AGENDA
Wednesday, September 28, 2016
6:00 P.M.
Joint Chambers—Basement Level
1010 10th Street, Modesto, California 95354

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

1. CALL TO ORDER
   A. Pledge of Allegiance to the Flag.
   B. Introduction of Commissioners and Staff.

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

3. APPROVAL OF MINUTES
   A. Minutes of the August 24, 2016 Meeting.

4. CORRESPONDENCE
   No correspondence addressed to the Commission, individual Commissioners or staff will be accepted and/or considered unless it has been signed by the author, or sufficiently identifies the person or persons responsible for its creation and submittal.
   A. Specific Correspondence.
   B. Informational Correspondence.
      1. CALAFCO Quarterly - September 2016.
      2. “In the News.”

5. DECLARATION OF CONFLICTS AND DISQUALIFICATIONS
6. **CONSENT ITEMS**

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

A. **SELECTION OF AN INDEPENDENT AUDITOR FOR THE BIENNIAL AUDIT.**

(Staff Recommendation: Authorize the Executive Officer to Execute a Professional Services Agreement with Robert A. Hawks, Jr., CPA, for completion of a biennial audit for Fiscal Years 2014-15 and 2015-16.)

B. **PROPOSED LAFCO MEETING CALENDAR FOR 2017.**

(Staff Recommendation: Accept the 2017 Meeting Calendar.)

7. **PUBLIC HEARINGS**

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

A. **OUT-OF-BOUNDARY SERVICE APPLICATION – FINDLAY AUTOMOTIVE (4201 MCHENRY AVENUE – MODESTO).** The Commission will consider the request to extend water service outside the City of Modesto’s existing city limits to serve a property at 4201 McHenry Avenue. The proposed water service extension is intended to provide domestic water to a future auto dealership. Stanislaus County, as Lead Agency, has adopted a Negative Declaration for the purposes of the California Environmental Quality Act (CEQA). APNs: 046-005-010 & 014 and 046-008-016 & 024. (Staff Recommendation: Approve Resolution No. 2016-19.)

B. **OUT-OF-BOUNDARY SERVICE APPLICATION – RAM FARMS (716 DAUBENBERGER ROAD – TURLOCK).** The Commission will consider the request to extend water service outside the City of Turlock’s existing city limits to serve a property at 716 N. Daubenberger Road. The proposed water service extension is intended to provide potable water to accommodate RAM Farms, a seasonal operation approved by Stanislaus County. The City of Turlock, as Lead Agency, determined that the proposal is exempt from California Environmental Quality Act (CEQA) review pursuant to sections 15301, 15303, and 15304 of the CEQA Guidelines. APN: 051-005-002. (Staff Recommendation: Approve Resolution No. 2016-20.)

8. **COMMISSIONER COMMENTS**

Commission Members may provide comments regarding LAFCO matters.

9. **ADDITIONAL MATTERS AT THE DISCRETION OF THE CHAIRPERSON**

The Commission Chair may announce additional matters regarding LAFCO matters.

10. **EXECUTIVE OFFICER’S REPORT**

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

A. On the Horizon.
11. ADJOURNMENT

   A. Set the next meeting date of the Commission for December 7, 2016.

   B. Adjourn.

LAFCO Disclosure Requirements

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

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

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

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

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

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

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

Chair Hawn called the meeting to order at 6:01 p.m.

A. Pledge of Allegiance to Flag. Chair Hawn led in the pledge of allegiance to the flag.

B. Introduction of Commissioners and Staff. Chair Hawn led in the introduction of the Commissioners and Staff.

Commissioners Present: Brad Hawn, Chair, Public Member
Tom Dunlop, City Member
Terry Withrow, County Member
Michael Van Winkle, Alternate City Member
William O’Brien, Alternate County Member

Commissioners Absent: Amy Bublak, Vice-Chair, City Member
Jim DeMartini, County Member
Annabel Gammon, Alternate Public Member

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

2. PUBLIC COMMENT

None.

3. APPROVAL OF MINUTES

A. Minutes of the July 27, 2016 Meeting.

Chair Hawn requested that item 3-A be heard out of order following the Public Hearings.

4. CORRESPONDENCE

A. Specific Correspondence.

None.
B. Informational Correspondence.

None.

C. “In the News”

5. DECLARATION OF CONFLICTS AND DISQUALIFICATIONS

Commissioner Dunlop disclosed that his workplace and residence are within the Oakdale Irrigation District.

6. CONSENT ITEM

A. **MUNICIPAL SERVICE REVIEW NO. 16-03 AND SPHERE OF INFLUENCE UPDATE NO. 16-03 FOR KNIGHTS FERRY COMMUNITY SERVICES DISTRICT.**

The Commission will consider the adoption of a Municipal Service Review (MSR) and Sphere of Influence (SOI) Update for the Knights Ferry Community Services District. This item is exempt from the California Environmental Quality Act (CEQA) review pursuant to Regulation §15061(b)(3). (Staff Recommendation: Approve Resolution No. 2016-18.)

Motion by Commissioner Dunlop, seconded by Commissioner O’Brien, and carried with a 4-0 vote to adopt Resolution No. 2016-18, by the following vote:

- **Ayes:** Commissioners: Dunlop, Hawn, O’Brien and Withrow
- **Noes:** Commissioners: None
- **Ineligible:** Commissioners: None
- **Absent:** Commissioners: Bublak, DeMartini, Gammon and Van Winkle
- **Abstention:** Commissioners: None

7. PUBLIC HEARINGS

A. **LAFCO APPLICATION NO. 2016-03 – FRINGE PARCELS CHANGE OF ORGANIZATION TO THE OAKDALE IRRIGATION DISTRICT.**

The Commission will consider the Oakdale Irrigation District’s request to annex approximately 330 gross acres consisting of nine parcels to the Oakdale Irrigation District (OID) located in the north and east Oakdale area. The Fringe Parcels have historically received water for their in-District acreage. The project proposes to annex to the out-of-District acreage so that the OID boundary is aligned with parcel lines. Pursuant to the California Environmental Quality Act (CEQA), the Commission, as a Responsible Agency, will also review and consider the Negative Declaration prepared by the Oakdale Irrigation District, as Lead Agency. (Staff Recommendation: Approve Resolution No. 2016-16.)

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

Commissioner Van Winkle arrived at 6:06 p.m. prior to Public Comment on this item.

Chair Hawn opened the Public Hearing at 6:08 p.m.

FAVOR: John Brichetto, Jack Hoekstra and Garrett Doorepal, property owners
within the proposal.

OPPOSITION: Robert Frobose, County resident.

Chair Hawn closed the Public Hearing at 6:18 p.m.

The Commission requested clarification from Steve Knell, General Manager, Oakdale Irrigation District.

Motion by Commissioner Withrow, seconded by Commissioner O’Brien, and carried with a 5-0 vote to adopt Resolution No. 2016-17 by the following vote:

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

B. LAFCO APPLICATION NO. 2016-04 – ADDITIONAL PARCELS CHANGE OF ORGANIZATION TO THE OAKDALE IRRIGATION DISTRICT. The Commission will consider the Oakdale Irrigation District’s request to annex approximately 740 gross acres consisting of five parcels to the Oakdale Irrigation District (OID) located in the north and east Oakdale area. The project proposes to annex the out-of-District acreage of each parcel, and supply OID surface water to those parcels as “Tier Two” OID customers. Pursuant to the California Environmental Quality Act (CEQA), the Commission, as a Responsible Agency, will also review and consider the Negative Declaration prepared by the Oakdale Irrigation District, as Lead Agency. (Staff Recommendation: Approve Resolution No. 2016-17.)

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

Chair Hawn opened the Public Hearing at 6:25 p.m.

FAVOR: John Brichetto and Jack Hoekstra, property owners within the proposal, and Steve Knell, General Manager, Oakdale Irrigation District.

OPPOSITION: Robert Frobose, County resident.

Chair Hawn closed the Public Hearing at 6:38 p.m.

Motion by Commissioner Withrow, seconded by Commissioner Dunlop, and carried with a 5-0 vote to adopt Resolution No. 2016-17 by the following vote:

   Ayes: Commissioners: Dunlop, Hawn, O’Brien, Van Winkle and Withrow
   Noes: Commissioners: None
   Ineligible: Commissioners: None
   Absent: Commissioners: Bublak, DeMartini and Gammon
   Abstention: Commissioners: None
8. OTHER BUSINESS

Chair Hawn requested that Item 3A, Approval of Minutes, be acted upon.

Motion by Commissioner O'Brien, seconded by Commissioner Van Winkle, and carried with a 3-0 vote to approve the Minutes of the July 27, 2016 meeting by the following vote:

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

9. COMMISSIONER COMMENTS

None.

10. ADDITIONAL MATTERS AT THE DISCRETION OF THE CHAIRPERSON

None.

11. EXECUTIVE OFFICER’S REPORT

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

- Two out-of-boundary service requests will be brought to the Commission for their review in September.
- Staff will also bring an item for selection an auditor.
- There are two district annexations that are assembling applications for the December meeting.

12. ADJOURNMENT

A. The meeting was adjourned 6:48 p.m.

Sara Lytle-Pinhey, Executive Officer
News from the Board of Directors

CALAFCO QUARTERLY

September 2016

Conferences and Workshops Update

2016 ANNUAL CONFERENCE UPDATE

The 2016 Annual Conference is fast approaching! Get your registrations in before October 16. This year’s Conference is set for October 26 – 28 in Santa Barbara at the beautiful Fess Parker DoubleTree. Our theme this year is Orchards to Oceans: Balancing California’s Diversity. Our host, Santa Barbara LAFCo, and the program planning committee have planned a great program. Session topics include general sessions on water, ag preservation, and state legislative overrides on LAFCOs. Breakout sessions include topics such as growth & development, cutting edge LAFCo trends, AB 8, CEQA, water source alternatives, and a look at DUCs. Of course we will finish with our annual legislative update. A diverse and unique mobile workshop is planned, as well as a fun time for Wednesday night’s welcome reception and Thursday night’s awards banquet.

CALAFCO wishes to thank Santa Barbara LAFCo for hosting this year’s conference, program committee chair David Church, conference chair Sblend Sblendorio, and all those who volunteered to plan the program. All Conference information can be found on the CALAFCO website.

2016 STAFF WORKSHOP

This year’s staff workshop was hosted by LA LAFCo and held in Universal City. With the theme of JEOPARDY: What is the Evolving Role of LAFCo? The program was diverse and attendance was high with 111 people in attendance, representing 38 LAFCos and 6 Associate Members. Overall the Workshop rating was a 4.9 out of 6.0. The final financial report, which was available at the end of the fiscal year, showed a virtual break-even.

CALAFCO wishes to again thank LA LAFCo for hosting the workshop, Kris Berry and Marjorie Blom for assuming the lead on the program committee at various times in the planning process, and all those who volunteered to plan the program.

The 2017 Staff Workshop is set for April 5-7, 2017 at the beautiful Doubletree by Hilton in downtown Fresno. Our host for this workshop will be Fresno LAFCo.

CALAFCO U UPDATE

Mark your calendars for the next CALAFCO U sessions! December 8 will be in southern California (exact location still being determined) and the topic will be Enhancing Partnerships and Relationships With Affected Agencies. The other session in Sacramento is set for May 5, 2017 with the topic being Negotiations and Mediation: How LAFCos Have Dealt With Unique Situations.

CALAFCO Board Actions

The Board met on July 29 in San Diego and took the following administrative actions:

The FY 2015-16 year-end budget was reviewed. The Association ended the year with a net balance of $59,242. The Board approved an additional transfer of $2,000 into Fund Reserves (in addition to the $6,000 approved in the FY 2016-17 budget), bringing the total Fund Reserve balance to $158,754. The Board also approved an additional $7,687 moved into Contingency increasing that amount for FY 2016-17 to $28,306.

The Board approved Tenaya Lodge in Yosemite as the site of the 2018 Annual Conference. After repeated attempts to secure a facility in Monterey, CALAFCO was unsuccessful in getting the right kind of room rates, so other options were explored.

The Board had a lengthy discussion regarding potential Conference Sponsors and approved the acceptance of sponsorship monies with the caveat that on all collateral material pertaining to sponsors there is a statement indicating a sponsorship does not mean CALAFCO is endorsing that particular business/agency.

The Board approved the production of a white paper and statewide mapping project of disadvantaged unincorporated communities in the coming year.

The Board held a closed session in which there was a performance review for the Executive Director.

CALAFCO/CSDA Joint Projects

The joint project of the creation of an informational guide on the formation of a special district is now complete and in the publication stage. One printed guide will be provided by CALAFCO to each LAFCo, and additional guides will be available for purchase from CSDA.

The second working group, which focused on the implementation of countywide RDA oversight boards, has also completed their planning work. Implementation of this long process will begin in the fall of this year.

CALAFCO White Papers

We are putting the final touches on the White Paper on SGMA implementation and the affects to LAFCo. Thank you to David Church (SLO LAFCo), John Marchand (CALAFCO Board Member), Mona Palacios (Alameda LAFCo) and BB&K for their work on this document.

Additionally, CALAFCO is partnering with the American Farmland Trust (AFT) on a White Paper on Ag Policies. Work on this project will begin shortly.
**CALAFCO Legislative Update**

This has been a very full legislative year for CALAFCO. As the legislative session winds down, we are monitoring bills of importance. This year we sponsored two bills. The first is **AB 2910** our annual Omnibus bill. The bill was signed into law August 22.

The other bill CALAFCO sponsored is **SB 1266** (McGuire), which is the legislation that creates a direct communication link between LAFcos and JPAs. The bill requires stand-alone JPAs meeting the definition found in GC Section 56047.7 that were formed to provide municipal services and have at least one member who is a public agency to file a copy of their agreement or amendment to that agreement with the LAFCo. The bill was signed into law August 22.

Other bills CALAFCO was actively involved in include:

- **SB 817** (Roth) **Support** (pending Gov action)
- **SB 971-972-973** (SGFC) **Support** (signed into law May 27)
- **SB 1292** (Stone) **Support** (bill died)

CALAFCO thanks all who serve on the Legislative Committee, and those on the Committee who volunteered to assist in subgroups for many of this year’s complicated bills. A full detailed legislative tracking report can be found on the CALAFCO website in the Members Only section. We thank all of our member LAFCos who have taken the time to write position letters on these various bills. Together our voice is stronger.

**Little Hoover Commission and CALAFCO**

In August, at the request of the Little Hoover Commission (LHC), CALAFCO was a primary witness in an informational hearing on Special Districts. The LHC is doing follow-up work on their 2000 report on Special Districts. Also testifying were CSDA, North Tahoe Fire Protection District, the CA Assoc. of Healthcare Districts, Howard Jarvis Association and economist Michael Coleman. CALAFCO prepared a 19-page written testimony, a copy of which can be found on the CALAFCO website. It appears at this time, the LHC will focus on the effects of climate change to the delivery of services by special districts for their October hearing. Additionally, they are hosting a roundtable discussion for stakeholders on the topic of healthcare districts in November, with CALAFCO participating in that discussion.

**CALAFCO Associate Members’ Corner**

*This section highlights our Associate Members. The information below is provided to CALAFCO by the Associate member upon joining the Association. All Associate member information can be found in the CALAFCO Member Directory.*

We are pleased to welcome one new Gold and welcome back one Silver Associate Member to CALAFCO.

**New Gold Member**

**CV Strategies**

**CV Strategies** is a dedicated team helping companies with strategic planning, communications and training. To learn more about their team and the services they offer, visit them at [www.cvstrategies.com](http://www.cvstrategies.com) or contact Erin Gilhuly at erin@cvstrat.com.

**New Silver Member**

**Rosenow Spevacek Group, Inc.**

We welcome back to the CALAFCO family **Rosenow Spevacek Group, Inc.**, or RSG.
**Upcoming CALAFCO Conferences and Workshops**

**2016 ANNUAL CONFERENCE**
October 26 - 28
Fess Parker DoubleTree by Hilton
Santa Barbara, CA
Hosted by Santa Barbara LAFCo

**2017 STAFF WORKSHOP**
April 5 – 7
DoubleTree by Hilton Fresno Convention Center
Fresno, CA
Hosted by Fresno LAFCo

**2017 ANNUAL CONFERENCE**
October 25 – 27
Bahia Mission Bay
San Diego, CA
Hosted by CALAFCO

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**RSG** is a creatively charged counterpart to California public agencies. They work with the people responsible for vibrant places and propel them to their goals. Better Communities. Bolder futures. To learn more about them visit their website at [www.webrsg.com](http://www.webrsg.com) or contact Cassandra Ravenna at cravenna@webrsg.com.

**Fresno County Fire Protection District**
Since September 2009, the Fresno County Fire Protection District has been providing emergency services, fire prevention, fire protection planning and code enforcement for the Fresno Fire Protection District. To learn more about them, visit their website at [www.fresnocountyfire.org](http://www.fresnocountyfire.org).

**GST Consulting**
GST Consulting has been a Silver Associate Member since January 2010. They provide local government consulting and management services to public agencies and private organizations desiring short and long term expertise in organizational management, municipal service delivery analysis, staff augmentation and municipal finance, with emphasis on incorporation and annexation fiscal analysis. For more information on GST Consulting, visit their website at [www.GSTConsulting.us](http://www.GSTConsulting.us), or email Gary Thompson at GSTConsulting@cox.net.

CALAFCO wishes to thank all of our Associate Members for your support and partnership. We look forward to continuing to highlight our Associate Members in each Quarterly Report.

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**Amador LAFCo**
Amador LAFCo recently dissolved a small water-providing CSD and combined it with Amador Water Agency, a county wide water wholesale and retail water provider. The reorganization was friendly, with both agencies negotiating with open minds and a priority of looking out for the best interests of all their citizens and ratepayers. The volunteer board of directors at the CSD had been having a difficult time complying with reporting requirements and state laws for water quality at a low enough cost to be competitive. System improvements benefiting the CSD residents as well as other nearby customers of Amador Water Agency will now be accomplished more easily. The CSD did a great job of outreach to its customers and there were no citizen objections to the plan. This change seems to be a win-win for both the agencies and water users.

**Placer LAFCo**
Placer LAFCo approved its first Island annexation this spring. The 103 acre territory of 183 lots developed with residences is completely surrounded by the City of Rocklin was approved in April, and a Reconsideration hearing in July upheld the Commission’s approval. This area was previously proposed for an annexation proposal in 1983, which resulted in termination by a 78 – 0 vote.

The property owner who filed for reconsideration on this proposal challenged our conclusion that the area was not prime agricultural land; that in fact it was prime agricultural land based on evidence he was growing microgreens in trays in his garage, and had two goats on the property. LAFCo was also challenged on our use of “developed” pursuant to the CKH definition of prime agricultural lands.

Based on this experience, we suggest CALAFCO may want to think about our definition of prime agricultural lands contained in CHK and, specifically, may want to consider a definition of development.

**Marin LAFCo**
Marin LAFCo recently welcomed Sicla Lundy to their team. Sicla is a recent graduate of Cal State Northridge and previously worked for BioMarin. Sicla serves as Marin LAFCo’s new Administrative Services Associate.

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**Mark Your Calendars For These Upcoming CALAFCO Events**

- CALAFCO Annual Conference, October 26 – 28, 2016, Santa Barbara
CORRESPONDENCE – IN THE NEWS

Newspaper Articles

➢ The Modesto Bee, August 25, 2016, "Agency gives OID the OK to annex, provide water to border parcels."

➢ West Side Index, September 1, 2016, "Recycled water on way to growers."

➢ The Ceres Courier, September 7, 2016, "Westport Fire Tax Measure is Approved."

➢ The Turlock journal, September 15, 2016, "Local agencies vehemently oppose State Water Board proposal to cut water use."
Agency gives OID the OK to annex, provide water to border parcels

By Garth Stapley

The Oakdale Irrigation District can annex and provide water to 1,070 acres in 14 scattered parcels on its borders north and east of Oakdale, a growth-guiding agency decided Wednesday, setting aside irksome memories of fallout from OID’s 2013 annexation of megagrower Trinitas Farming.

OID historically enjoys a larger water supply than other agencies and has enough for the nearby farms without hurting existing customers, the district said in its application. Also, using OID’s Stanislaus River water will enable the newcomers to pump less groundwater to feed their crops, easing fears of dwindling aquifers, the district said.

“Let’s keep as much water as we can local,” said Bill O’Brien, a county supervisor well acquainted with OID’s penchant for shopping surplus water to wealthy outsiders. “This absolutely is the right thing to do.”

OID HAS NO SHORTAGE OF POLITICS GOING ON. I’D LIKE TO KEEP LAFCO OUT OF THE POLITICAL DEBATE.

Bill O’Brien, Stanislaus County supervisor

Sitting Wednesday on the Stanislaus Local Agency Formation Commission, O’Brien noted that the panel has no authority to regulate noise, dust or truck traffic caused by farming on newly annexed land. He also said – more than once – that he hoped LAFCO would not get bogged down in a “political fray” playing out on the five-person OID board.

Three board members have sued the other two after the two – Linda Santos and Gail Altieri – became involved in a separate fallowing lawsuit facing OID, and several customers last week launched a recall effort against Santos.

The women last year campaigned to bring transparency to OID and were elected in November, shortly after the district surprised many with a $5.75 million water sale to Fresno-area buyers, with no public vote or discussion in Oakdale. Shortly before the announcement, LAFCO commissioners had urged OID General Manager Steve Knell to negotiate with local buyers; he said nothing of the pending sale, consummated out of public view only six days before.

The revelation had prompted Jim DeMartini, also a county supervisor and LAFCO commissioner, at the time to call OID a “rogue agency” for “operating in secret and not being truthful in presentations.” DeMartini was absent Wednesday.

WHAT WE ALL WANT IS TO TRY TO KEEP ALL THE SURFACE WATER IN OUR AREA FOR THE BENEFIT OF THE LANDOWNERS. BUT (ANNEXATION SHOULD NOT) HAPPEN IF IT INTERFERES WITH THE ORIGINAL LANDOWNERS’ RIGHTS IN ANY WAY.

Robert Frobose, OID grower
Also last year, some commissioners sympathized with OID customer Robert Frobose when he accused the district of deceiving longtime farmers and LAFCO to win approval for the Trinitas annexation. OID had promised that Trinitas’ 7,234 acres between Oakdale and Knights Ferry would get no water in a drought season until existing customers got full allotments, but OID that year imposed a cap on water deliveries while providing Trinitas and another newly annexed customer a third of the amount going to established customers.

"It didn't turn out the way they presented it," Frobose told commissioners Wednesday, asking for the definition of "no negative impact" to existing customers — the same promise repeated as a term for Wednesday's approval. "OID uses a different dictionary than most everyone else," he said. He and another man brought the falling lawsuit against OID in the spring.

O'Brien and Terry Withrow, another county supervisor, said it's not LAFCO's job to meddle in OID's contracts with those to be annexed.

**IT'S NOT FOR US TO GET INTO THE BOARDROOMS OF THESE AGENCIES AND TRY TO DICTATE WHAT HAPPENS THERE.**

Terry Withrow, Stanislaus County supervisor

Farms joining OID Wednesday had signed up during an application period after the controversial 2013 annexation.

"After Trinitas, we did the fair thing and offered it to anybody," Knell said. "These took the district up on that offer."

"The window was open and I ran through it," said grower John Brichetto, whose operation includes 78 acres annexed Wednesday.

OID gained 625 acres of Jack Hoekstra's dairy. He said the operation installed $50,000 worth of "state-of-the-art measuring devices" to meet OID's connection policy. Such efficiency improvements help free up water to offer to others, Knell said.

Before the annexation, OID's service area was about 82,000 acres.
Recycled water on way to growers

New water is on the way to parched fields and orchards in a West Side water district which has seen its annual allocation of surface water eliminated in recent years.

Ground was broken Friday on an innovative program which will recycle treated wastewater from Modesto, Turlock and Ceres for use by growers in the Del Puerto Water District, a narrow federal water district which stretches along the Interstate 5 corridor from Vernalis to Santa Nella.

A host of local leaders, Del Puerto farmers and dignitaries gathered on the banks of the Delta-Mendota Canal north of Patterson for the ground-breaking ceremony on the pipeline segment which represents the first phase of the program.

By the end of 2017, recycled water will begin flowing into the canal at that point, where it can be directly used by growers or stored in San Luis Reservoir.

Anthea Hansen, general manager of the Del Puerto Water District, said the program will provide a reliable water supply on which growers can depend to meet at least a portion of their needs.

The district has been hard hit in recent years by both the persistent drought and environmental regulations which have limited deliveries of surface water to users south of the Sacramento-San Joaquin Delta.

The district was allocated no surface water in 2014 and 2015. This year, Del Puerto received a 5 percent allocation but even that meager amount has not yet been delivered and may not be, said Jim Jasper, a Newman almond grower and Del Puerto board member.

To understand the hardships the district's growers have faced in recent years "is to understand how meaningful this program will be for our future," Hansen told those gathered for the ground-breaking.

"This partnership will support ag investments, jobs and economic activity on the West Side," she stated. "As the program grows, it is possible that over one-third of the district's post-conservation needs could be delivered from the pipeline which we are about to build. Water generated will be a reliable base supply on which each grower will be able to depend year in and year out over the course of more than 40 years."

The first phase will include a pipeline which allows the delivery of water treated at the city of Modesto plant on Jennings Road; a subsequent phase will allow delivery of recycled water from the Turlock plant. Each of those plants also treats a portion of wastewater from Ceres.

As those cities grow, so will the volume of recycled water.

The environment benefits as well.

David Murillo, director of the Bureau of Reclamation’s Mid-Pacific Region, said that the project will ultimately deliver 59,000 acre-feet of water a year, of which 43,000 will go to agriculture and 16,000 will help support wildlife refuges.

"The best thing about it is that you get to control it," he told those in attendance at the ground-breaking. "It is a reliable source."
Jasper said that initially, he believes the program will bring about 20,000 acre-feet of water annually for ag use in the district.

“We discovered some water that really was not being used beneficially,” he said of the treated wastewater. “We can utilize something that nobody else is using. This is the first time we have seen light at the end of the tunnel in terms of getting some water. We have worked on this for a long, long time, and it looks like it is going to come to fruition.”

Several speakers applauded the innovative nature of the program and the collaboration among agencies needed to make it a reality.

“I think it is a model for the kind of water projects we will see more of in the future,” said Congressman Jim Costa. “We can make this water work in ways that we have only dreamed about.”

Lyndel Melton of RMC Water & Environment, an environmental engineering firm focused on water, said the project represents “the first time ever that we have put recycled water into a federal facility of this nature. It is a huge accomplishment.”

Technically known as the North Valley Regional Recycled Water Program, the project is a partnership which includes Del Puerto, Stanislaus County and the cities of Modesto, Turlock and Ceres. That partnership worked with a number of regulatory agencies at the state and federal levels to bring the project to fruition.

The project works to the advantage of all partners, several speakers said, as it creates a beneficial use for the treated wastewater of the three cities while producing a critically-needed supply for the West Side growers.

“It is proof that things can be done to make the situation better no matter how difficult the task,” Hansen said of the program.

“If you leave with anything today,” she said in closing, “please let it be knowledge that there is always a possibility for positive change in an ever-changing world as long as you believe that your reservoir is half-full, not half-empty.”
WESTPORT FIRE TAX MEASURE IS APPROVED

By Jeff Benziger

Voters in the Westport Fire Protection District overwhelmingly passed Measure J last week to raise taxes to support firefighting efforts in the rural area southwest of Ceres.

A total of 212 voters supported the measure to represent 82.17 percent in the special mail ballot only election. It only needed a two-thirds majority, or 66 percent plus one vote, for passage. The measure received 46 "no" votes, or 17.83 percent.

The Westport election drew 259 voters out of the 968 registered voters living in the district, representing 26.76 percent.

The measure was promoted as a "last resort" measure to help Westport Fire Protection District cover the costs of fire protection and emergency response services, specifically to fund a daytime firefighter staffing program.

Westport believes it will reap approximately $130,000 per year to fully staff the department.

The district has operated on a shoestring budget for decades in responding to fires, vehicle crashes and other emergencies in the rural area southwest of Ceres and northwest of Turlock. The district runs from Bystrum Road on the east to the San Joaquin River on the west, as far south as W. Monte Vista Avenue and north to Whitmore Avenue. Having not increased the $20 per home annual assessment since 1982, district officials say they need more operating funds, especially since volunteers are becoming difficult to find and pay is required to keep them around. Westport has 20 volunteers but since all but two live outside the district, at times there aren't enough to respond to emergencies.

Westport Fire Chief Chad Hackett said in mid-2014 the department lost seven personnel all at once to paid positions, "and it really took a hit on our force so we were struggling to make calls."

Attempts to generate replacement volunteers failed as Westport was unable to respond one out of seven calls for service for the first half of 2015. To combat the manpower problem, Westport began offering stipends out of its reserves to staff the station during the critical day hours when the department was unable to respond. Westport now pays an engineer at $135 for a 12-hour shift, and a firefighter at $120, from 7 a.m. to 7 p.m. daily.

"The program has been extremely successful," said Hackett. "It's been in place now for a year but within that one year I think we missed one call during the daytime response only that we didn't have anybody there for. We're filled up about 98 percent of the time on the calendar. We just brought on some new people and that's getting us up to our 100 percent coverage."

Because the department has a sleeper program, Westport has enough firefighters on hand during evening and early morning hours.

Proposed in Measure J is a special property assessment of:

• $80 per residential unit, including mobile homes, per year, plus $2.50 per acre over a half-acre of residential property;

• $200 per ranch parcel and parcels with agricultural processing, plus $2.50 per acre over a half-acre;
• $100 per parcel used for goat dairies and feedlots, plus $2.50 per acre over a half-acre;
• $30 for vacant land;
• $300 per parcel in mobile home parks with 20 or less units;
• $600 per parcel in mobile home parks of 21 or more units;
• $2.50 per acre for non-residential parcels without a structure.

Measure J allows the Westport Fire District board of directors to keep up with inflation by increasing the assessment up to two percent annually by resolution.
Local agencies vehemently oppose State Water Board proposal to cut water use

By Alysson Aredas

A proposal by the State Water Resources Control Board to allocate 40 percent of unimpaired flows along the Tuolumne River for the benefit fish and wildlife was met with adamant disapproval Thursday from a broad coalition of local governments and organizations.

This proposition is part of the State Water Board's requirement every three years to update the Bay-Delta Plan, which is a state-certified regulatory program used to establish water quality control measures in order to adequately protect beneficial water use in the Bay-Delta Watershed.

While the State Water Board said that state and federal agencies continue to take steps to improve conditions for fish and wildlife, "Californians continue to take more water out of the Delta and its tributaries than the species can withstand."

As detailed in the draft, the State Water Board proposes increasing flows to provide habitats for fish and wildlife upstream of the Delta from Feb. 1 to June 30 from three tributaries of the lower San Joaquin River and adjusting the salinity requirements to a slightly high level to reflect updated scientific knowledge and protect farming in the Southern Delta.

If these aren't addressed now, the State Water Board said that could result in "more draconian actions" to establish water quality standards for the Bay-Delta.

In order to demonstrate the implications of the State Water Board's proposal, Turlock Irrigation District and Modesto Irrigation District looked at data from 2015 to determine that the plan would have led to $1.6 billion in economic output loss, $167 million in farm-gate revenue loss, $330 million in labor income loss and the loss of nearly 7,000 jobs.

"MID and TID continue to be disheartened that the State Water Board is doubling down on this uncompromising, misguided plan that sparked an outcry when the proposal was first released in late 2012," said TID and MID in a joint statement. "What's worse is that the State Water Board ignored our community's recurring pleas to minimize the impacts of its 2012 proposal, and instead increased its desired amount of water to be taken — moving from 35 percent to 40 percent of unimpaired flows."

To further emphasize their opposition to the State Water Board's proposal, TID and MID launched "Worth Your Fight," a website that aims to help their customers and the region understand the implications of the plan and its "attempt to steal their livelihoods." The website can be found at worthyourfight.org.

"Our community has never faced a threat of this proportion," said the two agencies in the statement. "MID and TID have continued to fight for the water resource that was entrusted to us 129 years ago. But this isn't a threat we can confront alone. Everyone — agricultural water, urban water and electric customers — will be affected. This water grab will impact our region's way of life."

TID and MID weren't the only public entities to vocalize their disapproval of the proposal Thursday as California Farm Bureau Federation officials said "water supplies dedicated to fish should be subject to the same efficiency standards as those affecting California farmers and homeowners."

"For years, regulators have been requiring increasingly more water in the name of environmental protection, but fish populations have continued to decline," said CFBF President Paul Wenger. "Regulators have no idea how many more fish — if any — would result from dedicating even more water to environmental purposes."

"But we do know one thing: This will hurt people," continued Wenger.

Wenger described the proposal as untested, unproven and unpromising, saying that it could potentially idle around 240,000 acres of farmland with no guaranteed results. He said the Farm Bureau will urge the
State Water Board to revise the proposal in order to create "a balanced plan to help the environment without causing needless suffering."

Assemblymember Adam Gray (D-Merced) also spoke out against the proposal Thursday, likening it to an "economic death sentence." He added that it was the State Water Board's way of declaring a water war on Stanislaus and Merced counties.

"Since the update to the Bay-Delta Plan began, the State Water Board has spent millions of dollars on consultants rewriting the report," said Gray. "After all this time and expense, and during one of the worst droughts in California's history, it appears that the Water Board's only significant change was to demand even more water."

The State Water Board will hold public hearings on the proposal on Nov. 2 and Nov. 10 in the Byron Sher Auditorium of the Joe Serna Jr. — CalEPA Headquarters Building, 1001 I Street in Sacramento, and on Nov. 4 in the Tuolumne River Room of Modesto Centre Plaza, 1000 L. Street.

The Board will consider approving the proposed Bay-Delta Plan amendments at a public meeting that will be held in early 2017.
TO: LAFCO Commissioners
FROM: Sara Lytle-Pinhey, Executive Officer
SUBJECT: Selection of an Independent Auditor for the Biennial Audit

RECOMMENDATION

Authorize the Executive Officer to execute a Professional Services Agreement with Robert A. Hawks Jr., CPA, for completion of the Commission’s Biennial Audit covering fiscal years 2014-15 and 2015-16.

DISCUSSION

Last year, the Commission accepted LAFCO’s financial audits for fiscal years ending in 2002 through 2014. Following acceptance of these audits, the Commission directed Staff to follow-up with regular biennial audits. The next audit will cover fiscal years ending in 2015 and 2016.

Staff circulated a Request for Quotes to several financial audit companies. Only one response was received, from Robert A. Hawks, Jr., CPA. This firm was previously selected by the Commission to complete LAFCO’s multi-year audit.

CPA Firm Experience

Robert A. Hawks, Jr., CPA is a full service public accounting office operated by Mr. Hawks, as sole proprietor. Mr. Hawks employs staff accountants, a bookkeeper and a support staff employee. He provides services such as income tax preparation, financial statements and audits with approximately 300 clients including individuals, business entities, trusts, estates and non-profit entities. Mr. Hawks and his staff have also audited several governmental agencies, including special districts and JPAs.

Budget Appropriation

The current year’s budget included approval of funding for auditing services. Mr. Hawks has provided a quote of $4,200 to complete the biennial audit. Staff compared the quote to audit costs from other LAFCOs and found it to be a very reasonable amount, particularly for a two-year audit. The quoted amount is also well within the Commission’s adopted Special Departmental Expense allocation of $12,000.

CONCLUSION

LAFCO audits are not required by law; however, an independent financial review provides accountability and transparency for LAFCO’s operations. Upon approval by the Commission, Staff will begin working immediately with the auditor to provide needed financial documents with the goal of presenting the biennial audit to the Commission at its upcoming December or January meeting.

Attachments: Proposal for Independent Audit Services - Robert A. Hawks, Jr., CPA
Draft Professional Services Agreement
PROPOSAL FOR INDEPENDENT AUDIT SERVICES

Thursday, August 11, 2016

Governing Board and staff
Local Agency Formation Commission
1010 10th Street, Suite 3600
Modesto, CA 95354

Ladies and Gentlemen:

We are pleased to submit this proposal to provide independent audit services for the years ending June 30, 2015 and June 30, 2016 to the Stanislaus County Local Agency Formation Commission (Stanislaus LAFCO). This proposal will serve to outline the services we propose to provide and the unique qualifications of this firm.

We propose to audit the financial statements of Stanislaus LAFCO as of June 30, 2015 and June 30, 2016 and for the years then ended. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. Because of the concept of reasonable assurance and because we will not perform a detailed examination of all transactions, there is a risk that material errors, fraud or illegal acts may exist and not be detected by us. In addition, an audit is not designed to detect errors, fraud, or other illegal acts that are immaterial to the financial statements. However, we will inform you of any material error - and any fraud - that comes to our attention. We will also inform you of any illegal acts that come to our attention, unless clearly inconsequential. Our responsibility, as auditors, is limited to the period covered by our audit and does not extend to any other periods for which we are not engaged as auditors.

The general objectives of the audit are to determine whether:

1) The financial statements are presented fairly in accordance with accrual basis accounting principles, in conformity with GAAP.

2) There is effective control over and proper accounting for revenues, expenses, assets, and liabilities.
The audit will include tests of your accounting records and other procedures considered necessary to enable us to express an unqualified opinion that your financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles. If the opinion is other than unqualified, we will fully discuss the reasons with you in advance.

Robert A. Hawks, Jr., CPA is the sole owner of this CPA firm, accordingly, Robert has authority to make representations on the part of the Firm and will be the primary representative of the Firm for this engagement.

We strive to provide the highest quality professional services and relevant advice to our clients through a close and cooperative working relationship. We serve over 325 clients from individuals to corporations, partnerships, nonprofits and other entities operating in a wide variety of businesses and activities. We provide these clients with a full range of professional accounting services including audits, consultations, bookkeeping, tax returns, tax planning, and more.

Robert A. Hawks, Jr., CPA has also been involved with many local government and non-profit organizations for a significant portion of our history. We currently work with several of these organizations in a variety of capacities, primarily annual tax and compliance reporting, and advisory or consulting services.

We appreciate the opportunity to submit this proposal to provide professional services to the Stanislaus LAFCO. We are looking forward to a positive relationship, and opportunities to add value for the District. Please feel free to contact us with any questions about this proposal, the audit process, our firm, or any other matters.

Sincerely,

Robert A. Hawks, Jr.
Certified Public Accountant
FIRM PROFILE

Robert A. Hawks, Jr., CPA is a central California based CPA firm operating as a sole proprietorship. Mr. Hawks’ professional accounting career, and therefore the firm’s ultimate beginning, date back to the late 1980’s. The Firm operates primarily from an office located in downtown Modesto, along with a satellite office in downtown Sonora. Currently the staffing includes the owner, one CPA candidate, one staff accountant, one bookkeeper, and one support staff. Additional staffing is provided through contractual arrangements with local individuals and firms having long-standing relationships with Mr. Hawks.

Robert A. Hawks, Jr., CPA is a full service public accounting office. We provide services in tax planning and preparation, financial and compliance auditing, financial statement preparation, client accounting and management consulting. The firm provides accounting and auditing services to a number of our clients who use a wide variety of computerized accounting and management information systems. Our firm is also a QuickBooks ProAdvisor office, providing support, analysis, and training in the use of all versions of this popular software. For more information, please visit www.HawksCPA.com.

AUDIT STAFF

We conduct our auditing engagements under a team approach. Your audit will be staffed with individuals knowledgeable in audits of nonprofit organizations. All work prepared is reviewed by supervisors to assure efficient operation and adherence to professional quality control standards.

Robert A. Hawks, Jr., CPA – Owner - $170 to $260 per hour
Mr. Hawks will be in charge of the engagement. It will be his responsibility to see that you receive the highest quality professional service. He has extensive experience in financial and compliance audits, income taxes, and consulting. Mr. Hawks will be involved in the day-to-day engagement activities.

Jake Haakenson – Staff Accountant, CPA candidate - $40 to $60 per hour
Mr. Haakenson will perform specific testing, work paper preparation, and other audit functions as assigned by Mr. Hawks. He also performs bookkeeping, write-up, payroll and tax services.

Terri Dommer – Staff Accountant, Tax Preparer - $50 to $90 per hour
Ms. Dommer performs primarily income tax preparation but may assist in other areas.

Jennifer K. Hawks – Firm Administrator, bookkeeping supervisor - $70 to $110 per hour
Mrs. Hawks will assist with reports, accounting data examination, tax preparation, and job administration.

Megan Haakenson – Administrative Assistant - $30 to $45 per hour if applicable
Mrs. Haakenson will assist with reporting, scheduling, and correspondence.

The following references are listed to assist you in your evaluation of our qualifications:
The following references are listed to assist you in your evaluation of our qualifications:

**CURRENT NON-PROFIT ORGANIZATION AUDIT ENGAGEMENTS**

Mr. Hawks and staff have been involved in auditing non-profit organizations over many years, including human services, health and welfare, and supportive organizations. The following client contacts are provided for reference purposes:

<table>
<thead>
<tr>
<th>Client</th>
<th>Contact Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Habitat for Humanity of Calaveras County</td>
<td>Frank Meyer</td>
</tr>
<tr>
<td>P.O. Box 1834</td>
<td></td>
</tr>
<tr>
<td>San Andreas, CA 95249</td>
<td></td>
</tr>
<tr>
<td>(209) 754-5331</td>
<td></td>
</tr>
<tr>
<td>Habitat for Humanity of Mariposa County</td>
<td>Beth Tomsick</td>
</tr>
<tr>
<td>P.O. Box 1420</td>
<td></td>
</tr>
<tr>
<td>Mariposa, CA 95338</td>
<td></td>
</tr>
<tr>
<td>(209) 966-7444</td>
<td></td>
</tr>
<tr>
<td>Success Capital Expansion &amp; Development</td>
<td>Marsha Carr</td>
</tr>
<tr>
<td>Corporation</td>
<td>Chief Executive Officer</td>
</tr>
<tr>
<td>1100 14th Street, Suite B</td>
<td></td>
</tr>
<tr>
<td>Modesto, CA 95354</td>
<td></td>
</tr>
<tr>
<td>(209) 521-9372</td>
<td></td>
</tr>
<tr>
<td>Healthy Aging Association</td>
<td>Dianna Olsen</td>
</tr>
<tr>
<td>121 Downey Avenue, Suite 102</td>
<td>Executive Director</td>
</tr>
<tr>
<td>Modesto, CA 95354</td>
<td></td>
</tr>
<tr>
<td>(209) 523-2800</td>
<td></td>
</tr>
<tr>
<td>United Samaritans Foundation</td>
<td>Beverly Hatcher</td>
</tr>
<tr>
<td>220 S. Broadway</td>
<td>Executive Director</td>
</tr>
<tr>
<td>Turlock, CA 95380</td>
<td></td>
</tr>
<tr>
<td>(209) 668-4853</td>
<td></td>
</tr>
<tr>
<td>InterFaith Ministries of Greater Modesto, Inc.</td>
<td>Josh Bigelow</td>
</tr>
<tr>
<td>120 Kerr Ave</td>
<td>Executive Director</td>
</tr>
<tr>
<td>Modesto, CA 95354</td>
<td></td>
</tr>
<tr>
<td>(209) 572-3117</td>
<td></td>
</tr>
</tbody>
</table>
**CURRENT GOVERNMENTAL AUDIT ENGAGEMENTS**

Mr. Hawks and staff have been involved in auditing several governmental agencies over the years, including Special Districts and JPA’s. The following client contacts are provided for reference purposes:

<table>
<thead>
<tr>
<th>Client</th>
<th>Contact Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salida Area Public Facilities Financing</td>
<td>Duane Wolterstorff</td>
</tr>
<tr>
<td>Agency</td>
<td>Controller</td>
</tr>
<tr>
<td>426 Locust Street</td>
<td></td>
</tr>
<tr>
<td>Modesto, CA 95351</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(209) 550-3300 x5524</td>
</tr>
<tr>
<td>Schools Infrastructure Financing Agency</td>
<td>Duane Wolterstorff</td>
</tr>
<tr>
<td>Agency</td>
<td>Controller</td>
</tr>
<tr>
<td>426 Locust Street</td>
<td></td>
</tr>
<tr>
<td>Modesto, CA 95351</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(209) 550-3300 x5524</td>
</tr>
<tr>
<td>Keyes Community Services District</td>
<td>Ernie Garza</td>
</tr>
<tr>
<td>5601 7th Street</td>
<td>General Manager</td>
</tr>
<tr>
<td>PO Box 699</td>
<td></td>
</tr>
<tr>
<td>Keyes, CA 95328</td>
<td>(209) 668-8341</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Tuolumne Park and Recreation District</td>
<td>Tony Krieg</td>
</tr>
<tr>
<td>P O Box 730</td>
<td>Finance Manager</td>
</tr>
<tr>
<td>Tuolumne, CA 95379</td>
<td></td>
</tr>
<tr>
<td>(209) 928-1214</td>
<td></td>
</tr>
<tr>
<td>West Stanislaus Resource Conservation</td>
<td>Karen Crow</td>
</tr>
<tr>
<td>District</td>
<td></td>
</tr>
<tr>
<td>P.O. Box 193</td>
<td></td>
</tr>
<tr>
<td>Patterson, CA 95363</td>
<td>(209) 892-3026</td>
</tr>
</tbody>
</table>
ADDITIONAL AUDIT EXPERIENCE

Area 12 Agency on Aging                          Catholic Charities/Diocese of Stockton
Central Region Schools Insurance Group          Chalcedon
CSU Stanislaus Foundation                      Doctors Medical Center Foundation
Fellowship Homes/Casa de Modesto               Greater Modesto Relocatable Administration Agency
Modesto City Schools (District)                Stanislaus Community Foundation
Stevinson Ranch - Savannah, G.P.               United Samaritans Foundation
United Way of Stanislaus Area                   Woodland Avenue Fire District

Additional references are available upon request.

AUDIT APPROACH

Our approach will start with a development of an understanding of your accounting systems. From this we will make a preliminary evaluation of the strengths and weaknesses of your systems. We will then modify our audit approach based upon this evaluation.

After modification of our audit program based upon our study and evaluation of internal controls we substantively review the financial statement. This phase of the audit includes, among other steps, confirmation with third parties, reconciliation with accounting data, review of accounting estimates and analytical review.

Our audit approach anticipates your staff providing reference documents and assisting in the preparation of account analysis and reconciliation. Our fee is based upon this premise. Areas which we believe are compliance exceptions or reportable conditions will be discussed with management at the earliest possible time. We do this so that management's input can be obtained and corrective action, if needed, can be taken as soon as possible.

Our work plan for this project is adapted to best fit both the RFQ requirement for completion prior to December 31, 2016 and our upcoming seasonal work load in early 2017, for work already scheduled. This plan can be adjusted at the request of LAFCO with a commensurate adjustment in anticipated fees. The proposed plan for the audit of the Stanislaus County LAFCO is as follows:
Work Plan

Review/Update Internal Control System
Understanding, Preliminary Substantive Work
Transaction Testing, Prior File Review
Owner/Staff Accountant: 8-10 hours

Substantive Testing of Financial Statements
Owner /Staff Accountant /Consultant: 10-12 hours

Report Preparation, Client Discussions
Owner /Staff Accountant /Consultant: 8-10 hours

Audit Report Delivery
Owner: 2-4 hours

Meetings required of LAFCO board and staff will include:

Preliminary communications with governance
Board audit committee or designated body
September 2016

Records access and assistance (initial)
Management and staff
September 2016

Records access and assistance (concluding)
Management and staff
October 2016

Concluding communications with governance
Board audit committee or designated body
October 2016

Report delivery and presentation
Regular board meeting
November 2016

Deliverables

In accordance with your Request for Quote, we will deliver the audited financial statements in two parts: One Auditor’s Report with accompanying statements covering the year ended June 30, 2015; another Auditor’s Report with accompanying statements covering the year ended June 30, 2016.
COMPENSATION

We will bill LAFCO at our routine rates for actual time spent and costs incurred. Wherever possible we will assign tasks to LAFCO staff in order to assist with our work and keep our costs to a reasonable minimum.

We estimate that the all inclusive fee for the professional audit services proposed will be in the range of $3,700 to $4,200 for the years ending June 30, 2015 and June 30, 2016. If this fee estimate varies significantly from your expectations, please contact us to ensure we have fully understood your intended scope of work. We will prepare and execute engagement letters as well as LAFCO’s prescribed Agreement for Professional Services upon selection of our firm. We agree that the total, maximum amount of fees and costs will not exceed $4,200 unless these agreements are modified in writing.

These fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. We will render invoices monthly for actual time and costs incurred. Our invoices are due upon presentation. Additional services not contemplated by this proposal will be billed at our routine hourly rates. If we encounter any unusual situations or fraud, which will require a major extension of the audit procedures beyond those normally applied, we agree to notify you at once and request that the agreement be amended to compensate for the additional work before incurring additional costs.

ADDITIONAL INFORMATION

We have enclosed our Firm’s privacy policy as well as a current resume and other background information for Robert A. Hawks, Jr., CPA.

ASSURANCES

Robert A. Hawks, Jr., CPA is a California licensed Certified Public Accountant and intends to be continuously and indefinitely into the future.

Our Firm and individuals involved meet the independence standards of the GAO, Government Auditing Standards.

A copy of our most recent external peer review report is enclosed for your review.

Our firm has available capacity, resources, and flexibility to carry out the proposed services in a timely manner. We have an excellent track record of on-schedule report delivery.

Our audit will be a yellow book audit conducted in accordance with generally accepted auditing standards and the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States, and will include tests of you accounting records and other procedures we consider necessary to enable us to express an
unqualified opinion that the financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles.

Our firm and individuals involved in the audit process have direct experience necessary to carry out the objectives of our audit. Specifically, we have experience with high-quality audits of local governments and non-profits with annual operating budgets from tens of thousands of dollars to several million dollars.

There are not presently nor have there ever been any lawsuits or claims of fraud or malpractice relating to this firm’s governmental auditing and consulting practice, nor any other practice area, nor any other cause or claim.

Our firm’s document retention policy is to retain all workpapers for at least three (3) years after the date of completion.
AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services is made and entered into by and between the Stanislaus County Local Agency Formation Commission ("LAFCO") and Robert A. Hawks, Jr., CPA, a sole proprietor ("Consultant"), as of September 28, 2016 (the "Agreement").

Introduction

WHEREAS, LAFCO has a need for financial audit services;

WHEREAS, the Consultant is specially trained, experienced and competent to perform and has agreed to provide such services; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. Scope of Work

1.1 The Consultant shall furnish to LAFCO upon execution of this Agreement or receipt of LAFCO’s written authorization to proceed, those services and work set forth in Exhibits A (Scope of Work) and Exhibit B (Audit Engagement Letter), which are attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Consultant under this Agreement, including without limitation electronic data files, are the property of the Consultant; provided, however, LAFCO shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Consultant may copyright the same, except that, as to any work which is copyrighted by the Consultant, LAFCO reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so. LAFCO shall defend, indemnify and hold harmless the Consultant and its officers, employees, agents, representatives, subcontractors and consultants from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, arising out of or resulting from LAFCO’s reuse of the documents and drawings prepared by the Consultant under this Agreement.

1.3 Services and work provided by the Consultant under this Agreement will be performed in a timely manner in accordance with a schedule of work set forth in Exhibits A and B. If there is no schedule, the hours and times for completion of said services and work are to be set by the Consultant; provided, however, that such schedule is subject to review by and concurrence of LAFCO.

1.4 The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state, County and LAFCO laws, ordinances, regulations and resolutions. The Consultant represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement. Except for that representation and any representations made or contained in any proposal submitted by the Consultant and any reports or opinions prepared or issued as part of the work performed by the Consultant under this Agreement, Consultant makes no
other warranties, either express or implied, as part of this Agreement.

1.5 If the Consultant deems it appropriate to employ a consultant, expert or investigator in connection with the performance of the services under this Agreement, the Consultant will so advise LAFCO and seek LAFCO’s prior approval of such employment. Any consultant, expert or investigator employed by the Consultant will be the agent of the Consultant not LAFCO.

2. **Consideration**

2.1 The Consultant shall be compensated on either a time and materials basis, as provided in Exhibit A attached hereto.

2.2 Except as expressly provided in this Agreement, Consultant shall not be entitled to nor receive from LAFCO any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 The Consultant shall provide LAFCO with a monthly or a quarterly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which LAFCO shall pay in full within 30 days of the date each invoice is approved by LAFCO. The statement will generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, and a reasonable itemization of costs. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.

2.4 LAFCO will not withhold any Federal or State income taxes or Social Security tax from any payments made by LAFCO to Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. LAFCO has no responsibility or liability for payment of Consultant's taxes or assessments.

3. **Term**

3.1 The term of this Agreement shall be from the date of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 LAFCO may terminate this agreement upon 30 days prior written notice. Termination of this Agreement shall not affect LAFCO’s obligation to pay for all fees earned and reasonable costs necessarily incurred by the Consultant as provided in Paragraph 2 herein, subject to any applicable setoffs.

3.4 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, or (b) sale of Consultant's business.
4. **Required Licenses, Certificates and Permits**

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the services and work described in Exhibit A must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Consultant at no expense to LAFCO.

5. **Office Space, Supplies, Equipment, Etc.**

Unless otherwise provided in this Agreement, Consultant shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant—not LAFCO—has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items.

6. **Insurance**

6.1 Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 **General Liability.** Commercial general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars ($1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 **Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars ($1,000,000) aggregate. Such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant’s work under this Agreement.

6.1.3 **Automobile Liability Insurance.** If the Consultant or the Consultant's officers, employees, agents or representatives utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury and property damage liability with limits of no less than One Million Dollars ($1,000,000) per incident or occurrence.

6.1.4 **Workers’ Compensation Insurance.** Workers’ Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by LAFCO. At the option of LAFCO, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to LAFCO guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related
investigations, claim administration and defense expenses. LAFCO, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant’s defense and indemnification obligations as set forth in this Agreement.

6.3 The Consultant shall include LAFCO, its Officers, Directors, Officials, Agents, Employees and volunteers as Additional Insureds under the General Liability and Auto policy and shall supply specific endorsements for same. The Additional Insured endorsement under the General Liability policy will be the Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization ISO Form CG2010 with the current applicable revision date. The Additional Insured endorsement under the Auto Liability will be “where required by written contract”. All Insurance policies will include a Waiver of Subrogation in favor of LAFCO.

6.4 The Consultant’s insurance coverage shall be primary insurance regarding LAFCO and LAFCO’s officers, officials and employees. Any insurance or self-insurance maintained by LAFCO or LAFCO’s officers, officials and employees shall be excess of Consultant’s insurance and shall not contribute with Consultant’s insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to LAFCO, its officers, directors, officials, agents, employees and volunteers. Consultant’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Any available insurance proceeds in excess of the specified minimum limits required by this Agreement shall be available to LAFCO for defense and damages. The indemnity and insurance sections are stand alone and not dependent on each other for coverage limits.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to LAFCO or its officers, officials, employees or volunteers.

6.6 The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days’ prior written notice has been given to LAFCO. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, LAFCO of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to LAFCO; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best’s rating of at least A:-VII shall be acceptable to LAFCO; lesser ratings must be approved in writing by LAFCO.

6.9 Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish LAFCO with certificates of insurance, and
with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in LAFCO's sole and absolute discretion, approved by LAFCO. LAFCO reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors.

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless and defend LAFCO and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Consultant or Consultant's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Consultant's obligation to indemnify LAFCO and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of the Consultant in contributing to such claim, damage, loss and expense.

7.2 Consultant's obligation to defend, indemnify and hold LAFCO and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

7.3 To the fullest extent permitted by law, LAFCO shall indemnify, hold harmless and defend the Consultant and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the negligence or wrongful acts of LAFCO and its officers or employees.

7.4 Subject to the limitations in 42 United States Code section 9607(e), and unless otherwise provided in a Scope of Services approved by the parties:

(a) Consultant shall not be responsible for liability caused by the presence or release of hazardous substances or contaminants at the site, unless the release results from the negligence of Consultant or its subcontractors;

(b) No provision of this Agreement shall be interpreted to permit or obligate Consultant to assume the status of “generator,” “owner,” “operator,” “arranger,” or “transporter” under state or federal law; and

(c) At no time, shall title to hazardous substances, solid wastes, petroleum contaminated soils or other regulated substances pass to Consultant.

8. Status of Consultant

8.1 All acts of Consultant and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of LAFCO. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation
on behalf of LAFCO. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in LAFCO. No agent, officer or employee of LAFCO is to be considered an employee of Consultant. It is understood by both Consultant and LAFCO that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of LAFCO.

8.3 Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to LAFCO only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to LAFCO's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

8.4 Consultant is permitted to provide services to others during the same period service is provided to LAFCO under this Agreement; provided, however, such services do not conflict directly or indirectly with the performance of the Consultant's obligations under this Agreement.

8.5 If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Consultant.

8.6 It is understood and agreed that as an independent contractor and not an employee of LAFCO, the Consultant and the Consultant's officers, employees, agents, representatives or subcontractors do not have any entitlement as a LAFCO employee, and, except as expressly provided for in any Scope of Services made a part hereof, do not have the right to act on behalf of LAFCO in any capacity whatsoever as an agent, or to bind LAFCO to any obligation whatsoever.

8.7 It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's assigned personnel under the terms and conditions of this Agreement.

8.8 As an independent contractor, Consultant hereby indemnifies and holds LAFCO harmless from any and all claims that may be made against LAFCO based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. **Records and Audit**

9.1 Consultant shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of five (5) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of LAFCO shall have access to any writings as defined
above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Consultant. Further, LAFCO has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. **Confidentiality**

   The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. **Nondiscrimination**

   11.1. During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any Federal, State or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, pregnancy related condition, marital status, gender/sex, sexual orientation, gender identity, gender expression, age (over 40), political affiliation or belief, or military and veteran status. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation LAFCO's non-discrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

   11.2 Consultant shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

   11.3 Consultant shall provide a system by which recipients of service shall have the opportunity to express and have considered their views, grievances, and complaints regarding Consultant's delivery of services.

12. **Assignment**

   This is an agreement for the services of Consultant. LAFCO has relied upon the skills, knowledge, experience and training of Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement without the express written consent of LAFCO. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of LAFCO.

13. **Waiver of Default**

   Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. **Notice**

   Any notice, communication, amendment, addition or deletion to this Agreement, including
change of address of either party during the term of this Agreement, which Consultant or LAFCO shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To LAFCO:
Stanislaus LAFCO, Executive Officer
1010 10th Street, Third Floor
Modesto, CA 95353

To Consultant:
Robert A. Hawks, Jr., CPA
1301 G Street, Suite B
Modesto, CA 95354

15. **Conflicts**

Consultant agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. **Severability**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. **Amendment**

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. **Entire Agreement**

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. **Advice of Attorney**

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. **Construction**

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.
21. **Governing Law and Venue**

   This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

   IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the day and year first hereinabove written.

   **STANISLAUS COUNTY LOCAL AGENCY FORMATION COMMISSION**

   By: ____________________________  By: ____________________________
   Sara Lytle-Pinhey, Executive Officer  Robert A. Hawks, Jr. “Consultant”

   APPROVED AS TO FORM:

   By: ____________________________
   Robert J. Taro, LAFCO Legal Counsel
EXHIBIT A

A. SCOPE OF WORK

The Consultant shall provide services under this Agreement as follows:

1. Audit LAFCO in each fiscal year, focusing on the fiscal years’ respective funds. Each audit shall be conducted in accordance with auditing standards generally accepted in the United States of America and Government Auditing Standards, issued by the Comptroller of the United States. LAFCO’s General Purpose Financial Statements (GPFS) shall be prepared by the audit firm. The GPFS will be in full compliance with GASB #34. The audit firm will render its auditor’s report on the basic financial statements, which will include both Government-Wide Financial Statements and Fund Financial Statements. The audit firm will also apply limited audit procedures to Management’s Discussion and Analysis (MD&A) and required supplementary information pertaining to the General Fund and each major fund of LAFCO.

2. Express an opinion on the financial statements as to whether they present fairly, in all material respects, the financial position of LAFCO and the changes in financial position and cash flows in conformity with generally accepted accounting principles (GAAP), and issue an independent auditors’ report stating this opinion.

4. The successful proposer shall issue a separate “management letter” that includes recommendations, if any, for improvements in internal control that are considered to be significant deficiencies or material weaknesses. LAFCO staff will provide cooperation and assistance during the audit by providing information, analysis, documentation, schedules and explanations. LAFCO staff will prepare the MD&A. All other information and financial statements are the responsibility of the audit firm.

5. Test internal controls over financial reporting and on compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters, in accordance with Government Auditing Standards and those issue by the Comptroller General of the United States, and issue an independent auditors' report on their consideration.

6. Prepare an audit report and issue a related audit opinion, if necessary, for federal grant monies received and expenses made.

7. Communicate immediately and in writing all irregularities and illegal acts, or indications of illegal acts, of which the auditor becomes aware, to the appropriate level of management and/or LAFCO Board.

8. Retain, at auditor’s expense, audit working papers for three (3) years, unless the firm is notified in writing by LAFCO of the need to extend the retention period. In addition, the firm shall respond to reasonable inquiries of LAFCO and successor auditors and allow LAFCO and successor auditors to review working papers relating to matters of continuing accounting significance.

The successful proposer shall be responsible for the preparation and delivery of the following financial statements in final submission form:
B. COMPENSATION

The Consultant shall be compensated for the services provided under this Agreement as follows:

1. Consultant will be compensated in an amount not to exceed $4,200 for services rendered under this Agreement. Consultant to submit monthly statements for payment. LAFCO shall have 30 days to submit payment to Consultant. A reserve of ten (10) percent will be retained until such time that the Consultant submits required deliverables (e.g. audited financial statements) as described in Section A, and upon acceptance of said deliverables.

2. The parties hereto acknowledge the maximum amount to be paid by LAFCO for services provided hereunder shall not exceed $4,200 including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Consultant to perform or to assist in the performance of its work under this Agreement.

C. TERM

1. The term of the Agreement shall be from September 28, 2016 through January 31, 2017 unless otherwise terminated as provided in Paragraph 3 of the Agreement.

D. REPRESENTATIVES

The parties’ respective Project Managers shall be:

For LAFCO:
Sara Lytle-Pinhey, (or designee)  
Stanislaus LAFCO  
1010 10th Street, 3rd Floor  
Modesto, CA 95354  
(209) 525-7660  
pinheys@stancounty.com

For Consultant:
Robert A. Hawks, Jr., CPA (or designee)  
1301 G Street, Suite B  
Modesto, CA 95354  
(209) 529-4060  
Rob@hawkscpa.com

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A draft copy of each financial statement should be delivered to the LAFCO Executive Officer for review approximately 30 days prior to the deadline.
AUDIT ENGAGEMENT LETTER

Thursday, August 11, 2016

Governing Board and Staff
Local Agency Formation Commission
1010 10th Street, Suite 3600
Modesto, CA 95354

Dear Local Agency Formation Commission;

Robert A. Hawks, Jr., CPA is pleased to provide Stanislaus County Local Agency Formation Commission (hereinafter “you” or “your”) with the professional services described below. This letter confirms our understanding of the terms and objectives of our engagement and the nature and limitations of the services we will provide. The engagement between you and our firm will be governed by the terms of this letter.

Scope of the Engagement

We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of Stanislaus County Local Agency Formation Commission (Stanislaus LAFCO) for the years ended June 30, 2015 and June 30, 2016, collectively, the “financial statements”. The objective of our audit is the expression of an opinion about whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management’s discussion and analysis (MD&A), to supplement Stanislaus LAFCO’s basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Stanislaus LAFCO’s RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management’s responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited: Management’s Discussion and Analysis.

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements, whether caused by error or fraud. Because an audit is designed to provide reasonable, but not absolute, assurance and because we will not perform a detailed examination of all transactions, account balances, and disclosures, there is a risk that material misstatements, whether caused by error or fraud, may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or incidents of fraud or illegal acts that do not have a direct and material effect on the financial statements. However, we will communicate to management and those charged
with governance, any errors, fraud, or other illegal acts that come to our attention during the audit, unless clearly inconsequential.

Our audit will include testing of accounting records and other procedures we consider necessary to obtain sufficient appropriate audit evidence to afford a reasonable basis for an opinion regarding your financial statements. We cannot provide assurance that an unqualified opinion will be expressed. We will fully discuss the reasons with you in advance if our opinion is other than unqualified. If, for any reason, we are unable to complete the audit, or we are unable to or have not formed an opinion, we may decline to express an opinion or decline to issue a report as a result of the engagement.

The audit will include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. Therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. Based upon the assessed risk of material misstatement, we will design and perform substantive procedures which may include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected customers, creditors, financial institutions, and other third parties. We may also request written representations from your attorneys on litigation, claims, and assessments as part of the engagement, and they may bill you for responding to our inquiries. At the conclusion of our audit, we will also request certain written representations from management made during the audit about the financial statements and related matters.

Our audit also will include assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, including the related disclosures. We may advise management about appropriate accounting principles and their application, and we may assist in the assembly of your financial statements. However, management has the final responsibility for the selection and application of accounting policies and the fair presentation of financial statements that reflect the nature and operation of Stanislaus LAFCO.

Our audit includes obtaining an understanding of Stanislaus LAFCO and its environment, including internal control over financial reporting ("internal control"), sufficient to assess the risks of material misstatement of the financial statements whether due to error or fraud, and to design the nature, timing, and extent of further audit procedures. Accordingly, we will consider Stanislaus LAFCO’s internal control as a basis for designing our audit procedures for the purpose of expressing an opinion on your financial statements. Our approach may include tests of operating effectiveness of controls that we consider relevant to preventing and detecting material misstatements. However, our audit is not designed to express an opinion or provide any form of assurance on the effectiveness of Stanislaus LAFCO’s internal control or to identify all deficiencies in internal control. Accordingly, we will not express an opinion on the effectiveness of Stanislaus LAFCO’s internal control.

We will communicate to management and those charged with governance in a separate letter those significant control deficiencies or material weaknesses identified during our audit. This communication of internal control related matter is intended solely for the information and use of management, audit committee or those charged with governance, others within the organization, and any specified government or regulatory authorities. The communication is not intended to be, and should not be, distributed to anyone other than these specified parties.

We are also responsible for communicating with the audit committee or those charged with governance about our audit responsibility under generally accepted auditing standards, an overview of the planned scope and timing of the audit, significant issues or findings from the audit (e.g., significant difficulties encountered during an audit, disagreements with management, etc.), fraud or illegal acts that come to our attention, and will seek the audit committee’s views about the risks of fraud or knowledge of fraud or any suspected fraud affecting the entity.
Our responsibility as auditor is limited to the period covered by our audit and does not extend to matters that may arise during any later periods for which we are not engaged as auditors.

**Client Responsibilities**

Management is responsible for the following functions:

- Establishing and maintaining effective internal control over financial reporting, as well as monitoring ongoing activities, including but not limited to supervision of your staff;
- Selection and application of an applicable and appropriate financial reporting framework;
- Designing, implementing and maintaining programs and controls to prevent and detect fraud;
- Identifying and ensuring that the company complies with the laws and regulations applicable to its activities;
- Establishing and maintaining adequate records;
- Making all financial records and related information available to us on a timely basis and assuring that the records and information are complete and accurate;
- Selecting and applying accounting principles including safeguarding of assets;
- Adjusting the financial statements to correct material misstatements and affirnming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole;
- Informing us about all known, alleged, or suspected thefts or fraud that involves company management, employees, former employees, or others where the thefts or fraud could have a material effect on the financial statements;
- Confirming certain representations made to us in the management representation letter;
- Preparing third-party confirmations that we request;
- Locating documents or invoices selected by us for testing;
- Reviewing and approving the financial statements prior to their issuance, and accepting responsibility for the fair presentation of financial statements, including all footnote disclosures; and
- If optional nonattest services are provided, including financial statement preparation, you are responsible for assuming all management responsibilities; overseeing the statement preparation or other service by designating an individual, preferably within senior management, who possesses suitable skill, knowledge and/or experience; for evaluating the adequacy and results of those services, accepting responsibilities for the results of those services, and making significant judgments and decisions.

You may request that we perform additional services not contemplated by this engagement letter. If this occurs, we will communicate with you regarding the scope and estimated cost of these additional services. In the absence of any other written communications from us documenting additional services, our services will be limited to and governed by the terms of this engagement letter. You agree that you will not and are not entitled to rely on any advice unless it is provided in writing.

**Timing of Engagement**

We plan to begin our audit immediately and currently plan to issue our report in November, 2016. The timing of our work is dependent on the timely receipt of the information we requested from you. Our services will conclude with the delivery of our report(s) to you or upon termination of the engagement, if earlier.

**Fees and Billings**

Our fees for the services outlined above will be billed monthly at the standard billing rate for each of the professionals performing the work, plus out-of-pocket expenses. We agree that our gross fee, including expenses, will not exceed $4,200 unless modification is agreed in writing. Invoices are due upon presentation.
Our fee is based upon the complexity of the work to be performed and our professional time to complete the work. Additionally, this fee is dependent on the timely delivery, availability, quality, and completeness of the information you provide to us.

If the information you provide is not submitted in a timely manner, or is incomplete or unusable, we reserve the right to charge additional fees and expenses for any additional services required to correct the problem. If this occurs, we will contact your representative to discuss the matter and the anticipated delay in performing our services.

If payment is not received within 30 days, you will be assessed interest charges of 1.5% per month on the unpaid balance. We reserve the right to suspend or terminate our work for non-payment of fees. If our work is suspended or terminated, you agree that we will not be responsible for your failure to meet government and other deadlines, for any penalties or interest that may be assessed against you resulting from your failure to meet such deadlines, and for any other damages (including, but not limited to consequential, indirect, lost profits, or punitive damages) incurred as a result of the suspension or termination of our service.

**Electronic Data Communication and Storage and Use of Third Party Service Provider**

In the interest of facilitating our services to your company, we may send data over the Internet, store electronic data via computer software applications hosted remotely on the Internet, or allow access to data through third-party vendors’ secured portals or clouds. Electronic data that is confidential to your company may be transmitted or stored using these methods. We may use third-party service providers to store or transmit this data, such as providers of tax return preparation software. In using these data communication and storage methods, our firm employs measures designed to maintain data security. We use reasonable efforts to keep such communications and data access secure in accordance with our obligations under applicable laws and professional standards. We also require all of our third-party vendors to do the same.

You recognize and accept that we have no control over the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third-party vendors. You consent to our use of these electronic devices and applications and submission of confidential client information to third-party service providers during this engagement.

To enhance our services to you, we may use DropBox.com, a collaborative, virtual workspace in a protected, online environment. DropBox.com allows for real-time collaboration across geographic boundaries and time zones and allows Robert A. Hawks, Jr., CPA and you to share data, engagement information, knowledge, and deliverables in a protected environment. In order to use DropBox.com, you will be required to execute a DropBox.com agreement and agree to be bound by the terms, conditions and limitations of such agreement. You agree that Robert A. Hawks, Jr., CPA has no responsibility for the activities of DropBox.com and agree to indemnify and hold Robert A. Hawks, Jr., CPA harmless with respect to any and all claims arising from or related to the operation of DropBox.com. While DropBox.com backs up your files to a third party server, we recommend that you also maintain your own backup files of these records.

**Termination and Other Terms**

If a dispute arises out of or relates to this contract or engagement letter, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under the Dispute Resolution Rules for Professional Accounting and Related Services Disputes before resorting to arbitration, litigation, or some other dispute resolution procedure. The costs of any mediation proceedings shall be shared equally by all parties. Any claim arising out of this engagement letter shall be commenced within one year of the delivery of the work product to you, regardless of any longer period of time for commencing such claim as may be set by law.
Stanislaus LAFCO agrees to hold Robert A. Hawks, Jr., CPA harmless from any and all claims of Stanislaus LAFCO which arise from knowing misrepresentations to Robert A. Hawks, Jr., CPA by the management/employees of Stanislaus LAFCO, or the intentional withholding or concealment of information from Robert A. Hawks, Jr., CPA by the management/employees of Stanislaus LAFCO. Stanislaus LAFCO also agrees to indemnify Robert A. Hawks, Jr., CPA for any claims made against Robert A. Hawks, Jr., CPA by third parties which arise from any of these actions by the management/employees of Stanislaus LAFCO. The provisions of this paragraph shall apply regardless of the nature of the claim, including the negligence of any party.

Stanislaus LAFCO may wish to include or incorporate by reference our audit report on the financial statements in a private offering or SEC filing by another party. You agree not to include our audit report or make any reference to our firm without first obtaining our written consent to same. Additional services may be required prior to providing such consent related to a private or public offering of securities, or inclusion in an SEC filing. Such services will be undertaken as a separate engagement at an additional fee.

We may be requested to make certain work papers available to local, state, federal and other regulators pursuant to authority provided by law or regulation. If requested, access to such work papers will be provided under the supervision of firm personnel. Furthermore, upon request, we may provide photocopies of selected work papers to any applicable regulators. Such regulators may intend, or decide, to distribute the photocopies or information contained therein to others, including other government agencies.

In the interest of enhancing our availability to meet your professional service needs while maintaining service quality and timeliness, we may use a third-party service provider to assist us in the preparation of tax returns, compliance reports or other deliverables, and audit file administration as applicable. These providers have established procedures and controls designed to protect client confidentiality and maintain data security. As the paid provider of professional services, our firm remains responsible for exercising reasonable care in providing such service(s), and our work product will be subjected to our firm's normal quality control procedures. If you have any questions or concerns about this arrangement, please contact our office.

We reserve the right to withdraw from this engagement without completing our services, for any reason, including, but not limited to, if you fail to comply with the terms of this engagement letter, or as we determine professional standards require.

If any portion of this engagement letter is deemed invalid or unenforceable, such a finding shall not operate to invalidate the remainder of the terms set forth in this engagement letter.

At the completion of our engagement, the original source documents will be returned to you. Workpapers and other documents created by us are our property. Such original workpapers will remain in our control, and copies are not to be distributed without our prior written consent.

You may request that we perform additional services not contemplated by this engagement letter. If this occurs, we will communicate with you regarding the scope and estimated cost of these additional services. Engagements for additional services may necessitate that we amend this letter or issue a separate engagement letter to reflect the obligations of both parties. In the absence of any other written communications from us documenting additional services, our services will be limited to and governed by the terms of this engagement letter.

We appreciate the opportunity to be of service to Stanislaus LAFCO. Please date and sign the enclosed copy of this engagement letter and return it to us in the envelope provided to acknowledge your agreement with its terms. It is our policy to initiate services only after we receive the signed copy of this engagement letter from you.
We are pleased to have you as a client and look forward to a long and mutually satisfying relationship. Please be sure to call if you have any questions.

Very truly yours,

Robert A. Hawks, Jr., CPA

Approved:

_________________________________  ____________________________________
Client Signature                               Date
MEMORANDUM

DATE: September 28, 2016
TO: LAFCO Commissioners
FROM: Sara Lytle-Pinhey, Executive Officer
SUBJECT: Proposed LAFCO Meeting Calendar for 2017

RECOMMENDATION

Staff recommends that the Commission accept the proposed 2017 LAFCO Meeting Calendar.

BACKGROUND

Each year, the Commission considers the following year’s regular meeting calendar. The Commission’s regular meetings occur on the fourth Wednesday of each month, with the exception of the November and December meetings that are combined due to the holidays and held on the first Wednesday in December. The calendar includes holidays and CALAFCO educational opportunities (staff workshop and annual conference) for the Commission’s information. Of note, the CALAFCO annual conference for 2017 overlaps the regularly scheduled October meeting. This meeting date will be considered tentative. As that meeting date approaches, the Commission may determine if there are applications that warrant a meeting or if cancellation is appropriate.

Attachment: Proposed LAFCO 2017 Meeting Calendar
# LAFCO Calendar for 2017

**Regular Meeting Time:** 6:00 P.M.

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- **LAFCO Meetings – Regular Time:** 6:00 P.M.  
  (4th Wednesday of every month, with the exception of November & December, which are combined and held on the 1st Wednesday in December)

- **Holidays**

- **CALAFCO Staff Workshop – Fresno (April 5th-7th)**
- **CALAFCO Annual Conference – San Diego (October 25th-27th)**

*October’s regularly scheduled meeting is tentative, as the CALAFCO annual conference overlaps the meeting date.*

(09/2016)
STANISLAUS LOCAL AGENCY FORMATION COMMISSION
OUT-OF-BOUNDARY SERVICE APPLICATION

APPLICANT: City of Modesto

LOCATION: 4201 McHenry Avenue
(Assessor’s Parcel Numbers: 046-005-010 & 014 and 046-008-016 & 024) - Located just southwest of the Pelandale Avenue / McHenry Avenue (Hwy. 108) intersection in the unincorporated area, within the Sphere of Influence of the City of Modesto (See Exhibit “A” – Maps).

REQUEST: The City of Modesto has requested authorization to provide potable water service outside its boundaries to serve a new automobile dealership. (See attached Out-of-Boundary Service Application, Exhibit “B”.)

BACKGROUND

Government Code §56133 specifies that a city or special district must apply for and obtain LAFCO approval before providing new or extended services outside its jurisdictional boundaries. The section describes the following situations where the Commission may authorize services outside a city or district’s jurisdictional boundaries.

1. For proposals within a city or district sphere of influence: in anticipation of a later change of organization.

2. For proposals outside a city or district sphere of influence: to respond to an existing or impending threat to the public health or safety of the residents of the affected territory.

Stanislaus LAFCO has adopted its own policy with regards to out-of-boundary service requests, known as Policy 15. Policy 15 reiterates the requirements of §56133 and also allows the Executive Officer to approve extensions for existing development in limited emergency health and safety situations on behalf of the Commission. In most other cases, where a proposal intends to accommodate development, applications are forwarded to the Commission for review.

DISCUSSION

The City of Modesto has requested authorization to provide a new water service connection outside its jurisdictional boundaries to a property located at 4201 McHenry Avenue in order to accommodate a County-approved automobile dealership. The site is not contiguous to the City boundaries and therefore, cannot be annexed at this time without including other neighboring properties in the annexation.
Present and Future Land Use

The site is currently vacant. On August 23, 2016, the Stanislaus County Board of Supervisors approved a Rezone and General Plan Amendment to allow the development of a new automobile dealership. The project amended the General Plan designation from Urban Transition to Planned Development rezoned the site from A-2-10 (General Agriculture) to Planned Development (PD) 334. Consistent with these designations, development will include the construction of an approximately 11,620 square foot automotive sales building and a 13,700 square foot auto service building (See Exhibit “A” – Maps).

The Out of Boundary Service Agreement will allow a City of Modesto water line to be extended to serve the project site. At this time, the proposed development will dispose of effluent waste through on-site septic facilities, but will incorporate onsite infrastructure to allow connection to any future extension to City of Modesto sewer lines. Any potential future connection to City of Modesto sewer lines will require LAFCO approval.

The property is within the City of Modesto’s Sphere of Influence (SOI) and Primary Area. Areas located in the Primary Area generally have a 0 -10 year expectation in terms of being annexed to the City. The property is designated as Regional Commercial in the City’s General Plan, which provides for regional-type commercial uses, consistent with the proposed development of the site.

Consistency with Commission Policy 15 and State Law

Applicable state law and the Commission’s policies prefer annexation to cities and special districts rather than the extension of services outside their jurisdictional boundaries. However, out-of-boundary service extensions can be an appropriate alternative in certain situations. Below is a discussion of each of the situations identified in Policy 15 where the Commission may favorably consider out-of-boundary service extensions:

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

This situation does not apply, as the City’s request is to serve a development that would utilize entire parcels.

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

The site is not contiguous to the City boundaries and cannot, therefore, be annexed at this time without including numerous other properties in the proposed annexation. Additionally the proposed development is consistent with the County’s adopted General Plan and zoning designation for the property. Therefore, this situation would be an appropriate consideration for the Commission.

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

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

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

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

Although provision of water from a public system is a preferable alternative to a private well, there are no known emergency or health related conditions that mitigate against waiting for annexation. Therefore, this situation does not apply.

e. *Other circumstances which are consistent with the statutory purposes and the policies and standards of the Stanislaus LAFCO.*

The Commission must also consider Government Code §56133, the applicable state law, which states “the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization [emphasis added].”

The timeframe for “anticipation of a later change of organization” is not specifically defined. Some LAFCOs interpret this phrase as being synonymous with the property being located within a sphere of influence. Others request a more definitive timeframe for annexation by the service provider. The City’s application indicates that there is no annexation proposal at this time and it is unknown at what point in the future the area would be included within the City. The subject area has been located in the City’s Sphere of Influence since its original adoption in 1984. As such, the Commission may consider this an existing, infill area, long foreseen as becoming part of the City at some point in the future.

**Ability of the City to Provide Services**

The site is proposed to be served by the City of Modesto for water. A copy of the City of Modesto’s application for the Out of Boundary Service is included (Exhibit “B”). The proposed connection will be made from either the existing 10-inch water main located on Pelandale Avenue or the 10-inch main on McHenry Avenue. The water service connection will be designed per City standards. The City is not providing sewer service to this project nor the North McHenry Corridor at this time. As previously mentioned, any future connection to the City of Modesto sewer lines will require LAFCO approval.

**Landowner Consent to Annex**

A standard condition of approval for an out-of-boundary service extension is the requirement that the landowner record an agreement consenting to the annexation of the territory. The City also requires the property owner to sign an “Agreement to Waive Protest to Annexation Proceedings”, which shall
be recorded and states the property owner is receiving city services and shall not oppose annexation at such time an application is approved. The City’s application includes a copy of the draft “Outside Service Agreement” to be signed by the property owner in fulfillment of this standard condition.

Environmental Review

On August 23, 2016, the County approved a proposal to amend the General Plan designation and Rezone the property at 4201 McHenry Avenue to allow an automobile dealership. As Lead Agency under the California Environmental Quality Act (CEQA), the County adopted a Negative Declaration as part of its approval. As an allowable use, development of an automobile dealership on the project site requires a building permit from the County and fulfillment of associated conditions, including obtaining proper water service approvals from the City of Modesto and LAFCO.

As the proposed extension of water service is to accommodate an allowable use, consistent with current zoning, it is considered categorically exempt pursuant to Article 19, §15303 (d) of the CEQA Guidelines. No further change in land use is proposed, as a result of this out-of-boundary service extension application. The Commission does not have any further obligations under CEQA for environmental review.

CONCLUSION

Although Commission policies generally prefer annexation before services are extended outside of city boundaries, services may be extended prior to annexation in certain situations if approved by LAFCO. Based on the discussion above, including situations where out-of-boundary applications may be appropriate, the Commission may consider approval of the City’s request.

STAFF RECOMMENDATION

Based on the information contained in this report, staff recommends that following the required public hearing, the Commission adopt Resolution No. 2016-19, approving the request, subject to the following terms and conditions:

A. Water service is the only out-of-boundary service authorized by the Commission.

B. The extension of water service is to accommodate the proposed development at 4201 McHenry Avenue only. The City shall not allow future connections in the area and outside the City limits without first requesting and securing approval from LAFCO.

C. Before water service is extended, the City shall execute and record an outside service agreement with the property owner to annex the property and forward a copy of the recorded agreement to the LAFCO Office.

Respectfully submitted,

Javier Camarena
Javier Camarena
Assistant Executive Officer
Attachments:  Exhibit A - Maps
Exhibit B - Out-of-Boundary Service Application
Exhibit C - City of Modesto Resolution No. 2016-331
Exhibit D - Draft LAFCO Resolution No. 2016-19
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EXHIBIT A

Maps
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EXHIBIT B

Out-of-Boundary Service Application
OUT OF BOUNDARY SERVICE APPLICATION

AGENCY TO EXTEND SERVICE:

AGENCY NAME: City of Modesto

CONTACT PERSON: Vickey Dion, City Engineer

ADDRESS: 1010 10th Street, Modesto, CA, 95354

PHONE: (209) 342-4712 FAX: (209) 577-5461 E-MAIL: vdion@modestogov.com

CONTRACTING PARTY:

NAME OF PROPERTY OWNER: Burchell Nursery, Inc.

SITE ADDRESS: 4201 McHenry Avenue, Modesto, CA 95356

PHONE: (209) 531-3031 FAX: __________________ E-MAIL: rghagerty@aol.com

CONTRACT NUMBER/IDENTIFICATION: __________________

ASSESSOR PARCEL NUMBER(S): 046-005-010 & 014 and 046-008-016 & 024

ACREAGE: Approx. 12 Acres

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

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

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

A new water extension will be provided.

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

See attached Will Serve Letter and Out of Boundary Agreement. Water is provided in the North McHenry corridor by Agreement between the City of Modesto and Stanislaus County.

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

Yes.

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

Yes.

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

See attached County Staff Report.

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

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

- Tentative Map and Conditions
- Subdivision Map or Parcel Map
- Specific Plan
- ✓ General Plan Amendment
- ✓ Rezoning
- Other - (provide explanation) See attached County Staff Report.

David O. Romano

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

See attached Staff Report.

CERTIFICATION

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

SIGNED: _________________________________
PRINTED NAME: David O. Romano, P.E.
DATED: August 15, 2016

REQUIRED EXHIBITS:

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

Please forward the completed form and related information to:

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

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

Date: August 15, 2016

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

Signature: [Signature]

Name: David O. Romano

Title: Newman-Romano LLC

Agency: 1034 12th St.

Address: Modesto, CA 95354
TO: Mayor and City Council

THROUGH: James Holgersson, City Manager

FROM: Cynthia Birdsill, Director of Community & Economic Development

SUBJECT: Will Serve Letter and an Outside Service Agreement for water service for the property located at 4201 McHenry Ave. (APN 046-005-010 & 014; 046-008-016 & 024)

CONTACT: Vickey Dion, City Engineer, vdion@modestogov.com, 571-5542

DESCRIPTION:
Consider approving a Will Serve Letter and Outside Service Agreement for water service for the property located at 4201 McHenry Avenue in Modesto. (Funding Sources: Water Fund, General Fund)

STRATEGIC PLAN ELEMENT:
This action supports the City's Strategic Commitment Number 1, "Healthy Economy & Great Quality of Life – Adopt a proactive approach for bringing utilities to identified business development areas."

BACKGROUND:
The owner of property located at 4201 McHenry Avenue, Burchell Nursery, Inc., is proposing to construct an auto dealership on the property. This area is outside the City of Modesto’s boundaries but within Modesto’s sphere of influence. A representative of the property owner has requested water service. This property is located within the boundaries identified in the North McHenry Area Tax Sharing Agreement between the City of Modesto and Stanislaus County.

DISCUSSION:
On May 22, 2012, the City Council approved Resolution No. 2012-202 that amended City Council Policy 5.001 relating to water service connections into unincorporated areas. On June 5, 2012, the City Council approved final adoption of Ordinance No. 3566-C.S. amending City of Modesto Municipal Code Section 11-1.05. These amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water services into unincorporated areas.
On November 25, 2014, City Council approved Resolution No. 2014-472 amending City Council Policy 5.001. On December 9, 2014 the City Council approved adoption of Ordinance No. 3611-C.S. amending City of Modesto Municipal Code Section 11-1.05. Both of these amendments included language allowing the City Manager upon the recommendation of the Director responsible for utility system planning, to approve extension of water services into certain unincorporated areas that are located within the former Del Este Water Service Area without City Council approval.

This particular parcel is not within one of those identified areas and therefore requires City Council approval prior to allowing the new water service connection.

Staff has completed an analysis and determined that a sufficient quantity of potable water is available for normal usage by the proposed development. Based on past practice, staff recommends approval of the requested water service connection as described in the attached, Will Serve Letter:

**FISCAL IMPACT:**
Applicant will pay the following fees:

1. Will Serve Letter - $492
2. Outside Service Agreement - $214

The above fees will be deposited into the General Fund for staff time spent to process both the Will Serve Letter and Outside Service Agreement. There are no other direct impacts to the General Fund.

The water connection fee will be determined and collected at the time that the County building permit is issued, or when a separate water permit is issued for the construction of the water line to the property. The water connection fees will be deposited into the Water Fund.

**COMMITTEE RECOMMENDATION:**
This item was not presented to a Council Committee

**RECOMMENDED COUNCIL ACTION:**
Staff Recommendations:
Resolution approving a Will Serve Letter and Outside Service Agreement for water service between the City of Modesto and Burchell Nursery, Inc. for the property located at 4201 McHenry Avenue in Modesto (APN 046-005-010 & 014; 046-008-016 & 024) and authorizing the City Manager or his designee, to approve the Will Serve Letter and execute the Outside Service Agreement.

Approved by:

Cynthia Birdsill,
Director of Community and Economic Development

James N. Holgersson, City Manager
Attachments:
1. Resolution
2. Water Will Serve Letter
3. Outside Service Agreement
MODESTO CITY COUNCIL
RESOLUTION NO. 2016-

RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT FOR WATER SERVICE BETWEEN THE CITY OF MODESTO AND BURCHELL NURSERY, INC. FOR THE PROPERTY LOCATED AT 4201 MCHENRY AVENUE IN MODESTO (APN 046-005-010 & 014; 046-008-016 & 024) AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO APPROVE THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT

WHEREAS, Burchell Nursery, Inc., owns property located at 4201 Mchenry Avenue, and

WHEREAS, the owner if proposing to construct an auto dealership on the property, and

WHEREAS, a representative of the property owner has requested water service, and

WHEREAS, on May 22, 2012, the City Council approved Resolution No. 2012-202 that amended City Council Policy 5.001, and

WHEREAS, on June 5, 2012, the City Council approved final adoption of Ordinance No. 3566-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water services into unincorporated areas, and

WHEREAS, on November 25, 2014, the City Council approved Resolution No. 2014-472 that amended City Council Policy 5.001, and
WHEREAS, on December 9, 2014, the City Council approved adoption of Ordinance No. 3611-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language allowing the City Manager upon the recommendation of the Director responsible for utility system planning, to approve standard agreements of service for extension of water services into certain unincorporated areas that are located within the former Del Este Water Service Area without City Council approval, and

WHEREAS, the property located at 4201 McHenry Avenue is not located within the former Del Este Water Service area and therefore requires City Council approval prior to allowing the new water service connection, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, the property owner has executed an Outside Service Agreement for Water Service as required to receive water service outside of City limits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve Letter and Outside Service Agreement for Water Service for the property located at 4201 McHenry Avenue in Modesto (APN: 046-005-010 & 014; 046-008-016 & 024).
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve Letter and execute the Outside Service Agreement for Water Service.

The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August 2016, by Councilmember ?, who moved its adoption, which motion being duly seconded by Councilmember ?, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST:

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
City of Modesto
Community and Economic Development Department
Land Development Engineering Division
Transportation, Engineering and Design Division
1010 Tenth Street, Third Floor
Modesto, CA 95354

City Council Meeting Date: August 9, 2016

June 9, 2016

Mr. David Romano
1034 12th Street
Modesto, Ca 95354

Subject: Water Will Serve Letter for property located at 4201 McHenry Avenue (APN: 046-005-010 & 014; 046-008-016 & 024) Modesto

Dear Mr. Romano:

As requested in your application dated April 26th, 2016, the proposed Car Dealership located at 4201 McHenry Avenue (APN: 046-005-010 & 014; 046-008-016 & 024) Modesto, will be allowed (subject to City Council approval) to make the necessary water service connections to the City’s existing water system as described below.

Water Service:

Pursuant to Modesto City Council Resolution No. 98-306 and City Council Policy No. 5.001, both addressing the extension of water service into unincorporated areas, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development.

In general, Council Policy No. 5.001 provides that water service extensions may be approved by the City Manager on a case-by-case basis to properties outside the Modesto City Limits and inside of the City’s Sphere of Influence when all of the following conditions are met:

1. The development has been authorized by the appropriate land use agency. (Stanislaus County).

2. The property is inside, contiguous to, or near the former service area of the Del Este Water Company.

3. City staff has completed an analysis and determined that it is reasonable for the City of Modesto to extend water service based on a plan to pay for the service extension costs, the quantity of water used, the type of water use and the overall impact on the water system.

In addition to the above requirements, the following items are specific conditions on the proposed project:
4. That the water demand requirements for a proposed connection will not change significantly from the information contained in the above referenced application.

5. That the proposed building meets all of the applicable Fire District’s fire code requirements, and current edition of the California Fire Code, California Building Code and California Residential Code for water fire flow pressure and volume.

6. That water service connection/s for the proposed Car Dealership is made from the existing 10-inch water main located in Pelandale Avenue or the 10-inch main in McHenry Avenue. The water service connection shall be designed per City Standards, and by a registered engineer authorized to perform such work. Improvement plans shall be submitted to the City for review and approval. All costs associated with its design, installation, and permits shall be borne by the property owner.

7. That the smallest water service lines and associated meter sizes needed to serve the proposed project be installed.

8. That all applicable water connection fees are paid and associated permits be obtained prior to beginning any on-site construction.

9. That the property owner enters into a standard water service agreement with the City, as required for water service outside the City limits, by contacting Yvonne Weber at (209) 342-4712 for more information.

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

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

Recommended By: Eva Dankha-Kelly, Associate Engineer

Sincerely,

James Holgersson, City Manager

cc: Larry Parlin- Director of Utilities
Jim Alves- Utilities
David Savidge- Utilities
Thomas Sinclair- Environmental Compliance Administrator
Kerrie Freeman - Stanislaus County – PW
OUTSIDE SERVICE AGREEMENT
FOR WATER SERVICE

This Agreement is made and entered into in the City of Modesto, County of Stanislaus, State of California, by and between the City of Modesto, a municipal corporation of the State of California, (hereinafter "City"), and The Burchell Nursery, Inc., a California corporation, (hereinafter "Owner") and entered into on the date the last party executes said agreement.

This Agreement is made with reference to the following recitals:

A. Owner desires to have water service from City to its property located outside the city limits of City and more fully described in paragraph 1 below, ("Property"), and

B. In order to provide said water service, City must extend its system, and

C. City is agreeable to providing said water service subject to certain terms and conditions.

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

1. Contemporaneous with the signing of this Agreement, Owner shall also sign that certain "Agreement To Waive Protest To Annexation Proceedings" which is attached hereto as Exhibit "A". In addition, Owner shall do any and all other acts
necessary to annex the following described property to City when requested to do so by City:

Address: 4201 McHenry Avenue         APN: 046-005-010 & 014 and 046-008-016 & 024

See Legal Description Exhibit "B"

2. Effective upon execution of this agreement by both parties, Owner agrees to pay to City the utility users tax that would otherwise be applicable to Owner's use of utilities at the Property at the rates set forth in Modesto Municipal Code Sections 8-2.901, et seq. In addition, effective upon execution of this agreement by both parties, Owner agrees to pay to City the business license tax that would otherwise be applicable to Owner's business to be relocated to the Property at the rates set forth in Sections 6-1.101, et seq., of the Modesto Municipal Code. Owner hereby does specifically confer upon City the jurisdiction and power to levy and collect said taxes as though said property were located entirely within the Modesto city limits. If for any reason, such tax collection powers become unavailable to City, then Owner agrees that its tax obligation is also contractual, and that once each quarter, upon ten (10) days written notice by City, Owner shall provide City with copies of whatever financial records or utility bills City determines, in its sole discretion, are necessary to calculate said taxes. Owner shall pay the taxes so calculated upon ten (10) days written notice by City. Thereafter, upon annexation of the Property to the City, Owner shall remain obligated to pay the subject taxes.

3. Owner agrees to pay all fixed fees for all system operations and management services for water service. These include, but are not limited to, the following: deposit, disconnect fee, reconnect fee, late payment penalty fee, return check
fee, collection agency fee, water disconnection notice, unauthorized reconnect, lock
breakage fee/lock replacement fee, disconnect water line at main for nonpayment fee.

4. In the event Owner, for any reason, fails to take whatever other action is
necessary to annex said property when requested to do so by City or in the event
Owner fails to provide any of the information or make any of the payments provided for
in Paragraphs 2 and 3 in a timely manner, City may, at its option, terminate this
Agreement by giving written notice thereof to Owner by First class mail. City may
thereafter, at any time upon fifteen (15) calendar days written notice by First class mail
to Owner, refuse to provide water service, or City may disconnect the water service
connection to said property, at the City's sole discretion.

In the event of Owners' breach of this Agreement, the remedy provided in
this Paragraph to City is cumulative and is in addition to any other remedies in law or
equity that may be available to City. The election of one or more remedies shall not bar
the use of other remedies unless the circumstances make the remedies incompatible.
The waiver or failure to enforce any breach hereof shall not be construed as a waiver of
or bar to enforcement of subsequent breaches.

5. To the extent permitted by law, Owner agrees to and does hereby waive
any and all rights it may have under law to challenge the payment of the City taxes and
fees as provided for in Paragraphs 2 and 3 above. In the event, for whatever reason,
Owner at any time contests, protests, or files any action in state or Federal court to
invalidate the applicability of said fees and taxes to Owner, then, this Agreement shall
immediately terminate and shall be of no further force and effect.

6. Owner shall comply with all water use rules and regulations as set forth in
the Modesto Municipal Code.
7. Owner shall pay water service charges and water main connection charges as set forth in the Modesto Municipal Code.

8. If the necessary water mains or services or appurtenances do not exist to provide water service to the property, City and Owner shall comply with the requirements of the Modesto Municipal Code and the City of Modesto Engineering Standard Specifications for the installation of necessary water mains and appurtenances thereto. The necessary water mains, services and appurtenances shall be installed by either City or Owner, as set forth in said requirements, to provide water service to the above property. In no event, will City be obligated to pay the initial cost of any such water mains, services or appurtenances at the direction of Owner. Rather, City agrees to use the procedures, methods, timing and other criteria set forth in its written authorities to provide water service to Owner at the good faith convenience of the City. Owner may accelerate the process of receiving water service from City by agreeing in a subsequent agreement to pay the facilities installation costs of such services in advance of their installation, subject to reimbursement pursuant to the aforementioned written authorities.

9. It is distinctly covenanted and agreed by the parties hereto that this Agreement shall be recorded and that all the covenants and agreements expressed above shall be held to run with the and bind the above described land and all subsequent owners and occupants thereof.
IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk pursuant to Modesto Municipal Code 11-1.05 (b) and City Ordinance No. 3611-C.S., adopted on the 9th day of December, 2014, and OWNER has caused this agreement to be duly executed.

CITY:

CITY OF MODESTO, a California municipal corporation

By:

JAMES N. HOLGERSSON
City Manager

OWNER:

CORPORATION NAME, a municipal corporation

By:

RICHARD G. HAGERTY
Assist Corp Secry
Date 7/21/16

By:

Name:
(Print Name)
Title:

Date

ATTEST:

By:

STEPHANIE LOPEZ
City Clerk

APPROVED AS TO FORM:

ADAM U. LINDGREN
City Attorney

By:

JOSE M. SANCHEZ
Assistant City Attorney

APPROVED AS TO SUFFICIENCY:

OFFICE OF THE CITY ENGINEER

By:

VICKEY DION
City Engineer

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

Partnership – signature of a partner required

Sole Proprietorship – signature of proprietor required
ACKNOWLEDGMENT

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

State of California )
County of Stanislaus ) ss.

On July 21, 2016, before me, Lynette Asay, Notary Public, personally appeared Michael G. Fogarty, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

Witness my hand and official seal.

Signature of Notary Public

(seal)
Exhibit A

AGREEMENT TO WAIVE PROTEST TO ANNEXATION PROCEEDINGS

This Agreement, made and entered into in the City of Modesto, County of Stanislaus, State of California, this ___ day of ____________, 2016, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called "CITY", and The Burchell Nursery, Inc., a California corporation, hereinafter called "OWNER".

This Agreement is made with reference to the following recitals:

1. CITY and OWNER entered into an Outside Service Agreement on ____________, 2016 (hereinafter "OSA"). That OSA required OWNER to do any and all acts necessary to annex the following described property to CITY when requested to do so by CITY:

   Address: 4201 McHenry Avenue        APN: 046-005-010 & 014 and 046-008-016 & 024

   See Legal Description Exhibit "B"

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

3. Pursuant to Government Code Section 57051, OWNER has the legal right to file a written protest either as an owner of land or as a registered voter within inhabited territory proposed to be annexed to CITY against annexation of that territory.
4. CITY and OWNER agree that the right described in the next preceding paragraph is an advantage of law intended solely for Owner's benefit, and not a law established for a public reason which cannot be waived or circumvented by agreement.

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

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

A. OWNER agrees that all of the foregoing recitals are factually true.

B. OWNER agrees to and does hereby, waive any and all rights, whether jointly or severally held, to do any act authorized by Government Code Section 57051 to the full extent allowed by Civil Code Section 3513.

C. OWNER understands and agrees that this Agreement to waive protest rights does not in any manner amend or alter the OSA.

D. In consideration of OWNER'S agreements contained herein, CITY agrees to accept this waiver as a partial discharge of OWNER'S duties and obligations under the OSA, with respect to OWNER'S duty thereunder to do all things necessary to annex its property to the CITY when requested to do so by CITY.
IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has
authorized the execution of this Agreement in duplicate by its City Manager and
attested by its City Clerk on the ____ day of ____________, 2016, and OWNER has
executed the Agreement the day and year first above written.

CITY:

CITY OF MODESTO,
a California municipal corporation

By: ________________________________
   JAMES N. HOLGERSSON
   City Manager

OWNER:

CORPORATION NAME, a municipal corporation

By: ________________________________
   (Signature)
   Name: ____________________________
   (Print Name)
   Title: Assistant City Secy
   Date: 7/14/16

By: ________________________________
   (Signature)
   Name: ____________________________
   (Print Name)
   Title: ____________________________
   Date: ____________________________

ATTEST:

By: ________________________________
   STEPHANIE LOPEZ
   City Clerk

APPROVED AS TO FORM:

ADAM U. LINDGREN
City Attorney

By: ________________________________
   JOSE M. SANCHEZ
   Assistant City Attorney

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

Partnership – signature of a partner required

Sole Proprietorship – signature of proprietor required

(SEAL)
ACKNOWLEDGMENT

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

State of California )
County of Stanislaus ) ss.

On July 21, 2016, before me, Lynette Asay, Notary Public,
personally appeared Richard G. Hagerty, who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon
behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of Notary Public

(seal)
EXHIBIT "B"
Legal Description

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

PARCEL ONE:

All that portion of Section 5, Township 3 South, Range 9 East, M.D.B.&M, bounded and described as:

The East 277 feet lying North of the North line of Hetch Hetchy right of way of the following:

Commencing at the Southeast corner of said Section 5; thence West along the South line of said Section, 18.10 chains; thence North on a line parallel with East line of Section, 17.67 chains; thence East on a line parallel with the South line of said Section, 18.10 chains to the East line of said Section; thence South along the said East line, 17.67 chains to the point of beginning.

EXCEPTING THEREFROM all that portion of the Southeast quarter of the Southeast quarter of Section 5, Township 3 South, Range 9 East, M.D.B.&M., bounded and described as:

Beginning at a point on the West line of a 50 foot County Road known as McHenry Avenue and the North line of Hetch Hetchy right of way; thence North and along the West line of McHenry Avenue, 82 feet to the true point of beginning of this description; thence West and parallel with the South line of said Section, 250 feet, thence South and parallel with the West line of said McHenry Avenue to a point on the Northerly line of Hatch Hetchy right of way; thence Easterly and along said Northerly line to the intersection thereof with the center line of McHenry Avenue; thence North along said center line to a point 25 feet West of and in line with the North line of the herein described land; thence West 25 feet to the true point of beginning.

APN: 046-005-010

PARCEL TWO:

All that portion of Section 5, Township 3 South, Range 9 East, M.D.B.&M., described as follows:

All that portion lying North of the North line of Hetch Hetchy right of way and West of the East 277 feet of the following:

Commencing at the Southeast corner of said Section 5; thence West along the South line of said Section, 18.10 chains; thence North on a line parallel with the East line of Section 17.67 chains; thence East on a line parallel with the South line of said Section, 18.10 chains to the East line of said Section; thence South along said East line, 17.67 chains to the point of beginning.

EXCEPTING THEREFROM the following described property; Parcel 1 as shown on that certain Parcel Map filed August 3, 1970, in Book 9 of Parcel Maps, Page 63, Stanislaus County Records, being a portion of the Southeast quarter of Section 5, Township 3 South, Range 9 East, Mount Diablo Base and Meridian.

APN: 046-005-014

PARCEL THREE:

All that portion of the Southeast quarter of Section 5, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Commencing at a point on the Section line between Sections 4 and 5, above Township and Range, said point bears North 1° 28' West a distance of 1166.22 feet from the corner of Sections 4, 5, 8 and 9, above Township and Range, being the Southeast corner of the tract of land described in the Deed to Royal C. Kilgore, et ux, recorded
EXHIBIT "B"
Legal Description
(continued)

December 3, 1938 as Instrument No. 16376; thence North 89° 03' West, a distance of 275 feet to a point; thence North 1° 28' West a distance of 92 feet; thence South 89° 03' East a distance of 275 feet to a point on the Section line between Sections 4 and 5; thence South 1° 28' East along said Section line a distance of 92 feet to the point of commencement of this description.

EXCEPTING THEREFROM the East 55.00 feet as deeded to the State of California by Deed dated October 13, 1995 and recorded April 19, 1996, as Instrument No. 31910, Stanislaus County Records.

ALSO EXCEPTING THEREFROM all that portion of said land conveyed to The City of Modesto, a municipal corporation, recorded April 1, 2005, Instrument No. 2005-0054446-00, Stanislaus County Records.

ALSO EXCEPTING THEREFROM all that portion of said land conveyed to The City of Modesto, a municipal corporation, recorded March 14, 2007, Instrument No. 2007-0032910-00, Stanislaus County Records.

APN: 046-008-016

PARCEL FOUR:

All that portion of Lot 2-C in the Lverty Industrial Park Subdivision in the County of Stanislaus, State of California, as per map Recorded in Book 33, Page 17, of Maps in the Office of the County Recorder, and a portion of the Pelandale Avenue abandonment Instrument No. 097322, dated December 5, 1989, filed by the County of Stanislaus, State of California, described as follows:

Beginning at the Southeast corner of said Lot 2-C, said corner also lying on the North Right-Of-Way line of Wells Avenue; thence North 88 degrees 48' 10'' West along said Wells Right-Of-Way line a distance of 609.77 feet; thence North 1 degree 13' 55" West, a distance of 81.57 feet to a point on a curve concave to the North having a radius of 5050.0 feet; said point also lying on the South Right-Of-Way line of Pelandale Avenue; thence Easterly 383.68 feet along said curve, also being said Pelandale Right-Of-Way line, through a central angle of 4 degrees 21' 11'', thence South 89 degrees 30' 39" East along said Pelandale Avenue a Right-Of-Way a distance of 226.63 feet; thence South 1 degree 13' 55" East, a distance of 74.53 feet to the point of beginning of this description.

EXCEPTING THEREFROM all that portion of said land conveyed to The City of Modesto, a municipal corporation, recorded March 14, 2007, Instrument No. 2007-0032911-00, Stanislaus County Records.

APN: 046-008-024
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EXHIBIT C

City of Modesto
Resolution No. 2016-331
RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT FOR WATER SERVICE BETWEEN THE CITY OF MODESTO AND BURCHELL NURSERY, INC. FOR THE PROPERTY LOCATED AT 4201 MCHENRY AVENUE IN MODESTO (APN 046-005-010 & 014; 046-008-016 & 024) AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO APPROVE THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT

WHEREAS, Burchell Nursery, Inc., owns property located at 4201 McHenry Avenue, and

WHEREAS, the owner if proposing to construct an auto dealership on the property, and

WHEREAS, a representative of the property owner has requested water service, and

WHEREAS, on May 22, 2012, the City Council approved Resolution No. 2012-202 that amended City Council Policy 5.001, and

WHEREAS, on June 5, 2012, the City Council approved final adoption of Ordinance No. 3566-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water services into unincorporated areas, and

WHEREAS, on November 25, 2014, the City Council approved Resolution No. 2014-472 that amended City Council Policy 5.001, and
WHEREAS, on December 9, 2014, the City Council approved adoption of Ordinance No. 3611-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language allowing the City Manager upon the recommendation of the Director responsible for utility system planning, to approve standard agreements of service for extension of water services into certain unincorporated areas that are located within the former Del Este Water Service Area without City Council approval, and

WHEREAS, the property located at 4201 McHenry Avenue is not located within the former Del Este Water Service area and therefore requires City Council approval prior to allowing the new water service connection, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, the property owner has executed an Outside Service Agreement for Water Service as required to receive water service outside of City limits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve Letter and Outside Service Agreement for Water Service for the property located at 4201 McHenry Avenue in Modesto (APN: 046-005-010 & 014; 046-008-016 & 024).
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve Letter and execute the Outside Service Agreement for Water Service.

The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
EXHIBIT D

Draft LAFCO Resolution
No. 2016-19
STANISLAUS COUNTY LOCAL AGENCY
FORMATION COMMISSION

RESOLUTION

DATE: September 28, 2016
NO. 2016-19

SUBJECT: Out-of-Boundary Service Application – City of Modesto (4201 McHenry Ave)

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

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

THE FOLLOWING RESOLUTION WAS ADOPTED:

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

WHEREAS, the City of Modesto has submitted an out-of-boundary service application to provide water service outside its jurisdictional boundaries for an automobile dealership located at 4201 McHenry Avenue;

WHEREAS, the site is located outside the boundaries of the City of Modesto but within the City’s sphere of influence;

WHEREAS, the site is otherwise identified as Assessor’s Parcel Numbers (APNs) 046-005-010 & 014 and 046-008-016 & 024;

WHEREAS, in accordance with adopted Commission policy, the Executive Officer has forwarded this application to the Commission for their consideration as it would serve new development;

WHEREAS, the County approved a General Plan Amendment and Rezone application on August 23, 2016 to allow an automobile dealership on the site and adopted a Negative Declaration, per the California Environmental Quality Act (CEQA) and the State CEQA Guidelines;

WHEREAS, the extension of water service to accommodate an allowable use, consistent with current general plan and zoning designation, is considered categorically exempt pursuant to Article 19, Section 15303 (d), water main and other utility extensions and the Commission does not have any further obligations under CEQA;

WHEREAS, the request to extend public water service to accommodate the proposed automobile dealership site is a preferable alternative to a private well system;
WHEREAS, the City of Modesto has indicated that the requested water service is available to serve the subject site and can be provided upon development; and

WHEREAS, the Commission has, in evaluation of the proposal, considered the report submitted by the Executive Officer as well as the testimony and evidence presented at the meeting on September 28, 2016.

NOW, THEREFORE, BE IT RESOLVED that the Commission:

1. Authorizes the City of Modesto to provide water service connection to the site, subject to the following terms and conditions:

   A. Water service is the only out-of-boundary service authorized by the Commission.

   B. The extension of water service is to accommodate the proposed development at 4761 McHenry Avenue only. The City shall not allow future connections in the area and outside the City limits without first requesting and securing approval from LAFCO.

   C. Before water service is extended, the City shall execute and record an outside service agreement with the property owner to annex the property and forward a copy of the recorded agreement to the LAFCO Office.

ATTEST:

Sara Lytle-Pinhey, Executive Officer
APPLICANT: Ron Macedo – R.A.M. Farms

LOCATION: 716 N. Daubenberger Rd.
(Assessor’s Parcel Number 051-005-002) - Located at the southeast corner of E. Canal Drive and N. Daubenberger Road, within the Sphere of Influence of the City of Turlock. (See Exhibit “A” - Maps.)

REQUEST: The applicant is requesting to extend a 1-inch water service line from the City of Turlock that will run approximately 80 feet across North Daubenberger Road. The City of Turlock has authorized the municipal water service connection to serve R.A.M. Farms, an existing seasonal operation which includes a corn maze, ice skating rink and additional uses as approved by Stanislaus County (See Exhibit “B” - Out-of-Boundary Service Application.)

BACKGROUND

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

(1) For proposals within a city or district sphere of influence: in anticipation of a later change of organization.

(2) For proposals outside a city or district sphere of influence: to respond to an existing or impending threat to the public health or safety of the residents of the affected territory.

Stanislaus LAFCO has adopted its own policy with regards to out-of-boundary service requests, known as Policy 15. Policy 15 reiterates the requirements of §56133 and also allows the Executive Officer to approve extensions for existing development in limited emergency health and safety situations on behalf of the Commission. In most other cases, where a proposal intends to accommodate development, applications are forwarded to the Commission for review.

DISCUSSION

R.A.M. Farms has requested authorization to provide a new water service connection outside of and adjacent to the City of Turlock’s jurisdictional boundaries to a property located at 716 N. Daubenberger Road. The site is used for farming during most of the year. During the seasonal
activities, R.A.M. Farms places facilities on the property associated with a pumpkin patch, corn maze, ice skating rink and additional seasonal activities.

The County recently approved an increase to the number of days that R.A.M. Farms is permitted to operate during the year. The increase in days, along with the number of persons served triggered a California Health and Safety Code requirement that R.A.M. Farms use a public water system for its operation. This is reflected as a condition of approval on the permit issued by the County. R.A.M. Farms considered three options to satisfy this condition, including upgrading the existing agricultural well, installing a new well with wellhead treatment, and connecting to the City's water system. Due to poor water quality and the age of the agricultural well, it does not meet the State's requirements. Installing a new well with wellhead treatment was found to be a costly and lengthy process. Because of the City's existing water infrastructure located in North Daubenberger Road, R.A.M. Farms determined that connection to the City's water system is the most feasible option to meet the public water system requirement.

State law and Commission policies generally prefer annexation in order to accommodate the extension of services. However, the Commission has recognized that there are situations when out-of-boundary service extensions may be an appropriate alternative, consistent with Government Code §56133 and Commission Policy 15, as discussed below.

Consistency with Commission Policy 15

The Commission’s Policy 15(C) describes a variety of situations where the Commission may favorably consider service extensions. These include the following:

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

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

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

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

5. Other circumstances which are consistent with the statutory purposes and the policies and standards of the Stanislaus LAFCO.

R.A.M. Farms is located on a parcel that is approximately 21 acres in size. The majority of the property and surrounding properties on the east side of Daubenberger Road are actively farmed. The extension of water service from the City would only provide potable water to serve the seasonal and temporary activities on site and not the farming or irrigation of the site. Although the site is located within the City’s Sphere of Influence, annexation is likely to be considered inappropriate at this time, as it would likely need to include a much larger area for boundaries to be orderly. There are also no immediate plans for development in the area. Thus, the Commission may find the proposal to be consistent with situation 1, as described in its policies above.

While the request does not constitute an “emergency,” the public water system requirements by Stanislaus County and the California Health and Safety Code to ensure that safe drinking water is
provided to the R.A.M. Farms’ customers throughout its approved operating period.

Consistency with Applicable State Law

The Commission must also consider Government Code §56133, the applicable state law, that specifies “the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization [emphasis added].”

While the timeframe for “anticipation of later change of organization” is not defined, Stanislaus LAFCO and others have interpreted this phrase as being synonymous with the property being located in a sphere of influence, or the City’s long-term planning area. As such, the application can be found consistent with State law.

Ability of the City to Provide Services

The City of Turlock has indicated that it is willing and able to serve the property and has authorized R.A.M. Farms to apply to LAFCO for the service extension. (See Exhibit “C” – City of Turlock Resolution No. 2016-187.) Water would be provided via a connection to the City’s existing line in N. Daubenberger Road.

Landowner Consent To Annex

A standard condition of approval to the out-of-boundary service agreement requires the property owner agree to waive any protest to annexation proceedings, which shall be recorded and states the property owner is receiving city services and shall not oppose annexation at such time an application is approved. The City’s application includes a copy of the draft “Outside Service Agreement” to be signed by the property owner in fulfillment of this standard condition.

Environmental Review

On August 9, 2016, the City of Turlock approved authorization of the Out of Boundary Service Application. As Lead Agency under the California Environmental Quality Act (CEQA), the City of Turlock determined that the extension of water service is exempt pursuant to Sections 15301, 15303 and 15301 of the CEQA guidelines. The proposed extension of water service is to accommodate an allowable use, consistent with current zoning. No further change in land use is proposed, as a result of this out-of-boundary service extension application. The Commission does not have any further obligations under CEQA for environmental review.

CONCLUSION

Although Commission policies generally prefer annexation before services are extended outside of city boundaries, services may be extended prior to annexation in certain situations if approved by LAFCO. Based on the discussion above, including situations where out-of-boundary applications may be appropriate, the Commission may consider approval of the applicant’s request.

STAFF RECOMMENDATION

Based on the information contained in this report, staff recommends that following the required public hearing, the Commission adopt Resolution No. 2016-20 (Exhibit “D”), approving the request, subject to the following terms and conditions:
A. Water service is the only out-of-boundary service authorized by the Commission.

B. The extension of water service is intended to accommodate the seasonal operation located at 716 N. Daubenberger Road. The City shall not allow future connections in the area and outside the City limits without first requesting and securing approval from LAFCO.

C. Before water service is extended, the City shall execute and record an outside service agreement with the property owner to annex the property and forward a copy of the recorded agreement to the LAFCO Office.

Respectfully submitted,

[Signature]

Javier Camarena
Assistant Executive Officer

Attachments: Exhibit A - Maps
Exhibit B - Out-of-Boundary Service Application
Exhibit C - City of Turlock Resolution No. 2016-187
Exhibit D - Draft LAFCO Resolution No. 2016-20
EXHIBIT A

Maps
OUT OF BOUNDARY SERVICE APPLICATION

RAM FARMS - 716 N. DAUBENBERGER ROAD (APN 051-005-002)

SITE
21+/- acres

Turlock City Limits
OUT OF BOUNDARY SERVICE APPLICATION

RAM FARMS - 716 N. DAUBEENBERGER ROAD (APN 051-005-002)

SITE

21+/- acres
EXHIBIT B

Out-of-Boundary Service Application
OUT OF BOUNDARY SERVICE APPLICATION

AGENCY TO EXTEND SERVICE:

AGENCY NAME: City of Turlock

CONTACT PERSON:

ADDRESS: 126 S. Broadway, Suite 230, Turlock, CA 95380-05454

PHONE: 209-668-5540 FAX: E-MAIL:

CONTRACTING PARTY:

NAME OF PROPERTY OWNER: Albert Warda (Lessee; R.A.M. Farms, Inc.)

SITE ADDRESS: 716 N. Daubgenberger, Turlock, CA 95380

PHONE: 209-668-2425 FAX: cell 209-649-6885 E-MAIL: rmac100@aol.com

CONTRACT NUMBER/IDENTIFICATION:

ASSESSOR PARCEL NUMBER(S): 051-005-002

ACREAGE: 21

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

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

   The applicant is requesting the extension of a 1 inch water service line from the City of Turlock that will run approximately 80 feet across North Daubgenberger Road.
(b) Are any of the services identified in 1- a "new" services to be offered by the agency? If yes, please provide explanation.

Yes, the water service will provide potable water to a property located in the unincorporated which is 50 ft. west of the City of Turlock, and in the General Plan and the Sphere of Influence.

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

The service agreement that is being requested is to provide potable water to R.A.M. Farms, Inc's seasonal and temporary activities which include Pumpkin Patch and Corn Maze, and Fields of Ice, which includes Christmas Tree Lot and Ice Skating. This service is requested because of public health and safety needs.

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

Yes, the property is within the City of Turlock's Sphere of Influence and is proposed to be developed in the future by the City's adopted General Plan.

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

Yes, it is in the City of Turlock's Sphere of Influence.

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

No development is proposed with the service requested. No other City services will be provided as part of the agreement.

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

A Stanislaus County Use Permit was approved for the seasonal activities PLN NO 2015-0046
7. Are there any land use entitlements involved in the project or contract? If yes, please provide a copy of the documentation for this entitlement. Please check those documents attached:

- [ ] Tentative Map and Conditions
- [ ] Subdivision Map or Parcel Map
- [ ] Specific Plan
- [ ] General Plan Amendment
- [ ] Rezoning
- [x] Other - (provide explanation) SAA PLN 2015-0046 (PLN 2013-0032 use permit; and Staff Approval no PLN 2014-0041)

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

An approximate 80 foot 1 inch water service crossing N. Daubenberger Road, Turlock CA with fees paid for by private funds by applicant.

CERTIFICATION

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

SIGNED: [Signature]

PRINTED NAME: [Name]

DATED: 8-12-2016

REQUIRED EXHIBITS:

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

Please forward the completed form and related information to:

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

OUT OF BOUNDARY SERVICE APP. PAGE 3
INDEMNITY AGREEMENT

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

Date: 8/31/2016

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

Signature: [Signature]
Name: RAM Farms
Title: Owner
Agency:
Address: 716 N. Decemberer
Twicott (CA 95380)
RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

City of Turlock
Attention City Clerk
156 S. Broadway, Suite 230
Turlock, CA 95380-5456

Exempt from fee per Government Code 6103

OUT-OF BOUNDARY SERVICE AGREEMENT
For Water Connection Affecting Real Property

THIS AGREEMENT is made and entered into this 9th day of August, 2016 by and between the CITY OF TURLOCK (hereinafter referred to as “CITY”) and ALBERT BIT GABRIEL WARDA and BELIT ALKHAS WARDA, owners of APN 051-005-002 whose address of record is 763 Contra Costa Avenue, Berkeley, California, 94707 (hereinafter referred to as “OWNER”); and

WHEREAS, OWNER is the owner of real property in the unincorporated area of the County of Stanislaus within the sphere of influence identified under Paragraph 23 of this Agreement, which property is hereinafter referred to as “Property”; and

WHEREAS, CITY furnishes water service to properties outside the CITY limits in emergency situations or exceptional cases, such as well failure, where public health and safety is jeopardized; and

WHEREAS, the property has an existing use permit for a Pumpkin Patch, Corn Maze, Christmas Tree Lot and Ice Skating Rink: and

WHEREAS, OWNER desires that CITY extend water services to its property; and

WHEREAS, in exchange for water service to its property, OWNER agrees to the annexation of the real property identified under Paragraph 23 of this Agreement to the CITY; and

WHEREAS, under State law, Government Code 56133, permission to extend such services must be obtained from the Stanislaus County Local Agency Formation Commission (hereinafter referred to as “LAFCO”); and

WHEREAS, LAFCO Policy requires an agreement between the CITY and OWNER before water services may be extended to the territories outside the City.
WHEREAS, although there are other options the OWNER has for water service, City is willing to furnish said water service upon the terms hereinafter set forth; and

WHEREAS, this Agreement does not convey or imply the future provision of sanitary sewer and/or storm water collection services to the Property.

NOW THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. PROVISION OF WATER SERVICE. CITY agrees to provide water service to OWNER for OWNER’s existing municipal/industrial uses only. This right may not be sold, transferred, or otherwise conveyed to any other owner or property. This Agreement does not create any right to utilize any CITY’s services except such services for which rights are expressly granted herein. OWNER has no right under this Agreement to receive sanitary sewer or storm water service from CITY.

2. PRIVATE PROPERTY. CITY makes no warranty whatsoever as to the current or continued condition of any private property utilized by OWNER to receive City extraterritorial services. For the purpose of this section “Private property” shall mean any property that is not owned or leased by CITY and shall include, but not be limited to, any water lines that are not owned by CITY. In the event that OWNER does not have access due to any malfunction of any private property, OWNER shall still be liable to CITY for all applicable monthly or other fees.

3. RIGHT OF ENTRY. OWNER hereby expressly grants consent to CITY to enter upon OWNER’s Property in the manner and according to the procedures prescribed by CITY for the purpose of disconnecting service when OWNER’s account is delinquent. No further consent shall be required.

4. CHARGES FOR SERVICE. OWNER agrees to pay water service and usage charges at metered rate in such sum as from time-to-time may be established by the City Council. The City will issue monthly billing statements to OWNER for water service and usage which will be due and payable on the first business day of each month, and will be considered delinquent if not paid within thirty (30) days of the due date.

5. FEES AND DEPOSITS. OWNER shall be an extraterritorial customer of the City’s water system and hereby agrees to be subject to all water service laws, policies and ordinances applicable to customers within City boundaries. OWNER also agrees to pay all applicable fees, including connection fees, deposits and usage fees outlined in the City’s ordinances and/or water fee schedule(s). OWNER further agrees that as an extraterritorial customer, OWNER will not be entitled to notice or protest rights under Proposition 218 where fee increases are contemplated and initiated by CITY.

6. LAFCO APPLICATION. Prior to providing any services outside of its territorial boundaries, the CITY must first obtain approval from the Stanislaus County Local
Agency Formation Commission (LAFCO). LAFCO charges a fee and may require additional steps prior to approving extraterritorial service.

OWNER shall pay all LAFCO Fees and other costs related to the LAFCO process. This may include the preparation of an environmental document satisfying the requirements of LAFCO at an additional cost to OWNER. CITY will have no obligation to provide service until LAFCO approval is finalized.

LAFCO is the responsible entity for decisions regarding service extensions. CITY makes no representations or warranties as to any action or decision that may or may not be taken by LAFCO.

7. DEVELOPMENT OF IMPACT FEES. OWNER agrees to pay CITY all potable water related development impact fees, including but not limited to Water Capital Charges and fees appropriate for the nature and extent of the intended use of the Property, in such amount as is established by the City in effect at the time of the OWNER’s connection to the water system.

8. WATERLINE. OWNER agrees at their own expense to cause a waterline, of such size as shall be determined by City Engineer, to be constructed and installed according to City Standards, at such location as shall be determined by City Engineer as necessary or desirable to serve OWNER’s Property and comply with City Extension requirements.

Upon acceptance by CITY, water service and all appurtenances up to the required backflow devices(s) shall be become property of the City. All facilities downstream of this point shall be privately owned and maintained.

9. ENCROCHMENT PERMIT. OWNER shall submit an application for an encroachment permit to the City of Turlock and Stanislaus County (if required), with improvement plans prepared by a licensed civil engineer.

10. IMPROVEMENT PLANS. The improvement plans shall include designs and specifications for approximately 50 ft of 1” water main on N. Daubenberger Road, running west to east. Water pipe, valves, meter, backflow device and any and all other improvements and appurtenances specified by CITY shall be installed by OWNER per City standards.

11. COST OF FEES. OWNER shall bear all costs of construction of the improvements, in accordance with all applicable laws, rules, and regulations, and shall pay all permit, plan check, inspection, application fees, water connection fee based upon service size, the City’s Water Grid Fee and any and all other applicable fees, including all potable water related development impact fees.

12. CONFORMANCE WITH CITY ORDINANCES. OWNER agrees to cause all future improvements and construction on said Property to conform to the subdivision, zoning, housing, plumbing, electrical, building, fire, park dedication, and other codes, ordinances
and regulations of City, including payment of fees stipulated therein. In addition, all applicable requirements of Title 6 of the Turlock Municipal Code, as now existing or hereafter amended, dealing with the water system of the City of Turlock including, but not limited to 6-5, 6-6 and 6-7 are incorporated herein by reference.

13. DEDICATION FOR PUBLIC USE. OWNER agrees to dedicate to public use, at no cost to CITY, and without any demands, conditions or requirements, any easements, streets, alleys or other public ways which the City, City Planning Commission and/or the City Council find necessary and desirable for the future development of the Property or for the protection and maintenance of utilities.

14. CONVENANTS RUNNING WITH THE LAND. CITY agrees to furnish water service for the benefit of OWNER’s real Property hereinafter described. The obligations of OWNER stated in this Agreement are covenants running with the land, and are intended by CITY and by OWNER to be binding upon OWNER and OWNER’s heirs, administrators, assignees and successors in interest of the land described herein.

15. CONVENERANT TO ANNEX. OWNER hereby covenants and binds himself and his successors in interest to annex said real Property to CITY when the City Council determines that such annexation shall be made, and OWNER hereby acknowledges that this writing is a request and a consent by him to so annex the said real Property, and OWNER for himself and his successors in interest further agrees not to protest annexation of said Property either by itself or as part of a larger parcel of land and hereby specifically waives the provisions of all sections of law now existing or hereafter to be enacted permitting protests to be filed in annexation proceedings.

16. RESULT OF FAILURE TO ANNEX. It is further understood and agreed that state law provides that application must be made to the Local Agency Formation Commission before the real Property herein described may be annexed to the City, and if said Commission should not give its consent to annex, or if it places conditions or modifications upon annexation which are not acceptable to CITY, in its sole an unfettered discretion, then and in that event, this Agreement shall be cancelled and terminate and CITY shall cease to provide water service and may disconnect City water lines from said Property upon giving the notice in this Agreement provided, and neither OWNER, nor his successor in interest shall be entitled to any refund of charges previously paid to CITY.

17. CONSENT TO PAY TAXES UPON ANNEXATION. Upon annexation, OWNER consents to be taxed and agrees to pay OWNER’s proportionate share of the CITY’s general indebtedness existing at the time of annexation, pursuant to Government Code Section 57328.

18. AGREEMENT TO NOTIFY PURCHASES OR GRANTEE. In the event OWNER’s land or any lot or parcel thereof, is to be sold or conveyed, OWNER agrees to notify said purchaser or grantee of the terms and conditions of this Agreement; however the binding
effect of this Agreement upon said purchaser or grantee shall not be lessened by the failure of the OWNER to give such notice.

In the event of a transfer of OWNER’s Property by any means, including but not limited to, sale, gift, bequests, etc., CITY, in its sole and unfettered discretion, may terminate this Agreement, may renegotiate the terms of this Agreement or may take any and all other action it deems necessary or appropriate.

19. FAILURE TO PAY. Upon the failure of OWNER or OWNER’s successors in interest to make the payments at the time and in the manner as herein provided, or to keep or perform any of the agreements or covenants on their part to be kept or performed as herein provided, CITY may cease to give water service and may disconnect City water lines from said Property upon giving the OWNER or OWNER’s successor in interest 60 days’ written notice of CITY’s intention to do so, which said notice shall be by personal service or by mail to OWNER or OWNER’s successor in interest at his or her last known mailing address.

Unpaid service charges for the Property described below shall constitute a debt of the OWNER or OWNER’s successors in interest to the City. The OWNER or the OWNER’s successor in interest who incurred the debt shall be liable in a civil action for the amount of the unpaid service charges, for the cost of suit, and for reasonable attorney fees. The service charges shall also constitute a lien against said Property for the amount of the unpaid service charges. Any lien shall be enforceable against OWNER and OWNER’s successors in interest, and shall be subject to the same penalties and procedures under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

20. CONDITIONS PRECEDENT AND APPROVALS PRIOR TO CONSTRUCTION. The furnishing of water service set forth in Paragraph 1 shall not be effective and no construction shall take place before approval of the extension of the services by LAFCO, all plans and specifications have been approved, and all required permits have been obtained. In addition, furnishing water services set forth in Paragraph 1 shall not be effective and no construction shall take place before OWNER’s Lessee, R.A.M. Farms, Inc., holds a neighborhood meeting to discuss issues regarding noise, traffic, parking management and any other concerns regarding the operations related to Staff Approval Permit PLN 2015-0046.

21. SUBSEQUENTLY ENACTED OR ADOPTED CHARGES. If the City Council shall hereafter increase or enact or adopt any other charges, fee or other requirements related to water service, annexation or any other aspect of the subject matter of this Agreement, OWNER agrees to pay or perform the same manner, and to the same extent, as any other person similarly situated.

22. INTENDED USE OF PROPERTY. OWNER’s existing use of said Property is Agricultural with a Use Permit allowing seasonal activities. Water service for other than OWNER’s existing use of water for seasonal activities, as set forth in Stanislaus County Staff Approval Permit PLN 2015-0046 or any other increase in scale or intensity of its
current operation, shall require further approval by CITY and, if so approved, will be charged for in accordance with the charges then in effect. CITY may impose other or different conditions upon such approval or may deny the same, in the CITY's sole discretion. The City Council has the right to delegate authority to one or more designated persons to amend this Agreement as to the type of use or the number of connections which may be made. Until or unless such delegation of authority is affected by resolution or ordinance, amendment of this Agreement requires the approval of the City Council.

23. PROPERTY DESCRIPTION. The property herein referred to is described as follows:

Address: 716 N Daubenberger, Turlock, CA 95380

Assessor’s Parcel Number: 051-005-002

Legal description: See Exhibit “A”

24. RECORDATION OF AGREEMENT. OWNER shall record this Agreement with the Stanislaus County Recorder's Office within thirty (30) days of execution thereof. No permit shall be issued pursuant to this Agreement until this Agreement has been recorded in the official records of Stanislaus County and OWNER has provided a copy of the recorded Agreement to the City.

25. PARTIAL INVALIDITY. If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable, such provision shall, to the extent of such invalidate, illegality, or unenforceability, be severed, and the remaining provision of this Agreement shall remain in effect.

26. SUCCESSORS. This Agreement shall be binding on and inure to the benefit of the respective successors, assigns and representatives of the Parties.

27. ATTORNEY’S FEES AND ARBITRATION. In the event of any litigation, including arbitration, between the Parties hereto arising out of this Agreement or the performance thereof, the losing party shall pay the prevailing party's reasonable attorney’s fees and costs.

28. WAIVER. The waiver of any breach of this Agreement by either party shall not constitute a continuing waiver of any subsequent breach by such breaching party of the same or different provision.

29. AMBIGUITY. This Agreement has been jointly negotiated and in the event of any ambiguity, said ambiguity shall be given a reasonable interpretation and shall not be construed against either party.
30. ANNEXATION. Upon annexation into the City of the Property affect by this Agreement, this Agreement shall automatically terminate, and the annexed Property shall become a customer within the City with all rights and obligations pertaining thereto.

31. SUBDIVISION. This agreement will automatically terminate as to any parcels which are subdivided at any point after execution of this Agreement.

32. TERM AND VOLUNTARY TERMINATION BY CITY. The initial term of this Agreement is for five (5) years from the date of execution. After the initial term, this Agreement will automatically renew on a year-to-year basis. CITY may terminate this Agreement at any time and without cause by giving ninety (90) days notice of termination.

33. TERMINATION BY CITY. In addition to the City’s right to terminate this Agreement as set forth in Paragraph 32, CITY may terminate this Agreement upon any material breach of this Agreement by OWNER, or upon any violation of any City ordinance, policy regulation or other requirement conditioned upon CITY providing due notice to OWNER that CITY would otherwise provide to a customer locate with the City prior to termination or suspension of water service. Grounds for termination include, but are not limited to: (1) illegally connecting to the City’s system, (2) contaminating CITY’s water supply, (3) tampering with water meters or taking other steps to disguise the amount of water used or avoid paying the established rate, 4) involuntary abandonment of right to receive service in accordance with the procedures contained in the City’s ordinances. Upon termination, OWNER is responsible for disconnecting its Property from City services, CITY may perform the work needed to disconnect and recover the costs as a lien against the Property or through any other lawful method.

34. TERMINATION FOR INADEQUATE WATER SUPPLY. As CITY’s customers within its boundaries have first claim on CITY’s resources, CITY may terminate this Agreement at any time in which CITY has, in its sole and unfettered discretion, determined there is inadequate water capacity to supply CITY’s customers within its boundaries. CITY may terminate this Agreement upon the occurrence of any significant event which renders the CITY unable to perform this Agreement, including but not limited to severe drought, contamination of CITY facilities, or destruction of CITY facilities. For purposes of this section, CITY is unable to perform this Agreement if CITY’s capacity or facilities become insufficient to serve its existing customers within CITY’s boundaries. This paragraph shall not be deemed in any way to limit the CITY’s right to terminate this Agreement as set forth in Paragraph 32 of this Agreement.

35. TERMINATION BY OWNER. OWNER may terminate service at any time by requesting and recording an agreement of voluntary abandonment in accordance with City ordinances. OWNER will be responsible for any charges accruing up to the date of abandonment, and OWNER will be responsible for disconnecting its Property from CITY’s services. If OWNER fails to disconnect the Property from CITY services, CITY
may perform the work needed to disconnect and recover the costs as a lien against the Property or through any other lawful method.

36. INDEMNIFICATION. In Consideration of the CITY’s processing and consideration of this Agreement, the LAFCO application for service extension, and/or the related California Quality Act (CEQA) consideration by CITY, OWNER agrees to defend, indemnify and hold harmless the City of Turlock (City) from liability or loss connected, directly or indirectly, with this Agreement, the LAFCO application or process, and/or the CEQA process as follows:

a. The OWNER shall defend, indemnify and hold harmless the City and its agents, officers and employees from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul this Agreement, the LAFCO application and/or process and/or the CEQA process, or any prior or subsequent approvals regarding this Agreement, the LAFCO application and/or process and/or the CEQA process, or any Condition imposed by the City or any of its agencies, departments, commissions, agents, officers or employees concerning the same, or impose personal liability against such agents, officers or employees resulting from their involvement in the same, inducing any claim for private attorney general fees claimed by or awarded to any party from CITY. The obligations of OWNER under this indemnification shall apply regardless of whether this Agreement and/or the LAFCO outside application is approved.

b. CITY will promptly notify OWNER of any such claim, action, or proceedings that is or may be subject to this indemnification and, will cooperate fully in the defense.

c. CITY may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding if the City defends the claim, actions, or proceeding in good faith. To the extent that CITY uses any of its resources responding to such claim, action, or proceeding, OWNER will reimburse CITY upon demand. Such resources include, but are not limited to, staff time, court costs, City Attorney’s time at their regular rate for external or non-City agencies, and any other direct or indirect cost associated with responding to the claim, action, or proceedings, including, but not limited to, the use of special counsel.

d. OWNER shall not be required to pay or perform any settlement by the City of such claim, action or proceeding unless the Settlement is approved in writing by OWNER, which approval shall not be unreasonably withheld.

e. OWNER shall pay all court ordered costs and attorney fees.

f. This Indemnification represents the complete understanding between OWNER and the City with respect to matters set forth in this Paragraph 36.
37. NOTICE. Whenever notice is required or convenient to the effect of this Agreement, Customer shall give notice to the City at the current address of the City’s main office to the attention of the City Manager. CITY shall give notice by either mailing notice to the record OWNER by providing notice within or in the same manner as the monthly water bill, or by posting notice a the appropriate property.

38. COUNTERPARTS. This Agreement may be executed in separate counterparts, each which is effective an enforceable. Signatures delivered by facsimile shall be effective and enforceable.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officer’s thereunto duly authorized.

CITY OF TURLOCK, a municipal corporation

By ____________________________
Gary Hampton, City Manager

By ____________________________
Ninva Bitmansour, Attorney in Fact for Albert B. Ward, Property Owner

APPROVED AS TO FORM:

By ____________________________
Phaedra A. Norton, City Attorney

APPROVED AS TO SUFFICIENCY:

By ____________________________
Michael G. Pitcock, P.E., Director of Development Services/City Engineer

EXHIBIT A

DESCRIPTION

The property described in the Grand Deed recorded as Document No. 1988.16527 Stanislaus County Records. Lot 13 of Denair Land and Development Company’s Colony Number 4, as per map filed November 16, 196 in Volume 2 of Maps, Page 36, Stanislaus County Records.
A.P. N. 51-0502-273 (retired) and current APN: 051-005-002
Indivdual Grant Deed
WESTERN TITLE FORM NO. 104

FOR VALUE RECEIVED, RAHIM DEHZAD and FARANGIS FARAH DEHZAD, husband and wife,

GRANT to ALBERT BIT GABRIEL WARD A and BELIT ALEHAS BIT GABRIEL WARD A, husband and wife, as joint tenants, an undivided one-third (1/3rd) interest in all that real property situate in the "unincorporated area

County of Stanislaus, State of California, described as follows:

Lot 13 of Denair Land and Development Company's Colony Number 4, as per map filed November 16, 1906 in Volume 2 of Maps, Page 36, Stanislaus County Records.

A.P.N. 51-7-02-273

Dated February 1988

RAHIM DEHZAD

FARANGIS FARAH DEHZAD

STATE OF CALIFORNIA

City and County of San Francisco, in and on March 8, 1988, before me, the undersigned, a Notary Public, in and for said State, personally appeared:

RAHIM DEHZAD and FARANGIS FARAH DEHZAD

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Jane C. Summer
Notary Public

FOR NOTARY SEAL OR STAMP

A.16527 MAR 16 88

016527 MAR 16 88

Recorded 2:10 PM

OFFICIAL REC

STANISLAUS CO., CA. 41

DAVID A. WURM
RECORDS

Mail Tax Stmt. 23

RECORDING REQUESTED BY

NAME
STOCKTON & SADLER
P.O. Box 3153
MODESTO, CA 95353

Mailing orders No.

ADDR

CITY & STATE

MAIL TAX STATEMENT

NAME
Albert Bit Gabriel Warda
1125 Holmes Ave.
Campbell, CA 95008

ADDRES

CITY & STATE

TAX SA

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Documentary transfer tax $183.70

□ Computed on full value of property conveyed, or
□ Computed on full value less liens and encumbrances

Remaining therein at time of sale.

Signature of declarant or upon determining tax—first name

16527 MAR 16 88
THE DENAIR LAND AND DEVELOPMENT COMPANY'S COLONY
NUMBER 4

Sea Restrictions 1571 - 200
A.W. 68
(1942) ... # 3127 - 250

This map comprises all of Section 15 and the north
one half of Section 26, T. 5 S., R. 1 E., M.D.B.

The undersigned, The Denair Land and Development Company, a corporation
hereby declare and say it to be the owner and possessor of the lands described and delineated
herein. This map has been surveyed and filed in the offices of the County Surveyor of
Kings County, California, and is made in strict conformity to the rules and regulations
of the Surveyor General of the State of California.

The Denair Land and Development Company
By: E. M. Allery
President

State of California
County of Kings

Note:

Let it be known, that the survey herein above described as the surveyor of the State of
California, was duly noticed and approved by the County Surveyor, the surveyor's certificate
was filed in the offices of the County Clerk, and was approved by the County Surveyor.

E. M. Allery
President

State of California
County of Kings

Attorney at Law, Kings County
**STATE OF CALIFORNIA**
**THE RESOURCES AGENCY**
**DEPARTMENT OF WATER RESOURCES**
**WATER WELL DRILLERS REPORT**

(1) **OWNER:**
Name [redacted]
Address [redacted]

(2) **LOCATION OF WELL:**
County Stanislaus
Township, Range, and Section 200 ft. east of the interior section of Daubenberger Rd. & Canal Dr., 50 ft. south of Canal Dr.
Distance from cities, roads, railroads, etc., to nearest 1,000 ft.

(3) **TYPE OF WORK (check):**
- New Well 
- Deepening
- Reconditioning
- Destroying

(4) **PROPOSED USE (check):**
- Domestic
- Industrial
- Municipal
- Irrigation
- Test Well
- Other

(5) **EQUIPMENT:**
- Rotary
- Cable

(6) **CASING INSTALLED:**
- SINGLE [x]
- DOUBLE [x]
- If gravel packed

<table>
<thead>
<tr>
<th>Depth from Soil</th>
<th>Diameter of Bore</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 ft.</td>
<td>18 ft.</td>
</tr>
<tr>
<td>15 in.</td>
<td>18 ft.</td>
</tr>
<tr>
<td>24 in.</td>
<td>20 ft.</td>
</tr>
<tr>
<td>201 ft.</td>
<td>20 ft.</td>
</tr>
</tbody>
</table>

(7) **PERFORATIONS OR SCREEN:**
Type of perforation or screen

<table>
<thead>
<tr>
<th>From ft.</th>
<th>To ft.</th>
<th>Perf. per row</th>
<th>Rows per ft.</th>
<th>Size in. x in.</th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td>105</td>
<td>122</td>
<td>23</td>
<td>3/32 x 3/4</td>
</tr>
</tbody>
</table>

(8) **CONSTRUCTION:**
- Water source sanitary and provided: Yes [x] No [ ]
- To what depth ft.
- Water tests taken against pollution: Yes [ ] No [x]
- If yes, note depth of test ft.

Method of excavation

(9) **WATER LEVELS:**
- Depth at which water was first found, if known ft.
- Standing level before perforating, if known ft.
- Standing level after perforating and developing 50 ft.

(10) **WELL TESTS:**
- Well pumped test made: Yes [x] No [ ]
- If yes, by whom
- Temperature of water
- Was chemical analysis made: Yes [x] No [ ]
- Water chemical log made of well: Yes [x] No [ ]
- If yes, attach copy

**WELL DRILLER'S STATEMENT:**
This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.

**NAME:** HOWE WELL & EQUIPMENT CO., INC.
(Permit, fees, etc., attached) (Type or printed)

**Address:** 1825 Yosemite Blvd., Modesto, Calif.

**License No.:** 210542

**Signed:** [Signature]

**Work started:** 2-14-72, Completed: 2-16-72

**Sketch Location of Well on Reverse Side**
CORN MAZE
20 ACRES

CHOOSE YOUR OWN
PUMPKIN PATCH
70' x 170'

HAY BALES BARRIER

N. DAUBENBERGER (40'-0 WIDE ROAD)
PLAN NOTES:
- NEW 1" DIAMETER WATER LINE TO BE INSTALLED TO EXISTING CITY WATER LINE
- EXACT LOCATION(S) OF EXISTING CITY UTILITY LOCATIONS TO BE DETERMINED BY CITY
- NEW CONSTRUCTION TIES EXISTING WATER TO NEW RAM FARMS LINE

- 100' x 80' TENT
- 120' x 80' Rink
- EXISTING BARN
- OFFICE
- BACKFLOW PREVENTER AND METER AT EDGE OF PROPERTY AT FENCE LINE WIBOLLARDS
- NEW 1" WATER SUPPLY TO RAM FARMS
- EXISTING CITY WATER MAIN UNDER DAUBENBERGER

(Additional notes and labels on the plan diagram)
Sample Analysis Report

Customer
Ron Macedo
4424 Silva Road
Turlock, CA 95380

Grower
Ron Macedo
4424 Silva Road
Turlock, CA 95380

PURCHASE ORDER: N/A
RECEIVED DATE: 07/19/2016 9:50 am
SUBMITTED BY: Ron
ANALYZED DATE: 07/19/2016 12:00 am

Water Potability Test (DWP)
SOURCE: Well Water

<table>
<thead>
<tr>
<th>Sample ID</th>
<th>Lab ID</th>
<th>Analyte</th>
<th>Method Ref</th>
<th>Result</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>716 Dauenhenger Well</td>
<td>786351A</td>
<td>Nitrate Nitrogen (NO3-N)</td>
<td>EPA 300.0</td>
<td>12.1</td>
<td>mg/l</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total Coliform (SM9223)</td>
<td>SM 9223</td>
<td>5.2</td>
<td>MPN/100ml</td>
</tr>
<tr>
<td></td>
<td></td>
<td>E. Coli (SM9223S)</td>
<td>SM9223S</td>
<td>≤ 1.0</td>
<td>MPN/100ml</td>
</tr>
</tbody>
</table>

The warranty of Denele Analytical is limited to the accuracy of the analyses of the samples as received. Denele Analytical assumes no responsibility for which the customer uses our test results, nor liability for any other warranties, express or implied. These terms and conditions shall supersede any conflicting terms and conditions submitted on custom order or other form submitted for work.
Calwater Drilling Co., Inc.
300 S. Kilroy Rd.
Turlock, CA 95380-9519
License #434218
209/667-7932; FAX 667-1030

NAME / ADDRESS
RON MACEDO
716 N. DAUBENBERGER
TURLOCK, CA

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>QTY / FT</th>
<th>COST</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOCATION: 716 N. DAUBENBERGER RD., TURLOCK</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drill and case 6&quot; PVC cased public well</td>
<td>350</td>
<td>35.00</td>
<td>12,250.00</td>
</tr>
<tr>
<td>Stanislaus Co. permit</td>
<td>1</td>
<td>578.00</td>
<td>578.00</td>
</tr>
<tr>
<td>Electric log</td>
<td>1</td>
<td>2,000.00</td>
<td>2,000.00</td>
</tr>
<tr>
<td>Develop and extract water samples</td>
<td>3</td>
<td>3,000.00</td>
<td>9,000.00</td>
</tr>
<tr>
<td>Bentonite grout seal as required by county</td>
<td>1</td>
<td>950.00</td>
<td>950.00</td>
</tr>
<tr>
<td>Air development</td>
<td>1</td>
<td>400.00</td>
<td>400.00</td>
</tr>
</tbody>
</table>

Depth is only an estimate. Actual depth will be determined by strata. ABSOLUTELY NO GUARANTEE CAN OR WILL BE MADE AS TO WATER QUALITY OR QUANTITY.

Customer's signature at the bottom will suffice as a simple promissory note and agreement to pay the invoice within 30 days of invoice date. Customer also accepts this estimate and disclaimers as shown here.

IN ORDER FOR YOUR PROJECT TO BE PUT ON THE SCHEDULE, WE MUST RECEIVE THIS ESTIMATE SIGNED BY THE CUSTOMER.

| TOTAL | $25,178.00 |

This estimate is valid for 30 days.

SIGNATURE

30
## BID / SCOPE

### CUSTOMER

Ron Macedo  
Turlock, CA. 95380

---

## DESCRIPTION

Fields of Ice - Daubenberger Rd
We are pleased to offer this recommendation and estimated costs to provide the following:
1) Installation of 5HP Pump at Existing Well  
2) RO, Tanks and Site Work for Site  
3) Install 100A Electrical Service with Constant PSI System

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>QTY</th>
<th>COST</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Installation of 5HP Submersible Pump</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5HP x 230V Pump &amp; Motor</td>
<td>1</td>
<td>3,938.25</td>
<td>3,938.25T</td>
</tr>
<tr>
<td>2&quot; x 21' Galv.</td>
<td>1</td>
<td>2,700.00</td>
<td>2,700.00T</td>
</tr>
<tr>
<td>#8/3 Flat Sub. Cable</td>
<td>1</td>
<td>615.00</td>
<td>615.00T</td>
</tr>
<tr>
<td>2&quot; Well Seal</td>
<td>1</td>
<td>252.00</td>
<td>252.00T</td>
</tr>
<tr>
<td>AV6 20FE 2&quot; 80 Enviro CK Valve</td>
<td>1</td>
<td>86.45</td>
<td>86.45T</td>
</tr>
<tr>
<td>6&quot; Motor Cooling Jacket</td>
<td>1</td>
<td>315.00</td>
<td>315.00T</td>
</tr>
<tr>
<td>Splice Kit, Black Heavy Duty, #8 wire</td>
<td>2</td>
<td>6.44</td>
<td>12.88T</td>
</tr>
<tr>
<td>4/20 Pressure Transducer</td>
<td>1</td>
<td>216.13</td>
<td>216.13T</td>
</tr>
<tr>
<td>Labor &amp; Equip. to Install Pump &amp; VFD Subtotal</td>
<td>1</td>
<td>2,550.00</td>
<td>2,550.00</td>
</tr>
</tbody>
</table>

| 2) Tanks & Site Work                                                       |     |          |          |
| V350 Bladder Tanks - 119g                                                  | 3   | 739.20   | 2,217.60T|
| 2" Manifold with Valves - Galv                                             | 1   | 1,800.00 | 1,800.00T|
| 2" 80BB Flomatic CK Valve                                                  | 1   | 414.00   | 414.00T  |
| ProMax Reverse Osmosis System LP11500 - 7 GPM                              | 1   | 10,745.90| 10,745.90T|
| Reserve Tank, Fittings and Outlets                                         | 1   | 1,200.00 | 1,200.00T|
| Aedge 4 Cu. Ft. Arsenic Removal System                                    | 1   | 5,820.00 | 5,820.00T|
| Concrete Pad - 20 x 15 x .5                                               | 1   | 1,800.00 | 1,800.00T|
| Concrete Pedestal with Sounding Tubes                                     | 1   | 595.00   | 595.00T  |
| 20 x 15 Site Cover for CDPH Requirement                                    | 1   | 4,900.00 | 4,900.00T|
| Labor & Equip. to Install Plumbing, Treatment and Tanks                   | 1   | 6,500.00 | 6,500.00 |

### TOTAL

Accepted By: [Signature]  
Date: ____________

31
### BID / SCOPE

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>3) Electrical for Pump &amp; Site</td>
</tr>
<tr>
<td>100 Amp x 480/277v - Entrance / Pole / Wiring</td>
</tr>
<tr>
<td>Gould SDrive 3A50 Variable Speed Drive Controller</td>
</tr>
<tr>
<td>Conduit / Wire/ Fittings</td>
</tr>
<tr>
<td>DPP Backboard</td>
</tr>
<tr>
<td>Distribution Center for Filtration Power</td>
</tr>
<tr>
<td>Permits &amp; Fees</td>
</tr>
<tr>
<td>Labor &amp; Equip. to Install Electrical &amp; Test</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>QTY</th>
<th>COST</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2,870.00</td>
<td>2,870.00T</td>
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<td>1</td>
<td>2,422.80</td>
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<tr>
<td>1</td>
<td>350.00</td>
<td>350.00T</td>
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<tr>
<td>1</td>
<td>415.00</td>
<td>415.00T</td>
</tr>
<tr>
<td>1</td>
<td>1,850.00</td>
<td>1,850.00T</td>
</tr>
<tr>
<td>1</td>
<td>250.00</td>
<td>250.00T</td>
</tr>
<tr>
<td>1</td>
<td>2,500.00</td>
<td>2,500.00</td>
</tr>
</tbody>
</table>

**NOTES / EXCLUSIONS**

1) Price excludes water piping to the existing system.
2) Pricing does not include cost of well or development.
3) Price includes does not include and TID fees.
4) Pricing does not include operating costs for a CA Licenced Drinking Water Treatment Operator to oversee the operation of the system.

Sales Tax for Stan. Co. 7.625% 3,589.28

<table>
<thead>
<tr>
<th>TERMS:</th>
<th>1% 10 Net 30</th>
<th>TOTAL</th>
<th>$62,211.74</th>
</tr>
</thead>
</table>

Don Pedro Pump, Inc. 
License #745963 
Accepted By: ___________________________ Date: ___________________________
July 22, 2016

Debbie Whitmore,
Deputy Director, Development Services Department/Planning Manager
City of Turlock
156 S. Broadway, Suite 120
Turlock, CA 95380

Subject: R.A.M. Farms Inc. – Public Water Supply Requirement for 716 N. Daubenberger, Turlock

Ms. Whitmore,

The Stanislaus County Planning Commission approved Use Permit Application No. PLN2013-0046 for R.A.M. Farms Inc. to operate a variety of fall and winter seasonal land uses on the property located at 716 N. Daubenberger, Turlock (APN 051-005-002). Fall seasonal uses primarily include a pumpkin patch and corn maze. Winter activities primarily include Christmas tree sales and an ice skating rink.

The Use Permit and a subsequent amendment conducted through Staff Approval Application No. PLN2015-0046 include conditions of approval for the provision of a public water supply in conformance with State of California requirements. Specifically, the land use entitlements include, among others, the following conditions of approval:

31. Pursuant to Section 116275 (h) of the California Health and Safety Code, public water system means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. If operations are to exceed 59 days out of the year, contact DER no later than December 10, 2015, with a time schedule for development of a Public Water System.

32. Bacteriological testing of the water supply shall be performed within 30 days prior to operation of the fall season and 30 days prior to operation of the winter season. Water shall be tested by an approved laboratory and results submitted to DER for review.

33. Alternatively, the condition of approval requiring a public water system may be waived by Department of Environmental Resources and the condition of approval requiring testing may be reduced to one bacteriological test of the water supply prior to the operating season if the operation does not exceed 59 days per year.

The land uses conducted at the site are consistent with approved land use permits. Consequently R.A.M. Farms Inc. is required to provide a public water system that meets State quality standards for the benefit of its employees and patrons when State thresholds are reached.

Please feel free to contact me if you desire additional clarification. I can be reached by e-mail at galvezm@stancounty.com or by telephone at (209) 525-6330.

Respectfully,

Miguel A. Galvez,
Deputy Director
WHEREAS, R.A.M. Farms is located at 716 North Daubenberger Road (Stanislaus County Assessor's Parcel Number 051-005-002) which is located outside the City of Turlock's jurisdictional boundary but within its LAFCO-approved Sphere of Influence; and

WHEREAS, R.A.M. Farms operates a seasonal pumpkin patch, Christmas tree lot, and ice rink with additional ancillary services authorized under Stanislaus County PLN 2015-0046 which authorizes R.A.M. Farms to operate more than fifty-nine (59) days out of the year; and

WHEREAS, Condition #31 of Stanislaus County PLN 2015-0046 requires R.A.M. Farms to develop a Public Water System in accordance with Section 116275(h) of the California Health and Safety Code if the operations serve more than twenty-five (25) individuals for more than fifty-nine (59) days out of the year; and

WHEREAS, on July 20, 2016, R.A.M. Farms submitted a request to the City of Turlock to provide a one (1") inch water service line connection to the subject property to satisfy the County's permit condition to develop a Public Water System; and

WHEREAS, the Stanislaus Local Agency Formation Commission (LAFCO) must approve any extension of City services to a property located outside its jurisdictional boundary; and

WHEREAS, the application to LAFCO for the out of boundary service extension requires certification by the City of Turlock and the submittal of a draft agreement between the City of Turlock and the property owner establishing the conditions under which the service is to be provided; and
WHEREAS, the extension of the water service line constitutes a “project” as defined by the California Environmental Quality Act (CEQA) as it involves the exercise of discretionary powers by the City of Turlock to provide a water service connection and the water service connection would result in a physical change in the environment; and

WHEREAS, pursuant to Section 21084 of the California Public Resources Code, the CEQA Guidelines lists the classes of projects which have been determined not to have a significant effect on the environment and are therefore exempt from the provisions of CEQA; and

WHEREAS, Section 15301 (Existing Facilities) of the CEQA Guidelines exempts projects consisting of minor alterations of existing public or private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination; and

WHEREAS, Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines exempts projects such as water mains of a reasonable length to serve small structures; and

WHEREAS, Section 15304 (Minor Alterations to Land) of the CEQA Guidelines exempts projects that consist of minor public or private alterations in the condition of land, water, and/or vegetation such as minor trenching and backfilling where the surface is restored; and

WHEREAS, the extension of a City of Turlock water service line to the subject property serves the existing approved use of the property and involves no expansion of the use beyond that existing at this time; and

WHEREAS, the extension of a City of Turlock water service line is a small water service structure of reasonable length to serve only the existing use of the property; and

WHEREAS, the extension of a City of Turlock water service line is a minor alteration of the condition of the land involving minor trenching and backfilling where the surface is to be restored; and

WHEREAS, the City Council of the City of Turlock considered the evidence contained within this staff report and the public testimony in making this CEQA determination and rendering its decision on the project at a properly noticed meeting held on August 9, 2016.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby determine the extension of a one (1”) inch water service line by the City of Turlock to the property located outside its jurisdictional boundary at 716 North Daubenberger Road to provide potable water for R.A.M. Farms, Inc., is exempt from California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facility), Section 15303 (New Construction or Conversion of Small Structures), and/or Section 15304 (Minor Alterations to Land) of the CEQA Guidelines.
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 9th day of August, 2016, by the following vote:

AYES:  Councilmembers DeHart, Nascimento, Bublak, Jacob, and Mayor Soiseth

NOES:  None

NOT PARTICIPATING:  None

ABSENT:  None

ATTEST:

[Signature]

Jennifer Land, Deputy City Clerk,
City of Turlock, County of Stanislaus,
State of California
EXHIBIT D

Draft LAFCO Resolution No. 2016-20
STANISLAUS COUNTY LOCAL AGENCY
FORMATION COMMISSION

RESOLUTION

DATE: September 28, 2016
NO. 2016-20

SUBJECT: Out-of-Boundary Service Application – R.A.M. Farms (716 N. Daubenberger Rd.)

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

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

THE FOLLOWING RESOLUTION WAS ADOPTED:

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

WHEREAS, the applicant has submitted an out-of-boundary service application, as authorized by the City of Turlock, to provide water service outside the City’s jurisdictional boundaries to serve an seasonal operation that includes a corn maze, ice skating rink and additional uses allowed by Stanislaus County located at 716 N. Daubenberger Road;

WHEREAS, the site is located outside the boundaries of the City of Turlock but within the City’s sphere of influence;

WHEREAS, the site is otherwise identified as Assessor’s Parcel Number (APN) 051-005-002;

WHEREAS, in accordance with adopted Commission policy and State law, the Executive Officer has forwarded this application to the Commission for their consideration;

WHEREAS, on August 9, 2016, the City of Turlock authorized the out-of-boundary service application and found the proposal to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301, 15303 and 15301 of the State CEQA Guidelines;

WHEREAS, the request to extend water service to accommodate the seasonal operation is intended to meet a requirement for a public water system;

WHEREAS, the City of Turlock has indicated that the requested water service is available to serve the subject site and can be provided upon satisfaction of the City’s terms and conditions; and
WHEREAS, the Commission has, in evaluation of the proposal, considered the report submitted by the Executive Officer as well as the testimony and evidence presented at the meeting on September 28, 2016.

NOW, THEREFORE, BE IT RESOLVED that the Commission:

1. Authorizes the City of Turlock to provide water service connection to the site, subject to the following terms and conditions:
   
   A. Water service is the only out-of-boundary service authorized by the Commission.
   
   B. The extension of water service is to accommodate the seasonal operation at 716 N. Daubenberger Road. The City shall not allow future connections in the area and outside the City limits without first requesting and securing approval from LAFCO.
   
   C. Before water service is extended, the City shall execute and record an outside service agreement with the property owner to annex the property and forward a copy of the recorded agreement to the LAFCO Office.

ATTEST:

Sara Lytle-Pinhey, Executive Officer