



# TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church Street, Suite B, Visalia 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

## LAFCO MEETING AGENDA June 7, 2023 @ 2:00 P.M. BOARD OF SUPERVISORS CHAMBERS COUNTY ADMINISTRATIVE BUILDING 2800 West Burrel Avenue Visalia, CA 93291

COMMISSIONERS:  
Dennis Townsend, Chair  
Richard Feder, V. Chair  
Liz Wynn  
Pete Vander Poel  
Maribel Reynosa

ALTERNATES:  
Larry Micari  
Fred Sheriff  
Steve Harrell

EXECUTIVE OFFICER:  
Ben Giuliani

Virtual Attendance for Members of the Public:  
Toll-free call-in: 888-475-4499 | Meeting ID: 876 2737 6776 | Passcode: 399803

- I. **Call to Order**
- II. **Approval of Minutes from April 6, 2023** (Pages 01 – 04)
- III. **Public Comment Period**  

At this time, members of the public may comment on any item not appearing on the agenda and that is within the scope of matters considered by the Commission. Under state law, matters presented under this item cannot be discussed or acted upon by the LAFCO Commission at this time. So that all interested parties have an opportunity to speak, any person addressing the Commission may be limited at the discretion of the chair. At all times, please use the microphone and state your name and address for the record.
- IV. **Consent Calendar**  
None
- V. **Action Items and Presentations**
  1. **2023/2024 Final Budget and Work Program** (Pages 05 – 22)  
[Public Hearing]..... Recommended Action: Approve  

Pursuant to GC 56381, the Commission must adopt a final budget and work program, for the following fiscal year, by June 15. At the April 5, 2023 meeting, the Commission decided to apply \$75,000 to offset the contribution from the County's eight cities and Tulare County. All expenditures and revenues are itemized on a single spreadsheet and the work program provides further detail on how these expenditures and revenues will be allotted during the fiscal year.

**NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.**  
**In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact LAFCO Staff at 559-623-0450. Documents related to the items on this Agenda submitted to the Board after distribution of the Agenda packet are available for public inspection at 210 N Church Ste. B Visalia CA 93291**

2. Cancellation of the July 5, 2023 Meeting (No Page)  
[No Public Hearing] ..... Recommended Action: Approve

There are no action items scheduled for the July 5, 2023 meeting if none are continued from the June meeting. If the Commission elects to cancel the July meeting, the next regularly scheduled meeting is August 2, 2023.

## **VI. Executive Officer's Report**

1. Legislative Update (Pages 23 – 34)  
Enclosed is the CALAFCO legislative report and the CALAFCO adopted legislative platform. No changes were made from last year's platform.
2. Upcoming Projects (No Page)  
The Executive Officer will provide a summary and tentative schedule of upcoming LAFCO projects.

## **VII. Correspondence**

1. State Water Board letters to Oroshi PUD and Cutler PUD (Pages 35 – 40)  
Enclosed are letters from the State Water Board that begin the water system consolidation process for Oroshi and Cutler PUDs.
2. Public Records Act request from the Leadership Counsel (Pages 41 – 62)  
Enclosed is a PRA request from the Leadership Counsel and background information from a past LAFCO case that was the focus of the request.

## **VII. Other Business**

1. Commissioner Report (No Page)
2. Request from LAFCO for items to be set for future agendas (No Page)

## **VIII. Setting Time and Place of Next Meeting**

1. July 5, 2023 or August 2, 2023 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building, 2800 W. Burrell Ave., Visalia, CA 93291.

## **IX. Adjournment**

**NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.**  
**In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact LAFCO Staff at 559-623-0450. Documents related to the items on this Agenda submitted to the Board after distribution of the Agenda packet are available for public inspection at 210 N Church Ste. B Visalia CA 93291**

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION  
2500 W. Burrel Avenue, Visalia, CA 93291  
Tulare County Human Resources and Development  
April 5, 2023 – Meeting Minutes**

**Members Present:** Vander Poel, Townsend, Feder, Mendoza, Wynn  
**Members Absent:**  
**Alternates Present:** Micari, Sheriff, Harrell  
**Alternates Absent:**  
**Staff Present:** Giuliani, Kane, and Aguilera recording.  
**Counsel Present:** Jeff Kuhn

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**I. Call to Order**

Chair Townsend called the meeting to order at 2:01 p.m.

**II. Approval of the March 1, 2023 Meeting Minutes**

Upon motion by Commissioner Mendoza and seconded by Commissioner Vander Poel, the Commission unanimously approved the LAFCO minutes.

**III. Public Comment Period**

Chair Townsend opened/closed the Public Comment Period at 2:02 p.m. No public comments received.

**IV. Consent Calendar:**

None

**V. Action Items:**

**1. Presentation by RMA- Status of East Orosi CSD/Orosi PUD**

The presentation was postponed to another date.

**2. Annexation to the City of Porterville and Detachment from Tulare County Service Area #1, Case 1571-P-325, Annexation 488 (Sierra Meadows Annexation)**

Staff Analyst Kane reported that the City of Porterville is requesting an annexation of approximately 20 acres of uninhabited land. The proposal is intended to facilitate the development of 80 single family residential units, including neighborhood pocket park. Analyst Kane noted that the Williamson Act contract was cancelled in November of 2022.

Chair Townsend opened the Public Hearing at 2:11 p.m. Jason Ridenour, City of Porterville, spoke in favor of the proposed annexation.

Upon motion by Commissioner Vander Poel and seconded by Commissioner Mendoza, the Commission unanimously approved the annexation to the City of Porterville and Detachment from County Service Area #1 as recommended.

**3. Commissioner Stipends**

Executive Officer Giuliani reported the results of a recent survey by CALAFCO and reviewed the various options regarding stipends.

After discussion amongst the Commission, upon motion by Commissioner Vander Poel and seconded by Commissioner Mendoza, the Commission unanimously

approved commissioner stipends in the amount of \$100 for public members and their alternates per meeting and conference attended.

**4. 2023/2024 Preliminary Budget and Work Program**

Staff Analyst Kane provided a detailed overview of the proposed budget and work program. The use of reserve funding was discussed and \$75,000 in reserve funding was recommended to be used to offset the contribution from the cities and county in the upcoming 2023/24 fiscal year to keep contribution levels similar to the prior fiscal year.

Chair Townsend opened/closed the Public Hearing at 2:27 PM. No public comments were received.

Upon motion of Commissioner Mendoza and seconded by Commissioner Feder, the Commission unanimously approved the proposed preliminary budget, adjusted to include commissioner stipends, with the carryover of \$75,000.

**5. Amendment to LAFCO Policy C-5 (Sphere of Influence)**

EO Giuliani discussed a draft amendment to LAFCO Policy C-5, which would amend the definitions of SOI amendments and SOI updates.

Upon motion by Commissioner Wynn and seconded by Commissioner Vander Poel. The Commission unanimously approved the amendment to LAFCO Policy C-5.

**6. Cancellation of May 3, 2023 Meeting**

Upon motion by Commissioner Wynn and seconded by Commissioner Feder, the Commissioner unanimously approved the cancellation of the meeting scheduled for May 3, 2023.

**VI. Executive Officer's Report**

**1. Extraterritorial Service Agreement**

EO Giuliani reported that an Extraterritorial Service Agreement between Tulare County and the City of Kingsburg was approved by the EO pursuant to LAFCO Policy C-6. The agreement permits the City of Kingsburg to provide domestic water service to existing development to one residence in Tulare County.

**2. Legislative Update**

EO Giuliani stated there were no legislative updates.

**3. Upcoming Projects**

EO Giuliani reviewed projects that would be presented at upcoming meetings such as annexations from cities and Municipal Services and SOI updates for various unincorporated communities.

**VII. Correspondence:**

None

**VIII. Other Business:**

**1. Commissioner Report:**

Commissioners Mendoza, Wynn, Feder and Townsend provided dates and times of local community events.

**2. Request from LAFCO for items to be set for future agendas:**

None

**IX. Setting Time and Place of Next Meeting:**

The next Local Agency Formation Commission (LAFCO) meeting is scheduled for **June 7, 2023, at 2:00 p.m.** in the Board of Supervisors Chambers in the County Administration Building, 2800 W. Burrell Ave., Visalia, CA 93291.

**X. Adjournment:**

The Tulare County LAFCO meeting adjourned at 2:42 p.m.

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# **TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 737-4246

**COMMISSIONERS:**

*Dennis Townsend, Chair  
Richard Feder, V-Chair  
Pete Vander Poel  
Liz Wynn  
Maribel Reynosa*

**ALTERNATES:**

*Larry Micari  
Fred Sheriff  
Steve Harrell*

**EXECUTIVE OFFICER:**

*Ben Giuliani*

June 7, 2023

TO: LAFCO Commissioners, Alternates, Counsel,  
FROM: Amie Kane, Staff Analyst  
SUBJECT: FY 2023/24 Final Budget and Work Program

Enclosed for your review are the Fiscal Year 2023/24 Final Budget and Work Program. LAFCO is required to adopt its final budget by June 15<sup>th</sup> of each year. At the April 5<sup>th</sup> meeting, LAFCO elected to use \$75,000 of reserve funds to help offset city and county contributions to the budget. Besides the \$75,000 offset and the stipends for public members, all other budget allocations are the same from the preliminary budget and work program to the final budget and work program. Listed below are the contributions amounts for FY 2023/24.

<i>Using \$75,000 offset</i>	<b>POPULATION (DOF 1/1/2022)</b>	<b>PERCENT OF POPULATION</b>	<b>PROPOSED 22/23 CONTRIBUTION</b>
CITY OF DINUBA	25,127	5.29%	\$9,515
CITY OF EXETER	10,257	2.16%	\$3,884
CITY OF FAMERSVILLE	10,239	2.16%	\$3,877
CITY OF LINDSAY	12,566	2.65%	\$4,758
CITY OF PORTERVILLE	62,345	13.12%	\$23,609
CITY OF TULARE	69,462	14.62%	\$26,304
CITY OF VISALIA	142,091	29.91%	\$53,806
CITY OF WOODLAKE	7,648	1.61%	\$2,896
COUNTY OF TULARE	135,279	28.48%	\$51,227

TOTAL 475,014 100.00% \$179,876

(+\$200 billing fee to  
County Auditor)

Attachments

1. FY 2023/2024 Final Budget (Org 794)
2. FY 2023/2024 Work Program
3. Resolution

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**  
**BUDGET ORG 794**

	<b>Object No.</b>	<b>Adopted Budget FY 22/23</b>	<b>As of 03/15/23</b>	<b>Projected Expenses FY 22/23</b>	<b>Proposed Budget FY 23/24</b>
<b>EXPENDITURES</b>					
<b>Services and Supplies</b>					
Board Director's Fees	6008	\$1,000	\$0	\$1,000	\$1,600
Memberships	7027	\$8,081	\$7,704	\$7,704	\$8,750
Office Expenses	7036	\$832	\$497	\$832	\$857
Professional and Specialized	7043	\$200	\$200	\$200	\$200
Publication - Public Hearing Notices	7059	\$2,040	\$1,532	\$2,040	\$3,850
Training	7073	\$3,355	\$5,215	\$5,215	\$4,200
Transportation and Travel	7074	\$5,865	\$3,857	\$3,857	\$6,040
<b>Total Services and Supplies</b>		<b>\$21,373</b>	<b>\$19,005</b>	<b>\$20,848</b>	<b>\$25,497</b>
<b>Other Charges</b>					
I/F Workers Compensation	7043	\$0	\$0	\$0	\$0
I/F Expenses - Property	7043	\$0	\$0	\$0	\$0
I/F Expenses - Special Liability Insurance	7043	\$3,417	\$3,403	\$3,403	\$2,819
I/F ADP Payroll	7036	\$276	\$0	\$276	\$271
Rent	7036	\$13,654	\$9,002	\$13,654	\$13,654
Alarm Services	7036	\$100	\$21	\$100	\$100
Telecom	7036	\$1,000	\$382	\$1,000	\$1,000
Utilities	7036	\$1,989	\$876	\$1,989	\$1,950
Custodial Services	7043	\$816	\$655	\$1,200	\$1,000
I/F RMA - Printing	7036	\$250	\$299	\$500	\$250
I/F RMA - Mail	7036	\$900	\$369	\$900	\$900
<b>Total Other Charges</b>		<b>\$22,402</b>	<b>\$15,008</b>	<b>\$23,022</b>	<b>\$21,944</b>
<b>Agency Charges</b>					
County Counsel Charges	7043	\$4,080	\$907	\$4,080	\$4,080
Services from Other Dpts.	7066	\$8,858	\$4,736	\$8,858	\$8,858
COWCAP Charges	7066	\$10,000	-\$12,569	-\$12,569	\$10,000
GIS Services	7043	\$5,000	\$0	\$5,000	\$6,000
Salaries	7066	\$209,538	\$73,809	\$175,000	\$199,566
<b>Total Agency Charges</b>		<b>\$237,476</b>	<b>\$66,883</b>	<b>\$180,369</b>	<b>\$228,504</b>
<b>Contingencies</b>					
	7432	\$28,125	\$0	\$0	\$27,595
<b>TOTAL EXPENDITURES</b>					
		<b>\$309,376</b>	<b>\$100,896</b>	<b>\$224,239</b>	<b>\$303,540</b>
<b>REVENUES</b>					
Other - Government Agency Contributions	5801	\$179,140	\$179,140	\$179,140	\$179,876
Planning and Engineering Services	5421	\$38,236	\$21,126	\$31,554	\$48,664
Prior Year Revenue Accruals Adjustment	5999				
<b>TOTAL REVENUES</b>		<b>\$217,376</b>	<b>\$200,266</b>	<b>\$210,694</b>	<b>\$228,540</b>
<b>NET COST</b>					
		<b>\$92,000</b>	<b>-\$99,370</b>	<b>\$13,545</b>	<b>\$75,000</b>

***TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION***

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2023/24  
LAFCO  
WORK PROGRAM

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Prepared by: Amie Kane  
Tulare County LAFCO  
210 N. Church St., Suite B  
Visalia, CA 93277  
Phone: (559) 623-0450  
Fax: (559) 733-6720

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## **Introduction**

### **Overview of LAFCO**

The Tulare County Local Agency Formation Commission (LAFCO) is responsible for coordinating logical and timely changes in local government boundaries, for conducting special studies which review ways to reorganize, simplify and streamline governmental structure, and for preparing Municipal Service Reviews and Spheres of Influence for each city and special district within Tulare County. The Commission's efforts are directed to seeing that services are provided efficiently and economically while agricultural and open-space lands are protected. LAFCO is independent of the government of Tulare County or any of the cities; however, funding to operate the agency is required to be provided by the county and the cities.

State law first established LAFCOs in each county in 1963. LAFCOs were given regulatory authority over local boundary changes. The agencies currently function under the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Government Code Section 56375 sets forth the powers and duties of the commission. It gives LAFCO the authority to "review and approve or disapprove with or without amendment, wholly, partially, or conditionally" proposals concerning the formation of cities and special districts, annexation or detachment of territory to cities and special districts, and other changes in jurisdiction or organization of local governmental agencies. In reviewing proposals, LAFCO is required to consider certain factors such as the conformity with city or county plans, current levels and need for future services, the social, physical and economic effects on the community, the effect on existing agricultural lands and open space, the timely availability of adequate water supplies, and the extent to which each proposal will assist the receiving city and the County in achieving its fair share of the regional housing needs.

LAFCO must consider the effect that any proposal will produce on existing agricultural lands. By guiding development towards vacant urban land and away from agricultural preserves, LAFCO assists with the preservation of Tulare County's valuable agricultural resources. LAFCO also works to discourage urban sprawl, a pattern of development characterized by inefficient delivery of important urban services and unnecessary loss of agricultural land. By discouraging sprawl, LAFCO discourages the misuse of land resources and promotes a more efficient system of local government agencies.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires each LAFCO to adopt an annual budget. The 2023/24 Work Program for the Tulare County LAFCO outlines the anticipated work to be accomplished by LAFCO during the fiscal year and is prepared to accompany the annual budget.

### **Description of Region**

Tulare County, comprised of 12,595 km<sup>2</sup>, is located in the southern portion of the San Joaquin Valley. The Valley is bounded on the west by the Coast Range and on the east by the Sierra Nevada Mountains. The Valley extends from Sacramento to the north, to the Tehachapi Mountains on the south. The San Joaquin Valley is the richest farmland in the world.

Tulare County has approximately one third of its land area in the Valley. The remaining portion is in the Sierra Nevada Mountains. This offers an abundance of scenic and recreational opportunities for residents and visitors. The land in the Valley produces a wide variety of agricultural products. Tulare County ranks as one of the largest agricultural producing counties in the nation. The population of Tulare County is concentrated in the Valley area. There are eight incorporated cities, which account for 71% of the total county approximate population of 475,014 (DOF – 1/1/22). The eight cities are: Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia, and Woodlake. There are also numerous special districts in the county, including various Community

Service Districts, Irrigation Districts, Hospital Districts, Cemetery Districts, Public Utility Districts, and Resource Conservation Districts.

## Organization of LAFCO

The Tulare County Local Agency Formation Commission is composed of two county supervisors selected by the Board of Supervisors, two city council representatives selected by the mayors in the county, and one public member selected by the other four members. Commission members serve four-year terms. There is an alternate member for each category – city, county, and public. Tulare County LAFCO does not have special district members; however, the law does provide for the addition of two special district members and one alternate if the Commission so orders or the special districts petition for such representation.

### LAFCO Commissioners

Dennis Townsend, Chair	County representative
Richard Feder, V-Chair	Public representative
Liz Wynn	City representative
Pete Vander Poel	County representative
Maribel Reynosa	City representative
Larry Micari	Alternate, County representative
Fred Sheriff	Alternate, Public representative
Steve Harrell	Alternate, City representative

### LAFCO Staff

Ben Giuliani, Executive Officer  
Amie Kane, Staff Analyst  
Holly Gallo, LAFCO Clerk  
Matthew Pierce, LAFCO Counsel

## LAFCO Abbreviations and Acronyms

<b>CALAFCO</b>	<i>California Association of Local Agency Formation Commissions</i>
<b>C-K-H</b>	<i>Cortese-Knox-Hertzberg Local Government Reorganization Act Of 2000</i>
<b>CSD</b>	<i>Community Services District</i>
<b>GC</b>	<i>Government Code</i>
<b>LAFCO</b>	<i>Local Agency Formation Commission</i>
<b>MSR</b>	<i>Municipal Service Review</i>
<b>PUD</b>	<i>Public Utility District</i>
<b>SOI</b>	<i>Sphere of Influence</i>

## **LAFCO Work Program Elements**

SUBCATEGORY: 100 ADMINISTRATION

WORK ELEMENT: **100.01 LAFCO Administration**

PURPOSE: To manage and coordinate LAFCO staff work in Tulare County, including development and implementation of the budget, work program, and Policies and Procedures Manual.

PREVIOUS WORK: This is an ongoing function of LAFCO.

PRODUCTS:

1. Administration and support of LAFCO work functions.
2. Representation at statewide and local planning meetings.
3. Development of LAFCO Policies and Procedures Manual.
4. Maintain LAFCO files and records.
5. Prepare LAFCO meeting agendas, schedules and minutes.
6. Prepare annual budget and work program.
7. Maintain membership in CALAFCO.

### **DISCUSSION:**

The administration program provides direction and management of the various routine functions that comprise the LAFCO Work Program. This includes: project scheduling, budget preparation and monitoring, personnel recruitment and training, records maintenance, review of legislation affecting LAFCOs and development of LAFCO Policies and Procedures consistent with C-K-H requirements and Commission directives.

LAFCO staff also maintains membership in the California Association of Local Agency Formation Commissions (CALAFCO), which provides statewide coordination of LAFCO activities, representation before the State Legislature and other bodies, training opportunities for member LAFCOs, and a structure for sharing information among LAFCOs and other governmental agencies throughout the State.

### **BUDGET:**

Estimated staff costs:	\$55,435	(5.0 Staff Person Months)
Memberships:	\$8,750	
Publications and Notices	\$3,850	
County Counsel:	\$4,080	
COWCAP Charges:	\$10,000	
Board Directors fees:	\$1,600	
Rent	\$13,654	
Insurance	\$2,819	
Prof. & Specialized:	\$200	
Service from Other Dept.	\$8,858	
Total:	\$109,246	
Revenue (source):	\$75,000	(Reserve Funds)
Revenue (source):	\$34,246	(County & Cities Contribution)
Revenue (source):		(Planning & Engineering Fees)

SUBCATEGORY: 100 ADMINISTRATION

WORK ELEMENT: **100.02 Office Expenses/Fixed Assets**

PURPOSE: To procure and manage the assets of LAFCO.

PREVIOUS WORK: Purchase supplies and equipment.  
Purchase Liability Insurance.  
Maintenance of LAFCO website.  
Publish public notices.

PRODUCTS:

1. Procurement of supplies and equipment.
2. Maintenance of existing equipment.
3. Inventory of LAFCO assets.
4. Continuation of Internet service.
5. Payment of rent, telephone, mail, printing, data processing and other overhead services.
6. Ongoing maintenance of LAFCO website.

DISCUSSION:

LAFCO is required by GC Section 56300(f)(1) to establish and maintain, or otherwise provide access to notices and other commission information for the public through an internet website.

The address for the Tulare County LAFCO website is [www.co.tulare.ca.us/lafco/](http://www.co.tulare.ca.us/lafco/). The site provides general information regarding LAFCO, Tulare County LAFCO commissioners and staff, meeting and application deadline schedules, and allows access to agendas and minutes. The site will also be used to post notices, agendas, minutes, and disclosures as required by Sections 56100.1, 56150, 56300, and 56661.

Because LAFCO is an independent agency, LAFCO maintains a general liability insurance policy. LAFCO reimburses the County for office space and other operational expenses as part of the work program.

BUDGET:

Office Expense:	\$857
Telecomm	\$1000
ADP Payroll/Personnel:	\$271
Utilities:	\$1,950
Custodial Services:	\$1,000
Property	\$0
Mail	\$900
Printing	\$250
Alarm	\$100
GIS	\$6,000
Worker's Compensation	\$0
Total	\$12,328

(Reserve Funds)  
\$12,328 (County & Cities Contribution)

(Planning & Engineering Fees)

SUBCATEGORY: 100 ADMINISTRATION

WORK ELEMENT: **100.03 Training and Travel**

PURPOSE: Travel to various local, regional and statewide meetings as required.  
Training for staff related to the operations of LAFCO and legislative activity affecting LAFCOs.

PREVIOUS WORK: This is an ongoing work element.

PRODUCTS:

1. Representation at statewide and local LAFCO meetings.
2. Staff training and educational seminars.
3. Commissioner training and education seminars.

BUDGET:

Training (Commissioners & Staff):	\$4,200
Transportation/Travel (Commissioners & Staff)	\$6,040
Total:	\$10,240

Revenue (source):		(Reserve Funds)
Revenue (source):	\$10,240	(County & Cities Contribution)
Revenue (source):		(Planning & Engineering Fees)

SUBCATEGORY: 101 SPECIAL PLANNING PROJECTS

WORK ELEMENT: **101.02 Municipal Service Reviews**

PURPOSE: To prepare Municipal Service Reviews (MSR's) pursuant to GC §56430.

PREVIOUS WORK: Group 1 MSRs adopted March 2006  
Group 2 MSRs adopted May 2006  
Group 3 MSRs adopted March 2007  
Group 4 MSRs adopted October 2011  
City of Dinuba MSR updated June 2012  
City of Visalia MSR updated February 2013  
City of Tulare MSR updated October 2013  
City of Porterville MSR updated October 2014  
City of Exeter MSR update April 2016  
City of Woodlake MSR update August 2016  
Goshen CSD MSR update December 2018  
Lindsay LHD MSR update December 2020  
Alta HD MSR update January 2021

PRODUCTS: MSRs for urban service providing districts

DISCUSSION:

In accordance with GC §56430, in order to prepare and update spheres of influence, LAFCOs are required to conduct a review of the municipal services provided in the county or other appropriate area designated by the Commission. To address this requirement, a program for conducting municipal service reviews (MSR's) was initiated by LAFCO during the 2003/04 fiscal year.

Tulare County's eight cities and 19 of the special districts were reviewed and MSRs were adopted in 3 groups in 2006 and 2007. Group 4, consisting of 21 special districts was approved in October 2011. The scope of MSRs has since been expanded to include service needs of disadvantaged unincorporated communities within and adjacent to the subject agency's current SOI. MSR updates have been completed for the cities of Dinuba, Visalia, Tulare, Porterville, Exeter and Woodlake. By policy, future MSR updates will be completed on an as needed basis following County Community Plan and City General Plan Updates. The County of Tulare received State funding that will allow for MSRs to be updated for urban service providing districts during FY 23/24.

BUDGET:

Estimated staff costs:	\$66,522	(6.0 Staff Person Month)
Total:	\$66,522	
Revenue (source):		(Reserve Funds)
Revenue (source):	\$66,522	(County & Cities Contribution)
Revenue (source):		(Planning & Engineering Fees)

SUBCATEGORY: 101 SPECIAL PLANNING PROJECTS

WORK ELEMENT: **101.03 Cities and Special District Inventory Update**

PURPOSE: To maintain the LAFCO Cities and Special District Inventory.

PREVIOUS WORK: LAFCO Cities and Special District Inventory (October 1975)  
 LAFCO Cities and Special District Inventory (Revised January 1981)  
 LAFCO Cities and Special District Inventory (Revised June 1998)  
 LAFCO Cities and Special District Inventory (Revised April 2007)  
 LAFCO Cities and Special District Inventory (Revised April 2013)  
 LAFCO Cities and Special District Inventory (Revised January 2023)

PRODUCTS: Continuous update of the LAFCO Cities and Special District Inventory.

DISCUSSION: The Tulare County LAFCO Cities and Special District Inventory is a listing of the various agencies in Tulare County and provides information about each agency, including: date formed, address, phone number, contact person, functions performed, and method of financing. The Inventory also includes a brief description of each type of agency and a map depicting the agency's sphere of influence. For Community Service Districts and County Service Areas the inventory also describes the latent powers each district was authorized to perform, but had not performed as of January 1, 2006 and January 1, 2009 (respectively). The full-published revision has been completed. The last major revision took place in FY 22/23. However, this Work Program allocation is intended for the continual updating of contact and map information in the Inventory.

BUDGET:

Estimated staff costs:	\$11,087	(1.0 Staff Person Months)
Total:	\$11,087	
Revenue (source):		(Reserve Funds)
Revenue (source):	\$11,087	(County & Cities Contribution)
Revenue (source):		(Planning & Engineering Fees)

SUBCATEGORY: 101 SPECIAL PLANNING PROJECTS

WORK ELEMENT: **101.04 Sphere of Influence Updates & Amendments**

PURPOSE: To prepare updates to agencies' Spheres of Influence and provide an efficient method to review and amend the Spheres of Influence for all agencies within Tulare County LAFCO's jurisdiction.

PREVIOUS WORK: In 2011; Alpine Village-Sequoia Crest CSD, Ducor CSD, East Orosi CSD, Patterson Tract CSD, Ponderosa CSD, Three Rivers CSD, Tract 92 CSD, Porter Vista PUD, CSA #1, Strathmore FPD and Woodlake FPD. Lindmore ID (2011) Lindsay-Strathmore ID (2011) Sultana (2011) Ivanhoe (2011) City of Dinuba (2012) Lindmore Irrigation District (2012) Lindsay-Strathmore Irrigation (2012) Allensworth CSD (2012) Sultana CSD (2012) Three Rivers CSD (2012) City of Lindsay (2014) City of Porterville (2014) City of Exeter (2016) City of Woodlake (2016) City of Tulare (2017) City of Visalia (2018), Goshen CSD (2018), City of Woodlake (2020).

PRODUCTS:

1. SOI Reviews (and updates as needed) for Tulare County principal districts and cities

DISCUSSION:

Pursuant to GC Section 56425(g), all Spheres of Influence must be reviewed and updated, as necessary, on or before January 1, 2008 and every five years thereafter, as needed.

Tulare County LAFCO Resolution 96-02 provides that, whenever possible, the Sphere of Influence of each city and those Special Districts that provide urban services to unincorporated communities within the County should reflect a twenty-year growth area with additional areas for communities of interest (Section 56425 (a) (4)). This boundary shall be reviewed and, if necessary, updated no more than once every five years. The updates should be sufficient to accommodate projected growth for twenty years from the date of adoption. SOI Amendments typically occur in conjunction with an annexation and per LAFCO policy does not require a MSR.

The MSR schedule in Work Element 101.02 will guide the update of agencies' spheres of influence.

BUDGET:

Estimated staff costs:	\$22,174	(2 Staff Person Months)
Total:	\$22,174	

Revenue (source):		(Reserve Funds)
Revenue (source):	\$6,771	(County & Cities Contribution)
Revenue (source):	\$15,403	(Planning & Engineering Fees)

SUBCATEGORY: 101 SPECIAL PLANNING PROJECTS

WORK ELEMENT: **101.06 Special Projects**

PURPOSE: To fulfill LAFCO's obligation to perform special governmental organization studies pursuant to GC 56375.

PREVIOUS WORK: Agricultural Land Updates  
Public Cemetery District Report  
Memorial District Report

PRODUCTS: This is an on-going work element. Products could include district consolidation and formation studies.

DISCUSSION:

In accordance with GC §56375, LAFCO has the authority to conduct a variety of studies related to effective and efficient provision of public services. This includes special district formation and consolidation studies. As a result of LAFCO Policy Amendments, a Financial Impact Study is now required to be prepared for the activation of latent powers, in certain instances.

The work element accounts for staff and consultant resources required to respond to the need for such special studies as may be authorized by LAFCO during the fiscal year. There is no anticipated need for consultant services in FY 22/23.

BUDGET:

Estimated staff costs:	\$11,087	(1.0 Staff Person Month)
Total:	\$11,087	
Revenue (source):		(Reserve Funds)
Revenue (source):	\$11,087	(County & Cities Contribution)
Revenue (source):		(Planning & Engineering Fees)

SUBCATEGORY: 102 CASE PROCESSING

WORK ELEMENT: **102.01 LAFCO Case Processing**

PURPOSE: To process applications submitted by LAFCO.

PREVIOUS WORK: In FY 2023/24 as of this date, staff has processed 9 cases (annexations, detachments, sphere of influence amendments, activation of latent powers and extension of services agreements). In prior years, a separate work element (101.05 Island Annexation Program) was dedicated to the island annexation program which is now incorporated in this element

PRODUCTS: This is an ongoing work element. Staff will continue to process case applications as they are submitted. For fiscal year 2023/24, based on feedback from local agencies, staff are estimating processing 14 cases.

**BUDGET:**

Estimated staff costs:	\$33,261	(3 Staff Person Months)
Total:	\$33,261	
		(Reserve Funds)
Revenue (source):		(County & Cities Contribution)
Revenue (source):	\$33,261	(Planning & Engineering Fees)

## LAFCO Work Program Summary

Activity Description	Work Element Number	Revenue Source and Amount				Expenditures
		Reserve Funds	Income from Other Agencies	Planning & Engineering Services		
LAFCO Administration	100.01	\$75,000	\$34,246	\$0		\$109,246
Office Expenses / Fixed Assets	100.02	\$0	\$12,328	\$0		\$12,328
Training and Travel	100.03	\$0	\$10,240	\$0		\$10,240
Municipal Service Reviews	101.02	\$0	\$66,522	\$0		\$66,522
Cities & Special District Inventory Update	101.03	\$0	\$11,087	\$0		\$11,087
Sphere of Influence Updates & Amendments	101.04	\$0	\$6,771	\$15,403		\$22,174
Special Projects	101.06	\$0	\$11,087	\$0		\$11,087
LAFCO Case Processing	102.01	\$0	\$0	\$33,261		\$33,261
Subtotals	NA	\$75,000	\$152,281	\$48,664		\$275,945
Contingency	NA	\$0	\$27,595	\$0		\$27,595
TOTALS		\$75,000	\$179,816	\$48,664		\$303,540

*Total Staff Person Months = 18.0*

*(Executive Director – 6.0; Staff Analyst – 9; Clerk - 3)*

## TULARE CO. LAFCO- 6-YEAR STRATEGIC WORK PROGRAM

<i>FY</i>	<i>MSR</i>	<i>SOI UPDATE</i>	<i>SPECIAL PROJECTS</i>	<i>Pending Proposals, Possible Future Projects, Annual Work Elements</i>
2023/24	Urban Service providing Districts	As needed based on MSR results		<i>Possible Future Projects</i> <ul style="list-style-type: none"> <li>• District dissolutions</li> <li>• District formations</li> <li>• Incorporation studies</li> <li>• Policy updates</li> <li>• Implementation of MSRs</li> </ul> <i>Annual Work Elements</i> <ul style="list-style-type: none"> <li>• Case Processing</li> <li>• SOI Amendments</li> <li>• City-Special Districts Inventory</li> <li>• Special Projects</li> </ul>
2024/25	Future MSRs and SOI updates will be completed based on County Community Plan Updates and City General Plan Updates.			
2025/26				
2026/27				
2027/28				
2028/29				

**BEFORE THE LOCAL AGENCY FORMATION COMMISSION**  
**OF THE**  
**COUNTY OF TULARE, STATE OF CALIFORNIA**

In the Matter of the 2023/24 Final Budget	)	
And Work Program for the Tulare County	)	RESOLUTION NO. <b>23-XX</b>
Local Agency Formation Commission	)	

**WHEREAS**, Government Code Section 56381 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires that on or before the 15<sup>th</sup> day of June, the Local Agency Formation Commission must prepare and transmit to the Board of Supervisors; to each city; and to the clerk and chair of the city selection committee, if any, its final budget for the following fiscal year; and

**WHEREAS**, LAFCO Policy D-3.4 (Staff Services Agreement), requires the preparation of a work program for each fiscal year indicating the services to be provided in that fiscal year; and

**WHEREAS**, this Local Agency Formation Commission on April 5, 2023 elected to apply \$75,000 in reserve funds to help offset city and county contributions; and

**WHEREAS**, this Local Agency Formation Commission on June 7, 2023 considered the fiscal year 2023/24 final budget and work program as recommended by the Executive Officer

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** as follows:

1. The final budget for fiscal year 2023/24 attached hereto as Exhibit "A", is hereby adopted.

2. The work program for fiscal year 2023/24 attached hereto as Exhibit "B", is hereby adopted.

3. The Executive Officer is hereby authorized and directed to forward said final budget to the County Auditor, to the Board of Supervisors; to each city; and to the clerk and chair of the city selection committee, if any, in accordance with the requirements of Government Code Section 56381 of the Corteses-Knox-Herzberg Local Government Reorganization Act of 2000.

The foregoing resolution was adopted upon the motion by Commissioner \_\_\_\_\_, and seconded by Commissioner \_\_\_\_\_, at a regular meeting held on this 7<sup>th</sup> day of June 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

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Ben Giuliani, Executive Officer

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## CALAFCO Daily Legislative Report as of Wednesday, May 31, 2023

### [AB 828](#) ([Connolly](#) D) Sustainable groundwater management: managed wetlands.

**Current Text:** Amended: 4/17/2023 [html](#) [pdf](#)

**Introduced:** 2/13/2023

**Last Amended:** 4/17/2023

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 3/2/2023)(May be acted upon Jan 2024)

**Summary:**

The Sustainable Groundwater Management Act requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified. Current law defines various terms for purposes of the act. This bill would add various defined terms for purposes of the act, including the term “managed wetland.”

**Position:** None at this time

**Subject:** Water

**CALAFCO Comments:** Adds definitions for Managed Wetlands, and Small community water system to Water Code Section 10721.

4/17/2023: Amended to define agencies and entities required or excluded from existing 10726.4 (a)(4). Amends Water Code section 10730.2 to add language regarding fees, and amends Water Code section 10733 to address groundwater sustainability plans.

### [AB 930](#) ([Friedman](#) D) Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) districts.

**Current Text:** Amended: 4/26/2023 [html](#) [pdf](#)

**Introduced:** 2/14/2023

**Last Amended:** 4/26/2023

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. on 4/25/2023)(May be acted upon Jan 2024)

**Summary:**

Current law authorizes certain local agencies to form a community revitalization authority within a community revitalization and investment area, as defined, and authorizes an authority to, among other things, provide for low- and moderate-income housing and issue bonds, as provided. Current law authorizes a community revitalization and investment plan to provide for the division of taxes within the plan area. This bill would authorize the legislative bodies of 2 or more cities or counties to jointly form a Reinvestment in Infrastructure for a Sustainable and Equitable California district (RISE district) in accordance with specified procedures. The bill would authorize a special district to join a RISE district, by resolution, as specified.

**Position:** Neutral

**Subject:** Special District Principle Acts

**CALAFCO Comments:** This bill has a similar overtone to SB 852 Dodd in 2022 regarding the formation of climate resilience districts outside of the LAFco process. As introduced, this bill (AB 930) is focused on the generation of funding and the governance of the expenditure of those funds. However, it should be carefully tracked in case that mission is expanded.

**[AB 1460](#) ([Bennett D](#)) Local government.**

**Current Text:** Introduced: 2/17/2023 [html](#) [pdf](#)

**Introduced:** 2/17/2023

**Status:** 5/5/2023-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/17/2023)(May be acted upon Jan 2024)

**Summary:**

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. This bill would make a nonsubstantive change to the provision naming the act.

**Position:** Neutral

**Subject:** CKH General Procedures, Other

**CALAFCO Comments:** As introduced, this bill makes only a minor nonsubstantive change to CKH in that it would merely add commas to Section 56000 so that it would read: "This division shall be known, and may be cited, as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000."

3/24/2023: No change since introduction.

**[SB 768](#) ([Caballero D](#)) California Environmental Quality Act: vehicle miles traveled: statement of overriding consideration.**

**Current Text:** Amended: 3/22/2023 [html](#) [pdf](#)

**Introduced:** 2/17/2023

**Last Amended:** 3/22/2023

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.Q. on 3/29/2023)(May be acted upon Jan 2024)

**Summary:**

The California Environmental Quality Act (CEQA) requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA prohibits a public agency from approving or carrying out a project for which a certified EIR has identified one or more significant effects on the environment that would occur if the project is approved or carried out unless the public agency finds either (1) changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment, (2) those changes or alterations are within the jurisdiction of another public agency and have been, or can and should be, adopted by the other agency, or (3) specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR and the public agency finds that those specific considerations outweigh the significant effects on the environment, commonly known as a statement of overriding consideration. This bill would provide that a public agency, in approving or carrying out a housing development project, as defined, a commercial project, or an industrial project, is not required to issue a statement of overriding consideration for significant effects on the environment identified by a project's vehicle miles traveled or similar metrics if the lead agency has imposed all feasible mitigation measures on the project and it finds no feasible alternatives to the project..

**Position:** Neutral

**Subject:** CEQA

**CALAFCO Comments:** Introduced as a spotholder bill that noted an intent to enact subsequent legislation that would create a new transportation impact analysis for rural areas for purposes of the California Environmental Quality Act.

3/22/2023: The bill was amended and would add language into the Public Resource Code to provide that a public agency, in approving or carrying out certain types of projects, is not required to issue a statement of overriding consideration for significant effects on the environment identified by a project's vehicle miles traveled if the lead agency has imposed all feasible mitigation measures on the project and it finds no feasible alternatives to the project.

**[SB 865](#) ([Laird D](#)) Municipal water districts: automatic exclusion of cities.**

**Current Text:** Introduced: 2/17/2023 [html](#) [pdf](#)

**Introduced:** 2/17/2023

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was GOV. & F. on 3/1/2023)(May be acted upon Jan 2024)

**Summary:**

Current law authorizes a governing body of a municipal water district to adopt an ordinance excluding any territory annexed to a metropolitan water district organized under the Metropolitan Water District Act, if the territory is annexed prior to the effective date of the formation of the municipal water district. Current law requires the Secretary of State to issue a certificate reciting the passage of the ordinance and the exclusion of the area from the municipal water district within 10 days of receiving a certified copy of the ordinance. This bill would extend the number of days the Secretary of State has to issue a certificate to 14 days.

**Position:** Neutral

**Subject:** Annexation Proceedings

**CALAFCO Comments:** Existing law authorizes a governing body of a municipal water district may adopt an ordinance excluding any territory annexed to a metropolitan water district organized under the Metropolitan Water District Act, providing that the territory is annexed prior to the effective date of the formation of the municipal water district. If that happens, the Secretary of State must, within 10 days of receiving a certified copy, issue a certificate reciting the passage of the ordinance that excludes the area from the municipal water district. This bill would extend the Secretary of State's window to issue that certificate from 10 to 14 days.

**[AB 530](#) ([Boerner D](#)) County Water Authority Act: exclusion of territory: procedure.**

**Current Text:** Amended: 5/15/2023 [html](#) [pdf](#)

**Introduced:** 2/8/2023

**Last Amended:** 5/15/2023

**Status:** 5/16/2023-Re-referred to Com. on NAT. RES.

**Summary:**

The County Water Authority Act provides for the formation of county water authorities and grants to those authorities specified powers with regards to providing water service. The act provides 2 methods of excluding territory from any county water authority, one of which is that a public agency whose corporate area as a unit is part of a county water authority may obtain exclusion of the area by submitting to the electors within the public agency, at any general or special election, the proposition of excluding the public agency's corporate area from the county water authority. Current law requires that, if a majority of the electors approve the proposition, specified actions take place to implement the exclusion. This bill would additionally require the public entity to submit the proposition of excluding the public agency's corporate area from the county water authority to the electors within the territory of the county water authority. The bill would require the 2 elections to be separate; however, the bill authorizes both elections to run concurrently.

**Position:** Watch

**Subject:** Water

**CALAFCO Comments:** As introduced, this bill was relative to greenhouse emissions. However, it was gutted and amended on 5/15/2023 and now addresses county water authorities. Under existing law, a county water authority has an option to submit to the voters any proposition to exclude the corporate area of a public agency. This bill would specify the procedure under which that optional election would be conducted. Specifically, notice would be required in the manner already defined within subdivision (c) of Section 10. The election is to be conducted and returns canvassed as provided by law for the elections in the public agency, and a majority of electors within county water authority territory is needed for passage. The new procedure would also require that these elections will be separate elections but may run with another election.

**AB 68 (Ward D) Land use: streamlined housing approvals: density, subdivision, and utility approvals.**

**Current Text:** Amended: 4/12/2023 [html](#) [pdf](#)

**Introduced:** 12/8/2022

**Last Amended:** 4/12/2023

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was H. & C.D. on 3/16/2023)(May be acted upon Jan 2024)

**Summary:**

Would require a local government to approve a proposed housing development pursuant to a streamlined, ministerial approval process if the development meets certain objective planning standards, including, but not limited to, a requirement that the proposed parcel for the development be a climate-smart parcel, as described, or be included in the applicable region's sustainable communities strategy as a priority development area. The bill would set forth procedures for approving these developments and would set forth various limitations for these developments. The bill would authorize the Department of Housing and Community Development to review, adopt, amend, and repeal guidelines, rules, and regulations to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth by this process.

**Position:** Watch

**Subject:** Planning

**CALAFCO Comments:** This bill was introduced as a spot holder in December, 2022, then was gutted and amended on March 16, 2023.

It now seeks to set up ministerial approvals for developments and certain water and sewer service extensions for developments that meet certain parameters. Parameters include that the parcel must be in a high or moderate resource area as categorized by the opportunity maps maintained by the California Tax Credit Allocation Committee, be located within one-mile of transit but be in a very low vehicle travel area, and within one mile of assorted restaurants, bars, coffee shops, etc. Additionally, types of locations that do not qualify are also enumerated. Those include farmlands, wetlands, high fire hazard severity zones (as determined by Cal Fire), in proximity to a hazardous waste site, within a delineated earthquake fault zone, within a special flood hazard area or within a regulatory floodway, lands identified for conservation, protected habitat, and lands under a conservation easement.

3/31/2023: Watch position taken by Leg Committee.

4/21/2023: CALAFCO received word from the Assembly Housing and Community Development Committee, that this bill will not be heard this year.

Under the procedure that would be established by this bill, a minimum of 30 days notice to LAFCo would be required for the public hearing should a county seek to amend its general plan to increase the planned density on climate resilient lands.

**[AB 918](#) ([Garcia D](#)) Health care district: County of Imperial.**

**Current Text:** Amended: 5/1/2023 [html](#) [pdf](#)

**Introduced:** 2/14/2023

**Last Amended:** 5/1/2023

**Status:** 5/23/2023-In Senate. Read first time. To Com. on RLS. for assignment.

**Summary:**

Would rename the Pioneers Memorial Healthcare District as the Imperial Valley Healthcare District. The bill would authorize the expansion of the district to include all of the County of Imperial. The bill would require the district to submit a resolution of application to the Imperial County Local Agency Formation Commission to initiate proceedings to expand the district. The bill would require the commission to order the expansion of the district subject to a vote of the registered voters residing within the territory to be annexed at an election following the completion of those proceedings. The bill would require the Board of Supervisors of the County of Imperial, upon direction by the commission, to place approval of district expansion on the ballot at the next countywide election following the completion of commission proceedings, including a public hearing. The bill would provide for expansion of the district upon voter approval, if a funding source sufficient to support the operations of the expanded district is, if required, approved, as specified. The bill would require the district to pay for election costs, as specified. The bill, following expansion, would dissolve the Heffernan Memorial Healthcare District and would transfer the assets, rights, and responsibilities of that district to the Imperial Valley Healthcare District. The bill would require the board of directors of the Imperial Valley Healthcare District, following expansion, to adopt a resolution to increase the number of members of the district's board of directors from 5 to 7, and to appoint 2 members who are residents of the territory annexed by the district to fill the vacant positions, as specified. Following the expansion of the board of directors, the bill would require the board of directors to adopt a resolution to divide the Imperial Valley Healthcare District into voting districts for the purpose of electing members of the board of directors from and by the electors of those voting districts beginning with the next district election, as specified.

**Attachments:**

[CALAFCO Letter in Opposition to 4-17-2023 bill amendment](#)

[CALAFCO Oppose Letter](#)

**Position:** Oppose

**Subject:** Other

**CALAFCO Comments:** As introduced, this bill was merely a spotholder that stated an intent to create a countywide healthcare district in Imperial County.

March 23, 2023, the bill was amended with specifics. It now seeks to rename the Pioneer Memorial Healthcare District to the Imperial County Healthcare District (ICHHD) and then sets up what, in essence, is a ministerial process for the countywide expansion of the ICHHD. The expansion process is first initiated by the ICHHD Resolution of Application, which is required to be filed with LAFCo no later than January 5, 2024. The LAFCo then has 150 days to complete the entire process, including the vote. Protest proceedings for that expansion would be waived under this bill. The bill also does not allow the LAFCo to deny the application. The bill also notes that future changes of organization or reorganization of the resulting districts would need to follow the normal provisions of CKH. A copy of CALAFCO's letter in opposition can be found in the attachments section.

4/17/2023: the bill was amended to entirely remove LAFCo involvement. CALAFCO's second letter of opposition that addresses this amended version can be found in the attachments section.

**[SB 360](#) ([Blakespear D](#)) California Coastal Commission: member voting.**

**Current Text:** Amended: 4/18/2023 [html](#) [pdf](#)

**Introduced:** 2/8/2023

**Last Amended:** 4/18/2023

**Status:** 5/18/2023-Referred to Com. on NAT. RES.

**Summary:**

The California Coastal Act of 1976 establishes the California Coastal Commission and prescribes the membership and duties of the commission. The act provides that its provisions do not preclude or prevent any member or employee of the commission who is also an employee of another public agency, a county supervisor or city councilperson, or a member of specified associations or organizations, and who has in that designated capacity voted or acted upon a particular matter, from voting or otherwise acting upon that matter as a member or employee of the commission. This bill would apply the latter provision to members of a joint powers authority and members of the local agency formation commission.

**Attachments:** [SB 360 Fact Sheet](#)

[SB 360 CALAFCO Letter of Support](#)

**Position:** Support

**Subject:** Other

**CALAFCO Comments:** PRC 30318 currently holds a provision that allows members or employees of certain entities to sit on the California Coastal Commission. This bill would add members or employees of JPAs and LAFCOs into that list.

3/24/2023: No change since introduction.

3/31/2023: Position changed to support. The Fact Sheet and a copy of CALAFCO's Support letter can be found in the attachments.

**[AB 557](#) ([Hart D](#)) Open meetings: local agencies: teleconferences.**

**Current Text:** Introduced: 2/8/2023 [html](#) [pdf](#)

**Introduced:** 2/8/2023

**Status:** 5/24/2023-Referred to Coms. on GOV. & F. and JUD.

**Calendar:** 6/7/2023 9 a.m. - 1021 O Street, Room 2200 SENATE GOVERNANCE AND FINANCE, CABALLERO, ANNA, Chair

**Summary:**

The Ralph M. Brown Act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. Current law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health, as specified. If there is a continuing state of emergency, or if state or local officials have imposed or recommended measures to promote social distancing, current law requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures. Current law requires a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow

members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option. Current law prohibits a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. This bill would extend the above-described abbreviated teleconferencing provisions when a declared state of emergency is in effect, or in other situations related to public health, as specified, indefinitely.

**Position:** Watch

**Subject:** Brown Act

**CALAFCO Comments:** Similar in scope to SB 411, this bill is follow-on legislation to AB 361 (2022) and seeks to return some of the pandemic-era teleconferencing provisions to the Brown Act and would change the timeline for legislative bodies to reaffirm an emergency from the current 30 days to 45 days. This bill is sponsored by CSDA.

**[AB 805](#) ([Arambula D](#)) Drinking water consolidation: sewer service.**

**Current Text:** Amended: 3/9/2023 [html](#) [pdf](#)

**Introduced:** 2/13/2023

**Last Amended:** 3/9/2023

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/19/2023)(May be acted upon Jan 2024)

**Summary:**

Would authorize the State Water Resources Control Board, if sufficient funds are available, to order consolidation of sewer service along with an order of consolidation of drinking water systems when both of the receiving and subsumed water systems provide sewer service and after the state board engages in certain activities, including, but not limited to, consulting with the relevant regional water board and the receiving water system and conducting outreach to ratepayers and residents served by the receiving and subsumed water systems, as provided.

**Position:** Watch With Concerns

**Subject:** Water

**CALAFCO Comments:** This bill would authorize the state board, if sufficient funds are available, to order consolidation of sewer service along with an order of consolidation of drinking water systems when both of the receiving and subsumed water systems provide sewer service and after the state board engages in certain activities. Under existing section (b)(3) LAFcos must be consulted and their input considered in regards to the provision of water service but sewer systems seem to be lacking.

**[AB 817](#) ([Pacheco D](#)) Open meetings: teleconferencing: subsidiary body.**

**Current Text:** Amended: 3/16/2023 [html](#) [pdf](#)

**Introduced:** 2/13/2023

**Last Amended:** 3/16/2023

**Status:** 5/5/2023-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 3/16/2023)(May be acted upon Jan 2024)

**Summary:**

Current law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a

member of the legislative body. This bill would authorize a subsidiary body, as defined, to use alternative teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency. In order to use teleconferencing pursuant to the Ralph M. Brown Act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote, before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter.

**Position:** Watch

**Subject:** Brown Act

**CALAFCO Comments:** This bill appears to be a spot holder in that it currently only makes minor grammatical changes. The lack of substance raises concern regarding future changes to this bill.

3/16/2023: The bill was amended to speak specifically to teleconferenced meetings of subsidiary bodies, defined as a body that serves exclusively in an advisory capacity, and is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements. For qualifying bodies, this bill would remove the requirement to post an agenda at the location of the subsidiary body member who was participating from off site- providing that the legislative body that formed the subsidiary body has previously made findings noting that teleconferenced meetings of the subsidiary body would enhance public access, and would promote the attractions, retention and diversity of the subsidiary body. The superior legislative body would need to revisit the matter and repeat those finding every 12 months thereafter. This bill also reaffirms that other provisions of the Brown Act are applicable to subsidiary bodies.

**AB 1379 (Papan D) Open meetings: local agencies: teleconferences.**

**Current Text:** Amended: 3/23/2023 [html](#) [pdf](#)

**Introduced:** 2/17/2023

**Last Amended:** 3/23/2023

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was L. GOV. on 3/23/2023)(May be acted upon Jan 2024)

**Summary:**

The Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Current law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. This bill, with respect to those general provisions on teleconferencing, would require a legislative body electing to use teleconferencing to instead post agendas at a singular designated physical meeting location, as defined, rather than at all teleconference locations. The bill would remove the requirements for the legislative body of the local agency to identify each teleconference location in the notice and agenda, that each teleconference location be accessible to the public, and that at least a quorum of the members participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

**Position:** Watch

**Subject:** Brown Act

**CALAFCO Comments:** Originally introduced as a spotholder to address "Local agencies: financial affairs", this bill was gutted and amended on March 23, 2023, and now seeks amendment of the Brown Act's teleconferencing provisions. If successful, GC Section 54953 (b)(3) would be amended to remove the

requirement to post agendas for teleconferenced meetings at all locations, and would instead limit the posting to a newly defined "singular designated physical meeting location", which is required to have either two-way audiovisual capabilities, or two-way telephone service for the public to remotely hear and address the body. Additionally, the body would have to hold at least two meetings in person each year.

**[AB 1637](#) ([Irwin D](#)) Local government: internet websites and email addresses.**

**Current Text:** Amended: 5/18/2023 [html](#) [pdf](#)

**Introduced:** 2/17/2023

**Last Amended:** 5/18/2023

**Status:** 5/22/2023-Read second time. Ordered to third reading.

**Calendar:** 5/31/2023 #287 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:**

The California Constitution authorizes cities and counties to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws and further authorizes cities organized under a charter to make and enforce all ordinances and regulations in respect to municipal affairs, which supersede inconsistent general laws. This bill, no later than January 1, 2027, would require a local agency, as defined, that maintains an internet website for use by the public to ensure that the internet website utilizes a ".gov" top-level domain or a ".ca.gov" second-level domain and would require a local agency that maintains an internet website that is noncompliant with that requirement to redirect that internet website to a domain name that does utilize a ".gov" or ".ca.gov" domain. This bill, no later than January 1, 2027, would also require a local agency that maintains public email addresses to ensure that each email address provided to its employees utilizes a ".gov" domain name or a ".ca.gov" domain name. By adding to the duties of local officials, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

**Position:** Watch

**Subject:** LAFCo Administration

**[AB 1753](#) ([Committee on Local Government](#)) Local government: reorganization.**

**Current Text:** Introduced: 3/2/2023 [html](#) [pdf](#)

**Introduced:** 3/2/2023

**Status:** 5/10/2023-Referred to Com. on GOV. & F.

**Calendar:** 6/7/2023 9 a.m. - 1021 O Street, Room 2200 SENATE GOVERNANCE AND FINANCE, CABALLERO, ANNA, Chair

**Summary:**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. The act requires a petitioner or legislative body desiring to initiate proceedings for a change of organization or reorganization to submit an application to the executive officer of the principal county. The act specifies when an application is complete and acceptable for filing, and requires the executive officer to immediately issue a certificate of filing when an application is accepted for filing, as specified. Upon the filing of an application or a resolution pursuant to the act, but prior to the issuance of a certificate of filing, current law requires the executive officer to give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdiction change is located, as specified. Current law prohibits the executive officer from issuing a certificate pursuant to the provisions described above until resolutions are adopted by specified counties and cities in which they agree to accept the exchange of property tax revenues. Current law

authorizes a county and any local agency within the county to develop and adopt a master property tax transfer agreement, as specified. This bill would, if applicable, prohibit the executive officer from accepting for filing an application for change or organization or reorganization and issuing a certificate of filing pursuant to the provisions described above, and would provide that an application is not deemed accepted for filing pursuant to the provisions described above, if an agreement for the exchange of property tax revenues has not been adopted pursuant to the provisions described above.

**Attachments:** [AB 1753 CALAFCO Letter of Support, 03-28-23](#)

**Position:** Support

**Subject:** CKH General Procedures

**CALAFCO Comments:** This is CALAFCO's Omnibus bill. It seeks to add two new provisions to CKH. The first, would add section (d)(1) to Government Code Section 56658 and would note that R&T Section 99(d)(b)(6) requires an property tax agreement for an application to be considered complete. The second adds language to GC Sec. 56882 allowing transmission of commission determination by email, providing that the executive officer confirms receipt through an electronic read receipt of other means.

**[SB 411](#) ([Portantino D](#)) Open meetings: teleconferences: neighborhood councils.**

**Current Text:** Amended: 4/24/2023 [html](#) [pdf](#)

**Introduced:** 2/9/2023

**Last Amended:** 4/24/2023

**Status:** 5/26/2023-Referred to Com. on L. GOV.

**Summary:**

The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Current law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. This bill, until January 1, 2028, would authorize an eligible legislative body to use alternate teleconferencing provisions related to notice, agenda, and public participation, as prescribed, if the city council has adopted an authorizing resolution and 2/3 of an eligible legislative body votes to use the alternate teleconferencing provisions. The bill would define "eligible legislative body" for this purpose to mean a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the act.

**Position:** Watch

**Subject:** Brown Act

**CALAFCO Comments:** This bill would permanently add back provisions to Section 54953.4 of the Brown Act that had been temporarily enacted during the COVID-19 pandemic. The amendment would allow a legislative body to use teleconferencing provisions, and would define the proper procedure for conducting such a meeting, would require the legislative body to take no further action in the event of a broadcasting disruption within the local agency's control until the broadcast can be resumed, would require time public comment periods to remain open until the public comment time has elapsed, and would not only prevent requiring comments in advance but would also require that the public be afforded the chance to comment in real time.

**[SB 537](#) (Becker D) Open meetings: multijurisdictional, cross-county agencies: teleconferences.**

**Current Text:** Amended: 4/24/2023 [html](#) [pdf](#)

**Introduced:** 2/14/2023

**Last Amended:** 4/24/2023

**Status:** 5/30/2023-Read third time. Urgency clause adopted. Passed. (Ayes 32. Noes 8.) Ordered to the Assembly.

**Summary:**

Current law, under the Ralph M. Brown Act, requires that, during a teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. Current law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment. Current law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely. This bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.

**Position:** Watch

**Subject:** Brown Act

**CALAFCO Comments:** This is a spotholder bill that states an intent to expand local government's access to hold public meetings through teleconferencing and remote access.

3/22/2023: was amended and fleshed out to add teleconferencing provisions to allow legislative bodies of multijurisdictional agencies to meet remotely. Multijurisdictional agencies are defined as boards, commissions, or advisory bodies of a multijurisdictional, cross county agency, which is composed of appointed representatives from more than one county, city, city and county, special district, or a joint powers entity. The bill is sponsored by Peninsula Clean Energy, a community choice aggregator with a board comprised of local elected officials from the County of San Mateo and its 20 cities, as well as the City of Los Banos.

**[SB 878](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/17/2023 [html](#) [pdf](#)

**Introduced:** 2/17/2023

**Status:** 5/4/2023-Referred to Com. on L. GOV.

**Calendar:** 6/7/2023 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, CECILIA, Chair

**Summary:** Would enact the First Validating Act of 2023, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

**Attachments:** [Annual Validations Joint Letter of Support](#)

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** This is the first of three annual validating acts. The joint letter of support is in the attachments section.

**[SB 879](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/17/2023 [html](#) [pdf](#)

**Introduced:** 2/17/2023

**Status:** 5/4/2023-Referred to Com. on L. GOV.

**Calendar:** 6/7/2023 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, CECILIA, Chair

**Summary:**

Would enact the Second Validating Act of 2023, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

**Attachments:** [Annual Validations Joint Letter of Support](#)

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** This is one of three annual validating acts. The joint letter of support is in the attachments section.

**[SB 880](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/17/2023 [html](#) [pdf](#)

**Introduced:** 2/17/2023

**Status:** 5/4/2023-Referred to Com. on L. GOV.

**Calendar:** 6/7/2023 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, CECILIA, Chair

**Summary:**

Would enact the Third Validating Act of 2023, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Attachments:** [Annual Validations Joint Letter of Support](#)

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** This is one of three annual validating acts. The joint letter of support is in the attachments section.

GAVIN NEWSOM  
GOVERNORJARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

### Division of Drinking Water

May 8, 2023

Water System No. 5410001

Dionicio Rodriguez, Superintendent  
Cutler PUD  
40526 Orosi Drive  
Cutler, CA 93615

Dear Mr. Rodriguez,

This letter concerns the current and future operations of Cutler Public Utilities District (Cutler PUD). The State Water Resources Control Board's (State Water Board), Division of Drinking Water (Division) has concerns regarding Cutler PUD's current and historic deficiencies and the ongoing and future ability of Cutler PUD to provide a safe and affordable supply of drinking water to its customers.

**As explained below, the Division is taking the first step towards considering ordering consolidation of Cutler PUD with the Orosi Public Utility District (Orosi PUD). The first step in this process is to provide a six-month period for the parties to negotiate a voluntary consolidation, pursuant to Section 116682 of the California Health and Safety Code (CHSC). This letter serves as official notification that pursuant to CHSC Section 116682(b), Cutler PUD is to negotiate consolidation or another means of providing an adequate source of safe drinking water with Orosi PUD.**

### Background

Cutler PUD is classified as a community public water system with a population of 6,200 residents, served through 1,217 service connections. Cutler PUD operates under permit amendment no. 03-12-09PA-006 and provides groundwater to its customers. As documented in the following findings, Cutler PUD is consistently failing to provide an adequate supply of safe drinking water.

1. Cutler PUD was issued Citation No. 03-24-19C-116 on October 21, 2019 for a total coliform maximum contaminant level violation for September 2019. CCR, Title 22, Section 64426.1, Total Coliform Maximum Contaminant Level (MCL), states that a public water system is in violation of the total coliform MCL if it collects fewer than 40 bacteriological samples per month and if more than one sample collected is total confirm positive. Cutler PUD took 22 bacteriological samples during September 2019. Two of the 22 samples were positive for total

coliform. One of the total coliform positive samples showed the presence of fecal coliform or *Escherichia coli* (*E. coli*) bacteria.

2. The State Water Board issued Order No. 03-24-22D-001 on August 15, 2022 requiring technical reporting in response to drought. The State Water Board identified Cutler PUD as facing a potential future water shortage at their groundwater source. California Health and Safety Code section 116530 authorizes the State Water Board to require a public water system to submit a technical report to the board, which may include without limitation: water quality information, physical descriptions of the existing water system, information related to drinking water accessibility, and information related to technical, managerial, and financial capacity and sustainability.
3. Cutler PUD has two active drinking water sources, Well 05 and Well 09. The Division issued compliance order no. 03-24-22R-007 for violation of the 1,2,3-trichloropropane (1,2,3-TCP) maximum contaminant level for Well 05. The compliance order directs Cutler PUD to return to compliance no later than August 29, 2025.

### **Six Month Period for Voluntary Consolidation**

Prior to issuing an order directing Cutler PUD to consolidate with the Orosi PUD, CHSC Section 116682, subd. (b)(1) requires the State Water Board to encourage voluntary consolidation. Section 116682, subd. (b)(8)(A) also requires the State Water Board to notify both Cutler PUD and the Orosi PUD and to establish a deadline of no less than six months, unless a shorter period is justified, to negotiate consolidation or another means of providing an adequate supply of safe drinking water. **This letter serves as official notification that pursuant to CHSC Section 116682(b), Cutler PUD is to negotiate with the Orosi PUD regarding consolidation of Cutler PUD with the Orosi PUD. The deadline for completion of this negotiation or another means of providing an adequate supply of safe drinking water is November 8, 2023.** The State Water Board requests that the parties report the outcome of such negotiations to the State Water Board no later than two weeks following the deadline. This reporting shall include the milestones agreed upon to accomplish consolidation and a timeline for completing them. Additionally, the reporting shall include a letter signed by the Cutler PUD Board stating that they intend to consolidate voluntarily in accordance with the agreed upon milestones and timelines. If a timely voluntary consolidation cannot be negotiated, the State Water Board will begin the public meeting process and may exercise its authority pursuant to CHSC Section 116682(a) to order consolidation.

The State Water Board acknowledges that consolidation is a complex process and stands ready to assist Cutler PUD and Orosi PUD. Pursuant to CHSC Section 116682, subdivision (b)(7)(B), and in order to assist with the negotiation process, the State Water Board will provide technical assistance and work with both Cutler PUD and Orosi PUD to develop a financing package that benefits both parties. This assistance will be developed by both the Division and the State Water Board's Division of Financial

Assistance, if requested. Please contact Caitlin Juarez  
([Caitlin.Juarez@waterboards.ca.gov](mailto:Caitlin.Juarez@waterboards.ca.gov)) with any questions you may have.

Sincerely,



Andrew Altevogt, P.E.  
Assistant Deputy Director  
State Water Resources Control Board, Division of Drinking Water

cc:

Cutler PUD Board Members  
[Cutlerpud@sbcglobal.net](mailto:Cutlerpud@sbcglobal.net)

Dennis Keller  
District Engineer  
[kelweg1@aol.com](mailto:kelweg1@aol.com)

Raul Mariscal  
Orosi Public Utility District  
[raul.opud@sbcglobal.net](mailto:raul.opud@sbcglobal.net)

Larry Micari, Tulare County Supervisor  
Tulare County Board of Supervisors  
2800 W. Burrell Avenue  
Visalia, CA 93291

Ben Giuliani  
Tulare County LAFCO  
[bgiuliani@tularecounty.ca.gov](mailto:bgiuliani@tularecounty.ca.gov)

Kristin Willet, P.E., District Engineer  
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David Rice, Legal Counsel  
SWRCB, Division of Drinking Water  
[david.rice@waterboards.ca.gov](mailto:david.rice@waterboards.ca.gov)

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## State Water Resources Control Board

### Division of Drinking Water

May 8, 2023

Water System No. 5410008

Raul Mariscal  
Orosi PUD  
12488 Avenue 416  
Orosi, CA 93647

Dear Mr. Mariscal,

This letter concerns the current and future operations of Cutler Public Utilities District (Cutler PUD). The State Water Resources Control Board's (State Water Board), Division of Drinking Water (Division) has concerns regarding Cutler PUD's current and historic deficiencies and the ongoing and future ability of Cutler PUD to provide a safe and affordable supply of drinking water to its customers.

**As explained below, the Division is taking the first step towards considering ordering consolidation of Cutler PUD with the Orosi Public Utility District (Orosi PUD). The first step in this process is to provide a six-month period for the parties to negotiate a voluntary consolidation, pursuant to Section 116682 of the California Health and Safety Code (CHSC). This letter serves as official notification that pursuant to CHSC Section 116682(b), Cutler PUD is to negotiate consolidation or another means of providing an adequate source of safe drinking water with Orosi PUD.**

### Background

Cutler PUD is classified as a community public water system with a population of 6,200 residents, served through 1,217 service connections. Cutler PUD operates under permit amendment no. 03-12-09PA-006 and provides groundwater to its customers. As documented in the following findings, Cutler PUD is consistently failing to provide an adequate supply of safe drinking water.

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coliform. One of the total coliform positive samples showed the presence of fecal coliform or *Escherichia coli* (*E. coli*) bacteria.

2. The State Water Board issued Order No. 03-24-22D-001 on August 15, 2022 requiring technical reporting in response to drought. The State Water Board identified Cutler PUD as facing a potential future water shortage at their groundwater source. California Health and Safety Code section 116530 authorizes the State Water Board to require a public water system to submit a technical report to the board, which may include without limitation: water quality information, physical descriptions of the existing water system, information related to drinking water accessibility, and information related to technical, managerial, and financial capacity and sustainability.
3. Cutler PUD has two active drinking water sources, Well 05 and Well 09. The Division issued compliance order no. 03-24-22R-007 for violation of the 1,2,3-trichloropropane (1,2,3-TCP) maximum contaminant level for Well 05. The compliance order directs Cutler PUD to return to compliance no later than August 29, 2025.

### **Six Month Period for Voluntary Consolidation**

Prior to issuing an order directing Cutler PUD to consolidate with the Orosi PUD, CHSC Section 116682, subd. (b)(1) requires the State Water Board to encourage voluntary consolidation. Section 116682, subd. (b)(8)(A) also requires the State Water Board to notify both Cutler PUD and the Orosi PUD and to establish a deadline of no less than six months, unless a shorter period is justified, to negotiate consolidation or another means of providing an adequate supply of safe drinking water. **This letter serves as official notification that pursuant to CHSC Section 116682(b), Cutler PUD is to negotiate with the Orosi PUD regarding consolidation of Cutler PUD with the Orosi PUD. The deadline for completion of this negotiation or another means of providing an adequate supply of safe drinking water is November 8, 2023.** The State Water Board requests that the parties report the outcome of such negotiations to the State Water Board no later than two weeks following the deadline. This reporting shall include the milestones agreed upon to accomplish consolidation and a timeline for completing them. Additionally, the reporting shall include a letter signed by the Cutler PUD Board stating that they intend to consolidate voluntarily in accordance with the agreed upon milestones and timelines. If a timely voluntary consolidation cannot be negotiated, the State Water Board will begin the public meeting process and may exercise its authority pursuant to CHSC Section 116682(a) to order consolidation.

The State Water Board acknowledges that consolidation is a complex process and stands ready to assist Cutler PUD and Orosi PUD. Pursuant to CHSC Section 116682, subdivision (b)(7)(B), and in order to assist with the negotiation process, the State Water Board will provide technical assistance and work with both Cutler PUD and Orosi PUD to develop a financing package that benefits both parties. This assistance will be developed by both the Division and the State Water Board's Division of Financial

Assistance, if requested. Please contact Caitlin Juarez  
([Caitlin.Juarez@waterboards.ca.gov](mailto:Caitlin.Juarez@waterboards.ca.gov)) with any questions you may have.

Sincerely,



Andrew Altevogt, P.E.  
Assistant Deputy Director  
State Water Resources Control Board, Division of Drinking Water

cc:

Orosi PUD Board Members  
[orosipud@sbcglobal.net](mailto:orosipud@sbcglobal.net)

Raul Mariscal  
Cutler PUD  
[Cutlerpud@sbcglobal.net](mailto:Cutlerpud@sbcglobal.net)

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David Rice, Legal Counsel  
SWRCB, Division of Drinking Water  
[david.rice@waterboards.ca.gov](mailto:david.rice@waterboards.ca.gov)



# **TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

June 7, 2023

TO: LAFCO Commissioners and Alternates

FROM: Ben Giuliani, Executive Officer

SUBJECT: Public Records Act Request – Leadership Counsel

**COMMISSIONERS:**

*Dennis Townsend, Chair  
Rick Feder, Vice-Chair  
Liz Wynn  
Pete Vander Poel  
Maribel Reynosa*

**ALTERNATES:**

*Larry Micari  
Fred Sheriff  
Steve Harrell*

**EXECUTIVE OFFICER:**

*Ben Giuliani*

## **BACKGROUND**

The Leadership Counsel submitted a Public Records Act (PRA) Request regarding LAFCO Case 1446-T-314, an annexation to the City of Tulare which was approved by LAFCO in 2010. This annexation contained 461 acres of land that was planned mostly for industrial use. The Matheny Tract, a disadvantaged unincorporated community of about 1,125 people, borders the annexed area to the south.

## **DISCUSSION**

The Leadership Counsel's PRA request (attached) to LAFCO was submitted on April 25<sup>th</sup>. While the PRA request was broad in nature, after discussion with the author, the focus of the request was on the following LAFCO condition of approval for the annexation:

*The City shall notify all Matheny Tract property owners of projects within the annexation site which require further discretionary approval and consequent environmental review.*

LAFCO staff sent various information regarding the annexation within the following week to the Leadership Counsel. This included application documents, notices, staff reports, minutes, recorded documents, etc.

The Leadership Counsel submitted a letter (attached) to the City of Tulare on May 3<sup>rd</sup> regarding a recently City approved industrial development between Paige Ave and the Matheny Tract. The letter cites the above LAFCO condition of approval along with several other issues regarding the "Tulare Industrial Center" project which extends from the south side of Paige Ave to the northern border of the Matheny Tract. The City will be responding to the letter which will be shared with the Commission when it is available.

## **Attachments:**

Leadership Counsel PRA request to LAFCO

Certificate of Completion with conditions of approval

Site Location

Leadership Counsel letter to the City of Tulare regarding the Tulare Industrial Center project

Applicant memo regarding the Tulare Industrial Center project



April 25, 2023

Benjamin Giuliani  
Executive Officer  
Tulare County LAFCO  
210 N Church St., Suite B  
Visalia, CA 93291  
Phone: (559) 623-0450 | Fax: (559) 733-6720

*Sent via email*

**RE: Request for Records**

Dear Mr. Giuliani,

On behalf of the Matheny Tract Committee, Leadership Counsel for Justice and Accountability ("LCJA") requests all records relating to the Tulare County Local Agency Formation Commission Resolution No. 10-015, referred to as South Tulare No. 21, Annexation 2007-03, Case Number: 1446-T-314 passed in 2010. We request all records including but not limited to:

1. All records describing, referencing, or otherwise relating to the Tulare County Local Agency Formation Commission Resolution No. 10-015 passed in 2010.
2. All records including but not limited to, the resolution itself, all related staff reports, and all minutes from hearings or meetings regarding Resolution No. 10-015.
3. All records related to written and verbal comments made on Resolution No. 10-015.
4. All records related to implementation of Resolution No. 10-015, including but not limited to records relating to the City's compliance with or violations or enforcement of Resolution No. 10-015.

For purposes of this request, the term "all records" refers to, but is not limited to, any and all documents, correspondence (including, but not limited to, inter and/or intra-agency correspondence as well as correspondence with entities or individuals outside the federal government), emails, letters, notes, telephone records, telephone notes, minutes, memoranda, comments, files, presentations, consultations, biological opinions, assessments, evaluations, schedules, telephone logs, papers published and/or unpublished, reports, studies, photographs and other images, data (including raw data, GPS or GIS data, UTM, LiDAR, etc.), maps, and/or all other responsive records, in draft or final form.

The Public Records Act requires a response within ten days. Cal. Gov. Code § 6253. If you intend to withhold any documents on the basis of an exemption or privilege, please notify us in



your response to this request of the documents you intend to withhold and the basis for their withholding. Id. § 6255. In addition, if you anticipate seeking an extension of time to provide responsive documents, please contact us immediately to discuss options for expedient compliance with this request.

To the extent possible, send all records responsive to this request in PDF format to me at my email address: [pelerts@leadershipcounsel.org](mailto:pelerts@leadershipcounsel.org). Id. § 6243.9. Please notify me prior to making any copies in response to this request. We are willing to accept records on a rolling basis.

Please inform me if there are any fees for copying these records. LCJA requests a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of how LAFCO conditions are being applied to local communities, and inform residents of their rights. This information is not being sought for commercial purposes.

Thank you for your attention to this matter. Please contact me at (951) 321-9441 if you have any questions regarding this request.

Sincerely,

*Perry Elerts*

Perry Elerts  
Staff Attorney  
Leadership Counsel for Justice and Accountability  
[Pelerts@leadershipcounsel.org](mailto:Pelerts@leadershipcounsel.org)  
(951) 321-9441

Cc: Amie Kane, LAFCo Analyst  
Holly Gallo, LAFCo Clerk

Recording Requested  
by and Return to:

Tulare County LAFCO  
5961 S. Mooney Blvd.  
Visalia, CA 93277

2010-0055367

Recorded  
Official Records  
County of  
Tulare  
GREGORY B. HARDCASTLE  
Clerk Recorder

REC FEE 0.00  
CONFORMED COPY 0.00

09:33AM 08-Sep-2010 LC  
Page 1 of 13

## CERTIFICATE OF COMPLETION

*Pursuant to Government Code §57200 - §57203, this Certificate of Completion is hereby issued by the Executive Officer of the Tulare County Local Agency Formation Commission, State of California. The recording fee is waived per GC 6103, as this action constitutes a benefit to the County.*

1. **Short Title:** South Tulare No. 21, Annexation 2007-03
2. **Case Number:** 1446-T-314
3. **Type of Change:** Annexation
4. **The name of each city or special district involved in this change and the type of change are as follows:**  
  

**City/Special District:** City of Tulare

**Type of Change:** Annexation
5. **The above listed city and/or special district are located in the following counties:**  
  

**County:** Tulare County
6. **The affected territory is u inhabited**
7. **A description of the boundaries of the above-cited change of organization or reorganization is shown on the map and legal description attached to the accompanying resolution and by reference incorporated herein.**
8. **This change of organization or reorganization has been approved subject to the following terms and conditions:**
  1. No change be made to land use designations or zoning for a period of two years after the completion of the annexation, unless the city council makes a finding at a public hearing that a substantial change has occurred in

circumstances that necessitate a departure from the designation or zoning.

2. The City must succeed to Williamson Act Contract 7233 upon annexation in accordance with rules adopted in accordance with GC 21243.
3. The City shall not provide service to the property affected by Williamson Act Contract 7233 during the remainder of the life of the contract for land uses or activities not allowed under the contract.
4. LAFCO will not record a Certificate of Completion with the County Clerk until the City provides evidence that it has filed a notice of contract termination for Williamson Act Contract 2847 (Preserve 0278).
5. At such time as sewer system infrastructure becomes available on the annexation site (Exhibit B), the City of Tulare shall offer extraterritorial sewer service to residents of Matheny Tract who wish to connect to the City system (at resident cost).
6. The City shall continue to work with the Pratt Mutual Water Company in an effort to deliver potable water to the Matheny Tract Subdivision (this is predicated on Pratt Mutual's continued good-faith effort to work with the City). In addition, the City shall work in conjunction with the County of Tulare in good faith to make water and sewer service available through the pursuit of grants and other funding mechanisms.
7. The City shall notify all Matheny Tract property owners of projects within the annexation site which require further discretionary approval and consequent environmental review.
8. If 25% of Matheny Tract property owners sign and submit to City of Tulare Staff a petition seeking annexation to the City of Tulare, the City shall process the annexation request in accordance with City annexation policy.
9. **The resolution ordering this change of organization or reorganization without election was adopted on August 4 , 2010.**

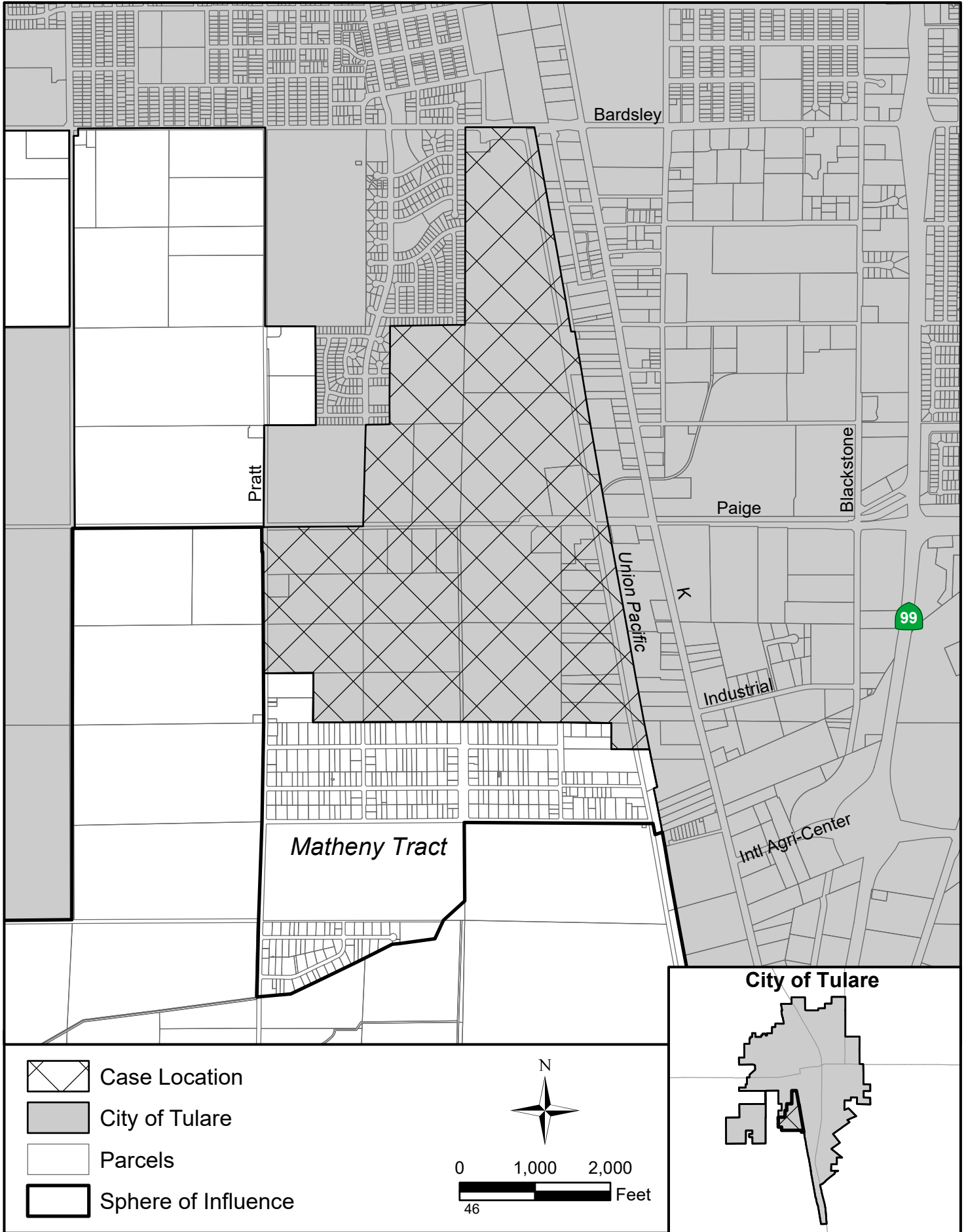
**I hereby certify that the above action is in compliance with Tulare County LAFCO Resolution Number 10-015 adopted on August 4, 2010.**

**Ben Giuliani, Executive Officer  
Tulare County Local Agency Formation Commission**

By:   
**Marcos Segura, Staff Analyst**

Date: 9-8-2010

# LAFCO Case 1446-T-314





May 3rd, 2023

Mayor Terry Sayre  
Vice Mayor Patrick Isherwood  
Councilmember Jose Sigala  
Councilmember Stephen Harrell  
Councilmember Dennis Mederos  
City of Tulare  
411 East Kern Ave,  
Tulare, CA 93274

*Sent via Email*

**Re: City of Tulare's Failure to Comply with State Law Regarding Approval of the Paige Avenue Industrial Project, Site Plan Review Application No. 22-53**

Dear Mayor Sayre and City Councilmembers:

Leadership Counsel for Justice and Accountability ("LCJA") writes on behalf of the Matheny Tract Committee ("MTC") regarding the City's approval of the development and operation of the Tulare Industrial Center/Paige Avenue Industrial Center Project ("Project") as proposed in Site Plan Review Application No. 22-53 ("SPR Application"). Matheny Tract Committee's mission and purpose is to advocate for improved conditions in Matheny Tract and is comprised of residents of Matheny Tract.

This warehouse Project includes the construction and operation of two warehouse distribution facilities, comprising more than one million square feet and including more than 1,500 parking stalls, in the City to the South and West of Paige Avenue and I Street respectively and adjacent to homes in the disadvantaged unincorporated community of Matheny Tract. According to the SPR Application, the Project would operate twenty-four hours a day, seven days a week.

The City's actions in approving the Project's Site Plan without providing notice to Matheny Tract residents and failing to enforce mandatory mitigation measures contained in the I Street Specific Plan and General Plan EIRs are inconsistent with and in violation of the conditions attached to Tulare County LAFCO Resolution No. 10-015; the Brown Act (Government Code section 54950 et seq.); the California Environmental Quality Act California

("CEQA") (Public Resources Code section 21000 et seq.); and civil rights laws, including the Fair Employment and Housing Act (Government Code section 12900 et seq.), Government Code section 11135, and the City's duty to Affirmatively Further Fair Housing pursuant to Government Code section 8899.50(b). As further discussed in this letter below, the City's actions and omissions harm MTC members and other Matheny Tract residents, because they deprived them of the opportunity to learn about and provide input to the City regarding the Project before its approval and because they result in Matheny Tract residents' exposure to degraded environmental quality, heightened public health and traffic safety risks, and other negative impacts and disproportionately negatively impact Matheny Tract residents on the basis of race, ethnicity, and other characteristics protected by civil rights laws. MTC hereby requests that within fifteen days the City respond to this letter confirming in writing the steps it will immediately take to rectify its violations of the aforementioned laws and to avoid repeating these violations in the future.

### **I. The Project's Adverse Impacts on the Matheny Tract Community**

There are several serious reasons MTC is concerned with this Project. First, they are concerned that Matheny residents are not being properly notified of local land use decisions which are going to have a major impact on their everyday lives and their ability to use and enjoy their properties. Second, they are concerned with the environmental and health impacts this Project is going to have on them. The Project is over a million square feet of warehouse going directly into their backyards. The Project is estimated to generate a total of 2,048 two-way trips *per day* with 152 AM peak hour trips and 163 PM peak hour trips. That is a substantial increase in vehicular traffic in this community. These trips will cause substantial increases in local air pollution causing health effects to Matheny Tract. The warehouse operation will also cause considerable noise, light, and vibration pollution which will further harm Matheny residents. MTC is concerned that this Project is moving forward without environmental review, depriving them of information about the Project's environmental impacts under CEQA. The City did not require any additional mitigation measures when approving this Project to help protect Matheny residents and reduce impacts of this Project. Lastly, residents are concerned that the few mitigation measures that the City has in place through its General Plan and Site Plan are not being enforced and their health and environment are going to be degraded as a result.

For additional context, Matheny Tract is in the 96th percentile of CalEnviroScreen's ranking of California communities' pollution burdens, making it one of the most polluted communities in the State. Matheny Tract is burdened by pollution from existing industries including JV Recycling and Demolition, Truck & Trailer Repair, Valmetal Tulare Inc., a manufacturer of agricultural and dairy equipment, and Truck Tub Int which houses and traffic large semi trucks near the community. Matheny Tract also neighbors the Saputo Cheese factory, Ruiz Foods and other large supply shops like Mid-Valley Pipe & Supply Inc, California

Industrial Rubber, and Hydraulic Controls. The community already suffers from being in the 99th percentile for groundwater contamination, 95th percentile for PM2.5 pollution, and 85th percentile for ozone pollution. As a result, the community's cardiovascular disease rate is higher than 87.23% of the census tracts in California. The community's asthma rates are also 75% higher than all other California census tracts. The City's decision to place these warehouses and other industrial land uses around Matheny Tract makes it impossible for MTC to overcome its pollution burden and forces them to have to suffer the environmental and health consequences of the City's actions. Matheny residents face a disproportionate pollution burden from the City's industrial uses, and not an equal amount of the benefits.

## **II. The City Failed to Provide Mandatory Notice to Matheny Tract Residents as Required by LAFCO Resolution No. 10-015.**

The Project site, which is comprised of Assessor Parcel Numbers 187-050-013, 187-050-020, and 187-060-001, is located south of Paige Avenue and I Street and in the geographic area that was annexed into the City of Tulare pursuant to Tulare County Local Agency Formation Commission Resolution No. 10-015 ("LAFCO Resolution") in 2010. (See Attachment 1, (LAFCO Resolution), p. 13.) The LAFCO Resolution states that the annexation was approved subject to certain conditions. One of those conditions, condition 8(G), provides that: "[t]he City shall notify all Matheny Tract property owners of projects within the annexation site which require further discretionary approval and consequent environmental review."

The City's approval of the construction and operation of this Project, via its approval of Site Plan Review Application No. 22-53, was a discretionary action which triggered an obligation by the City to perform environmental review pursuant to CEQA and to notify Matheny Tract residents of the Project pursuant to the LAFCO Resolution. Section 15357 of the CEQA Guidelines defines a discretionary action as follows:

[A] project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, regulations, or other fixed standards. The key question is whether the public agency can use its subjective judgment to decide whether and how to carry out or approve a project.

Conditions of approval to an annexation imposed by a local agency formation commission are enforceable against any public agency identified in the term or condition. Gov. Code § 56122. (14 Cal. Code. Regs. § 15357.) The CEQA Guidelines elaborate that discretionary versus ministerial power over a project hinges upon "the authority granted by the law providing the controls over the activity." (14 Cal. Code. Regs. § 15002(i)(2).) Courts apply a "functional" test

to determine whether a decision was discretionary, which analyzes whether the agency may modify the project to alleviate concerns about environmental impacts. (*Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259, 267, 272; *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4th 105, 117.)

Because the Project involves new industrial development, the Project was required to submit and secure the City's approval of a Site Plan. City of Tulare Municipal Code (TMC) § 10.12.050(B); Table 19-1 (identifying warehousing as a use falling within the industrial zone district and classification). The TMC gives the Site Plan Review Committee ("SRC") discretion to "approve," "conditionally approve" or "disapprove" a proposed site plan and "the power to apply those conditions to a planned development permit that the Committee finds are in keeping with current city ordinances and reasonably necessary to protect the public health, safety, and general welfare." (TMC § 10.120.070.) As the TMC gives the Committee the ability to condition its approval based on a subjective judgment of the Project's potential impact on "public health, safety, and general welfare," the Committee has the power to exercise discretion over projects under the "functional" test. In addition, to approve a Site Plan Review, the TMC requires the Site Plan Review Committee to make several findings which require the SRC to exercise judgment and deliberation and which are not determined according to fixed standards. For example, the SRC must determine that various aspects of the Project are designed in a manner to "avoid traffic congestion," "safeguard the welfare of pedestrians and vehicles," and "avoid adverse effect on surrounding property," and that equipment proposed to be used is "designed to avoid excessive noise" at adjoining properties. (TMC § 10.120.070(A)(2)&(4).) The TMC does not provide guidance, let alone identify objective standards, to govern the SRC's evaluation of whether a Project satisfies these subjective standards. Because the Project approval was discretionary, it was also subject to further environmental review under CEQA. (See Pub. Res. Code § 21080(a); 14 CCR § 15002(i).) Therefore, the requirement in section 8(G) of the LAFCO Resolution to notify all Matheny Tract property owners was triggered when the SRC approved the Project.

Based on the information available to us, the City failed to notify Matheny Tract residents of the Project as required by the LAFCO Resolution, and thus wrongfully deprived them of their right to notification and deprived them of an opportunity to provide input to the City on the Project before it was approved, including to inform the SPR's evaluation of the findings required for the Site Plan's approval.<sup>1</sup> The City therefore violated its duties under the LAFCO Resolution and lacked authority to approve the Project in a manner that violated the conditions of that Resolution. (*Voices for Rural Living v. El Dorado Irrigation Dist.*, (2012) 209 Cal.App.4th 1096,

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<sup>1</sup> Members of Matheny Tract Committee have confirmed that they never received a notice from the City or any other party relating to the proposed Project. In addition, on March 29, 2023, LCJA, on behalf of MTC, issued a letter to the City requesting all public records in the City's possession relating to the Project, including any notices of the Project issued to property owners or residents of Matheny Tract. The City's response to our request did not include any documents constituting a notice of the Project to Matheny Tract residents.

1116 [EID's determination that the [LAFCO] conditions were unconstitutional, and its decision not to comply with them, exceeded its authority and are void.].) As a result, the Site Plan Permit issued for the Project, and any permits issued in reliance thereon, are void and without legal effect. *Id.*; See TMC §§ 10.12.010(B) (requiring the SRC to “assure that approval if consistent with established policies and regulations relating to public improvements” in making the findings required by the TMC for approval of a site plan); 10.208.030(B) (“any permit, certificate, or license issued...in conflict with this title shall be null and void”).<sup>2</sup>

### **III. The City Has Violated Its Duty to Enforce Mitigation Measures Contained in the I Street Specific Plan EIR and the General Plan EIR**

The Project is subject to mitigation measures adopted by the City in its I Street Specific Plan Environmental Impact Report (Table 2-2) and the General Plan, Transit-Oriented Development Plan, and Climate Action Plan Final Environmental Impact Report (Table 2-1) (“General Plan EIR”). Site Plan Review Action Letter, (July 13, 2022). Under CEQA, “[m]itigating conditions are not mere expressions of hope.” (*Lincoln Place Tenants Association v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508.) Once incorporated, a city is bound to implement and enforce mitigation measures contained in environmental documents and cannot defeat mitigation measures by ignoring them or by “attempting to render them meaningless by moving ahead with the project in spite of them.” (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 450.) This is true regardless of whether subsequent approvals are discretionary or ministerial. (*Katzeff v. California Department of Forestry & Fire Protection* (2010) 181 Cal.App.4th 601, 614.) A writ of mandate may be issued to compel a city to enforce mitigation measures contained in an EIR. (See *Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 452-53.)

In addition, where implementation of mitigation measures are required by conditions included in the City’s approval of a Site Plan, the City’s own code unequivocally establishes that projects must comply with those mitigation measures and requires that the City take action to enforce compliance. TMC §§ 10.12.130 (stating that the operation of a use in a manner that does not comply with site plan conditions identified at the time of approval “shall be suspended consistent with the procedures outlined in Chapter 10.208 Enforcement”); 10.208.030. Pursuant to TMC §§ 10.208.030(A) and 10.208.050, development or use of any site contrary to the TMC’s Zoning Ordinance is unlawful and a public nuisance and “the City Attorney shall immediately

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<sup>2</sup> Additionally, entitlement rights cannot vest where land use permits were not established lawfully; accordingly, the Project cannot acquire and has not acquired vested rights based on the City’s approval of the SPR Application in violation of LAFCO Resolution section 8(G). (See *Attard v. Board of Supervisors of Contra Costa County*, (2017) 14 Cal.App.5th 1066, 1077 [223 Cal.Rptr.3d 521] [“the issuance of a permit . . . cannot create a vested right to construct or use property in violation of laws in effect at the time of issuance of the permit.”].)

institute necessary legal proceedings” and “shall take such other steps as may be necessary” to secure compliance.

Based on available records and records obtained through our comprehensive PRA request to the City asking for all records related to this Project, the Project is inconsistent with several mitigation measures contained in the I Street SP EIR and the General Plan EIR and that the City has failed to require compliance with those measures despite its issuance of approvals for the Project. The following is a non-exclusive list of I Street SP and GP EIR mitigation measures with which, based on the information available to us, the Project is out of compliance with and which the City has failed to take action to enforce.

1. *General Plan EIR Mitigation Measures*

General Plan EIR mitigation measure AQ-4a requires:

“Applicants for industrial or warehousing land uses that: 1) have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered transport refrigeration units (TRUs), and 2) are located within 1,000 feet of a sensitive land use (e.g. residential, schools, hospitals, nursing homes), as measured from the property line of the project to the property line of the nearest sensitive use, *shall submit a health risk assessment (HRA) to the City of Tulare prior to future discretionary project approval.*” (emphasis added).

Based on available records and the City’s response to our PRA request, it does not appear an HRA was submitted to the City for the Project before the SPC approved the Site Plan as required.

Further, General Plan Mitigation Measure AQ-2a states:

projects must “comply with the San Joaquin Valley Air Pollution Control District (SJVAPCD) rules and regulations, including, without limitation, Indirect Source Rule 9510 (ISR).”

Based on records obtained on April 18, 2023, from the SJVAPCD it does not appear the Project is in compliance with the ISR. Specifically, it does not appear the Project has offset its expected emissions by the required amount. The Air Impact Analysis (“AIA”) obtained from the Air District does not show the Project will reduce 33.3% of the Project’s operational baseline NOx emissions over a period of ten years as quantified in an approved AIA. It also does not show a 50% reduction in PM10 emissions over a ten year period. See Attachment 2 (Copy of Submitted AIA). Based on the information available and documents obtained through PRA requests, it does not appear the Project paid the fees necessary to offset its emissions to comply with the ISR.

Lastly, General Plan Mitigation Measure BIO-2 states:

“[g]round-disturbing and vegetation removal activities associated with construction of projects implemented under the Draft General Plan, Draft TOD Plan, or CAP shall be performed outside of the breeding season for birds, which is generally from February 1 through August 31. If these activities cannot be implemented outside of the breeding period, the project applicant shall retain a qualified biologist to perform pre-construction nest surveys to identify active nests within and adjacent to (up to 500 feet) the Study Area. Any active nests identified within and adjacent to the projects shall be avoided by construction activities to prevent failure of the nest(s).”

There are no public records or documentation we received from the City through our PRA request indicating if the City will require the Applicant to grade only during the nonbreeding season. According to the Project’s ISR Air Impact Assessment Application submitted to SJVAPCD, Project construction began as of March 6, 2023, well within the breeding season. Based on the information available to Leadership Counsel, there is no documented justification for performing the Project construction during the breeding season.

## *2. I Street Specific Plan EIR Mitigation Measures*

Specific Plan Mitigation Measure 3.8.5a requires:

“Prior to the issuance of grading permits, the project applicant prepares a SWPPP [stormwater pollution prevention plan] to be administered through all phases of grading and project construction. . . . the SWPPP shall be submitted to the CVRWQCB [Central Valley Regional Water Quality Control Board (“Regional Water Board”)] and to the City for review and approval.”

Grading has commenced on the Project and the deadline for the Project to comply with this measure has passed, yet we have not received the SWPPP as part of our PRA request to the City, although emails obtained show a SWPPP may have been completed.

Specific Plan Mitigation Measure 3.1.2a states:

“A lighting plan shall be prepared and submitted to the City for approval in conjunction with any non-residential development applications or permit applications for development within the project site. The lighting plan shall comply with the guidelines provided by the International Dark Sky Association Model Lighting Ordinance. Night lighting shall be limited to that necessary for safety, security, and identification. Night lighting shall also be screened from adjacent residential areas and not be directed in an upward manner or beyond the boundaries of the parcel on

which the buildings are located. Outdoor security lighting by businesses shall be controlled by timers.”

Neither the Site Plan Application, the Site Plan Review Action Letter, nor any other record provided to us by the City in response to our request for records indicates that the required lighting plan was prepared or submitted.

Those are just a few examples of applicable mitigation measures, which based on the information provided to us by the City, the City failed to ensure that the Project incorporated or complied with prior to its approval and continues to fail to enforce with respect to the Project. We therefore request the City of Tulare comply with its duties under CEQA and the TMC to immediately take action to ensure the suspension of development on the Project site in violation of the GP PEIR and I St SP EIR’s mitigation measures and the Site Plan’s conditions. This may require the City to seek an enforcement action, citation, or other civil or criminal penalties against the Project developer and/or operator.

#### **IV. The City’s Approval of the Project Without Notice to Matheny Tract Residents and Legally Required Environmental Review Violates its Duties to Avoid Discrimination and to Affirmatively Further Fair Housing.**

The City’s actions and omissions in approving the Site Plan Review and other entitlements for this Project without notice to Matheny Tract residents and environmental review required under CEQA violates its duties under civil rights laws to avoid discrimination and to affirmatively further fair housing (“AFFH”).

The California Fair Employment and Housing Act (“FEHA”) prohibits discrimination in land use practices, decisions, and authorizations on the bases of race, color, national origin, or other protected characteristics. (Gov. Code §§ 12955(1); 12955.8.) Unlawful land use practices prohibited under FEHA include, but are not limited to, those that result in the location of toxic, polluting, and/or hazardous land uses in a manner that (1) adversely impacts enjoyment of residence based on protected characteristics; (2) creates, reinforces, or perpetuates segregated housing patterns; or (3) provides inadequate, inferior, limited, or no governmental infrastructure, facilities, or services. (14 Cal. Code. Regs. § 12161(b)(11)&(12).) Government Code section 11135 prohibits the City from engaging in actions and omissions resulting in unlawful discriminatory impacts on the basis of race, ethnicity, and other protected characteristics. Government Code section 8899.50 subjects the City to a mandatory duty to AFFH in *all* of its programs and activities relating to housing and community development by taking meaningful actions that overcome patterns of segregation and barriers to opportunity based on protected class status as well as by fostering compliance with civil rights laws. The City is prohibited from taking *any* action materially inconsistent with that duty. (Gov. Code § 8899.50(b)(1).)

Here, the City's decision to approve the Project, and thus further entrench pollution in Matheny Tract, highlights the City's pattern of discrimination against Matheny Tract residents in violation of FEHA. Although, just one act or omission of siting toxic land uses creating an unlawful disparate impact based on race or other protected classes can be sufficient to show a violation of FEHA. (14 Cal. Code. Regs. § 12161(b)(11)&(12).) The City's approval of approximately one million square feet of industrial warehouse distribution centers next to homes in Matheny Tract, a community comprised of a disproportionate share of people of color<sup>3</sup> conflicts with the City's duties under civil rights laws. The Project would negatively impact the current environment through excess air pollution, light, sound, dust, diesel emissions, and other polluting impacts associated with industrial development and limit land available to meet community residents' basic needs (e.g., for access to a healthy environment, open space, parks, recreational centers, affordable housing, grocery stores, educational centers, health clinics, and more), entrenching patterns of racial and economic segregation and disparities in access to opportunity as a result.<sup>4</sup> It's evident from human health studies in California that logistic and distribution warehouses increase local pollution resulting in harm to local public health.<sup>5</sup> Warehouse's vastly increase local traffic and vehicle miles traveled, increasing particulate matter, and other toxic air emissions which lead to asthma, cardiovascular disease, and other health issues.

Matheny Tract is in the 96th percentile of CalEnviroScreen's ranking of California communities' pollution burdens, making it one of the most polluted communities in the State. The community already suffers from being in the 99th percentile for groundwater contamination, 95th percentile for PM2.5 pollution, and 85th percentile for ozone pollution. As a result, the community's cardiovascular disease rate is higher than 87.23% of the census tracts in California. The community's asthma rates are also 75% higher than all other California census tracts. Matheny Tract lacks access to basic amenities and services like open spaces, parks, alternative transportation options and connectivity to the City, grocery stores, and health clinics. These health effects are the result of the City's continued land use practices, including directing industrial and polluting land uses to concentrate next to Matheny Tract, a community of color, through its zoning and land use siting decisions. The decision to approve this warehouse project and others is a clear pattern of discrimination by the City and is materially inconsistent with its duty to AFFH in violation of Government Code § 8899.50. Further, the City has demonstrated no legally sufficient justification, and has no such justification, for its decision to direct polluting

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<sup>3</sup> See U.S. Census Bureau for Matheny CDP, CA, available at [https://data.census.gov/profile/Matheny\\_CDP\\_California?g=160XX00US0646223](https://data.census.gov/profile/Matheny_CDP_California?g=160XX00US0646223).

<sup>4</sup> Gov. Code, § 8899.50, subd. (a)(1); see also HCD, Affirmatively Furthering Fair Housing Guidance for All Public Entities and for Housing Elements, (April 2021 Update) at pg. 2, 64 available at [https://www.hcd.ca.gov/community-development/affh/docs/affh\\_document\\_final\\_4-27-2021.pdf](https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf).

<sup>5</sup> Warehouses, Pollution, And Social Disparities, (2021) available at [https://earthjustice.org/wp-content/uploads/warehouse\\_research\\_report\\_4.15.2021.pdf](https://earthjustice.org/wp-content/uploads/warehouse_research_report_4.15.2021.pdf).

industrial land uses to land immediately surrounding Matheny Tract as opposed to other undeveloped land near the City that is farther from Matheny Tract and other inhabited areas. (Cal. Code Regs. Tit. 2, § 12062.)

Not only does the siting of industrial uses near Matheny trigger civil rights protections, so does the City's failure to properly notify Matheny residents of the Project. The City failed to notify Matheny residents through the LAFCO condition, through the Brown Act requirements, or through the CEQA public notice provisions. All of these actions resulted in the exclusion of Matheny residents in the decision making process. It deprived them of their right to voice their concerns over this Project. By failing to do CEQA review the City also deprived residents of their right to information about the environmental impacts of this project. Additionally, residents will be exposed to uncertain and worse environmental harms by the City's failure to analyze the effects of this project. MTC was denied their right to offer mitigation strategies through CEQA to offer ways to reduce the health and environmental impacts of this Project. California Department of Housing and Community Development, Affirmatively Furthering Fair Housing guidelines clearly state local governments must do proactive outreach to protected classes to ensure their engagement in local government decision making processes. *See* California Department of Housing and Community Development, Affirmatively Furthering Fair Housing, 18-19 (2021). The City's failure to notify residents of a protected class and failure to study environmental impacts are in violation of the City's duties under State Civil rights laws. (14 Cal. Code. Regs. § 12161(b)(11)&(12); Gov. Code §§ 11135; 8899.50; 12955(l); 12955.8.)

The expenditure of City resources to approve and monitor the Project, which will entrench and worsen existing racial and economic segregation and worsen disparities in access to a healthy environment, complete neighborhoods, and lessen opportunities based on race, ethnicity, national origin, and language of Matheny Tract residents, is at odds with its obligations under environmental justice policies, Government Code Section 8899.50, FEHA, and other state and federal fair housing and civil rights laws. (See, e.g., Gov. Code §§ 11135, 8899.50(b); 12955; 2 C.C.R. §§ 12060, 12161.)

#### **V. The City Violated the Brown Act by Failing to Notice its July 13, 2022 Site Plan Review Committee Meeting**

The Brown Act clearly expressed the Legislature's intent that public agencies' meetings occur openly, to keep their constituencies informed "so that they may retain control over the instruments they have created." (Gov. Code § 59450.) Government Code section 54953(a) provides that all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meetings of the legislative body of a local agency.

Legislative bodies of local agencies are required to post agendas for upcoming meetings at least 72 hours before a regular meeting and no action or discussion may occur on items or subjects not listed on the posted agenda. (Gov. Code §§ 54954.2(1); 54954.2(a)(2).) The agenda must be “posted in a location that is freely accessible to members of the public and on the local agency’s Internet Web site, if the local agency has one.” (Id.)

The Site Plan Review Committee held a meeting on July 13, 2022 in which it approved a Site Plan Review Permit for the Paige Avenue Industrial Center Project, thereby approving the Project. Although our staff regularly check the Site Plan Review Committee’s agendas on behalf of the Matheny Tract Committee, no such agenda was posted for the July 13, 2022 meeting, depriving residents of an opportunity to comment on the Project. (See Attachment 3 (Screenshot of City of Tulare Agendas, Staff Reports, Minutes & Audio Webpage).) As a result of the City’s failure to notify residents, the community only recently became aware of the Project and its potential detrimental impacts.

In order to ensure that all meetings are open and public, the Site Plan Review Committee must comply with the Brown Act’s notice requirements. If the City fails to comply with the Brown Act, the City risks civil and criminal penalties. Members of the Site Plan Committee are guilty of a misdemeanor if they attend Site Plan Committee meetings “where action is taken in violation of any provision of [the Brown Act], and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter.” (Gov. Code § 54959.) The district attorney or any interested party may take action to determine whether current, future, or past actions violate the Brown Act. (Gov. Code §§ 54960, 54960.2.) Parties may also seek to stop ongoing or future Brown Act Violations through “action[s] by mandamus, injunction, or declaratory relief.” (Gov. Code § 54960.) A court may also find the Committee’s actions null or void if they are taken in violation of the Brown Act. (Gov. Code § 54960.1.) It is of the utmost importance that the City follow the requirements of the Brown Act to properly inform the public of its activities, including if another site plan review application is submitted for a future phase of the Project.

## **VI. Conclusion**

By failing to provide Matheny Tract residents with notice of the Project as required by the LAFCO Resolution, the City of Tulare violated the terms of that resolution and deprived Matheny Tract residents of the opportunity to voice their opinion on the Project, the Project’s compliance with the findings required for the issuance of a Site Plan, and the Project’s potential impacts on the Matheny Tract community. Further, by issuing permits for the Project while failing to enforce mitigation measures applicable to this Project, the City jeopardizes the health and safety of Matheny Tract residents who will be directly impacted by the Project.

Given the City's failure to comply with LAFCO Resolution condition 8(G) and the Project's lack of compliance with applicable mitigation measures from the General Plan EIR I St SP EIR, the City exceeded its authority in issuing the Site Plan. We ask that the City respond to this letter within 15 days stating the actions it will take, acknowledge the Project's lack of a valid entitlements, and prevent the Project's continued development and operation in violation of the requirements of CEQA and its own municipal code. We further ask that the City confirm the steps it will take to ensure implementation of and compliance with LAFCO Resolution condition 8(G), mitigation measures included in the GP PEIR and I Street SP EIR, the Brown Act, and civil rights laws as applicable for all development going forward and in particular, development located in the area annexed pursuant to the LAFCO Resolution. If the City continues to fail to take meaningful steps toward ensuring the Project's compliance with these laws and to respond as requested within 15 days of receipt of this letter, we will advise the Matheny Tract Committee of all of their options, including legal action.

Thank you for your time and attention to this matter. If you would like to find a time to discuss this request or have any questions, please contact Perry Elerts at the email address provided below.

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# MEMO

**Date:** March 3, 2023

## Indirect Source Review Information Memo

### Project Description - Tulare Industrial Center

The tenants are speculative at this time, however, CA Ventures intends to develop the property with modern industrial assets and lease the buildings to users that are consistent South I St Industrial Park Specific Plan, Tulare General Plan, and Tulare Zoning Code.

CA Ventures, the Project Applicant, is proposing to redevelop the subject property with two Class A logistics/distribution warehouses (herein, the "Tulare Industrial Center" or "Project"). Phase 1 - Building 1 will include 542,570 s.f. of warehouse space, 10,000 s.f. of office space (with potential for mezzanine office), 92 dock loading doors, 644 auto parking stalls (78 of which would be EV charging), and a secured trailer yard with 310 trailer stalls.

It is anticipated that the project will be constructed in two Phases, with the completion Building 1 occurring up to one year earlier than Building 2. The intention of this phasing to avoid two buildings of similar size competing against each other at time of leasing. A lot line adjustment/merger will be needed for each building (2 parcels total) and a reciprocal access agreement will be established for use and maintenance of all shared facilities.

The shared site facilities to be constructed as part of Phase 1 include, but are not limited to:

- Three access driveways from Paige Ave (two driveways will be full access for truck and auto ingress/egress and one driveway dedicated for autos only)
- One full access (truck and auto) driveway connecting to South I Street
- The internal private roadway
- A retention basin at the south end of the site (volume of 22.47 acre-feet)
- Associated improvements to the Paige Ave and South I Street frontages (it is our understanding that a fair share cost will be applied to the project for the future build out of the Paige Ave 110' ROW)

### Phase 1 – Building 1

The Project will be accomplished in two phases. Building 1 is what is being proposed in this application submittal. Phase 1 includes the following:

Site Square footage / acreage: 1,655,342 square-feet – 38.0 Acres

Building square footage: 542,570



Parking Stalls: 550

Clean Air Parking Stalls: 16

EV Parking Stalls: 78

Trailer Parking stalls: 310

Phase 1 Building 1 is the only development that is proposed with this application.

**Future Construction:**

When Phase 1 – Building 1 is completed and operating, CA Venture will determine how they plan to proceed with the construction of a second building on the parcel to the south of the subject property. A subsequent ISR will be completed for the southern parcel when CA Ventures chooses to proceed with the construction of that portion. There are no determined dates for the start of construction for the southern parcel, therefore it has not been included in this ISR.



