



Balancing Community and Commerce

44 N. SAN JOAQUIN STREET ■ SUITE 374 ■ STOCKTON, CA 95202 ■ 209-468-3198

SPECIAL MEETING AGENDA

THURSDAY, FEBRUARY 14, 2024, 9:00 A. M.
BOARD OF SUPERVISORS CHAMBERS
44 NORTH SAN JOAQUIN STREET, 6TH FLOOR
STOCKTON, CALIFORNIA

* * * *

DISCLOSURE OF BUSINESS OR CAMPAIGN CONTRIBUTIONS TO COMMISSIONERS

Government Code Section 84308 requires that a Commissioner (regular or alternate) disqualify herself or himself and not participate in a proceeding involving an "entitlement for use" application if, within the last twelve months, the Commissioner has received **\$250 or more in business or campaign contributions from an applicant, an agent of an applicant, or any financially interested person who actively supports or opposes a decision on the matter.** A LAFCo decision approving a proposal (e.g., for an annexation) will often be an "entitlement for use" within the meaning of Section 84308. Sphere of Influence determinations are exempt under Government Code Section 84308.

If you are an applicant or an agent of an applicant on such a matter to be heard by the Commission and if you have made business or campaign contributions totaling \$250 or more to any Commissioner in the past twelve months, Section 84308(d) requires that you disclose that fact for the official record of the proceeding. The disclosure of any such contribution (including the amount of the contribution and the name of the recipient Commissioner) must be made either: 1) In writing and delivered to the Secretary of the Commission prior to the hearing on the matter, or 2) By oral declaration made at the time the hearing on the matter is opened. Contribution disclosure forms are available at the meeting for anyone who prefers to disclose contributions in writing.

Call to Order
Announce Date and Time of Meeting for the Record
Roll Call
Pledge of Allegiance

CONSENT ITEMS

1. SUMMARY OF MINUTES OF JANUARY 11, 2024
(*Discussion and Possible Action by All Members*)
Approve Summary Minutes of the Regular Meeting.
2. OUT-OF-AGENCY SERVICE REQUEST
(*Discussion and Possible Action by Regular Members*)
Requests from the City of Stockton to provide out-of-agency sewer service outside the City boundary under Government Code §56133 to 2754 Robindale Avenue, 2472 Robindale Avenue, and 2042 Report Avenue, 3308 S. B Street, and 1651 Stanford Avenue in Stockton.

3. APPROVAL OF THE WHITE BRENNER LLP LEGAL SERVICES
(Discussion and Possible Action by All Members)

PUBLIC HEARING

4. INDELICATO REORGANIZATION TO THE CITY OF MANTECA (LAFC 33-23)
(Discussion and Possible Action by Regular Members)
Request to annex approximately 40 acres to the City of Manteca with concurrent detachment from Lathrop -Manteca Fire Protection District.

SPECIAL MATTERS

5. MID- FISCAL YEAR BUDGET REPORT

PUBLIC COMMENTS

6. Persons wishing to address the Commission on matters not otherwise on the agenda.

Public Comments on matters within the jurisdiction of the San Joaquin Local Agency Formation Commission that are not listed on the Agenda. Please no personal attacks.

EXECUTIVE OFFICER COMMENTS

7. Comments from the Executive Officer

COMMISSIONER COMMENTS

8. Comments, Reports, or Questions from the LAFCO Commissioners

ADJOURNMENT

Agenda Item 1



Balancing Community and Commerce

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SUMMARY MINUTES

JANUARY 11, 2024

BOARD OF SUPERVISORS CHAMBERS
44 NORTH SAN JOAQUIN STREET, 6TH FLOOR
STOCKTON, CALIFORNIA

Chairman Patti called the meeting to order at 9:01 a.m.

MEMBERS PRESENT: Commissioners Breitenbucher, Johnson, Patti Villapudua

MEMBERS ABSENT: None

ALTERNATE MEMBERS PRESENT: Commissioner Barton

ALTERNATE MEMBERS ABSENT: Commissioner Dhatt and Ding

OTHERS PRESENT: J.D. Hightower, Executive Officer, Tom Hallinan, Legal Counsel; Mitzi Stites, Commission Clerk/Analyst; and Claudia Iboa, Administrative Assistant

CONSENT ITEMS

The Chairman introduced Agenda Item No. 1, Summary of Minutes.

The Chairman introduced Agenda Item No. 2, Out-of-agency services request to the City of Stockton is to provide out-agency sewer service outside the City boundary under Government Code §56133 to 1721 N. Golden Gate Avenue in Stockton.

Chairman Patti opened the floor to Commissioner Comments

No Comments were made.

Chairman Patti opened the floor to Public Comments

No Comments were made.

A motion was made by Commissioner Breitenbucher and seconded by Commissioner Villapudua to approve the Consent Items.

Chairman Patti asked for a Roll Call Vote:

Ayes: Commissioners Barton, Breitenbucher, Diallo, Johnson, Villapudua and Chairman Patti



Noes: None

PUBLIC HEARING

3. INDELICATO REORGANIZATION TO THE CITY OF MANTECA (L AFC 33-23)
(Action by Regular Members)

Request to annex approximately 40 acres to the City of Manteca with concurrent detachment from Lathrop -Manteca Fire Protection District and the San Joaquin County Resources Center.

Chair Patti stated that he is open to a motion for the Commission to table and reconsider this item at a later date upon settlement of issues affecting the planned, orderly development within the City's Sphere of Influence.

The Commission discussed the matter. Executive Officer J.D. Hightower presented a presentation on the project with the recommendation to approve. Lea Simvoulakis, Deputy Director of Planning, City of Manteca, addressed the Commission.

Chairman Patti opened the floor to Public Comments.

No Comments were made.

Moton was made by Chairman Patti and seconded by Commissioner Villapudua to pull Indelicato Reorganization to the City of Manteca until further issues affecting the planned, orderly development within the City's Sphere of Influence are answered.

Chairman Patti asked for a Roll Call Vote:

Ayes: Commissioners Diallo, Johnson, Villapudua, and Chairman Patti

Noes: Commissioner Breitenbucher

ACTION ITEMS

4. ELECTION OF CHAIR AND VICE-CHAIR
(Action by All Members)

Election of Chair and Vice-Chair to serve during the 2024 calendar year.

Chairman Patti nominated Vice Chair Johnson as Chairman.

With no other nominations, Chairman Patti closed the nominations for Chair.

Chairman Patti asked for a Roll Call Vote:

Ayes: Commissioners Barton, Breitenbucher, Diallo, Johnson, Villapudua and Chairman Patti

Noes: None

Chairman Patti made a motion to nominate Commissioner Diallo as Vice-Chair.
No other nominations were made.

Chairman Patti asked for a Roll Call Vote.

Ayes: Commissioners Barton, Breitenbucher, Diallo, Johnson, Villapudua and Chairman Patti

Noes: None

Outgoing Chair Patti asked incoming Chair Johnson if he could continue the meeting as Chair.
Incoming Chair Johnson agreed.

Executive Officer Hightower presented Chairman Patti with a gavel and thanked him for his year of service.

SPECIAL MATTERS

5. COMMISSION MEETING CALENDAR FOR 2024

Chairman Patti introduced the Commission Meeting schedule for the 2024 year.

PUBLIC COMMENTS

6. Persons wishing to address the Commission on matters not otherwise on the agenda.

Bob Bentz addressed the Commission.

Kathy Garcia addressed the Commission.

EXECUTIVE OFFICER COMMENTS

7. Comments from the Executive Officer

Mr. J.D. Hightower, Executive Officer informed the Commission that there is a California Special Districts Conference in San Louis Obispo February 4, 2024, through February 7, 2024.

COMMISSIONER COMMENTS

8. Comments, Reports, or Questions from the LAFCO Commissioners

Commissioners thanked Chairman Patti for his service this past year.

CLOSED SESSION

9. Open Session Disclosure Regarding Closed Session Items pursuant to Government Code Section 54957.7

10. Closed Session

Conference with Legal Counsel-Existing Litigation pursuant to Government Code Section 54956.9(a)

Name of Case: Tracy Rural County Fire Protection District with the City of Tracy as named Real Party of Interest v. San Joaquin LAFCo (San Joaquin County Superior Court Case No. 2019-9687)

11. Closed Session

Interviews and potential selection for LAFCo General Legal Counsel

12. Open Session Report on Closed Sessions pursuant to Government Code Section 54957.1

Chairman Patti inquired about what items will be discussed in Closed Session.

Mr. Tom Hallinan, Legal Counsel, stated that there will be no discussion regarding Agenda Item 10 but the Commission will proceed with Agenda Item 11.

Chairman Patti called Closed Session at 9:48 a.m.

Chairman Patti called the General Meeting back into session at 1:12p.m. Chairman Patti stated that with a vote of 6-0 White Brenner, LLP, will be Legal Counsel for San Joaquin LAFCo.

ADJOURNMENT

Chairman Patti adjourned the meeting at 1:13 p.m.

Agenda Item 2



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EXECUTIVE OFFICER'S REPORT

February 14, 2024

TO: LAFCo Commissioners
FROM: Jeffery Hightower, Executive Officer
SUBJECT: **CITY OF STOCKTON OUT-OF-AGENCY SERVICE REQUEST**

Recommendation

It is recommended that the Commission approve the requests from the City of Stockton to provide Out-of-Agency sewer service under the Government Code §56133 to property located at 2754 Robindale, 2742 Robindale, 2042 Report Ave, 3308 S. B St, and 1651 Stanford Ave in Stockton.

Background

Government Code Section §56133 states that the Commission may authorize a city or special 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 and that prior to providing new or extended service, the city or district must first receive approval from LAFCo. The Commission adopted a policy that conditions their approval for out-of-agency service requiring the recordation of an agreement with the landowner consenting to annexation of their property when annexation becomes feasible.

The City of Stockton submitted a request for approval to extend sanitary sewer services to single-family residences outside the city limits but within the city's sphere of influence. A vicinity map is attached showing the location of the out-of-agency requests connections city to sewer lines are available to the properties and the property owner's have paid the appropriate connection fees to the city. The request for out-of-agency service are in compliance with the Government Code §56133 and Commission policies. Please note that the blue line shows the sewer line and the circle reflects the connection locations. Staff recommends approval of the attached Resolution 24-1533 approving out-of-agency services.

Attachment: Resolution No. 24-1533
Vicinity Maps

Resolution No. 24-1533

BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION APPROVING AN OUT-OF-AGENCY SANITARY SEWER SERVICE FROM THE CITY OF STOCKTON TO 2754 ROBINDALE, 2742 ROBINDALE, 2042 REPORT AVE, 3308 S. B ST, AND 1651 STANFORD AVE IN STOCKTON

WHEREAS, the above-reference requests have been filed with the Executive Officer of the San Joaquin Local Agency Formation Commission pursuant to §56133 of the California Government Code.

NOW THEREFORE, the San Joaquin Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. Said out-of-agency service request is hereby approved.

Section 2. The proposal is found to be Categorically Exempt from CEQA.

Section 3. The proposal is subject to the following conditions:

- a. Prior to connection to the city sewer, the City of Stockton shall record a covenant and agreement with the property owners to annex to the City of Stockton in a form acceptable to the Executive Officer.
- b. This approval and conditions apply to current and future property owners.

PASSED AND ADOPTED this 14th day of February 2024 by the following roll call vote:

AYES:

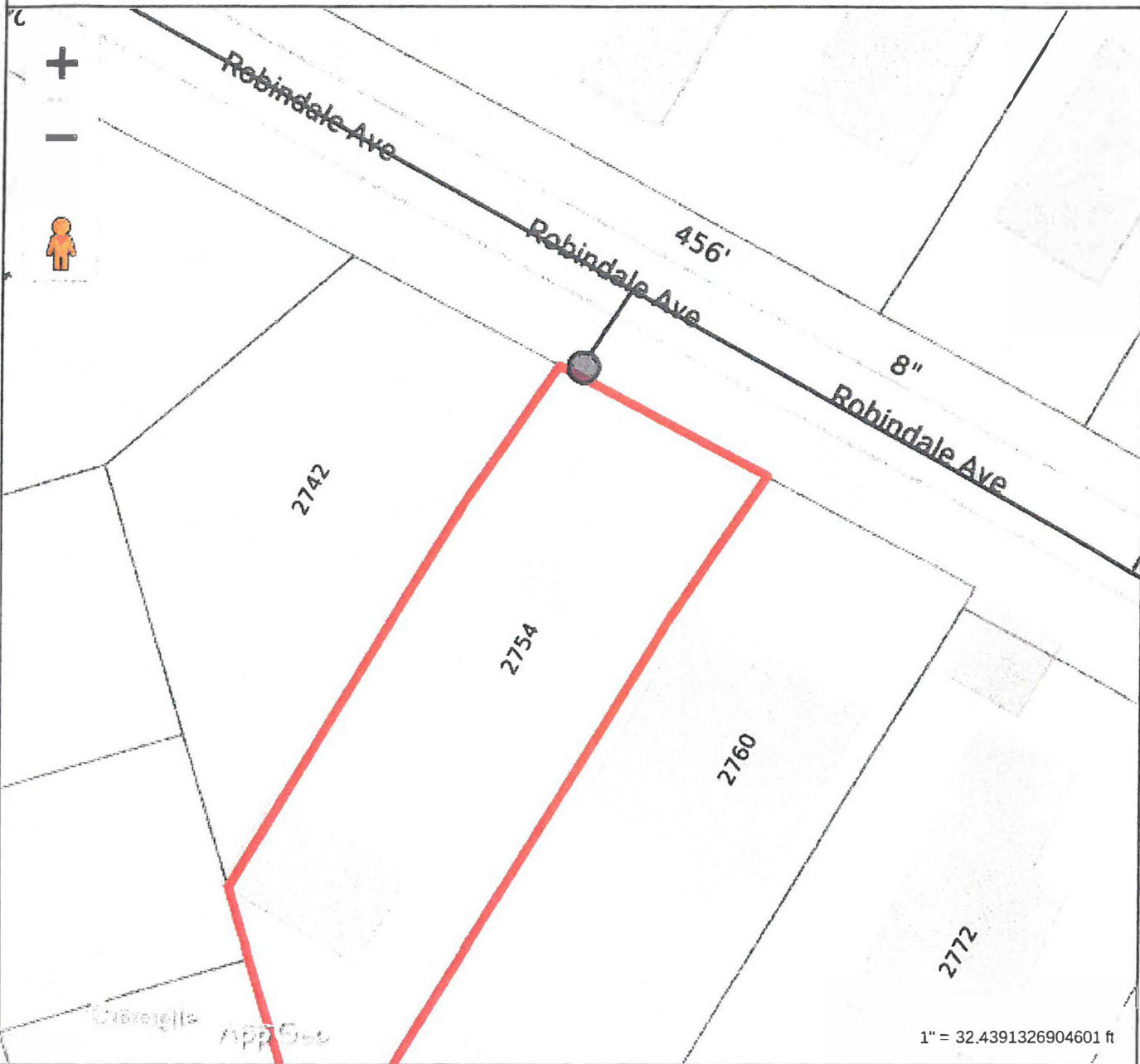
NOES:

ABSTAIN:

PETER M. JOHNSON CHAIRPERSON
SAN JOAQUIN LOCAL AGENCY
FORMATION COMMISSION

ATTEST:

MITZI STITES, COMMISSION CLERK
SAN JOAQUIN LOCAL AGENCY
FORMATION COMMISSION



Property Information

Property ID 11924032-144807
Location 2754 ROBINDALE AV
Owner CSRP LLC



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Stockton, CA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 05/03/2023
Data updated 05/01/2023

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



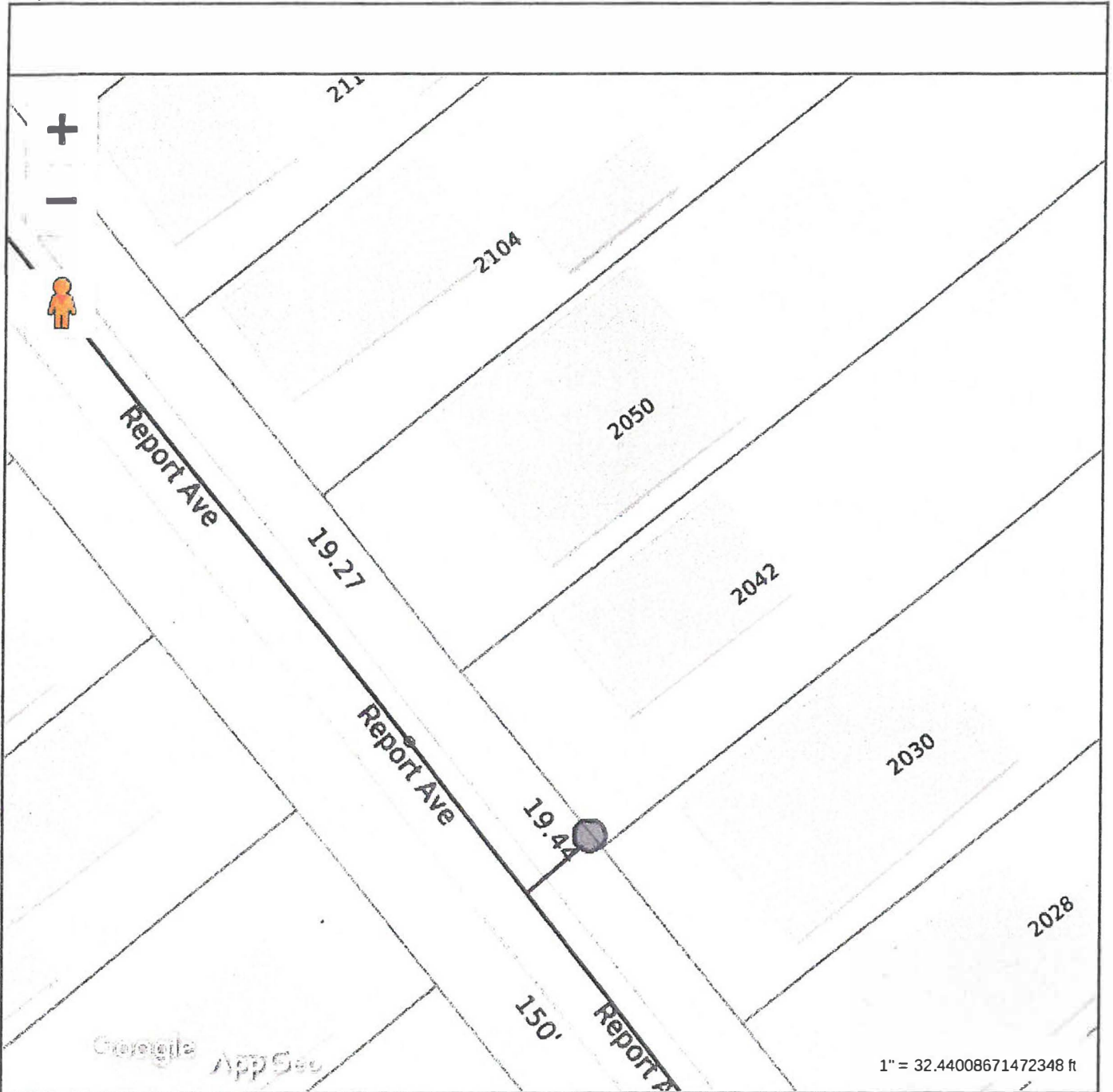
Property Information	
Property ID	11924033-144816
Location	2742 ROBINDALE AV
Owner	CSRP LLC

**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**


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Geometry updated 05/03/2023
Data updated 05/01/2023

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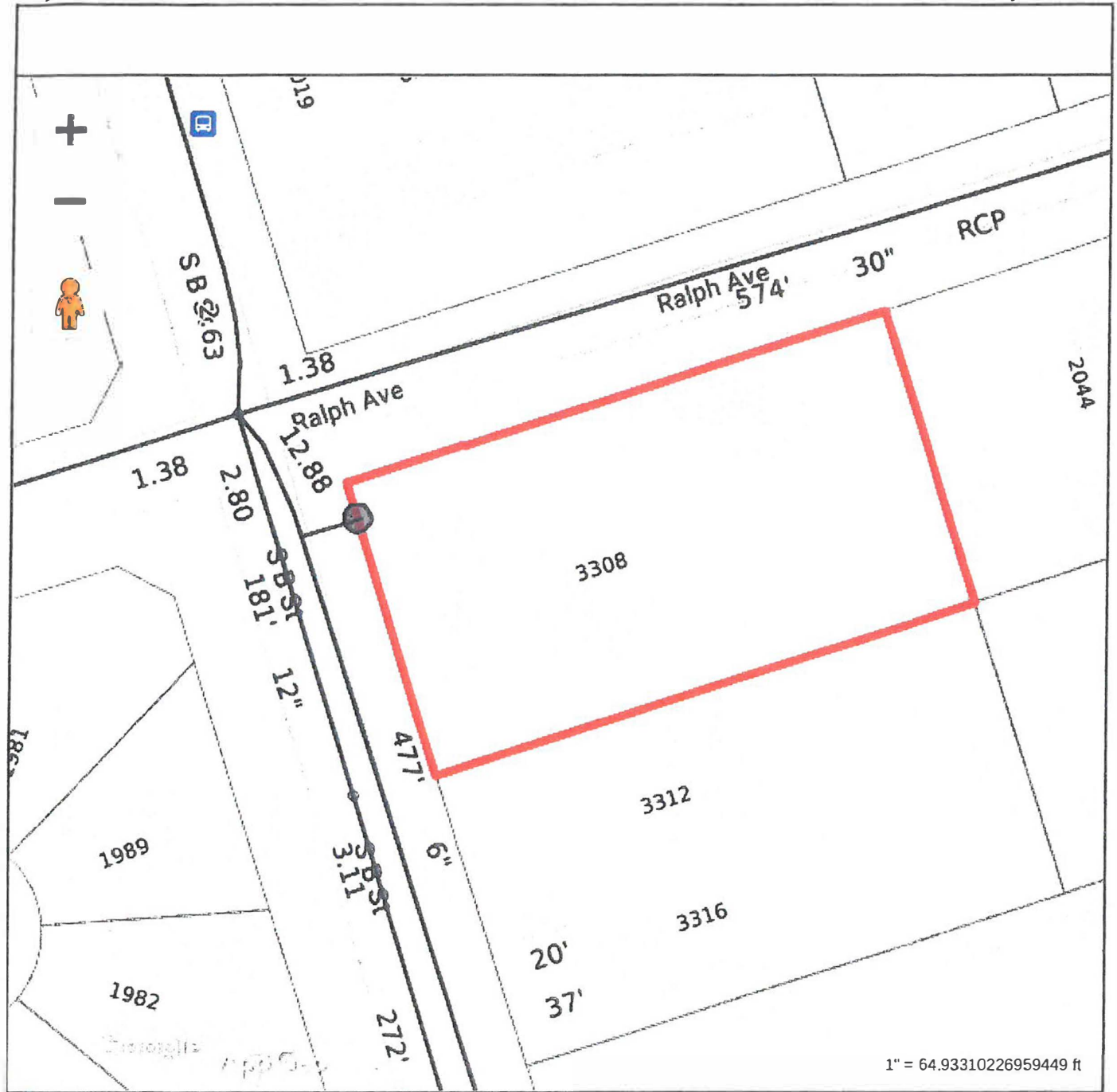
Property Information	
Property ID	17304078-105100
Location	1748 S MARIPOSA RD
Owner	HOGAN MFG INC


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Geometry updated 05/03/2023
Data updated 05/01/2023

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1" = 64.93310226959449 ft

Property Information

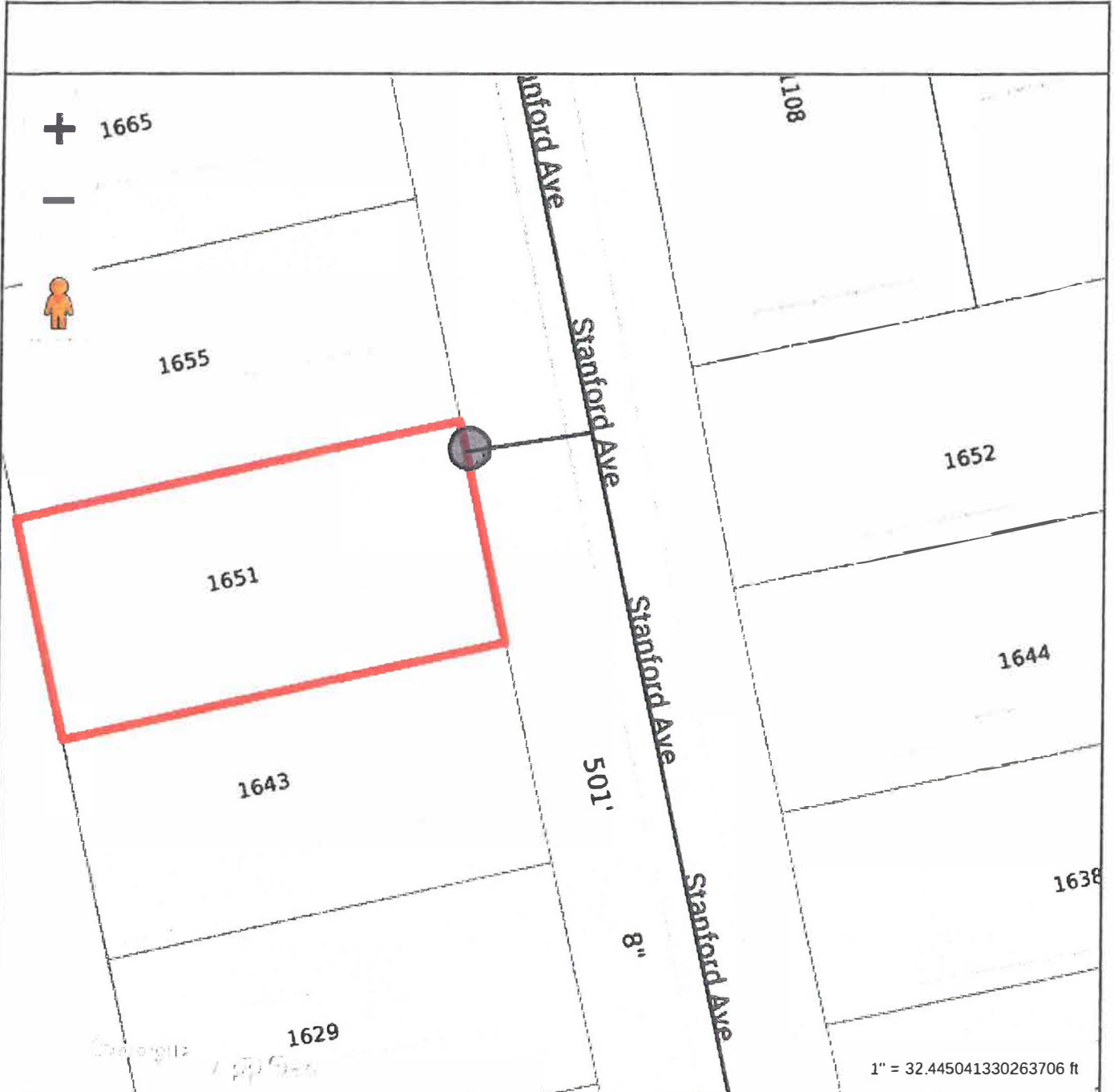
Property ID 17721009-105340
 Location 3308 S B ST
 Owner DOUGLAS, AUDREY ETAL

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Geometry updated 05/03/2023
Data updated 05/01/2023

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Property Information

Property ID 11718314-59312
 Location 1651 STANFORD AV
 Owner LEWALLEN, ROBERT J JR & CINDY L

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Geometry updated 05/03/2023
 Data updated 05/01/2023

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Agenda Item 3



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EXECUTIVE OFFICER'S REPORT

DATE: February 14, 2024
TO: LAFCo Commissioners
FROM: J.D. Hightower, Executive Officer
SUBJECT: **GENERAL COUNSEL AGREEMENT**

Recommendation

Government Code Section 56384(b) requires the Commission to appoint legal counsel to advise it on LAFCO-related actions. If the Commission's counsel is subject to a conflict of interest on a matter before LAFCO, the Commission is required to appoint an alternate legal counsel to advise it.

A request for proposal was circulated in November, 2023 to select LAFCO's general counsel. A total of four legal firms expressed interest in providing legal services to LAFCO. On January 11, 2024, the Commission interviewed the four firms and selected White Brenner, LLP (WB), to be general counsel.

WB has been acting at first as special counsel for Mountain House matters and then as interim general counsel since March 9, 2022. Their familiarity with SJLAFCo matters and advice given as special and interim counsel were noteworthy factors leading to the Commission selection.

The attached Professional Services Agreement memorializes the contractual arrangement for the provision of these services. Staff recommends that the Commission authorize the Executive Officer to execute a Professional Services Agreement in substantial conformity with the attached.



Balancing Community and Commerce

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**Request for Proposal (RFP)
San Joaquin Local Agency Formation Commission
Legal Counsel Services**

The San Joaquin Local Agency Formation Commission invites sealed proposals from qualified individuals and firms to be regular legal counsel.

All Proposals must be received by the San Joaquin Local Agency Formation Commission by 3:30 pm Tuesday, November 21, 2023. Please submit three (3) proposals and one electronic copy in a sealed envelope and clearly marked "Proposal for SJLAFCo Legal Counsel."

Proposals are to be delivered to:

San Joaquin Local Agency Formation Commission
Proposal for Legal Counsel
Attn: J.D. Hightower
44 North San Joaquin Street
Stockton, CA 95202

Any questions concerning the RFP should be directed to SJLAFCo Executive Officer, J.D. Hightower, in writing by mail at the above address or by email, jhightower@sjgov.org. Questions and responses may be made available to all potential bidders. A copy of this RFP and attachments can be obtained by contacting the J.D. Hightower, Executive Officer, San Joaquin Local Agency Formation Commission at (209) 468-3198 and can also be found on SJLAFCO,s website at www.sjlafco.org. We look forward to receiving your response.

Yours Truly,

J.D. Hightower

Executive Officer

**SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION (SJLAFCo)
REQUEST FOR PROPOSAL COMMISSION LEGAL
COUNSEL SERVICES (“RFP”)
(Bid Invitations)**

The San Joaquin Local Agency Formation Commission (SJLAFCo) is requesting proposals from qualified attorneys or law firms to provide legal services for the Commission.

Background and Legal Information:

1. The Commission

The San Joaquin Local Agency Formation Commission (SJLAFCo) is formed under provisions of Government Code Section 56000, et. seq., the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The regular meetings of the Commission are on the second Thursday of each month at 9:00 a.m.

The District employs 2.45 full-time employees. For more information, please visit our website at www.sjlafco.org.

2. Organizational Structure

The Commission, comprised of two (2) members of the San Joaquin County Board of Supervisors, two members of the City Councils of cities within San Joaquin County and a public at large member. There is an alternate member for the County, cities and public at large member. Individual cities have representation on the Commission on a rotational basis. Currently special districts are not represented on SJLAFCo. The operating budget of the Commission is approximately \$650,000 and the cost of such is split 50% County and 50% cities collectively on a per capita basis. The Executive Officer, Clerk/Analyst and part-time clerk implement the policies approved by the Commission and handle the Commission’s day-to-day operations.

3. Name of Contact Person

The Legal Counsel’s principal contact with SJLAFCo will be the Executive Officer, J.D. Hightower, and will coordinate the services to be provided. Mr. Hightower may be contacted at (209)468-3198 or via email at jhightower@sjgov.org

Scope of Legal Services to be provided as SJLAFCo Legal Counsel:

SJLAFCo needs an attorney with prior experience as legal counsel of Central Valley local government entities to be responsible for all facets of legal issues that might arise for the Commission. The Legal Counsel will be expected to keep current in all aspects of law relevant to a Legal Counsel of a Local Agency Formation Commission and provide counsel and support for the Commission and Executive Officer in the areas of legal compliance, ethics, liability, and risk avoidance. The following items are specifically required and are presented as a list of duties and scope of work.

Legal Counsel will perform services for SJLAFCo on an as-needed basis. Duties and responsibilities shall include the following:

1. Attendance at all meetings of the Commission for the purpose of providing legal services and consultation;
2. Attendance at such other meetings as requested by the Commission or Executive Officer;
3. Preparation and review of ordinances, resolutions, contracts, and other relevant documents concerning SJLAFCo's business;
4. Preparation of written legal opinions on matters concerning SJLAFCo business at the request of the Commission, or Executive Officer;
5. Analysis of proposed and enacted legislation, published legal opinions, and other matters that may have an impact on the operations of SJLAFCo;
6. Review of contracts, bid specifications, and purchasing documents for the purposes of legal and policy compliance, appropriate risk transfer, and risk analysis and avoidance;
7. Advise and counsel SJLAFCo on boundary adjustment issues, including laws and regulations; guidance on engagement with San Joaquin County and the cities of Stockton, Tracy, Manteca, Lathrop, Lodi, Ripon and Escalon as well as potentially the new City of Mountain House; and assessing impact on current SJLAFCo policies upon residents, stakeholders, and Commission governance;
8. On occasion, and when requested by the Commission or Executive Officer, consult with Agency staff and/or the Commission's labor counsel designee regarding personnel matters, labor relations matters, litigation, and other matters concerning SJLAFCo business, as requested (that may not otherwise be covered by Commission agreements with other legal resources).
9. Advise the Commission concerning whether to file claims or commence litigation; and represent the Commission in connection with certain claims and litigation filed by or against it. Generally, outside counsel will be retained in the event of a conflict of interest which disqualifies Commission Legal counsel from representation. Other counsel may be retained to defend or prosecute actions which in the opinion of current Commission Legal counsel require special expertise or where representation is being provided under a contract of insurance.
10. Provide advice and assistance to the Commission on matters of law, including the Brown Act, Government Code, Code of Regulations, conflict of interest and Political Reform Act and assisting them in seeking advice from regulatory agencies such as the Fair Political Practices Commission.
11. Such other activities as directed by the Commission, Executive Officer, or other designee.

Response Requested:

Your proposal must provide the following information:

- 1. Submittal Outside Cover Title** – Include the RFP title, submittal due date, and the name, address, and telephone number of principal submitting firm.
- 2. Cover Letter** – Provide a brief (maximum of two pages) submittal cover letter. State any changes to the format or deletions of requested materials, which may be a part of the submittal. Include a summary describing how the submitter proposes to provide the required services to the Commission.

3. Identification of Responder.

- a. Provide the legal name and address of the submitter.
- b. State the legal form of the submitter, i.e. partnership, corporation, joint venture, and so forth. If the submitter is a joint venture, identify the members of the joint venture team and provide all information required under this section for each member. If the submitter is a wholly owned subsidiary of a parent company, identify the parent company and its address.
- c. Provide the name, title, address, and telephone number of submitter's principal contact person for the RFP.

4. Qualifications of the attorney and, if applicable, the firm, including:

- a. A description of the attorney's qualifications and experience, including areas of expertise, accomplishments, previous employers/clients, etc.
- b. A description of the law firm including the size of the firm, other attorneys and support staff, scope (national, regional or local, and indicating the location of the responsible office). Explain the expertise of other members of the firm as it would benefit SJLAFCo.
- c. Provide office location and, if applicable, branch office that will perform the work described. Describe any steps that will be taken to address and minimize potential issues with availability for meetings, communications, consultation or expenses.
- d. A resume/curriculum vitae including years of experience, education, professional affiliations, etc.
- e. Relevant prior experience, specifically including work as Legal Counsel for special districts.
- f. A list of references from Central Valley cities, special districts or agencies of a similar type, scale, and complexity, which have utilized your services including addresses and phone numbers of elected officials or key agency staff who are familiar with your performance and number of years served. Respondents must submit at least three (3) total references.
- g. A description of legal services performed for California cities special districts and other relevant public agencies in the Central Valley region.
- h. A description of backup attorney(s) within your firm who would be available in your absence and other support staff, both professional and administrative, who would provide resources to this engagement. Resumes of key staff, particularly backup attorney(s), should be included. Backup attorney(s) should have prior qualifying experience while acting in the capacity as Legal Counsel or Assistant Legal Counsel for cities, special districts or other similar public agencies.
- i. Any regulatory action, tax liens or legal sanctions taken against the attorney or firm.
- j. Services, if any, that have not been listed in this RFP that you believe might bring "value-added" to the scope of work proposed by your firm. Value-added includes services that might otherwise be provided by the firm which could be made available to SJLAFCo Commissioners and staff at no increased cost. Some examples of value-added are: the opportunity to attend

firm-sponsored or provided training, a newsletter or annual legal update publication, a firm-sponsored client-only research webpage, a library of existing opinion letters that might be customized to apply to the needs of SJLAFCo, etc.

5. Legal approach:

- a. A statement of how you plan to meet or exceed the scope of work for Legal Counsel Services described above. This should include, at a minimum, the legal approach to providing the requested services, organization of your effort/team and expectation of assistance from SJLAFCo staff.
- b. A statement of your availability to provide these services based on other clients and commitments.

6. Fees:

A full description of proposed fees (and/or retainers required to secure services) for the Legal Counsel and for all support attorneys and personnel anticipated to participate in this engagement, including whether you charge for travel time and, if so, whether you provide reduced rates for travel time.

Fees for the review of projects is required. The project review fee shall be a flat fee collected by LAFCo staff and is expected to cover the costs for more routine type of projects. On occasions projects may be submitted that will require additional fees to be collected. An estimate for the review of such projects shall be submitted within 30 days of project submittal, prior to the issuance of a Certificate of Filing.

7. Disclosures:

Disclosures of actual and potential conflicts of interest, if any, including but not limited to identifying each and every matter in which the attorney or firm has, within the past calendar year, represented any entity or individual with an interest adverse to the SJLAFCo, its Commissioners or staff, or any of the boards, agencies, commissions, or organizations to which SJLAFCo belongs. Provide a statement concerning other potential areas for conflicts of interest to arise because of your work or the work of others in your firm.

Submittal Requirements

- 1. Number of Copies** – Submit two (2) fully executed originals, clearly marked on the cover.
- 2. Authorization** – The submittal shall be signed by an individual or individuals authorized to execute legal documents on behalf of the submitter.
- 3. Sealing and Delivery** – The submittal must be SEALED, marked CONFIDENTIAL, and RECEIVED on or before , November 21, 2023 at 3:00 p.m. at the office of:

San Joaquin Local Agency Formation Commission
Attn: J.D. Hightower, Executive Officer
44 North San Joaquin Street, Suite 374
Stockton, CA 95202

4. Compliance

- a. Failure to substantially comply with the requirements of this RFP may result in submitter's RFP submittal not being considered.
- b. SJLAFCo reserves the right to revise this RFP prior to the due date. Revisions to the RFP shall be mailed to all holders of record. SJLAFCo also reserves the right to add or delete areas of expected legal advice and work as conditions change from time to time.
- c. SJLAFCo will answer questions submitted in writing in the form of Addendum to be issued to all holders of record and posted online no later than three (3) days prior to the submittal deadline. All questions should be submitted to jhightower@sjgov.org.
- d. SJLAFCo reserves the right to extend the date by which the submittals are due.

Evaluation:

Proposals will be initially evaluated by the members of the SJLAFCo Ad Hoc Legal Counsel RFP Committee. The committee will present its recommendations of the most qualified Respondents to the Commission along with the submitted RFPs. The Commission will decide upon a select group of Respondents to interview in person through a process established by the Commission.

Criteria:

Your proposal will be reviewed and evaluated based on your overall qualifications. Proposals should be concise and to the point to facilitate ease of evaluation. You will be judged on the following criteria, and not solely on the lowest fee.

1. Qualifications of the attorney including recent experience providing Legal Counsel Services to cities, special districts and public agencies.
2. Qualifications of the attorney and assigned backup/support team.
3. Understanding of the engagement.
4. Acceptability of legal approach and ability to meet deadlines and commitments.
5. Overall fees.
6. Suggestions or offers of additional services that might be considered as value-added.

Selection Process

SJLAFCo will review the proposals and selected attorneys will be asked to participate in an interview.

Terms and Conditions

1. This RFP does not commit SJLAFCo to award a contract or contracts, to defray any cost incurred in the preparation of a response to this request, or to procure or contract for services. All submittals become the property of SJLAFCo as public records. All submittals may be subject to public review on request, unless exempted.

2. SJLAFCo reserves the right to negotiate and award any element of this RFP, to reject any or all proposals or to waive any minor irregularities or technicalities in proposals received as the best interest of SJLAFCo.
3. SJLAFCo reserves the right to cancel, in part or in its entirety, this RFP including, but not limited to, selection schedule, submittal date and submittal requirements. If SJLAFCo cancels or revises the RFP, the Executive Officer or designee will notify all respondents of record in writing.
4. SJLAFCo reserves the right to request additional information and/or clarifications from any or all respondents to this RFP.
5. Respondent will be responsible for all costs incurred in preparing a response to this RFP. All material and documents submitted will become the property of SJLAFCo and will not be returned.

AGREEMENT FOR GENERAL COUNSEL SERVICES

THIS AGREEMENT FOR GENERAL COUNSEL SERVICES ("Agreement") is made and entered into the [REDACTED] day of February 2024 (the "Effective Date"), by and between the San Joaquin Local Agency Formation Commission, a California Government Agency ("LAFCO"), and the law firm of White Brenner LLP, a California limited liability partnership ("Firm"). LAFCO and Firm may be referred to herein individually as a "Party" or collectively as the "Parties". There are no other parties to this Agreement.

RECITALS

A. On November 23, 2023, Firm submitted a proposal for services to LAFCO (the "Proposal").

B. Government Code Section 56375 authorized LAFCO to contract for professional services with a person who is trained and experienced, and who is competent to perform the services required so as to carry out and effect the functions of the commission.

C. Firm has the expertise, special skills, knowledge and experience to perform tasks set out herein.

D. The Parties wish to enter into this Agreement to authorize the Firm to provide to LAFCO the legal services contemplated herein and memorialize the mutual obligations between the Parties.

NOW, THEREFORE, in consideration of the mutual covenants entered into between the Parties, and in consideration of the benefits that accrue to each, it is agreed as follows:

AGREEMENT

Section 1. Recitals. The Recitals above are true and correct and are hereby incorporated into and made a part of this Agreement. In the event of any inconsistency between the Recitals and Sections 1 through 29 of this Agreement, Sections 1 through 29 shall prevail.

Section 2. Appointment. LAFCO hereby retains Firm to provide General Counsel services required by LAFCO, and Firm hereby agrees to perform such legal services. Nubia I. Goldstein, Partner of Firm, is hereby retained as General Counsel, and Douglas L White and Thomas P. Hallinan are hereby retained as Deputy General Counsel.

Section 3. Effective Date. This Agreement shall become effective, and Firm shall commence performance under the terms of this Agreement on [REDACTED], 2024 ("Effective Date").

Section 4. Integrated Agreement. This Agreement contains all of the agreements of the Parties, and all previous understandings and negotiations are integrated into this Agreement.

Section 5. Intentionally omitted.

{CW135626.2}

Section 6. Legal Services. The legal services to be provided under this Agreement shall include the legal services ("Legal Services") which are detailed as follows:

- A. Firm at the request of LAFCO shall provide general counsel Legal Services to the LAFCO Commission and Executive Officer when requested on issues of general municipal or administrative law on matters relating to the Cortese-Knox-Hertzberg Local Government Reorganization act of 2000, set forth in Government Code section 56000 et seq. ("CKH"), or case law specifically involving local government boundaries or organization in the Central Valley of California.
- B. Firm shall review and comment on documents prepared by LAFCO staff including staff reports, resolutions, correspondence, administrative policies, and other documents in a timely manner.
- C. Firm will advise LAFCO on complex resolutions and reports that have specific legal issues.
- D. Firm will attend all public meetings of the Commission and advise the Commission on rules of procedure.
- E. Firm has previously provided such services to Central Valley public entities in recent years. Firm shall make certain and confirm to LAFCO that there are no conflicts of interest when notified that an application is received by Firm for project entitlement pursuant to the CKH.

Section 7. Compensation.

7.1. Hourly Rate for General Counsel Legal Services. The charges for general counsel legal Services shall be a flat monthly amount of Two Thousand Dollars (\$2,000.00) ("Flat Monthly Amount") commencing February 1, 2024. A list of general counsel legal Services include but are not limited to the General Legal Services as defined in the submitted Proposal, as attached hereto as **Exhibit A**. The Flat Monthly Amount shall not include any specialized legal services ("Special Legal Services"). Special Legal Services include, but are not limited to, all litigation, arbitration, and mediation activities (including appellate work) and legal advice or representation regarding any project before LAFCO that is particularly complex as determined by the Executive Officer and the Firm. Special Legal Services performed by Firm will be charged at a rate of Two Hundred Ninety-Five Dollars (\$295.00) an hour, as set forth below, which will be in addition to the Flat Monthly Amount.

7.1.1 Non-Reimbursable Legal Services. LAFCO shall pay Firm at a blended rate of Two Hundred Ninety-Five Dollars (\$295.00) for all partners, of counsels, associates, paralegals, and law clerks for all Special Counsel Legal Services which would not be reimbursable to LAFCO.

7.1.2 Reimbursable Legal Services. Maximum payments by LAFCO to Firm for individual entitlement application review shall not exceed the legal review fee collected by LAFCO currently set at One Thousand and Forty-Six Dollars (\$1,046.00), as periodically amended. If Firm believes an individual entitlement review fee will exceed this amount, the Firm

{CW135626.2}}

shall notify the Executive Officer immediately with an estimated scope of review and fee that will cover the review of that individual entitlement. Review of individual entitlement applications shall be billed at the rates set forth in this subsection 7.1.2. LAFCO shall be responsible for any fees or costs incurred above or beyond the individual project review fee. Contractor shall perform the review of an individual project application upon written approval by the Executive Officer or LAFCO Commission. LAFCO shall pay Firm at a blended rate of Three Hundred Ninety-Five Dollars (\$395.00) per hour for all partners, of counsels, associates, paralegals, and law clerks for all Legal Services which would be reimbursable to LAFCO.

7.1.3. CPI Increase. The rates herein will be adjusted annually on March 1 (the "Anniversary Date") in accordance with an increase in the All Urban Consumer Price Index for the San Francisco-Oakland-San Jose area ("CPI") existing on the Anniversary Date but will not be decreased in the event there is any year-to-year or cumulative decrease in the CPI during the Term of this Agreement, as defined below. Any changes in the Firm's rates shall become effective following a thirty (30) day notice to the LAFCO.

7.2. Outside Counsel. If Firm requires assistance from attorneys not associated or affiliated with Firm who specialize in a specific field, such as tax or bankruptcy, with regard to services within the scope of the Services listed above, Firm will charge, and LAFCO agrees to pay the billing rates for those attorneys. Firm shall obtain the consent of LAFCO's Executive Officer prior to engaging any attorney not affiliated or associated with Firm to provide legal services to LAFCO.

7.3. Costs, Expenses & Advances. LAFCO shall pay for all costs, expenses or advances incurred by Firm to perform work, on behalf of LAFCO, and services provided by or obtained through the Firm on behalf of LAFCO, including travel time to public meetings and to and from other requested meetings, other than the services already described in this Agreement ("Costs"). Such Costs shall be the actual cost of the service obtained and there shall be no mark-up of the Costs by Firm. Costs include, but are not limited to: outside courier service, court runner service, court reporter services, and transportation costs. The Parties agree that LAFCO shall pay the Costs of copying and printing at a rate of Twenty Cents (\$0.20) per page. LAFCO shall pay Costs for transportation including, reasonable expenses for meals and lodging and mileage calculated at the rate per mile that is provided by the Internal Revenue Service at the time the expense is incurred. All Costs shall be itemized on the Firm's monthly invoice to LAFCO.

7.4. Included Services. Notwithstanding any other provision in this Agreement to the contrary, LAFCO will not be required to pay any separate or additional charge for the following:

- a. Secretarial, word processing or clerical services which are included in the hourly rates of the Firm's legal professionals;
- b. Charges associated with telephone or facsimile services.

7.5. Invoices and Statements.

a. Firm shall provide LAFCO with an itemized statement or invoice for fees, costs and expenses incurred on a monthly basis. All statements and invoices shall indicate the basis for all charges, including the hours worked and Costs incurred, the hourly rate, and a brief description of the work performed. Firm will establish separate billing projects for specific matters and funding categories as LAFCO may direct. Reimbursable Cost Recovery Services and fees will be separately itemized.

b. Payments shall be made by LAFCO to Firm within thirty (30) days of receipt of any statement or invoice, except for those specific items on an invoice that are contested or questioned and are returned by LAFCO with a written explanation of the question or contest, within thirty (30) days of receipt of the statement or invoice. Payments made to Firm more than thirty (30) days after the due date shall draw interest at ten percent (10%) per annum except as otherwise set forth herein.

Section 8. Term and Termination. This Agreement shall be effective upon the Effective Date and continue in effect through July 1, 2027, for the purposes of Services through the fiscal year ending June 30, 2027, with the option to extend the contract for three (3) additional years. Extension of this agreement shall require mutual written consent by the Firm and LAFCO and shall be considered an amendment to this Agreement to be processed in accordance with Section 12. Firm shall commence performance of requested Services upon notification and shall diligently perform such Services. Notwithstanding the foregoing, LAFCO or Firm may terminate the Agreement upon thirty (30) days advance written notice to the non-terminating party. Upon termination Firm shall be entitled to and LAFCO shall immediately pay all amounts owed to Firm.

Section 9. Independent Contractor. Firm shall perform all Legal Services required under this Agreement as an independent contractor of LAFCO, and shall remain, at all times as to LAFCO, a wholly independent contractor with only such obligations as are required under this Agreement. Neither LAFCO, nor any of its employees, shall have any control over the manner, mode, or means by which the Firm, its agents or employees, render the legal services contemplated by this Agreement, except as otherwise set forth. LAFCO shall have no voice in the selection, discharge, supervision or control of Firm employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service.

Section 10. Conflicts.

10.1 No Present Conflicts. Firm has no present or contemplated engagement that is adverse to LAFCO. Firm agrees that it shall not represent clients in matters, either litigation or non-litigation, against LAFCO. However, Firm may have past and present clients or may have future clients, who, from time to time, may have interests adverse to LAFCO, and the Firm reserves the right to represent such clients in matters not connected with its representation of LAFCO.

10.2 Duty to Disclose Future Conflicts. If a potential conflict of interest arises in the Firm's representation of two clients, if such conflict is only speculative or minor, Firm shall inform LAFCO and seek waivers from each client with regards to such representation. However, if a real conflict exists, Firm will withdraw from representing both clients in the matter and assist them in obtaining special counsel.

Section 11. Errors and Omissions Insurance Coverage. During the Term of this Agreement, Firm shall at all times maintain insurance coverage for Errors and Omissions with a limit not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate. A certificate of insurance shall be provided to LAFCO within thirty (30) days of execution of this Agreement. In the event that any coverage required by this section is reduced, limited or materially affected in any manner, Firm shall provide written notice to LAFCO at Firm's earliest possible opportunity and in no case later than thirty (30) days after Firm is notified of the change in coverage.

Section 12. Amendment. This Agreement may be amended at any time by the mutual consent of the Parties by an instrument in writing signed by both Parties. Any non-material changes (e.g., Firm name changes) to the Agreement may be approved in writing by the LAFCO Board and Firm.

Section 13. Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement are declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties herein.

Section 14. Counterparts. This Agreement may be executed simultaneously and, in several counterparts, each of which shall be deemed an original, but which together shall be deemed one and the same instrument.

Section 15. Notices. Any notice or communication required hereunder between LAFCO and Firm must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days

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written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below.

If to LAFCO: San Joaquin Local Agency Formation Commission
44 North San Joaquin Street, Suite 374
Stockton, California 95202
Attention: JD Hightower, Executive Officer
Tel: (209) 468-3198

If to Firm: White Brenner, LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Douglas L. White, Esq.
Tel: (916) 468-0950
Fax: (916) 468-0951

Section 16. Governing Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed pursuant to the laws of the State of California.

Section 17. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of San Joaquin.

Section 18. Waiver. A waiver by any Party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such Party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

Section 19. Entire Agreement. This Agreement, together with its specific references, attachments and exhibits, constitute all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the Parties hereto with respect to the subject matter of this Agreement. Unless set forth herein, neither Party shall be liable for any representations made express or implied not specifically set forth herein.

Section 20. Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties hereto with respect to the subject matter of this Agreement.

Section 21. Captions. The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 22. Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” or “can” are permissive.

Section 23. Successors and Assigns. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of or for the benefit of any or all of the Parties hereto, shall be binding upon an inure to the benefit of such Party, its successors and assigns.

Section 24. Other Documents. Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and to that end, agree to execute and deliver such other instruments or documents as may be necessary and convenient to the fulfill the purposes and intentions of this Agreement.

Section 25. Time is of the Essence. Time is of the essence in this Agreement in each covenant and term and condition herein.

Section 26. Authority. All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement had been fully complied with.

Section 27. Document Preparation. This Agreement will not be construed against the Party preparing it, but will be construed as if prepared by all Parties.

Section 28. Advice of Legal Counsel. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement.

Section 29. Attorney’s Fees and Costs. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

SIGNATURE PAGE TO IMMEDIATELY FOLLOW

IN WITNESS WHEREOF, this Agreement has been entered into by and between LAFCO and Firm as of the date of execution by the LAFCO.

SAN JOAQUIN LOCAL AGENCY
FORMATION COMMISSION,
a California Government Agency

By: _____
JD Hightower, Executive Officer

Date Signed: _____

WHITE BRENNER, LLP,
a California Limited Liability Partnership:

By: _____
Douglas L. White, Managing Partner

Date Signed: _____

Agenda Item 4



Balancing Community and Commerce

44 N. SAN JOAQUIN STREET □ SUITE 374 □ STOCKTON, CA 95202 □ 209-468-3198

EXECUTIVE OFFICER'S SUPPLEMENTAL REPORT

DATE: February 14, 2024
TO: LAFCo Commissioners
FROM: J.D. Hightower, Executive Officer
SUBJECT: **Kiper at Indelicato Reorganization to the City of Manteca**

Recommendation

It is recommended that the requested reorganization be conditionally granted to the City of Manteca. Discussion of all required findings for this request are within the original staff report for the January 11, 2024.

Since the last meeting, Kiper Homes, the developer, on January 13, 2024 submitted a letter fully highlighting most of the issues brought forward at the last meeting (please see Attachment 1).

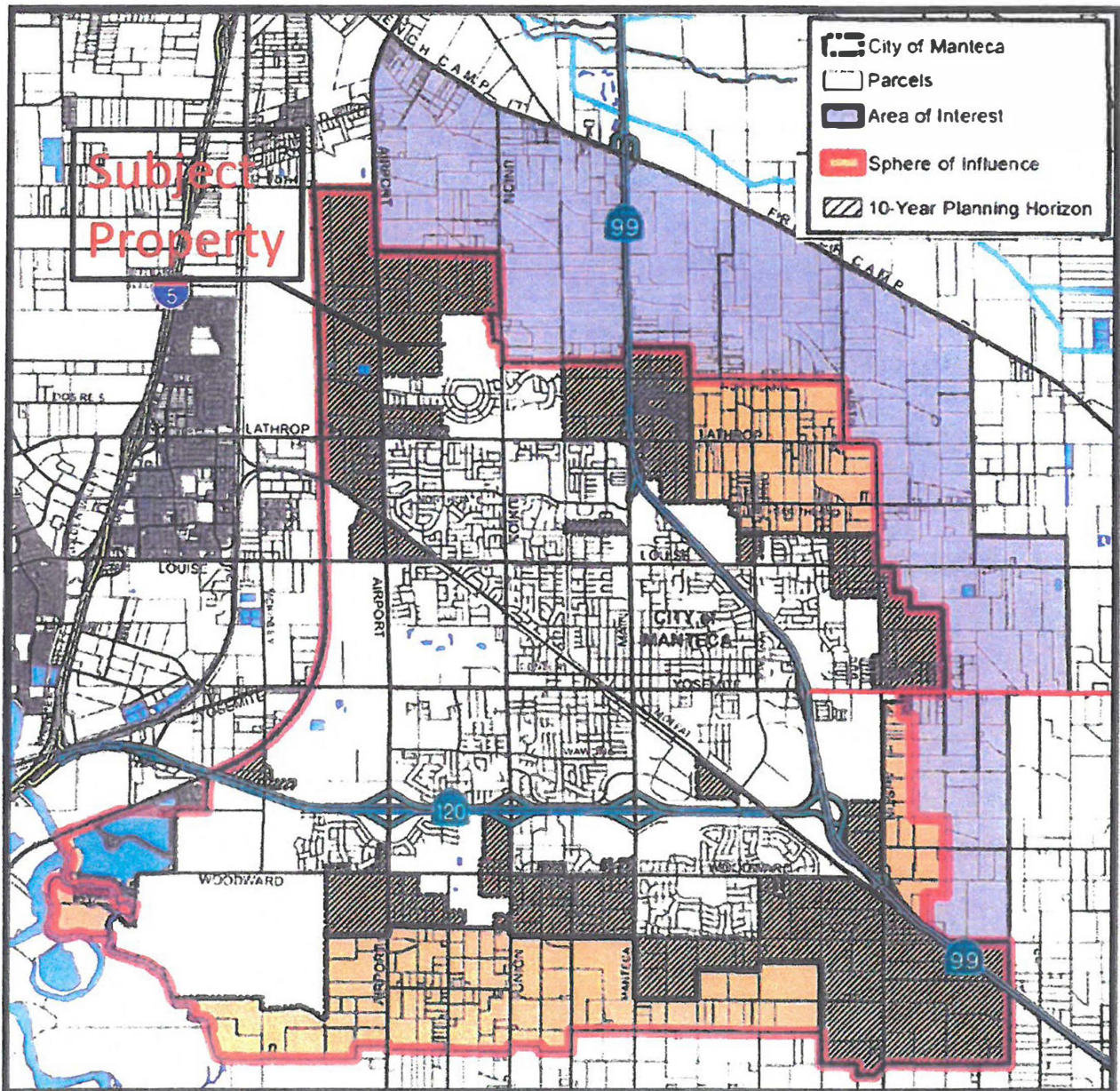
Also stated at the meeting and letter also addresses that the property has been designated for low density residential land use since Manteca's 2003 General Plan that LAFCo approved within Manteca's Sphere of Influence on August 15, 2008. (Please see map below). Fourteen (14) years later the City adopted Resolution R2023-87 authorizing submittal of an reorganization application. This action by the City was initiated by an application from KDH Group (Kiper Homes) for development of a 173 single family detached subdivision. The City determined the project to be consistent with the adopted General Plan designation of Low Density Residential.

In 2022 the Commission approved Manteca's Municipal Services Review (MSR). The parcel was identified to be within the 10 year planning horizon within this MSR (please see map below).

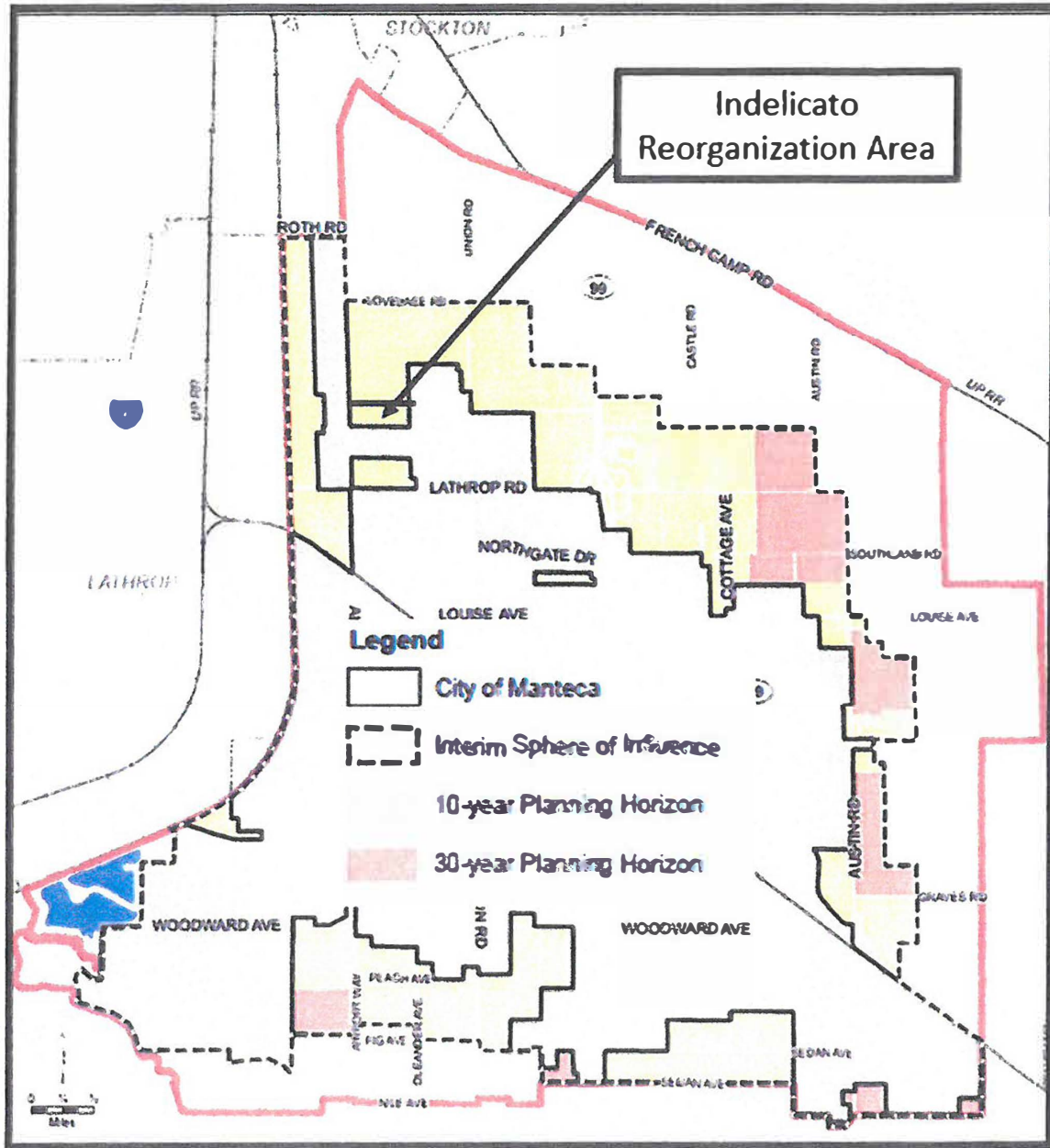
The issue of resolving land uses within Manteca's Sphere of Influence is being resolved. The Manteca Planning Commission heard and recommended approval of a General Plan Amendment that settles potential land use conflicts with Delicato Winery (please see Attachment 4). Noteworthy in reviewing this request are the applicable provisions of CKH. CKH Section 56076 defines a **Sphere of Influence (SOI) as a "a**

plan for the probable physical boundaries and service area of a local agency” CKH Section 56425 provides further guidance that a SOI is, “for planning and shaping the logical and orderly development and coordination of local governmental agencies.”

The commission developed and determined the sphere of influence of Manteca in the 2022 MSR. Accordingly, a key factor for Manteca’s SOI are logical boundaries so that the City can efficiently provide services. LAFCo cannot place conditions that would directly regulate land use density or intensity, property development, or subdivision requirements pursuant to CKH Section 56375(6).



2008 LAFCo Approved Sphere of Influence



2022 Sphere of Influence

Attachments:

Attachment 1 01/13/2024 Letter to Commission by Kiper Development, Inc.



January 13, 2024

VIA E-MAIL

San Joaquin County LAFCO Commissioners
44 N. San Joaquin Street, Suite #374
Stockton, CA 95202

Re: INDELICATO REORGANIZATION TO THE CITY OF MANTECA (LAF C 33-23)

Dear Commissioners,

I hope this letter finds you all well. My name is Michael Kiper, and I am writing on behalf of Kiper Homes. I was present at Thursday's LAFCO hearing, and so I am generally aware of concerns that have been expressed about our project at 14050 S. Airport Way. Although I do not know the *exact* nature of these concerns, I am writing in the hopes that I might be able to address them by providing additional maps and information that may be helpful.

As background, Kiper Homes is a private, family-owned homebuilder founded in Stockton by my father, Rick Kiper, more than 40 years ago, and now based in Alamo, CA. Kiper Homes has built in San Joaquin County for decades, most recently in Manteca and Lathrop (River Islands). In March of 2021, Kiper Homes contracted to purchase the 40 acre "Indelicato-Bloudoff" property at 14050 S. Airport Way. Since then, we have been working with City staff to design a suitable subdivision for the site, including extensive outreach with our neighbors in the area. We received dozens of comment letters from residents within the Del Webb community, and we made significant design concessions to address these comments to the satisfaction of Del Webb's representatives. At no point until our hearing on Thursday had we heard of any other concerns, so admittedly we were blindsided by Thursday's discussion.

First and foremost, by sharing some additional maps not provided at the hearing, I would like to more clearly distinguish 14050 S. Airport Way from the properties impacted by the discussed referendum on the 2023 General Plan update. As mentioned during the hearing, 14050 S. Airport Way was previously designated Low-Density Residential in the 2003 Manteca General Plan (see Attachment #1). Our project was approved by Manteca's City Council on June 20, 2023, pursuant to this enacted 2003 General Plan. **In other words, our project did not depend, in any way, on the 2023 General Plan Update changing the designation of the property to residential (because it was already designated as such).**

Please contrast this with the properties affected by the referendum. In the 2003 Manteca General Plan (again, see Attachment #1), everything south of the Delicato Winery was designated AG (Agricultural). Per the 2023 General Plan Update (see Attachment #2), this area south of the Delicato Winery would have changed to Low-Density Residential. The General Plan Update referendum, initiated by Delicato Winery, was evidently in protest to the new growth south of the winery that was added by the 2023 General Plan Update. **The referendum was not, and could not, be a referendum on the growth added by the 2003 General Plan (including our project at 14050 S. Airport Way), because the 2003 General Plan had already been approved 20 years prior.**

Since I heard this question asked at the hearing, I want to address the elephant in the room: the landowner's last name. We refer to our project as the "Indelicato-Bloudoff" property, as the property is currently owned by Robert J. Indelicato and his wife Leslie Bloudoff. Because the General Plan referendum was initiated by the nearby Delicato Family Winery, I fear some of the concerns might be summarized as follows: "Why is Delicato Winery fighting growth south of the winery, but not on the Indelicato property (the Kiper Homes project)? Is that fair?" Again, I would first point out the fact that the Indelicato property at 14050 S. Airport Way is designated residential in the 2003 General Plan, and so 14050 S. Airport Way was not newly proposed growth in the 2023 General Plan update. But as to the family connection – yes, they are relatives, but no, Robert Indelicato is not among the individuals that planned, initiated, or even supported the referendum. **Robert Indelicato does not work with his family at Delicato Family Wines, he does not live in Manteca, and he has had no input or involvement whatsoever in the winery's General Plan referendum.** If you check the thousands of signatures Delicato Vineyards secured to force the referendum, you will find that Robert Indelicato's name is not one of them.

In any event, if you look at the satellite imagery I've included as Attachment #3, you'll see there's a buffer of six hundred and fifty (650) single-family homes between the Kiper Homes project and the properties that were the subject of the referendum. **If Delicato Winery's concern is the proximity of residential growth to their winery, development of Kiper Homes' project 14050 S. Airport Way does nothing to increase the proximity of residential homes to the winery.** This would be true whether Kiper Homes' project was owned by an Indelicato relative, or if it was owned by anyone else. To draw a connection between the 14050 S. Airport Way property and the agricultural properties south of the Delicato Winery that would have changed to residential in the 2023 General Plan update (if not for the referendum), then, is seemingly to draw a connection based on the landowner's name alone and not on any other factual basis.

We certainly recognize the major impact that the 2023 General Plan Update will have on the region, and we sympathize with any landowners affected by the Delicato Winery's referendum that may feel the result was unfair. But our project (including the landowner of the property) has had *nothing* to do with *any* of that. To postpone, delay or deny this project, which has been designated Low-Density Residential for the past 20+ years, for anything having to do with the 2023 General Plan Update, the referendum, or the "Indelicato" family name would be an incredibly unfortunate and unfair blow to Kiper Homes. If permissible, we would love to meet with you to answer any questions that you may have.

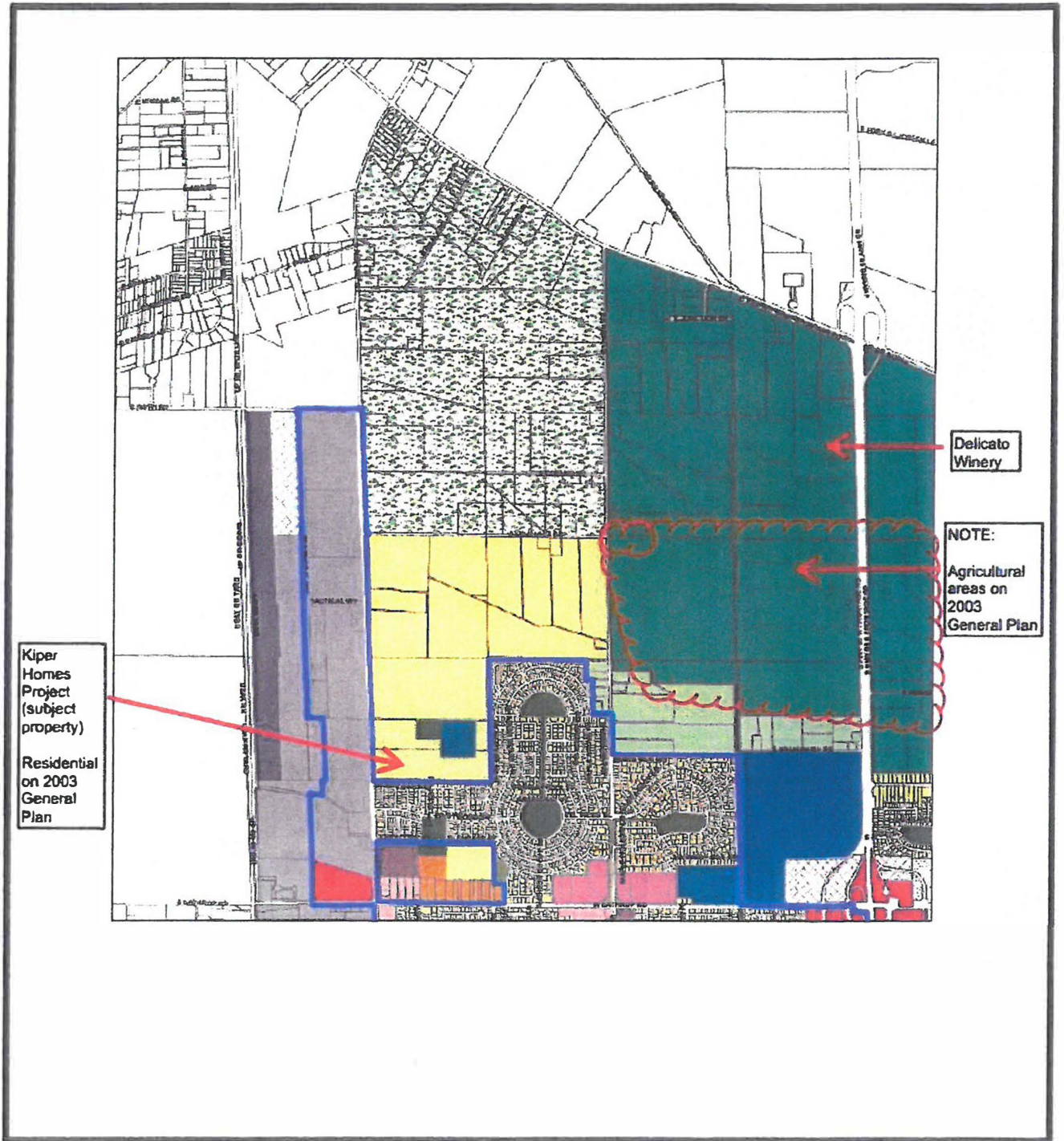
Sincerely,



Michael Kiper
Kiper Development, Inc.
3200 Danville Blvd., Suite #200
Alamo, CA 94507

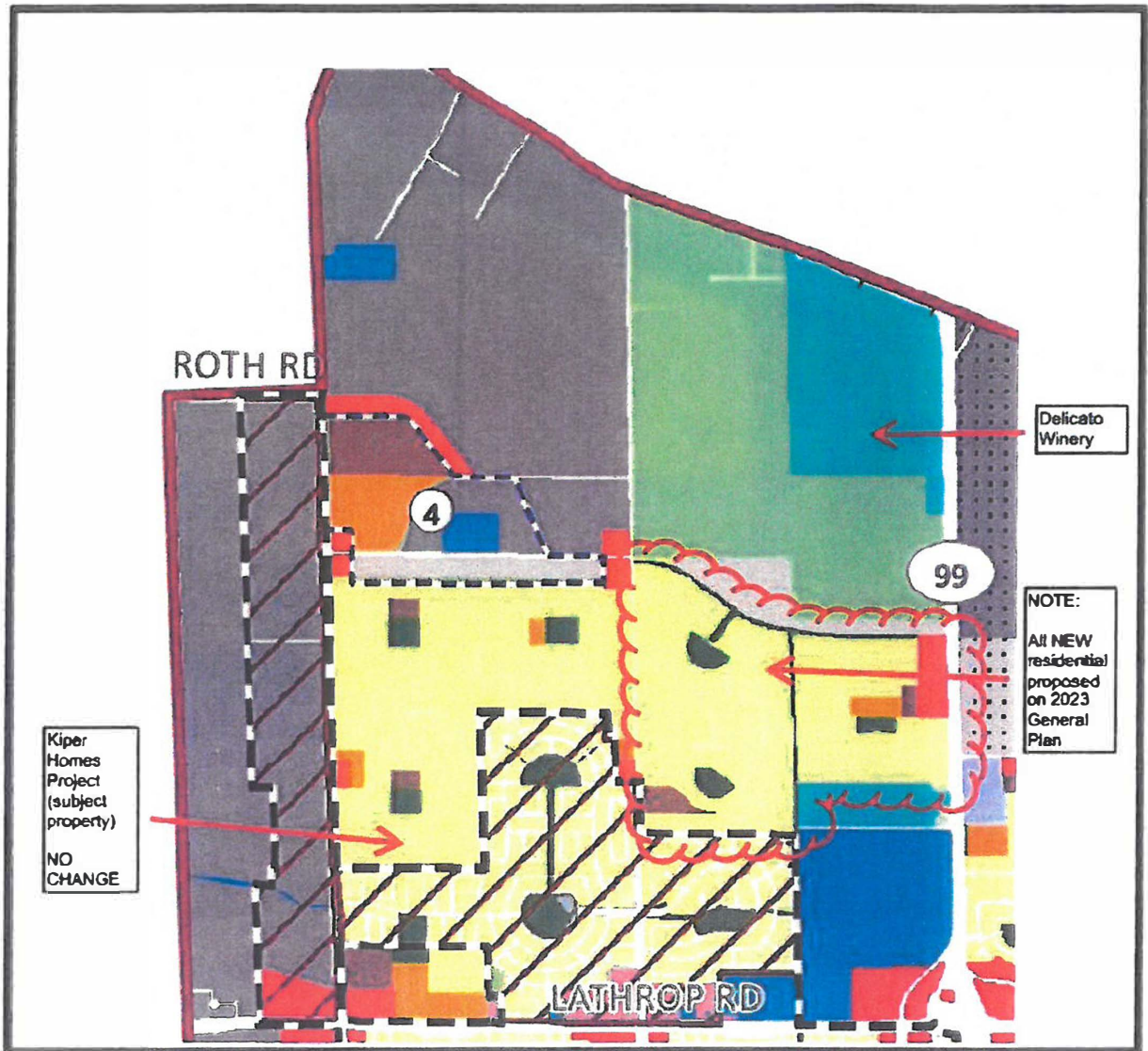
Attachment #1

Annotated Excerpt from 2003 General Plan Land Use Map



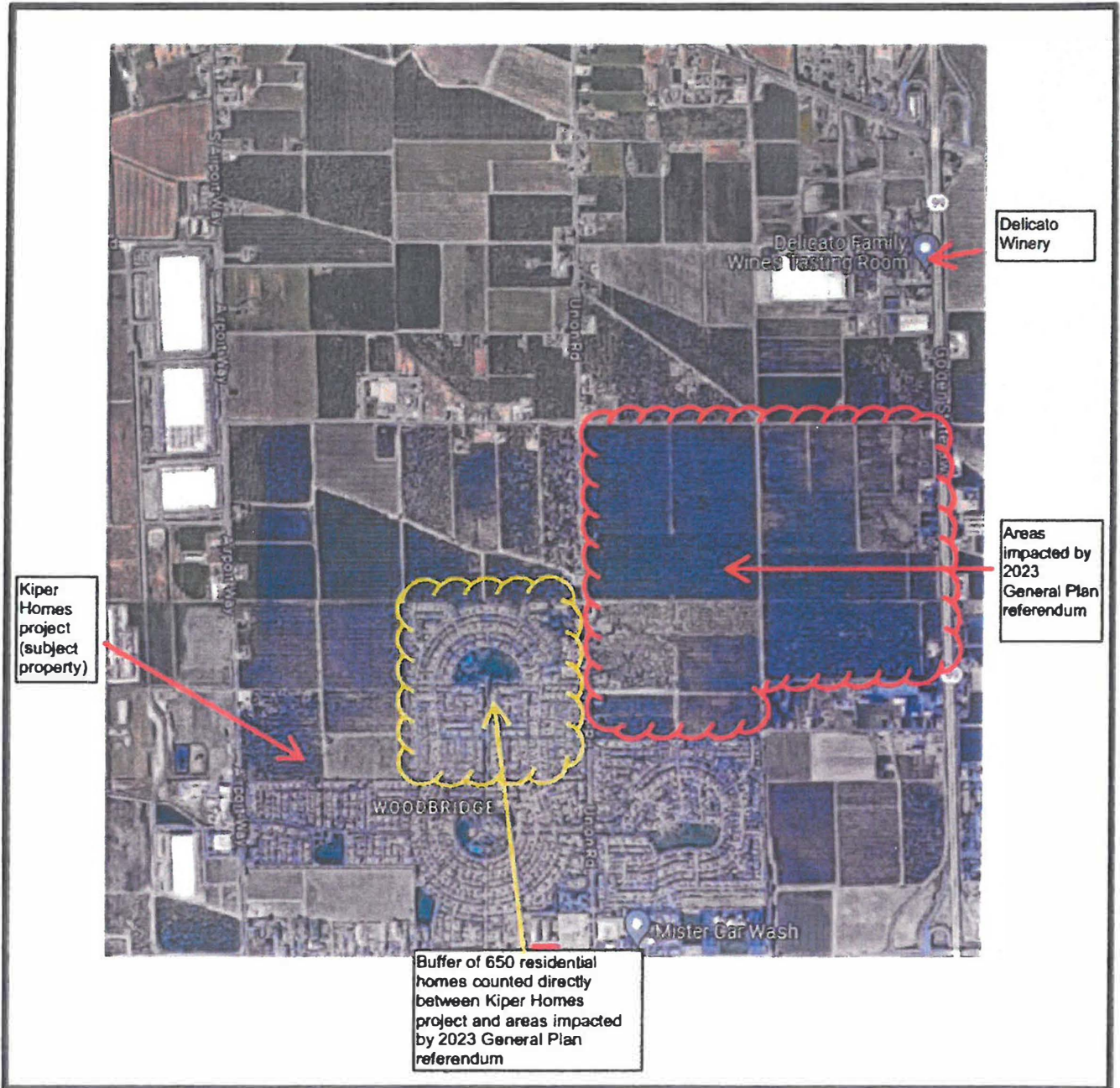
Attachment #2

Annotated Excerpt from 2023 General Plan Land Use Map



Attachment #3

Annotated Satellite Imagery



RESOLUTION NO. 23-1532

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
APPROVING THE INDELICATO REORGANIZATION TO THE CITY OF
MANTECA WITH CONCURRENT DETACHMENT FROM THE LATHROP
MANTECA FIRE DISTRICT (LAFC 33-23)**

WHEREAS, the above entitled proposal was authorized to be filed by City of Manteca Resolution R2023-87 on June 20, 2023 and filed on October 31, 2023 and a Certificate of Filing was issued on November 8, 2023 by the Executive Officer for processing in accordance with the Local Government Reorganization Act; and

WHEREAS, the Indelicato Reorganization boundary is co-terminus with the boundaries of a single parcel of land, 15040 South Airport Way, San Joaquin Assessor Parcel Number 204-100-52, more particularly described as:

A portion of the northwest quarter (NW ¼) of Section 19, Township 1 South, Range 7 East, Mount Diablo Base and Meridian, County of San Joaquin, State of California pursuant to that certain certificate approving a Certificate of Compliance application number PA-1100157, recorded December 29, 2011, as Instrument No. 2011-164367 of Official Records

WHEREAS, the annexation area is located at the northern edge of the City of Manteca's Sphere of Influence (SOI) where development is envisioned to occur in the next five to ten years and development of the project site under the jurisdiction of the City of Manteca is in the best interest of the residents of the City of Manteca; and

WHEREAS, the City, as the lead agency for the Project, has prepared an Initial Study/Mitigated Negative Declaration (IS/MND) for the project pursuant to and in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, the IS/MND was made available for the statutory 30-day public review period from April 7, 2023 to May 8, 2023, and public comments received were posted and responded to; and

WHEREAS, the City Council adopted the IS/MND and a Mitigation Monitoring and Reporting Program (MMRP) with the adoption of Resolution No. R2023-86; and

WHEREAS, the IS/MND included a mitigation measure for the loss of 1.4 acres of Prime Agricultural Land, Mitigation Measure AG-1:

Mitigation Measure AG-1: Prior to the conversion of important farmland on the Project site, the Project applicant shall participate in the City's agricultural mitigation fee program and the SJMSCP by paying the established fees on a per-acre basis for the loss of important farmland. Fees paid toward the City's program shall be used to fund conservation easements on comparable or better agricultural lands to provide compensatory mitigation.

WHEREAS, pursuant to State Code of Regulations, Section 15096, the Commission is a responsible agency that considered the negative declaration prepared by the City of Manteca and the

Commission has evaluated it's own conclusions as to whether and how to approve the proposed reorganization; and

WHEREAS, pursuant to State Government Code Section 56668(e), the Commission considered, "The effect of the proposal on maintaining the physical and economic integrity of agricultural lands"; and

WHEREAS, pursuant to State Government Code Section 56377, found that the conversion of 1.4 acres of Prime Agricultural Land Development located on the southwest corner of the parcel is a loss of a non-renewable resource; and

WHEREAS, approximately 97% of the site does not meet the criteria for consideration of Prime Agricultural Land as defined in Government Code Section 56064 thereby complying with Government Section 56377 that development, "Shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands"; and

WHEREAS, the conversion of 1.4 acres of prime agricultural land will promote the planned, orderly, efficient development of the area in accordance with the City of Manteca General Plan, as amended; and ,

WHEREAS, as a responsible agency, pursuant to the State Code of Regulations, Section 15096(g)(1), LAFCo has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to approve; and

WHEREAS, the Mitigation Measure AG-1 of the Indelicato Reorganization is the only mitigation measure that pertaining to a factor that LAFCo has responsibility for; and

WHEREAS, the Commission took into consideration all factors of Government Code Section 56668 and has conditioned the reorganization in accordance with these factors; and,

WHEREAS, the Commission specifically considered the factors described in Government Code Section 56668(a), the expected population and density of development proposed within the reorganization is consistent with the City's General Plan; and

WHEREAS, the Commission specifically considered the factor described in Government Code Section 56668(d), the reorganization providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377; and

WHEREAS, the Commission specifically considered the factor described in Government Code Section 56668(g), the reorganization improvements and its consistency with the program improvements to Airport Way in the 2022 San Joaquin Regional Transportation Plan; and

WHEREAS, the Commission specifically considered the factor described in Government Code Section 56668(k), the ability of the City to provide the services that are the subject of the application to the reorganization area; and

WHEREAS, the Commission specifically considered the factor described in Government Code Section 56668(l), the timely availability of water supplies adequate for projected needs in that

the City's Urban Water Master Plan took into account this property being developed in accordance with the City's General Plan; and

WHEREAS, the CEQA Commission held a public hearing on the proposed reorganization on January 11, 2024 in the Board of Supervisors Chambers, 44 North San Joaquin Street, 6th Floor, Stockton, CA, pursuant to notice of hearing which was published, posted and mailed in accordance with State law; and

WHEREAS, at said hearing the Commission heard and received evidence, both oral and written regarding the proposal, and all persons were given an opportunity to be heard; and

WHEREAS, the proposed reorganization area does not have any registered voters residing within its boundaries; and

WHEREAS, On August 21, 2023 the City of Manteca and the Lathrop Manteca Fire Protection District agreed to the terms of detachment from LMFD to the City of Manteca for fire protection services; and

WHEREAS, the Commission has, in evaluating the proposal considered the report submitted by the Executive Officer, the factors set forth in Section 56668 of the California Government Code and testimony and evidence presented at the public hearing held before and on January 11, 2024.

NOW, THEREFORE, the San Joaquin Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. The Indelicato Reorganization boundary is as shown on Attachment 1 of this resolution.

Section 2. Certifies that, as a Responsible Agency, the Commission has independently reviewed and considered the Indelicato Property Subdivision Project MND (State Clearinghouse No. 2023040168) and concurs with the findings of the CEQA MND and adequacy of the MMRP as certified by the City of Manteca.

Section 3. Finds that the proposal is uninhabited pursuant to State Government Code Section 56079.5.

Section 4. Finds that no written protests were received by any landowner or registered voter within the project area.

Section 5. The Annexing Property is within the scope of the MND for the Indelicato Subdivision Project (SCH# 2023040168) as the MND expressly contemplates the annexation to the City proposed by Property Owner and adequately addresses all significant impacts therefrom.

Section 6. Approves the Indelicato Reorganization to the City of Manteca with concurrent detachment from the Lathrop Manteca Fire District with the boundary description as approved by the County Surveyor, attached hereto as Attachment 1, as amended.

Section 7. Finds, pursuant to Government Code Section 56856.5, the reorganization is necessary to provide services to planned, well-ordered, and efficient urban development patterns

that include appropriate consideration of the reservation of open-space lands within the reorganization area.

Section 8. Directs the Executive Officer that prior to recordation of a Certificate of Completion for the project, or phase thereof, the City will provide written confirmation of the City's ability to serve the dwelling units of the project or phase thereof with potable water and wastewater flows.

Section 9. Pursuant to California Government Code Section 56668, the Commission considered all pertinent factors associated with the Indelicato Reorganization to the City of Manteca and the reorganization is hereby conditionally approved subject to the conditions of the San Joaquin Department of Environmental Health.

Section 10. The City of Manteca, shall defend, indemnify, and hold harmless SJLAFCo, its agents, officers, and employees, from any claim, action, or proceeding against SJLAFCo, its agents, officers, and employees, to attack, set aside, void or annul SJLAFCo's approval of the Reorganization, adoption of this Resolution, or any of the terms and conditions set forth herein.

Section 11. As allowed under Government Code Section 56107 and Government Code Section 56883, the Commission authorizes the Executive Officer to make non-substantive corrections to this Resolution to address any technical defects, clerical errors, mistakes, irregularities, or omissions.

Section 12. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable.

Section 13. The Commission finds that the proposed annexation, as amended, to the City of Manteca will be for the interest of landowners, present and future residents of the City of Manteca and within the territory proposed to be annexed to the City of Manteca.

PASSED AND ADOPTED this 14th day of February 2024 by the following roll call vote:

AYES:

NOES:

ABSENT:

PETER M. JOHNSON, CHAIRMAN
San Joaquin Local Agency
Formation Commission

ATTEST:

MITZI STITES, COMMISSION CLERK
San Joaquin Local Agency Formation Commission

Agenda Item 5



Balancing Community and Commerce

44 N. SAN JOAQUIN STREET ■ SUITE 374 ■ STOCKTON, CA 95202 ■ 209-468-3198

EXECUTIVE OFFICER'S REPORT

DATE: February 14, 2024
TO: LAFCo Commissioners
FROM: J.D. Hightower, Executive Officer
SUBJECT: **FY 2023/24 Mid-Year Budget Review**

Recommendation

It is recommended that the Commission accept the FY 2023-24 mid-year budget review. As of December 31, 2023, the LAFCo fund balance was \$1,541,885.32, an increase of \$249,002.39 since the beginning of FY 2023-2024. Budget revenues have already exceeded the entire projected FY2023-24 revenues by 7%. Much of the revenue received was in the form of payments from invoices of services performed that was created by Professional Services expenditures. San Joaquin LAFCo has a reserve equal to 244% of the operating budget. Thus, the fund balance and revenues are in sound financial shape as anticipated by the adopted budget.

Expenditures by overall classification are in line with the budgeted amount with some exceptions. Overall a transfer equal to 3% of the approved budget and 1% of the reserve amount, \$19,750.27, is recommended to be transferred from Reserves to the FY 2023-2024 Operating Budget.

Recommended Reserve transfer to Staff Costs total \$13,968.14, with \$5,808.36 to the Salaries classification and \$8,159.78 to the Fringe Benefits classification.

The Salaries classification is as expected with 52% of the budgeted amount expended at mid-year. A transfer of 2%, \$5,808.36, is recommended from reserves to the Expenditures Salaries-classification. Of this amount, \$2,697.48 (46%) was due for leave buy-out. Within this classification there needs to be a transfer of funds from the Salaries – Cafeteria line item to the Salaries – Wages –Regular. This is due to the overall county system that eliminated cafeteria plan insurance option to rolling over these funds to salaries and wages.

Likewise a transfer of 3% of the budgeted amount, \$8,159.78, is recommended from reserves to the Fringe Benefits classification. Some line items can be transferred internally within the Fringe Benefits classification. Most of the reserve transfer is to the Retirement – Employer’s Share line item, \$6,867.32 (84%). Social Security – OASDI line item is recommended for a \$1,143.15 (14%) transfer from reserves. The remaining 1% (\$149.31) reserve transfers to Unemployment Comp Insurance, Retirement—Employer Additional Contribution, and Life Insurance.

A transfer of \$5,782.13 from Reserves to Services and Supplies is recommended. Insurance – Casualty – SLIP is in need of \$10,341.12 along with the travel and training accounts for both staff and commissioners \$23,838.98. These three line items make up the majority of expenditures above projected budget. Like the Fringe Benefits classification, there are internal intra-classification line items that reduce the overall transfer from Reserves to \$5,782.17 for the classification.

FY 2023-2024						
Mid-Year Budget Review		FY 23-24	Mid -Year	% Projected	Pro. End FY	Delta Bud. v End
Fund Balance - Beginning of the Fiscal Year						
Revenues						
REVENUES-GENERAL		\$	-			
TAXES		\$	-			
LICENSES, PERMITS, FRANCHISES		\$	-			
FINES, FORFEITURES, PENALTIES		\$	-			
* INTEREST INCOME	\$ 20,456.33	\$	26,246.00	128%	\$ 52,492.00	\$ 32,035.67
USE OF MONEY AND PROPERTY	\$ 20,456.33	\$	26,246.00	128%	\$ 52,492.00	\$ 32,035.67
INTERGOVERNMENTAL REVENUES		\$	-			
CHARGES FOR SERVICES		\$	-			
* County Contribution	\$ 259,638.00	\$	259,638.00	100%	\$ 259,638.00	\$ -
* Cities Contribution	\$ 259,638.00	\$	259,638.00	100%	\$ 259,638.00	\$ -
* Application Filing Fees	\$ 92,249.31	\$	18,967.75	21%	\$ 37,935.50	\$ (54,313.81)
* Total Revenues	\$ 611,525.31	\$	525,168.75	86%	\$ 557,211.50	\$ (54,313.81)
MISCELLANEOUS REVENUES		\$	127,065.23		\$ 127,065.23	\$ 127,065.23
TRANSFERS IN		\$	-			
OTHER FINANCING SOURCES		\$	-			
SELF INS FUND SPECIAL REVENUES		\$	-			
MP-TEL-RADIO ISF REVENUES		\$	-			
SOLID WASTE SPECIAL REVENUES		\$	-			
HOSPITAL SPECIAL REVENUES		\$	-			
AIRPORT SPECIAL REVENUES		\$	-			
RETIREMENT FUND SPECIAL REV		\$	-			
AGENCY FUNDS - DEPOSITS		\$	-			
TOTAL REVENUE	\$ 631,981.64	\$	678,479.98	107%	\$ 736,768.73	\$ 104,787.09

FY 2023-2024		FY 23-24	Mid-Year	% Projected	Pro. End FY	Delta Bud. v End
Expenditures						
Salaries						
SALARIES & WAGES-REGULAR	\$ 223,008.32	\$ 121,037.20	54%	\$ 242,074.40	\$ 19,066.08	
SALARIES-CAFETERIA	\$ 42,425.24	\$ 12,245.09	29%	\$ 24,490.18	\$ (17,935.06)	
SALARIES-CAR ALLOWANCE	\$ 5,040.14	\$ 3,510.00	70%	\$ 7,020.00	\$ 1,979.86	
ADMINISTRATION BENEFITS	\$ -	\$ 2,697.48		\$ 2,697.48	\$ 2,697.48	
TOTAL SALARIES	\$ 270,473.70	\$ 139,489.77	52%	\$ 276,282.06	\$ 5,808.36	
Fringe Benefits						
UNEMPLOYMENT COMP INSURANCE	\$ 167.42	\$ 184.90	110%	\$ 369.80	\$ 202.38	
RETIREMENT-EMPLOYER SHARE	\$ 57,187.47	\$ 42,335.60	74%	\$ 84,671.20	\$ 27,483.73	
RETIREMENT-EMPLOYER ADDTL CONT	\$ 5,954.81	\$ 5,331.89	90%	\$ 10,663.78	\$ 4,708.97	
SOCIAL SECURITY-OASDI	\$ 13,768.95	\$ 7,456.05	54%	\$ 14,912.10	\$ 1,143.15	
SOCIAL SECURITY-MEDICARE	\$ 8,390.04	\$ 1,879.02	22%	\$ 3,758.04	\$ (4,632.00)	
LIFE INSURANCE	\$ 151.82	\$ 129.52	85%	\$ 259.04	\$ 107.22	
HEALTH INSURANCE	\$ 55,621.87	\$ 17,502.73	31%	\$ 35,005.46	\$ (20,616.41)	
DENTAL INSURANCE	\$ 504.40	\$ 161.13	32%	\$ 322.26	\$ (182.14)	
VISION CARE	\$ 134.68	\$ 39.78	30%	\$ 79.56	\$ (55.12)	
TOTAL FRINGE BENEFITS	\$ 141,881.46	\$ 75,020.62	53%	\$ 150,041.24	\$ 8,159.78	
TOTAL STAFF COST	\$ 412,355.16	\$ 214,510.39	52%	\$ 426,323.30	\$ 13,968.14	
Services and Supplies						
PROFESSIONAL SERV-PROGRAMS	\$ 108,885.95	\$ 73,284.20	67%	\$ 109,926.30	\$ 1,040.35	
OFFICE EXPENSE-GENERAL	\$ 26,819.65	\$ 15,805.53	59%	\$ 23,708.30	\$ (3,111.36)	
OFFICE SUPPLIES-PURCHASING-ISF	\$ 1,207.27	\$ 274.40	23%	\$ 548.80	\$ (658.47)	
GENERAL OFFICE SUPPLIES	\$ 140.87	\$ 79.10	56%	\$ 158.20	\$ 17.33	
OFFICE EXPENSE-POSTAGE	\$ 1,348.73	\$ 492.08	36%	\$ 984.16	\$ (364.57)	
COMMUNICATIONS	\$ 3,108.06	\$ 1,218.60	39%	\$ 2,437.20	\$ (670.86)	
MEMBERSHIPS	\$ 13,813.80	\$ 13,855.00	100%	\$ 13,855.00	\$ 41.20	
TRANS AND TRAVEL-GENERAL COMMISSIONERS	\$ 8,760.00	\$ 11,158.17	127%	\$ 16,737.26	\$ 7,977.26	
TRANS/TRAVEL-STAFF	\$ 2,666.50	\$ 4,734.48	178%	\$ 7,101.72	\$ 4,435.22	
AUDITOR SERVICES	\$ 1,429.48	\$ -	0%	\$ -	\$ (1,429.48)	
PROFESSIONAL SERV- COUNTY	\$ -	\$ 2,964.00	207%	\$ 2,964.00	\$ 2,964.00	
PUBLICATIONS & LEGAL NOTICES	\$ 2,200.38	\$ 194.95	9%	\$ 389.90	\$ (1,810.48)	
RENTS-STRUCTURES & GROUNDS	\$ 19,412.43	\$ 5,546.25	29%	\$ 11,092.50	\$ (8,319.93)	
RENTS/LEASES-AUTO EQUIP-ISF	\$ 1,923.06	\$ 942.78	49%	\$ 1,885.56	\$ (37.50)	
DATA PROCESSING CHARGES	\$ 11,914.94	\$ 3,485.16	29%	\$ 6,970.32	\$ (4,944.62)	
INSURANCE-WORKER'S COMP	\$ 593.08	\$ 453.00	76%	\$ 906.00	\$ 312.92	
INSURANCE-CASUALTY - SLIP	\$ 15,402.28	\$ 12,871.70	84%	\$ 25,743.40	\$ 10,341.12	
TOTAL SERVICES AND SUPPLIES	\$ 219,626.48	\$ 147,359.40	67%	\$ 225,408.61	\$ 5,782.13	
Total Operating Cost	\$ 631,981.64	\$ 361,869.79	57%	\$ 651,731.91	\$ 19,750.27	
Revenues - Operating Costs	\$ -	\$ 316,610.19	47%	\$ 85,036.82	\$ 85,036.82	

Agenda Item 7



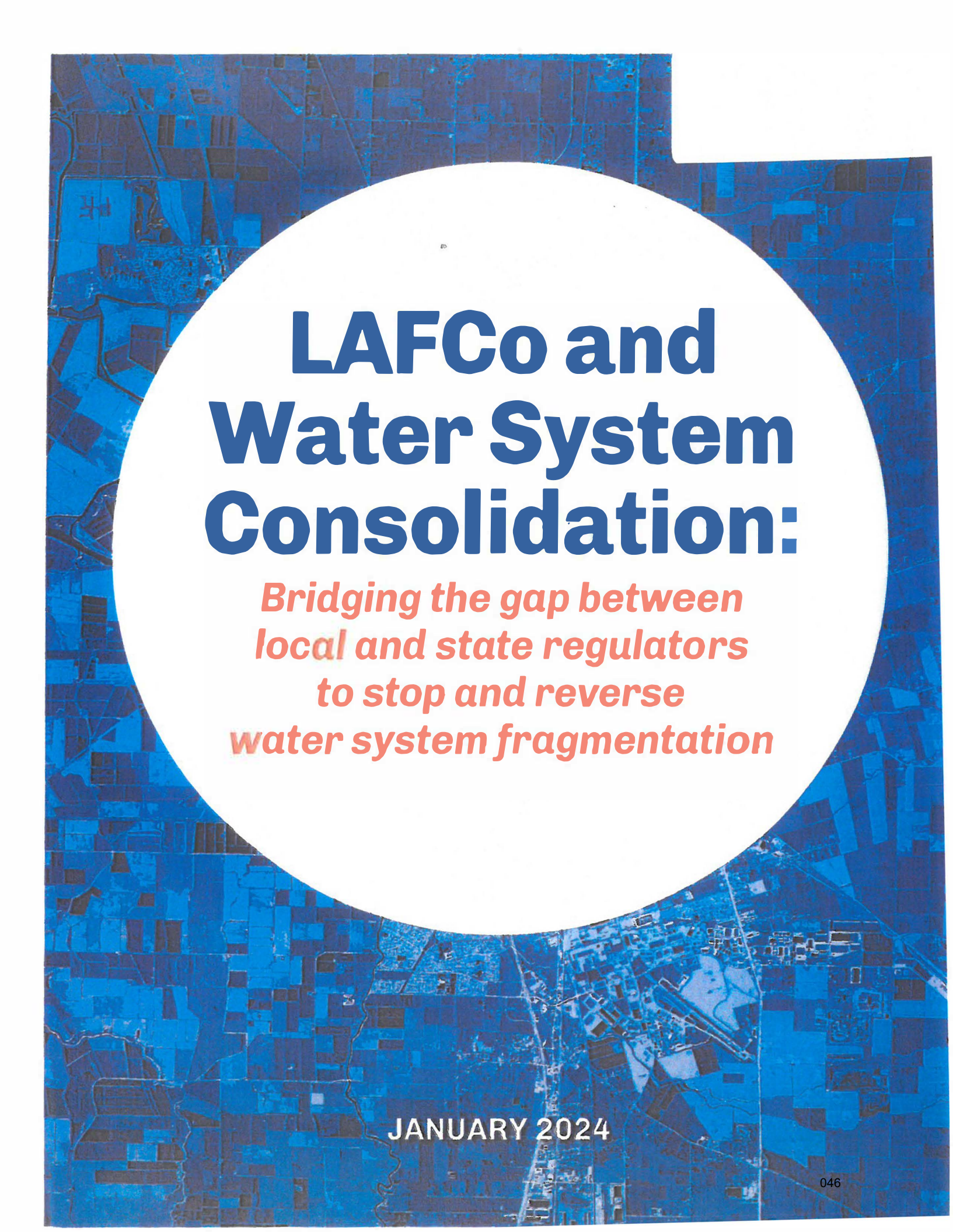
Balancing Community and Commerce

44 N. SAN JOAQUIN STREET □ SUITE 374 □ STOCKTON, CA 95202 □ 209-468-3198

EXECUTIVE OFFICER'S COMMUNICATION

DATE: February 14, 2024
TO: LAFCo Commissioners
FROM: J.D. Hightower, Executive Officer
SUBJECT: **E.O. COMMENTS**

1. The May 9, 2024 regularly scheduled LAFCo meeting will be cancelled due to a lack of a quorum as the San Joaquin One Voice trip will be taking place May 6 thru 9.
2. Due to a lack of meeting in May, the Preliminary FY 24-25 Budget will be brought forward for Commission consideration at the regularly scheduled April 11, 2024 LAFCo meeting.
3. Need verbal direction on forming an ad-hoc FY 24-25 budget sub-committee. Important in that the Final Budget to be presented for Commission consideration at the regularly scheduled June 13, 2024. CKH Section 381 directs that, "The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15." Because there are only 2 days between the regularly scheduled June 13, 2024 meeting and the required June 15, 2024 deadline, please bring any questions to my attention as soon as possible.
4. The March 14, 2024 meeting will feature a presentation and discussion regarding LAFCo and Water System Consolidation by the University of California (please see attached report).



LAFCo and Water System Consolidation:

*Bridging the gap between
local and state regulators
to stop and reverse
water system fragmentation*

JANUARY 2024

Authors

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Acknowledgements

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For more information contact Kristin Dobbin at kbdobbin@berkeley.edu

Introduction

In 2012, California passed AB 685 enshrining the human right to water into state law. Achieving this vision is not a simple task, instead it requires ongoing commitment and investment by state legislators and regulators. Water system consolidation, or the merging of two or more water systems, has increasingly become a focus of these efforts due to a wide array of potential benefits. This is particularly true for the state's very small water systems, many of which struggle to achieve consistent regulatory compliance. In the hopes of halting and reversing the proliferation of small water systems, California has implemented policy changes including developing financial incentives for larger water systems to consolidate small systems, introducing new powers to mandate consolidation under specific circumstances, and working to limit permits for new water systems in favor of extending existing systems. With these efforts as well as unprecedented financial investments in consolidation through the new Safe and Affordable Funding for Equity and Resilience (SAFER) program, the state has reduced the total number of public water systems by more than 3% in the last 9 years.¹

Despite these successes, implementing consolidations in an efficient and equitable manner continues to be a difficult task. A large array of challenges from local politics to funding regularly delay and sometimes prevent consolidations, both between existing systems and for systems intended to serve new industrial or residential development. This report focuses on one such challenge, the need to coordinate and align actions by state and local regulators. Under the Federal Safe Drinking Water Act, the state of California is responsible for ensuring compliance among public water systems. This role has put the State Water Resources Control Board (SWRCB) at the forefront of efforts to reduce the number of small water systems. Nonetheless, changes to drinking water services often implicate changes to local government, thus requiring consultation with, and sometimes the approval of, local regulators.

In particular, in California, county Local Agency Formation Commissions, known as LAFCOs, are regional planning and regulatory agencies tasked with “coordinating logical and timely changes in local government boundaries, conducting special studies that review ways to reorganize, simplify and streamline governmental structure and preparing a sphere of influence for each city and special district within each county.”² In this capacity, they have a critical role to play in promoting and implementing water system consolidations for existing and proposed water systems. Because LAFCOs regulate boundaries between most public agencies, they often have the final say over water system consolidation projects that involve a local government entity including special districts and cities. Yet in practice, many water system consolidations are conceived of and planned without input from local planners and may only come before LAFCO for formal review after significant resources have already been invested in the project. Much the same can be said for local development plans. To the extent a new development relies on a new public water system, local project proponents may find themselves at odds with state regulators who wish to avoid the creation of additional small water systems they perceive as unsustainable. In these cases, there is significant potential for frustration on all sides when plans are delayed or must be changed due to inadequate coordination, conflicting policies and/or competing priorities.

These examples highlight what can be a wide gulf between drinking water regulators and LAFCOs when implementing water system consolidations, whether for existing or new systems. Though intertwined in practice, the two often approach questions of water system fragmentation with distinct perspectives and priorities. Such differences can reverberate beyond individual projects, impacting broader efforts to rationalize drinking water services, increase equitable access, and ensure sustainability under a changing climate. Overwhelmingly LAFCOs and state drinking water regulators share goals for promoting equitable,

efficient, and sustainable local drinking water service. Yet we are a long way from the policy alignment necessary to stop, let alone reverse, the proliferation of small water systems.

Drawing on interviews with state regulators and LAFCo representatives, input from state technical assistance providers, and a survey of county LAFCo Executive Officers, this report

aims to: 1) Highlight important intersections between LAFCos' local planning and regulatory roles and state policies and programs that prioritize water system consolidation as a safe drinking water solution; 2) Identify challenges at these intersections that limit progress on shared goals; and 3) Provide recommendations to begin to address these challenges.

Section I: Understanding LAFCOs and Their Role in Water System Consolidation

About LAFCOs

Local Agency Formation Commissions (LAFCOs) are county-specific independent governmental agencies charged with conducting studies to evaluate, reorganize, and streamline local government functions and services. LAFCOs were first created by the State of California in 1963 to manage sprawl. Subsequent legislative updates have gradually increased the scope of LAFCo powers and authorities over time. The most important of these updates occurred in 2000 with the passage of the [Cortese-Knox-Hertzberg Act \(CKH\)](#).³ Though amended periodically, the CKH Act remains the most important reference for understanding LAFCo powers and processes.

Each LAFCo is governed by a commission comprised of elected and appointed individuals. Every LAFCo includes representatives of the county's Board of Supervisors and city councils from cities within the county boundaries along with one appointed member of the general public.

Many LAFCOs also include board members from special districts within the county. The exact structure of individual LAFCo commissions varies, but a typical commission has at least five, and up to seven, members who serve four-year terms. Though geographically coterminous with every county, LAFCOs are politically independent from the county government where they operate. Commission decisions are not subject to oversight, review, or approval by the County Board of Supervisors.

LAFCo commission meetings are public meetings, and as such must be regularly held, open to the public, and are subject to the Ralph M. Brown Act.⁴ The work of the commission is carried out by staff, led by an Executive Officer. Staffing levels vary substantially between counties. Some have full-time Executive Officers and up to eight additional full-time staff members, and others have only part-time Executive Officers and minimal, or even no, additional staff ([See Appendix](#)).

The Cortese-Knox-Hertzberg Act of 2000

The Cortese-Knox-Hertzberg Act of 2000 was the most recent major overhaul of LAFCo powers. It establishes procedures for local government changes of organization, including city incorporations, annexations to a city or special district, and city and special district consolidations. In carrying out these functions, the Act specifically directs LAFCOs to:

- Limit urban sprawl;
- Ensure orderly boundaries between governmental agencies;
- Preserve open space and agricultural lands.

Though LAFCOs may have other priorities related to local political preferences, these three mandates are shared to some extent by all LAFCOs in accordance with state law.

LAFCoS are funded from two primary sources. First, all LAFCoS receive annual funding from the local governments represented on the commission (county, cities, and sometimes special districts). The size of these contributions varies by county, as each LAFCo sets its own budget. Second, LAFCoS may charge fees for some types of applications or services. These fees are typically borne by the relevant agencies or other applicants (such as landowners) applying for the action in question, for example, an adjustment to a district's jurisdictional boundary.

LAFCoS and water system consolidations

To avoid the duplication of services and ensure that growth occurs in an orderly fashion, one of LAFCoS' primary roles is to regulate and approve changes to the jurisdictional boundaries and planning boundaries of all cities and most special districts (the most notable exception is school districts). As a result, LAFCo will be involved in any consolidation project if one or more of the systems — either consolidating or receiving — is a public agency, specifically a city or a special district.⁵ If a consolidation project involves no such water systems, there is no formal role for LAFCo, although if the consolidation involves one or more Investor-Owned Utilities, the California Public Utilities Commission (CPUC) will play a similar oversight role. If a project involves both public and private water systems, LAFCo may only be involved in certain components. For example, if an Investor-Owned Utility takes over water provision in a community previously served by a local agency (as in the case of the Sativa Water District in Los Angeles County), LAFCo would be involved in the dissolution of the public district but not in the “annexation” by the Investor-Owned Utility of the new service area which would instead be approved by the CPUC.

It is important to keep in mind that while a LAFCo's purview includes districts that provide drinking water, LAFCoS do not primarily regulate drinking water providers or their day-to-day operations. Rather, their role is to ensure that drinking water provision happens in an orderly manner that does not create additional burdens on residents, does not conflict with established

local policies or encourage unwanted urban sprawl, and does not create wasteful duplication of services. In other words, in many cases LAFCoS will be concerned with the question: How will this consolidation fit into our broader planning priorities for the county?

The answer to this question will largely depend on the structure of the proposed consolidation. Water system consolidation can be accomplished in many ways including not only district or city consolidation but also through extensions of service, annexations, etc. (See *'Bridging differences in terminology' box*). Any one of these procedures may also trigger reorganizations or dissolutions, all of which may have distinct procedures and requirements for implementation. In some cases, LAFCoS have a preferred pathway for how to accomplish consolidations that will need to be adhered to in order to receive the necessary approvals. However, in other cases, LAFCoS may prefer to make recommendations or determinations based on the specifics of an individual project. We recently surveyed LAFCoS across the state and received responses from 23 of the state's 58 LAFCoS. Nearly 40% of respondents indicated they preferred outright annexation to extraterritorial service agreements whereas 52% reported having no pre-set preference.

Even when a LAFCo has a preference, however, they may still approve exceptions based on specific circumstances. For example, under California law, LAFCoS may (but are not required to) approve a request for a service extension outside of a service providers' jurisdictional boundary and sphere of influence to respond to an “existing or impending threat to the health and safety of the public or the residents of the affected territory”.⁶ More than two thirds of survey respondents indicated they had approved such a request in their county. Notably the requirements for doing so vary between counties. Some counties require only a letter from an affected local government body, while others require expert documentation of the threat.

Beyond the need to coordinate with LAFCo on the structure of a proposed consolidation, LAFCo involvement has another important implication: Fees. Given that LAFCoS are authorized to collect

Bridging Differences In Terminology

This report uses the term “consolidation” in a broad sense to mean the formal merging of some or all functions of drinking water provision between two or more water providers or communities. Consolidation, in this drinking-water focused sense, can happen through a variety of different pathways that vary in not only their implementation but also outcomes (for more information see the 2022 guide [Designing Water System Consolidations](#)). Under this definition, consolidation can include the physical interconnection of existing water system infrastructure (physical consolidation) but it does not have to. Consolidation may instead entail merging only the governance and management functions of two pre-existing systems (managerial consolidation) or extending a water system to serve a domestic well community or new development. This inclusive definition is informed by, and aligned with, the definition state drinking water regulators and community water advocates employ.

However, for a LAFCo, the term consolidation refers to a narrowly defined legal process, closely constrained by state law. The CKH Act defines consolidation as “the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district.” Consolidation in a LAFCo sense always entails the creation of an entirely new district.

While largely semantic, this difference can cause confusion. Projects such as the extension of a community water system to serve residents previously reliant on a state small water system or where a special district like a County Service Area is absorbed into a neighboring city would both be commonly referred to as consolidations among drinking water stakeholders. To a LAFCo representative, however, many such “consolidations” are instead understood as extensions of service, annexations, reorganizations, and/or dissolutions.

fees for services and studies and that some rely on these fees to cover the associated costs of those additional reviews, those seeking to consolidate drinking water services may have to bear the cost of any related study required by state law. LAFCOs have some degree of autonomy in setting fees to compensate for staff time. As such, relevant fees vary significantly between counties. Of the 23 LAFCOs that responded to our survey, estimated total fees associated with a consolidation project ranged from \$0 to \$50,000, depending on the LAFCo and the complexity of the project. Seventy percent of survey respondents said that they waive fees under specific circumstances, the remainder indicated that fee waivers were not available.

Municipal Service Reviews

Beyond regulating local government boundaries, LAFCOs also play an important role in evaluating municipal services within their county and making recommendations for improvements. The CKH Act mandates that every five years, as necessary, LAFCOs review and update the designated sphere of influence for each city and special district under their jurisdiction.⁷ Prior to establishing or updating a sphere of influence, LAFCOs must

perform a special study called a Municipal Service Review (MSR). MSRs are comprehensive studies designed to better inform LAFCo, local agencies, and the community about the provision of municipal services. MSRs can be conducted individually for specific cities or districts, covering all services, or on a county-wide or regional basis focused on specific services.

Based on these requirements, some LAFCOs conduct regular MSRs while others do so only when necessary, such as when a sphere of influence issues arise. Budget and capacity constraints are a major factor influencing how frequently MSRs are conducted. Some LAFCOs reported in interviews that they did not conduct MSRs as frequently as they would like due to high costs.

The requirements related to MSR contents are also loosely bounded, meaning that in practice, the content and level of detail varies by county. Ideally an MSR will have insights into the kinds of things those pursuing consolidation would likely be interested in — water quality, water source reliability, fiscal stability, managerial capacity, and technical expertise. Take for example the recent [Countywide Water Service and Sphere Review](#) by Santa Cruz County which provides significant detail

on system finances, water rates, transparency and local accountability among other items.⁸ In other cases, MSRs may have few of these details and thus provide little in the way of local insight either supporting or challenging consolidation efforts (capacity can also be a factor here). By statute, LAFcos are authorized to request information from privately owned water systems as part of their reviews including from mutual water companies.⁹ Notably, very few LAFcos currently do so and some LAFcos report mutual water companies have failed to respond to requests for information when they have attempted to include them in MSRs.

Approval of new public water systems

Recognizing the importance of stopping the further proliferation of potentially unsustainable small water systems throughout the state, recent regulatory changes now require that all applications for new public water systems¹⁰ must be approved by the SWRCB. Applicants wishing to construct a new system must apply at least six months before initiating water-related development with an accompanying “preliminary technical report.” The preliminary technical report must analyze the feasibility of connecting to any public water systems within three miles, assess the twenty-year costs of operating the proposed system, and evaluate the sustainability and

38% of LAFcos report that they evaluate the feasibility of consolidation as part of their MSR process and 61% report that they recommend consolidation in MSR findings where warranted.

resilience of the proposed system long-term. As part of the assessment of consolidation feasibility, an applicant needs to document contact with LAFco regarding the identified existing water systems. Approval of non-water system related development (e.g., a warehouse facility to be served by the proposed water system), however, remains a local decision and LAFcos retain final authority on areas where services can be provided by the existing water systems of cities and special districts. Thus, there is potential for inconsistent determinations between state and local authorities, which could cause delays and/or lead to potential litigation. These changes increase the need for coordination between state drinking water regulators and local authorities regarding when and where the creation of new water systems is appropriate.

Section II: Challenges

Based on our interviews and survey results, in this section we describe seven key challenges that limit effective coordination between state and local regulators with respect to water system consolidation, both among existing and new systems.

Lack of communication and information sharing between LAFcos and drinking water regulators

Although LAFcos, the State Water Resources Control Board (SWRCB), and the California Public Utilities Commission (CPUC) all play key roles relevant to drinking water system consolidations, each has a unique niche in the enforcement patchwork, and

communication between these agencies is limited.

While, in many cases, LAFcos rely on publicly available SWRCB data in developing their MSRs for water services, the MSR process also often generates new information about the status of local water providers, especially regarding the state of system governance and finances. This information can be highly relevant to understanding the potential of a system to encounter future challenges. Yet only 30% of surveyed LAFcos report sharing their MSR findings with drinking water regulators. And while some SWRCB staff do independently seek out and use MSRs when working with a system, not all MSRs are publicly available online.

This lack of information sharing mirrors a general lack of communication between local planners and state drinking water regulators. Nearly all LAFCo Executive Officers we interviewed reported only infrequent contact with state drinking water regulators. The lack of communication creates issues in both directions. On the one hand, the SWRCB may have information about the challenges of local agencies unavailable to LAFCos who often only have infrequent communications with the small water providers under their jurisdiction. Similarly, a LAFCo might be aware of issues which could merit consolidation in the future. These systems might be good candidates for SWRCB intervention, but intervention is unlikely if information does not flow between agencies. On the other hand, the SWRCB may pursue solutions such as consolidation without a clear understanding of locally specific challenges such as conflicting policies, or potential political barriers.

California's other key water agency, the CPUC, regulates Investor-Owned Utilities. The CPUC communicates even less frequently with LAFCos than the SWRCB. This is not surprising, given that LAFCos do not regulate private utilities. But in some cases, LAFCos might be ignorant of potential privately-owned consolidation partners for troubled local government systems or vice-versa, of struggling private systems where governmental systems could expand their service area. Additionally, consolidations involving Investor-Owned Utilities (referred to by the CPUC as acquisitions) can significantly impact local development. Currently there are no specific mechanisms for LAFCos to provide feedback to the CPUC on these matters except to file a motion for party status in an acquisition proceeding which is subject to approval and conditions by a judge.

Lack of shared language and vision

Sometimes, when drinking water stakeholders interested in water system consolidations encounter LAFCos, they find the experience to be frustrating. Often, part of the problem is that LAFCos do not share a common vision or even use the same language to talk about consolidations. As previously mentioned, for LAFCo staff the term

“consolidation” refers to a specific legal process, not a broad suite of options. Conversations that casually use the term consolidation can thus create confusion, since many water system consolidation projects fall under LAFCo descriptions for annexations, dissolutions, extraterritorial service agreements, or other arrangements.

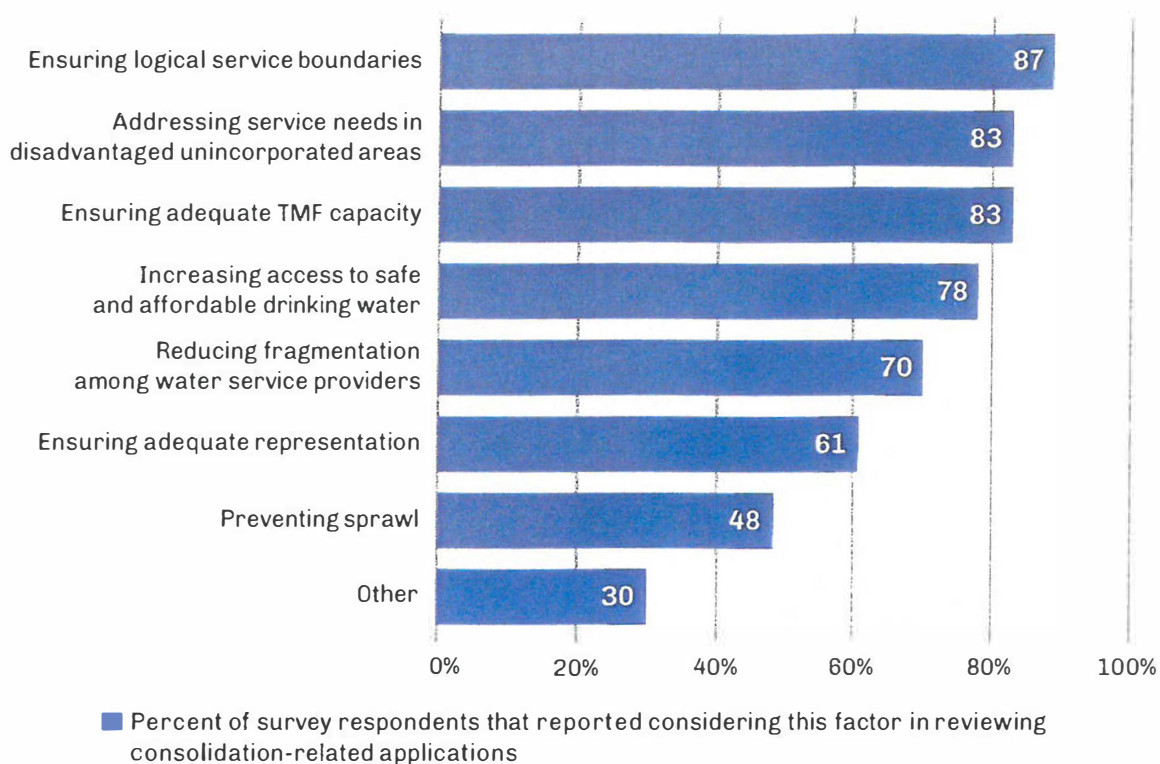
But this challenge is not only semantic. While all parties share a commitment to ensuring efficient, equitable local services, the goals that motivate system consolidation and the metrics by which “success” is assessed in these projects can also vary. State regulators tend to prioritize projects on the basis of Safe Drinking Water Act compliance, cost, and improving system sustainability (i.e., targeting “at-risk” systems). Overall LAFCos take a broader perspective, including considering impacts to different community services as well as county-wide impacts and consistency in long-term planning. This is well demonstrated by the fact that surveyed LAFCos reported considering, on average, more than five different factors when reviewing consolidation-related applications (*Figure 1*). Among these considerations, 30% of LAFCos reported that ensuring adequate Technical, Managerial, and Financial (TMF) capacity was the most important, followed by ensuring logical service boundaries and increasing access to safe and affordable drinking water, each of which was voted most important 26% of respondents. Notably, whereas preventing and reversing water system fragmentation is a top priority of the SWRCB, this consideration did not rise to the top among LAFCos, only 70% of which said they consider system fragmentation when reviewing consolidation-related applications.

Diversity in local implementation

All LAFCos are governed by the CKH Act, but policy occurs just as much in implementation as in statute. Because the CKH leaves substantial autonomy for local LAFCos to tailor their operations to local conditions, implementation varies substantially from LAFCo to LAFCo. The state's rules have few hard guidelines except when it comes to specific procedural actions.

For example, according to statute, LAFCos are supposed to interpret any requests to

Figure 1. LAFCo considerations in reviewing consolidation related applications by frequency.



accommodate a system consolidation based on the potential costs and savings, as well as other impacts to local residents. This open-ended set of criteria leaves room for interpretation leading LAFCos to review a wide range of factors as mentioned above. This statute language also allows for LAFCos to have different local policies leading some LAFCos to prioritize specific planning goals, like the prevention of urban sprawl or addressing service needs in unincorporated areas.

LAFCos vary substantially in their preferences regarding consolidation pathways. Technical assistance providers may select a consolidation pathway which they think will best suit the needs of the community they work with. LAFCos will tend to take a more holistic view and measure the proposed benefits of any consolidation project against the potential impact on development and services county-wide. For example, if a consolidation of private wells into a nearby municipal system would extend that city's sphere of influence into

an area slated for non-development purposes, the LAFCo may oppose the project for fear of losing open space. In many cases there are workable compromises that can be found if these goals and constraints are clearly communicated, for example pursuing an Extraterritorial Service Agreement (also called Out-of-Agency, Out-of-Boundary or Outside Service Agreements depending on the county).¹¹

Unclear roles and responsibilities

While the SWRCB is committed to stopping and reversing the proliferation of small water systems as part of advancing the Human Right to Water (AB 685), precisely because of the planning and local government implications, there are practical and political limits to their ability to do this work on their own. Yet there is ambiguity, and even disagreement, regarding what the role and responsibilities of local planners such as LAFCos is, or should be, with respect to advancing the same mission.

Generally, LAFCoS rely on the SWRCB to flag struggling systems and initiate consolidation processes rather than do so themselves (although in certain counties, LAFCoS do sometimes play a more central role in promoting projects). However, LAFCoS do not necessarily view this as a positive from a local policy standpoint. Several LAFCoS indicated that state-level policymakers and agencies generally lacked an understanding of the intricacies of local implementation of consolidations. Some also regarded state-initiated projects without adequate state financial support as unfunded burdens for the affected communities and for LAFCoS themselves.

But locally initiating projects has its own challenges. California state law is clear that, in some circumstances, LAFCoS have the power to initiate water system consolidations through district dissolution, even without the consent of targeted district.¹² These types of consolidations are rare, however, for several reasons. Perhaps unsurprisingly, LAFCo commissioners are often reluctant to go against locally elected political leaders — some of whom may even sit on the LAFCo commission themselves. Second, such actions are subject to public hearings and can be blocked by formal protests from residents, an outcome which is more likely because the threshold for popular motions to block the action is lower in LAFCo-initiated proceedings. Third, LAFCoS are generally reluctant to force other systems to take

Nearly 40% of LAFCoS report facilitating or supporting local consolidation projects whereas less than 9% report initiating consolidation projects.

on new customers, even if the receiving system is best suited to serve those communities. LAFCoS generally operate under tight budgets and with limited staff, and thus generally require a project proponent to fund any necessary studies to proceed with a dissolution rather than take on the cost from their own budget. Additionally, LAFCoS are prohibited from initiating certain consolidation pathways, such as annexations. Thus, even if a LAFCo knows consolidation is the best choice, they rarely act as proponents. An exception to this trend is when a local scandal erupts, either around system governance or water quality.

This does not mean, however, that LAFCoS do not view themselves as having any role in consolidations. For some LAFCoS, considering consolidation options is already a part of their standard operations. Thirty-two percent of surveyed LAFCoS reported assessing the feasibility of consolidations as part of MSRs for drinking water service providers. Sixty percent reported recommending system consolidation as part of

Consolidating Sativa County Water District Post-Scandal

When some Compton residents began to notice discolored water in their taps in the spring of 2018, popular protests erupted. One entity was not surprised. Los Angeles (LA) LAFCo had flagged the water provider, the Sativa County Water District, as struggling in multiple categories as early as 2005, and staff had recommended outright dissolution of the agency to the commission in 2012. However, despite these red flags, the agency continued to operate, and no consolidation efforts were formally initiated, either locally or by the SWRCB. When the protests began, however, LA LAFCo was prepared to spring into action. With the changed political winds following the fallout from the scandal, the commission was able to initiate a dissolution process for Sativa just two months after complaints first arose and soon thereafter work with the state to allow the county to temporarily takeover operations while all parties looked for a new permanent provider.

The case of Sativa highlights just how effective a well-resourced LAFCo can be in dealing with a local crisis. But the case also provides an example of how a lack of coordination around system dissolution priorities and political inertia can lead to a crisis in the first place. A more aggressive approach locally, or better coordination from the SWRCB, might have dealt with the issues at Sativa before brown water flowed out of residents' taps. Nonetheless, LA LAFCo's quick response and effective collaboration between local and state regulators headed off the problem before things got worse.

MSRs based on assessments of water supply, governance, proximity to other systems, or other factors. In these cases, our interviews reveal that most LAFCoS view the initiative to then fall on the individual system boards to explore possible options for consolidations or alternatively, for the SWRCB to intervene if a system is underperforming to such a degree to require consolidation.

As a result, most consolidation projects in California are initiated by, or in partnership with, the SWRCB. Due to the SWRCB's responsibilities under the Safe Drinking Water Act, these consolidations tend to target existing or imminent health and safety concerns. A more proactive approach to other types of potentially challenged systems — such as small systems with governance issues, those unable to raise capital or with retiring staff or those particularly vulnerable to climate disasters — has so far not been on the agenda for lack of a clear responsible party or champion.

Gaps in relevant authorities

In addition to ambiguity about the role of LAFCoS in reversing water system fragmentation, the fact that not all water systems are subject to the jurisdiction of LAFCoS limits even the potential for LAFCoS to support consolidation projects. Water systems are regulated by a patchwork of state and local agencies, depending on the structure of the system and other key factors. Because of this, some of the systems most suitable for consolidation fall between the cracks.

LAFCoS only regulate and review cities and special districts, not private firms. Yet many struggling water systems are private systems, like mobile home parks or mutual water companies, which unlike Investor-Owned Utilities, are not regulated by the CPUC. State policymakers have noticed this oversight and granted LAFCoS the ability to include information for private water systems operating in their county in MSRs. However, doing so is optional, and often inhibited by resource and information constraints. Because most LAFCoS have their hands full performing MSRs for the public agencies under their jurisdiction, very few have included mutual water companies, mobile home parks, or other small systems in their MSR cycles, and most do not anticipate doing so in

Resident Support Is Often Non-Negotiable

Most LAFCo actions, such as district dissolutions and annexations, are subject to protest by registered voters and landowners in the affected territory. Generally, if more than 25% of the voters or landowners representing 25% of the assessed value of land in the area submit written protests, the change must then be approved by voters in an election which is a costly and time-consuming undertaking. In some instances, namely if LAFCo initiates the boundary change itself, this threshold is lowered to 10%. Moreover, some LAFCo actions that can be needed for a consolidation project, like the creation of new special district, always require a local election. This means that regardless of whether a consolidation project is initiated by the state or a local proponent, resident support is usually critical to successful implementation.

the future. While LAFCoS might seem to be natural agencies to promote consolidation for these types of systems, they ultimately do not have either the statutory mandate, funding, or powers to do so.

Competing local priorities

LAFCoS are political organizations primarily composed of elected officials. As such, local politics matter a lot. If a local agency's board does not favor consolidation, even for a consolidation that is logical and feasible, LAFCo commissioners may be reluctant to force the issue to avoid controversy or protect local relationships. The same can be true for supporting new development. To the extent that a new water system is tied to a politically favored development project or powerful local interests, LAFCoS may be subject to significant political pressure to support the preliminary technical report required by the SWRCB.

County specific priorities and policies can also impede consolidation efforts. One such example is the issue of limiting urban sprawl. If a consolidation project is seen to have the potential for increasing development in an area the county has earmarked for light or no development, a LAFCo might be unlikely to approve the consolidation. Notably, such concerns are county specific. Only 48% of survey respondents listed preventing sprawl as a factor for approving consolidation-related

applications. However, it is increasingly common for municipalities or special districts to implement their own moratoriums on new connections. Such moratoriums serve to arrest new development, but they can also prevent the consolidation of water services for existing peripheral residents.

Importantly, local priorities and interests can also have positive effects on efforts to increase water system consolidation. When locals identify system fragmentation as a major concern, LAFCo staff can work effectively to foster consolidation in unique ways. Tulare County, for example, has completed more than 16 consolidations since 2015, in part due to the active involvement and support from the Board of Supervisors.

Limited and uneven LAFCo resources

LAFCos have uneven funding levels across the state. Because represented agencies are a primary source of funds, counties with small numbers of cities,

special districts, or both, typically have small LAFCo budgets. In some of these counties, LAFCo work may be handled on a contract basis by the county planning department or be contracted out to a private firm. By contrast, counties with large amounts of regulated agencies, like San Diego or Los Angeles, often have relatively large LAFCo budgets.

In many cases, funding levels can directly correspond to staffing levels. LAFCos in counties with low staffing levels may be harder to contact and necessary procedures may take longer, especially if there is no full-time staff. MSRs in such counties may also be updated less frequently than would be preferred if local capacity was higher. Limited resources can also lead to over-reliance on fees associated with studies and applications, which can in turn increase costs and impede a county's ability to offer fee waivers. As previously mentioned, only about two-thirds of the 23 LAFCos who responded to our survey offered fee waivers for studies.

Section III: Recommendations

Based on the challenges outlined in the previous section, the following recommendations highlight potential pathways for addressing the existing gaps and improving alignment between local and state regulators organized around three key themes: Improving information sharing and communication between regulators; Identifying consolidation opportunities; and Advancing locally-driven consolidation projects.

Improving information sharing and communication between regulators

- *Ensure regular, sustained communication between LAFCos and state drinking water regulators:* Locally, LAFCo, the SWRCB, and the CPUC (as applicable) should routinely meet to discuss failing and at-risk systems within each county. Such meetings would present the opportunity for each party to share the information on specific systems as well as identify promising partnerships across a range of system types that are consistent with local plans and policies. When distinct from LAFCo staff, county planners

should also be included. At the state-level, biannual LAFCo conferences and SWRCB's internal staff training programs present opportunities for cross-learning on relevant topics with the potential to increase collaboration. Regular communication would go a long way to increasing mutual understanding of relevant priorities and limitations as well as overcoming terminology and other barriers.

- *Transmit and connect information from MSRs and the annual state drinking water needs assessment:* Currently, both MSRs and the annual SWRCB drinking water needs assessments contain information helpful for assessing the functioning and sustainability of community water systems operated by cities and special districts. Systematically sharing these findings would help connect relevant knowledge from the local and state agencies and align with the Open and Transparent Water Data Act. At a minimum, MSRs should be readily accessible online and county-level meetings can support their use by the SWRCB. Most LAFCos that responded to the

survey support this type of information sharing (See Figure 2). In the future, the SWRCB could create formal pathways for integrating MSR data and/or the state legislature could consider changes to require information sharing and coordination.

- **Clarify and message relevant state goals:** Many LAFcos are eager to support state efforts for advancing safe, accessible, and affordable drinking water and climate resilience but do not have a clear understanding of state priorities on these topics nor the type of performance metrics they could use to assess and advance these goals locally. The state should develop clear resources that can guide LAFcos in the development of MSRs and inform local decision-making about service boundaries.
- **Ensure early coordination on system consolidation projects:** For project proponents, ensuring early coordination between communities, the SWRCB, technical assistance providers and LAFco staff is essential. Consolidation can be accomplished through many potential pathways that must be matched with local conditions. It is therefore important to learn what pathways are preferred or even possible locally and why. If a LAFco has formal or informal policies related to consolidation, they should be shared as soon as possible. Having this information as a project is developed will help ensure alignment with local planning and promote success. Early communication can also help avoid unnecessary delays in planning or implementation by anticipating fees, processing times, etc.
- **Ensure early coordination on proposals that implicate new public water systems:** State regulators, LAFcos, and counties should communicate as early as possible about development proposals that explicitly or implicitly could lead to the creation of a new public water system. Early coordination on priorities and limitations at both levels will help prevent inconsistencies that could lead to conflict and delay.

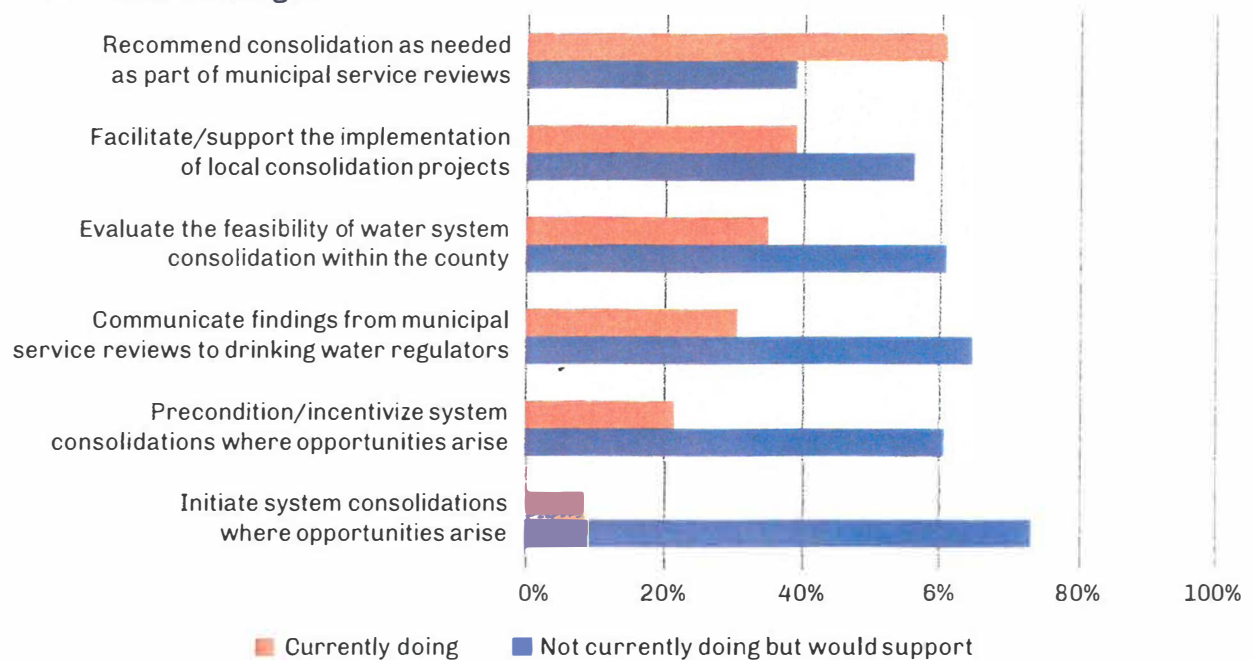
Identifying consolidation opportunities

- **Ensure robust and regular MSRs for drinking**

water service providers: Municipal Service Reviews (MSRs) are a valuable opportunity to both assess the functioning of local service providers and make recommendations for improvements. Ensuring that thorough MSRs are conducted regularly throughout the state could go a long way towards identifying and advancing consolidations. Importantly, identifying funding sources to support this work is likely key to achieving this goal.

- **Standardize assessment of consolidation feasibility as a part of the MSR process and recommend consolidation, as appropriate, in the findings:** California state law requires that LAFcos explore “opportunities for shared facilities” for public water systems as a part of their MSR process. Some LAFcos go beyond this requirement to assess consolidation opportunities for some or all systems under their jurisdiction. All LAFcos should do so with an eye not only for physical consolidations but also managerial consolidations and water system partnerships (e.g., shared staff). Where appropriate based on these findings, LAFcos should make formal recommendations for consolidation as part of their MSR findings. While not all counties responded to our survey, the results demonstrate unanimous support for both actions among those who did.
- **Fill data and oversight gaps for under-regulated water systems:** LAFcos collect and maintain important information about the water systems operated by municipalities and special districts in their jurisdictions. The CPUC maintains similar information for the state’s Investor-Owned Utilities. For other private water systems like mutual water companies and mobile home parks data collection is limited to the drinking water needs assessment which necessarily provides very limited insights on system governance and management. Figuring out how to fill this gap should be a state priority. For example, these systems could be subject to reporting and oversight by the CPUC or included in MSRs.
- **Proactively identify priority consolidations and tie these into other opportunities for boundary expansion:** Some systems are reluctant to receive

Figure 2. Existing practices and policy preferences among surveyed LAFCoS for addressing local water challenges.



customers from struggling systems but are happy to expand with greenfield development. Working with both state drinking water regulators and local water managers (e.g. Groundwater Sustainability Agencies), LAFCoS should develop and maintain a list of priority consolidation projects in their county. LAFCoS should then use their existing authorities to tie these projects to locally promoted boundary changes, for example, annexations or sphere of influence updates, when feasible. More than 80% of LAFCoS that responded to the survey support this type of approach.

- Clarify roles for identifying and promoting potential consolidations:** Currently the SWRCB is the primary entity identifying potential consolidation projects and initiating conversations with a particular focus on “failing systems” with pressing health and safety concerns and those at-risk of failing. There is a need to clarify who else, if anyone, should take responsibility for identifying and initiating potential consolidations among different subsets of systems such as

privately-owned non-Investor-Owned Utilities and low-hanging fruit consolidations (e.g., based on proximity or where system managers wish to retire).

Advancing locally-driven consolidation projects

- Reduce financial impediments to locally-driven consolidations:** Proposed consolidations entail LAFCo related costs to be borne by a project proponent and/or the LAFCo itself. As such, promising projects can languish if they are not financially supported by the SWRCB and/or a local government proponent. Establishing a funding source to support LAFCoS or other local proponents to advance consolidation projects could help increase the number of locally initiated projects. Similarly, state and federal funding and technical assistance is often essential to make consolidation feasible. Creating clear pathways for accessing these resources for locally-initiated projects could similarly increase local leadership on the issue.

- *Reduce administrative and procedural hurdles to implementing consolidations:* Consolidation is a complicated and difficult process constrained by convoluted statutes with significant limitations and even contradictions. Often a single consolidation project may trigger several concurrent actions which only further increases the administrative burden and associated costs. To every extent possible, the associated statutory requirements should be clarified and streamlined.
- *Create local pathways for consolidation of mutual water companies, mobile home park systems, and other small private systems:* LAFcos do not have authority over private water systems and therefore cannot initiate consolidation among them. Thus, the state must explore possibilities to promote the consolidation of small private systems that are not Investor-Owned Utilities.
- *Allow LAFcos to initiate annexations:* Currently LAFcos can initiate dissolutions but not annexations. Given that annexation is a common and often preferred mechanism for consolidating water systems, granting LAFcos the ability to initiate annexations could increase the number of projects advanced locally.
- *Ensure technical assistance providers working on consolidations have a clear understanding of work plan elements and project requirements related to LAFco:* The SWRCB should provide technical assistance providers clear guidance for addressing the local planning dimensions of consolidations including working with LAFco. Ensuring that LAFco tasks and expenses are accounted for in work plans and budgets will streamline implementation.

Resources and Further Reading

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Appendix

LAFCo information and select survey results by county

County	# of Staff	Offers Fee Waivers?	Approx. Range for Consolidation-Related Fees
Alameda	2	N	\$6,500 - \$13,000
Alpine	1	Did not respond to survey	Did not respond to survey
Amador	4	Did not respond to survey	Did not respond to survey
Butte	4	Y	\$1,000 - \$25,000
Calaveras	2	Did not respond to survey	Did not respond to survey
Colusa	2	Did not respond to survey	Did not respond to survey
Contra Costa	2	Y	\$4,000 - \$8,500
Del Norte	2	Did not respond to survey	Did not respond to survey
El Dorado	2	Y	\$1,000 - \$50,000
Fresno	5	Did not respond to survey	Did not respond to survey
Glenn	1	Did not respond to survey	Did not respond to survey
Humboldt	3	Did not respond to survey	Did not respond to survey
Imperial	4	Did not respond to survey	Did not respond to survey
Inyo	2	Did not respond to survey	Did not respond to survey
Kern	3	Did not respond to survey	Did not respond to survey
Kings	2	Did not respond to survey	Did not respond to survey
Lake	2	Did not respond to survey	Did not respond to survey
Lassen	3	Did not respond to survey	Did not respond to survey
Los Angeles	7	Y	\$6,000 - \$30,000
Madera	2	N	\$3,000 - \$6,000
Marin	2	Did not respond to survey	Did not respond to survey
Mariposa	1	Did not respond to survey	Did not respond to survey
Mendocino	2	Did not respond to survey	Did not respond to survey
Merced	2	N	\$2,000 - \$5,000
Modoc	2	Did not respond to survey	Did not respond to survey
Mono	1	Did not respond to survey	Did not respond to survey
Monterey	4	Did not respond to survey	Did not respond to survey
Napa	2	Y	\$8,500 - \$34,000

County	# of Staff	Offers Fee Wavers?	Approx. Range for Consolidation-Related Fees
Nevada	2	Did not respond to survey	Did not respond to survey
Orange	5	N	\$10,000 - \$30,000
Placer	2	Y	\$20,000 - \$40,000
Plumas	2	Did not respond to survey	Did not respond to survey
Riverside	5	Did not respond to survey	Did not respond to survey
Sacramento	2	Y	\$3,000 - \$10,000
San Benito	2	Did not respond to survey	Did not respond to survey
San Bernardino	4	Did not respond to survey	Did not respond to survey
San Diego	10	Y	\$6,500 - \$25,000
San Francisco	1	Did not respond to survey	Did not respond to survey
San Joaquin	3	N	\$2,000 - \$2,500
San Luis Obispo	3	Y	\$3,000 - \$7,500
San Mateo	3	Y	\$2,000 - \$10,000
Santa Barbara	2	Y	\$2,000 - \$6,000
Santa Clara	2	Y	\$4,000 - \$8,500
Santa Cruz	2	Y	\$1,000 - \$2,000
Shasta	2	Did not respond to survey	Did not respond to survey
Sierra	1	Did not respond to survey	Did not respond to survey
Siskiyou	2	Did not respond to survey	Did not respond to survey
Solano	3	N	\$7,500 - \$35,000
Sonoma	3	Y	\$4,000 - \$6,000
Stanislaus	3	Y	\$500 - \$3,500
Sutter	3	Did not respond to survey	Did not respond to survey
Tehama	1	Did not respond to survey	Did not respond to survey
Trinity	2	Did not respond to survey	Did not respond to survey
Tulare	3	Y	\$3,500 - \$4,000
Tuolumne	2	Did not respond to survey	Did not respond to survey
Ventura	3	Did not respond to survey	Did not respond to survey
Yolo	2	Y	\$1,500 - \$6,500
Yuba	2	Did not respond to survey	Did not respond to survey

References and Notes

- 1 Dobbin, K. B., McBride, J., & Pierce, G. (2023). Panacea or placebo? The diverse pathways and implications of drinking water system consolidation. *Water Resources Research*, 59(12), <https://doi.org/10.1029/2023WR035179>.
- 2 CALAFCo website, What Are LAFCos responsibilities? Accessed 11/6/23. <https://caLAFCo.org/LAFCo-law/faq/what-are-LAFCos-responsibilities>
- 3 CA Government Code §56000 et seq.
- 4 CA Government Code §54950 et seq.
- 5 A consolidating water system is a system that will stop providing drinking water service after a consolidation is completed. In contrast, a receiving water system is a system that continues to provide drinking water service including to new customers/territory added through the consolidation.
- 6 CA Government Code §56133(c)
- 7 CA Government Code §56425(g); A sphere of influence or SOI is a planning boundary outside of an agency's jurisdictional boundary (such as the city limit line or water service area) that designates the agency's probable future boundary and service area.
- 8 Countywide Water Service and Sphere Review. Local Agency Formation Commission of Santa Cruz County. Accessed 01/22/24. <https://santacruzlafco.org/wp-content/uploads/2022/09/Countywide-Water-MSR-Adopted-Version.pdf>
- 9 CA Government Code §56430(7)(d)
- 10 A public water system is a water system serving at least 15 connections or 25 people for a minimum of 60 days per year. This is the body of water systems that is regulated by the SWRCB under the Federal Safe Drinking Water Act.
- 11 Extraterritorial, Out-of-Agency, Out-of-Boundary or Outside service agreements all refer to situations where a city or special district extend services outside of their jurisdictional boundaries. For drinking water service this means outside of their approved service area. Prior to 1994 service extensions only required LAFCo approval if they involved annexation. Since 1994 service extensions always require approval by LAFCo (with some exceptions such as the transfer of non-treated water).
- 12 CA Government Code §56035; For a LAFCo, a dissolution entails the "disincorporation, extinguishment, or termination of the existence of a district and the cessation of all its corporate powers."