



# 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

**August 5, 2020 @ 2:00 P.M.**

NOTE: This meeting will allow Commissioners and the public to participate in the meeting via Teleconference, pursuant to the Governor's Executive Order N-25-20 (March 12, 2020), available at <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.12.20-EO-N-25-20-COVID-19.pdf>

COMMISSIONERS:  
*Pete Vander Poel, Chair*  
*Julie Allen, V-Chair*  
*Martha Flores*  
*Dennis Townsend*  
*Pamela Kimball*

ALTERNATES  
*Eddie Valero*  
*Carlton Jones*  
*Vacant*

EXECUTIVE OFFICER  
*Ben Giuliani*

**The call-in number for this meeting is: 877-858-5743 | Passcode: 609873**

Executive Order N-25-20 requires agencies holding meetings via teleconferences to designate a publicly accessible location from which members of the public may observe and provide public comment. Although members of the public are encouraged to participate via teleconference, LAFCo has designated the following physical location for public participation:

BOARD OF SUPERVISORS CHAMBERS | COUNTY ADMINISTRATIVE BUILDING  
2800 West Burrell Avenue  
Visalia, CA 93291

**I. Call to Order**

**II. Approval of Minutes from June 3, 2020**

**(Pages 01-02)**

**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. New Action Items**

**1. Extraterritorial Service Agreement 2020-001**

**(Pages 03-32)**

*[No Public Hearing].....Recommended Action: Approval*

Tulare County has submitted a request for an extraterritorial service agreement for approximately 126.9 acres of land to be served by the City of Visalia located at the southeast corner of Caldwell and State Route 99. An Environmental Impact report has been prepared in compliance with CEQA by Tulare County for use in this proposal.

**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. SB 414 Letter of Opposition (Pages 33-60)  
[No Public Hearing].....Recommended Action: Affirmation

Enclosed is an emergency letter of opposition to proposed amendments to SB 414 (Small System Water Authority Act) that was requested by CALAFCO.

3. Cancellation of the September 2<sup>nd</sup> meeting (No Page)  
[No Public Hearing].....Recommended Action: Cancel Meeting

There are no urgent items scheduled for the September 2<sup>nd</sup> meeting. The next regularly scheduled meeting is August October 7<sup>th</sup>, 2020.

**V. Executive Officer's Report**

1. Legislative Update (No Page)

Executive Officer will provide verbal update

2. Upcoming Projects (No Page)

The Executive Officer will provide a summary and tentative schedule of upcoming LAFCO projects.

**VI. Correspondence**

1. CALAFCO Announcement regarding the October Annual Conference (Page 61)

**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. September 2, 2020 or October 7, 2020 @ 2:00 P.M in the Board of Supervisors Chambers in the County Administration Building.

**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**

**2800 W. Burrel Ave., Visalia, CA 93291 – Tulare County Administrative Building  
June 3, 2020 – Meeting Minutes**

**Members Present:** Vander Poel, Allen, Flores, Townsend, Kimball  
**Members Absent:**  
**Alternates Present:**  
**Alternates Absent:** Valero, Jones  
**Staff Present:** Giuliani, Ingoldsby, & Kane recording  
**Counsel Present:** Erickson

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I. **Call to Order:** Chair Vander Poel called the meeting to order at 2:00 p.m.

II. **Approval of the April 1, 2020 Meeting Minutes:**

Upon motion by Commissioner Townsend and seconded by Commissioner Flores, the Commission unanimously approved the LAFCO minutes.

III. **Public Comment Period:**

Chair Vander Poel opened/closed the Public Comment Period at 2:05 p.m. No public comments received.

IV. **New Action Items:**

1. **2020/2021 Final Budget and Work Program**

Staff Analyst Ingoldsby provided a detailed overview of the final budget and work program. Staff Analyst Ingoldsby highlighted the contribution amounts from the cities and county, as well as the total expenditures.

Chair Vander Poel opened/closed the Public Hearing at 2:10 p.m. No public comments received.

Upon motion by Commissioner Allen and seconded by Commissioner Townsend, the Commission unanimously approved the final budget and work program.

2. **Cancellation of the July 1<sup>st</sup> Meeting**

EO Giuliani stated that since no action items would be presented in July, the recommendation would be to cancel and hold the next meeting August 5, 2020.

Upon motion by Commissioner Townsend and seconded by Commissioner Allen, the Commission unanimously approved to cancel the July meeting.

V. **Executive Officer's Report**

1. **Legislative Update:**

EO Giuliani reviewed the legislative report.

2. **Upcoming Projects:**

EO Giuliani stated that various projects were in the works but awaiting applications.

VI. **Correspondence:**

1. None

VII. **Other Business:**

1. **Commissioner Report:**

Commissioner Allen shared that recently the PPIC held a webinar on San Joaquin Valley GSP Protections.

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

None

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

The next Local Agency Formation Commission (LAFCO) meeting scheduled for **August 5, 2020 at 2:00 p.m.** in the Board of Supervisors Chambers in the County Administration Building

**IX. Adjournment:** The Tulare County LAFCO meeting adjourned at 2:16 p.m.

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT**

*August 5, 2020*

**LAFCO Extraterritorial Service Request 20-001**

**PROPOSAL:** Extraterritorial Sewer Service Request to serve Sequoia Gateway Commercial Park

**PROPONENT:** Tulare County on behalf of Sequoia Gateway, LLC

**SIZE:** 126.9 acres

**LOCATION:** Southeast corner Caldwell and State Route 99 **(Figure 1)**

**NOTICE:** Notice was provided in accordance with Government Code Section 54954.2(a). This project is not subject to a public hearing.

**SUMMARY:** The purpose for the Extraterritorial Service Agreement (ESA) is to serve the Sequoia Gateway Commerce Park Project with Sewer service provided by the City of Visalia.

**APNs:** 028-140-012, 013, 018, and 022

**Proposal:**

A request for approval of an Extraterritorial Service Agreement (ESA) setting the terms and conditions for extension of sewer service from the City of Visalia. The purpose for the extension of sewer services is to serve the development of the Sequoia Gateway Commerce Park Project which is a proposed highway commercial/ regional commercial center along State Route 99. The project had originally contemplated building their own facilities on site, but is now pursuing service from the City of Visalia via the route shown in Figure 2 which connects to the City's system along Walnut Avenue.

**Agreement**

A draft service agreement between the agencies providing and receiving service were included in the ESA application. The agreement is scheduled to be heard by the Visalia City Council on August 3, 2020.

**Type of Review Required**

Tulare County LAFCO policy delegated authority to the Executive Officer to act on proposals to extend services beyond jurisdictional boundaries for property that is

already developed. Since this proposal is for new development it must come before the Commission.

### **Environmental Impacts**

An Environmental Impact Report (SCH#2015081056) has been prepared by Tulare County Resource Management Agency for use in this project. On June 30<sup>th</sup> an Addendum to the EIR was approved by Tulare County which addresses the proposed changes regarding the provision of sewer service. Tulare County as the lead agency has determined that the environmental document is adequate for the extension of the service agreement and concluded that all feasible mitigation measures have been incorporated into the project either by modifications of the project, and/or by including mitigation measures in the EIR. A Statement of Overriding Considerations and a Mitigation Monitoring Reporting Program pursuant to CEQA were adopted.

### **Proposal Considerations**

The proposal area is within the Sphere of Influence of the City of Visalia.

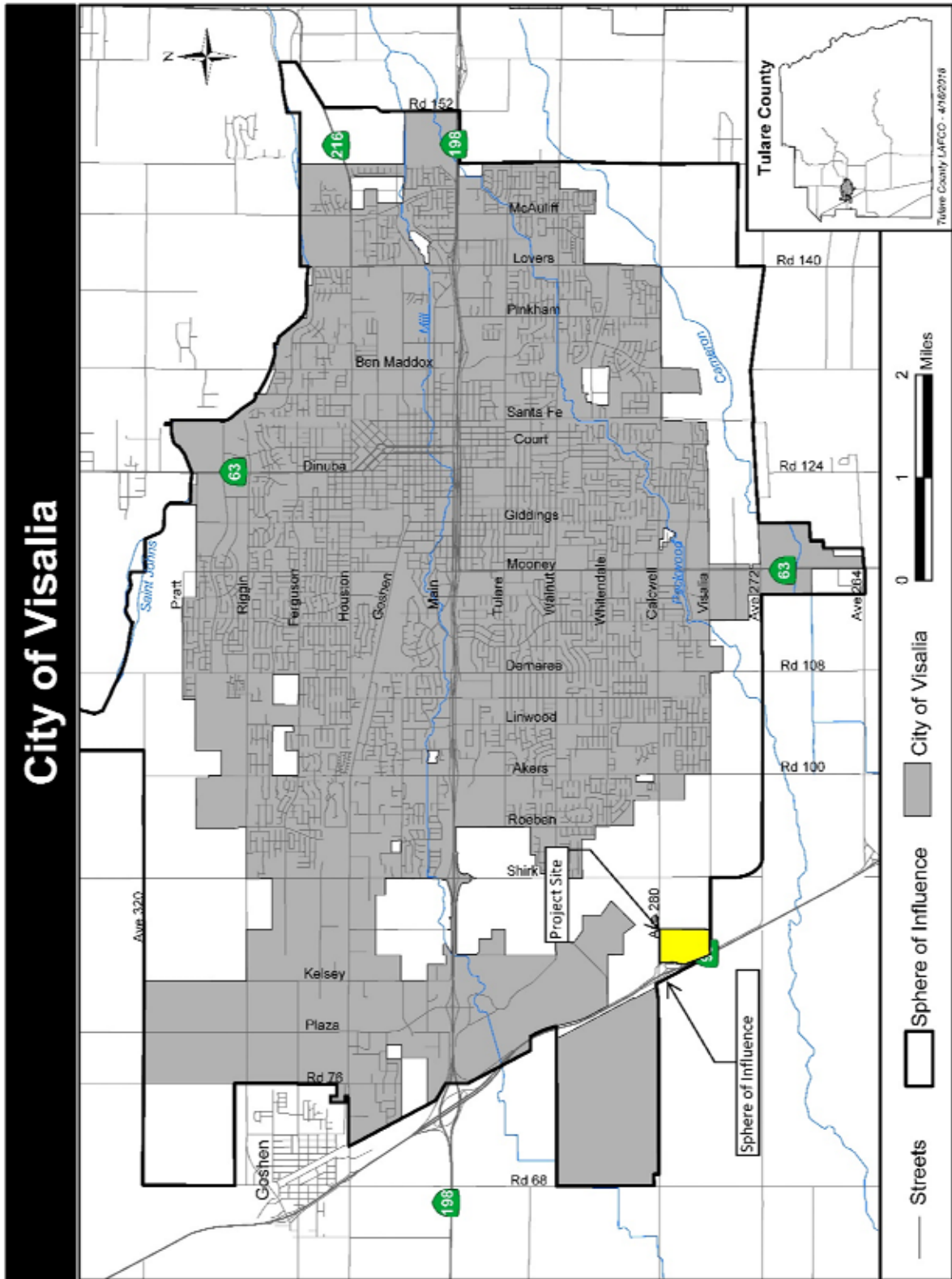
### **RECOMMENDED ACTIONS:**

It is recommended that this proposal be approved and that the Commission take the following actions:

1. Determine that the Environmental Impact Report prepared by Tulare County for this project is adequate and adopt a Statement of Overriding Considerations.
2. Approve the proposed extraterritorial service agreement with the following condition:
  - a) The applicant shall provide a signed copy of the service agreement between the City of Visalia and Sequoia Gateway for the provision of sewer service

### **Attachments:**

- |          |                         |
|----------|-------------------------|
| Figure 1 | Site Location Map       |
| Figure 2 | Application Memo        |
| Figure 3 | Copy of Draft Agreement |
| Figure 4 | Resolution              |





# RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD  
VISALIA, CA 93277  
PHONE (559) 624-7000  
FAX (559) 730-2653

Aaron R. Bock      Economic Development & Planning  
Reed Schenke      Public Works  
Sherman Dix      Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

Date: July 28, 2020  
From: Aaron R. Bock, Planning Director, Tulare County  
To: Ben Giuliani, Executive Officer, Tulare County LAFCO

**RE: Memorandum of Extraterritorial Sewer Service Request to the Local Agency Formation Commission for the Sequoia Gateway Specific Plan, and Tentative Map (Map No. 5254, P.M. 53-61) on 126.9 Acres (APN's 028-140-012, 013, 018, & 022)**

The Tulare County Board of Supervisors approved the Sequoia Gateway Specific Plan (Ordinance 3459)/Corridor Plan (Resolution 2018-0938) and Environmental Impact Report (EIR, SCH # 2016091017) on December 4, 2018. The Plan consists of a +/-126.9 highway commercial/ regional commercial center at the southeast quadrant of State Route 99 and Avenue 280 (Caldwell Avenue) in the unincorporated area of Tulare County. The Project has progressed to grading out the Project with detention basins and rough grading of roadways per the Final Parcel Map.

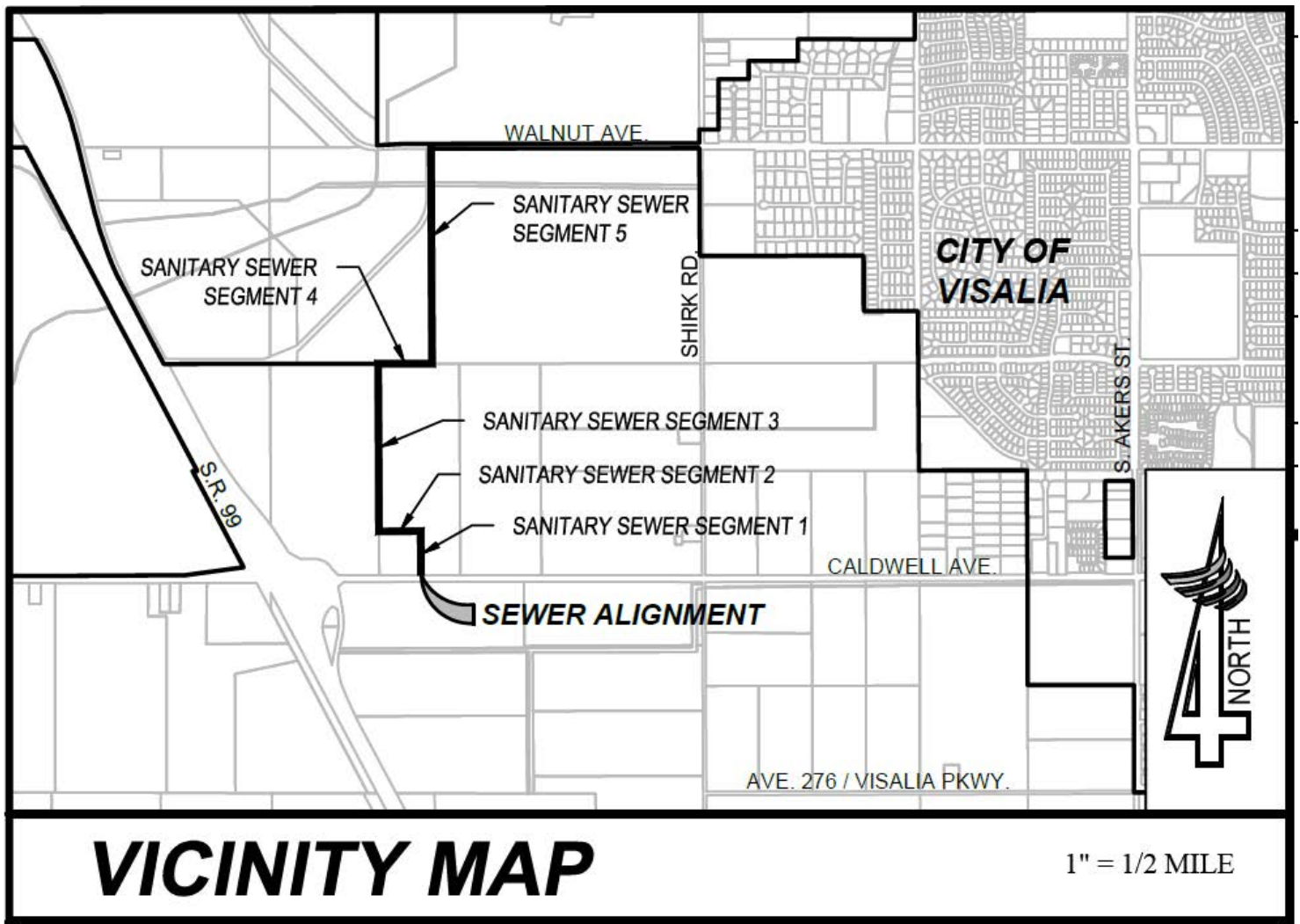
Tulare County is requesting conditional approval by LAFCO for Extraterritorial Services through and Extraterritorial Services Agreement (ESA) for sewer through Sequoia Gateway's private easement (See Attached Graphics, APN 119-010-066, 119-021-036, and 119-021-037, 119-021-34) from a connection point to the City's Waste Water treatment facilities along Walnut Ave. to the Project location along Caldwell Ave. Currently, the City of Visalia is considering the sewer service agreement with the Developer at the August 3, 2020 City Council Meeting.

The Project has an established Development Agreement No. (DEV-18-001) and Communities Facilities District No. (CFD 2019-01). Recently the Board approved Amendments to the Development Agreement (Resolution 2020-0392 and Agreement 29180-A) and Addendum to the EIR (See Attached Resolution). Sequoia Gateway LLC is requesting ESA approval as soon as possible, as the first project grading and building permit application has been submitted and the Developer is finalizing terms with the Valley Childrens.

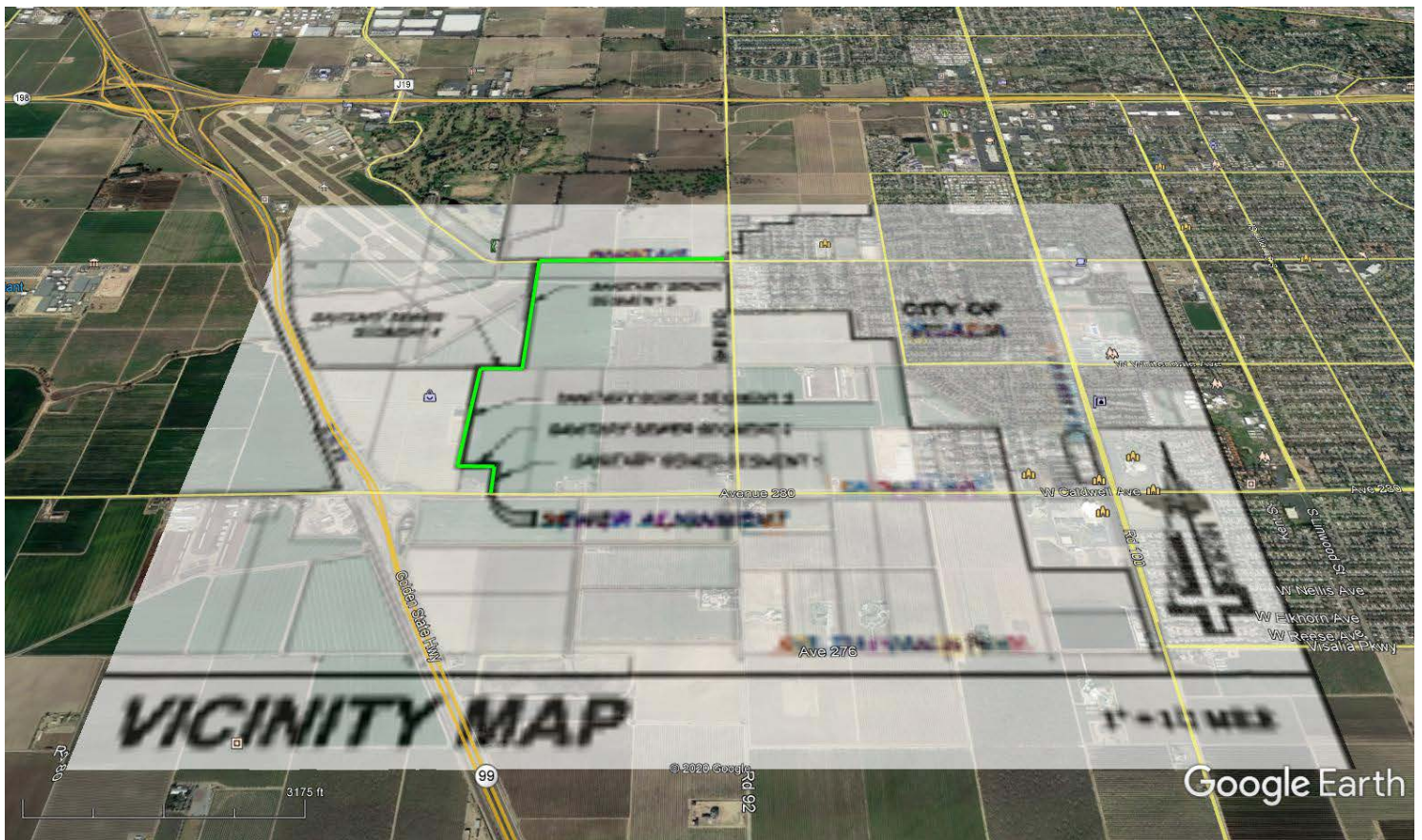
The reason why the County is requesting these services is that the County, and all other Tulare County Special Districts, lack the services to provide sewer connections to the Sequoia Gateway Specific Plan Area. Without the services provided by these agencies, this development would have to build their own facilities and/or connect to the Goshen Community Service District (CSD), which would be infeasible, as the CSD would have to expand their services to accommodate this Project.

The Board of Supervisors conditioned the Project on the Developer providing Sewer Service to the Project Area. The County is working with the City collaboratively to establish these services in reviewing the Sewer Plans and Specifications. The County's comments on these plans have been addressed.





Sewer Plan Alignment



Aerial of Sewer Plan Alignment

# BEFORE THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF FIRST AMENDMENT )  
TO THE SEQUOIA GATEWAY LLC ) Resolution No. 2020-0392  
DEVELOPMENT AGREEMENT (DEV 18- ) Agreement No. 29180-A  
001) )


UPON MOTION OF SUPERVISOR CROCKER, SECONDED BY SUPERVISOR  
VALERO, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS,  
AT AN OFFICIAL MEETING HELD JUNE 30, 2020, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, VALERO AND  
TOWNSEND  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: NONE



ATTEST: JASON T. BRITT  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY:

  
Deputy Clerk

\* \* \* \* \*

1. Approved the First Amendment to Sequoia Gateway, LLC Development Agreement No. 29180 (DEV 18-001); and
2. Authorized the Chair of the Board of Supervisors to sign the First Amendment to the Sequoia Gateway, LLC Development Agreement; and
3. Approved the Addendum to the Sequoia Gateway Environmental Impact Report.
4. Authorized the Clerk of the Board to record the agreement with the Clerk-Recorder.

RMA

06/30/2020  
ML

## **Agreement for Outside Service Connection For Sewer Service**

This Agreement is made and entered on the date the last party executes this Agreement, between the City of Visalia, ("City") a charter city created and existing under the laws of California, and Sequoia Gateway, LLC, a California Limited Liability Company, ("Owner"). Collectively they are referred to as the "Parties."

### Recitals

- A. WHEREAS, Owner owns 126 acres of real property that is within the City of Visalia's sphere of influence, as designated by the Tulare County Local Agency Formation Commission (LAFCo) but outside the current corporate limits of the City of Visalia, this area, "Property" is described in **Exhibit A**; and
- B. WHEREAS, Owner desires to receive sanitary sewer service from the City of Visalia; and
- C. WHEREAS, Owner and City anticipate the Property will be annexed to the City of Visalia pursuant to its Development Agreement s with the County of Tulare, and that intervening areas will be developed and annexed to the City, that the Property will be annexed into the jurisdictional boundaries of the City; and
- D. WHEREAS, City has identified that it has sufficient wastewater treatment capacity and adequate trunk line capacity to serve the Property according the wastewater projections contained in the Sanitary Sewer Design calculations prepared by 4Creeks dated September 19, 2019 submitted to and approved by the City on June 22, 2020 on the terms described in this Agreement; and
- E. WHEREAS, Owner acknowledges that per this Agreement it will be responsible for construction, maintenance, and operation of the identified sewer lines to reach City owned sewer lines; and

NOW THEREFORE, in consideration of mutual covenants, promises and agreements herein contained, and based on the recitals listed above, which are hereby incorporated into this Agreement as though fully set forth, the Parties to this Agreement mutually agree to the following:

1. Owner intends on building the types and amounts of structures for the Property as set forth in the Site Plan for the Sequoia Gateway Project as shown on **Exhibit B**, and as more particularly described in the Sequoia

Gateway Commerce Park Specific Plan and the Development Agreement for said specific plan. Projected average daily flows and peak sewer flows from the Property are shown in **Exhibit C**, and Owner shall design the onsite sewerage facilities to accommodate these flows. Owner shall also design the offsite sewerage system to accommodate projected flows from other parcels along the alignment of the offsite sewer line, including those from APN 119-010-066, 119-021-036, and 119-021-037, 119-021-34 as shown in **Exhibit D**. Owner acknowledges that the project contains multiple phases that will be developed over a period of time in accordance with the Sequoia Gateway Specific Plan. Any offsite users identified above that connect to and are benefitted by the offsite sewer improvements shall be responsible for reimbursing Owner the cost of the facilities identified in Owner's Reimbursement Agreement (Exhibit C of the Development Agreement) with the County of Tulare. If there is material change in the land uses for the Property that will substantially increase the volume of sewer flows above those in Exhibit C, the Parties shall review and amend this Agreement as necessary before any additional sewer connections will be added. Owner acknowledges that before the identified parcels along the sewer line can connect a separate review of the City's available sewer capacity is required before those parcels would be allowed to connect and extraterritorial service agreements with the City that must be approved by the Tulare County Local Agency Formation Commission would be required if those parcels are still outside City boundaries when development occurs.

2. Owner shall be responsible for constructing a sewer line to connect the Property to the City sewer in Walnut Avenue in the approximate locations and according to the plans shown in **Exhibit E**. The Owner shall construct the onsite and offsite facilities to allow connection of its properties and those of the properties in **Exhibit D**. City shall be responsible for processing any permits or permissions to allow Owner to construct the improvements on City owned property, including any licenses or easements necessary on City property, and any permits or permissions from the FAA for use of property that has been acquired for airport purposes. This includes, but is not limited to a consultant for environmental documents, airport safety plan, an FAA Notice of Proposed Construction or Alteration (Form FAA 7640-1), airport layout plan, and any other necessity per the FAA. All costs and expenses incurred by the City shall be reimbursed by the Owner. Owner acknowledges that the City owned property is currently subject to leases for agricultural uses. Costs and expenses to be reimbursed by the Owner to the City shall include monetary damages and costs directly incurred by the City or reimbursements that City is required to give to any contract farmers for any crops taken or stranded cultural costs that result from the installation, maintenance, or operation of the sewer line.

3. Owner acknowledges that prior to construction all construction plans, including the design of the required private sewer line, shall be submitted to City for review and approval. An encroachment permit from the

City of Visalia shall be required for the Owner's line to connect into the City's sewer lines. The encroachment permit will require City inspection of the line between Caldwell and the connection point on Walnut to ensure construction and backfilling means have been met per the improvement plans. City is not responsible for the design or construction of the sewer line or the interconnection and is only reviewing the plans for compliance with applicable building requirements and to confirm the proposed designs are compatible with the City of Visalia sewer system. All applicable plan check and encroachment permit fees shall be applied by the City and due from the Owner prior to City issuing an encroachment permit.

4. Owner acknowledges that the Property is outside the current jurisdictional boundaries of the City of Visalia and approval of an Extraterritorial Service Agreement per LAFCo Policy C-6, Government Code §56133, and LAFCO Resolutions 94-007, 01-006, 02-006, and 14-017 is required. City agrees to submit this Agreement. The Parties will be responsible for meeting necessary requirements to obtain LAFCO approval. Owner agrees that it shall reimburse City for any and all expenses incurred by City associated with obtaining approval from LAFCO.

5. Except as provided in Paragraph 2 for the easements on City and Airport property, Owner shall be solely responsible for obtaining any and all required right of way to construct the sewer line to connect the Property with City owned sewer lines. City agrees to grant Owner access across City property shown in **Exhibit F** and to process permits and permissions with the FAA for use of any airport property.

6. After construction, Owner will be solely responsible for operating and maintaining the Owner's private sewer line, up to and including the point of connection with the City owned sewer lines. Owner shall submit an operations and maintenance plan to the City for review and approval that includes regularly scheduled maintenance and inspections, measurements of flows, and other procedures that normally performed by the City for its own facilities. The Owner shall continue to operate and maintain this sewer facility including but not limited to main line, connection point, lift stations, and force main. Owner can cease operation and maintenance if, after annexation of the Property, the City constructs an alternative publicly owned sewer trunk line (ie within Caldwell Avenue to the west) with sufficient capacity to serve the Property and the Owner constructs a lateral line to connect the Property, and any other parcels that the Owner is seeking to have served from the private sewer line, to the City's sewer system. When the Owner connects to the alternative publicly owned sewer trunk line, the Owner shall abandon the prior private sewer line in place or remove the prior line, and the Owner shall remove the interconnection with the City's sewer constructed under this Agreement. Any easements or licenses from the City to Owner acquired by this Agreement shall be deeded back to City or terminated.

7. Owner agrees that all of its successors, assigns and future owners of parcels on the Property will pay the City's Sewer Main Facilities Charges, Treatment Plant Connection Capacity Charges, and Trunk Line Capacity Charge, on each building permit that will be utilizing the private sewer line at the applicable rates at the time the building permit is issued. Owner agrees that as parcels are sold or leased for development Owner will notify City of the new owner. Prior to issuance of building permits by the County or by the City, the parcel owner shall pay the applicable Sewer Main Facilities Charges, Treatment Plant Connection Capacity Charges, and Trunk Line Capacity Charge for the planned building type.

8. Owner acknowledges that this Agreement does not relieve the responsibility of the payment of any other impact fees or development fees due to other jurisdictions for construction on the Property, or that this creates any type of vested right to pay a specific fee amount to the City of Visalia. Provided, however, that the Parties agree that the fees established in the Development Agreement shall apply to Project.

9. In addition to the impact fees referenced in Paragraph 7 hereof, each parcel owner and building owner will pay monthly service fees to City based on the current sewer service fee schedule which will commence with occupation. "Occupation" for the purposes of this paragraph shall mean the issuance by the City or County Building Official, as applicable, of a temporary occupancy permit or a final occupancy permit for the structures to be served. Rates will be the same as those charged by the City for the same types of service connection within the City of Visalia and will be subject to the same rate increases if applicable to service within the City of Visalia. Should those businesses or property usages change, then applicable service rates may also change.

10. Parties agree that when the private line is determined to be accepted into the City of Visalia sewer system the following items, including but not limited to, shall be completed: 1) All as built documents; 2) maintenance and operation documents, including regular inspection reports; and, 3) a video of the line. These items will be performed, at the Owners expense, by the City that will include the 'accepted' portion being video inspection. Any portion of the line that is deemed by the city to be substandard will be required to be repaired by the Owner prior to acceptance by the City. Acceptance will be by dedication at no fee or costs to the City.

11. Owner authorizes the City to perform annual sewer connection inspections to ensure all new uses after the initial connection are accounted for. City will provide prior notice of inspection. Owner also acknowledges that individual tenants will need to coordinate with the City prior to connection. Owner will require future tenants to obtain a waste water discharge permit

with the City prior to certificate of occupancy. In the event a connection is found that has not been processed through the City, the Owner will be responsible for payment of connection fees.

12. Owner agrees it will abide by all of the ordinances rules, and regulations of the City governing the manner in which sewers shall be used, the manner of connecting to the City sewer system, and the plumbing and drainage in connection with the City sewer system.

13. No change in the facilities to be connected to the City sewer system shall be made without first having given written notice to the City of the proposed change and without first obtaining a permit from the City if encroachment into City-owned right of way is required.

14. Owner may not add any sewer connections to the City sewer system other than those on the Property without prior written notice and entering into a written amendment of this Agreement and paying additional costs and fees based on then applicable rates. In addition, any such additional connections may require separate prior approval by the Tulare County Local Agency Formation Commission unless the subject area has been annexed into the city limits of the City of Visalia.

15. City agrees to provide the required sewer services based on the applicable proposed connections using reasonable diligence to provide regular and uninterrupted service but shall not be liable for damages, breach of contract, or otherwise to the Owner for failure, suspension, diminution, or other variations of service caused by or in consequence of any cause beyond the control of the City, including but not limited to, acts of God or of the public enemy, terrorism, fires, floods, earthquakes or other catastrophes.

16. In the event Owner violates any of the terms of this Agreement or any ordinance, rule, regulation, or policy of the City as they now or may hereafter exist, then the City shall give written notice of such violation to Owner. If the violation is not corrected in the time period specified then Owner acknowledges City may proceed with any remedy authorized under the Visalia Municipal Code for violations of sewer services provided by the City. Owner acknowledges that under this Agreement it shall be considered fully subject to any and all remedies under the Visalia Municipal Code as it currently is written or is later amended as long as this Agreement is in place.

17. Owner agrees to indemnify and hold harmless the City from all claims of loss or injury to third persons, or the property of any person arising out of the construction, operation, maintenance, or use of the outside sewer service connections provided by this Agreement.

18. This Agreement and the provisions hereof are intended to be covenants running with the land by this Agreement, and are intended to bind the Parties hereto, their heirs, representatives, assigns and successors in interest, and any future owners of the whole or any part of the real property covered by this Agreement. This Agreement may be recorded.

19. Any waiver by the City of any term or condition of this Agreement shall not be deemed to be or construed as a waiver of any other term or condition of the Agreement. Waiver of any breach shall not be deemed to constitute a waiver of subsequent breach, whether of the same or a different provision of the Agreement.

20. This Agreement merges and supersedes all prior negotiations and representations between the parties hereto relating to the subject matter hereof.

21. This Agreement may not be modified or amended except by written agreement signed by both parties.

22. This Agreement is deemed to be made, entered into, and is to be construed under the laws of the State of California. Venue of any legal action brought to enforce this Agreement shall be in Tulare County, California.

23. This Agreement shall be interpreted in a manner to be effective and valid under applicable law. If any provision of this Agreement is considered invalid or unenforceable under law, then such provision shall be considered ineffective to the extent such invalidity does not invalidate the remainder of the Agreement.

24. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of any alleged dispute, breach, or default arising from or in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees, costs, and expenses, incurred in connection with such action or proceeding in addition to any other relief to which the prevailing party may be entitled.

25. This Agreement may be executed in one or more counterparts, and all so executed shall constitute one contract, binding on the Parties, notwithstanding that all the Parties are not signatory to the same counterpart.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and intend it to be binding.

City of Visalia

Owner, Sequoia Gateway LLC

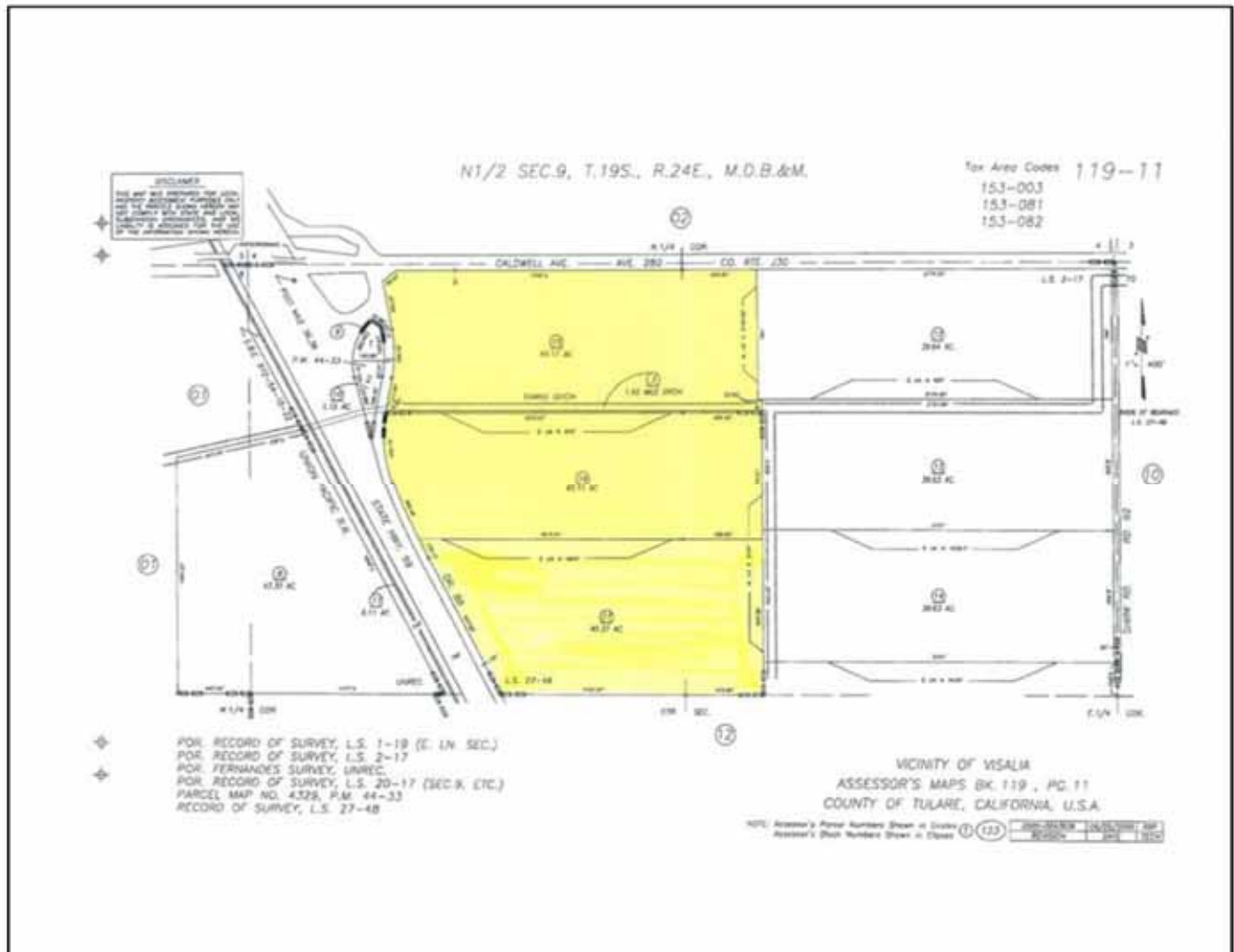
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City Manager

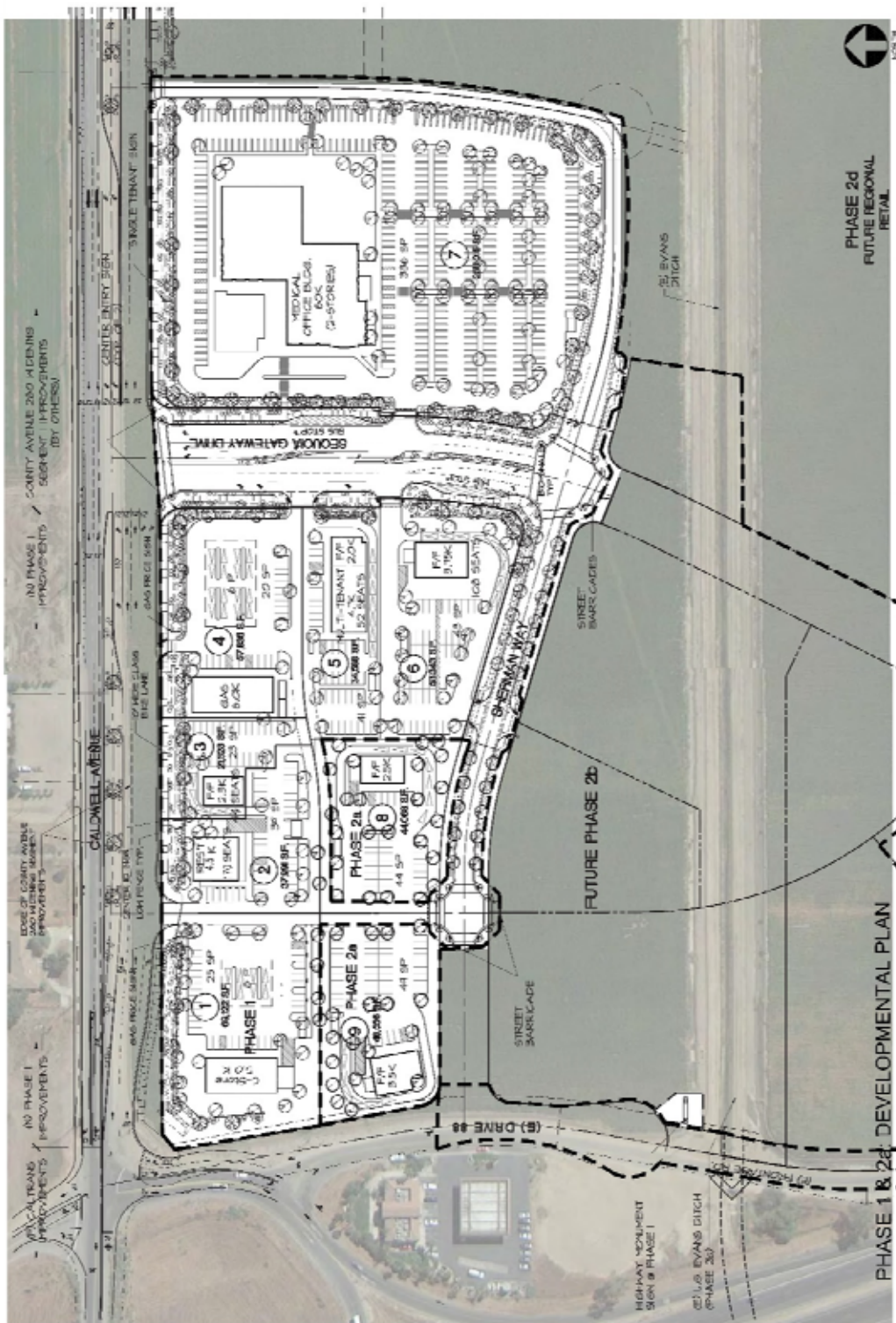
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William Travis, Managing  
Member

Exhibit A  
Property



[illegible]



PHASE 1 & 2d DEVELOPMENTAL PLAN

PHASE 2d  
FUTURE REGIONAL  
RETAIL

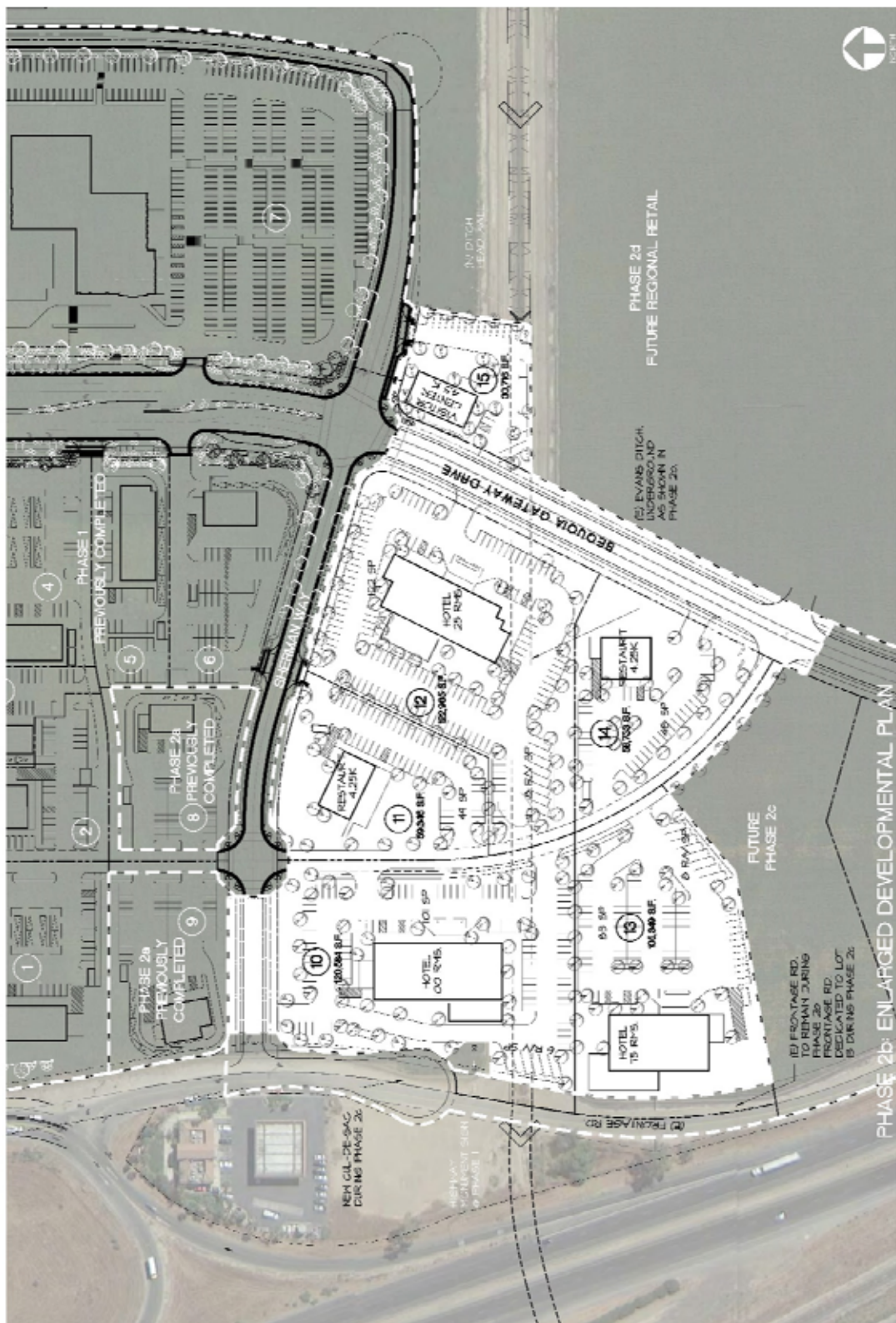
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MP3e  
ARCHITECT  
OF PA

2  
OF 19

DRAFT



## Exhibit C

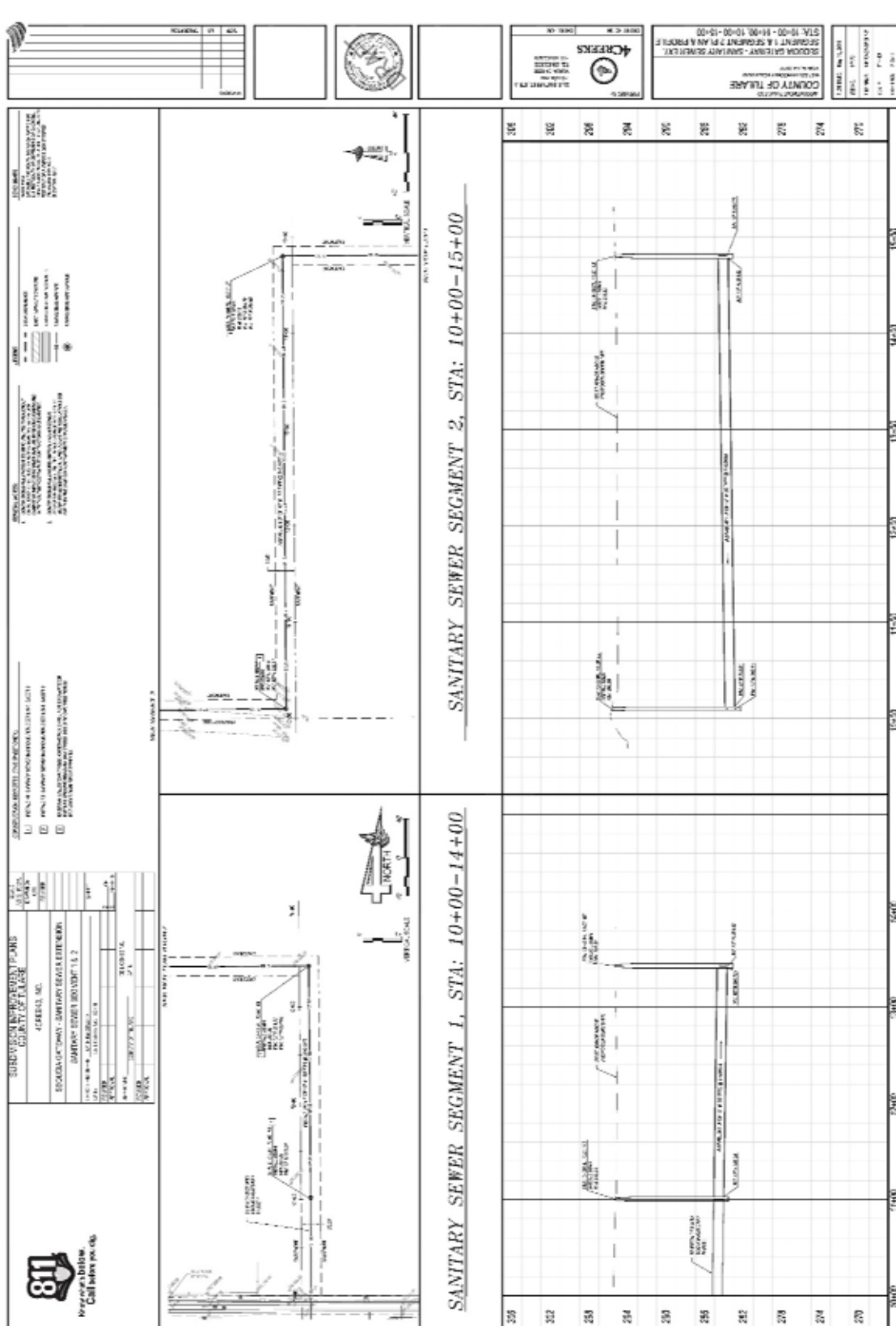
### Average Daily and Peak Flows from Project and Other Parcels

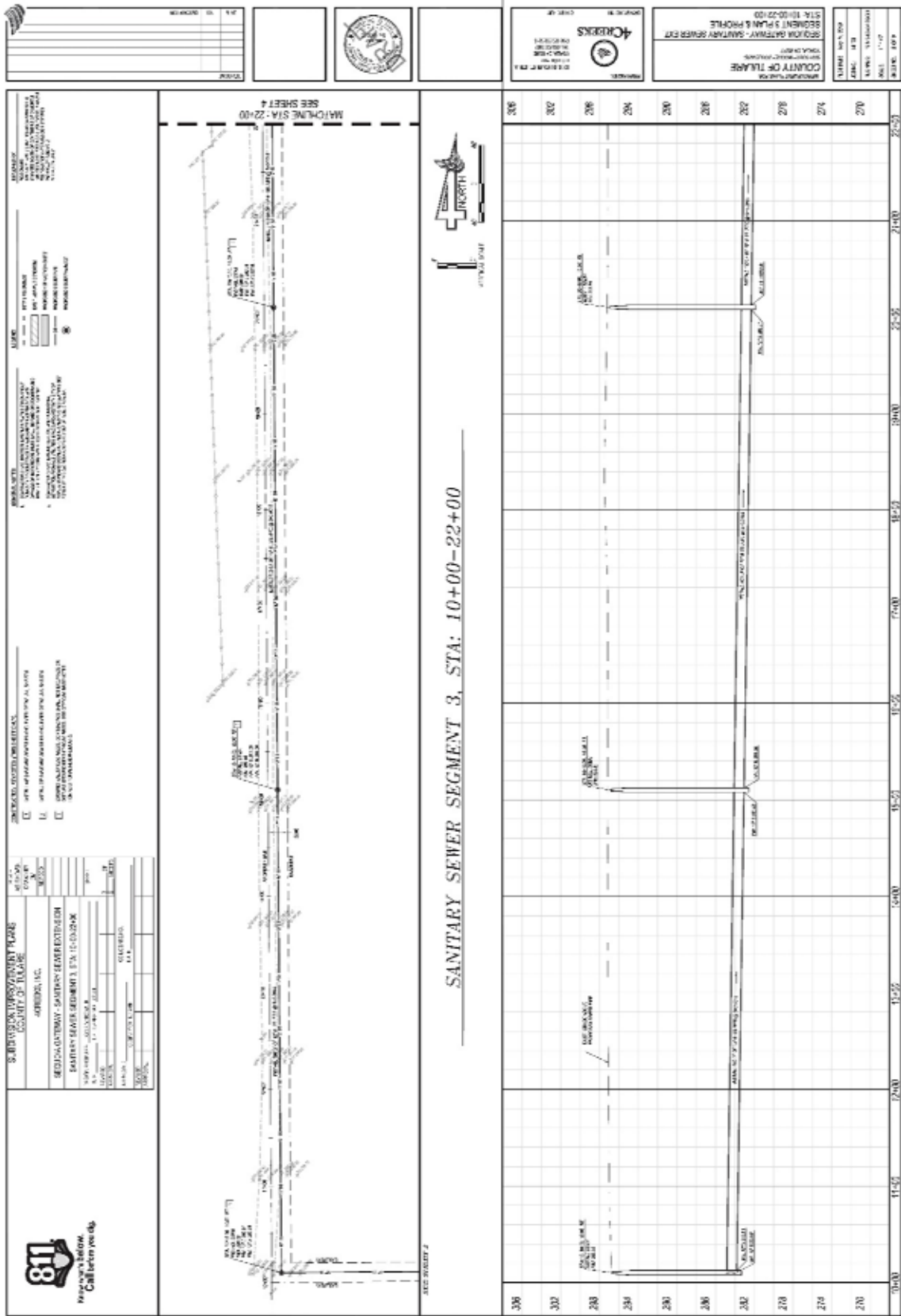
Fair Shares	<u>Sewer</u>				
Property	<u>Area (AC)</u>	<u>Gallons/Day /Acre</u>	Gallons per Day	<u>Peak Flow (CFS)</u>	Fair Share
Sequoia Gateway (Only Property Subject to this Agreement)	127.40	706	90,000	0.384	43.2%
<u>Other Potentially Benefitting Properties</u>					
APN: 119-020-36	41.16	600	24,696	0.115	12.9%
APN: 119-020-34	33.89	600	20,334	0.095	10.7%
APN: 119-010-66	52.77	600	31,662	0.148	16.6%
APN: 119-020-37	52.77	600	31,662	0.148	16.6%
<b>Total</b>	<b>307.99</b>		<b>198,354</b>	<b>0.8888</b>	<b>100.00%</b>

## Benefitting Property to be Served by Offsite Sewer Line

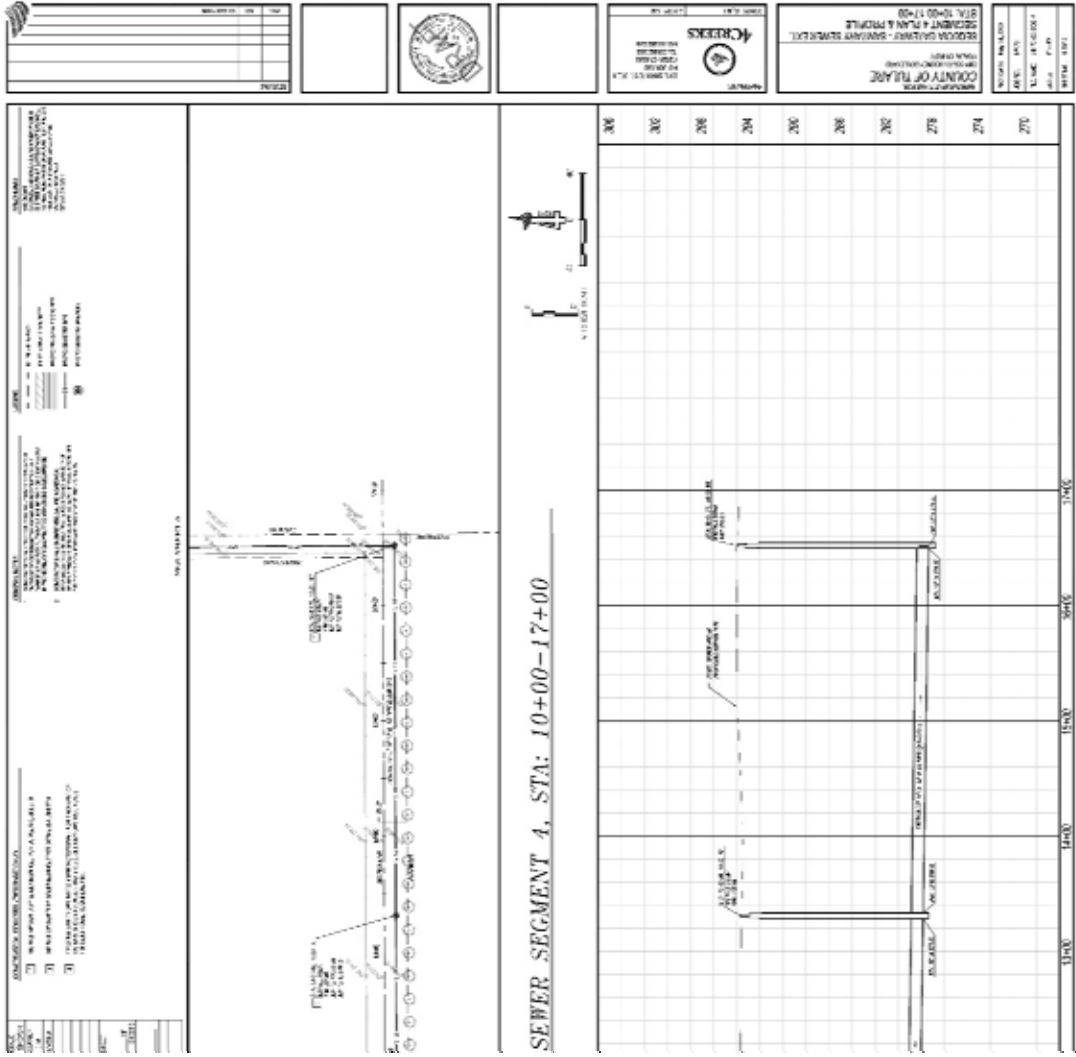


NOTE -- ASSESSOR'S BLOCK NUMBERS SHOWN IN ELLIPSES  
ASSESSOR'S PARCEL NUMBERS SHOWN IN CIRCLES









**BEFORE THE LOCAL AGENCY FORMATION COMMISSION**

**OF THE**

**COUNTY OF TULARE, STATE OF CALIFORNIA**

In the Matter of the Proposed Extraterritorial Service )  
 Agreement between the City of Visalia and Sequoia )  
 Gateway, LLC. ESA 2020-001 ) **RESOLUTION NO. 20-XXX**

**WHEREAS**, application has been made to this Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.) for approval of a proposal to extend sewer service in accordance with extraterritorial service agreements to certain territories described in attached Exhibit “A” made a part hereof; and

**WHEREAS**, this Commission has read and considered the application materials and the report and recommendations of the Executive Officer, all of which documents and materials are incorporated by reference herein; and

**WHEREAS**, on August 5, 2020 this Commission heard, received, and considered testimony, comments, recommendations and reports from all persons present and desiring to be heard concerning this matter.

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

1. The information, material and facts set forth in the application and the report of the Executive Officer (including any corrections), have been received and considered in accordance with GC §56133. All of said information, materials, facts, reports and other evidence are incorporated by reference herein.

2. The County of Tulare, as Lead Agency, prepared and filed an Environmental Impact Report (SCH#2015081056) in compliance with the California Environmental Quality Act (CEQA). And finds that the Commission has reviewed and considered the Environmental Impact Report prepared by the County of Tulare for this project and the adopted Statement of Overriding Considerations and a Mitigation Monitoring Reporting Program.

3. All notices required by law have been given and all proceedings heretofore and now taken in this matter have been and now are in all respects as required by law.

4. Based upon the evidence and information on the record before it and the findings, the Commission hereby determines extension of sewer service from the City of Visalia is consistent with the Government Code Section 56133.

5. The proposed extraterritorial service agreement described in Exhibit "A" attached hereto is hereby approved subject to the following conditions:

a. The applicant shall provide a signed copy of the service agreement between the City of Visalia and Sequoia Gateway for the provision of domestic water.

6. Authorize the Executive Officer to sign and file a Notice of Determination on behalf of the Commission with the Tulare County Clerk pursuant to Section 21152 (a) of the Public Resources Code.

The foregoing resolution was adopted upon motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, at a regular meeting held on this 5th day of August, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

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Ben Giuliani, Executive Officer

si

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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:**

*Pete Vander Poel, Chair  
Juliet Allen V-Chair  
Martha Flores  
Dennis Townsend  
Pamela Kimball*

**ALTERNATES:**

*Eddie Valero  
Carlton Jones  
Vacant*

**EXECUTIVE OFFICER:**

*Ben Giuliani*

August 5, 2020

TO: LAFCO Commissioners, Alternates, Counsel

FROM: Ben Giuliani

SUBJECT: SB 414 Letter of Opposition

**Background**

SB 414 (Caballero) is the Small System Water Authority Act of 2019. It was tabled last legislative session and is being brought back this session. The bill would authorize the creation of small system water authorities (one per county) that will have powers to absorb, improve, and operate noncompliant public water systems. This includes all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified.

**Discussion**

On July 23<sup>rd</sup>, CALAFCO issued an urgent request to submit letters of opposition regarding pending amendments to SB 414. To summarize CALAFCO's opposition:

**Removal of LAFCO authority**

The proposed amendments strip LAFCOs of their authority in the formation of the new water authority, a public agency that would otherwise be formed at the discretion of and by the authority of LAFCO. Additionally, they remove LAFCOs' authority to dissolve a public water system as authorized by the SWRCB and as part of the formation process of the new authority.

**LAFCOs are removed from several critical notification points**

The amendments remove notification to LAFCO of SWRCB's intent to form a water authority, from entities wishing to consolidate into the authority and local public agencies that wish to opt into the authorities.

**Removal of funding for just LAFCOs**

With the proposed amendments, LAFCOs would still need to conduct 3 public hearings during the process, review and make recommendations regarding the consolidation plan, and review the authority after 3 years and hold another public hearing if the authority isn't complying with the plan to improve water quality. All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved is inappropriate and puts the collection of that funding on the backs of local government.

Pursuant to Tulare County LAFCO Policy A-5.7 (Legislative Process Participation), the LAFCO Executive Officer has delegated authority to submit time sensitive letters of opposition or support if the position is consistent with the legislative platform adopted by the Commission and if the letter is reviewed and approved by both the LAFCO Chair and Vice-Chair. This was completed on July 24<sup>th</sup> and the attached letters were submitted to Senator Caballero and the Assembly Appropriations Committee. LAFCO policy also requires that emergency letters be brought back to the Commission for affirmation at the next available Commission meeting.

### **Recommendation**

Affirm the attached letters of opposition to the pending amendments to SB 414.

### **Attachments**

Letter of Opposition to Senator Caballero  
Letter of Opposition to Assembly Appropriations Committee  
SB 414 Pending Amendments



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

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

July 24, 2020

The Honorable Lorena Gonzalez  
Chair, Appropriations Committee  
California State Assembly  
State Capitol, Room 2114  
Sacramento, CA 95814

**COMMISSIONERS:**

*Pete Vander Poel, Chair  
Juliet Allen V-Chair  
Martha Flores  
Dennis Townsend  
Pamela Kimball*

**ALTERNATES:**

*Eddie Valero  
Carlton Jones  
Vacant*

**EXECUTIVE OFFICER:**

*Ben Giuliani*

**RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS**

Dear Chair Gonzalez:

The Tulare Local Agency Formation Commission (LAFCo), joins the California Association of Local Agency Formation Commissions (CALAFCo) to oppose the proposed pending amendments for **SB 414** (Caballero). The bill is currently being held in your committee. While there are vast policy issues with the proposed amendments, this letter will focus our concerns to you and your committee on the fiscal issues of the proposed amendments.

According to the sponsors, in an effort to reduce costs associated with the bill, the role of LAFCos that exist in the current version of the bill (dated June 25, 2019) is being drastically reduced. The proposed amendments strip LAFCos of their authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCo. Additionally, they remove LAFCos' authority to dissolve a public water system as authorized by the State Water Resources Control Board (SWRCB) and as part of the formation process of the new authority.

The sponsors have also indicated the proposed amendments that change numerous processes in SB 414 are intended to reflect closer alignment with processes and SWRCB authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The current version of the bill, as noted in last fiscal analysis on August 21, 2019 in your committee, reflects a cost of up to \$10.65 million to LAFCos for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using the fiscal projections in the current bill, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCos to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state

agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCOs to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) “incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board”. All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, it is likely we will have to increase fees to the local government agencies that pay into the LAFCo annually (cities, counties, and special districts).

*LAFCOs need to be added to the language in Section 78115 (a)(1).* All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved is inappropriate and puts the collection of that funding on the backs of local government.

For these fiscal reasons, we oppose the proposed pending amendments to **SB 414** and strongly urge your committee to reject the amendments and hold the bill.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,



Pete Vander Poel  
Chair, Tulare County LAFCO

cc: Members, Assembly Appropriations Committee  
Honorable Senator Caballero  
Jennifer Galehouse, Assembly Appropriations Committee Deputy Chief Consultant  
Suzanne Sutton, Consultant, Senate Republican Caucus  
Pamela Miller, Executive Director, CALAFCO



# **TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

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

## **COMMISSIONERS:**

*Pete Vander Poel, Chair  
Juliet Allen V-Chair  
Martha Flores  
Dennis Townsend  
Pamela Kimball*

## **ALTERNATES:**

*Eddie Valero  
Carlton Jones  
Vacant*

## **EXECUTIVE OFFICER:**

*Ben Giuliani*

July 24, 2020

The Honorable Anna Caballero  
California State Senate  
State Capitol, Room 5052  
Sacramento, CA 95814

## **RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS**

Dear Senator Caballero:

The Tulare Local Agency Formation Commission (LAFCO), joins the California Association of Local Agency Formation Commissions (CALAFCO) in opposing the proposed pending amendments for your bill **SB 414**. It is our understanding you are planning amendments to be done in Assembly Appropriations where the bill is currently being held in Suspense.

We support efforts to ensure all Californians have safe, affordable drinking water. However, the proposed amendments have such a substantive negative impact to local agency formation commission (LAFCos) that we must now oppose them.

It is our understanding these changes are an effort to reduce the cost of the bill, and to closer align processes and State Water Resources Control Board (SWRCB) authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The proposed amendments strip LAFCos of their part and authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCo. Additionally, they remove LAFCos' authority to dissolve a public water system as authorized by the SWRCB and as part of the formation process of the new authority. As you know, formation of a new, local public agency has been the authority of LAFCo since 1963 when the Legislature created them. To now turn that authority over to the SWRCB in an effort to "save money" or "streamline the process", we believe, creates a false perception that the cost will be reduced and sets a dangerous precedent.

SECTION 1 of the bill is being completely stricken and therefore divests LAFCo of all involvement in the formation process and it removes LAFCo from the process of dissolving any public water system identified by the SWRCB as mandated for dissolution and inclusion into the new authority except for holding a public hearing on the matter. Not only does this removal divest LAFCo of their authority and give it to the SWRCB, it eliminates the Plan for Service requirements to be included in the draft conceptual formation plan. All other public agencies are subject to submit a comprehensive Plan for Service when applying to provide services and exempting the authority from doing so sets a precedent.

Code Section 78038(b) proposes to give quasi-legislative authority to the SWRCB in the action to form the new authority. The Legislature created LAFCo as a quasi-legislative body decades ago to do this very thing.

While the Legislature has exercised its authority to create new service providers in the past, until now there has been no state agency with that authority. We fail to understand the need to create an entity at the state level to do something LAFcos have been effectively doing for 57 years – forming new districts – that happen at the local level.

LAFCo is being excluded from several critical notification points:

- Code Section 78033(a)(1) excludes LAFCo from the list of entities the SWRCB is to notify of their intent to form the authority. *LAFCo needs to be included in the list of other local agencies receiving such notification* (such as cities, county, water districts, etc.). Further, this section allows the SWRCB to invite other public water suppliers to consider dissolving and join the authority. Without including LAFCo on the notification under this section, we would be in the dark regarding those local districts (both independent and dependent) that may consider dissolving.
- Code Section 78033(a)(2)(A) excludes LAFCo notification from an entity wishing to consolidate into a proposed authority. *LAFCo needs to be included in this notification.*
- Code Section 78033(a)(2)(B) provides that customers of an entity wishing to join a proposed authority petition the SWRCB directly. Not only does this keep LAFCo in the dark, it is a run-around of the current service provider as there appears to be no notification to them.
- Code Section 78033(b) allows the governing board of a county or city dependent special district to notify the formation coordinator they wish to opt into the new authority. Here again, without LAFCo receiving this notification there is no way for us to know of the pending dissolution.

In addition to removing LAFcos' existing authority from the formation process of a public agency service provider, we are concerned about Code Section 78037(a)(3) which requires the LAFCo to hold a public hearing to allow for public comment on the dissolution of the public water system mandated for dissolution by the SWRCB and requires the LAFCo to provide all comments back to the SWRCB for consideration (without the funding to do either). The section also states the dissolution shall be ordered upon completion of the public hearing. We question the purpose of reporting back the public comments to the SWRCB for consideration if the dissolution is ordered immediately upon closure of the public hearing.

If one of the goals of these amendments is to closer align processes with SB 88, then it would stand to reason the SWRCB would be the entity conducting the public hearing (pursuant to Code Section 116682 of the Health and Safety Code), especially given the fact that with these amendments, the LAFCo no longer has any other part in the actual dissolution.

Ordering a dissolution for a service provider who is currently providing service requires a successor agency to assume the delivery of service as well as all the assets and liabilities of the entity being dissolved. Code Section 78037(a)(4) requires the order of dissolution to make appropriate equitable arrangements for the interim operation of the public water system until the formation of the authority is complete, and they are prepared to take over service delivery. While that "interim" service provider may be identified in the draft conceptual formation plan, 78037(a)(4) does not explicitly state to whom the service, assets and liabilities should be transferred. We suggest language be added to explicitly state the interim operator as identified in the approved conceptual formation plan.

#### Proposed amendments to the draft conceptual plan

We have a few concerns relating to the draft conceptual plan as noted below.

- Code Section 78035(c) requires the formation coordinator to submit the draft conceptual formation plan to the SWRCB and any applicable LAFCo for comments within 60 days of its receipt. Further, the formation coordinator shall finalize the plan for public comment no later than 30 days after receiving comments from the SWRCB. What is left out of this section are the comments on the plan from the LAFCo. Undoubtedly, as the local agency who is responsible for the formation of public agencies, LAFcos know what to look for and consider when reviewing formation plans. *The LAFCo comments need to be considered by the SWRCB and the formation coordinator before the document is available for public comment.*
- Code Section 78038 requires LAFCo to hold two public hearings on the draft conceptual formation plan and to subsequently submit a report to the SWRCB summarizing public comment and any

recommendations the LAFCo may have for the SWRCB on the plan. *We would like to see amendments requiring the SWRCB to specifically adopt or reject each of our recommendation on the draft plan and explain their response for those decisions.*

#### Removing funding for LAFCo mandates

The current version of the bill reflects a cost of up to \$10.65 million to LAFCOs for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using these projections, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCOs to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCOs to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) “*incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board*”. All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, it is highly likely we will have to increase fees to the local government agencies that pay into the LAFCo annually (cities, counties, and special districts).

*We strongly believe LAFCOs need to be added to the language in Section 78115 (a)(1).* All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved puts the collection of that funding on the backs of local government.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,



Pete Vander Poel  
Chair, Tulare County LAFCO

Cc: Assembly Local Government Committee  
Assembly Environmental Safety & Toxic Materials Committee  
Senate Governance and Finance Committee  
Senate Environmental Quality Committee  
Pamela Miller, Executive Director, CALAFCO

AMENDMENTS TO SENATE BILL NO. 414  
AS AMENDED IN ASSEMBLY JUNE 25, 2019

Amendment 1

In the title, in line 1, strike out “Sections 56017.1, 56017.2, 56069, 56653, 56658,”, strike out line 2 and insert:

Section 116769 of, and to add Section 116683 to, the Health and Safety Code,

Amendment 2

In the title, in line 4, strike out “authorities.” and insert:

authorities, and making an appropriation therefor.

Amendment 3

On page 7, strike out lines 1 to 7, inclusive, and strike out pages 8 to 13, inclusive, on page 14, strike out lines 1 to 31, inclusive, and insert:

SECTION 1. Section 116683 is added to the Health and Safety Code, to read: 116683. (a) In addition to the procedures described in Section 116682, for a public water system that either has fewer than 3,000 service connections or serves fewer than 10,000 people, the state board may order the formation of a small system water authority pursuant to Division 23 (commencing with Section 78000) of the Water Code.

(b) (1) A small system water authority formed pursuant to Division 23 (commencing with Section 78000) of the Water Code and a formation coordinator selected by the state board for a small system water authority shall be subject to the liability limits described in Section 116684.

(2) For purposes of a small system water authority, the interim operation period described in Section 116684 shall commence with the appointment of a formation coordinator pursuant to Section 78031 of the Water Code, and shall last until the services of the formation coordinator are terminated.

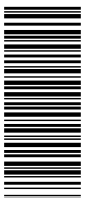
SEC. 2. Section 116769 of the Health and Safety Code is amended to read: 116769. (a) The fund expenditure plan shall contain the following:

(1) A report of expenditures from the fund for the prior fiscal year and planned expenditures for the current fiscal year.

(2) A list of systems that consistently fail to provide an adequate supply of safe drinking water. The list shall include, but is not limited to, all of the following:

(A) Any public water system that consistently fails to provide an adequate supply of safe drinking water.

(B) Any community water system that serves a disadvantaged community that must charge fees that exceed the affordability threshold established by the board in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.



RN2013583

(C) Any state small water system that consistently fails to provide an adequate supply of safe drinking water.

(3) A list of public water systems, community water systems, and state small water systems that may be at risk of failing to provide an adequate supply of safe drinking water.

(4) An estimate of the number of households that are served by domestic wells or state small water systems in high-risk areas identified pursuant to Article 6 (commencing with Section 116772). The estimate shall identify approximate locations of households, without identifying exact addresses or other personal information, in order to identify potential target areas for outreach and assistance programs.

(5) An estimate of the funding needed for the next fiscal year based on the amount available in the fund, anticipated funding needs, other existing funding sources, and other relevant data and information.

(6) A list of programs to be funded that assist or will assist households supplied by a domestic well that consistently fails to provide an adequate supply of safe drinking water. This list shall include the number and approximate location of households served by each program without identifying exact addresses or other personal information.

(7) A list of programs to be funded that assist or will assist households and schools whose tap water contains contaminants, such as lead or secondary contaminants, at levels that exceed recommended standards.

(8) An evaluation of the operational performance of each small system water authority organized under Division 23 (commencing with Section 78000) of the Water Code in delivering safe and clean drinking water that meets all applicable water quality standards.

(b) The fund expenditure plan shall be based on data and analysis drawn from the drinking water needs assessment funded by Chapter 449 of the Statutes of 2018 as that assessment may be updated and as information is developed pursuant to Article 6 (commencing with Section 116772).

(c) The fund expenditure plan shall prioritize funding for all of the following:

(1) Assisting disadvantaged communities served by a public water system, and low-income households served by a state small water system or a domestic well.

(2) The consolidation or extension of service, when feasible, and administrative and managerial contracts or grants entered into pursuant to Section 116686 where applicable.

(3) Funding costs other than those related to capital construction costs, except for capital construction costs associated with consolidation and service extension to reduce the ongoing unit cost of service and to increase sustainability of drinking water infrastructure and service delivery.

#### Amendment 4

On page 14, in line 32, strike out "SEC. 8." and insert:

SEC. 3.

Amendment 5

On page 15, in line 2, strike out “2019” and insert:

2020

Amendment 6

On page 15, in line 7, strike out “2019.” and insert:

2020.

Amendment 7

On page 16, between lines 22 and 23, insert:

78012. “Formation coordinator” means a person with the qualifications set forth in subdivision (e) of Section 78036 of the Health and Safety Code who is selected by the state board to assist with the formation of an authority, as described in subdivision (g) of Section 78036 of the Health and Safety Code.

Amendment 8

On page 16, in line 23, strike out “78012.” and insert:

78013.

Amendment 9

On page 16, in line 26, strike out “78013.” and insert:

78014.

Amendment 10

On page 16, in line 28, strike out “78014.” and insert:

78015.

Amendment 11

On page 16, in line 30, strike out “78015.” and insert:

78016.

Amendment 12

On page 16, in line 33, strike out “78016.” and insert:  
78017.

Amendment 13

On page 16, in line 37, strike out “78017.” and insert:  
78018.

Amendment 14

On page 16, in line 39, strike out “78018.” and insert:  
78019.

Amendment 15

On page 17, in line 1, strike out “78019.” and insert:  
78020.

Amendment 16

On page 17, in line 3, strike out “78020.” and insert:  
78021.

Amendment 17

On page 17, in line 5, strike out “78021.” and insert:  
78022.

Amendment 18

On page 17, in line 6, strike out “78022.” and insert:  
78023.

Amendment 19

On page 17, strike out lines 24 to 40, inclusive, strike out pages 18 and 19, on page 20, strike out lines 1 to 13, inclusive, and insert:

78031. (a) (1) If the state board exercises its authority pursuant to Article 1 (commencing with Section 116270) of Chapter 4 of Part 12 of Division 104 of the Health and Safety Code or other authority and issues an order or citation pursuant to Section 116650 or Section 116655 of the Health and Safety Code to one or more public water systems, the state board shall include in that order or citation a schedule or timetable to bring the system into compliance. If the public water system fails to timely comply with the order or citation, the state board may determine whether it will remedy the noncompliance of a public water system by using the authority granted pursuant to Section 116682 of the Health and Safety Code, the authority granted pursuant to Section 116683 of the Health and Safety Code, or by other authority granted to the state board.

(2) If the state board decides to order the formation of a small system water authority pursuant to Section 116683 of the Health and Safety Code and this division to remedy the noncompliance, the state board shall appoint a formation coordinator pursuant to Section 78036 at the same time it makes that decision. The formation coordinator shall evaluate whether the formation of an authority is feasible, under all relevant circumstances, and shall promptly submit a report to the state board stating whether formation of an authority is feasible.

(b) If the formation coordinator's report submitted pursuant to paragraph (2) of subdivision (a) indicates that the formation of an authority is feasible, before ordering the formation of an authority pursuant to Section 116683 of the Health and Safety Code, the state board shall make all of the following findings:

(1) The public water system ordered to join the proposed authority either has fewer than 3,000 service connections or serves fewer than 10,000 people.

(2) The public water system ordered to join the proposed authority has consistently failed to provide an adequate supply of safe drinking water or is at risk of doing so, as determined by the state board. The state board may implement this paragraph through the adoption of a policy handbook that is not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The formation of an authority is appropriate and technically feasible.

(4) There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time.

(5) The formation of an authority is an effective, affordable, and economically reasonable means of providing an adequate supply of safe drinking water.

(c) An authority shall include at least five public water systems, unless the formation coordinator determines that the authority would be economically feasible and operationally viable with fewer than five public water systems. An authority may include the following:

(1) A public water system from a county service area or other dependent special district that wishes voluntarily to join the proposed authority.

(2) A public water system that has been meeting drinking water standards and that wishes to voluntarily join the proposed authority.

(3) A public water system identified by the state board as consistently serving water that fails to meet drinking water standards in the county in which the proposed authority will be formed.

(4) A public water system for which a petition was submitted to the state board pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 78033 and not denied by the state board.

(d) Except for a public water system ordered to join an authority pursuant to subdivision (a), a public water system may join an authority even if it does not satisfy the requirements in paragraphs (1) and (2) of subdivision (b).

(e) This part is not intended to apply to consolidations that commenced before the effective date of this division.

78032. (a) If a water corporation regulated by the Public Utilities Commission receives an order or citation as set forth in Section 78031, the Public Utilities Commission shall proceed with the consolidation or receivership, or both, under the Public Utilities Commission's existing programs, or, in consultation with the state board, the Public Utilities Commission shall cause the dissolution and transfer of the assets of the water corporation into an authority pursuant to Section 116683 of the Health and Safety Code and this chapter.

(b) The state board shall provide the Public Utilities Commission with notice of its determination within 30 days of making the determination described in Section 78031.

Amendment 20

On page 20, in line 14, strike out "July 1, 2021," and insert:

180 days after the state board determines, pursuant to Section 78031, that it intends to remedy a noncompliant public water system by forming an authority,

Amendment 21

On page 20, in lines 17 and 18, strike out "a notice under subdivision (a) of Section 78030 is located" and insert:

an order or citation from the state board pursuant to Section 116650 or Section 116655 of the Health and Safety Code is located,

Amendment 22

On page 20, in lines 18 and 19, strike out "may consider the formation of" and insert:

has made a determination to form

Amendment 23

On page 20, in line 21, after the period insert:

The state board shall, at the same time, also take reasonable steps to provide that notice to individual domestic well owners and state small water systems located within the county where the entity receiving an order or citation as described in paragraph (1) is located.

Amendment 24

On page 20, in line 22, strike out “entity” and insert:

entity, including a state small water system, or individual domestic well owner

Amendment 25

On page 20, in line 24, strike out “administrator” and insert:

formation coordinator

Amendment 26

On page 20, in lines 24 and 25, strike out “on or before December 31, 2021.” and insert:

no later than 180 days after the issuance of notice pursuant to paragraph (1).

Amendment 27

On page 20, in line 25, after “entity” insert:

or individual domestic well owner

Amendment 28

On page 21, in line 15, strike out “On or before November 1, 2021, a county or city receiving” and insert:

No later than 90 days after the issuance of

Amendment 29

On page 21, in line 16, strike out “from” and insert:

by

Amendment 30

On page 21, in line 16, strike out “(a)” and insert:

(a), a county or city

Amendment 31

On page 21, in line 18, strike out “providing” and insert:

not included in the notice provided pursuant to subdivision (a) that provide

Amendment 32

On page 21, in line 26, strike out “administrator” and insert:

formation coordinator

Amendment 33

On page 21, in lines 26 and 27, strike out “on or before December 1, 2021.” and insert:

no later than 180 days after the issuance of notice pursuant to subdivision (a).

Amendment 34

On page 21, in line 35, strike out “November 1, 2021, the administrator” and insert:

90 days after the state board issues notice pursuant to subdivision (a), the formation coordinator

Amendment 35

On page 21, in line 38, strike out “being included” and insert:

inclusion

Amendment 36

On page 21, between lines 38 and 39, insert:

(e) If an individual domestic well owner or a state small water system wishes to be included in an authority, the individual domestic well owner or state small water system shall be responsible for paying for the reasonable cost of service, as provided in Section 116682 of the Health and Safety Code.

(f) If the state board makes the findings described in Section 78031 or the findings described in Section 116682 of the Health and Safety Code, the state board may consolidate a public water system without complying with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

Amendment 37

On page 21, in line 39, strike out “(a)”

Amendment 38

On page 21, in line 40, strike out “78032,” and insert:

78031,

Amendment 39

On page 22, in line 2, strike out “system that submitted the plan is” and insert:

systems are

Amendment 40

On page 22, in line 3, after “of” insert:

any of

Amendment 41

On page 22, in line 3, strike out “system,” and insert:

systems,

Amendment 42

On page 22, in line 5, strike out “system” and insert:

systems

Amendment 43

On page 22, strike out lines 6 to 18, inclusive, and insert:

78035. (a) No later than 90 days after the state board determines, pursuant to Section 78031, that it intends to order the formation of an authority, the formation

coordinator shall consult with the executive officer of the local agency formation commission and with identifiable local community groups representing consumers and ratepayers of the public water systems regarding the proposed formation and receive their recommendations as to the draft conceptual formation plan developed pursuant to this section. No later than 300 days after the state board determines that it intends to order the formation of an authority, the formation coordinator shall submit to the state board a draft conceptual formation plan that includes all of the following:

Amendment 44

On page 22, between lines 23 and 24, insert:

(4) Identification of any adjacent agencies that could provide services in lieu of the formation of the authority and identification of nearby public water systems that could benefit from inclusion in the authority.

Amendment 45

On page 22, in line 24, strike out “(4)” and insert:

(5)

Amendment 46

On page 22, in line 26, strike out “(5)” and insert:

(6)

Amendment 47

On page 22, in line 27, strike out “for service” and insert:

developed

Amendment 48

On page 22, in line 28, strike out “(6)” and insert:

(7)(A)

Amendment 49

On page 22, in line 29, strike out “system” and insert:

systems

Amendment 50

On page 22, in line 31, strike out “all”

Amendment 51

On page 22, strike out lines 34 to 36, inclusive, and insert:

(B) The plan described in subparagraph (A) shall include provisions for interim water supplies, the assessment of water rights, an asset inventory and schedule for immediate maintenance, an analysis of alternatives to address the water quality violations that includes the costs of those alternatives, a capital improvement plan as described in Section 78110, and an assessment of the finances of the authority and the funding sources that may be required for long-term and sustainable compliance with all drinking water standards.

(b) The formation coordinator shall consult with, and consider the input of, the executive officer of the local agency formation commission and identifiable local community groups representing consumers and ratepayers of the public water systems regarding the proposed formation throughout the development of the draft conceptual formation plan.

(c) The formation coordinator shall submit the draft conceptual formation plan to the state board and any applicable local agency formation commission for comments within 60 days of its receipt. The formation coordinator shall finalize the draft conceptual formation plan for public comment no later than 30 days after receiving the comments of the state board.

Amendment 52

On page 22, in line 37, strike out “(c)” and insert:

(d)

Amendment 53

On page 22, in line 39, strike out “an interim” and insert:

a

Amendment 54

On page 23, in lines 3 and 4, strike out “On or before March 1, 2021, the state board shall establish and publish a list of” and insert:

The state board may, from time to time, select

Amendment 55

On page 23, in line 5, strike out “in subdivision (e)” and insert:  
established in advance by the state board

Amendment 56

On page 23, in line 5, strike out “administrators” and insert:  
formation coordinators

Amendment 57

On page 23, in line 7, strike out “administrator” and insert:  
formation coordinator

Amendment 58

On page 23, strike out lines 10 to 14, inclusive, in line 15, strike out “(d)” and insert:

(c)

Amendment 59

On page 23, in line 15, strike out “bear the cost of the administrator and”

Amendment 60

On page 23, in line 17, strike out “the administrator” and insert:  
a formation coordinator

Amendment 61

On page 23, in line 18, strike out “administrator” and insert:  
formation coordinator

Amendment 62

On page 23, in line 18, after the period insert:  
The state board may contract with, or provide a grant to, the formation coordinator.

Amendment 63

On page 23, strike out lines 19 to 33, inclusive, and insert:

(d) For purposes of the determination described in Section 78031, the formation coordinator shall conduct an analysis as to whether the formation of an authority is feasible, and if so, shall assist the state board in the initial implementation of the formation of the authority.

Amendment 64

On page 23, in line 35, strike out “paragraph (1) of subdivision (b) of”

Amendment 65

On page 23, in line 38, strike out “authority”, strike out line 39 and insert:  
authority.

Amendment 66

On page 24, in line 2, strike out “paragraph (1) of subdivision (b) of”

Amendment 67

On page 24, in line 6, strike out “identified in subdivision (a) of Section 78034”

Amendment 68

On page 24, in line 7, strike out “authority formed by”, strike out line 8 and insert:  
authority.

(3) No later than 240 days after the state board issues a notice pursuant to Section 78034 to a public agency operating a public water system, and notwithstanding the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), the local agency formation commission for the principal county where the public agency is located shall hold a public hearing to allow for public comment on the dissolution of that public water system. The dissolution of the noncompliant public water system shall be effective upon completion of the hearing. The local agency formation commission shall promptly provide the comments made by the public during the hearing to the state board for consideration.

(4) An order of dissolution issued pursuant to this subdivision shall make appropriate equitable arrangements for the interim operation of the public water system until the formation of the authority is completed and the authority is prepared to take over operation of the public water system. The arrangements shall provide for the continuous delivery of water to all of the public water system's customers. The Public Utilities Commission shall consult with the state board before issuing an order pursuant to paragraph (1).

(b) If the state board, upon formation of the authority, excludes from the authority a noncompliant public water system initially considered for inclusion, the state board shall exercise its existing authority to bring the noncompliant water system into compliance.

Amendment 69

On page 24, in line 9, strike out "(b)" and insert:

(c)

Amendment 70

On page 25, in line 33, strike out "(c)" and insert:

(d)

Amendment 71

On page 26, strike out lines 11 to 39, inclusive, strike out pages 27 to 29, inclusive, on page 30, strike out lines 1 to 4, inclusive, and insert:

78038. (a) No later than 120 days after the formation coordinator finalizes the draft conceptual formation plan pursuant to subdivision (c) of Section 78035, the local agency formation commission shall hold two public hearings on that draft conceptual formation plan. No later than 60 days after the second public hearing, the local agency formation commission shall submit a report to the state board summarizing public comments received at those hearings and any recommendations that the local agency formation commission may have for the state board concerning the draft conceptual formation plan. Any extraordinary costs incurred by the local agency formation commission over and above its normal budgeted operating expenses for conducting the public hearings and preparing the report to the state board shall be paid, in arrears, by the state board from the funds identified in Section 78115 based upon the documentation of the extraordinary costs submitted by the local agency formation commission. The state board shall consider the report prepared by the local agency formation commission before taking final action to form the authority pursuant to subdivision (b).

(b) No later than 60 days after the local agency formation commission submits the report described in subdivision (a) to the state board for its review, the state board shall form the authority, incorporating any element or recommendation from the local

agency formation commission's report that the state board deems appropriate. Notwithstanding any other law, the state board shall form the authority by a resolution approved at a regular meeting of the state board. Formation of an authority shall be deemed to be a quasi-legislative action by the state board. The final plan shall be posted on the state board's internet website. The authority shall post the final plan on its internet website within one year of its formation by the state board.

Amendment 72

On page 30, in line 11, strike out "formation by the local agency formation commission," and insert:

formation,

Amendment 73

On page 30, in line 18, strike out the first "administrator" and insert:

formation coordinator

Amendment 74

On page 30, in line 18, strike out "administrator," and insert:

formation coordinator,

Amendment 75

On page 30, between lines 22 and 23, insert:

(4) The report shall be posted on the state board's internet website, the local agency formation commission's internet website, and the authority's internet website.

Amendment 76

On page 30, in line 23, strike out "A" and insert:

(1) If a report required under subdivision (a) states that an authority has failed to comply with the plan approved by the state board, the

Amendment 77

On page 30, in line 23, strike out "shall" and insert:

shall, at the state board's request,

Amendment 78

On page 30, in line 24, strike out “90” and insert:

120

Amendment 79

On page 30, in lines 25 and 26, strike out “year. If” and insert:

year and receive comments from consumers and ratepayers of the authority and other interested parties. The local agency formation commission shall compile and summarize those comments and, within 60 days of the hearing, provide a report on the comments received to the state board for the state board’s consideration in determining the appropriate remedy for the failure to comply with the plan.

(2) If

Amendment 80

On page 30, in line 26, after “report” insert:

required under subdivision (a)

Amendment 81

On page 30, in line 26, strike out “any”, strike out lines 27 and 28, in line 29, strike out “78038,” and insert:

the plan approved by the state board,

Amendment 82

On page 30, in lines 29 and 30, strike out “the violations” and insert:

noncompliance with the plan

Amendment 83

On page 30, between lines 35 and 36, insert:

(c) The state board shall include an evaluation of whether consolidations pursuant to this chapter have resulted in the provision of safe and affordable water supplies as part of the Safe Drinking Water Plan required pursuant to Section 116355 of the Health and Safety Code.

Amendment 84

On page 30, strike out lines 36 to 40, inclusive, strike out page 31 and on page 32, strike out lines 1 to 3, inclusive

Amendment 85

On page 32, strike out line 13, in line 14, strike out “(3)” and insert:

(2)

Amendment 86

On page 32, strike out line 16 and insert:

or if there are more than five entities, to ensure that the initial board of the authority is composed of an odd number of directors.

Amendment 87

On page 32, in line 18, strike out “administrator” and insert:

formation coordinator

Amendment 88

On page 32, in lines 23 and 24, strike out “local agency formation commission” and insert:

state board

Amendment 89

On page 32, in line 34, after “than” insert:

the minimum number that would constitute

Amendment 90

On page 32, in line 36, strike out “administrator” and insert:

formation coordinator

Amendment 91

On page 32, in line 38, strike out “local agency formation commission” and insert:

state board

Amendment 92

On page 36, in lines 20 and 21, strike out “local agency formation commission issues a notice of completion, pursuant to Section 78038,” and insert:

state board completes the formation of the authority pursuant to subdivision (b) of Section 78038,

Amendment 93

On page 36, in line 22, strike out “administrator appointed” and insert:

formation coordinator selected

Amendment 94

On page 47, in line 4, strike out “administrator” and insert:

formation coordinator

Amendment 95

On page 47, strike out lines 7 and 8 and insert:

as soon as reasonable, as determined by the state board.

Amendment 96

On page 47, in line 18, after “(a)” insert:

(1)

Amendment 97

On page 47, in line 19, strike out “or,” and insert:

or

Amendment 98

On page 47, in line 20, strike out “revenues” and insert:

revenues, the Safe and Affordable Drinking Water Fund based on the fund expenditure plan established pursuant to Section 116769 of the Health and Safety Code,

Amendment 99

On page 47, in line 22, strike out “an administrator” and insert:

a formation coordinator

Amendment 100

On page 47, in line 22, strike out “subdivision (d) of”

Amendment 101

On page 47, in line 23, strike out the first “and”

Amendment 102

On page 47, in line 23, strike out “for up to three”, strike out line 24 and insert:

pursuant to paragraph (7) of subdivision (a) of Section 78035, and, after the formation of the authority, for financial assistance for initial startup operations and to establish an operating reserve to ensure fiscal sustainability of the new authority.

Amendment 103

On page 47, strike out lines 25 to 40, inclusive, strike out page 48, on page 49, strike out lines 2 and 3, in line 4, strike out “authorities created pursuant to this division,” and insert:

(2) Financial assistance related to startup operations of the authority shall include, but is not limited to, funding to support utility office, administrative, staffing, equipment, and business-related functions and may include, at the state board’s discretion, up to 50 percent of single-year anticipated operating revenue for up to two consecutive years.

(3) An initial working capital and emergency operating reserve consistent with prudent utility business practices may be established, at the state board’s discretion, in an amount up to 180 days of anticipated operating revenue for the authority.

(b) In addition to the moneys described in subdivision (a),

Amendment 104

On page 49, in line 4, strike out “shall” and insert:

may

Amendment 105

On page 49, in line 5, strike out “upon appropriation”

Amendment 106

On page 49, in line 7, strike out “Code as follows,” and insert:

Code,

Amendment 107

On page 49, in line 8, strike out “federal law:” and insert:

law.

Amendment 108

On page 49, strike out lines 9 to 29, inclusive, in line 30, strike out “SEC. 9.” and insert:

SEC. 4.

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July 7, 2020

Dear CALAFCO Membership:

We continue to live in unprecedented times, dealing with the myriad of disruptive changes thrust upon us and our agencies. All of us continue to learn how to best navigate the path forward, both individually and collectively, with resilience and courage.

With the ongoing pandemic and the dialing back by many counties on re-opening, and the significant budget cuts looming for all local government agencies, careful consideration is being given to every decision organizations are making today. The same is true for CALAFCO and our Annual Conference.

Taking all of that into consideration with respect to the October Annual Conference, the CALAFCO Board of Directors and Executive Director believe CALAFCO has an ethical and corporate responsibility to our members, speakers, guests, their families and our collective communities. This responsibility includes mitigating as much as possible the spread of the virus and being responsible in our decisions to aid in the containment and protect the health and safety of our members. Given the fluidity of the situation, there are still no state guidelines as to larger gathering events and it is not likely they can be done safely anytime soon.

After careful thought and consideration, CALAFCO has decided to cancel this year's in-person Annual Conference which was scheduled for October 21-23 in Monterey.

So, what's next?

- Staff is researching options for a virtual event of some kind and will report to the Board of Directors during the July 24 meeting what options are reasonable and available. At this time, we do not know what that may look like, but we are hopeful by the end of the month we will know whether there will be a virtual event. As soon as there is information, you will be advised.
- CALAFCO staff may reach out to your LAFCo staff and commissioners and request feedback via a Survey Monkey survey. **Your feedback will be critical so please respond if asked.**
- CALAFCO is working with the Monterey Hyatt to re-book the Conference in 2023.
- The Board of Directors 2020 elections will be held by email ballot. Please watch for an update from the Elections Committee coming this week.
- We are researching options for holding the Annual Business Meeting and will advise you when that decision has been made.

If you have suggestions or questions, please let Executive Director Pamela Miller know. You can reach her at [pmiller@calafco.org](mailto:pmiller@calafco.org).

On behalf of the Board, we thank you for the leadership and the integrity you demonstrate as local government leaders every day, and especially in difficult times such as these.

Yours sincerely,



Mike McGill  
Chair of the Board



Pamela Miller  
Executive Director

CC: CALAFCO Board of Directors