



Board Agenda Item 47

DATE: September 21, 2021

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: First Amendment to Amended and Restated Memorandum of Understanding
between County of Fresno and City of Firebaugh

RECOMMENDED ACTION(S):

1. **Approve and authorize the Chairman to execute the First Amendment to the Amended and Restated Memorandum of Understanding No. 11-112 between the County of Fresno and City of Firebaugh regarding the addition of 141.25 acres of additional growth area to the City's Sphere of Influence, generally located on the west and east sides of N. Washoe Avenue between W. Bullard and W. Nees Avenues; and**
2. **Determine that the City's proposed 38.40-acre annexation, located within the future growth area identified in Recommended Action No. 1, between N. Washoe Avenue and N. Santa Fe Avenue, is consistent with the Standards for Annexation contained in the Amended and Restated Memorandum of Understanding; and**
3. **Determine that the approval and authorization of the Chairman to execute First Amendment to the Amended and Restated Memorandum of Understanding No. 11-112 between the County of Fresno and City of Firebaugh is exempt from the requirements of the California Environmental Quality Act, Public Resources Code 21000, et seq., and direct staff to file a Notice of Exemption with the Office of the Fresno County Clerk.**

Approval of the recommended actions would facilitate expansion of the City of Firebaugh's Sphere (City) of Influence (SOI) and annexation of 38.40 acres necessary to accommodate proposed cannabis land use, which the County currently prohibits in the unincorporated area. This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

Your Board may determine not to approve the First Amendment to the Memorandum of Understanding (MOU) between the City and the County. By not approving Recommended Action No. 1, the City may determine to proceed to the Local Agency Formation Commission (LAFCo), who is responsible for considering and acting upon SOI adjustment requests. In addition, the City will not be able to proceed with the annexation referenced in Recommended Action No. 2, without first proceeding to LAFCo for the SOI adjustment. While LAFCo may approve a SOI adjustment request, annexation may not occur until there is a valid Property Tax Sharing Agreement in place between the City and County.

FISCAL IMPACT:

There is no additional Net County Cost associated with the recommended actions. Sufficient appropriations

and estimated revenues are included in the FY 2020-21 Adopted Budget for Public Works and Planning Org 43600200. The amended Tax-Sharing Agreement does not modify existing property and sales tax sharing provisions contained in the existing MOU between the County and the City.

DISCUSSION:

On March 22, 2011, the Board approved and executed an Amended and Restated MOU with the City addressing land use and revenue sharing.

On July 10, 2021, the City notified the County of its intention to expand its SOI by approximately 141.25 acres of unincorporated area generally located on the west and east side of N. Washoe Avenue between W. Bullard and W. Nees Avenues (See Exhibit "A"). In its notification (See Exhibit B), the City indicates that the proposed SOI expansion and associated annexation are to accommodate a commercial cannabis business. The City's letter notes that this type of use is not permitted in the unincorporated area of Fresno County. Staff also acknowledges that cannabis or marijuana uses, whether medical or recreational are currently unlawful in the unincorporated area of Fresno County, except as provided by State law. As it relates to the annexation, the City indicates that the parcels proposed to be annexed are developed with agriculturally related structures that required urban services and therefore the proposed annexation meets the substantially developed definition pursuant to the Standards for Annexation contained in the MOU. Staff reviewed the City's information and determined the proposed annexation to be consistent with the MOU.

The subject 141.25-acre area is designated Agriculture in the Fresno County General Plan and is zoned AL-20 (Limited Agriculture, 20-acre minimum parcel size). Surrounding parcel sizes range in area from less than one acre to 474 acres. Based on the adopted Firebaugh General Plan, the annexation area is designated Urban Reserve. If the recommended actions are approved, the City intends to file a SOI adjustment and annexation application with the LAFCo, who is responsible for considering and acting upon SOI adjustment and annexation requests.

California Environmental Quality Act

The proposed amendment to the MOU is exempt under Sections 15061(b)(3) and 15378, subdivisions (b) (2), (b)(4), and (b)(5) of the California Environmental Quality Act (CEQA) Guidelines.

OTHER REVIEWING AGENCIES:

The First Amendment to the MOU between the County of Fresno and City was prepared and coordinated between City and County staff. The Firebaugh City Council considered and approved the Amendment at a public hearing on August 16, 2021.

REFERENCE MATERIAL:

BAI #37, March 22, 2011

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A - Location Map

Exhibit B - City Letter

On file with Clerk - MOU Amendment with City of Firebaugh

CAO ANALYST:

Ron Alexander