choice made, and the purposes of the enabling statute."[2]

The CKH Act requires each LAFCO to "establish written policies and procedures," and "exercise its powers . . . consistent with those policies and procedures . . ."[3] The Commissioner's Handbook is a compilation of all of the written policies and procedures adopted by the Ventura LAFCO.[4] A LAFCO action that is inconsistent with its written policies and procedures promulgated under the CKH Act, or that is inconsistent with the CKH Act, will be set aside.[5] 16 (cont)

An action by LAFCO to remove Adams Canyon from the sphere of influence would conflict with multiple policies in the Handbook, at minimum, as discussed below. Accordingly, Adams Canyon should remain within the sphere of influence.

II. REMOVAL OF ADAMS CANYON FROM THE CITY'S SPHERE OF INFLUENCE WOULD CONFLICT WITH MULTIPLE HANDBOOK POLICIES

A. Section 4.2.1—Consistency With Voter Approved Growth Boundaries

Handbook section 4.2.1 provides in full as follows:

For cities that have enacted ordinances that require voter approval for the extension of services or for changing general plan designations, sphere of influence boundaries should coincide with, or cover lesser area than, voter approved growth boundaries.

In 2007, City voters approved an initiative (Measure A7) to amend the City's Urban Restriction Boundary ("CURB") to include the Adams Canyon Expansion Area and to be coterminous with the City's sphere of influence. The addition of Adams Canyon to the sphere of influence was approved by LAFCO in 2000 and reaffirmed in 2007. The City's 2007 initiative amending the CURB included a General Plan Amendment to, among other things, increase the acreage of the Adams Canyon Expansion Area, govern the number of permissible residential units, allow residential units to be grouped together to increase open space and provide housing variety, increase acreage for public recreation, provide acreage for construction of a school site, 17

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[1] Gov't Code § 56107(c).

[2] *McBail & Co. v. Solano County LAFCO*, 62 Cal. App. 4th 1223, 1228 (1998).

[3] Gov't Code § 56300(a); *see also* Handbook, at vii ("The CKH requires each LAFCo to adopt written policies and procedures.").

[4] *Id.*

[5] *McBail & Co.*, 62 Cal. App. 4th at 1228-29 (LAFCO decision must comply with its written policies and procedures); *Placer County LAFCO v. Nevada County LAFCO*, 135 Cal. App. 4th 793, 803 (2006) (LAFCO decision must comply with the CKH Act).

provide for the dedication of a right-of-way to connect to the Fagan Canyon expansion area, and provide for a destination resort hotel and golf course.

The planned development of Adams Canyon set forth in the General Plan and CURB plainly falls within Handbook section 4.2.1, as it embodies voter approved growth boundaries. Thus, the City's sphere of influence should be consistent with the voter-approved CURB and General Plan amendments—particularly since CURB was amended in 2007 specifically to be coterminous with the sphere of influence and to facilitate planned growth and the provision of public services. Removal of Adams Canyon from the sphere of influence would frustrate the will of the City's voters as expressed in the initiative, and conflict with Handbook section 4.2.1, which recognizes the importance of voter-approved growth boundaries in any action to establish or amend sphere of influence boundaries. 17 (cont)

The proposed removal of the Adams Canyon expansion area conflicts with Handbook section 4.2.1 and is not supported by substantial evidence. Accordingly, there is no basis to remove Adams Canyon.

B. Section 4.3.1—General Standards

1. Section 4.3.1.1(a)

In relevant part, Handbook section 4.3.1.1(a) provides that LAFCO "favors" sphere of influence boundaries that "coincide with existing and planned service areas." As detailed in our prior letters of January 14 and March 1, 2013, Measure A7 amended the City's General Plan to incorporate the specific land use densities and infrastructure requirements of the Adams Canyon development, thereby predicating growth planning on the eventual annexation of the territory within the sphere of influence, including Adams Canyon. Because the eventual annexation and development of Adams Canyon is included in many detailed provisions of the City's General Plan, keeping Adams Canyon within the sphere of influence would "coincide with existing and planned service areas." Removal, on the other hand, would conflict with this objective and with the intent of the voters. 18

2. Section 4.3.1.2(b)

Section 4.3.1.2(b) "discourages" sphere of influence boundaries that "create areas where it is difficult to provide services." Land use and infrastructure planning within the sphere of influence, however, is included in the City's General Plan. In addition, LAFCO made specific findings in support of its initial approval of the sphere of influence. The February 2, 2000 resolution approving the amendment to the sphere of influence concludes at finding 3: "The City has demonstrated that it is the logical provider of public facilities and services for the affected territories if they are urbanized and it can provide them for Adams Canyon, Fagan Canyon, East Area 2, and West Area 2 through its land use and police powers;" and at finding 4: "The affected territory will require public facilities and services to be provided by the city if the property is annexed and developed. The City has demonstrated that it can provide the necessary public facilities and services for Adams Canyon, Fagan Canyon, East Area 2, and West Area 2 in the event they are urbanized. The information provided on the specific issues requested by LAFCO 19

in the Santa Paula White Paper Report on the Sphere of Influence, together with other evidence submitted by the city demonstrates this." 19 (cont)

3. Appendix A—Guidelines for Orderly Development

Removal of Adams Canyon from the sphere of influence also would conflict with several policies set forth in Appendix A to the Handbook, entitled "1996 Guidelines For Orderly Development." Relevant policies include:

- "Allowing for urbanization in a manner that will accommodate the development goals of the individual communities while conserving the resources of Ventura County."
- "Promoting efficient and effective delivery of community services for existing and future residents."
- "Urban development should occur, whenever and wherever practical, within incorporated cities which exist to provide a full range of municipal services and are responsible for urban land use planning." 20
- "The cities and the County should strive to produce general plans, ordinances and policies which will fulfill these guidelines."
- "The City is primarily responsible for local land use planning and for providing municipal services."
- "Annexation to the City is preferable to the formation of new or expansion of existing County service areas."[6]

For the same reasons discussed above, removing Adams Canyon from the City's sphere of influence would conflict with each of these policies by frustrating the planning goals of the City as expressed by its voters, the delivery of services as embodied in its General Plan, and the annexation of the territory that is contemplated in the General Plan to implement the specific land use densities and infrastructure requirements of the Adams Canyon development.

C. Section 4.3.2—Agricultural and Open Space Preservation

Pursuant to Handbook section 4.3.2.1, LAFCO will not approve a sphere of influence amendment or update that is "likely to result in the conversion of prime agricultural or open space land use to other uses" unless it finds that the amendment or update will lead to "planned, 21

[6] Handbook, at A-1, A-2.

orderly, and efficient development." Such a finding requires *each* of five specific criteria to be met.[7]

Prime agricultural and open space land uses exist within the Adams and Fagan Canyon expansion areas and may be converted as a result of the contemplated removal. Thus, under section 4.3.2.1, the removal cannot be authorized unless the removal will lead to "planned, orderly, and efficient development."

Removal of Adams Canyon and Fagan Canyon from the sphere of influence would displace these areas' planned growth to other area—which is quite the opposite of the "planned, orderly, and efficient development" required by Handbook section 4.3.2.1. LAFCO must consider the potential impacts of its contemplated removal, including whether it would impact prime agricultural land and open space either within or outside the sphere of influence.[8] This necessary inquiry has not been undertaken. 21 (cont)

Notably, a key finding for the 2007 voter approved Measure A7 was "Directing residential development into the foothills of Adams Canyon will reduce the likelihood of the subdivision of valuable farmland on the floor of the Santa Clara River Valley and serve to preserve and protect the Valley floor and its prime agricultural lands for farming." Thus, not only would removal conflict with Handbook policies against conversion of prime agricultural lands, it would also conflict with the intent of City voters to protect against the conversion of prime agricultural land through the planned development in the expansion areas identified in the City's General Plan.

D. Section 4.3.3—Criteria for City Sphere of Influence Amendments for Schools

Handbook section 4.3.3 sets forth detailed criteria that must be considered when sphere of influence amendments will affect local schools and school-related planning issues. Under the City's General Plan, 40 acres are set aside for the development of a school in Adams Canyon. Thus, before removal can be authorized, LAFCO must consider the criteria in Handbook section 4.3.3 and make the necessary findings. We are not aware that any such consideration has been given by LAFCO. 22

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[7] "(a)The territory is likely to be developed within 5 years and has been designated for nonagricultural or open space use by applicable general and specific plans. (b) Insufficient non-prime agricultural or vacant land exists within the sphere of influence of the agency that is planned and developable for the same general type of use. (c) The proposal will have no significant adverse effects on the physical and economic integrity of other prime agricultural or open space lands. (d) The territory is not within an area subject to a Greenbelt Agreement adopted by a city and the County of Ventura. If a City proposal involves territory within an adopted Greenbelt area, LAFCo will not approve the proposal unless all parties to the Greenbelt Agreement amend the Greenbelt Agreement to exclude the affected territory. (e) The use or proposed use of the territory involved is consistent with local plan and policies." Handbook § 4.3.2.1.

[8] *See also id.* at § 4.3.2.3.

E. Section 3.2.4—Conformance with Local Plans and Policies

Handbook section 3.2.4.1 states in pertinent part:

Unless exceptional circumstances are shown, LAFCo will not approve a proposal unless it is consistent with the applicable general plan and any applicable specific plan.

As discussed above, removal of Adams Canyon would result in numerous conflicts with the City's General Plan. Accordingly, removal is improper in the absence of a supportable finding that "exceptional circumstances" exist.

Section 3.2.4.1 is contained within Division 3 of the Handbook, setting forth policies regarding "Changes of Organization and Reorganization." Although the contemplated removal would constitute a modification of the sphere of influence rather than a detachment or annexation, the policy is applicable to the contemplated removal because City voters amended the General Plan to incorporate the specific land use densities and infrastructure requirements of the Adams Canyon development, and predicated growth planning on the eventual annexation of Adams Canyon and other territory within the sphere of influence. Given the City's reliance on the sphere of influence as a basis for amending its General Plan to facilitate identified future growth, and given other Handbook policies favoring growth in accordance with voter approved boundaries and planned service areas, it is improper to remove Adams Canyon from the sphere unless there are "exceptional circumstances" for doing so. No exceptional circumstances exist. 23

III. THERE IS NO BASIS FOR A WAIVER OF THE HANDBOOK POLICIES

For the reasons provided above, any action by LAFCO to remove Adams Canyon from the sphere of influence at the May 20, 2015 meeting would conflict with LAFCO's policies and be invalid. We therefore urge LAFCO not to take such action. 24

Very truly yours,

Andrew D. Yancey
of LATHAM & WATKINS LLP

cc via e-mail:

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May 15, 2015

File No. 049217-0004

VIA FEDERAL EXPRESS AND EMAIL

Commissioners of the Ventura County LAFCO
Attn: Lou Cunningham, Chair
County Government Center
Hall of Administration, 4th Floor
800 S. Victoria Avenue
Ventura, CA 93009-1850

Re: City of Santa Paula Sphere of Influence Decision, May 20, 2015 Ventura LAFCO Meeting: CEQA Applies to Any Removal of Territory from the City's Sphere of Influence

Dear Commissioners Parks, Zaragoza, Parvin, Morehouse, Dandy, Freeman and Cunningham:

As you know, we represent RE FUTURE, LLC, a California limited liability company and the owner of more than 4,700 acres in the City of Santa Paula's ("City") sphere of influence ("SOI"). This letter concerns the May 20, 2015 meeting of the Commissioners of the Ventura County Local Agency Formation Commission ("LAFCO"), at which we understand LAFCO may consider an update to the City's SOI.

We submitted written comments for the record and made an appearance at the March 20, 2013 LAFCO meeting, which also considered an update to the City's SOI and resulted in no change thereto. We are concerned, as we were in 2013, that removing Adams Canyon from the City's SOI would violate policies and procedures with which LAFCO must comply. This letter addresses our concern that LAFCO may remove Adams Canyon from the City's SOI without following the procedures set forth under the California Environmental Quality Act ("CEQA") and performing the proper environmental review, a concern we also expressed in a letter submitted to LAFCO on March 18, 2013. 25

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I. LAFCO'S DECISION TO UPDATE THE SOI IS SUBJECT TO CEQA

A. Removal of Adams Canyon from the SOI Could Cause Significant Environmental Impacts

We have submitted substantial evidence compelling the conclusion that any decision by LAFCO to remove Adams Canyon from the SOI requires CEQA review because removal would cause significant environmental impacts. LAFCO actions and decisions are subject to CEQA when those decisions constitute a project.[1] This applies even if LAFCO is *considering* amending or updating a SOI.[2] Similarly, section 56428(b) of the Government Code states that LAFCO's executive officer shall place the request to amend the SOI on the agenda for the next LAFCO meeting "*[a]fter* complying with [CEQA]."[3] 26

The following potential environmental impacts, at minimum, could result from removal: (i) displaced development from the Adams Canyon area to other portions of the City or County, (ii) land use and planning conflicts with the City's General Plan, (iii) precluding development of housing necessary to meet the Regional Housing Needs Assessment, (iv) perpetuating a housing imbalance in the City, (v) impacts to prime farmland and prime agricultural lands, (vi) hydrological impacts from flooding, and (vii) transportation, traffic and circulation impacts. Therefore, LAFCO cannot forgo a CEQA analysis because removal of Adams Canyon from the SOI could have significant effect on the environment. 27

B. Removal of Adams Canyon from the SOI Would Be Inconsistent with the City's General Plan, and Environmental Impacts Would Result from the Inconsistency

As explained in our prior comment letters, removal of Adams Canyon from the SOI would conflict with the City's General Plan. Pursuant to voter initiative in 2007, the General Plan was amended to incorporate the specific land use densities and infrastructure requirements of the Adams Canyon development, thereby predicating growth planning on the eventual annexation of Adams Canyon and other territory within the SOI. Removing Adams Canyon from the SOI plainly would conflict with the City's General Plan and preclude the growth and infrastructure identified therein. 28

Our March 1, 2013 comment letter noted that CEQA requires review of any conflicts between a proposed project and applicable planning documents, including a general plan.[4] Such review is mandated by the CEQA Guidelines and confirmed by the reported case law. 29

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[1] *See* 63 Ops. Cal. Atty. Gen. 758 (1980)(CEQA requires an EIR or ND before LAFCO can amend "spheres of influence" if such action could possibly have a significant effect on the environment).

[2] *Id.*

[3] Gov't Code § 56428(b)(emphasis added).

[4] Our March 1, 2013 comment letter is attached hereto as Attachment A.

CEQA Guidelines section 15125(d) provides: "The EIR *shall* discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans." Thus, "to the extent the Project is inconsistent with general plan goals . . . the EIR must discuss this inconsistency."[5] Further, and pertinent here, the EIR's comparison between the proposed project and an adopted plan is required to discuss "the potential future conditions discussed in the plan."[6]

Likewise, CEQA Guidelines section 15063, which governs the "initial study" used to begin CEQA review, explains that "[a]n initial study ***shall*** contain . . . An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls."[7] Accordingly, an inconsistency between a project and a general plan is "a factor to be considered in determining whether a project may cause a significant environmental effect."[8] 29 (cont)

For these reasons, LAFCO is obligated to evaluate the conflict between the proposed removal and the City's General Plan, as well as the reasonably foreseeable environmental impacts that could result from the inconsistency.

One such reasonably foreseeable impact is the potential for the removal to displace the development planned in Adams Canyon to other areas in the City or County.[9] The Supreme Court has explained that "a government agency may reasonably anticipate that its placing a ban on development in one area of a jurisdiction may have the consequence . . . of displacing development to other areas . . ."[10] Reasonably foreseeable displaced development thus requires CEQA review.[11] Therefore, the host of environmental impacts that may result from displaced 30

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[5] *Friends of the Eel River v. Sonoma County Water Agency*, 108 Cal. App. 4th 859, 881 (2003); *see also Napa Citizens for Honest Gov't v. Board of Supervisors*, 91 Cal. App. 4th 342, 356 (2001)(an EIR "is required to identify any inconsistencies between the Project and the General Plan.").

[6] CEQA Guidelines § 15125(e).

[7] *Id.* at § 15063(d)(5) (emphasis added).

[8] *Lighthouse Field Beach Rescue v. City of Santa Cruz*, 131 Cal. App. 4th 1170, 1207 (2005); *see also Orinda Ass'n v. Board of Supervisors*, 182 Cal. App. 3d 1145, 1168 (1986) (noting EIR's determination that numerous aspects of the project conflicted with the General Plan and Zoning Ordinance and thus "constituted 'significant environmental impacts.'").

[9] *See Muzzy Ranch v. Solano Cnty. Airport LAFCO*, 41 Cal. 4th, 372 382-83 (2007)("The population of California is ever increasing . . . [t]hus, no California locality is immune from the legal and practical necessity to expand housing due to increasing population pressures.").

[10] *Id.* at 383.

[11] *Id.*

development in the Adams Canyon area detailed in our prior letters mandate environmental review and mitigation under CEQA.[12] 30 (cont)

Further, because the City's General Plan is predicated on the annexation of the SOI territory and the planned development of the Adams Canyon area, another reasonably foreseeable consequence of removal is the subsequent amendment of the City's General Plan. "That the enactment or amendment of a general plan is subject to environmental review under CEQA is well-established."[13] Accordingly, the potential environmental impacts that may result from an amendment of the General Plan—including re-directed growth within or outside of the City—must also be addressed in an environmental review.[14] 31

II. THE COMMON SENSE EXEMPTION TO CEQA WOULD NOT APPLY

LAFCO cannot excuse CEQA compliance under the common sense exemption, despite its past arguments to that effect. The common sense exemption applies "[w]here it can be ***seen with certainty*** that there is ***no possibility*** that the activity in question ***may*** have a significant effect on the environment . . ."[15] Applicability of the common sense exemption "presents an issue of fact," and "the agency invoking the exemption has the burden of demonstrating that it applies."[16] "The exemption can be relied on only if a factual evaluation of the agency's proposed activity reveals that it applies."[17] 32

An agency's decision to use the common sense exemption must be based "on evidence in the record demonstrating that the agency considered possible environmental impacts in reaching its decision."[18] If "a reasonable argument is made ***to suggest a possibility*** that a project will

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[12] In *Muzzy Ranch*, the Supreme Court found that the common sense exemption applied to the adoption of a land use compatibility plan because it "simply incorporate[d] existing county general plan and zoning provisions on residential housing density, [and] any potential displacement . . . already has been caused by the existing land use policies and zoning regulations . . ." *Id.* at 389. Here, by contrast, the removal action would directly conflict with the City's General Plan, confirming that the potential for displaced development needs to be analyzed under CEQA.

[13] *Id.* at 385; *see also Bozung v. LAFCO of Ventura County*, 13 Cal. 3d 263, 278 (1975).

[14] *See* CEQA Guidelines § 15378(a) ("'Project' means the whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment . . .").

[15] CEQA Guidelines § 15061(b)(3) (emphasis added).

[16] *Muzzy Ranch*, 41 Cal. 4th at 386.

[17] *Id.*

[18] *Davidon Homes v. City of San Jose*, 54 Cal. App. 4th 106, 117 (1997).

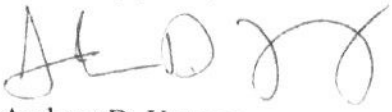
cause a significant environmental impact, ***the agency must refute that claim to a certainty*** before finding that the exemption applies."[19]

The showing required to successfully challenge reliance on the common sense exemption is slight, which is consistent with fundamental CEQA principles mandating environmental review any time there is a "fair argument" that a significant environmental impact "could" result from a project.[20] As previously discussed, the removal of Adams Canyon from the SOI has the potential to result in significant environmental impacts. Therefore, LAFCO has not, and cannot, show with certainty that there is no possibility that its removal of Adams Canyon will cause significant environmental impacts. 32 (cont)

III. CONCLUSION

The Supreme Court explained the following in 1975 while ruling that LAFCO had an obligation to conduct CEQA review: "It is of course, too late to argue for a grudging, miserly reading of CEQA . . . the Legislature intended CEQA to be interpreted in such a manner as to afford the *fullest possible protection* to the environment within the reasonable scope of the statutory language."[21] Evidence has overwhelmingly established that removal of Adams Canyon from the SOI has the potential to cause significant environmental impacts, and the common sense exemption provides no basis to excuse CEQA review. LAFCO should comply with its obligations under CEQA and refrain from removing Adams Canyon from the SOI without first completing a legally adequate environmental review. 33

Very truly yours,



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Carmen Ramirez, Alternate Commissioner, Ventura LAFCO

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[19] *Id.* at 118 (emphasis added).

[20] *See id.* at 117; *see also City of Livermore v. LAFCO of Alameda County*, 184 Cal. App. 3d 531, 539, 541 (1986)(CEQA review required for revisions to sphere of influence guidelines because spheres of influence "unquestionably have an ultimate impact on the environment" as they influence decisions "about development plans and future growth of cities and service areas.").

[21] *Bozung*, 13 Cal. 3d at 274 (original emphasis) (internal citations omitted).

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File No. 049217-0004

May 15, 2015

VIA HAND DELIVERY AND EMAIL

Commissioners of the Ventura County LAFCO
Attn: Lou Cunningham, Chair
County Government Center
Hall of Administration, 4th Floor
800 S. Victoria Avenue
Ventura, CA 93009-1850

Re: LAFCO Must Complete a Municipal Services Review Before It Can Update the Sphere of Influence

Dear Commissioners Parks, Zaragoza, Parvin, Morehouse, Dandy, Freeman and Cunningham:

As you know, we represent RE FUTURE, LLC, a California limited liability company and the owner of more than 4,700 acres in the Adams Canyon area of the City of Santa Paula's ("City") sphere of influence ("SOI"). This letter is sent with regard to the May 20, 2015 meeting of the Commissioners of the Ventura County Local Agency Formation Commission ("LAFCO"), at which we understand LAFCO may consider an update to the City's SOI.

We submitted written comments for the record and made an appearance at the March 20, 2013 LAFCO meeting, which also considered an update to the City's SOI and resulted in no change thereto. We are concerned, as we were in 2013, that removing Adams Canyon from the City's SOI would violate procedures with which LAFCO must comply. In this instance, LAFCO has not completed a Municipal Service Review ("MSR") required by Government Code section 56430 prior to LAFCO updating a SOI. 34

We further understand that LAFCO may continue any consideration of the SOI to a later date. Because neither we, other area developers, or the City[1] expected the SOI update to be scheduled so soon after the last consideration of the SOI, and because LAFCO has not followed the proper procedures to update the SOI, we encourage LAFCO to continue this matter until the

[1] Attached hereto as Attachment A is a letter from John T. Procter, Mayor, City of Santa Paula, to Kai Luoma, LAFCO Executive Officer, dated May 5, 2015.

interested parties have had an opportunity to address issues pertinent to the update and until LAFCO has met the procedural requirements incumbent upon it. 34 (cont)

I. STATE LAW REQUIRES LAFCO TO COMPLETE AN MSR BEFORE UPDATING THE SOI

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "CKH Act") requires LAFCO to review and update SOIs not less than once every five years.[2] The CKH Act also requires that LAFCO complete a MSR *before* and *in order to* update a SOI.[3] As part of the MSR, LAFCO must prepare a written statement that considers and analyzes the following:

(1) Growth and population projections for the affected area.

(2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

(3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.

(4) Financial ability of agencies to provide services. 35

(5) Status of, and opportunities for, shared facilities.

(6) Accountability for community service needs, including governmental structure and operational efficiencies.

(7) Any other matter related to effective or efficient service delivery, as required by commission policy.[4]

LAFCO must comprehensively review all of the agencies that provide the relevant services to or within the area, and it may assess various alternatives for improving the efficiency and affordability of infrastructure and service delivery within and contiguous to the SOI.[5]

Public review and comment are an important aspect of the MSR process.[6] The Governor's Office of Planning and Research ("OPR") recommends that LAFCO provide several

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[2] *See* Gov't Code § 56425(g).

[3] *See id.* at § 56430(a), (e).

[4] *See id.* at § 56430(a).

[5] *See id.* at § 56430(b).

[6] The Governor's Office of Planning and Research, *Local Agency Formation Commission Municipal Service Review Guidelines* state: "A major goal of the CKH Act amendments was to

opportunities for public comment throughout the process, including, at a minimum, public review after preparing a Draft MSR and before the hearing adopting a Final MSR.[7]

The OPR Guidelines also state that LAFCO should publish the Draft MSR and "provide for a 21-day public review period before scheduling the [MSR] report to be considered by LAFCO."[8] Further, "OPR recommends that the Final Municipal Service Review Report, at a minimum, be issued 21-days in advance of the hearing or public meeting at which determinations will be adopted/accepted."[9] 35 (cont)

II. LAFCO'S FAILURE TO COMPLETE A MSR IN ADVANCE OF THE MAY 20 MEETING PRECLUDES AN UPDATE TO THE SOI

LAFCO has not completed a MSR in advance of the May 20 meeting. LAFCO last prepared a MSR in 2012 in advance of the SOI update at the March 20, 2013 LAFCO meeting. That document is titled 2012 Municipal Service Review of Nine Ventura County Cities ("2012 MSR"). The 2012 MSR, however, is now outdated and is inadequate to inform decision-makers of the impacts of removing Adams Canyon from the SOI.

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Under the CKH Act, a LAFCO decision that is not supported by substantial evidence in the record will be set aside as a "prejudicial abuse of discretion."[10] In reaching a decision, a LAFCO must "adequately consider all relevant factors, and demonstrate a rational connection between those factors, the choice made, and the purposes of the enabling statute."[11] A LAFCO SOI update, therefore, that is not based on an adequate MSR—such as the 2012 MSR that does

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increase public participation in public service planning and delivery." Governor's Office of Planning and Research, *Local Agency Formation Commission Municipal Service Review Guidelines*, at 8 (Aug. 2003) ("*OPR Guidelines*"). "Consistent with that goal, public notice requirements for all LAFCO processes were strengthened or augmented." *Id.* The *OPR Guidelines* note that public participation in the process allows LAFCO to consider and incorporate public comments into the review process and final reports. *Id.* at 8.

[7] *See id.* at 8.

[8] *Id.* at 34.

[9] *Id.* at 44.

[10] Gov't Code § 56107(c).

[11] *McBail & Co. v. Solano County LAFCO*, 62 Cal. App. 4th 1223, 1228 (1998). For a description of the purposes of the enabling act, see Government Code section 56301: "Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities."

not reflect existing development, budgets, services, population, and other conditions—may be set aside.[12]

A. The 2012 MSR Is No Longer Viable Due to Changed Circumstances

Since the preparation of the 2012 MSR for the 2013 SOI update, circumstances have changed in the City rendering the 2012 MSR obsolete. An outdated MSR cannot provide substantial evidence on which LAFCO may base an SOI update. It is proper for LAFCO to study circumstances in the City before updating to the SOI to comply with its prerogative to make informed decisions under the CKH Act.[13] In addition, LAFCO must allow the public to comment on existing and projected future conditions in the City as part of the MSR process.[14] 36 (cont)

1. New Development Activity Was Not Included in the 2012 MSR

Since the 2012 MSR, several area developments have progressed. These changes are not reflected in the MSR, but they will impact municipal services. A MSR including analysis of these developments in their current state must precede any SOI update.

On February 17, 2015, the City approved the East Area 1 Specific Plan Amendment and certified its Final Supplemental Environmental Impact Report ("SEIR"),[15] which was published in January 2015.[16] East Area 1 will be developed in four phases over a ten-year period. The area will include 1,500 residential units and 240,000 square feet of light industrial and commercial uses. Although basic utilities exist on-site, such as water and sewer, the utilities are limited and further infrastructure development will be necessary. The East Area 1 Specific Plan states that (1) on-site water distribution lines, sewer mains, and storm water collection systems will need to be completed; (2) storm drain detention facilities to mitigate the increase of developed condition peak flow over the undeveloped peak flow will need to be constructed; and (3) underground utilities will need to be installed. According to the Specific Plan, development of East Area 1 would implement the General Plan's goals by establishing land use designations, traffic circulation patterns, development policies, and infrastructure needs. 37

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[12] *See* Gov't Code § 56107(c); *Bd. of Supervisors v. Local Agency Formation Com.*, 3 Cal. 4th 903, 912 (1992) ("[I]f the commission abuses its discretion by making a determination not supported by substantial evidence in light of the whole record, the courts may invalidate its decision.").

[13] *See McBail & Co.*, 62 Cal. App. 4th at 1228.

[14] *See OPR Guidelines*, at 8, 34, 44; Gov't Code § 56427.

[15] Meeting Minutes, Special Joint Meeting of the City Council and Planning Commission, City of Santa Paula (Feb. 17, 2015).

[16] East Area 1 Specific Plan Amendment Supplemental Environmental Impact Report, State Clearinghouse No. 2006071134 (Jan. 2015).

Also, the Final Environmental Impact Report ("EIR") for the East Area Gateway was published in January 2013.[17] LAFCO approved annexation of the area on May 15, 2013.[18] The East Area Gateway project will not include residential units, but proposes 300,000 to 350,000 square feet of commercial, limited office, and limited industrial space. Infrastructure will need to be extended into this project to accommodate development because basic utilities exist only in adjacent locations. The Specific Plan, which was published in September 2012, notes that development of the project will occur "within the next five years."

Last month, the Anderson-Hagaman project, which includes annexation of part of Adams Canyon, was approved by the City Planning Commission. The Anderson-Hagaman project would result in a 79 lot single family hillside residential subdivision. Because of its location at the base of Adams Canyon, it would result in the extension of infrastructure toward Adams Canyon. 37 (cont)

These project approvals, and other approvals for projects in the City since 2012, are not reflected in the 2012 MSR. Because it lacks this information vital to analyzing municipal services, the 2012 MSR cannot fulfill LAFCO's obligation to prepare a MSR in advance of the SOI update that may be considered at its May 20, 2015 meeting.

2. Current Drought Conditions Are Not Reflected in the 2012 MSR

California is currently experiencing severe drought conditions. On April 1, 2015, Governor Jerry Brown issued Executive Order B-29-15 outlining drought response actions.[19]

The 2012 MSR does not include information regarding the current drought or drought response actions. Because the City relies exclusively on groundwater, the drought could threaten the quantity and quality of the City's water supply. On the other hand, drought response measures may result in decreased usage not reflected in the 2012 MSR. The 2012 MSR notes fluctuation in water usage based on a previous drought, which further indicates that current information is necessary for LAFCO to make an informed decision regarding a SOI update at this time. 38

In addition, because the 2012 MSR projects future potable water demand by multiplying an estimated per capita figure for water usage by the projected population growth, a slight fluctuation in that per capita figure can have a multiplier effect to more substantially shift the future projections one way or another. The 2012 MSR rejected the City's 2010 water demand rates and, instead, relied on a 10 year average. Water usage in years since completion of the 2012 MSR would factor into that 10 year average, and could even affect the method of calculation selected in an updated MSR.

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[17] East Gateway Project Final Environmental Impact Report, State Clearinghouse No. 2011071068 (Jan. 2013).

[18] Meeting Minutes, Ventura LAFCO (May 15, 2013).

[19] Executive Order B-29-15 (Apr. 1, 2015), *available at* http://gov.ca.gov/docs/4.1.15_Executive_Order.pdf.

Uncertainty regarding impacts of the current drought exemplifies the need for further study before LAFCO undertakes a SOI update. While threats to water supply may indicate strain on municipal services, decreased demand may offset or exceed any decreases or impacts to the water supply. Only by studying the impacts can LAFCO make an informed decision regarding the SOI. This principle underlies the requirement that LAFCO complete a MSR prior to a SOI update. 38 (cont)

3. Changes to the City's Budget Are Not Reflected in the 2012 MSR

The 2012 MSR describes the City's revenue and expenditures for fiscal years 2009-10 through 2012-13 and depicts the number of funded positions for various departments, such as police and fire. Also, the 2012 MSR notes that the City has faced challenges from substantial decreases in revenue.

The City's fiscal year 2014-15 budget shows important changes not reflected in the 2012 MSR. Notably, the 2012 MSR shows that the adopted budget for fiscal year 2012-13 totaled $30.5 million. Budget appropriations in the fiscal year 2014-15 budget total $34.6 million—a 13 percent increase over the fiscal year 2012-13 budget.[20] General fund appropriations also increased from $11,207,400 to $12,825,830 (14% increase) during that time. Further, between fiscal year 2012-13 and fiscal year 2014-15, general fund appropriations for fire increased from $2,128,625 to $2,573,770 (21% increase), and general fund appropriations for police increased from $4,661,067 to $5,230,149 (12% increase).

Non-general fund appropriations also differed between the fiscal year 2012-13 budget and the fiscal year 2014-15 budget. For example, non-general fund appropriations for fire increased more than ten-fold from $16,340 to $220,965. Non-general fund appropriations for the community services, on the other hand, decreased from $696,042 to $277,782 between fiscal year 2012-13 and fiscal year 2014-15 (60% decrease). 39

As noted above related to water demand, a small change in current figures can have a multiplier effect to more substantially shift the future projections one way or another, such as the number of police or fire personnel that would be necessary to maintain the City's current firefighter per capita or police officer per capital ratio when the City reaches its projected growth figures. For example, the number of funded sworn police officers increased from 38 to 40 between fiscal year 2012-13 and fiscal year 2014-15. This increase impacts the per capita ratio of police officers, which in turn, impacts that number of sworn police officers that will be needed to maintain that ratio when the City's population expands to future growth areas. In addition, the fiscal year 2014-15 budget funds 20 fire personnel, which is a 33 percent increase over the 15 fire personnel funded by the fiscal year 2012-13 budget.

These budgetary changes are not reflected in the 2012 MSR, rendering it inadequate to inform LAFCO decision-makers regarding a SOI update.

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[20] City of Santa Paula Adopted Budget for Fiscal Year 2014-15, *available at* http://www.ci.santa-paula.ca.us/budget/FY2014-15_ADOPTED_BUDGET.pdf.

4. New Plans and Policies Are Not Reflected in the 2012 MSR

Updated plans and policies have been implemented since the 2012 MSR that affect land use planning, thus also impacting municipal services. For example, the City published its 2013-2021 Housing Element in August 2013, which was not reflected in the 2012 MSR.[21] The Housing Element addresses infrastructure constraints, including water and wastewater services, as well as other issues, such as parks, that are also discussed in the 2012 MSR. The 2013-2021 Housing Element also provides a residential land inventory and notes that development of the SOI, including Adams Canyon, was assumed in the Ventura County Regional Housing Needs Assessment, which was adopted by the Southern California Association of Governments ("SCAG").[22] 40

SB 375, the Sustainable Communities and Climate Protection Act of 2008, requires regional associations of government, such as SCAG, to integrate their transportation and land use planning as a tool to reduce greenhouse gas emissions by limiting vehicle miles traveled. Pursuant to this statute, SCAG adopted its Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS") in April 2012.[23] The RTP/SCS notes that it "provides a blueprint for improving quality of life for our residents by providing more choices for where they will live, work, and play, and how they will move around."[24] In addition, SCAG is undertaking an update to its RTP/SCS, which is expected to be considered at the SCAG General Assembly meeting in May 2016. These policies will have a significant impact on planning and development, which in turn, will affect municipal services. Discussion of the RTP/SCS is not included in the 2012 MSR, thus demonstrating the need for LAFCO to complete a new MSR before considering a SOI update. 41

5. Information Not Provided in the 2012 MSR Must Be Updated in a New MSR Before LAFCO Can Update the SOI

The 2012 MSR omits information about facilities or programs that have been recently implemented or were still being developed at that time. For example, the 2012 MSR notes that solid waste collection and disposal was privatized in 2011. There is no information regarding the effectiveness of this change or whether any City supplementation of services had been required. With the passage of time since the 2012 MSR, a new MSR could evaluate the impacts of this privatization on municipal services. 42

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[21] City of Santa Paula 2013-2021 Housing Element (Aug. 2013), *available at* http://www.ci.santa-paula.ca.us/planning/Housing%20Element_2013-2021.pdf.

[22] *Id.* at B-1.

[23] Regional Transportation Plan/Sustainable Communities Strategy 2012-2035, Southern California Association of Governments (Apr. 2012, *available at* http://rtpscs.scag.ca.gov/Documents/2012/final/f2012RTPSCS.pdf]

[24] *Id.* at 1.

In addition, the City Water Recycling Facility had only recently been completed when the 2012 MSR was prepared. The 2012 MSR notes that the "City Water Recycling Facility is *anticipated* to supply up to 400 acre feet of recycled water" by 2015.[25] A new MSR could evaluate the effectiveness of the City Water Recycling Facility and better inform decision-makers regarding the City's water services, which will be an important element of any SOI update. 42

B. The 2012 MSR Provides Inadequate Analysis of Adams Canyon

As a threshold matter, the 2012 MSR lacks objectivity because LAFCO staff had previously been instructed to initiate procedures to remove Adams Canyon from the SOI, and any conclusion regarding Adams Canyon was made to facilitate this pre-determination. In 2011, LAFCO approved Resolution 10-12S resulting in the annexation of East Area 1. This decision also directed staff to undertake the procedures necessary to remove Adams Canyon from the SOI. The language of the Resolution was clear and unequivocal that the removal decision was made at that time. Because annexation of East Area 1 would cause the conversion of prime agricultural land, its annexation would violate the Ventura LAFCO Commissioner's Handbook section 4.3.2.1 unless no non-prime agricultural land was available for development. Since Adams Canyon contains non-prime agricultural land available for development, LAFCO caused it to appear "unavailable" by initiating removal procedures. 43

The 2012 MSR was designed to facilitate LAFCO's 2011 order to initiate removal procedures for Adams Canyon. Because the conclusion that Adams Canyon should be removed from the SOI was pre-ordained, the 2012 MSR provides no sound basis to support removal. In addition, the 2012 MSR's analysis is unsupported for the reasons described in the following sections.

1. Any Contention Regarding the Adequacy of Services to Adams Canyon Would Not Be Supported by Substantial Evidence from the 2012 MSR

As noted in the Staff Report for LAFCO's March 20, 2013 meeting ("March 2013 Staff Report"), the information necessary for evaluating the capacity of public services and facilities in Adams Canyon is not available in the 2012 MSR.[26] Consequently, any determination regarding the adequacy of services based on the 2012 MSR would be conclusory and not supported by substance evidence. 44

Moreover, any conclusion that Adams Canyon lacks adequate services would be directly contradicted by LAFCO's prior findings. In its approval of the SOI in 2000, LAFCO made specific findings supporting the City's provision of public services to Adams Canyon. The February 2, 2000 resolution approving the amendment to the SOI concludes at Finding 3: "The 45

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[25] 2012 MSR, at 109 (emphasis added).

[26] LAFCO Staff Report, Kai Luoma, Deputy Executive Officer, Agenda Item No. 8, LAFCo 13-02S City of Santa Paula Sphere of Influence Review, at 19 (March 20, 2013).

City has demonstrated that it is the logical provider of public facilities and services for the affected territories if they are urbanized and it can provide them for Adams Canyon, Fagan Canyon, East Area 2, and West Area 2 through its land use and police powers;" and at Finding 4: "The affected territory will require public facilities and services to be provided by the city if the property is annexed and developed. The City has demonstrated that it can provide the necessary public facilities and services for Adams Canyon, Fagan Canyon, East Area 2, and West Area 2 in the event they are urbanized. The information provided on the specific issues requested by the Commission in the Santa Paula White Paper Report on the Sphere of Influence, together with other evidence submitted by the city demonstrates this." LAFCO cannot make a finding now that directly conflicts with its prior findings without, at minimum, identifying the conflict and providing an evidentiary basis for changing its decision. The 2012 MSR fails to provide substantial evidence to support a drastic change in LAFCO's findings. 45

Since the Commission's findings in 2000, the City has upgraded its services in anticipation of development in Adams Canyon. For example, the Wastewater System Master Plan recommends capacity improvements for Adams Canyon, Fagan Canyon, and East Area One.[27] In addition, the City constructed a new Water Recycling Facility that began operations in 2010. One of the purposes for the new facility is to provide the capacity to serve new development, such as Adams Canyon. Thus, the City's ability to provide services now is even more apparent than when LAFCO issued its 2000 findings, emphasizing the need for an updated MSR reflecting this new information. 46

2. The 2012 MSR's Consideration of Disadvantaged Unincorporated Communities Is Cursory and Conclusory

The MSR's discussion of disadvantaged unincorporated communities ("DUC") is cursory and conclusory. It simply states that no DUCs are within or contiguous to the City or the SOI. The 2012 MSR does not disclose whether there are any unincorporated communities within or contiguous to the City or the SOI or the reasons why any such communities are not classified as DUCs. 47

III. CONCLUSION

For the foregoing reasons, LAFCO must complete a new MSR before undertaking a SOI update. The 2012 MSR was prepared for a previous SOI update and fails to reflect existing conditions. Further, a new MSR will provide the public an opportunity to comment on the existing state of municipal services and allow for more informed decision-making. Only after completing a study, providing a public input period, and approving a new MSR may LAFCO undertake a SOI update. Any attempt to update the SOI prior to completion of a new MSR would be set aside as a violation of the CKH Act. 48

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[27] City of Santa Paula Wastewater System Master Plan, at 5 (June 2012).

Very truly yours,

Andrew D. Yancey
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LAFCo 15-08S

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING THE UPDATE OF THE SPHERE OF INFLUENCE FOR THE CITY OF SANTA PAULA

WHEREAS, Government Code Section 56425 et seq. requires the Local Agency Formation Commission (LAFCo or Commission) to develop and determine the sphere of influence of each local governmental agency within the County in order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities; and

WHEREAS, LAFCo accepted a municipal service review of the services provided by the City of Santa Paula (City) and adopted written determinations as required by Government Code Section 56430 on November 14, 2012 for the services provided by the City; and

WHEREAS, no change in regulation, land use, or development will occur as a result of updating the City's sphere of influence; and

WHEREAS, at the times and in the manner required by law, the Executive Officer gave notice of the consideration of this action by the Commission; and

WHEREAS, the sphere of influence update action was duly considered at a public hearing on September 16, 2015; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony for and against the sphere of influence update including, but not limited to, testimony at the public hearing on September 16, 2015 and the LAFCo Staff Report;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:

(1) The Staff Report and Option 2 of the recommendations for approval of the sphere of influence update for the City of Santa Paula, dated September 16, 2015, are adopted.

(2) The Commission has considered the criteria set forth in Government Code §56425(e) and determines as follows:

a) *The present and planned land uses in the area, including agricultural and open-space lands.*

- Most of the subject area is comprised of undeveloped land designated as Open Space by the County General Plan. Several hundred acres are planted with orchards and designated Agricultural by the County General Plan.
- The City is currently processing a development application for 79 residential units on the 32-acre "Peck/Foothill Property", as depicted on Exhibit A. The approximately 100-

acre area depicted as "Other Area" on Exhibit A has been designated by the City General Plan for "Hillside Residential". As such, the probable uses for these areas have been identified and adequate information exists to determine their probable service needs.

- The City General Plan does not identify the location or extent of any planned land use designations within the approximately 10.3-square-mile Adams Canyon Expansion Area as depicted on Exhibit A.
- There will be no change in land use, no change in land use authority, and no impact to agricultural and open space lands as a result of the sphere of influence update.

b) *The present and probable need for public facilities and services in the area.*

- Because the area is comprised of undeveloped open space and agricultural uses, there is no present need for public facilities and services in the area.
- The County's Agricultural and Open Space General Plan and zoning designations will allow for the existing uses to continue, thus there is no probable need for public facilities and services in the area.
- No City-adopted comprehensive land use/infrastructure plan currently exists for the area and no applications for entitlements to develop the area are currently in process with the City. Therefore, the probable level of urban services needed in the Adams Canyon Expansion Area is unknown at this time.

c) *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

- The City's current General Plan does not include many of the basic requirements of a General Plan for the Adams Canyon Expansion Area. Information is not available to determine if the City's public facilities and services are adequate for future development within the Expansion Area because the location, extent, and service needs of future development have not been identified or analyzed.

d) *The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

- Staff is not aware of any social or economic communities of interest within or adjacent to the current sphere of influence.

e) *The present and probable need for City sewer, municipal and industrial water, or structural fire protection services for any disadvantaged unincorporated communities within the existing sphere of influence.*

- As defined by Section 56033.5 of the Government Code, a "Disadvantaged Unincorporated Community" (DUC) is an unincorporated community with an annual median household income that is less than 80 percent of the statewide annual median household income. There are no DUCs within or contiguous to the City sphere of influence.

(3) The sphere of influence for the City of Santa Paula is hereby updated to exclude most of the area known as the "Adams Canyon Expansion Area", consistent with Option 2 discussed in the Staff Report, as generally depicted on Exhibit A attached hereto.

(4) The Commission directs staff to have the official sphere of influence geographic information system data maintained for the Ventura LAFCo by the Ventura County Information Technology Services Department as the official sphere of influence record for the City of Santa Paula updated consistent with this action.

(5) In accordance with the Executive Officer's determination, the Commission, as lead agency for the purposes of the California Environmental Quality Act (CEQA), hereby determines that the sphere of influence update for the City of Santa Paula is exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.

(6) The Commission directs staff to file a Notice of Exemption as lead agency under Section 15062 of the CEQA Guidelines.

This resolution was adopted on September 16, 2015.

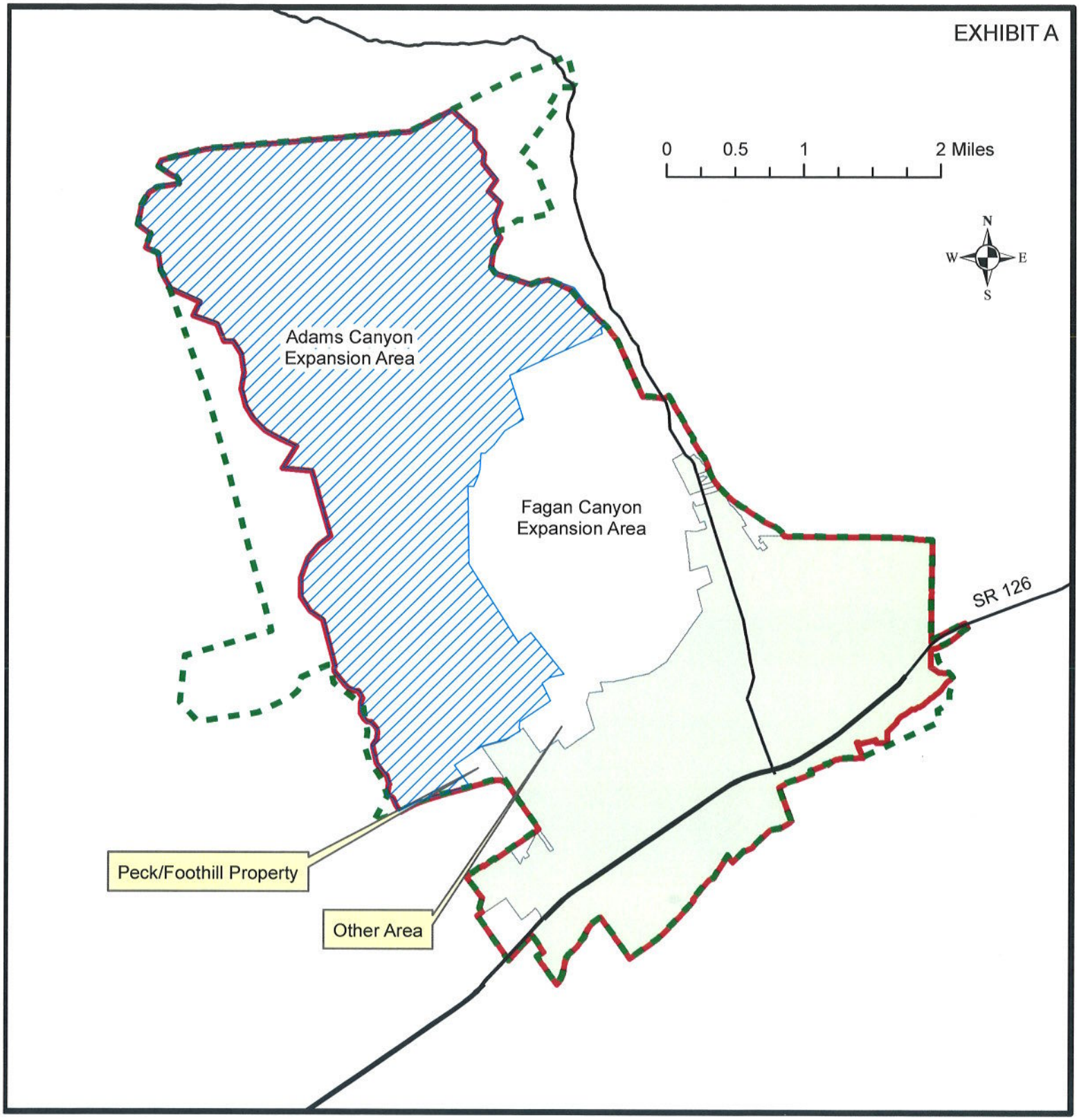
	AYE	NO	ABSTAIN	ABSENT
Commissioner Cunningham	☐	☐	☐	☐
Commissioner Dandy	☐	☐	☐	☐
Commissioner Freeman	☐	☐	☐	☐
Commissioner Morehouse	☐	☐	☐	☐
Commissioner Parks	☐	☐	☐	☐
Commissioner Parvin	☐	☐	☐	☐
Commissioner Zaragoza	☐	☐	☐	☐
Alt. Commissioner Bennett	☐	☐	☐	☐
Alt. Commissioner Ramirez	☐	☐	☐	☐
Alt. Commissioner Rooney	☐	☐	☐	☐
Alt. Commissioner Ross	☐	☐	☐	☐

_____ _____

Date **Lou Cunningham, Chair, Ventura Local Agency Formation Commission**

Attachments: Exhibit A

Copies: City of Santa Paula
Ventura County Surveyor
Ventura County Geographic Information Systems Officer
Ventura County Planning Department



LAFCo 15-08S
City of Santa Paula
Sphere of Influence Review/Update
OPTION 2

Legend

- City of Santa Paula
- City Sphere - Existing
- CURB Line
- Area to be Removed from Sphere

LAFCo 15-08S

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING THE UPDATE OF THE SPHERE OF INFLUENCE FOR THE CITY OF SANTA PAULA

WHEREAS, Government Code Section 56425 et seq. requires the Local Agency Formation Commission (LAFCo or Commission) to develop and determine the sphere of influence of each local governmental agency within the County in order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities; and

WHEREAS, LAFCo accepted a municipal service review of the services provided by the City of Santa Paula (City) and adopted written determinations as required by Government Code Section 56430 on November 14, 2012 for the services provided by the City; and

WHEREAS, no change in regulation, land use, or development will occur as a result of updating the City's sphere of influence; and

WHEREAS, at the times and in the manner required by law, the Executive Officer gave notice of the consideration of this action by the Commission; and

WHEREAS, the sphere of influence update action was duly considered at a public hearing on September 16, 2015; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony for and against the sphere of influence update including, but not limited to, testimony at the public hearing on September 16, 2015 and the LAFCo Staff Report;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:

(1) The Staff Report and Option 3 of the recommendations for approval of the sphere of influence update for the City of Santa Paula, dated September 16, 2015, are adopted.

(2) The Commission has considered the criteria set forth in Government Code §56425(e) and determines as follows:

a) *The present and planned land uses in the area, including agricultural and open-space lands.*

- Most of the subject area is comprised of undeveloped land designated as Open Space by the County General Plan. Several hundred acres are planted with orchards and designated Agriculture by the County General Plan.
- The City is currently processing a development application for 79 residential units on the 32-acre "Peck/Foothill Property", as depicted on Exhibit A. The approximately 100-acre area depicted as "Other Area" on Exhibit A has been designated by the City General Plan for "Hillside Residential". As such, the probable uses for these areas have been identified and adequate information exists to determine their probable service needs.
- The City General Plan does not identify the location or extent of any planned land use designations within the approximately 13.7 square miles contained within the Adams Canyon Expansion Area and the Fagan Canyon Expansion Area, as depicted on Exhibit A.
- There will be no change in land use, no change in land use authority, and no impact to agricultural and open space lands as a result of the sphere of influence update.

b) *The present and probable need for public facilities and services in the area.*

- Because the area is comprised of undeveloped open space and agricultural uses, there is no present need for public facilities and services in the area.
- The County's Agricultural and Open Space General Plan and zoning designations will allow for the existing uses to continue, thus there is no probable need for public facilities and services in the area.
- No City-adopted comprehensive land use/infrastructure plan currently exists for the area and no applications for entitlements to develop the area are currently in process with the City. Therefore, the probable level of urban services needed in the Adams Canyon and Fagan Canyon Expansion Areas is unknown at this time.

c) *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

- The City's current General Plan does not include many of the basic requirements of a General Plan for the Adams Canyon and Fagan Canyon Expansion Areas. Information is not available to determine if the City's public facilities and services are adequate for future development within the Expansion Areas because the location, extent, and service needs of future development have not been identified or analyzed.

d) *The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

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(3) The sphere of influence for the City of Santa Paula is hereby updated to exclude most of the area known as the "Adams Canyon Expansion Area" and all of the area known as the "Fagan Canyon Expansion Area", consistent with Option 3 discussed in the Staff Report, as generally depicted on Exhibit A attached hereto.

(4) The Commission directs staff to have the official sphere of influence geographic information system data maintained for the Ventura LAFCo by the Ventura County Information Technology Services Department as the official sphere of influence record for the City of Santa Paula updated consistent with this action.

(5) In accordance with the Executive Officer's determination, the Commission, as lead agency for the purposes of the California Environmental Quality Act (CEQA), hereby determines that the sphere of influence update for the City of Santa Paula is exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.

(6) The Commission directs staff to file a Notice of Exemption as lead agency under Section 15062 of the CEQA Guidelines.

This resolution was adopted on September 16, 2015.

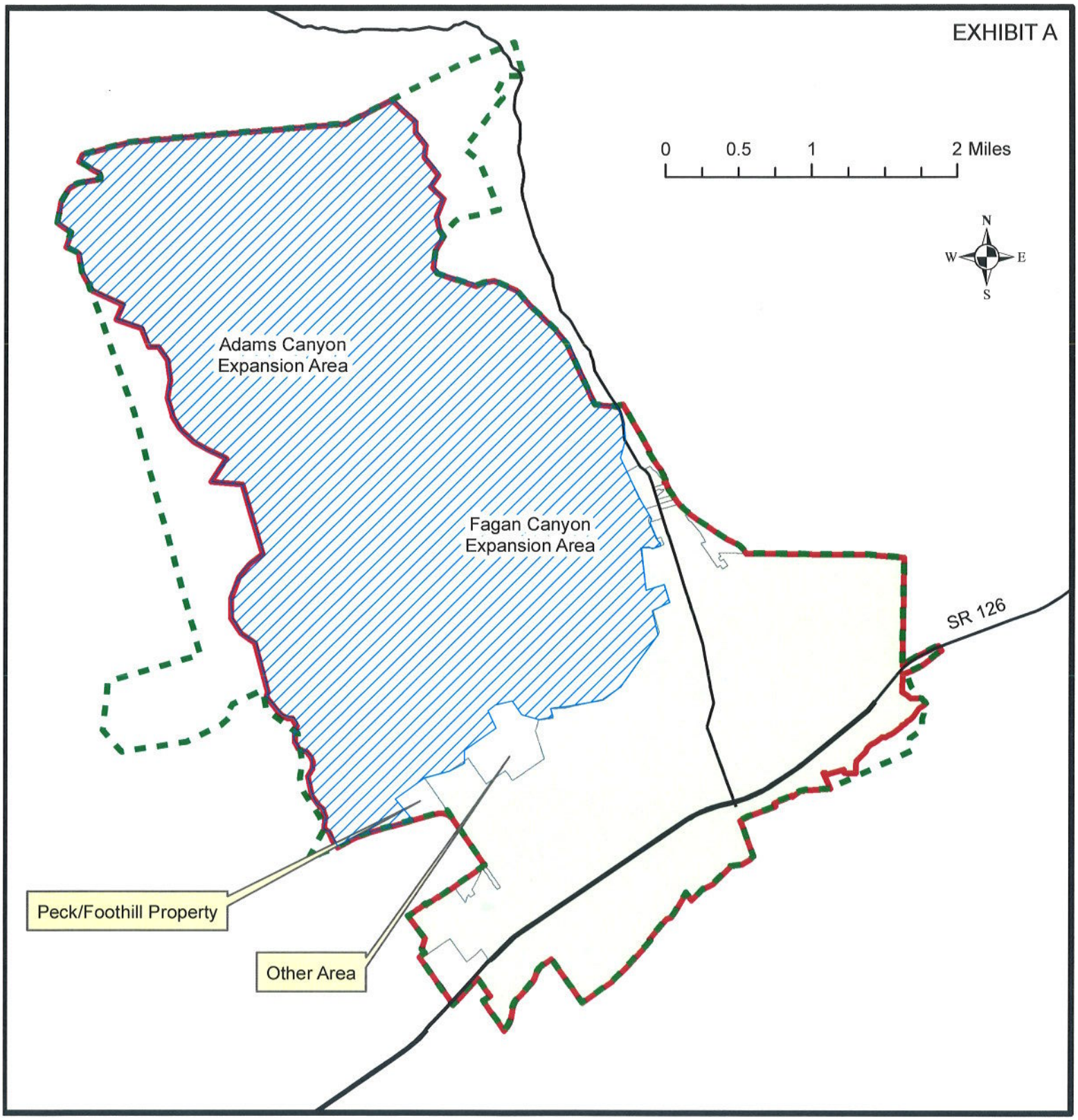
	AYE	NO	ABSTAIN	ABSENT
Commissioner Cunningham	☐	☐	☐	☐
Commissioner Dandy	☐	☐	☐	☐
Commissioner Freeman	☐	☐	☐	☐
Commissioner Morehouse	☐	☐	☐	☐
Commissioner Parks	☐	☐	☐	☐
Commissioner Parvin	☐	☐	☐	☐
Commissioner Zaragoza	☐	☐	☐	☐
Alt. Commissioner Bennett	☐	☐	☐	☐
Alt. Commissioner Ramirez	☐	☐	☐	☐
Alt. Commissioner Rooney	☐	☐	☐	☐
Alt. Commissioner Ross	☐	☐	☐	☐

_____ _____

Date **Lou Cunningham, Chair, Ventura Local Agency Formation Commission**

Attachments: Exhibit A

Copies: City of Santa Paula
Ventura County Surveyor
Ventura County Geographic Information Systems Officer
Ventura County Planning Department



LAFCo 15-08S
City of Santa Paula
Sphere of Influence Review/Update
OPTION 3

Legend

- City of Santa Paula
- City Sphere - Existing
- CURB Line
- Area to be Removed from Sphere