



**STANISLAUS LAFCO
LOCAL AGENCY FORMATION COMMISSION**

Sara Lytle-Pinhey, Executive Officer
1010 10th Street, Third Floor
Modesto, California 95354
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Chair Terry Withrow, County Member
Vice Chair, Michael Van Winkle, City Member
Jim DeMartini, County Member
Bill Berryhill, Public Member
Amy Bublak, City Member
Richard O'Brien, Alternate City Member
Brad Hawn, Alternate Public Member
Vito Chiesa, Alternate County Member

**AGENDA
Wednesday, December 5, 2018
6:00 P.M.
Joint Chambers—Basement Level
1010 10th Street, Modesto, California 95354**

The Stanislaus Local Agency Formation Commission welcomes you to its meetings. As a courtesy, please silence your cell phones during the meeting. If you want to submit documents at this meeting, please bring 15 copies for distribution. Agendas and staff reports are available on our website at least 72 hours before each meeting. Materials related to an item on this Agenda, submitted to the Commission or prepared after distribution of the agenda packet, will be available for public inspection in the LAFCO Office at 1010 10th Street, 3rd Floor, Modesto, during normal business hours.

1. CALL TO ORDER

- A. Pledge of Allegiance to the Flag.
- B. Introduction of Commissioners and Staff.

2. PUBLIC COMMENT PERIOD

This is the period in which persons may speak on items that are not listed on the regular agenda. All persons wishing to speak during this public comment portion of the meeting are asked to fill out a "Speaker's Card" and provide it to the Commission Clerk. Each speaker will be limited to a three-minute presentation. No action will be taken by the Commission as a result of any item presented during the public comment period.

3. APPROVAL OF MINUTES

- A. Minutes of the October 24, 2018 Meeting.

4. CORRESPONDENCE

No correspondence addressed to the Commission, individual Commissioners or staff will be accepted and/or considered unless it has been signed by the author, or sufficiently identifies the person or persons responsible for its creation and submittal.

- A. Specific Correspondence.

- B. Informational Correspondence.

- 1. Letter from Keith Schneider of the Keystone Corporation dated November 14, 2018.
- 2. 2019 CALAFCO Events Calendar.

C. "In the News."

5. DECLARATION OF CONFLICTS AND DISQUALIFICATIONS

6. CONSENT ITEMS

The following consent items are expected to be routine and non-controversial and will be acted upon by the Commission at one time without discussion, unless a request has been received prior to the discussion of the matter.

A. **ADOPTION OF AN UPDATED CONFLICT OF INTEREST CODE FOR STANISLAUS LAFCO** (Staff Recommendation: Adopt Resolution No. 2018-11.)

B. **MUNICIPAL SERVICE REVIEW 2018-04 AND SPHERE OF INFLUENCE 2018-07 UPDATE FOR THE OAKDALE IRRIGATION DISTRICT.** The Commission will consider the adoption of a Municipal Service Review (MSR) and Sphere of Influence (SOI) Update for the Oakdale Irrigation District. This item is exempt from the California Environmental Quality Act (CEQA) review pursuant to sections 15306 and 15601(b)(3). (Staff Recommendation: Approve the update and adopt Resolution No. 2018-21.)

C. **2019 WORK PROGRAM – MUNICIPAL SERVICE REVIEW & SPHERE OF INFLUENCE UPDATES.** (Staff Recommendation: Adopt the 2019 Work Program.)

7. PUBLIC HEARING

Any member of the public may address the Commission with respect to a scheduled public hearing item. Comments should be limited to no more than three (3) minutes, unless additional time is permitted by the Chair. All persons wishing to speak during this public hearing portion of the meeting are asked to fill out a "Speaker's Card" and provide it to the Commission Clerk prior to speaking.

A. **OUT-OF-BOUNDARY SERVICE APPLICATION – MODESTO MOBILE HOME PARK – (CITY OF MODESTO).** The Commission will consider a request from the City of Modesto to extend sewer service to the Modesto Mobile Home Park located at 4024 McHenry Avenue. The extension is considered exempt from the California Environmental Quality Act (CEQA) pursuant to section 15301(b)(3) of the CEQA Guidelines. (Staff Recommendation: Adopt Resolution No. 2018-20 Option 2, denying the proposal.)

8. COMMISSIONER COMMENTS

Commission Members may provide comments regarding LAFCO matters.

9. ADDITIONAL MATTERS AT THE DISCRETION OF THE CHAIRPERSON

The Commission Chair may announce additional matters regarding LAFCO matters.

10. EXECUTIVE OFFICER'S REPORT

The Commission will receive a verbal report from the Executive Officer regarding current staff activities.

A. On the Horizon.

11. **ADJOURNMENT**

- A. Set the next meeting date of the Commission for January 23, 2019.
- B. Adjourn.

LAFCO Disclosure Requirements

Disclosure of Campaign Contributions: If you wish to participate in a LAFCO proceeding, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings. If you or your agent have made a contribution of more than \$250 to any commissioner or alternate during the twelve (12) months preceding the decision, that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings.

Lobbying Disclosure: Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them.

Disclosure of Political Expenditures and Contributions Regarding LAFCO Proceedings: If the proponents or opponents of a LAFCO proposal spend \$1,000 with respect to that proposal, they must report their contributions of \$100 or more and all of their expenditures under the rules of the Political Reform Act for local initiative measures to the LAFCO Office.

LAFCO Action in Court: All persons are invited to testify and submit written comments to the Commission. If you challenge a LAFCO action in court, you may be limited to issues raised at the public hearing or submitted as written comments prior to the close of the public hearing. All written materials received by staff 24 hours before the hearing will be distributed to the Commission.

Reasonable Accommodations: In compliance with the Americans with Disabilities Act, hearing devices are available for public use. If hearing devices are needed, please contact the LAFCO Clerk at 525-7660. Notification 24 hours prior to the meeting will enable the Clerk to make arrangements.

Alternative Formats: If requested, the agenda will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC 12132) and the Federal rules and regulations adopted in implementation thereof.

Notice Regarding Non-English Speakers: Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedure Section 185 which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the Local Agency Formation Commission shall be in English and anyone wishing to address the Commission is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.



STANISLAUS LOCAL AGENCY FORMATION COMMISSION

MINUTES

October 24, 2018

1. CALL TO ORDER

Chair Withrow called the meeting to order at 6:00 p.m.

- A. Pledge of Allegiance to Flag. Chair Withrow led in the pledge of allegiance to the flag.
- B. Introduction of Commissioners and Staff. Chair Withrow led in the introduction of the Commissioners and Staff.

Commissioners Present: Terry Withrow, Chair, County Member
Michael Van Winkle, Vice Chair, City Member
Brad Hawn, Alternate Public Member
Richard O'Brien, Alternate City Member

Staff Present: Sara Lytle-Pinhey, Executive Officer
Javier Camarena, Assistant Executive Officer
Jennifer Goss, Commission Clerk
Robert J. Taro, LAFCO Counsel

Commissioners Absent: Amy Bublak, City Member
Jim DeMartini, County Member
Bill Berryhill, Public Member
Vito Chiesa, Alternate County Member

2. PUBLIC COMMENT

None.

3. APPROVAL OF MINUTES

- A. Minutes of the September 26, 2018 Meeting.

Motion by Commissioner Hawn, seconded by Commissioner Van Winkle and carried with a 4-0 vote to approve the Minutes of the September 26, 2018 meeting by the following vote:

Ayes: Commissioners: Hawn, O'Brien, Van Winkle and Withrow
Noes: Commissioners: None
Ineligible: Commissioners: None
Absent: Commissioners: Berryhill, Bublak, DeMartini and Chiesa
Abstention: Commissioners: None

4. CORRESPONDENCE

A. Specific Correspondence.

None.

B. Informational Correspondence.

1. Creating Sustainable Communities and Landscapes – Strategic Growth Council White Paper, October 2018.
2. 2018 CALAFCO Annual Conference Report.
3. 2018 Legislative Update.

C. “In the News”

5. DECLARATION OF CONFLICTS AND DISQUALIFICATIONS

None.

6. CONSENT ITEMS

A. **YEAR END FINANCIAL REPORT FOR FISCAL YEAR 2017-2018**
(Staff Recommendation: Accept and file the report.)

Motion by Commissioner O’Brien, seconded by Commissioner Van Winkle, and carried with a 4-0 vote to accept and file the report, by the following vote:

Ayes: Commissioners: Hawn, O’Brien, Van Winkle and Withrow
Noes: Commissioners: None
Ineligible: Commissioners: None
Absent: Commissioners: Berryhill, Bublak, DeMartini and Chiesa
Abstention: Commissioners: None

B. **OUT-OF-BOUNDARY SERVICE APPLICATION – OAKDALE GOLF AND COUNTRY CLUB.** The Commission will consider a request from the City of Oakdale to extend water and sewer service outside the existing city limits and sphere of influence, to serve a clubhouse and restaurant facility located at 243 N. Stearns Road, to address health and safety concerns. The City of Oakdale, as Lead Agency under the California Environmental Quality Act (CEQA) has filed a Notice of Exemption pursuant to section 15301 of the CEQA Guidelines. (Staff Recommendation: Approve Resolution No. 2018-17.)

Motion by Commissioner O’Brien, seconded by Commissioner Van Winkle, and carried with a 4-0 vote to approve Resolution No. 2018-17, by the following vote:

Ayes: Commissioners: Hawn, O’Brien, Van Winkle and Withrow
Noes: Commissioners: None
Ineligible: Commissioners: None
Absent: Commissioners: Berryhill, Bublak, DeMartini and Chiesa
Abstention: Commissioners: None

- C. **OUT-OF-BOUNDARY SERVICE APPLICATION – INTERSTATE TRUCK CENTER (KEYES COMMUNITY SERVICES DISTRICT).** The Commission will consider a request from the Keyes Community Services District to extend water service to Interstate Truck Center, in order to address high levels of arsenic and nitrates in the water supply. The extension is considered exempt from the California Environmental Quality Act (CEQA) pursuant to section 15301(b)(3) of the CEQA Guidelines. (Staff Recommendation: Approve Resolution No. 2018-18.)

Motion by Commissioner O'Brien, seconded by Commissioner Van Winkle, and carried with a 4-0 vote to approve Resolution No. 2018-18, by the following vote:

Ayes: Commissioners: Hawn, O'Brien, Van Winkle and Withrow
Noes: Commissioners: None
Ineligible: Commissioners: None
Absent: Commissioners: Berryhill, Bublak, DeMartini and Chiesa
Abstention: Commissioners: None

7. PUBLIC HEARING

- A. **LAFCO APPLICATION NO. 2018-06 AND SPHERE OF INFLUENCE MODIFICATION NO. 2018-06 – BMW, KIA AND VALLEY LEXUS CHANGE OF ORGANIZATION TO THE COUNTY SERVICES AREA NO. 20.** The Commission will consider a request to modify the sphere of influence and annex approximately 16.41 acres into County Service Area (CSA) No. 20 (Summit Corporate Center). The property will receive extended county services, including CSA administration and storm drain system maintenance as a result of the annexation. LAFCO Staff has determined that under the California Environmental Quality Act (CEQA) Section 15061(b)(3), the proposal is considered exempt as there is no possibility that the proposed change of organization may have a significant effect on the environment. APNs: 046-010-036 through 040, 046-011-073 and 046-011-075. (Staff Recommendation: Approve Resolution No. 2018-19.)

Javier Camarena, Assistant Executive Officer, presented the item with a recommendation of approval.

Chair Withrow opened the Public Hearing at 6:09 p.m.

No one spoke.

Chair Withrow closed the Public Hearing at 6:09 p.m.

Motion by Commissioner Hawn, seconded by Commissioner Van Winkle, and carried with a 4-0 vote to approve the proposal and adopt Resolution No. 2018-19, by the following vote:

Ayes: Commissioners: Hawn, O'Brien, Van Winkle and Withrow
Noes: Commissioners: None
Ineligible: Commissioners: None
Absent: Commissioners: Berryhill, Bublak, DeMartini and Chiesa
Abstention: Commissioners: None

8. COMMISSIONER COMMENTS

Commissioner O'Brien commented on the Creating Sustainable Communities and Landscapes – Strategic Growth Council White Paper. Commissioner O'Brien also spoke regarding homelessness and requested that staff look into modifying LAFCO Policy 22 regarding collection of fees for low income housing.

9. ADDITIONAL MATTERS AT THE DISCRETION OF THE CHAIRPERSON

None.

10. EXECUTIVE OFFICER'S REPORT

A. On the Horizon. The Executive Officer informed the Commission of the following:

- Staff is currently working with the new auditor on the Bi-annual audit. The Executive officer recently gave a LAFCO 101 to the Civil Grand Jury and will be conducting another for some MJC Students.
- Upcoming items for December will include a Municipal Service Review for Oakdale Irrigation District, the 2019 LAFCO Work Program and the updated Conflict of Interest Code.

11. ADJOURNMENT

A. Chair Withrow adjourned the meeting at 6:13 p.m.

SIGNED COPY ON FILE

Sara Lytle-Pinhey, Executive Officer



KEITH SCHNEIDER

EXECUTIVE VICE PRESIDENT

1700 KEYSTONE PACIFIC PARKWAY, C-3
PATTERSON, CA 95363

TELEPHONE: 209-480-2513

FAX: 209-895-9305

November 14, 2018

Ms. Sara Lytle-Pinhey
Stanislaus LAFCO
1010 10th Street, 3rd Floor
Modesto, CA 95354

Dear Ms. Lytle-Pinhey:

I'm writing to respectfully request that Stanislaus LAFCO make a slight change in its Agricultural Preservation Policy. The current policy under Paragraph B. Commission Evaluation of a Plan for Agricultural Preservation, number 2b. reads as follows:

2b. An adopted ordinance or resolution has been submitted by the Agency confirming that mitigation has occurred or requires the applicant to have the mitigation measure in place before the issuance of a grading permit, building permit, or final map approval for the site, whichever comes first.

The existing policy wording is problematic in the sense a final map or grading permit precedes a building permit and therefore requires the applicant to fund 100% of the mitigation payment for the complete development project upfront. This financial burden isn't a financeable expense and becomes a serious impediment to the applicant or a subsequent builder to proceed with a project.

We respectfully request the wording be revised to allow the mitigation payments to be for each lot or parcel for which a building permit is issued. This approach will allow the mitigation payments to become an ordinary expense of a project rather than an extraordinary and burdensome early expense which hinders economic development.

Please let me know if you have any questions or need further clarification of my request. We would be happy to provide sample policy language if that would be of assistance.

Thanks.

Sincerely,

A handwritten signature in cursive script that reads "Keith J. Schneider".

Keith J. Schneider

Keystone Corporation

2019 Events Calendar

JANUARY

- 16-18 League New Mayor & Council Academy (Sacramento)
- 23-25 CA Assn. of Sanitation Agencies Conference (Palm Springs)
- 25 **CALAFCO Legislative Committee** (San Diego)
- 30-2/1 League New Mayor & Council Academy (Irvine)

FEBRUARY

- 22 **CALAFCO Legislative Committee** (Sacramento)
- 28 **CALAFCO Board of Directors Strategic Planning Retreat** (Irvine)

MARCH

- 1 **CALAFCO Board of Directors Meeting (TBD)**
- 13 Assn. of CA Water Agencies Legislative Symposium (Sacramento)
- 14-17 Local Government Commission Ahwahnee Conference (Yosemite)
- 22 **CALAFCO Legislative Committee** (San Diego)

APRIL

- 3-5 Fire District Assn. Annual Meeting (Monterey)
- 10-12 **CALAFCO Staff Workshop (San Jose)**
- 24 League of Cities Legislative Day (Sacramento)
- 24-25 CA State Assn. of Counties Legislative Days (Sacramento)

MAY

- 3 **CALAFCO Legislative Committee** (Sacramento)
- 10 **CALAFCO Board of Directors Meeting** (Sacramento)
- 7-10 Assn. of CA Water Agencies Conference (Monterey)
- 21 CA Special Districts Assn. Legislative Days (Sacramento)

Sharing Information and Resources

CALIFORNIA ASSOCIATION OF
LOCAL AGENCY FORMATION
COMMISSIONS

1215 K Street, Suite 1650
Sacramento, CA 95814

916-442-6536

JUNE

- 7 **CALAFCO Legislative Committee** (Conference call)
- 19-21 League Mayor & Council Executive Forum (Newport Beach)

JULY

- 26 **CALAFCO Legislative Committee** (Conference call)

AUGUST

- 9 **CALAFCO Board of Directors Meeting (San Diego)**
- 21-23 CA Assn. of Sanitation Agencies Annual Conference (San Diego)

SEPTEMBER

- 25-27 Regional Council of Rural Counties Annual Conference (South Lake Tahoe)
- 25-28 CA Special Districts Assn. Annual Conference (Anaheim)

OCTOBER

- 11 **CALAFCO Legislative Committee (2020)** (Conference call)
- 16-18 League Annual Conference (Long Beach)
- 30-31 **CALAFCO Annual Conference** (Sacramento)
- 31 **CALAFCO Annual Business Meeting** (Sacramento)

NOVEMBER

- 1 **CALAFCO Annual Conference** (Sacramento)
- 1 **CALAFCO Board of Directors Meeting** (Sacramento)
- 15 **CALAFCO Legislative Committee (2020)** (Sacramento)

DECEMBER

- 3-6 CA State Assn. of Counties Annual Conference (San Francisco)
- 3-6 Assn. of CA Water Agencies Conference (San Diego)
- 13 **CALAFCO Board of Directors Meeting** (Sacramento)

CORRESPONDENCE – IN THE NEWS

Newspaper Articles

- The Modesto Bee, October 30, 2018, “A much better plan.’ Crows Landing business park moves forward, but cities cite concerns.”
- West Side Index, November 2, 2018, “AMR pledges to resolve ambulance accounting issues.”
- West Side Index, November 8, 2018, “Staffing issues jeopardize ambulance service.”
- Patterson Irrigator, November 15, 2018, “County airbase plan moving forward despite objections.”
- West Side Index, November 15, 2018, “Ambulance service facing multiple issues.”
- The Ceres Courier, November 21, 2018, “Whitmore Ranch may be annexed.”

‘A much better plan.’ Crows Landing business park moves forward, but cities cite concerns

By Ken Carlson

Stanislaus County’s plan for a business park and public airport near Crows Landing has sparked a debate over traditional growth issues including traffic impacts, land use and farmland preservation.

The cities of Newman and Patterson asked the Board of Supervisors to delay a decision Tuesday on environmental studies for the 1,500-acre Crows Landing Industrial Business Park at the former military airfield south of Patterson. Up to 15,000 people could work at the business complex plotted for development over 30 years.

County leaders approved the environmental work on a 4-0 vote, with an abstention from Supervisor Terry Withrow, whose wife has a minor interest in property near the former air base.

Newman City Manager Michael Holland said there are unresolved issues with housing for the thousands of employees hired to work in the industrial plants, distribution centers and aviation-related businesses. Because a county policy prohibits home construction in unincorporated areas, the project will boost demand for homes in nearby cities like Newman and Patterson — and require the cities to provide mitigations for loss of farmland.

Holland said the county’s environmental report should include farmland mitigation fees to help the cities with those requirements. Residential developments in Stanislaus County must be offset by measures to conserve productive farmland.

Holland also said the county needs to pay its share for improvements to the Highway 33 intersections at Stuhr Road, Jensen Road and Yolo and Inyo streets. County Public Works Director David Leamon said vehicle traffic generated by the industrial center would make the county responsible for 28 percent of the costs.

County supervisors said they’re willing to work with Newman on the traffic mitigations.

In letters Thursday and Friday, Patterson raised a number of issues from utilities to groundwater impacts and greenhouse gas emissions that contribute to climate change.

Attorney Robin Baral of Churchwell White, representing Patterson, said the environmental study does not recognize the need for an out-of-boundary agreement for the city to provide wastewater service for the Crows Landing center. Unless the city's ultimate service area is extended to include the site, Baral said, the Local Agency Formation Commission will need to approve a special agreement for sewer service outside the city's territory.

Board Chairman Jim DeMartini was less sympathetic with Patterson's latest concerns after county officials had discussed the project with the city on almost a monthly basis. DeMartini criticized the city for proposing a deal in which the county would endorse the Northwest Patterson annexation in exchange for city support for the Crows Landing business park.

"It is totally inappropriate," DeMartini said, adding that plans for the city's northwest annexation are sketchy. According to a copy of the city's proposed deal, released by DeMartini, Patterson wanted a promise from the county to explore a Zacharias Road alignment for the South County Corridor expressway.

Patterson's 1,200-acre annexation, northwest of the city limits and south of Zacharias Road, could include 2,500 to 3,000 dwellings, as well as commercial development and public amenities. County officials had no estimate on how many business park employees would live in the annexation area.

In other comments at Tuesday's hearing, representatives of Sierra Academy of Aeronautics said the flight school at the former Castle Air Force Base in Atwater could possibly use the Crows Landing airport as a satellite location. The pilot training school has 44 aircraft logging more than 80,000 annual training operations and has a need to use other airports.

County Supervisor Vito Chiesa said the Crows Landing business park won't be built tomorrow, but it's a better plan than a previous proposal, called West Park, that stirred controversy.

"We have a much better plan now," Chiesa said. "The economy is better. It's time we start moving forward slowly."

The county Planning Commission and Board of Supervisors are expected to review a master plan for the project in the next two months and could seek proposals next year to choose a developer.

AMR pledges to resolve ambulance accounting issues

A months-long gap in accounting services for West Side Community Ambulance may soon be resolved, and revenues are beginning to roll in once again after an interruption in billing.

An executive with American Medical Response (AMR), the firm which contracts with West Side to provide management services, told the ambulance board last week that it will bring in an accounting firm to handle those financial duties.

The district is seeing resolution as well on its billing, which was also interrupted for several months during a transition between management service providers earlier this year.

Billing was picked up by AMR retroactive to Sept. 1. Furthermore, board President Rick Daniel told Mattos Newspapers, West Side has finalized an agreement with the Sierra Medical Services Alliance (SEMSA), the company that previously provided management services, to pick up billing for the three to four previous months during which no bills for patient transport were issued.

Roberta Casteel, administrative supervisor for the ambulance service, said revenues have begun coming in. In addition, she noted, the ambulance got a financial boost in the form of a \$154,000 tax payment from Merced County.

West Side's accounting functions have essentially been in limbo since July 1, board President Rick Daniel previously told Mattos Newspapers, contending AMR had failed to assume those responsibilities despite a contractual obligation to do so.

The Sierra Medical Services Alliance (SEMSA), West Side's previous management contractor, handled accounting duties through the end of June. The management contract had switched from SEMSA to AMR in April, but SEMSA agreed to keep the books until the end of the fiscal year to facilitate a smoother transition to AMR with that aspect of the operation.

The transition, as it turned out, was anything but smooth.

West Side has been without financial reports in recent months, and board members have reportedly been writing checks to pay the bills of West Side Community Healthcare District, which operates the ambulance.

Bruce Lee, regional director of innovative practices for AMR, did not dispute the contractual responsibility to provide services, but told the board in September that unanticipated challenges had been encountered in the transition and that AMR was "concerned about managing the bank accounts of the district."

Last week, he said the company had a solution.

Lee said AMR had been interviewing accounting firms which it believes are qualified to provide the scope of services outlined in the management contract, and plans to hire one on a sub-contractor basis.

"We intend on entering into a contract at our expense with one of these firms immediately, as soon as possible," Lee stated.

He also asked Nicolas Cardella, the district's legal counsel, for confirmation that the contract would not preclude a sub-contractor arrangement.

Cardella, who in the had past pointedly questioned Lee about AMR's performance relative to its contractual obligations, said he had not reviewed the contract for that specific determination but emphasized that "if you are taking action to provide the services required under the contract that is probably a good thing."

IN THE NEWS – West Side Index, November 2, 2018 (Continued Page 2)

The board, in fact, had gotten to the point where it had independently reached out to two local accounting companies to explore their interest in providing services.

Lee indicated he would contact those companies as well, but indicated that based on discrepancies on quotes he also wanted to ensure that the local providers fully understood the scope of work involved and the retro-active work that will be required.

AMR, Lee emphasized, “fully intends to be compliant with all the terms of the contract.”

He said last Tuesday that, barring objection from the district’s legal counsel, AMR would move forward immediately with hiring a firm.

Daniel, the board president, expressed his support for that move.

“We’ve been trying to do this for months,” he said of resolving the accounting dilemma.

Staffing issues jeopardize ambulance service

The agency which oversees emergency medical services in Stanislaus County has put West Side Community Ambulance on notice that the local provider is at risk of having its contract to operate in the county terminated unless staffing shortfalls are resolved.

Ambulance board President Rick Daniel told Mattos Newspapers Tuesday that he is calling an emergency board meeting for tonight (Thursday) at 6 p.m. in the district's Newman headquarters to address the crisis.

If Mountain-Valley terminates West Side's contract, Daniel said, he believes the Merced County EMS agency will do the same.

"This is the future of West Side," he declared.

An Oct. 29 letter from the Mountain-Valley EMS Agency to Daniel sets a Nov. 13 deadline for West Side to submit an action plan outlining how it will address staffing issues.

West Side normally has two ambulances on duty 24 hours a day - but has not been able to fully maintain that level of service.

Mountain-Valley Executive Director Lance Doyle, in the letter, noted that the oversight agency was advised of a three-hour afternoon time span earlier this month in which West Side failed to staff a single ambulance in the district. Upon investigation, Doyle reported, the EMS agency learned that West Side had 415 unstaffed unit hours from Aug. 1 through Oct. 15, or 11.5 percent of unit hours.

In the first two weeks of October alone, he wrote, nearly 20 percent of core unit hours were unstaffed.

Daniel said AMR, the district's management provider, fully staffs shifts only to see some employees call off at the last minute or, in some cases, leave in mid-shift.

"All we can do is fill the schedule and then pray that the employees who have committed to working these shifts actually show up," he told Mattos Newspapers. "That is a variable we cannot control."

County airbase plan moving forward despite objections

Over the objections of Caltrans and the cities of Patterson and Newman, the Stanislaus County Board of Supervisors certified the Environmental Impact Report (EIR) and approved the Specific Plan for its planned airport development at the former Crows Landing airbase during its meeting on Tuesday, October 30.

An EIR is a complete study and analysis of the impact of a proposed project on its site and the surrounding area, and includes everything from light, sound and traffic studies to reports on endangered species that may live in the area, as well as measures required to minimize the project's impact. An EIR document requires reports from experts in many fields, is very costly to produce and can take years to complete.

The airport project, which Stanislaus County Assistant Executive Officer Keith Boggs described as a "windfall" for the county, is about three miles away from Patterson, comes in at just under 1,600 acres, and will be an aviation-themed business park. The airport will be put back into service, and Boggs touted it as a potential air freight connection to San Jose and Oakland. Construction is planned to be completed over 30 years, in 10-year increments.

The county needs a master developer partner to bring the project to fruition. An agreement with the county's previous choice, Sacramento-based developer Gerry Kamilos, ended in 2012, when Kamilos failed to make a required \$2.75 million deposit. That proposed 4,800-acre project drew vigorous opposition, including a lawsuit, from opponents on the West Side.

Boggs also said the "mantra" of the project has been "create jobs where people live." However, despite the current housing shortage, the plan does not address the need for additional housing that will be required for the estimated 15,000 jobs (at build-out) the project is expected to provide. (County rules prohibit the construction of residential housing tracts in unincorporated areas.)

Circulation issues

Caltrans rejects transportation plan

In a letter dated October 29, Chief Tom Dumas of the Department of Transportation's Office of Metropolitan Planning, stated the department "...does NOT approve" (emphasis in copy) the transportation plan, and calls for "a complete Transportation Impact Study" to be submitted for full review.

Although the Board of Supervisors received the Caltrans letter before Tuesday's meeting, no mention of this concern was made during the meeting. In fact, Stanislaus County Director of Planning Angela Freitas said simply, "(Caltrans') letter speaks to the county continuing to work with Caltrans as the project develops." How the county might work with Caltrans on a transportation plan that the agency did not approve was not addressed.

As a side issue, the City of Patterson and the county appear to be in conflict regarding several things, including necessary improvements to several interchanges, both existing and future. The Fink Road interchange will require upgrading to handle increased truck traffic, and the county's plan for the airbase addresses that.

However, the Sperry Avenue interchange also needs to be upgraded. That project has been on the horizon for some time, and the City of Patterson has been planning for those improvements. The improvement project will also require funding from the county and the state. Supervisor DeMartini said

IN THE NEWS – Patterson Irrigator, November 15, 2018 (Continued)

that the city did not collect fees from the warehouses and other businesses in the business park area as they came in, to cover such improvements. City officials have unofficially disputed that assertion.

Further complicating the matter is the question of financing for a planned I-5 interchange at Zacharias Road, which is in the city's General Plan. Though that project has no bearing on the airbase project, both the city and the county appear to be taking the future funding needed for it into account while considering the airbase project.

The city had not responded to a request for comment on the EIR in general, nor the circulation plan specifically, by press time.

City of Patterson

In an October 29 letter to the county from the city attorney's office, Churchwell White attorney Robin Baral asserted that the final revisions of the EIR "do not adequately address the city's concerns with regard to impacts to public utilities, groundwater, transportation and greenhouse gas emissions." The county's "failure to properly analyze and mitigate those impacts will cause direct and lasting impacts to the city," the letter added.

Additionally, the EIR "fails to address the requirement to enter into an out-of-boundary service agreement..." for the city to provide wastewater treatment service to the project, pointing out that such an agreement would require approval by Stanislaus Local Agency Formation Commission (LAFCO). That process can take months.

Baral's letter also asserts that such an agreement would require a "massive" expansion of the city's sphere of influence (SOI) – another process that would require time to complete.

Further, even if the city's SOI were expanded, Baral contends in an email dated October 30, there is a sewer capacity issue. The city's current wastewater treatment plant is already within 10 percent of its capacity, Baral said. Because of the time required to plan, design, permit and construct an expansion, construction should be underway "no later than when a plant's remaining capacity is less than 10 percent," the letter said. Current wastewater flows at Patterson are already at this limit.

The city had brought a lawsuit against the earlier West Park version of the plan, which delayed any forward movement on that project for a period just short of two years, and may have been a factor in its demise.

Later in the meeting, DeMartini brought up "...another story that needs to be told. I want to be sure everyone understands what actually happened," he said, explaining that the county received a letter from the City of Patterson, which is the lead agency for the Northwest Specific Plan annexation in the Zacharias-Baldwin-Rogers Road area. In the letter, DeMartini said, the city agreed to support the airbase project "If the county waives and releases all rights in public comments. The city asked the county to approve and support an unknown project; in return, they would support our project... To predicate their project on ours, is just improper," DeMartini said.

(Editor's note: The verbiage referred to here is included in a proposed Mitigation and Pre-annexation Agreement, Mutual Release and Waiver. Section J reads: "In order to develop a legally binding framework for mutual cooperation, as valuable consideration for City and County's support for each Party's respective projects, and in the interest of judicial economy to avoid costly litigation, City and County seek to mutually release and waive all existing and future claims under CEQA and the CKH Act, and public comments related to the Crows Landing Specific Plan and the Northwest Patterson Specific Plan, as provided herein..."

IN THE NEWS – Patterson Irrigator, November 15, 2018 (Continued)

City of Newman

Addressing the Board of Supervisors on Tuesday, Newman City Manager Michael Holland was careful to emphasize that the City of Newman is “very excited” about the project. However, he also expressed concerns, both about the traffic impacts of the project and the “housing stress” the anticipated jobs will put on the area.

Further, property taxes do not cover the cost to provide emergency and other services to the corresponding properties, he said, pushing for the county to establish mitigation fees and a more equitable property tax sharing agreement.

Project supporters

Joshua Daniel, Vice President of Sierra Academy of Aeronautics, currently based at Castle Air Force Base in Merced, said he is in “total support” of the project, as the academy hopes to establish a satellite operation there. The academy runs about 80,000 flight operations a year, he said. He did not say how many flights per day would use the facility, nor what the noise impact of those flights might be.

With the exception of Terry Withrow, who recused himself due to his wife's part-ownership of a property in the area, all of the supervisors supported the plan, touting the jobs it would create.

Ambulance service facing multiple issues

Staffing issues which have too often resulted in units being taken out of service are the most immediate concern for beleaguered West Side Community Ambulance, but by no means represent the only challenge facing the taxpayer-supported provider.

West Side has been put on notice by one of its two oversight agencies, Mountain-Valley EMS, that its contract to provide services in Stanislaus County will be revoked unless the local provider can resolve its staffing issues.

But even as the agency wrestles with that challenge - which is largely attributed to employees calling off a scheduled shift on short notice or sometimes simply leaving in the middle of a shift - other issues have arisen as well.

Rick Daniel, president of the West Side Community Healthcare District Board of Directors, which oversees the ambulance, announced last week that the status of the board itself has been called into question. Daniel said that the district has determined that two seats filled by appointment, those held by David Varnell and Charles Tanner, should have been put up for election on the Nov. 6 ballot. They would have been on the ballot as short, two-year terms, through 2020, filling out the remainder of the unexpired terms of office to which Varnell and Tanner were appointed.

Against that backdrop, Daniel said, he had been advised that board lacked the quorum required to call an emergency meeting planned for last Thursday to discuss the staffing crisis, so an informal discussion rather than an official meeting was held.

It has also been learned that American Medical Response (AMR), which was brought in earlier this year to manage the ambulance service, has set a year-end deadline for the district to accept a September proposal under which AMR would essentially take over operations of West Side. If the existing contract is not restructured by Dec. 31, a letter from AMR stated, the company will terminate its management contract.

Staffing

Unstaffed shifts which result in ambulances being taken out of service are the most immediate threat to West Side, and were a primary topic of discussion at the unofficial gathering at the district offices Thursday and at a West Side staff meeting Friday evening.

An Oct. 29 letter from Mountain-Valley EMS Executive Director Lance Doyle to Daniel, the ambulance board president, gives West Side 30 days to remedy the staffing shortfalls. West Side had until Tuesday, Nov. 13, to submit an action plan for doing so. Daniel told Mattos Newspapers that the plan would be submitted by AMR staff.

The letter stated that from Aug. 1 through Oct. 15 West Side had 415 unstaffed unit hours, which represent 11.5 percent of all core unit hours. Through the first two weeks of October, the letter indicates, nearly 20 percent of core unit hours were not staffed - including a three-hour period in which West Side did not staff a single ambulance.

The provider normally staffs two ambulances, 24 hours a day.

By the end of the 30-day corrective period, Doyle wrote, West Side will be required to maintain a minimum of 95 percent of monthly scheduled unit hours to be considered in compliance with its contract. The EMS agency is also requiring daily updates on staffing status, as well as monthly staffing reports which document unit hour deployment and explanations for all unstaffed hours.

IN THE NEWS – West Side Index, November 15, 2018 (Continued Page 2)

Thursday night, Daniel emphasized that there can be no excuses for missing shifts or leaving a shift without coverage.

"If you put in for a shift, you better be there to fill it," Daniel stated. "(Absenteeism) has to stop, or we are not going to be in business."

The same theme was emphasized at the staff meeting Friday - although there were also a variety of opinions voiced on scheduling, management and other issues.

Some in attendance disputed Daniel's previous statement that the monthly shift schedule was completely filled and suggested that a more pro-active approach is needed to fill all shifts - even if that means management mandating employee shifts or crew members themselves reaching out to call in others in the event of an unexpected staffing shortage.

Employees who have called off at the last minute or left in mid-shift without coverage have faced little discipline, said paramedic Kevin Rapoza, who is the union shop steward for West Side, because a previous management firm, SEMSA, had deemed West Side's policies out of compliance and suspended them.

AMR is preparing to implement an attendance policy which does implement progressive discipline, he added, and scheduling practices are going to be changed in an effort to better fill shifts as needed.

One of the major problems facing West Side, Rapoza added, is that its ranks are so thin that replacements are not always readily available on short notice.

West Side has only seven full-time employees, he said.

The 95 percent bar established by Mountain-Valley, Rapoza said, means that West Side can have an ambulance out of service for staffing reasons no more than three 12-hour periods a month.

"If we miss more than three half-shifts, it's game over," Rapoza stressed. "Thirty-six hours, and we're done."

He said he is encouraged by the initial response of the employees, as many have postponed scheduled time off and signed up for shifts in November.

"They have agreed to step up and take shifts. We will need more of (that) to get through November," Rapoza commented.

So far, Rapoza told Mattos Newspapers Monday, West Side has not had any down unit hours in November.

While the Friday meeting included pointed debate about a variety of management- and board-related issues, Rapoza emphasized the importance of staying focused on the challenge immediately at hand.

"It isn't anybody's issue but the people who work here," he told the employees gathered. "You have to get past the blame. We have to do this to make sure that the community has an ambulance."

Management contract

An Oct. 8 letter from AMR sets a Dec. 31 deadline for accepting the company's September proposal that it restructure its management contract with West Side, and states that it will terminate that agreement otherwise.

IN THE NEWS – West Side Index, November 15, 2018 (Continued Page 2)

In a Sept. 5 letter, AMR executive Bruce Lee wrote that AMR had come to the conclusion that the current structure of its contract to manage West Side “is not sustainable in the long-term.”

AMR is proposing to take over all aspects of the West Side operation other than the collection of transport fees and tax revenues. The district and board would remain in place to perform those functions, and AMR would be paid a flat fee for its services.

Daniel had indicated Thursday that he sees that as a viable option for keeping West Side in existence. West Side employees would then fall under AMR management and policies, Daniel stated, and a larger pool of crew members would be available to fill shifts on short notice.

But Daniel, who will be leaving the board after declining to seek re-election due to a pending move out of the district, did not find support for that idea.

“You are not turning everything over to AMR,” stated Varnell, who advocated West Side bringing services back in house.

And incoming board member Dennis Brazil, who ran unopposed for the seat being vacated by Daniel, expressed the same sentiment Friday in confronting the board president at the West Side staff meeting.

“You are going to leave your office, AMR is going to be down the road (Dec.) 31 and the new board is going to figure something out,” Brazil told Daniel.

Board member George Schmidt, who also will be leaving the board after declining to seek re-election, on Thursday offered up another idea, suggesting that West Side explore opportunities to partner with Patterson Ambulance or another provider.

Nicolas Cardella, legal counsel for the district, said Thursday that he has a number of questions surrounding the AMR takeover proposal, but that clarification has not been forthcoming.

His concerns in part center on how public accountability would be maintained with a private entity operating the service, Cardella said.

“I can’t recommend something unless I know it is legal and going to work,” stated Cardella, who was participating in the Thursday gathering by phone. “We need to understand how it is going to work, and so far nobody has been able to explain that.”

Board membership

The standing of board members Tanner and Varnell also remains unclear.

Daniel announced at the start of the Thursday discussion that he had been advised that, in the absence of their seats being put up for election, neither was technically a valid board member.

Cardella, however, later said that while there was clearly an issue surrounding the status of Varnell and Tanner, “it is not 100 percent clear that they are not board members.”

If the district was able to secure a special appointment from the county Board of Supervisors any doubt as to their standing would be erased, he added.

“We are trying to figure it out,” Cardella said. “Unfortunately, we are being hit with everything at once.”

IN THE NEWS – The Ceres Courier, November 21, 2018

WHITMORE RANCH MAY BE ANNEXED

By Jeff Benziger

The city will seek to add 94 more acres to the Ceres limits next year after the City Council voted 3-1 last week to approve the Whitmore Ranch Specific Plan.

The project would add up to 441 new dwelling units to Ceres south of Whitmore Avenue between Moore Road and Cesar Chavez Junior High School.

Mayor Chris Vierra recused himself from the item because of a conflict of interest with the proponent. Vice Mayor Mike Kline and Councilmen Bret Durossette and Ken Lane supported the project against the lone objections of Councilwoman Linda Ryno over small lot sizes and traffic impact issues.

The annexation included both La Rosa Elementary and Cesar Chavez Junior High School as well as lands presently zoned for agricultural use.

The plan calls for:

- 28 acres earmarked for the development of low-density residential uses, or 196 single-family homes with an average lot size of 5,000 square feet;
- 6.6 acres of medium-density residential uses, or 85 dwelling units with an average lot size of 3,000 square feet;
- 6.4 acres of high-density apartment or condominiums that could result in 160 living units;
- 5.2 acres of open space, including a bike and pedestrian corridor leading to the junior high's western boundary.

The council reviewed the project in 2017 but sent it back to the drawing board for design changes, specifically to grant better access to the La Rosa Elementary and Cesar Chavez Junior High school campuses. That future access will occur with a long park strip running through the project that will have pathways for pedestrians and bicyclists. At that time, it was suggested that some councilmembers did not want to see smaller lot sizes. When it came back for review last week Ryno balked that lots sized as small as 5,000 square feet were being allowed.

Ryno noted that at prior meetings, the council preferred lots sizes of 6,200 square feet and wondered the developer could build as small as 5,000.

"Personally I just can't even imagine another subdivision where you have a lot size of 5,000 square feet," said Ryno. "Me personally, I think in this day and age we have so many neighbors that can't seem to get along with each other and it's like you're going to even cram them in even closer than say a whole neighborhood like I live in."

Ryno also has concerns about increasing traffic on Whitmore Avenue. Westbrook said opening up access from the south will help alleviate all the traffic to the two schools that must now go through the only access on Whitmore.

She also stated her belief that the fees to be paid by the developer into a Community Facilities District wouldn't fully cover the costs of providing police, fire and maintenance of the new park.

IN THE NEWS – The Ceres Courier, November 21, 2018 (continued)

Councilman Lane said he served on a subcommittee of councilmembers who met with the developer and sees the need for smaller lot sizes for affordability reasons.

Vice Mayor Mike Kline said he wouldn't support the project if it were east of the schools.

Development standards call for:

- Low-density single-family homes with either front-loaded houses to not be dominated by garage doors, such as by recessed garages or rear garage configurations; or rear-loaded homes where garages are provided from and accessed by alleys.
- Medium-density homes facing the long park strip which will be rear-loaded or garages accessible from behind in an alley.
- High-density apartments over six acres that could include stacked flats, court homes or garden apartments and be designed with bike or pedestrian traffic in mind.

Market conditions will dictate how fast the area is built out but the developer suggested over the next five to 10 years.

Kline had some general questions about how the project would impact traffic, especially on Whitmore Avenue. He was told that eventually Whitmore will have a median with a signal fully operational at Boothe Road.

Community Development Director Tom Westbrook said the annexation is being initiated and funded by Steve and Grant Alvernaz, owners of a 20-acre chunk of the project. He commented that the annexation is orderly because at the eastern end sit both schools, of which La Rosa Elementary was built in 2005. Currently the schools sit in county jurisdiction yet the city supplies services to them. The city committed in the future to bring the campuses into the city limits when it originally agreed to supply water and sewer service to them.

Westbrook indicated that the city's recent upgrade of sewer trunks down Mitchell Road to Service Road were, in part, to accommodate growth on Ceres' east side.

Patricia Melugin Cousins, whose family has lived on Roeding Road for over a century, voiced her continuous opposition because of its effect on neighboring farm uses. She thanked Planning Commissioner Couper Condit for casting the lone vote against the project in October.

"I think your city seal should be shrouded because the Whitmore Ranch project mocks that city seal," said Cousins. She was referring to the seal as it features rows of ag crops.

Whitmore Ranch is subject to ag mitigation, which calls for a 1:1 replacement of the lost ag land with permanent set-asides of farm land.

One property owner, a Mr. Campbell, whose property is included in the annexation suggested that he didn't wish to be included. Tom Westbrook said he can ask to be excluded during the hearing at the Stanislaus Local Agency Formation Commission, or SLAFCO. Campbell was also told that the use of his property will not change until he or future owners wish to change it for development.

Jeanie Knox, a Roeding Road resident, protested, saying "the more we push into ag land the harder it is to find local well-grown quality food for those residents." She said pushing homes closer to farms makes it harder to dust their trees with chemicals.

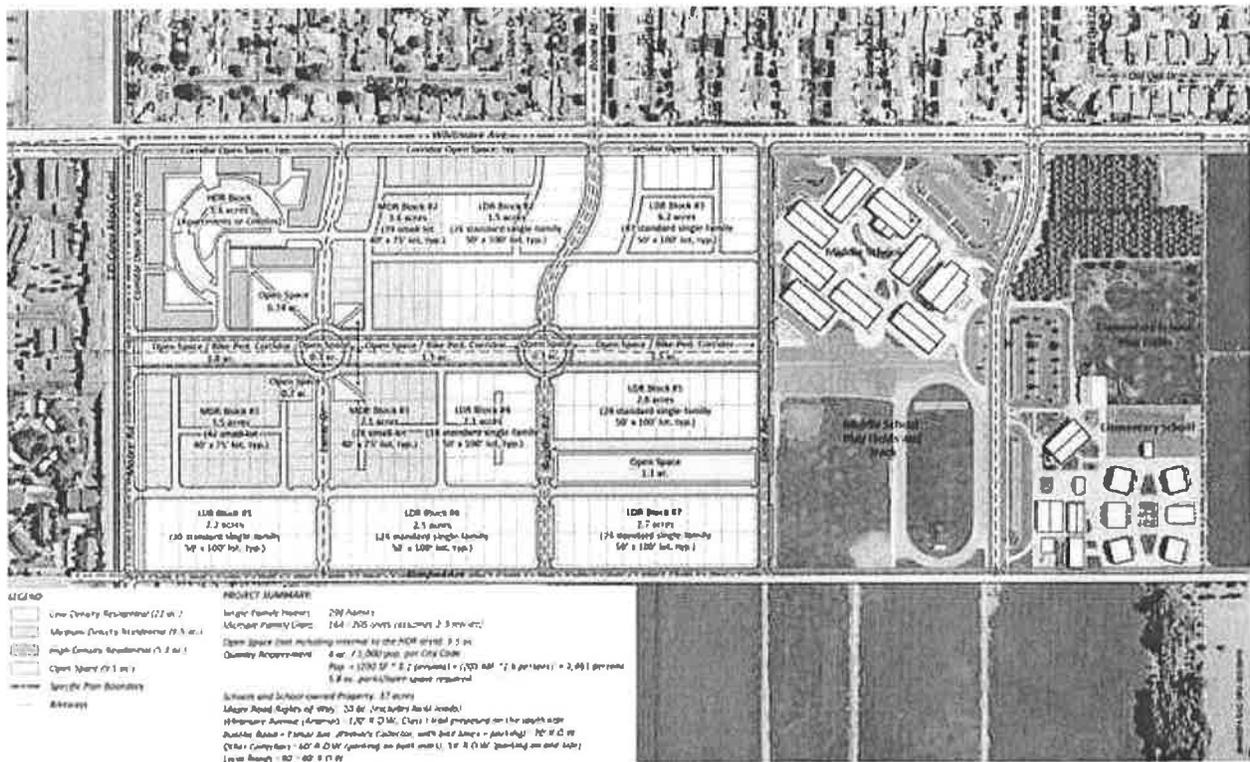
"You're putting a heck of a lot of pressure on Whitmore (Avenue) by adding, what is it, almost a thousand homes in that area?" she added.

IN THE NEWS – The Ceres Courier, November 21, 2018 (continued)

Dave Romano, representing the Alvernaz family, called Whitmore Ranch a great project that is "crying out for development."

"The school would not have gone down there if they weren't expecting to be next to a land use that wasn't residential," said Romano. "And so this project kind of helps fill that little in-fill area and also gives the opportunity to develop the south side of Whitmore Avenue so it looks more finished, kids can walk on the north and south side of the road, put in a signal in at Boothe and really just interconnect the community. It's a wonderful plan – it's kind of walkable and connectable."

The first phase will complete Esmar Road to Stanford Avenue to better connect the existing schools to traffic.



This conceptual plan for development of 97 acres to be annexed to the city of Ceres shows how homes would be constructed south of Whitmore Avenue between Moore Road and Cesar Chavez Junior High School. - photo by Contributed to the Courier

**EXECUTIVE OFFICER'S AGENDA REPORT
DECEMBER 5, 2018**

TO: LAFCO Commissioners

FROM: Sara Lytle-Pinhey, Executive Officer *SLP*

SUBJECT: ADOPTION OF AN UPDATED CONFLICT OF INTEREST CODE

RECOMMENDATION

Staff recommends that the Commission approve the updated Conflict of Interest Code ("Code") for Stanislaus LAFCO and adopt Resolution 2018-11, attached. The updated Code will replace the Commission's existing Conflict of Interest Code, which has not been significantly modified since 1992. The updated Code also uses the standard template recommended by the Fair Political Practices Commission ("FPPC").

DISCUSSION

The Political Reform Act of 1974, Government Code Section 81000 et seq. ("Act"), requires all public agencies to adopt and maintain a Conflict of Interest Code establishing the rules for disclosure of personal assets and the disqualification from making or participating in any decisions that may affect any personal assets. The Code must also list each official, employee and consultant that could possibly make or participate in any decisions which may have an effect on any financial interest of the official, employee, and consultant and list the specific types of personal assets to be disclosed by each designated position.

The Act further requires that on or before July 1 of each even-numbered year, a code-reviewing body must direct all subject agencies to conduct a review of their Codes to determine if an update is necessary, with any such update submitted to the code-reviewing body for approval in accordance with Section 87303. The Stanislaus Board of Supervisors is the code-reviewing body for Stanislaus LAFCO and will review the updated Code following adoption by the Commission.

Summary of Proposed Update

The updated Conflict of Interest Code has been streamlined to incorporate the FPPC regulations by reference instead of quoting them individually. This will reduce the need for future updates and simplify the Code for the Commission's use. The formatting of the Code has also been updated so that future disclosure categories can be incorporated as needed. New additions to the Code include:

- Clarification that Commissioners who also file statements of economic interest in their positions with a city or county may also submit copies of such filings to comply with LAFCO's Conflict of Interest Code requirements.
- Reference to the ability to file statements electronically using the County's e-filing system.

Attachments:

1. Draft LAFCO Resolution No. 2018-11
 - Updated Conflict of Interest Code for Stanislaus LAFCO
2. Copy of the Current Stanislaus LAFCO Conflict of Interest Code (Amended in 2012)

**STANISLAUS COUNTY LOCAL AGENCY
FORMATION COMMISSION**

RESOLUTION

DATE: December 5, 2018

NO. 2018-11

SUBJECT: Adoption of Updated Conflict of Interest Code

On the motion of Commissioner _____, seconded by Commissioner _____, and approved by the following:

Ayes: Commissioners:
Noes: Commissioners:
Absent: Commissioners:
Ineligible: Commissioners:

THE FOLLOWING RESOLUTION WAS ADOPTED:

WHEREAS, the Political Reform Act of 1974, Government Code Section 81000 et seq., requires the Stanislaus Local Agency Formation Commission to adopt and maintain a Conflict of Interest Code;

WHEREAS, the Fair Political Practices Commission (“FPPC”) has adopted a regulation containing a standard conflict of interest code which may be incorporated by reference into the code of a local agency;

WHEREAS, LAFCO is required to review and amend its Conflict of Interest Code biennially to determine if amendments are needed;

WHEREAS, pursuant to the Political Reform Act, the Stanislaus County Board of Supervisors is the Conflict of Interest Code reviewing body for County agencies and any other local governmental agencies whose jurisdiction is solely within the County; and

WHEREAS, the Stanislaus Local Agency Commission (LAFCO) has conducted a duly noticed public hearing on December 5, 2018, to consider the updated Conflict of Interest Code.

NOW, THEREFORE, BE IT RESOLVED that the Commission:

1. Adopts the updated Conflict of Interest Code, which shall be effective upon confirmation by the Stanislaus County Board of Supervisors as the code reviewing agency.
2. Directs the Executive Officer to immediately forward the updated Conflict of Interest Code and this resolution to the Stanislaus Board of Supervisors for their subsequent review, pursuant to Government Code Section 87303.

ATTEST: _____
Sara Lytle-Pinhey
Executive Officer

**STANISLAUS LOCAL AGENCY FORMATION COMMISSION
CONFLICT OF INTEREST CODE**

PART I

This document constitutes the Conflict of Interest Code of the Local Agency Formation Commission of Stanislaus County (Stanislaus LAFCO). The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency’s code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference in this Conflict of Interest Code, along with the Parts II-IV that describe designated positions; committees and commissions; and disclosure categories.

Pursuant to the standard conflict of interest code, adopted and incorporated by reference herein as the Conflict of Interest Code of Stanislaus LAFCO, designated employees and designated members shall file Statements of Economic Interests with the LAFCO Clerk (Clerk). The Clerk shall retain such statements in the LAFCO files. To the extent the Commissioners listed in Part III file the required statements of economic interest in their capacities as officers of a city or county, such statements shall be obtained and duplicated by the Clerk, retained in LAFCO’s files, and such filing shall thereupon constitute compliance with the requirement for filing as a Commissioner set forth above. If a statement is electronically filed using the County of Stanislaus’ Form 700 e-filing system, the filing official will have access to the e-filed statement immediately.

PART II – Designated Positions

Under the provisions of the Political Reform Act (Government Code Sections 87300, et seq.) designated positions shall file a Statement of Economic Interests. The following is a list of the designated positions of the Stanislaus Local Agency Formation Commission and the appropriate category for filing such statements:

Designated Positions	Disclosure Category
Executive Officer	1
Assistant Executive Officer	1
Legal Counsel	1
Consultants	1 (if applicable)

The LAFCO Executive Officer may determine in writing that a consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply or fully comply with all the disclosure requirements listed in Part IV. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. This determination is a public record and shall be available for inspection and copying in the same location and manner as LAFCO’s copy of the Conflict of Interest Code.

PART III – Committees and Commissions

Under provisions of the Standard Code, all voting members and persons with contracting power or purchasing power shall file a Statement of Economic Interests. The following is a list of the positions and appropriate disclosure categories for filing such statements:

Designated Positions	Disclosure Category
Regular Commissioners	1
Alternate Commissioners	1

Part IV – Disclosure Categories

An investment, interest in real property, income, or “position of management” is reportable if the business entity in which the investment is held, the interest in real property, the income or source of income, or position of management may foreseeably be affected materially by any decision made or participated in by the person by virtue of their position. Designated positions described in Parts II and III shall disclose their financial interests pursuant to the appropriate disclosure categories.

Category 1

Subject to the definitions set forth in the Political Reform Act and applicable regulations, designated positions in this category shall disclose all sources of income, interests in real property, investments and business positions in business entities located in or doing business in Stanislaus County, including gifts, loans and travel payments. It is not required to disclose property used as the filer’s principal residence except as otherwise required by applicable law. Designated positions in this category shall complete all schedules of Form 700, if applicable.

CONFLICT OF INTEREST CODE
OF THE
STANISLAUS COUNTY LAFCO
Amended in 2012

Section 100. Purpose. Pursuant to the provisions of Government Code Section 87300, et seq., the Stanislaus County LAFCO hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000). The provisions of this Code are additional to Government Code Section 87100 and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporated herein and this Code shall be interpreted in a manner consistent therewith.

Section 200. Designated Positions. The positions listed on Exhibit "A" are designated positions. Individuals holding those positions are designated members or employees and are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest.

Section 300. Disclosure Statements. Each designated individual shall file an annual statement disclosing that individual's interest in investments, business positions, real property, and income, designated as reportable under the provisions of this code. An investment, business position, interest in real property, or income is reportable if the business entity in which the investment is held, the business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position. Designated employees must report:

- a) Investments in any business entity which, within the last two years, has contracted or in the future foreseeably may contract with the Stanislaus County LAFCO or with the County of Stanislaus to provide services, supplies, materials, machinery or equipment to Stanislaus County.
- b) Income, other than a gift, from any source which, within the last two years, has contracted, or in the future foreseeably may contract with the Stanislaus County LAFCO or with the County of Stanislaus, to provide services, supplies, materials, or machinery or equipment to Stanislaus County. Gifts valued at \$50 or more must be reported regardless of whether the donor is located in the County or is doing business with Stanislaus County.

- c) Status as a director, officer, sole owner, partner, trustee, employee or holder of a position of management in any business entity which, within the last two years, has contracted or in the future foreseeably may contract with the Stanislaus County LAFCO or with the County of Stanislaus, to provide services, supplies, materials, machinery or equipment to Stanislaus County.
- d) Interest in real property located within the County of Stanislaus. "Interest in real property" does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer.
- e) Investments and income otherwise reportable under paragraphs (a) and (b) shall not be reported unless the total amount of all contracts by the business entity to provide services, supplies, materials, machinery or equipment to the Stanislaus County LAFCO or to the County of Stanislaus was more than \$1,000 in the prior calendar year, or unless the total amount of all foreseeable contracts by the business entity to provide services, supplies, materials, or machinery or equipment to Stanislaus County will be more than \$1,000 in the next calendar year.

Section 400. Place and Time of Filing.

- a) All designated individuals required to submit a statement of financial interests shall file the original with the LAFCO Clerk of the Stanislaus County LAFCO.
- b) The LAFCO Clerk who receives the statement of financial interest shall file the original in the Stanislaus County Local Agency Formation Commission (LAFCO) Office located at: 1010 Tenth Street, Third Floor, Modesto, CA 95354.
- c) A designated individual required to submit a statement of financial interest shall submit an initial statement within 30 days after the effective date of this Code.
- d) Individuals appointed, promoted or transferred to designated positions shall file initial statements within 30 days after date of appointment to the position.
- e) Annual statements shall be filed during the month of March by all designated individuals. Such statements shall cover the period of the preceding calendar year.

- f) Any person whose appointment in a designated position is terminated shall, within 30 days after termination, file a statement covering the period between the closing date of the last prior statement and the date of termination.
- g) A designated individual required to file a statement of financial interest with any other agency, which is within the same territorial jurisdiction, may comply with the provisions of this Code by filing a duplicate copy of the statement filed with the other agency, in lieu of an entirely separate document.

Section 500. Contents of Disclosure Statements. Disclosure statement shall be made on forms prescribed by the Fair Political Practices Commission, and shall contain the following information:

- a) **CONTENTS OF INVESTMENT AND REAL PROPERTY REPORTS.** When an investment, or an interest in real property, is required to be reported, the statement shall contain:
 - 1) A statement of the nature of the investment or interest;
 - 2) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
 - 3) The address or other precise location of the real property;
 - 4) A statement whether the fair market value of the investment, or interest in real property, exceeds ten thousand dollars (\$10,000), and whether it exceeds one hundred thousand dollars (\$100,000).

This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer.

- b) **CONTENTS OF PERSONAL INCOME REPORTS.** When personal income is required to be reported, the statement shall contain:
 - 1) The name and address of each source of income aggregating two hundred and fifty dollars (\$250) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any of each source. Income, other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction,

not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title. Income from the State, Local or Federal government, alimony and child support, loans from relatives, and loans from a commercial lending institution used for the purchase of the principal residence of the buyer need not be disclosed.

- 2) A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1,000), and whether it was greater than ten thousand dollars (\$10,000);
- 3) A description of the consideration, if any, for which the income was received;
- 4) In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made, a description of the gift; and the amount or value of the gift; and the date on which the gift was received;
- 5) In the case of a loan, the annual interest rate and the security, if any, given for the loan.

c) CONTENTS OF BUSINESS ENTITY INCOME REPORTS. When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

- 1) The name, address, and a general description of the business activity of the business entity;
- 2) The name of every person from whom the business entity received payments if the filer's prorata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

d) CONTENTS OF BUSINESS POSITIONS REPORTED. When business positions are required to be reported, a designated individual shall list the name of each business entity not specified above in which he or she is a director, officer, sole owner, partner, trustee, employee, or in which he or she holds any position of management. A description of the business activity which the business entity is engaged, and the designated individual's position with the business entity.

- e) INITIAL STATEMENT. The initial statement filed by an individual appointed to a designed position shall disclose any reportable investments and interests in real property.

- f) ACQUISITION OR DISPOSAL DURING REPORTING PERIOD. In the case of a statement filed under Section 400(f), if the investment, or interest in real property, was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

Section 600. Disqualification. No designated individual shall make, participate in making, or use his or her official position to influence the making of any governmental decision which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on the individual or a member of his or her immediate family or on any other financial interest as defined in Government Code Section 87103.

No designated individual shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated individual who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

Section 700. Manner of Disqualification. When a designated individual determines that he or she should not make a governmental decision because he or she has a financial interest in it, the determination not to act must be accompanied by disclosure of the financial interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated individual who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated individuals, this determination and disclosure shall be made in writing to the designated employee's supervisor.

“EXHIBIT A”

Designated Positions

The following Stanislaus County LAFCO positions are designated:

Chairman, all Commissioners;
All Alternate Commissioners;
Executive Officer;
Assistant Executive Officer; and
Counsel

“EXHIBIT B”

Disclosure by Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to the provisions of this code subject to the following limitation:

The Stanislaus County LAFCO may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements of this code. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Stanislaus County LAFCO’s determination is a public record and shall be retained for public inspection in the same manner and location as the conflict of interest code.

**EXECUTIVE OFFICER'S AGENDA REPORT
DECEMBER 5, 2018**

TO: LAFCO Commissioners

FROM: Javier Camarena, Assistant Executive Officer

SUBJECT: MSR NO. 2018-04, SOI UPDATE 2018-07: MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR OAKDALE IRRIGATION DISTRICT

INTRODUCTION

This proposal was initiated by the Local Agency Formation Commission in response to State mandates, which require the Commission to conduct Municipal Service Reviews and Sphere of Influence Updates for all cities and special districts every five years, as needed. This current review is a routine update to the previous document adopted by the Commission in 2013 for the Oakdale Irrigation District. The District provides irrigation water, domestic water, and wholesale electrical power. The majority of the District is located in the northeastern Stanislaus County, with a portion of territory in San Joaquin County. The District operates under Irrigation District Law, Division 11 of the Water Code, §20500 et. seq.

DISCUSSION

The Municipal Service Review and Sphere of Influence Update process provides an opportunity for districts to share accurate and current data, accomplishments and information regarding the services they provide. LAFCO Staff sent the District requests for information, researched District reports and reviewed the District's most recent audits and financial statements. Once this data was collected, a revised Municipal Service Review and Sphere of Influence Update document was completed.

The proposed Municipal Service Review and Sphere of Influence Update are attached to this report as Exhibit 1. The relevant factors and determinations as put forth by the Cortese-Knox-Hertzberg Act are discussed for the District. No changes are being proposed for the District's Sphere of Influence at this time.

ENVIRONMENTAL REVIEW RECOMMENDATIONS

Pursuant to the California Environmental Quality Act (CEQA), the adoption of a municipal service review is considered to be categorically exempt from the preparation of environmental documentation under a classification related to information gathering (Class 6 – Regulation §15306). Further, LAFCO's concurrent reaffirmation of an existing sphere of influence qualifies for a General Exemption as outlined in CEQA Regulation §15061(b)(3), which states:

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

As there are no land use changes, boundary changes, or environmental impacts associated with the Municipal Service Review and Sphere of Influence Update, an exemption from further environmental review is appropriate.

ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted, the Commission should consider choosing one of the following options:

- Option 1:** APPROVE the Municipal Service Review and Sphere of Influence Update for the Oakdale Irrigation District.
- Option 2:** DENY the update.
- Option 3:** If the Commission needs more information, it should CONTINUE this matter to a future meeting (maximum 70 days).

RECOMMENDED ACTION

Approve Option 1. Based on the information presented, Staff recommends approval of Municipal Service Review and Sphere of Influence Update for the Oakdale Irrigation District. Therefore, Staff recommends that the Commission adopt Resolution No. 2018-21 which:

1. Determines that the Municipal Service Review and Sphere of Influence Update qualify for a General Exemption from further California Environmental Quality Act (CEQA) review based on CEQA Regulation §15061(b)(3);
2. Makes determinations related to the Municipal Service Review, as required by Government Code Section 56430; and,
3. Determines that the Sphere of Influence for the Oakdale Irrigation District should be affirmed as it currently exists.

Attachments:

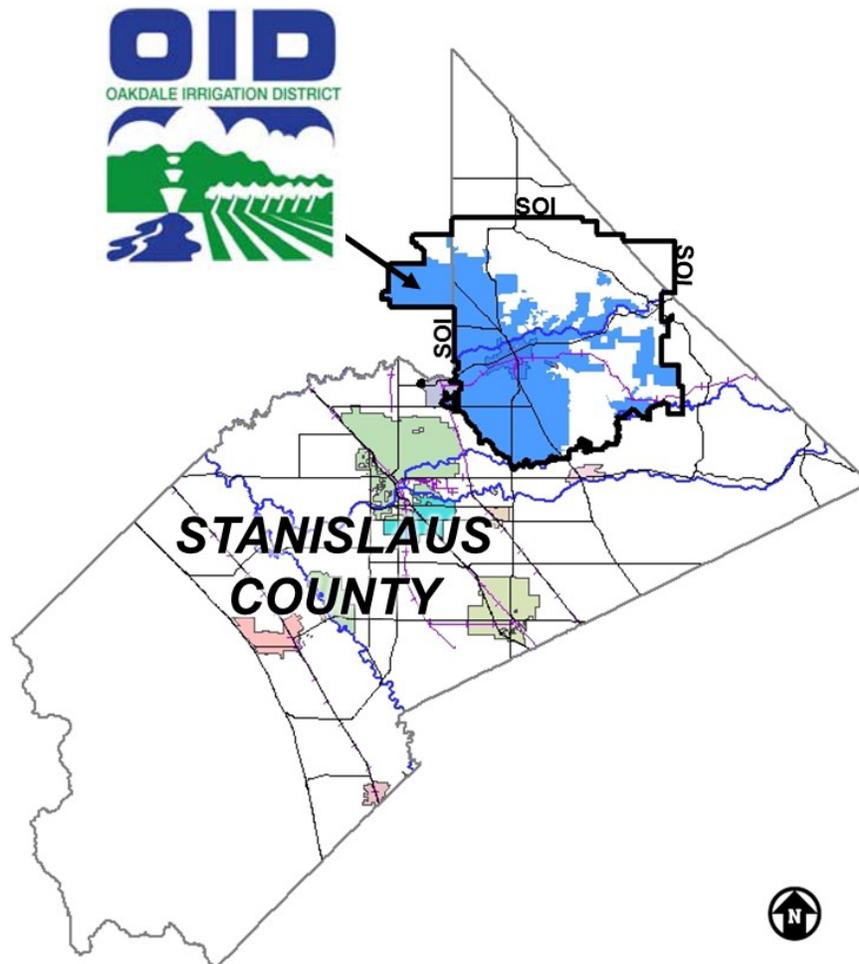
- Exhibit 1 - Municipal Service Review and Sphere of Influence Update for the Oakdale Irrigation District*
Exhibit 2 - Resolution No. 2018-21

Exhibit 1

**Municipal Service Review & Sphere of Influence
Update for Oakdale Irrigation District**

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**MUNICIPAL SERVICE REVIEW AND
SPHERE OF INFLUENCE UPDATE FOR THE:**



OAKDALE IRRIGATION DISTRICT

Prepared By:

Stanislaus Local Agency Formation Commission
1010 Tenth Street, Third Floor
Modesto, CA 95354
Phone: (209) 525-7660

Adopted: _____

STANISLAUS

LOCAL AGENCY FORMATION COMMISSION

COMMISSIONERS

William Berryhill, Public Member
Amy Bublak, City Member
Michael Van Winkle, City Member
Jim DeMartini, County Member
Terry Withrow, County Member
Richard O'Brien, Alternate City Member
Brad Hawn, Alternate Public Member
Vito Chiesa, Alternate County Member

STAFF

Sara Lytle-Pinhey, Executive Officer
Javier Camarena, Assistant Executive Officer
Jennifer Goss, Commission Clerk
Rob Taro, Commission Counsel

TABLE OF CONTENTS

Introduction	1
Municipal Service Review Factors to be Addressed	1
Sphere of Influence Update Process	2
Municipal Service Review.....	3
Authority	3
Background	3
Purpose	3
Governance.....	3
Formation	3
Location and Size	3
Sphere of Influence	4
Personnel.....	4
Classification of Services.....	4
Services	4
Support Agencies	5
Funding Sources	5
Municipal Service Review Determinations	6
Growth and Population Projections.....	6
Location and Characteristics of Disadvantaged Unincorporated Communities	6
Present and Planned Capacity of Public Facilities, Adequacy of Public Services	6
Financial Ability of Agencies to Provide Services.....	7
Status of, and Opportunities for, Shared Facilities	7
Accountability for Community Service Needs	8
Any Other Matter Related to Effective or Efficient Service Delivery	8
Sphere of Influence Update.....	9
Sphere of Influence Determinations	9
Present and Planned Land Uses	9
Present and Probable Need for Public Facilities and Services.....	9
Present Capacity of Public Facilities and Adequacy of Public Services	10
Communities of Interest in the Area.....	10
Need for Public Facilities in Disadvantaged Unincorporated Communities	11
Appendix A: Oakdale Irrigation District Summary Profile.....	12
Appendix B: References	13
Map: Oakdale Irrigation District Boundary & Sphere of Influence.....	14

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Municipal Service Review and Sphere of Influence Update For the Oakdale Irrigation District

Introduction

The Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 Act (CKH Act) requires the Local Agency Formation Commission (LAFCO) to update the spheres of influence (SOI) for all applicable jurisdictions in the County. A sphere of influence is defined by Government Code 56076 as "...a plan for the probable physical boundary and service area of a local agency, as determined by the Commission." The Act further requires that a municipal service review (MSR) be conducted prior to or, in conjunction with, the update of a sphere of influence (SOI).

The legislative authority for conducting a municipal service review is provided in Government Code Section 56430 of the CKH Act. The Act states, that "in order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area..." MSRs must have written determinations that address the following factors in order to update a Sphere of Influence. These factors were recently amended to include identification of disadvantaged unincorporated communities within or contiguous to the sphere of influence of an agency.

Municipal Service Review Factors to be Addressed

1. Growth and population projections for the affected area
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence
4. Financial ability of agencies to provide services
5. Status of, and opportunities for, shared facilities
6. Accountability for community service needs, including governmental structure and operational efficiencies
7. Any other matter related to effective or efficient service delivery, as required by commission policy

State Guidelines and Commission policies encourage cooperation among a variety of stakeholders involved in the preparation of a municipal service review. This MSR will analyze the existing and future services for the Oakdale Irrigation District, located in the northeastern portion of the County. The current update serves to comply with Government Code Section 56425 and will reaffirm the SOI for the District.

Sphere of Influence Update Process

A special district is a government agency that is required to have an adopted and updated sphere of influence. Section 56425(g) of the CKH Act calls for spheres of influence to be reviewed and updated every five years, as necessary. Stanislaus LAFCO processes municipal service reviews and sphere of influence updates concurrently to ensure efficient use of resources. For rural special districts, which do not have the typical municipal-level services to review, this document will be used to determine what type of services each district is expected to provide and the extent to which they are able to do so. For these special districts, the spheres will delineate the service capability and expansion capacity of the agency, if applicable.

Municipal Service Review – Oakdale Irrigation District

Authority

The Oakdale Irrigation District was organized under the Wright Act and operates under Irrigation District Law, Division 11 of the Water Code, Section 20500 et. seq. In addition, the District is considered to be a “registered voter district”, as the board of directors is elected by registered voters from five geographical divisions within the District’s boundaries.

Background

Throughout the years, water and California have been linked. No resource is more vital to California than water, from the agricultural areas, urban centers, and industrial plants, to open space and recreational areas, the distribution of water has been critical to all land uses.

In California, there are hundreds of special water districts with a great diversity of purposes, governance structures, and financing mechanisms. Some districts are responsible for one type of specific duty, while other districts provide multiple public services, as is the case for the Oakdale Irrigation District.

Purpose

Irrigation districts are formed for the provision of sufficient water in the district for any beneficial use. An irrigation district has the power to control, distribute, store, spread, sink, treat, purify, recapture, and salvage any water including, but not limited to, sewage waters for beneficial use of users of the district or its inhabitants. A district may also provide for flood control and can engage in the generation, transmission, distribution, sale and lease of electric power (Water Code Section 22075-22186).

Formation

The Oakdale Irrigation District (OID) was formed on November 1, 1909.

Governance

A five-member Board of Directors governs the District. Registered voters within a geographical area or “Division”, elect the board members. Meetings are held on the first and third Tuesdays of every month at 9:00 a.m. in the District office located at 1205 East “F” Street in Oakdale. All meetings are open to the public. Agendas are prepared and posted 72-hours prior to the board meeting and posted on the bulletin board at the District office and on the District website (www.oakdaleirrigation.com). Information such as the history of the District, current Board agendas, water updates, and quarterly newsletters is readily available on the District’s website as well.

Location and Size

The majority of the District is located in northeastern Stanislaus County. The District also covers territory in San Joaquin County. The District boundaries comprise approximately 82,000 acres. The District maintains more than 330 miles of laterals, pipelines, and tunnels, 25 production wells, and 41 reclamation pumps.

Sphere of Influence

The District's existing Sphere of Influence incorporates approximately 160,800 acres (or 78,800 acres beyond the existing District boundaries). The city limits of Oakdale and the unincorporated communities of Knights Ferry and Valley Home are located within the District's Sphere of Influence. However, the city limits of Riverbank are excluded from the westerly portion of the District's SOI, as these areas were detached upon annexation to the City. A map outlining the District's boundaries and SOI is attached under Appendix "B". This Service Review is intended to cover the District's existing boundary and Sphere of Influence area.

Personnel

The District currently has 80 full-time employees.

Classification of Services

The District is authorized to provide the functions or classes of services (e.g. irrigation, domestic water, and electrical power) as identified in this report. Due to recent changes in the Cortese-Knox-Hertzberg Act, the District would have to seek LAFCO approval to exercise other latent powers (i.e. services) not currently provided by the District.

Services

OID currently provides agricultural irrigation and domestic water services to its customers. The District's water supply comes from the Stanislaus River (under well-established water rights), recapture of drainage water, and pumping from deep groundwater wells. The District's distribution systems include the Goodwin Diversion Dam on the Stanislaus River below the Tulloch Dam, at which point water is diverted into the District's main canal systems.

The District is also a wholesale power distributor through its Tri-Dam Project. The Oakdale Irrigation District and the South San Joaquin Irrigation District (SSJID) jointly own and operate storage reserves (Tri-Dam Project) and have storage rights in the federally-owned New Melones Reservoir. The two Districts, under the Tri-Dam Project, own, operate, and maintain three hydro-electrical power facilities: one each at Donnell's Reservoir, Beardsley Lake, and Tulloch Lake. The Tri-Dam Project's principal activities are the storage and delivery of water to each District and the hydraulic generation of power.

Effective January 1, 2014, the Districts entered into a new power purchase and sale agreement with the City of Santa Clara, California, through its municipal electric utility, Silicon Valley Power. Under the agreement, the Districts agreed to sell the net electrical output and installed capacity of its power generating facilities to the City of Santa Clara through December 31, 2023.

Additionally, through the Tri-Dam Power Authority (Authority), the two Districts own, operate, and maintain the Sand Bar Project, a hydro-electric facility downstream of Beardsley Lake which became operational in 1986. The Authority, on January 1, 2017, entered into a new power purchase and sale agreement with the City of Santa Clara, California through its municipal electric utility, Silicon Valley Power.

The District also manages several domestic water systems, which are part of six private and publicly-owned systems that exist in an unincorporated area east of the City of Oakdale. One of the systems is owned by OID, while five of the systems are owned by homeowner groups who have entered into an “improvement district” arrangement with OID to manage their water systems for State compliance.

Support Agencies

The District maintains positive and collaborative relationships with other agencies, such as: South San Joaquin, Merced, Modesto, and Turlock Irrigation Districts, Stockton East Water District, Stanislaus County, City of Oakdale, Oakdale Rural Fire Protection District, City of Riverbank, Pacific Gas and Electric (PG&E), State Water Resources Board, Bureau of Reclamation, California Department of Water Resources (DWR), Association of California Water Agencies (ACWA), California Special Districts Association (CSDA), San Joaquin Tributaries Authority, the Stanislaus and Tuolumne Rivers Groundwater Basin Association, and the Eastern San Joaquin Groundwater Authority.

Funding Sources

The majority of the District’s revenue is from power sales as a result of OID and South San Joaquin Irrigation District’s Tri-Dam Project and Tri-Dam Power Authority. Other sources include income from water transfers, irrigation water sales, County property tax appropriations, interest revenue, and domestic water revenue.

Service Review Categories & Determinations

The following provides an analysis of the seven categories or components required by Section 56430 for a Service Review for the Oakdale Irrigation District:

1. Growth and Population Projections for the Affected Area

The Oakdale Irrigation District currently serves over 2,900 customers with irrigation water for agricultural purposes and approximately 767 customers with domestic water for residential purposes. On an annual basis, the District provides irrigation water for 20 to 30 out-of-district agreements, depending on interest and water availability.

The District updates its customer records as necessary for billing purposes. Part of that update includes parcel size, location, and crop type of lands served with OID water. As land use conversions take place, the water needs of OID's customer base can substantially change. This information, combined with data from the Department of Water Resources, the Department of Finance, and the U.S. Census Bureau allows the District to develop land use trends and forecasts. While irrigated lands will continue to be lost due to urbanization by the City of Oakdale, the City may be interested in surface water as a source of supply in the future and the increase in irrigated agriculture outside the current District boundaries provides opportunity for District expansion.

2. The Location and Characteristics of Any Disadvantaged Unincorporated Communities Within or Contiguous to the Sphere of Influence

Under Government Code Section 56033.5, "disadvantaged unincorporated community" is defined as an inhabited territory (12 or more registered voters), or as determined by commission policy, with an annual median household income that is less than 80% of the statewide annual median household income. Upon review of available Census data, and identified communities in the County, no disadvantaged unincorporated communities were found within or contiguous to the District's Sphere of Influence.

3. Present and Planned Capacity of Public Facilities, Adequacy of Public Services, and Infrastructure Needs or Deficiencies Including Needs or Deficiencies Related to Sewers, Municipal and Industrial Water, and Structural Fire Protection to Any Disadvantaged, Unincorporated Communities Within or Contiguous to the Sphere of Influence

OID's existing and planned public facilities and services are designed to supply irrigation and related drainage with the priority of serving those properties within District boundaries prior to out-of-district approvals. In 2007, the District completed a Water Resources Plan (WRP). The WRP evaluated the District's water resources, facilities, and operations. It provides specific, prioritized recommendations for OID physical and operational improvements as well as a plan to phase the implementation of improvements consistent with available financial resources.

In accordance with the requirements of the Water Conservation Act of 2009 (SBx7-7) and the Governor's Executive Order B-29-15, OID prepared a 2015 Agricultural Water Management Plan (AWMP). A Water Resources Plan Report Card section was added to OID's 2015 AWMP to provide a review of improvement actions identified under the WRP, a summary of actions completed and projections of near- and long-term actions to be completed.

As indicated previously, there are no disadvantaged unincorporated communities within or contiguous to the City's Sphere of Influence.

4. Financial Ability of Agencies to Provide Services

In 2018, power generation from both the Tri-Dam Power Project and the Tri-Dam Power Authority accounted for approximately 49 percent of the District's total revenue. Water transfer agreements and agricultural water delivery charges contribute approximately 26 percent of the net revenue, while annexation fees accounted for 14 percent. Domestic water charges and taxes provide only a slight contribution to the District's total revenue.

The District's adopted Water Resources Plan (WRP) includes a financial plan to achieve infrastructure and modernization needs currently identified by the District. The District has completed more than \$70 million of improvements and annexed +/-10,500 acres since the start of implementation of the WRP. Total project costs by implementation category through 2014 are summarized in OID's 2015 AWMP. Annexation provides additional funding to finance various infrastructure and operational improvements under the WRP while providing additional benefits of decreased reliance on groundwater for irrigation and increased groundwater recharge from deep percolation of surface water used for irrigation. The WRP identifies a goal for annexation of approximately 4,250 acres within the OID sphere of influence by 2020 as part of the preferred alternative currently being implemented. The WRP annexation goals have already been surpassed.

OID appears to be financially sound with strong and stable sources of revenue, substantial reserves, and a superior credit rating. The District's long-range planning programs allow the District to plan and budget for needed improvements to services and facilities in a balanced way that is consistent with its anticipated revenue. The District's budget process is designed to screen out unnecessary costs and is submitted to the Board of Directors for review and approval.

5. Status of, and Opportunities for, Shared Facilities

The District and the South San Joaquin Irrigation District jointly own and operate three storage reservoirs (Tulloch, Beardsley, and Donnells). The District also jointly owns, operates, and maintains the Donnells, Beardsley, and Tulloch power plants along with a separate power facility (Sand Bar Project) with the South San Joaquin Irrigation District. In addition, both Districts own, operate and maintain the Joint Main Canal running along the north side of the Stanislaus River Canyon. This canal carries 100% of South San Joaquin Irrigation District's water to its service area and provides 40% of OID's deliveries for those lands within its boundaries along the north side of Stanislaus River.

The District has also contributed funding to the City of Oakdale for water safety and water conservation programs; to the Oakdale Fire Department for water rescue training and materials; and to the Oakdale Rural Fire Protection District for a new water rescue boat. Under a development agreement, the District shares eight water wells with the Oakdale Rural Fire Protection District, which allows the fire district to refill their fire trucks during emergencies. The District also has a joint easement with the City of Oakdale for the Burchell Hills Specific Plan Area Bike Path. Additionally, OID is working with the City of Oakdale to utilize surface water to irrigate City parks as well as evaluating options for and the feasibility of recycling tertiary treated M&I discharge from the City in OID's system for agricultural irrigation and groundwater recharge.

6. Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies

A five-member Board of Directors governs the District. Registered voters within a geographical area or "Division", elect the board members. The Board conforms to the provisions of the Brown Act requiring open meetings. The District also has established a website (www.oakdaleirrigation.com) that is user-friendly and provides information such as the history of the District, current Board agendas, water updates, and newsletters.

The District has the necessary resources and staffing levels to operate in a cost-efficient and professional manner. It is reasonable to conclude that the District has the organizational capability to adequately serve the areas under its jurisdiction.

7. Any Other Matter Related to Effective or Efficient Service Delivery, as Required by Commission Policy

Improvements under the WRP include canal maintenance and rehabilitation, flow control and measurement, groundwater well replacement, pipeline replacement, regulating reservoir construction, turnout maintenance and replacement, outflow management projects (i.e. spillage and runoff reduction and reuse), reclamation projects, Supervisory Control and Data Acquisition (SCADA) system expansion and annexation. A few current projects to note include the District's Phase 1 Total Channel Control (TCC) Modernization Project and the Two-Mile Bar Tunnel Project. The \$6.5 million project Phase 1 TCC Modernization Project, with up to \$3 million in matching funds from the Department of Water Resources through the Proposition 1 Water Quality, Supply and Infrastructure Act of 2014, provides the complete automation of approximately 18 miles of OID's open canal system. The District's Two-Mile Bar Tunnel Project, a new 5,949 linear foot tunnel for water conveyance, is currently under construction and anticipated to be completed and operational before the 2019 irrigation season (+/-March 2019). The tunnel alignment bypasses roughly 7,200 linear feet of high hazard rock fall and canal creep failure sections of the OID's existing South Main Canal.

Consistent with the goals of the WRP, these projects along with the rest of the \$70 million of improvements since the start of its implementation, improve water supply reliability while also improving operability and operation of the system. The quality of water delivery services to customers continues to improve as OID's ability to offer greater flexibility in the frequency of deliveries, the rate at which water is delivered to the head-gate and in the duration of water deliveries to the farm.

Sphere of Influence Update

In determining a sphere of influence (SOI) of each local agency, the Commission shall consider and prepare determinations with respect to each of the following factors, pursuant to Government Code Section 56425:

1. The present and planned land uses in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
4. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

The following determinations for the Oakdale Irrigation District's Sphere of Influence update are made in conformance with Government Code Section 56425 and local Commission policy.

Determinations:

1. Present and Planned Land Uses in the Area, Including Agricultural and Open-Space Lands

The Oakdale Irrigation District's current boundary is comprised of approximately 82,000 acres, with a Sphere of Influence (SOI) area that encompasses 160,800 acres (78,800+/- acres beyond the existing District boundary). The land uses within the District's existing boundaries and Sphere of Influence consist of agricultural, rural residential, suburban and urban land use areas. These uses are not expected to change, except in the Spheres of Influence of the cities of Oakdale and Riverbank. In addition, the District does not have the authority to make land use decisions, nor does it have authority over present or planned land uses within its boundaries. The responsibility for land use decisions within the District boundaries is retained by Stanislaus, Calaveras, San Joaquin counties, and the cities of Oakdale and Riverbank.

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

The District has developed a Water Resources Plan (WRP) to address the District's water resource needs into the future. Components of the Plan include: public outreach, resource inventory (surface, groundwater), water balance, infrastructure plan, and water rights portfolio. The WRP also projects the reasonable number of acres within the SOI that could be annexed to OID's boundaries while maintaining service levels to existing lands within the District's boundaries.

The present and probable need for the District's ability to continue to provide public facilities and services in the area is affected by the fact that the cities of Oakdale and Riverbank's Spheres of Influence overlap into the District. In addition, the District has a diminishing Sphere of Influence in that as territory annexes to the City of Riverbank, it detaches from the District.

The District's Sphere of Influence excludes some territory within the current city limits of Riverbank. Back in 2004 OID was advised by the State of California Department of Health Service of the legal requirements (CCR Title 17). The cross-contamination compliance responsibility under the law (CCR 17, Article VII, Sec 35-50(a)) rested with the City providing the domestic water services. Upon contacting the City of Riverbank, and through discussions with them, it was agreed to discontinue raw water services of OID within the City limits of Riverbank. Later a policy was developed by OID to curtail raw water services to any territory annexed by a City.

Development of lands not currently in the OID service area may lead to future annexations within the Sphere of Influence as appropriate. Consistent with LAFCO policies, in order to annex additional territory, the District must provide and/or demonstrate that there are sufficient quantities of water to serve additional territory without affecting the present service area and/or existing customers. The availability of current water supplies each year is affected by numerous factors, including annual rainfall and snowfall, and environmental factors such as: climate demand, water conservation efforts, crop changes, contractual obligations for water transfers, etc.

3. Present Capacity of Public Facilities and Adequacy of Public Services that the Agency Provides or is Authorized to Provide

The District has strong surface water rights, including annual diversion rights from the Stanislaus River of 300,000 acre-feet (normal year). The District utilizes a Surface Water Shortage Policy in order to address service delivery issues during times when the quantity of water right available to the District is insufficient to meet the water demands of the crops grown.

As part of the Water Resources Plan (WRP), the District selected an alternative which focuses on maximizing improvements in the District and provides for moderate expansion in the SOI. Since the WRP's adoption in 2007, the District has been actively investing in its canal system based on improvement needs, as prioritized in the WRP. The improvements are intended to enhance customer service, use water more efficiently, increase reliability and drought protection, and reduce the amount of water leaving the District without benefiting OID customers.

4. The Existence of Any Social or Economic Communities of Interest in the Area if the Commission Determines That They are Relevant to the Agency

The following jurisdictions can be categorized as communities of interest in the area: the cities of Oakdale and Riverbank, and the unincorporated communities of Knights Ferry, Valley Home, and the rural residential area known as East Oakdale. The Spheres of Influence for both the City of Oakdale and Riverbank overlap into the District's boundaries, which may affect the District's ability to provide services to these areas as urbanization occurs.

5. For an Update of a Sphere of Influence of a City or Special District That Provides Public Facilities or Services Related to Sewers, Municipal and Industrial Water, or Structural Fire Protection, the Present and Probable Need for Those Public Facilities and Services of Any Disadvantaged Unincorporated Communities Within the Existing Sphere of Influence

The District manages several domestic water systems, which are part of six private and publicly-owned systems that exist in an unincorporated area east of the City of Oakdale. However, as discussed in the District's Municipal Service Review, there are no identified disadvantaged unincorporated communities within the existing Sphere of Influence or the proposed expansion area.

APPENDIX “A”
DISTRICT SUMMARY PROFILE



District: **OAKDALE IRRIGATION DISTRICT**

Formation: November 1, 1909

Location: Majority of the District is located in northeastern Stanislaus County. The District also covers territory in San Joaquin County, with portions of its Sphere of Influence also extending into Calaveras, and Tuolumne Counties

Boundary: 82,000+/- acres

Sphere of Influence: 160,800+/- acres total (or 78,800 acres beyond the District boundary)

Customers: 2,900+ agricultural,
767+ domestic accounts

Land Use: Agricultural, rural residential,
suburban and urban

District Services: Irrigation water, domestic
water, and wholesale
electrical power

Enabling Act: California Water Code,
Division 11, Irrigation
Districts, §20500-29978

Governing Body: Five Board of Directors, elected by registered voters within five divisions of the District boundaries

Administration: 80 full-time employees

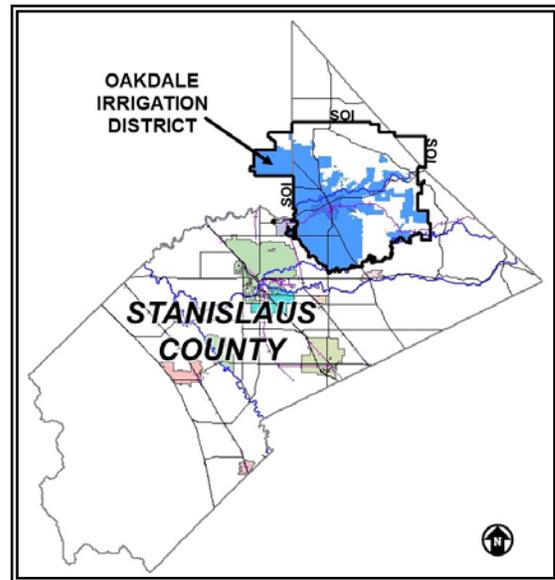
Budget: Calendar Year 2018

Revenues: \$25.1 million

Expenditures: \$24.9 million

Capital Improvements: \$17 million (Including the \$10.5 million Two-Mile Bar Tunnel Project – not a reoccurring capital expense)

Revenue Sources: Wholesale power, irrigation water sales, water transfers, County property tax appropriations, and domestic water sales



APPENDIX “B”

REFERENCES

- Association of California Water Agencies (ACWA) (www.acwanet.com).
- California Department of Water Resources (www.dwr.water.ca.gov).
- California State Water Resources Control Board (www.swrcb.ca.gov).
- Oakdale Irrigation District. *2017 Comprehensive Annual Financial Report*.
- Oakdale Irrigation District. *Agricultural Water Management Plan*. March 2016.
- Oakdale Irrigation District. *Board Resolution No. 96-39: Establishing an Annexation Policy for Annexation of Lands into the District*. July 16, 1996.
- Oakdale Irrigation District. *Rules & Regulations Governing the Operation and Distribution of Irrigation Water Within the Oakdale Irrigation District Service Area, Working Draft*. 2005.
- Oakdale Irrigation District. *Surface Water Shortage Policy*. March 2016.
- Oakdale Irrigation District. *Water Resources Plan* (www.oidwaterresources.org). November 2018.
- Oakdale Irrigation District website (www.oakdaleirrigation.com).
- Previous MSR/SOI Updates for the Oakdale Irrigation District, Adopted by Stanislaus LAFCO on June 23, 2004 and August 25, 2010.
- South San Joaquin Irrigation District website (www.ssjid.com).
- Tri-Dam Project (www.tridamproject.com).
- U.S. Bureau of Reclamation (www.usbr.gov).

OAKDALE IRRIGATION DISTRICT BOUNDARY AND SPHERE OF INFLUENCE

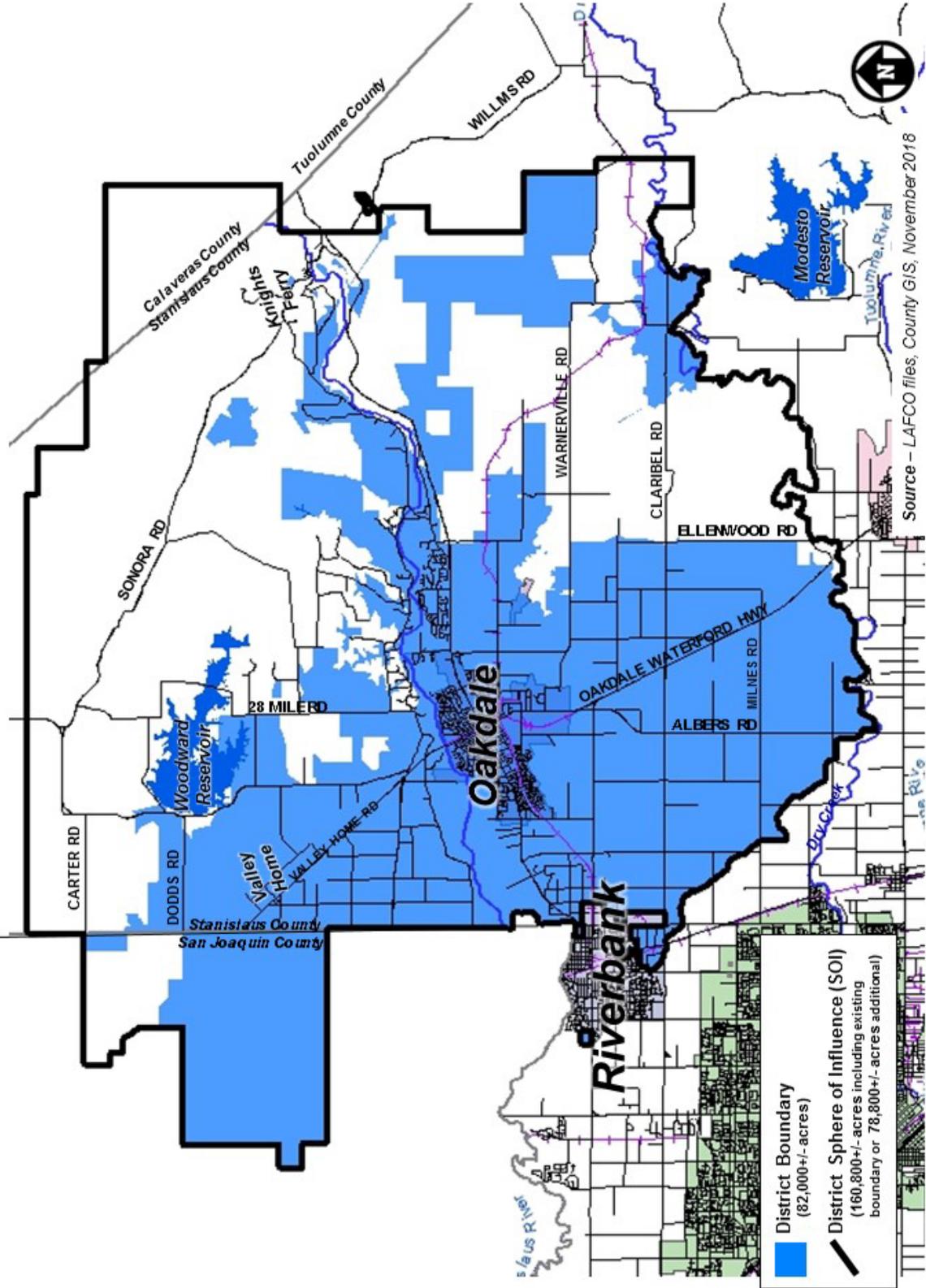


Exhibit 2

Resolution No. 2018-21

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**STANISLAUS COUNTY LOCAL AGENCY
FORMATION COMMISSION**

RESOLUTION

DATE: December 5, 2018

NO. 2018-21

SUBJECT: Municipal Service Review No. 2018-04 and Sphere of influence Update No 2018-07: Oakdale Irrigation District

On the motion of Commissioner _____, seconded by Commissioner _____, and approved by the following vote:

Ayes:	Commissioners:
Noes:	Commissioners:
Absent:	Commissioners:
Ineligible:	Commissioners:

THE FOLLOWING RESOLUTION WAS ADOPTED:

WHEREAS, a Service Review mandated by California Government Code Section 56430 and a Sphere of Influence Update mandated by California Government Code Section 56425, has been conducted for the Oakdale Irrigation District, in accordance with the Cortese-Knox-Hertzberg Reorganization Act of 2000;

WHEREAS, at the time and in the form and manner provided by law, the Executive Officer has given notice of the December 5, 2018 public hearing by this Commission on this matter;

WHEREAS, the subject document is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines;

WHEREAS, Staff has reviewed all existing and available information from the District and has prepared a report including recommendations thereon, and related information as presented to and considered by this Commission;

WHEREAS, the Commission has duly considered the draft Municipal Service Review and Sphere of Influence Update on the Oakdale Irrigation District and the determinations contained therein;

WHEREAS, the Oakdale Irrigation District was established to provide irrigation water, domestic water, and wholesale electrical power services within its boundaries;

WHEREAS, pursuant to Government Code Section 56425(h), the range of services provided by the Oakdale Irrigation District are limited to those as identified above, and such range of services shall not be changed unless approved by this Commission; and

WHEREAS, no changes to the District's Sphere of Influence are proposed or contemplated through this review.

NOW, THEREFORE, BE IT RESOLVED by the Commission:

1. Certifies that the project is statutorily exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines.
2. Approves the Service Review prepared in compliance with State law for the review and update of the Oakdale Irrigation District Sphere of Influence, and written determinations prepared by the Staff and contained herein.
3. Determines that except as otherwise stated, no new or different function or class of services shall be provided by the District, unless approved by the Commission.
4. Determines, based on presently existing evidence, facts, and circumstances filed and considered by the Commission, that the Sphere of Influence for the Oakdale Irrigation District should be affirmed as it currently exists, as more specifically described on the map contained within the Service Review document.
5. Directs the Executive Officer to circulate this resolution depicting the adopted Sphere of Influence Update to all affected agencies, including the Oakdale Irrigation District.

ATTEST: _____
Sara Lytle-Pinhey, Executive Officer

**EXECUTIVE OFFICER'S AGENDA REPORT
DECEMBER 5, 2018**

TO: LAFCO Commissioners

FROM: Sara Lytle-Pinhey, Executive Officer *SLP*

SUBJECT: 2019 WORK PROGRAM - MUNICIPAL SERVICE REVIEW & SPHERE OF INFLUENCE UPDATES

RECOMMENDATION

Staff recommends that the Commission consider adoption of a work program to guide completion of Municipal Service Reviews (MSRs) and Sphere of Influence (SOI) updates for 2019. The Commission may direct Staff to prioritize certain updates as needed.

DISCUSSION

One of LAFCO's responsibilities includes a periodic review of spheres of influence for each city and special district. As part of this process a municipal service review must also be completed, outlining the services provided by the agency and making a series of determinations. Stanislaus LAFCO typically combines these into one document (referred to as a MSR-SOI) for better use of staff time and resources.

The requirement for reviewing and updating a sphere of influence is outlined in Government Code section 56425(g) which states, "on or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence." Consistent with that section, Stanislaus LAFCO has generally made it a goal to initiate MSR-SOI updates for the special districts every five years, as these serve as a means for the Commission to check-in with various districts and service demands throughout the County.

For cities, the Commission has interpreted the "as necessary" provision in the above code section as coinciding with a city's General Plan update. City MSR-SOI updates are generally more detailed and time consuming than those of special districts and are often completed by a consultant in conjunction with an application to LAFCO.

The Commission's policies state that it is preferred that municipal service reviews be completed by LAFCO staff where possible to avoid additional costs of using outside consultants. The Commission's policies also state that in order to be cost-effective, MSR-SOI updates will be completed using existing information and documents that are available (e.g. master plans, general plans, budgets, etc) and are not intended to initiate new analyses.

Prior Year's Work Program

In 2018, LAFCO Staff completed MSR updates for the following districts:

- Newman Drainage District
- Salida Sanitary District
- Rock Creek Water District
- Turlock and Eastside Mosquito Abatement Districts
- Oakdale Irrigation District

2019 Goals - Special Districts

Staff has identified the following special districts that would benefit from updates in 2019 to stay aligned with the five-year goal:

- East Stanislaus Stanislaus Resource Conservation District
- West Stanislaus Resource Conservation District
- Denair Community Services District
- Keyes Community Services District
- Crows Landing Community Services District
- Grayson Community Services District
- Westley Community Services District
- Hills Ferry Cemetery District
- Knights Ferry Cemetery District
- Patterson Cemetery District

A draft schedule for all the special districts, organized by the date of the last update is attached. The special districts are grouped together by the target year for adoption of a new MSR-SOI update.

Upcoming City Updates

A list of each city and the adoption date of its current MSR-SOI document is also attached to this report. The cities of Hughson and Modesto would also benefit from updated MSRs. City MSR-SOI updates are typically initiated by the cities and/or their consultant in conjunction with a general plan update and/or a proposed sphere of influence amendment. For those cities currently undergoing general plan updates, Staff will coordinate with each to ensure any associated utility master plans are incorporated into the MSR updates. LAFCO Staff recently met with City of Modesto staff regarding update to the City's MSR. The City is nearing completion of its environmental review and background documents for a general plan update.

CONCLUSION

Staff believes that the proposed work program can be reasonably completed throughout the year. Paid applications (e.g. annexations, out-of-boundary service extensions) have required processing timeframes that are given precedence over Municipal Service Reviews and Sphere of Influence updates and may delay individual updates. Likewise, tasks involved with upcoming projects (e.g. responses to environmental referrals, pre-application meetings, etc.) may also delay MSR-SOI goals. Staff will continue to keep the Commission apprised of the progress in meeting the goals of the 2019 Work Program throughout the year.

Attachments:

- Special Districts MSR & SOI Update Schedule*
- Cities MSR & SOI Updates*

SPECIAL DISTRICTS
MSR & SOI UPDATE SCHEDULE - BY YEAR

DISTRICT		LAST MSR COMPLETED
2019	Community Services District - Denair and Keyes	August 27, 2014
	Resource Conservation Districts - East Stanislaus and West Stanislaus	August 27, 2014
	Cemetery Districts - Hills Ferry, Knights Ferry and Patterson	September 24, 2014
	Community Services District - Crows Landing, Grayson, Westley	December 4, 2014
2020	Healthcare & Hospital Districts - Del Puerto Healthcare, Westside Community Healthcare, and Oak Valley Hospital Districts	January 28, 2015
	Flood Control Districts - Orestimba Creek and Sand Creek	December 2, 2015
2021	Water District - Western Hills	January 27, 2016
	Community Services District - Monterey Park Tract	January 27, 2016
	County Service Areas (CSAs) -- 24 total	February 24, 2016
	Westside Irrigation & Water Districts - Patterson and West Stanislaus IDs; Eastin, El Solyo, Del Puerto, and Oak Flat WDs	July 27, 2016
	Fire Protection Districts - Burbank-Paradise, Ceres Rural, Denair, Mountain View, Turlock Rural, Westport, Woodland, Hughson, Industrial, Keyes, Salida, Stanislaus Consolidated, West Stanislaus and Oakdale Rural	July 27, 2016
	Community Services District - Knights Ferry	August 24, 2016
2022	Irrigation Districts - Modesto Irrigation District	February 22, 2017
	Turlock Irrigation District	April 26, 2017
	Community Services District - Riverdale Park Tract	May 24, 2017
	Sanitary District Empire Sanitary District	August 23, 2017
	Water District - Eastside Water District	September 27, 2017

CITIES
ADOPTED MUNICIPAL SERVICE REVIEWS (MSRs) &
SPHERE OF INFLUENCE (SOI) UPDATES

CITY	MSR-SOI ADOPTION	NOTES
Ceres	February 22, 2012	<i>City recently completed a General Plan Update (no SOI proposal included)</i>
Hughson	August 24, 2005	-
Modesto	September 22, 2004	<i>City is working on Final EIR for General Plan Update</i>
Newman	January 28, 2009	<i>City recently submitted application for Northwest Newman Master Plan (within SOI)</i>
Oakdale	July 22, 2015	<i>Completed SOI modification (with simultaneous annexation)</i>
Patterson	December 4, 2013	-
Riverbank	July 27, 2016	<i>MSR approved as part of a SOI modification</i>
Turlock	September 26, 2007	-
Waterford	August 22, 2007	-

Stanislaus LAFCO, Nov. 2018

**STANISLAUS LOCAL AGENCY FORMATION COMMISSION
OUT-OF-BOUNDARY SERVICE APPLICATION:
MODESTO MOBILE HOME PARK (CITY OF MODESTO)**

APPLICANT: City of Modesto

LOCATION: The site is approximately 11.7 acres located at 4024 McHenry Avenue (APN 052-060-002). The site is substantially surrounded by the City's boundary (See Map, Exhibit A.)

REQUEST: Request by the City of Modesto to extend sewer service to Modesto Mobile Home Park. The property owner requested to connect to the City's sewer system due to the property's proximity to an existing and available service.



BACKGROUND

Government Code Section 56133 specifies that a city or special district must apply for and obtain LAFCO approval prior to providing new or extended services outside its jurisdictional boundaries. The section describes two situations where the Commission may authorize service extensions outside a city or district's jurisdictional boundaries:

- (1) For proposals *within* a city or district sphere of influence: in anticipation of a later change of organization.
- (2) For proposals *outside* a city or district sphere of influence: to respond to an existing or impending threat to the public health or safety of the residents of the affected territory.

Stanislaus LAFCO has adopted its own policy to assist in the Commission's review of out-of-boundary service requests, known as Policy 15 (see Exhibit C). Policy 15 reiterates the requirements of Government Code Section 56133 and allows the Executive Officer, on behalf of the Commission, to approve service extensions in limited circumstances to respond to health and safety concerns for existing development. Although the current proposal is requested to address health and safety issues, because the proposal includes an entire island area, substantially surrounded by City limits, Staff has forwarded the proposal to the Commission for review.

DISCUSSION

State law and Commission policies generally prefer annexation to accommodate the extension of services. These policies also encourage and provided a streamlined approach for annexation of island areas. However, the Commission has recognized that there are situations when out-of-boundary service extensions may be an appropriate alternative consistent with Government Code Section 56133 and Commission Policy 15 as discussed below.

Consistency with Commission Policy 15

The Commission's Policy 15(C) provides considerations for approving outside services agreements and states that the Commission may favorably consider a service extension if any of the following situations apply:

1. *Services will be provided to a small portion of a larger parcel and annexation of the entire parcel would be inappropriate in terms of orderly boundaries, adopted land use plans, open space/greenbelt agreements or other relevant factors.*

If approved, the proposed out-of-boundary request will serve the entire 11.7-acre parcel consisting of the mobile home park. Annexation would provide a logical boundary and the land use would remain the same. Therefore, this situation would not apply.

2. *Lack of contiguity makes annexation infeasible given current boundaries and the requested public service is justified based on adopted land use plans or other entitlements for use.*

The project site is currently identified as an unincorporated island and is substantially surrounded by City boundaries. As mentioned previously, annexation would provide a logical boundary and the land use of the property remain the same. Therefore, this situation would not apply.

3. *Where public agencies have a formal agreement defining service areas provided LAFCO has formally recognized the boundaries of the area.*

The subject site is located within an area identified in the City of Modesto and Stanislaus County's "North McHenry Corridor Agreement." Pursuant to the agreement, the City and County would share local taxes generated by businesses in the corridor area and the City of Modesto would provide water and wastewater services to the area. The agreement also states that the City's provision of services to the area is subject to an outside service agreement with the property owner(s) that includes a waiver of the right to protest annexation to the City. Further, the City's duties to extend utility services are contingent upon the City's successful compliance with applicable federal, state, or local laws (including Government Code Section 56133). Language in the agreement also states that both the City and County shall support annexation(s) in the area, recognizing that annexations may occur in phases over time.

Although the Commission has not yet formally recognized or given a blanket approval to the North McHenry corridor area, the Commission has previously approved out-of-boundary service requests in the area, considering them to be infill development within the City/County North McHenry Corridor Agreement Area and in anticipation of future annexation.

4. *Emergency or health related conditions mitigate against waiting for annexation.*

The proposed out-of-boundary application will provide sewer service to the Modesto Mobile Home Park which is currently served by a private septic system that has had ongoing issues. The property owner attempted to obtain permits to replace septic tanks on the property; however, the Stanislaus County Department of Environmental Resources (DER) requested that the site pursue connection the City of Modesto, due to its close proximity to

the City's infrastructure. LAFCO Staff received inquiries about the potential connection of the property to the City's sewer system in 2017 and again in early 2018. As the situation was not identified as being urgent, Staff advised City Staff and the property owner's representative that annexation would be the preferred method to accommodate the extension of services to the site.

Annexation Process

Annexation of island areas, such as the Modesto Mobile Home Park, that meet the criteria for a streamlined process, can be processed in as little as 2-3 months and do not require protest proceedings. Additionally, consistent with Government Code Section 56375.3, the Commission must approve the island annexation if it meets the following (in summary):

- The annexation is proposed by resolution adopted by the affected city.
- The proposed area does not exceed 150 acres in size, is surrounded or substantially surrounded by the city, and does not contain prime agricultural land.
- The area is substantially developed and there are nearby services and improvements.
- The area would benefit from the annexation or is receiving benefits from the annexing city.

Although the application is for an out-of-boundary service request, Staff believes that project site is suitable for annexation into the City of Modesto. Should an annexation be proposed by the City of Modesto, the project would meet all the requirements to waive protest proceedings and the Commission would be limited from being able to disapprove a proposed annexation. These factors would help reduce the amount of time needed to process, review and approve a proposed change of organization to the City of Modesto.

Prior Recommendation for Annexation

In 1998, the City of Modesto annexed approximately 83.5 acres surrounding the Modesto Mobile Home Park site in a proposal known as the Coffee-Claratina Reorganization to the City of Modesto. At the time, Staff recommended including the mobile home park into the annexation area citing that there would be no change to the use of the site, it would create a better City-County services boundary and it would not be detrimental to the orderly development of the City and uses already in existence. Additionally, the annexation would be consistent with the Commission's intent to pursue the elimination of existing islands and irregular boundaries within the cities.

Ultimately, the mobile home park was left out of the annexation due to concerns that connecting to the City's sewer system was, at that time, too costly. That concern has not been mentioned or associated with this current request to connect to the City's sewer service.

Environmental Review

The proposed out-of-boundary service connection is considered exempt pursuant to Section 15301(b) of California Environmental Quality Act which allows for minor connections to an existing sewer lines such as proposed to serve existing development. Additionally, Staff has determined that there is no reasonable possibility that the connection to sewer service will have

a significant effect on the environment.

CONCLUSION

Although annexations to cities or special districts are generally the preferred method for the provision of services, Commission policies also recognize that out-of-boundary service extensions can be an appropriate alternative. Staff believes the City of Modesto's proposal to provide sewer service to the Modesto Mobile Home Park can be found to be consistent with Government Code Section 56133 and the Commission's Policy 15 based on health and safety concerns. However, because the site meets the island criteria, Staff believes that it is suitable for annexation.

ALTERNATIVES FOR LAFCO ACTION

Following consideration of this report and any testimony or additional materials that are submitted at the public hearing for this proposal, the Commission may take one of the following actions:

- APPROVE the request, as submitted by the City of Modesto.
- DENY the request without prejudice.
- CONTINUE the proposal to a future meeting for additional information.

STAFF RECOMMENDATION

Based on the discussion in this Staff Report and following any testimony or evidence presented at the meeting, Staff recommends that the Commission deny the out-of-boundary application and recommend that the City of Modesto apply for annexation of the project site. Staff has provided two options for the Commission, one for approval of the out-of-boundary application and one for denial. The two options are as followed:

Option 1: Should the Commission approve the proposal as submitted by the City of Modesto and adopt Resolution No. 2018-20, which finds the request to be consistent with Government Code Section 56133 and Commission Policy 15 and includes the following standard terms and conditions:

- A. This approval allows for the extension of sewer service to accommodate the existing mobile home park only.
- B. The City shall not allow additional sewer service connections outside the District's boundaries and beyond the current request without first requesting and securing approval from LAFCO.

Option 2: Should the Commission wish to have the City of Modesto annex the mobile home park, staff recommends the following:

- A. Deny the out-of-boundary application.
- B. Notify the City of Modesto of the need to apply to LAFCO for an annexation. The

application would require a resolution of application from the City and applicable fees.

Respectfully submitted,

Javier Camarena

Javier Camarena
Assistant Executive Officer

Attachments: Draft LAFCO Resolution 2018-20 (Option 1 & Option 2)
 Exhibit A - Map
 Exhibit B - Out-of-Boundary Application
 Exhibit C - LAFCO Policy 15

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Draft LAFCO Resolution No. 2018-20 Option 1 & Option 2

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**STANISLAUS COUNTY LOCAL AGENCY
FORMATION COMMISSION**

RESOLUTION

DATE: December 5, 2018

NO. 2018-20 (OPTION 1)

**SUBJECT: OUT-OF-BOUNDARY APPLICATION FOR THE MODESTO MOBILE HOME PARK
(CITY OF MODESTO)**

On the motion of Commissioner _____, seconded by Commissioner _____, and approved by the following:

Ayes: Commissioners:
Noes: Commissioners:
Ineligible: Commissioners:
Absent: Commissioners:

THE FOLLOWING RESOLUTION WAS ADOPTED:

WHEREAS, the City of Modesto has submitted an out-of-boundary service application requesting to provide sewer service to a property located at 4024 McHenry Avenue, just outside the City's boundary and within its Sphere of Influence;

WHEREAS, the site is otherwise identified as Assessor's Parcel Number 052-060-002;

WHEREAS, the property is located outside the current city limits and within the sphere of influence of the City of Modesto;

WHEREAS, Government Code Section 56133 states that a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the local agency formation commission in the affected county;

WHEREAS, Government Code Section 56133 further states that the Commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and within its sphere of influence in anticipation of a future change of organization;

WHEREAS, the Commission has adopted specific policies (Policy 15) to guide its evaluation of out-of-boundary service applications, consistent with Government Code Section 56133;

WHEREAS, the City of Modesto has indicated that it has the ability to serve the site with sewer service;

WHEREAS, the project is considered exempt pursuant to Section 15301(b) of California Environmental Quality Act which allows for minor connections to existing sewer lines to serve existing development and Staff has determined with certainty that there is no possibility the service connection would have a significant impact on the environment;

WHEREAS, the Commission has considered the environmental determination; and,

WHEREAS, the Commission has, in evaluating the proposal, considered the report submitted by the Executive Officer, consistency with California Government Code Section 56133 and the Commission's adopted policies, and all testimony and evidence presented at the meeting held on December 5, 2018.

NOW, THEREFORE, BE IT RESOLVED that this Commission:

1. Finds that the proposed extension of sewer service is consistent with the Commission's adopted policies and California Government Code Section 56133.
2. Certifies that it has considered the exempt environmental determination pursuant to CEQA.
3. Authorizes the City of Modesto to provide the requested sewer service, subject to the following terms and conditions:
 - A. This approval allows for the extension of sewer service to accommodate an existing mobile home park only.
 - B. The City shall not allow additional sewer service connections outside the City's boundary and beyond mobile home park without first requesting and securing approval from LAFCO.
4. Directs the Executive Officer to forward a copy of this resolution to the City of Modesto.

ATTEST: _____
Sara Lytle-Pinhey, Executive Officer

**STANISLAUS COUNTY LOCAL AGENCY
FORMATION COMMISSION**

RESOLUTION

DATE: December 5, 2018

NO. 2018-20 (OPTION 2)

**SUBJECT: OUT-OF-BOUNDARY APPLICATION FOR THE MODESTO MOBILE HOME PARK
(CITY OF MODESTO)**

On the motion of Commissioner _____, seconded by Commissioner _____, and approved by the following:

Ayes: Commissioners:
Noes: Commissioners:
Ineligible: Commissioners:
Absent: Commissioners:

THE FOLLOWING RESOLUTION WAS ADOPTED:

WHEREAS, the City of Modesto has submitted an out-of-boundary service application requesting to provide sewer service to a property located at 4024 McHenry Avenue, just outside the City's boundary and within its Sphere of Influence;

WHEREAS, the site is otherwise identified as Assessor's Parcel Number 052-060-002;

WHEREAS, the property is located outside the current city limits and within the sphere of influence of the City of Modesto;

WHEREAS, Government Code Section 56133 states that a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the local agency formation commission in the affected county;

WHEREAS, Government Code Section 56133 further states that the Commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and within its sphere of influence in anticipation of a future change of organization;

WHEREAS, the Commission has adopted specific policies (Policy 15) to guide its evaluation of out-of-boundary service applications, consistent with Government Code Section 56133;

WHEREAS, the City of Modesto has indicated that it has the ability to serve the site with sewer service;

WHEREAS, the project is considered exempt pursuant to Section 15301(b) of California Environmental Quality Act which allows for minor connections to existing sewer lines to serve existing development and Staff has determined with certainty that there is no possibility the service connection would have a significant impact on the environment;

WHEREAS, the Commission has considered the environmental determination;

WHEREAS, the property is identified as an unincorporated island surrounded, or substantially surrounded, by the City of Modesto as defined in California Government Code Section 56375.3

WHEREAS, State law and the Commission's policies encourage annexation of existing, developed island areas and generally prefer annexation to an extension of services; and,

WHEREAS, the Commission has, in evaluating the proposal, considered the report submitted by the Executive Officer, consistency with California Government Code Section 56133 and the Commission's adopted policies, and all testimony and evidence presented at the meeting held on December 5, 2018.

NOW, THEREFORE, BE IT RESOLVED that this Commission:

1. Determines that, consistent with Commission policies and State law, annexation is a feasible and appropriate option for extending service to the site.
2. Denies the Out-of-Boundary application as submitted by the City.
3. Directs the Executive Officer to notify the City of Modesto of the Commission's decision and the annexation process.

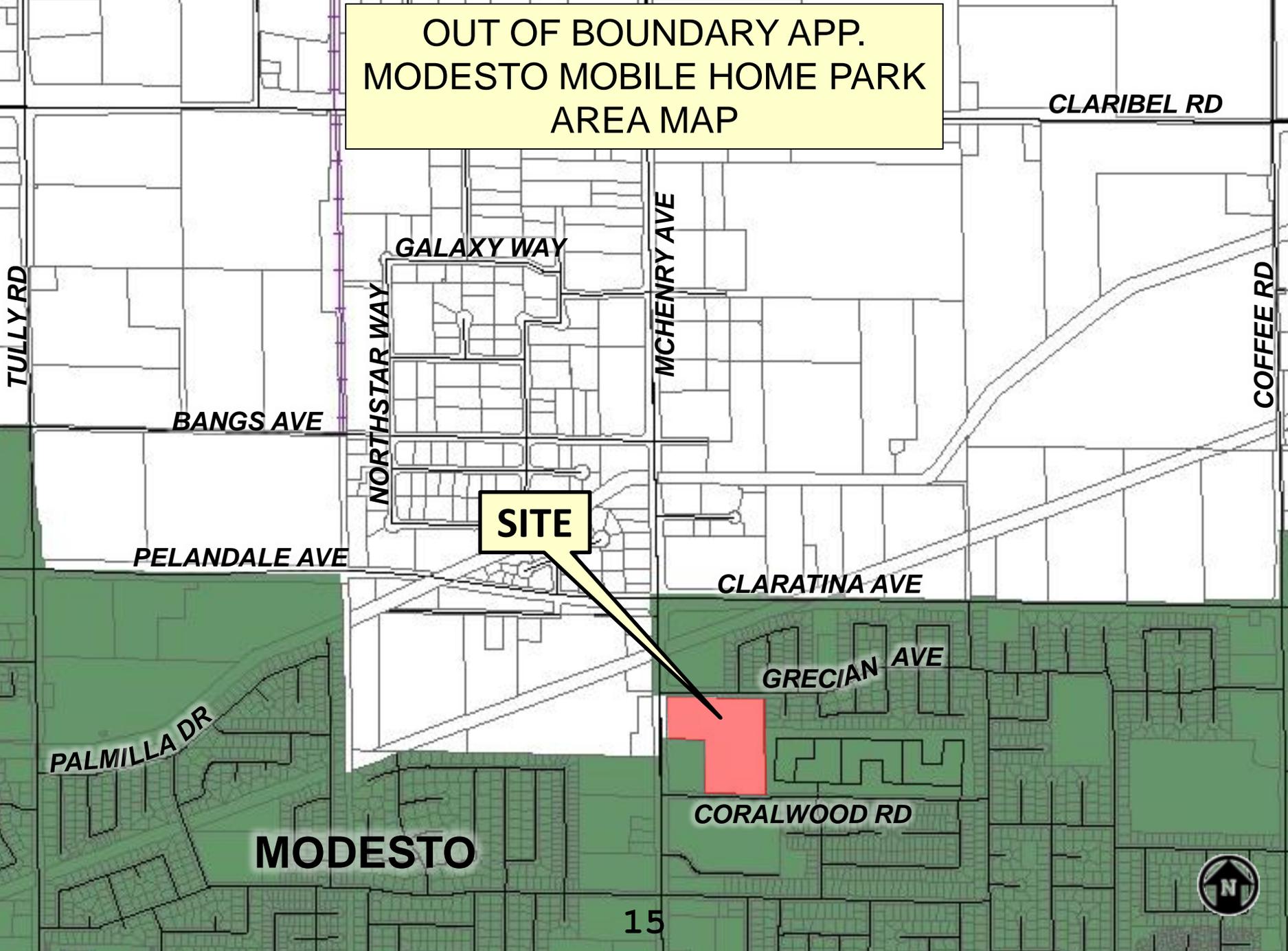
ATTEST: _____
Sara Lytle-Pinhey, Executive Officer

Exhibit A

Map

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OUT OF BOUNDARY APP.
MODESTO MOBILE HOME PARK
AREA MAP



TULLY RD

CLARIBEL RD

GALAXY WAY

MCHENRY AVE

COFFEE RD

BANGS AVE

NORTHSTAR WAY

SITE

PELANDALE AVE

CLARATINA AVE

GRECCIAN AVE

PALLMILLA DR

CORALWOOD RD

MODESTO



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Exhibit B

Out-of-Boundary Service Application

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STANISLAUS LAFCO

Stanislaus Local Agency Formation Commission

1010 – 10 th Street, 3rd Floor ♦ Modesto, CA 95354

(209) 525-7660 ♦ FAX (209) 525-7643

www.stanislauslafco.org

OUT OF BOUNDARY SERVICE APPLICATION

AGENCY TO EXTEND SERVICE:

AGENCY NAME: City of Modesto

CONTACT PERSON: Eva Dankha-Kelly - Associate Engineer

ADDRESS: 1010 10th Street Modesto, Ca 95353

PHONE: (209) 571-5120 FAX: _____ E-MAIL: edkelly@modestogov.com

CONTRACTING PARTY:

NAME OF PROPERTY OWNER: CTC Investors, LLC

SITE ADDRESS: PO Box 656 Jamestown, Ca 95327

PHONE: (209) 322-4005 FAX: _____ E-MAIL: _____

CONTRACT NUMBER/IDENTIFICATION: N/A

ASSESSOR PARCEL NUMBER(S): 052-060-002

ACREAGE: N/A

The following application questions are intended to obtain enough data about the proposal to allow the Commission and staff to adequately assess the service extension. By taking the time to fully respond to the questions below, you can reduce the processing time for this application. You may include any additional information that you believe is pertinent. Use additional sheets where necessary.

1. (a) List type of service(s) to be provided by this application:

Sanitary sewer service

(b) Are any of the services identified in 1-a "new" services to be offered by the agency? If yes, please provide explanation.

Yes, sanitary sewer service

2. Please provide a description of the service agreement/contract. (Included in this description should be an explanation as to why a jurisdictional change is not possible at this time and if this extension is an emergency health and safety situation.)

The sewer connection is to remedy health and safety situation.

3. Is annexation of the territory by your agency anticipated at some future time? Please provide an explanation.

Yes

4. Is the property to be served within the Agency's sphere of influence?

Yes

5. If the service extension is for development purposes, please provide a complete description of the project to be served.

This is not a new development, it is an existing Mobile Home development.

6. Has an environmental determination been made for this proposal? If yes, provide a copy. If no, please provide an explanation.

No, this is an existing Mobile Home development

7. Are there any land use entitlements involved in the project or contract? If yes, please provide a copy of the documentation for this entitlement. Please check those documents attached:

- Tentative Map and Conditions
- Subdivision Map or Parcel Map
- Specific Plan
- General Plan Amendment
- Rezoning
- Other - (provide explanation) _____

8. Please provide a map showing existing facilities and proposed extensions and a detailed description of how services are to be extended to the property. Your response should include, but not be limited to, an explanation of distance for connection to existing infrastructure to the site; and cost of improvements, how financing is to occur, and any special financing arrangement for later repayment.
See attached Will Serve Letter for details.

CERTIFICATION

I hereby certify that the statement furnished above and in the attached exhibits present the data and information required for this evaluation of service extension to the best of my ability, and that the facts, statement, and information presented herein are true and correct to the best of my knowledge and belief.

SIGNED:

Eva Dankha - Kelly

PRINTED NAME:

Eva Dankha - Kelly

DATED:

9/26/18

REQUIRED EXHIBITS:

1. Copy of the proposed agreement.
2. Map showing the property to be served, existing agency boundary, and the location of infrastructure to be extended.
3. Plan for providing service.

Please forward the completed form and related information to:

Stanislaus Local Agency Formation Commission
Attn: Executive Officer
1010 10th Street, 3rd Floor
Modesto, CA 95354

STANISLAUS LAFCO

Stanislaus Local Agency Formation Commission

1010 – 10 th Street, 3rd Floor ♦ Modesto, CA 95354

(209) 525-7660 ♦ FAX (209) 525-7643

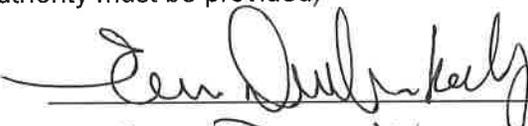
www.stanislauslafco.org

INDEMNITY AGREEMENT

As part of this application, the applicant agrees to defend, indemnify, hold harmless and release the Stanislaus Local Agency Formation Commission (LAFCO), its officers, employees, attorneys, or agents from any claim, action or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul, in whole or in part, LAFCO's action on a proposal or on the environmental documents submitted to support it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, and expert witness fees that may be asserted by any person or entity, including the applicant arising out of or in connection with the application.

Date: 9/26/18

APPLICANT OR APPLICANT'S REPRESENTATIVE:
(Proof of authority must be provided)

Signature: 

Name: Eva Dankha-Kelby

Title: Associate Engineer

Agency: City of Modesto

Address: 1010 10th St. Modesto
CA 95353



City Council Date: September 25, 2018

June 21, 2017

CTC Investors, LLC
PO BOX 656
Jamestown, Ca 95327

Subject: Sewer Will Serve Letter for a property located at 4024 McHenry Avenue (APN: 052-060-002) Modesto, Ca

As requested in your application dated June 16, 2017, the existing Mobile Home Park located at 4024 McHenry Avenue (APN:052-060-002), will be allowed to make the necessary sewer service connection to the City's sewer system to accommodate normal usage as described below.

Sewer Service:

Pursuant to Modesto City Council Resolution No. 91-434 that establishes various conditions for the extension of sewer services into unincorporated areas, it has been determined that a connection to the City's sewer system will be allowed to accommodate normal usage by the proposed development.

In general, Resolution No. 91-434 provides that sewer service extensions may be approved by the City Manager, on a case-by-case basis, to properties located outside the Modesto Municipal Sewer District No. 1, but within the Ultimate Sewer Service Area, when all of the following conditions are met:

1. The sewer system in which the service connection will be made has sufficient capacity to receive the amount and type of discharge expected from the proposed facility.
2. An appropriately sized sewer line or manhole exists relatively close to the subject property to serve as the connection point.
3. That all applicable water and sewer connection fees are paid and associated permits be obtained prior to beginning any on-site construction. The property owner agrees to pay all associated monthly water and sewer service charges.
4. The property owner must execute an outside service agreement with the City of Modesto

In addition to the above requirements, the following items are specific conditions on the proposed project:

5. That the project's proposed sewer demands will not change significantly from the above referenced letter.
6. The existing 150 spaces in the Mobile Home Park shall connect the sewer service directly to the existing 8- inch main in Coralwood Road. Design of the connecting sewer main shall be per City Standards and by a registered engineer authorized to perform such work. The proposed design shall be approved by the City and all costs associated with its design, installation, and permits shall be borne by the property owner.
7. That the property owner enters into a standard sewer service agreement with the City, as required for sewer service outside the City limits. To start the agreement process, please contact Yvonne Weber at (209) 342- 4712 for more information.

On May 22, 2012, the City Council approved Resolution No. 2012-203 that amended City Council Policy 5.002 relating to sewer service connections into unincorporated areas. On June 5, 2012, the City Council approved final adoption of Ordinance No. 3567-C.S. amending City of Modesto Municipal Code Section 11-1.05. Both of these amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of sewer services into unincorporated areas.

Construction of the sewer service connection identified to serve the above referenced property shall be completed prior to twelve (12) months from the date of City Council approval, and if after such time the service connections have not been made, the City's approval of said connections will be revoked.

If you have any questions, please contact Eva Dankha-Kelly at (209) 571-5120.

Recommended By: _____
Eva Dankha-Kelly, Associate Engineer

Sincerely,

Joseph P. Lopez
City Manager

cc: Will Wong, Director of Utilities
Jim Alves - Utilities
Kerrie Freeman- Stanislaus County - PW
Robert Englent - Wastewater- Utilities
Thomas Sinclair - Environmental Compliance- Utilities

Recording Requested By
City of Modesto
Return to / Mail to
City of Modesto City Clerk
P.O. Box 642
Modesto, CA 95353

OUTSIDE SERVICE AGREEMENT
FOR SEWER SERVICE
AND
AGREEMENT TO WAIVE PROTEST TO ANNEXATION PROCEEDINGS

This Agreement is made in the City of Modesto, County of Stanislaus, State of California, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called CITY, and CTC Investors, LLC, a California limited liability company, hereinafter called OWNER, and entered into on the date the last party executes said agreement.

This Agreement is made with reference to the following recitals:

A. OWNER desires to have sewer service from CITY to his property located outside the City limits of CITY;

B. CITY is agreeable to providing said sewer service under the following terms and conditions,

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties hereto mutually agree as follows:

1. OWNER shall do any and all acts necessary to annex the following described property to CITY when requested to do so by CITY:

Address: 4024 McHenry Avenue

APN: 052-060-002

See Exhibit "A" Grant Deed.

2. In the event OWNER, for whatever reason, fails to take whatever action is necessary to annex said property when requested to do so by City, City may at its election terminate this agreement by giving written notice thereof to OWNER. In the event this agreement

is so terminated, OWNER acknowledges, understands, and agrees that City may thereafter, upon 30 days' written notice to OWNER, in the discretion of the Utilities Director, elect to do either of the following: (1) disconnect the sewer service connection to said property; or, (2) charge up to ten (10) times the inside-City sewer rates then in effect until OWNER'S property is annexed to the City.

3. OWNER shall pay sewer rates for service outside the CITY as provided by the Modesto Municipal Code until OWNER'S property is annexed to the CITY.

4. The remedy provided in paragraph #2, above, to City, in event the owners breach this agreement, is cumulative and is in addition to any other remedies in law or equity that may be available to City. The election of one or more remedies shall not bar the use of other remedies unless the circumstances make the remedies incompatible.

5. OWNER shall, where a sewer lateral exists to serve the property directly, obtain a permit from CITY to connect to the sewer lateral and pay all the required charges as set forth in Municipal Code Section 5-6.801 through 807, including all applicable subtrunk and perimeter sewer charges.

OWNER shall, where a sewer lateral does not exist to serve the property directly, construct the sewer lateral at his own expense. All work shall be in accordance with plans and specifications approved by CITY, and OWNER shall reimburse CITY for all costs of engineering and inspection incurred by CITY for the sewer lateral extension. In addition, OWNER shall obtain a permit from the CITY to connect to the sewer lateral and shall pay all applicable permit, subtrunk and/or perimeter sewer charges prior to beginning any on-site construction.

6. After the initial sewer connection is made for the above described property, as set forth in paragraph 5 above, OWNER agrees to obtain a new sewer connection permit from the CITY for each additional unit or units added to the existing sewer service.

7. It is further agreed that upon execution of this agreement by both parties, OWNER shall install said sewer service within six (6) months from the date of execution of this agreement. Failure to do so renders this agreement void.

8. It is distinctly covenanted and agreed by the parties hereto that this agreement shall be recorded and that all the covenants and agreements above expressed shall be held to run with and bind the above described land and all subsequent owners and occupants thereof.

9. OWNER agrees that sewer discharge requirements as to the property will not change significantly from the originally anticipated sewer discharge requirements.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has caused this agreement to be executed in duplicate by its City Manager pursuant to Modesto Municipal Code 5-6.309 (a) and City Ordinance No. 3612-C.S., adopted on the 9th day of December, 2014, and OWNER has caused this agreement to be duly executed.

CITY:

CITY OF MODESTO,
a California municipal corporation

By: _____
JOSEPH P. LOPEZ
Interim City Manager

OWNER:

CTC INVESTORS, LLC, a California limited liability company*

By:  _____
Name: JAMES R. CORN
(Print Name)
Title: Member
Date: 2-27-18

ATTEST:

By: _____
STEPHANIE LOPEZ
City Clerk

By: _____
Name: _____
(Print Name)
Title: _____
Date: _____

APPROVED AS TO FORM:

ADAM U. LINDGREN
City Attorney

By: _____
JOSE M. SANCHEZ
Assistant City Attorney

* Corporations – signature of two (2) officers required or one (1) officer plus corporate seal.

Partnership – signature of a partner required

Sole Proprietorship – signature of proprietor required

LLC – signature of proprietor or partner required

(SEAL)

APPROVED AS TO SUFFICIENCY:

OFFICE OF THE CITY ENGINEER

By: _____
VICKEY DION
City Engineer

Departmental Information:

LOCATION OF PROPERTY

4024 McHenry Avenue
Street Address

MAILING ADDRESS OF OWNER:
(if different from location
of property)

P.O. Box 656
Street Address

Jamestown, CA 95327
City

209-322-4005
Phone Number

OWNER'S AGENT
(if any)

Margot L Roen
Name

151 N. California Ave, Ste D
Address

OAKDALE, CA 95361
City

Ph: 707-339-2118

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Stanislaus

On 2/27/18 before me, Diana L. Bush, Notary Public
(insert name and title of the officer)

personally appeared James R. Corn
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Diana L. Bush (Seal)

AGREEMENT TO WAIVE PROTEST TO ANNEXATION PROCEEDINGS

This Agreement, made and entered into in the City of Modesto, County of Stanislaus, State of California, this ____ day of _____, 2018, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called "CITY", and CTC Investors, LLC, a California limited liability company, hereinafter called "OWNER".

This Agreement is made with reference to the following recitals:

1. CITY and OWNER entered into an Outside Service Agreement on _____, 2018 (hereinafter "OSA"). That Agreement required OWNER to do any and all acts necessary to annex the following described property to CITY when requested to do so by CITY:

Address: 4024 McHenry Avenue

APN: 052-060-002

See Exhibit "A" Grant Deed.

2. In reliance on the promise related in the next preceding paragraph, the CITY retained the right to terminate its OSA with OWNER and disconnect sewer service to the above-described property, refuse to provide sewer service to it, and/or seek other remedies against Owner, in the event that OWNER did not take all actions necessary to annex its property to CITY.

3. Pursuant to Government Code Section 57051, OWNER has the legal right to file a written protest either as an owner of land or as a registered voter within inhabited territory proposed to be annexed to CITY against annexation of that territory.

4. CITY and OWNER agree that the right described in the next preceding paragraph is an advantage of law intended solely for Owner's benefit, and not a law established for a public reason which cannot be waived or circumvented by agreement.

5. Owner agrees and represents that if the right described in paragraph 3 is jointly held, it has the sole authority to exercise that right, and that Owner will maintain such sole authority throughout the life of this agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties hereto mutually agree as follows:

- A. OWNER agrees that all of the foregoing recitals are factually true.
- B. OWNER agrees to and does hereby, waive any and all rights, whether jointly or severally held, to do any act authorized by Government Code Section 57051 to the full extent allowed by Civil Code Section 3513.
- C. OWNER understands and agrees that this Agreement to waive protest rights does not in any manner amend or alter the OSA.
- D. In consideration of OWNER'S agreements contained herein, CITY agrees to accept this waiver as a partial discharge of OWNER'S duties and obligations under the OSA, with respect to OWNER'S duty thereunder to do all things necessary to annex its property to the CITY when requested to do so by CITY.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attested by its City Clerk on the ____ day of _____, 2018, and OWNER has executed the Agreement the day and year first above written.

CITY:

CITY OF MODESTO,
a California municipal corporation

By: _____

JOSEPH P. LOPEZ
Interim City Manager

OWNER:

CTC INVESTORS, LLC, a California limited liability company*

By: _____

Name: _____

JAMES B. COON
(Print Name)

Title: _____

Member

Date: _____

2-27-18

ATTEST:

By: _____

STEPHANIE LOPEZ
City Clerk

By: _____

Name: _____

(Print Name)

Title: _____

Date: _____

APPROVED AS TO FORM:

ADAM U. LINDGREN
City Attorney

By: _____

JOSE M. SANCHEZ
Assistant City Attorney

** Corporations – signature of two (2) officers required or one (1) officer plus corporate seal.*

Partnership – signature of a partner required

Sole Proprietorship – signature of proprietor required

LLC – signature of proprietor or partner required

(SEAL)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Stanislaus)

On 2/27/18 before me, Diana L. Bush, Notary Public
(insert name and title of the officer)

personally appeared James R. Corn
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature: Diana L. Bush (Seal)



RECORDING REQUESTED BY:
Chicago Title Company
Escrow No.: 14-51131717-KH
Locate No.: CACTI7750-7750-4511-0051131717
Title No.: 14-51131717-KW

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2015-0007114-00
Acct 581-Chicago Title
Wednesday, FEB 04, 2015 08:00:00
Ttl Pd \$8,321.00 Rcpt # 0003618311
MAP/R3/1-2

When Recorded Mail Document
and Tax Statement To:
CTC Investors, LLC, a California limited
liability company, exchanger
P.O. Box 656
Jamestown, CA 95327

APN: 052-060-002

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

The undersigned grantor(s) declare(s)
Documentary transfer tax is \$8,294.00

- computed on full value of property conveyed, or
- computed on full value less value of liens or encumbrances remaining at time of sale,
- Unincorporated Area ~~City of Modesto,~~

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Modesto Mobile Home Park, LLC, a California limited liability company

hereby GRANT(S) to CTC Investors, LLC, a California limited liability company
the following described real property in the ~~City of Modesto,~~ County of Stanislaus, State of California:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF Unincorporated Area

DATED: January 22, 2015

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

DATED: January 22, 2015

State of California }
County of Solano }
On January 26, 2015 before me,
Gina M. Salmon, Notary Public
(here insert name and title of the officer), personally appeared
Charlotte Biggs

Modesto Mobile Home Park, LLC, a California limited liability company

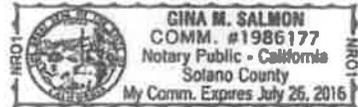
By: Charlotte Biggs
Charlotte Biggs, Member/Manager

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Gina M. Salmon (Seal)



MAIL TAX STATEMENTS AS DIRECTED ABOVE

FD-213 (Rev 12/07)
(grant) (10-03) (Rev. 10-14)

GRANT DEED

OK

Escrow No.: 14-51131717-KH
Locate No.: CACTI7750-7750-4511-0051131717
Title No.: 14-51131717-KW

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN AN UNINCORPORATED AREA, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN PIECE OR PARCEL OF LAND SITUATE IN AND BEING PORTION OF SECTIONS 4 AND 9, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF THE REMAINDER PARCEL AS SHOWN ON THE PARCEL MAP RECORDED MARCH 18, 1977 IN BOOK 24 OF PARCEL MAPS, AT PAGE 76, STANISLAUS COUNTY RECORDS, BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO MERIDIAN; THENCE NORTH 1 DEGREE 17' 30" WEST ALONG THE WEST LINE OF SAID SECTION 4, A DISTANCE OF 344.46 FEET; THENCE SOUTH 89 DEGREES 33' 30" EAST, A DISTANCE OF 50.00 FEET TO THE EASTERLY LINE OF MCHENRY AVENUE, ALSO BEING THE NORTHWEST CORNER OF SAID REMAINDER PARCEL AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE NORTH 89 DEGREES 33' 30" EAST ALONG THE NORTHERLY LINE OF SAID REMAINDER PARCEL, A DISTANCE OF 833.75 FEET; THENCE SOUTH 0 DEGREES 25' 30" EAST, A DISTANCE OF 799.00 FEET TO THE NORTHERLY LINE OF CORALWOOD-DRIVE; THENCE NORTH 88 DEGREES 53' 30" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 504.53 FEET; THENCE NORTH 0 DEGREES 25' 30" WEST, A DISTANCE OF 444.10 FEET; THENCE NORTH 88 DEGREES 53' 30" WEST, A DISTANCE OF 324.39 FEET TO THE EASTERLY LINE OF MCHENRY AVENUE; THENCE NORTH 1 DEGREE 17' 30" WEST ALONG SAID EASTERLY LINE, A DISTANCE OF 345.06 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF ON THE WEST LYING WITHIN THE BOUNDARIES OF SAID 50 FEET COUNTY ROAD KNOWN AS MCHENRY AVENUE HEREINABOVE REFERRED TO.

APN: 052-060-002



City Council Date: September 25, 2018

June 21, 2017

CTC Investors, LLC
PO BOX 656
Jamestown, Ca 95327

Subject: Sewer Will Serve Letter for a property located at 4024 McHenry Avenue (APN: 052-060-002) Modesto, Ca

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Sewer Service:

Pursuant to Modesto City Council Resolution No. 91-434 that establishes various conditions for the extension of sewer services into unincorporated areas, it has been determined that a connection to the City's sewer system will be allowed to accommodate normal usage by the proposed development.

In general, Resolution No. 91-434 provides that sewer service extensions may be approved by the City Manager, on a case-by-case basis, to properties located outside the Modesto Municipal Sewer District No. 1, but within the Ultimate Sewer Service Area, when all of the following conditions are met:

1. The sewer system in which the service connection will be made has sufficient capacity to receive the amount and type of discharge expected from the proposed facility.
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In addition to the above requirements, the following items are specific conditions on the proposed project:

5. That the project's proposed sewer demands will not change significantly from the above referenced letter.
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Construction of the sewer service connection identified to serve the above referenced property shall be completed prior to twelve (12) months from the date of City Council approval, and if after such time the service connections have not been made, the City's approval of said connections will be revoked.

If you have any questions, please contact Eva Dankha-Kelly at (209) 571-5120.

Recommended By: _____
Eva Dankha-Kelly, Associate Engineer

Sincerely,

Joseph P. Lopez
City Manager

cc: Will Wong, Director of Utilities
Jim Alves - Utilities
Kerrie Freeman- Stanislaus County - PW
Robert Englent - Wastewater- Utilities
Thomas Sinclair - Environmental Compliance- Utilities

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Return to / Mail to
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FOR SEWER SERVICE
AND
AGREEMENT TO WAIVE PROTEST TO ANNEXATION PROCEEDINGS

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Address: 4024 McHenry Avenue

APN: 052-060-002

See Exhibit "A" Grant Deed.

2. In the event OWNER, for whatever reason, fails to take whatever action is necessary to annex said property when requested to do so by City, City may at its election terminate this agreement by giving written notice thereof to OWNER. In the event this agreement

is so terminated, OWNER acknowledges, understands, and agrees that City may thereafter, upon 30 days' written notice to OWNER, in the discretion of the Utilities Director, elect to do either of the following: (1) disconnect the sewer service connection to said property; or, (2) charge up to ten (10) times the inside-City sewer rates then in effect until OWNER'S property is annexed to the City.

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OWNER shall, where a sewer lateral does not exist to serve the property directly, construct the sewer lateral at his own expense. All work shall be in accordance with plans and specifications approved by CITY, and OWNER shall reimburse CITY for all costs of engineering and inspection incurred by CITY for the sewer lateral extension. In addition, OWNER shall obtain a permit from the CITY to connect to the sewer lateral and shall pay all applicable permit, subtrunk and/or perimeter sewer charges prior to beginning any on-site construction.

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7. It is further agreed that upon execution of this agreement by both parties, OWNER shall install said sewer service within six (6) months from the date of execution of this agreement. Failure to do so renders this agreement void.

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IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has caused this agreement to be executed in duplicate by its City Manager pursuant to Modesto Municipal Code 5-6.309 (a) and City Ordinance No. 3612-C.S., adopted on the 9th day of December, 2014, and OWNER has caused this agreement to be duly executed.

CITY:

CITY OF MODESTO,
a California municipal corporation

By: _____
JOSEPH P. LOPEZ
Interim City Manager

OWNER:

CTC INVESTORS, LLC, a California limited liability company*

By: James R. Corn
Name: JAMES R. CORN
(Print Name)
Title: Member
Date: 2-27-18

ATTEST:

By: _____
STEPHANIE LOPEZ
City Clerk

By: _____
Name: _____
(Print Name)
Title: _____
Date: _____

APPROVED AS TO FORM:

ADAM U. LINDGREN
City Attorney

By: _____
JOSE M. SANCHEZ
Assistant City Attorney

* Corporations – signature of two (2) officers required or one (1) officer plus corporate seal.

Partnership – signature of a partner required

Sole Proprietorship – signature of proprietor required

LLC – signature of proprietor or partner required

(SEAL)

APPROVED AS TO SUFFICIENCY:

OFFICE OF THE CITY ENGINEER

By: _____
VICKEY DION
City Engineer

Exhibit C

LAFCO Policy 15

This page intentionally left blank.

POLICY 15 - OUT-OF-BOUNDARY SERVICE CONTRACTS OR AGREEMENTS

(Amended January 24, 2018)

Government Code Section 56133 (Cortese-Knox-Hertzberg Act) specifies that a city or special district must apply for and obtain LAFCO approval before providing new or extended services outside its jurisdictional boundaries. The Commission will consider this policy in addition to the provisions of Government Code Section 56133 when reviewing out-of-boundary service extension requests.

- A. Pursuant to Government Code Section 56133(b), the Commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries, but within its sphere of influence, in anticipation of a later change of organization. The Commission may authorize a city or district to provide new or extended services outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory in accordance with Government Code Section 56133(c).
- B. The Commission has determined that the Executive Officer shall have the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries in cases where the service extension is proposed to remedy a clear health and safety concern for existing development.

In cases where the Executive Officer recommends denial of such a proposed service extension or where the proposal will facilitate new development, that proposal shall be placed on the next agenda for which notice can be provided so that it may be considered by the Commission. After the public hearing, the Commission may approve, conditionally approve, or deny the proposal.

- C. Considerations for Approving Agreements: Annexations to cities and special districts are generally preferred for providing public services; however, out-of-boundary service extensions can be an appropriate alternative. While each proposal must be decided on its own merits, the Commission may favorably consider such service extensions in the following situations:
 - 1. Services will be provided to a small portion of a larger parcel and annexation of the entire parcel would be inappropriate in terms of orderly boundaries, adopted land use plans, open space/greenbelt agreements or other relevant factors.
 - 2. Lack of contiguity makes annexation infeasible given current boundaries and the requested public service is justified based on adopted land use plans or other entitlements for use.
 - 3. Where public agencies have a formal agreement defining service areas provided LAFCO has formally recognized the boundaries of the area.
 - 4. Emergency or health related conditions mitigate against waiting for annexation.

5. Other circumstances which are consistent with the statutory purposes and the policies and standards of the Stanislaus LAFCO.
- D. Health or Safety Concerns: The requirements contained in Section 56133(c) of the Government Code will be followed in the review of proposals to serve territory with municipal services outside the local agency's sphere of influence. Service extensions outside a local agency's sphere of influence will not be approved unless there is a documented existing or impending threat to public health and safety, and the request meets one or more of the following criteria as outlined below:
1. The lack of the service being requested constitutes an existing or impending health and safety concern.
 2. The property is currently developed.
 3. No future expansion of service will be permitted without approval from the LAFCO.
- E. Agreements Consenting to Annex: Whenever the affected property may ultimately be annexed to the service agency, a standard condition for approval of an out-of-boundary service extension is recordation of an agreement by the landowner consenting to annex the territory, which agreement shall inure to future owners of the property.
1. The Commission may waive this requirement on a case-by-case basis upon concurrence of the agency proposing to provide out-of-boundary services.
 2. The Commission has determined, pursuant to Government Code Section 56133(b) that the Beard Industrial Area shall not be subject to the requirement for consent-to-annex agreements, based on the historical land use of the area and its location within the Sphere of Influence of the City of Modesto.
- F. Area-wide Approvals: The Commission has recognized and approved extensions of sewer and/or water services to specific unincorporated areas, including the Bret Harte Neighborhood, Robertson Road Neighborhood, and the Beard Industrial Area. New development in these delineated unincorporated areas is considered infill and does not require further Commission review for the provision of extended sewer and/or water services. The Commission may consider similar approvals for area-wide service extensions on a case-by-case basis when it determines each of the following exists:
1. There is substantial existing development in the area, consistent with adopted land use plans or entitlements.
 2. The area is currently located within the agency's sphere of influence.
 3. The agency is capable of providing extended services to the area without negatively impacting existing users.

4. The proposal meets one of the situations outlined in Section C of this Policy where extension of services is an appropriate alternative to annexation.
- G. In the case where a city or district has acquired the system of a private or mutual water company prior to January 1, 2001, those agencies shall be authorized to continue such service and provide additional connections within the certificated service area of the private or mutual water company, as defined by the Public Utilities Commission or other appropriate agency at the time of acquisition, without LAFCO review or approval as outlined in Government Code Section 56133. The continuation of service connections under this policy shall not be constrained by the sphere of influence of that local agency at that time. Proposals to extend service outside this previously defined certificated area would come under the provisions of Government Code Section 56133 for the review and approval by the Commission prior to the signing of a contract/agreement for the provision of the service.
- H. Exemptions: Consistent with Government Code Section 56133, this policy does not apply to:
1. Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
 2. The transfer of non-potable or non-treated water;
 3. The provision of surplus water to agricultural lands and facilities, including but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.
 4. An extended service that a city or district was providing on or before January 1, 2001.
 5. A local publicly owned electrical utility, as defined by Section 9604 of the Public Utilities Code, providing electrical services that do not involve the acquisition, construction, or installation of electrical distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.
 6. A fire protection contract, as defined in Section 56134 and Policy 15a.

POLICY 15a – FIRE PROTECTION CONTRACTS OR AGREEMENTS

(Adopted on January 24, 2018)

Effective January 1, 2016, Government Code Section 56134 requires the Commission to review a fire protection contract or agreement that provides new or extended fire protection services outside an agency's jurisdictional boundaries and meets either of the following thresholds: (1) transfers service responsibility of more than 25 percent of an affected public