



**STANISLAUS LAFCO  
LOCAL AGENCY FORMATION COMMISSION**

**Sara Lytle-Pinhey, Executive Officer**  
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**Chair Jim DeMartini**, County Member  
**Vice Chair, Bill Berryhill**, Public Member  
Terry Withrow, County Member  
Bill Berryhill, Public Member  
Amy Bublak, City Member  
Michael Van Winkle, City Member  
Richard O'Brien, Alternate City Member  
Brad Hawn, Alternate Public Member  
Vito Chiesa, Alternate County Member

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**AGENDA  
Wednesday, April 22, 2020  
6:00 P.M.  
Joint Chambers—Basement Level  
1010 10<sup>th</sup> Street, Modesto, California 95354**

**MEMBERS OF THE PUBLIC MAY REMOTELY OBSERVE THE MEETING AND  
ADDRESS THE COMMISSION VIA EMAIL. THIS MEETING WILL NOT  
INCLUDE IN-PERSON PUBLIC ATTENDANCE.**

This meeting will be held in accordance with the Governor's Stay at Home Executive Order N-33-20 and in accordance with Executive Order N-29-20 (that pertains to the holding of public meeting via teleconferencing) and will not include in-person public attendance. Members of the public may observe the meeting and provide comments to the Commission via email as described below:

**How to observe the Meeting:**

- You can observe the live stream of the LAFCO meeting at:  
<http://www.stancounty.com/sclive/>
- In addition, LAFCO meetings are broadcast live on local cable television. A list of cable channels is available at the following website:  
<http://www.stancounty.com/planning/broadcasting.shtm>

**How to submit Public Comments:**

- If you wish to make either a general public comment or to comment on a specific agenda item, please submit your comment (include Agenda Item Number in the subject line), to the Clerk at [lafco@stancounty.com](mailto:lafco@stancounty.com). Public comments will be accepted by email until the close of the public comment period for the specific item. You do not have to wait until the meeting begins to submit a comment.

All comments will be shared with the Commissioners and placed in the record. The Clerk will read public comments at the Commission meeting, not to exceed three minutes per comment (approximately 250 words). Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations.

**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 comment on items that are not listed on the regular agenda. 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 January 22, 2020 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.

**5. DECLARATION OF CONFLICTS AND DISQUALIFICATIONS**

**6. CONSENT ITEM**

- A. **POLICIES AND PROCEDURES UPDATE.** The Commission will consider approval of non-substantive updates to Section 2 and 4 of its policies and procedures, consistent with Government Code. (Staff Recommendation: Adopt Resolution No. 2020-02, approving the Policies and Procedures update.)

**7. PUBLIC HEARINGS**

- A. **OUT-OF-BOUNDARY SERVICE APPLICATION: SPENCER-MARSHALL (CITY OF MODESTO):** The City of Modesto has requested approval of an area-wide out-of-boundary sewer service extension to the unincorporated Spencer-Marshall area. The area consists of 114 parcels totaling approximately 53 acres. As the territory is outside the City's limits, LAFCO review is required prior to the extension of City services. (Staff Recommendation: Adopt Resolution No. 2020-03, approving the application.)

- B. **LAFCO BUDGET FOR FISCAL YEAR (FY) 2020-2021.** The Commission will consider the adoption of the proposed LAFCO budget and conditional approval of the final budget consistent with Government Code Sections 56380 and 56381. (Staff Recommendation: Approve the proposed budget and conditional final budget and adopt Resolution No. 2020-05 and 2020-06.)

**8. OTHER BUSINESS**

None.

**9. COMMISSIONER COMMENTS**

Commission Members may provide comments regarding LAFCO matters.

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

The Commission Chair may announce additional matters regarding LAFCO matters.

**11. EXECUTIVE OFFICER'S REPORT**

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

A. On the Horizon.

**12. ADJOURNMENT**

A. Set the next meeting date of the Commission for June 24, 2020.

B. Adjourn.

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**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.

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# **STANISLAUS LOCAL AGENCY FORMATION COMMISSION**

## **MINUTES**

**January 22, 2020**

### **1. CALL TO ORDER**

Vice-Chair DeMartini called the meeting to order at 6:00 p.m.

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

Commissioners Present:      Jim DeMartini, Vice Chair, County Member  
Terry Withrow, County Member  
Bill Berryhill, Public Member

Staff Present:                Sara Lytle-Pinhey, Executive Officer  
Javier Camarena, Assistant Executive Officer  
Jennifer Vieira, Commission Clerk  
Alice Mimms, LAFCO Counsel

Commissioners Absent:      Michael Van Winkle, Chair, City Member  
Amy Bublak, City Member  
Richard O'Brien, Alternate City Member  
Brad Hawn, Alternate Public Member  
Vito Chiesa, Alternate County Member

### **2. PUBLIC COMMENT**

None.

### **3. APPROVAL OF MINUTES**

- A. Minutes of the December 4, 2019 Meeting.

Motion by Commissioner Berryhill, seconded by Commissioner Withrow and carried with a 3-0 vote to approve the Minutes of the December 4, 2019 meeting by the following vote:

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

**4. CORRESPONDENCE**

- A. Specific Correspondence.
- None.
- B. Informational Correspondence.
- None.
- C. "In the News"

**5. DECLARATION OF CONFLICTS AND DISQUALIFICATIONS**

None.

**6. CONSENT ITEMS**

- A. **MID-YEAR BUDGET REPORT FOR FISCAL YEAR 2019-2020.** (Staff Recommendation: Receive and File Report.)

Motion by Commissioner Berryhill, seconded by Commissioner Withrow and carried with a 3-0 vote to receive and file the report, by the following vote:

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

- B. **ANNUAL CITY ANNEXATION SUMMARY.** (Staff Recommendation: Receive and File Report.)

Motion by Commissioner Berryhill, seconded by Commissioner Withrow and carried with a 3-0 vote to receive and file the report, by the following vote:

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

- C. **MUNICIPAL SERVICE REVIEW NO. 2019-06 AND SPHERE OF INFLUENCE UPDATE NO. 2019-07 – DENAIR AND KEYES COMMUNITY SERVICES DISTRICTS.** The Commission will consider the adoption of a Municipal Service Review (MSR) and Sphere of Influence (SOI) Update for the Denair and Keyes Community Services Districts. This item is exempt from the California Environmental Quality Act (CEQA) review pursuant to sections 15306 and 15061( b)(3). ( Staff Recommendation: Approve the update and adopt Resolution No. 2019-22.)

Motion by Commissioner Berryhill, seconded by Commissioner Withrow and carried with a 3-0 vote to adopt Resolution No. 2019-22, by the following vote:

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

**7. PUBLIC HEARINGS**

None.

**8. OTHER BUSINESS**

- A. **RESULTS OF THE PROTEST HEARING AND APPROVAL OF IMPARTIAL ANALYSIS FOR THE NORTHWEST NEWMAN PHASE I REORGANIZATION TO THE CITY OF NEWMAN.** (Staff Recommendation: Authorize the Executive Officer to submit an impartial analysis for an election to be called by the City of Newman for the Northwest Newman Phase I Reorganization to the City of Newman.)

Motion by Commissioner Berryhill, seconded by Commissioner Withrow and carried with a 3-0 vote to authorize the Executive Officer to submit an impartial analysis for an election to be called by the City of Newman for the Northwest Newman Phase I Reorganization to the City of Newman, by the following vote:

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

- B. **ANNUAL ELECTION OF OFFICERS.** (Staff Recommendation: Appoint a Chairperson and Vice-Chairperson and adopt Resolution No. 2020-01a and 2020-01b.)

Motion by Commissioner Withrow, seconded by Commissioner Berryhill and carried with a 3-0 vote to appoint Commissioner DeMartini for Chair, and Commissioner Berryhill as Vice-Chair, by the following vote:

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

**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:
- Staff is recommending canceling the February meeting as there are no public hearings scheduled.
  - The March meeting will have a Policies and Procedures update regarding some new legislation. Staff is also expecting an application for out-of-boundary sewer services from the City of Modesto for the west side of Modesto.

**12. ADJOURNMENT**

- A. Vice-Chair DeMartini adjourned the meeting at 6:14 p.m.

**Not Yet Approved**

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Sara Lytle-Pinhey, Executive Officer

**EXECUTIVE OFFICER'S AGENDA REPORT  
APRIL 22, 2020**

TO: LAFCO Commissioners

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

**SUBJECT: POLICIES AND PROCEDURES UPDATE**

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**RECOMMENDATION**

It is recommended that the Commission approve the Policies and Procedures update, as included in Exhibit A.

**DISCUSSION**

Government Code section 56300(a) requires each LAFCO to establish written policies and procedures that encourage and provide for well-ordered and efficient urban development patterns as well as the preservation of open space and agricultural land. Staff regularly proposes updates to the Policies and Procedures document to reflect changes to State law. The current update to the Commission's Policies and Procedures is recommended to remain consistent with State law.

**SUMMARY OF PROPOSED UPDATES**

The proposed updates to the Commission's Policies and Procedures are attached as Exhibit A. Deletions are represented with stricken text and additions are represented by double underlined text. The following is summary of the proposed updates:

**Section 2 – Statutes Governing LAFCO**

- **Cortese-Knox-Hertzberg Local Government Reorganization Act**

An update was made to Government Code Section 56301, quoted in the Commission's policies, clarifying that among the purposes of LAFCO are "encouraging the efficient provision of government services." That section was previously written without the word "encouraging" and made it sound as though the Commission was directly providing services.

- **Spheres of Influence & Municipal Service Reviews**

Minor updates were made to paragraphs in this section clarifying the timing for review of spheres of influence and the requirement that a municipal service review be conducted prior to or in conjunction with a sphere of influence establishment or update. These are consistent with Government Code Sections 56425 and 56430(e).

- **Factors LAFCO Must Consider**

Minor updates were made to this section to match Government Code Section 56668. Notably, the factor regarding environmental justice includes an expanded definition. A factor requiring consideration of a local hazard mitigation plan, safety element of a general plan, and fire safety hazard zones was also added.



## **Section 4 – General Powers and Policy Guidelines**

- **Policy 2 – Powers**

This policy described an exception to the Commission's powers related to annexations contiguous to disadvantaged unincorporated communities. The law previously prohibited the Commission from approving an annexation to a city of any territory greater than 10 acres that was contiguous to the proposed annexation area unless it was accompanied by an application to annex the entire community or evidence was shown that voters in the area opposed annexation. Assembly Bill 600 (Chu) expanded on this prohibition, effective January 1, 2020, adding that the Commission cannot approve two or more annexations that take place within 5 years of each other and are cumulatively larger than 10 acres.

- **Policy 17 – Island Annexations**

Minor edits were made to this section to reflect the process for streamlined island annexations, as outlined in Government Code Section 56375.3. This section previously had a sunset clause for annexations initiated prior to 2014. This has been removed for clarity.

## **ENVIRONMENTAL ANALYSIS & REVIEW**

The adoption of this Policies and Procedures update is considered to be continuing administrative or maintenance activity with no potential for a direct or indirect physical change to the environment. It is therefore not a "project" for the purposes of the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(2).

Although not subject to CEQA, the proposed Policy and Procedures update was referred to each of the nine cities and the County. No comments have been received as of the drafting of this report.

## **COMMISSION ACTION**

Staff recommends that the Commission, following the public hearing and consideration of all relevant information presented, approve the proposed update and adopt Resolution 2020-02 (attached as Exhibit B), which:

1. Finds that the proposed Policy and Procedures update is consistent with State Law as well as the overall goals of LAFCO;
2. Finds that the proposed Policy and Procedures update is not a project for the purposes of the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(2); and,
3. Adopts the proposed Policy and Procedures update to be effective immediately.

Attachments: Exhibit A: Proposed Policy & Procedures Update  
Exhibit B: Draft Resolution 2020-02

## SECTION 2—STATUTES GOVERNING LAFCO

### CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT

The statutes governing the activities of the Local Agency Formation Commission are found under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act). The declared state policy for LAFCO is found in Section 56301 of the Government Code:

*Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, ~~efficiently providing~~ encouraging the efficient provision of government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for present and future needs of each county and its communities.*

**Commented [SL1]:**  
Consistent with update  
to Government Code  
Section (GCS) 56301

The Cortese-Knox-Hertzberg Act gives LAFCO the authority to approve (with or without amendment, wholly, partially, or conditionally) or disapprove, a wide variety of proposals for jurisdictional change (Government Code Section 56375). These include, but are not limited to, proposals for:

- Annexation of territory to cities or special districts.
- Exclusion of land from cities or special districts.
- The consolidation of two or more cities, or two or more special districts.
- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The merger of cities and special districts.
- Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- Review and approval or denial of city or special district contracts for service outside their boundaries.

In addition to these review powers, the Commission has the authority to initiate and make studies of existing governmental agencies, which may include inventorying such agencies. As of July 1, 1994, based upon the findings of its special studies, the Commission has the authority to initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization, which includes any of these outlined changes. (Government Code Section 56378)

The Act provides the following powers and duties, among others, to LAFCO:

1. To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the Commission. A Commission shall have the authority to initiate only any of the following proposals: (1) consolidation of districts, as defined in Government Code Section 56036, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, (5) formation of a new district or districts, or (6) a reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to state law (Government Code Sections 56378, 56425 or 56430, and 56881). (*Amended January 23, 2008*)
2. To determine whether territory proposed for annexation or detachment, or municipal reorganization is inhabited or uninhabited. ("Inhabited" means an area that contains twelve or more registered voters.)
3. With regard to a proposal for consolidation of two or more cities or special districts, to determine which city or district shall be the consolidated, successor city or district.
4. To waive the statutory restrictions against creation of islands (unincorporated areas totally or substantially surrounded by city boundaries) if the Commission finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area would be enclosed as a result of incorporation or annexation and is so located that it cannot reasonably be annexed to another city or incorporated as a new city.
5. To approve the annexation of unincorporated, noncontiguous territory not exceeding 300 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the annexation of such territory without notice or hearing. In addition, the Commission has the authority to approve the annexation of noncontiguous territory that is used as a state correctional facility, with no acreage limitation.
6. To establish spheres of influence for all cities and special districts within the county, and to review those spheres of influence ~~at least once every five years~~ every five years thereafter, as necessary.
7. To conduct "municipal service reviews" on a regional or sub-regional basis, evaluating infrastructure needs or deficiencies, growth and population projections, financing constraints and opportunities, and other issues. These reviews ~~can occur in conjunction with sphere of influence studies, and must be conducted at least once every five years~~ shall be conducted before or in conjunction with the establishment or update of a sphere of influence.

**Commented [SL2]:**  
Updated consistent with  
GCS 56425(g)

**Commented [SL3]:**  
Updated consistent with  
GCS 56430(e)

## **FACTORS LAFCO MUST CONSIDER**

State law provides a wide variety of factors that the Commission must consider in the review of a proposal. These are specified in Government Code Section 56668, and include, but are not limited to the following:

- (a) Population and population density; land area and land use; ~~per capita~~ assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; and the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; and probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services area services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377 (open space land conservation).
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

~~(g)~~ \_\_\_\_\_ A regional transportation plan adopted pursuant to Section 65080, ~~and~~

~~(g)~~ (h) \_\_\_\_\_ The proposal's consistency with city or county general and specific plans.

~~(h)~~ (i) \_\_\_\_\_ The sphere of influence any local agency ~~which that~~ may be applicable to the proposal being reviewed.

~~(i)~~ (j) \_\_\_\_\_ The comments of any affected local agency or other public agency.

~~(j)~~ (k) \_\_\_\_\_ The ability of the newly formed or receiving entity to provide the services ~~which that~~ are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

**Commented [SL4]:**  
Minor updates made to reflect 2018-2019 changes to GCS 56668, including addition of factor considering hazards & safety

~~(k)~~(l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

~~(h)~~(m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

~~(m)~~(n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.

~~(n)~~(o) Any information relating to the existing land use designations.

~~(p)~~ The extent to which the proposal will promote environmental justice. As used in this subdivision, “environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, and incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities. ~~(Amended January 23, 2008)~~

~~(e)~~(q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is subject of the proposal.

## **CONDITIONS WHICH MAY BE IMPOSED**

In the approval of boundary change proposals, LAFCOs have strong powers to attach conditions. Government Code Section 56885.5 through Section 56890 provides a broad range of conditions that the Commission may impose in approving an application. Those conditions range from the authority to impose special assessments to the transfer of employees among districts in a consolidation. The reader is referred to the specific Code Sections for the complete conditions authorized by statute.

The following are a few examples of how authorized conditions may be applied:

- LAFCO can require as a condition of approval, that the territory being annexed shall be responsible for payment of existing fees, charges, or assessments currently in place by the annexing agency.
- LAFCO can require as a condition of its approval that another change of organization for a related or overlapping agency be initiated, conducted, and completed. For example, if a proposal is for annexation of territory to a city, LAFCO can require that the territory also be annexed to or detached from special districts.
- LAFCO can require establishment of special assessments or improvement districts to finance capital facilities or improvements needed in affected territory.

- LAFCO can impose conditions related to the distribution of assets, financial contracts or obligations among affected agencies.
- LAFCO may impose conditions related to a local agency's employee salaries, benefits, and other personnel rights.
- LAFCO can impose a condition designating the method for selection of the Board of Directors and the number of Directors for a consolidated district.
- LAFCO can impose a condition that establishes the effective date for a change of organization.
- LAFCO can impose a condition that designates the agency to succeed to the rights, duties, and obligations of an agency that is dissolved.

### **ENVIRONMENTAL REVIEW REQUIREMENTS**

LAFCO is subject to and under the jurisdiction of the California Environmental Quality Act (CEQA), as are most public agencies. The statute requires certain procedures to be followed in terms of environmental review and the opportunity for public participation in the decision-making process.

### **POWERS AND DUTIES OF THE COMMISSION IN CONDUCTING PROTEST PROCEEDINGS**

Government Code Section 57000 (effective January 1, 2001) requires the Commission to conduct "protest proceedings" to determine whether the proposal can be ultimately approved without an election, whether an election should be held, or whether the proposal must be terminated due to majority protest. This is purely a ministerial process, where the Commission simply counts the written protest submitted to an action, determines the percentage that the landowner or voter protest bears to the total number of landowners and/or voters, and takes action based on that level of protest. Because this is a ministerial process, on February 28, 2001, the Commission delegated all the responsibility for conducting the protest proceedings to the Executive Officer. The process for conducting protest proceedings is outlined in Appendix A.

## SECTION 4—GENERAL POWERS AND POLICY GUIDELINES

The Local Agency Formation Commission is a state-mandated entity, established for each county in the State and is independent of local county, city, or district governmental jurisdiction. (Government Code Section 56001 and 56300)

The Cortese-Knox-Hertzberg (CKH) Act requires that each LAFCO establish policies and procedures. The CKH Act also states that LAFCOs are to exercise their powers consistent with those policies and procedures.

The policies and procedures in this document are intended to reflect the legislative intent of the CKH Act and provide for the consistent implementation based upon local conditions and circumstances and are intended to supplement state law. To the extent that any portion of this document conflicts with any provisions of state law, the applicable state law takes precedence. (*Amended August 27, 2003*)

### **POLICY 1 - PURPOSE**

The purposes of the Local Agency Formation Commission are provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and include the following:

- Discourage urban sprawl.
- Encourage orderly formation and development of local governmental agencies, based on local conditions and circumstances.
- Initiate and make studies of governmental agencies.
- Adopt spheres of influence for each local governmental agency.

The following Goals will guide the Commission in implementing the purposes of LAFCO (*Amended April 23, 2003*):

1. To encourage planned, well-ordered, efficient development patterns.
2. To encourage efficient and effective delivery of governmental services by the agencies who provide those services.
3. To encourage urban land use patterns which balance urban growth with the conservation of open space and prime agricultural land.
4. To encourage the cities and the County to plan urban land use patterns, which include a harmony between housing for residents and jobs provided by commercial and industrial development.

## POLICY 2 - POWERS

~~The powers of LAFCO include the following:~~

- A. ~~The Commission's powers include the ability to r~~Review and approve proposals with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the ~~C~~eommission (Government Code Section 56375). Types of proposals include, but are not limited to:

- Annexation of territory to cities or special districts.
- Exclusion of land from cities or special districts.
- The consolidation of two or more cities, or two or more special districts.
- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The merger of cities and special districts.
- Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- ~~Review of c~~City or special district ~~contracts for service~~ extensions of service outside of their boundaries.
- ~~Review and approve p~~Proposals that would extend services into previously unserved territory within unincorporated areas.
- ~~The Commission shall not approve an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer. However, an application to annex a contiguous disadvantaged community shall not be required if either of the following apply: (i) A prior application for annexation of the same disadvantaged community has been made in the proceeding five years; or (ii) The commission finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation. (Government Code Section 56375 (8)(A)(B))~~
- The annexation of territory served by a mutual water company that operated a public water system to a city or special district. (Government Code Section 56375 (r))

**Commented [SL1]:**  
Paragraph moved into a sub-section as it is an exception to the Commission's powers

1. Notwithstanding the above powers, the Commission shall not approve an annexation to a city of any territory greater than 10 acres where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged



unincorporated community to the subject city has been filed with the executive officer. Additionally, the Commission shall not approve annexation of two or more areas within five years that would cumulatively exceed 10 acres unless such an application has also been made. However, an application to annex a contiguous disadvantaged community shall not be required if either of the following apply: (i) A prior application for annexation of the same disadvantaged community has been made in the proceeding five years; or (ii) The commission finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation. (Government Code Section 56375(8))

**Commented [SL2]:**  
This additional constraint was added as a result of AB-600 (Chu).

B. The Commission shall also have the power to:

- Conduct service reviews of the municipal services provided in the county on a regional or sub-regional basis, and provide written statements with respect to infrastructure needs, growth and population projections, financing constraints, cost avoidance opportunities, opportunities for shared facilities, and other factors in Government Code Section 56430.
- Initiate and make studies of existing governmental agencies, which may include inventorying such agencies. (Government Code Section 56378)
- Initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization, when consistent with a recommendation or conclusion of study prepared pursuant to Government Code Section 56378, 56425, or 56430, and the commission makes the required determinations, pursuant to Government Code Section 56881(b).
- Adopt Evaluation Standards and procedures for the evaluation of proposals which shall include, but are not limited to, the factors identified in Government Code Section 56668. (See also: Section 2—Statutes Governing LAFCO.)

C. **Plan for Service Requirement.** A plan for service shall be prepared and submitted for each local agency affected by a proposed change of organization, regardless of whether that proposal is initiated by resolution or petition. In the case of a proposed annexation, the plan for service must include information that the range and level of services currently available within the study area will, at least, be maintained by the annexing agency. Services include all those services currently provided or to be extended by the agency. For those proposals involving a reorganization consisting of annexations to multiple agencies, the plan for service shall include information for each affected agency. (Government Code Section 56653)

LAFCO will consider the ability of an agency to deliver adequate, reliable and sustainable services and will not approve a proposal that has potential to significantly diminish the level of service in the agency's current jurisdiction. The agency will be required to provide satisfactory documentation of capacity to provide the service within a reasonable period of time. (*Amended April 23, 2003*)

- D. **Spheres of Influence.** Government Code Section 56425 requires that LAFCO establish a sphere of influence for each city and special district in the county.
- E. **Two or More Proposals for The Same Area.** If two or more proposals pending before the Commission conflict or are in any way inconsistent with each other, the Commission may determine the relative priority for conducting further proceedings on these proposals. In the absence of any such determination, priority shall be given to that action which was first filed with the Executive Officer. (Government Code Sections 56655, 56657 and 57003)
- F. **Reorganization Committee.** The Commission may require the establishment of a reorganization committee for reorganization proposals and to adopt standards and procedures for the evaluation of any plan of reorganization or alternate plan reported on by such committee. (Government Code Section 56827)
- G. **Conduct Special Studies.** The Commission may initiate and make studies of existing governmental agencies including, but not limited to, inventorying such agencies and determining their maximum service area and service capacities.
- H. **Open Space.** It is the intent of the Legislature that Commissions establish policies and exercise their powers so as to encourage and provide planned, well ordered, efficient urban development patterns with appropriate consideration of preserving open space lands within such patterns. (Government Code Section 56001)
- I. **Conducting Authority.** The Cortese-Knox-Hertzberg Local Government Reorganization Act, taking effect on January 1, 2001, assigned the responsibility of conducting protest proceedings to the Commission itself. The Commission has determined to delegate this authority to the Executive Officer. (Government Code Section 56029)
- J. **Noncontiguous Territory Annexation.** The Commission has the authority to approve the annexation of unincorporated noncontiguous territory, in accordance with Government Code Section 56742, for proposals not exceeding 300 acres in area, located in the same County, and which is owned by the annexing city and used for municipal purposes.
- K. **Inhabited Annexation.** In an inhabited annexation to a city, where the area to be annexed equals 50% or more of the assessed value of the city, or the number of registered voters in the area to be annexed is 50% or more than the number of registered voters in the city, the Commission may determine as a condition of the proposal that the annexation shall be subject to the confirmation of the voters in the area to be annexed and the voters of the city. (Government Code Section 56737)
- L. **Distribution of Assets and Liabilities.** The Commission may determine the distribution of all assets and liabilities, including recommendations for retaining employees, for all consolidations, mergers, dissolutions, and creations of subsidiary districts, or any other proposal, and shall note such distribution in its resolutions. (Government Code Section 56886)
- M. **Consolidation of Cities.** After approval for the consolidation of two or more cities, the Commission will determine which shall be the consolidated successor city.

- N. **Financial Assistance.** The Commission, or the Board of Supervisors on behalf of the Commission, is authorized to apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state and federal governments or from a local government. (Government Code Section 56378)

### **POLICY 3 - ENVIRONMENTAL ASSESSMENT**

The Commission will insure that all proposals are reviewed in compliance with the California Environmental Quality Act (CEQA) and Commission adopted CEQA procedures.

### **POLICY 4 - PRIORITIES FOR ANNEXATION AND FORMATION**

The Commission will consider the following priorities or guidelines for annexation and formation with the provision that overriding circumstances must be stated in exceptions (Government Code Section 56001):

- A. Annexation to an existing city or district instead of formation of a new agency.
- B. Annexation to a city rather than a district if both can provide comparable services.
- C. Annexation to a multi-purpose district in preference to annexation to a single purpose district.
- D. Formation of a new political entity as the last and least desirable alternative.

### **POLICY 5 – PRE-ZONING FOR CITY ANNEXATION**

Effective January 1, 2001, prezoning is mandated by Government Code Section 56375. No city annexation application will be deemed complete unless the prezoning process has been completed. The decision of the Commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city.

In addition, pursuant to Government Code Section 56375(e), all prezoning designations shall remain in effect for at least two years unless the City Council makes specified findings relating to changed conditions and circumstances.

The adopted procedure for prezoning is as follows:

- A. Prezoning shall require that the city become the lead agency for environmental review for the proposed change and shall prepare and submit to LAFCO the environmental assessment forms in sufficient time for LAFCO's Executive Officer to comment before a determination of environmental effects is made.

### **POLICY 6 - CONCURRENT CITY- DISTRICT ANNEXATION**

For any annexation within a community served by a variety of community-based local agencies, the Commission shall require concurrent annexation to all of the local agencies serving the community (concurrent city/district annexations).

### **POLICY 7 - SPECIAL DISTRICT REPRESENTATION**

The Commission has adopted “Rules and Regulations” pursuant to Government Code Section 56332 which permits Special District Representation on the Commission. The Rules and Regulations are included in Section Six of this manual.

#### **POLICY 8 - SUFFICIENCY OF SIGNATURES ON PETITIONS AND NUMBER OF REGISTERED VOTERS**

The Commission recognizes that the review and approval process for many proposals may be changed, and the number of registered voters affected (Government Code Section 56706):

- A. For proposals which require petitions to be circulated, after LAFCO approval, the number of registered voters residing in an area on the date of LAFCO approval is the number of registered voters on which the sufficiency of any petition is based. If the proposal was initiated by Resolution of Application, the number of registered voters shall be based on the date the Notice of Filing is issued.
- B. For proposals in which petitions are circulated prior to LAFCO approval and for the determination of inhabited or uninhabited actions, the date of the Notice of Filing issued by LAFCO shall be the determining date for the number of registered voters residing within the affected area.

#### **POLICY 9 - EFFECTIVE DATE OF THE CERTIFICATE OF COMPLETION**

Unless otherwise specified by the Commission, the effective date for all actions shall be the date of issuance of the Certificate of Completion. (Government Code Section 57202)

#### **POLICY 10 - REQUESTS FOR RECONSIDERATION**

Requests for reconsideration will be granted only when the petitioner can present some compelling new evidence which shall show what new or different facts exist that could not have been previously presented or the existence of an applicable new law which shows that significant factors relative to the situation were overlooked or have changed. The request shall be submitted in writing to the Executive Officer within 30 days of the Commission’s decision. (Government Code Section 56895)

No request shall be deemed filed unless appropriate filing fees are submitted. In the event multiple requests for reconsideration are filed, the Executive Officer will divide a single reconsideration fee among the various petitioners for reconsideration.

The adopted procedure for reconsideration requests is as follows:

- A. Upon receipt of a legally filed request for reconsideration, the Executive Officer shall place the request on the agenda of the next Commission meeting for which notice can be provided. At the hearing, the Executive Officer will present the staff report and recommendations to the Commission and respond to questions. The Commission will then allow submission of any oral or written testimony on the issue; however, at the Chair’s discretion, time limits may be placed on those wishing to provide an oral presentation. At the close of the hearing, the Commission may take one of the following actions:

1. The Commission may approve the request, and adopt a resolution superseding the resolution previously issued;
2. The Commission may deny the request; or,
3. The Commission may continue the hearing to a time not to exceed 35 days from the date specified in the notice.

**POLICY 11** *(Removed as of January 24, 2018)*

**POLICY 12 - WAIVER OF FILING FEES**

Pursuant to Government Code Section 56383, the Commission may reduce or waive a fee, service charge, or deposit if it finds that payment would be detrimental to the public interest. The reduction or waiver of any fee, service charge or deposit is limited to the costs incurred by the Commission in the proceedings of an application.

A request for waiver or reduction of LAFCO filing fees must be submitted in writing to the Executive Officer and contain specific reasons for the request along with the submission of the application.

Upon receipt of such a request, the Executive Officer shall present the waiver/reduction request at the next regular hearing for Commission consideration. Processing of an application for a jurisdictional change shall be held in abeyance until a decision is rendered by the Commission regarding the appeal of fees.

Circumstances that may support the granting of a deposit fee waiver or reduction in processing fees and/or service charges are as follows:

- A. Correction of a technical boundary alignment problem (split parcel, boundary overlap, etc.).
- B. Proposals seeking to accomplish a defined Commission goal or policy. This includes petition-initiated proposals to annex unincorporated territory that is totally or substantially surrounded by city boundaries.
- C. Proposals initiated by the Stanislaus County Board of Supervisors, City Council, or Special District for public facilities owned by that agency.
- D. Proposals initiated by Resolution of Application of a city seeking to annex unincorporated territory that is totally or substantially surrounded by city boundaries.
- E. Proposals initiated by individuals which were modified by the Commission and subsequently terminated through no fault of the proponents by majority protest or an election.

**POLICY 13 - LEGAL DEFENSE FEE RESPONSIBILITY**

It is the policy of this Commission that the costs for legal defense of an issue, which has been approved by the Commission, should be the primary responsibility of the agency or person seeking that approval.

Therefore, as a condition of approval of any action taken by the Local Agency Formation Commission, the Commission may impose a condition within its resolution of approval that requires the applicant to defend, indemnify, hold harmless, and provide for reimbursement or assumption of all legal costs in connection with that approval. The adopted procedure for the Legal Defense Policy is as follows (*Amended April 23, 2003*):

- A. The Commission will impose a condition of approval which requires the applicant to defend, indemnify, and hold harmless the Commission, its agents, and its employees from any claim, action or proceedings against them to attack, set aside, void, or annul such approval.
- B. The Executive Officer shall promptly notify the applicant of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.

#### **POLICY 14 - INCORPORATION POLICIES**

The following are the policy statements that the Commission has adopted to assist in the guidance of unincorporated communities in their review of governmental options:

- A. Incorporation proposals involving land within an existing city sphere of influence will not be accepted for filing. If a cityhood proposal would conflict with an established city's sphere of influence, the incorporation proponents must first initiate, and the Commission must approve, a sphere of influence amendment to exclude the study area from that sphere prior to circulation of formal incorporation petitions.
- B. The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels, with sufficient resources to provide a municipal-level law enforcement service consistent with the recommendations of the County Sheriff.
- C. In determining feasibility, the Commission will consider only those revenues that are currently available to all general law cities. It will not consider revenues derived through special taxes or assessments, nor will it consider hypothetical revenues available through possible actions of a future city council (e.g., utility user's taxes) in the determination of financial feasibility.
- D. In determining feasibility, the Commission requires that proposed staff salary costs shall be based on an average of similar-sized cities or those cities which have the most comparable population within Stanislaus and San Joaquin Counties.
- E. In determining compliance with Government Code Section 56720, the Commission finds that a "reasonable reserve" is a contingency fund equal to 10% of the projected general and special funds of the new city.
- F. The Commission requires that a new city shall assume jurisdiction over all community-based special districts serving the incorporation area. A clear and compelling rationale must be provided if the continued overlay of a community-based district is proposed.

- G. In order to qualify for incorporation, the community in question must contain a minimum of 10,000 people as determined by available census data or other reliable means (e.g. utility connections), and the sales tax revenues attributable to the study area must at least cover the expected administrative and legislative costs of the new city.

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

*(Amended January 24, 2018)*

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

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

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

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



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



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

**POLICY 15a – FIRE PROTECTION CONTRACTS OR AGREEMENTS**

*(Adopted on January 24, 2018)*

Effective January 1, 2016, Government Code Section 56134 requires the Commission to review a fire protection contract or agreement that provides new or extended fire protection services outside an agency's jurisdictional boundaries and meets either of the following thresholds: (1) transfers service responsibility of more than 25 percent of an affected public agency's jurisdictional boundaries; or (2) changes the employment status of more than 25 percent of the employees of any affected public agency.

- A. A request by a public agency for Commission approval of new or extended services provided pursuant to a fire protection contract shall be made by resolution of application and include all information regarding proposed services and financial information as required by Government Code Section 56134.
- B. The Commission will review proposals for consistency with the required findings of 56134(h)(2)(i) and (j), as well as the overall purposes of LAFCO that encourage the efficient provision of government services.
- C. Existing fire protection contracts, and their renewal, will not be subject to the requirements of Government Code Section 56134 unless a subsequent change to the contract either transfers service responsibility of more than 25 percent of an affected agency's jurisdictional boundary or changes employment status of more than 25 percent of the affected agency's employees. Additionally, mutual or automatic aid agreements are not subject to Government Code Section 56134.

#### **POLICY 16 - INDIVIDUAL NOTICE OF COMMISSION HEARINGS TO LANDOWNERS AND REGISTERED VOTERS**

In implementing the provisions of Government Code Section 56157, the Commission determines that LAFCO staff shall provide individual notice of Commission hearings to all landowners and registered voters within a proposal's boundaries. In addition, the distance requirements for providing notice to landowners and registered voters surrounding the exterior boundaries of the area proposed for change, as required by Section 56157, will be 300 feet.

For proposals that require the mailing of at least 1,000 notices, the individual notice requirement may be waived and a 1/8th page legal ad will be placed in a newspaper of general circulation and a courtesy notice shall be placed in the local newspaper for the area, if applicable.

The proponent(s) of the action shall reimburse the Commission's costs associated with providing the notice described by this policy. (Government Code Section 56150 et. seq.)

#### **POLICY 17 - ISLAND ANNEXATIONS**

The Commission will consider this policy as it relates to provisions intended to streamline island annexations as set forth in in Government Code Section 56375.3.

- A. The Commission will not permit a city to reduce the size of an existing island through normal change of organization or reorganization proceedings for the purpose of allowing the remaining island to be processed pursuant to the streamlined island annexation provisions outlined in Government Code Section 56375.3.

**Commented [SL3]:**  
Minor improvements made to this section to be consistent with Government Code Section 56375.3

~~B. For change of organization or reorganization proposals initiated on or after January 1, 2000, and before January 1, 2014, the Commission shall approve, after notice and hearing, the annexation to a city and waive protest proceedings entirely, if all of the following are true:~~

~~1. The change of organization or reorganization is proposed by resolution adopted by the affected city; and~~

~~2. The Commission finds that the territory contained in the change of organization or reorganization proposal meets all the requirements set forth in Government Code Section 56375.3(b).~~

C.B. ~~For change of organization or reorganization proposals initiated after January 1, 2014, t~~The Commission shall approve, after notice and hearing, the change of organization or reorganization to a city, ~~subject to subdivision (a) of Section 57080, and waive protest proceedings entirely,~~ if all of the following are true:

1. The change of organization or reorganization is proposed by resolution adopted by the affected city; ~~and,~~

2. The Commission finds that the territory contained in the change of organization or reorganization proposal meets all of the requirements set forth in Government Code Section 56375.3(b) for streamlined island annexations.

D.C. The requirements set forth in Government Code Section 56375.3 (b) are summarized as follows:

1. The territory does not exceed 150 acres in area, and that area constitutes the entire island; ~~and,~~

2. The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands; ~~and,~~

3. The territory is surrounded in either of the following ways:

a. Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

b. Surrounded by the city to which annexation is proposed and adjacent cities.

C. This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

4. The territory is not prime agricultural land, as defined by the Section 56064, and will benefit or is receiving benefits from the annexing city.

E.D. The Commission will define the term “substantially surrounded” on a case-by-case

**Commented [SL4]:**  
This sunset clause was removed from Government Code section 56375.3

basis, through review of land uses, infrastructure, and patterns of service delivery within the island area and surrounding lands. No specific percentage of boundary contiguity will be applied across the board for all proposals purporting to be “substantially surrounded”.

F.E. For island annexation proposals initiated by a city meeting the requirements of Government Code Section 56375.3, the Commission shall require either the city pre-zone the territory to be annexed or present evidence satisfactory to the Commission that the existing development entitlements on the territory are vested on are already at build out and are consistent with the City’s general plan.

#### **POLICY 18 - CONDUCT OF PROTEST HEARINGS**

The Commission determines that the responsibility for the conduct of protest hearings, including notice, solicitation of protest, and evaluation of protest levels, is delegated to the Executive Officer.

The Executive Officer shall prepare the final resolution of conducting authority proceedings that completes the action based upon the level of protest submitted and report the conclusion of these actions to the Commission at the next scheduled Commission meeting.  
*Note: Please refer to Appendix A – Procedural Provisions for Conducting Authority Hearings (Protest Proceedings.)*

#### **POLICY 19 - STREETS AND CANALS**

The following shall be used in determining the appropriate territory to be included in the boundaries of a proposal:

##### **A. Annexation to Cities.**

1. Areas surrounded or substantially surrounded by a city may include all contiguous public rights of way that can reasonably be included without fragmenting governmental responsibility by alternating city and county jurisdiction over short sections of the same right of way.
2. Contiguous areas located substantially within a sphere of influence may provide for the continuation of established street annexation patterns when appropriate.
3. When a boundary street is coterminous with the sphere of influence boundary of a city, the entire right of way of the boundary street may be included.
4. When a street is a boundary line between two cities the centerline of the street may be used as the boundary or whatever agreement is reached by the affected cities.

##### **B. Annexations to Special Districts.**

1. Areas located within a sphere of influence shall include all contiguous public rights of ways that can reasonably be included.

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**STANISLAUS LOCAL AGENCY  
FORMATION COMMISSION**

**RESOLUTION**

**DATE:** April 22, 2020

**NO.** 2020-02

**SUBJECT:** Adoption of a Policies and Procedures Update

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

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

**THE FOLLOWING RESOLUTION WAS ADOPTED:**

**WHEREAS**, the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 56000 et seq.) and more specifically, Government Code section 56300(a) requires each LAFCO to establish written policies and procedures;

**WHEREAS**, the Commission desires to update its Policies and Procedures in response to recent legislative changes in order to remain consistent with State law and the overall goals of LAFCO;

**WHEREAS**, the Commission has conducted a noticed public hearing on April 22, 2020 to consider the Policy and Procedures update;

**WHEREAS**, the Commission has considered the written staff report and testimony and evidence presented at the public hearing held on April 22, 2020 regarding the update; and,

**WHEREAS**, adoption of the Policy and Procedures update amendment is considered a continuing administrative or maintenance activity with no potential for direct or indirect physical change to the environment and is therefore not a "project" for the purposes of the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(2).

**NOW, THEREFORE, BE IT RESOLVED** that this Commission:

1. Finds that the proposed Policy and Procedures update is consistent with State Law and the overall goals of LAFCO;
2. Finds that the proposed Policy and Procedures update is not a project for the purposes of the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(2); and,

3. Adopts the proposed Policy and Procedures update to be effective immediately.

**ATTEST:** \_\_\_\_\_  
Sara Lytle-Pinhey  
Executive Officer

Attachment: Policies and Procedures Update

**EXECUTIVE OFFICER'S AGENDA REPORT  
APRIL 22, 2020**

**STANISLAUS LOCAL AGENCY FORMATION COMMISSION  
OUT-OF-BOUNDARY SERVICE APPLICATION:  
SPENCER-MARSHALL (CITY OF MODESTO - SEWER SERVICE)**

**APPLICANT:** City of Modesto

**LOCATION:** The territory is located south of Maze Boulevard, west of South Martin Luther King Drive, north of California Avenue and east of South Emerald Avenue in an unincorporated island in the West Modesto area. (See Map, Exhibit A.)

**REQUEST:** The City of Modesto has requested that LAFCO consider approval of an area wide out-of-boundary sewer service extension to the Spencer-Marshall area. (See City's Out-of-Boundary Application, Exhibit B.) The area consists of 114 parcels totaling approximately 53 acres. As the territory is outside the City's limits, LAFCO review is required prior to the extension of City services. The Commission's approval of an area wide out-of-boundary application would allow existing development and future infill development in the area to be served by City sewer without the need to return to LAFCO for subsequent approvals.



**BACKGROUND**

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

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

Stanislaus LAFCO has adopted its own policy to assist in the Commission's review of out-of-boundary service requests, known as Policy 15 (see Exhibit D). Policy 15 reiterates the requirements of Government Code Section 56133 and also allows the Executive Officer, on behalf of the Commission, to approve service extensions in limited circumstances for existing development only. However, as the current request would provide a blanket approval for both existing and future development in the Spencer-Marshall neighborhood, the Executive Officer



has determined to forward the City's request to the Commission.

The proposed sewer service extension is the first phase of the "West Modesto Sewer Infrastructure Project." The three areas of the project include the currently proposed Spencer-Marshall neighborhood as well as the Beverly-Waverly neighborhood and Rouse-Colorado neighborhood. The project is intended to respond to health and safety concerns associated with failing septic systems in these areas. The project will include the installation of a new sewer system with approximately 80,000 linear feet of sewer main and street reconstruction. The completed project will allow property owners to abandon their existing septic tanks and connect to a public sewer system.

At this time, the City of Modesto is applying for the first phase (Spencer-Marshall neighborhood) of the greater West Modesto Sewer Infrastructure Project. The City of Modesto will be applying for an out-of-boundary service for the remaining two phases at a later time when funding becomes available and the City/County are close to moving forward.

The project is being installed by Stanislaus County as it is within the County's jurisdiction. The new sewer infrastructure will connect into the City of Modesto's existing public sewer system. Upon completion of the project, project ownership will be transferred to the City of Modesto for operation and maintenance.

## **DISCUSSION**

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 where out-of-boundary service extensions may be more timely and appropriate, as allowed under Government Code Section 56133. The Commission has approved similar area-wide extensions of sewer and/or water services in the past for specific unincorporated areas, including the Parklawn Neighborhood, the Bret Harte Neighborhood, the Robertson Road Neighborhood, the Airport Neighborhood and the Shackelford Neighborhood. (The Shackelford Neighborhood was subsequently annexed to the City.)

In order to guide review of similar area-wide proposals, the Commission adopted a section of Policy 15 addressing these types of requests and the circumstances under which they may be approved.

### **Consistency with Commission Policy 15**

The Commission's Policy 15(F) states that it will consider approval for area-wide service extensions when it determines each of the following exists:

1. *There is substantial existing development in the area, consistent with adopted land use plans or entitlements.*

The Spencer-Marshall neighborhood is located in the unincorporated area of the County located in west Modesto with predominantly residential parcels that currently rely on septic tanks for the treatment of sewage. The territory is zoned for low density residential uses. The proposed out-of-boundary application is consistent with the land use and zoning in the Stanislaus County General Plan.

*2. The area is currently located within the agency's sphere of influence.*

The Spencer-Marshall Neighborhood is currently within the City's Sphere of Influence and has been since its original adoption in 1984.

*3. The agency is capable of providing extended services to the area without negatively impacting existing users.*

Information included with the City of Modesto's application indicates that the City has the ability to provide sewer services to the area. The City has calculated the capacity to serve the entirety of the West Modesto Sewer Infrastructure Project based on studies performed in the City's Wastewater Master Plan.

The project is federally funded with Community Development Block Grant funds administered by HUD. To fund the project's construction and final design, the County anticipates receiving grant funding from the Clean Water State Revolving Fund program administered by the State Water Resources Control Board.

*4. The proposal meets one of the situations outline in Section C of Policy 15, where extension of services is an appropriate alternative to annexation.*

Section C describes situations where the Commission will favorably consider service extensions. As mentioned previously, the project is proposed in response to health and safety concerns associated with failing septic systems which could lead to the degradation of groundwater quality. The remediation of this health and safety concern is considered one of the situations where the extension of services is an appropriate alternative to annexation.

Consistency with Applicable State Law

The Commission must also consider Government Code Section 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 of Modesto's application indicates that there is no annexation proposal at this time and it is unknown at what point in the future the Spencer-Marshall neighborhood 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.

Additionally, as part of the agreement between the City and the County, and in anticipation of the area being included within the City limits in the future, the City will be taking ownership of the sewer infrastructure in the area upon completion of its installation.

Landowner Consent to Annex

Whenever an affected area may ultimately be annexed to the agency, a standard condition of approval is the recordation of an agreement by the landowner consenting to annex the territory.

As a condition of approval, a copy of the signed agreement will be required to be submitted to LAFCO prior to the extension of service.

#### Environmental Review

Stanislaus County, as Lead Agency under the California Environmental Quality Act (CEQA), prepared an initial study and adopted a negative declaration for the proposed sewer extension, finding that it will not have a significant effect on the environment. A copy of the County's Negative Declaration is included with the City's application (attached as Exhibit B).

#### CONCLUSION

Although annexations to cities or special districts are generally the preferred method for provision of services Commission policies also recognize that out-of-boundary service extensions can be an appropriate alternative in situations where there are immediate health and safety concerns. The City's proposal to provide the Spencer-Marshall neighborhood with sewer service is consistent with Government Code Section 56133 and the Commission's Policy 15, including the criteria for area-wide approvals.

#### ALTERNATIVES FOR LAFCO ACTION

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

**Option 1:** APPROVE the request, as submitted by the City.

**Option 2:** DENY the request without prejudice.

**Option 3:** CONTINUE the proposal to a future meeting for additional information.

#### STAFF RECOMMENDATION

Based on the discussion in this staff report and following any testimony or evidence presented at the meeting, staff recommends that the Commission approve the proposal as submitted by the City of Modesto and adopt Resolution No. 2020-03, which finds the request to be consistent with Government Code Section 56133 and Commission Policy 15, certifies that the Commission has considered the environmental documentation prepared by Stanislaus County, and includes the following standard terms and conditions:

- A. This approval allows for the extension of sewer service to accommodate existing and future uses within the Spencer-Marshall neighborhood only.
- B. The City shall not allow additional sewer service connections outside the City limits and beyond the delineated Spencer-Marshall neighborhood area without first requesting and securing approval from the Commission.
- C. Prior to the provision of sewer services, the landowner(s) shall record an agreement consenting to annex the property to the City of Modesto, and a copy of the agreement shall be forwarded to the LAFCO office.

Respectfully submitted,

*Javier Camarena*

Javier Camarena  
Assistant Executive Officer

Attachments:     Draft LAFCO Resolution 2020-03  
                       Exhibit A - Map of the Spencer-Marshall Neighborhood  
                       Exhibit B - City's Out-of-Boundary Application  
                       Exhibit C - Government Code Section 56133  
                       Exhibit D - LAFCO Policy 15

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## **Draft LAFCO Resolution 2020-03**

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**STANISLAUS COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**RESOLUTION**

**DATE:** April 22, 2020

**NO.** 2020-03

**SUBJECT: Out-of-Boundary Service Application for the Spencer-Marshall Neighborhood  
(City of Modesto - Sewer Service)**

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

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

**THE FOLLOWING RESOLUTION WAS ADOPTED:**

**WHEREAS**, the City of Modesto has submitted an out-of-boundary service application requesting the Commission's consideration of an area-wide approval to extend sewer services to the Spencer-Marshall Neighborhood;

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

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

**WHEREAS**, in accordance with adopted Commission Policy 15, the current proposal has been forwarded to the Commission for its consideration as it includes an area-wide approval for sewer service that would accommodate existing and future development;

**WHEREAS**, the Spencer-Marshall Neighborhood is located outside the current city limits of Modesto, but within the City's Sphere of Influence;

**WHEREAS**, Stanislaus County has completed a plan for the construction of a sanitary sewer system to remedy failing septic tanks in the Spencer-Marshall Neighborhood and has executed an agreement with the City of Modesto regarding transferring ownership of the sewer infrastructure to the City upon completion of the project;

**WHEREAS**, the City of Modesto has indicated that capacity is available to serve the Spencer-Marshall Neighborhood's sewer flows;



**WHEREAS**, the City of Modesto currently provides water service to the Spencer-Marshall Neighborhood via acquisition of the former Del Este Tariff Area, which is considered an extended service that was provided by the City before January 1, 2001 and therefore is exempt from further review pursuant to Government Code Section 56133 and Commission Policy 15;

**WHEREAS**, Stanislaus County, as Lead Agency, has prepared an initial study for the project, pursuant to the California Environmental Quality Act (CEQA) and the State CEQA guidelines and adopted a Negative Declaration;

**WHEREAS**, the Commission, as a Responsible Agency, has reviewed the environmental documents prepared by Stanislaus County as Lead Agency; and,

**WHEREAS**, the Commission has, in evaluating the proposal, considered the report submitted by the Executive Officer, consistency with California Government Code Section 56133 and the Commission's adopted policies, and all testimony and evidence presented at the meeting held on March 25, 2020.

**NOW, THEREFORE, BE IT RESOLVED** that this Commission:

1. Finds that the proposed extension of sewer service is consistent with the Commission's adopted policies and California Government Code Section 56133.
2. Certifies, as a Responsible Agency, that it has considered the environmental documentation prepared by Stanislaus County.
3. Authorizes the City of Modesto to provide the requested sewer service to the Spencer-Marshall Neighborhood, subject to the following terms and conditions:
  - A. This approval allows for the extension of sewer service to accommodate existing and future uses within the Spencer-Marshall Neighborhood only, as delineated on the attached map.
  - B. The City shall not allow additional sewer service connections outside the City limits and beyond the delineated Spencer-Marshall Neighborhood area or any other area previously approved by LAFCO without first requesting and securing approval from the Commission.
  - C. Prior to the provision of sewer services, the landowner(s) shall record an agreement consenting to annex the property to the City of Modesto, and a copy of the agreement shall be forwarded to the LAFCO office.
4. Directs the Executive Officer to forward a copy of this resolution to the City of Modesto and Stanislaus County.

**ATTEST:** \_\_\_\_\_  
Sara Lytle-Pinhey, Executive Officer

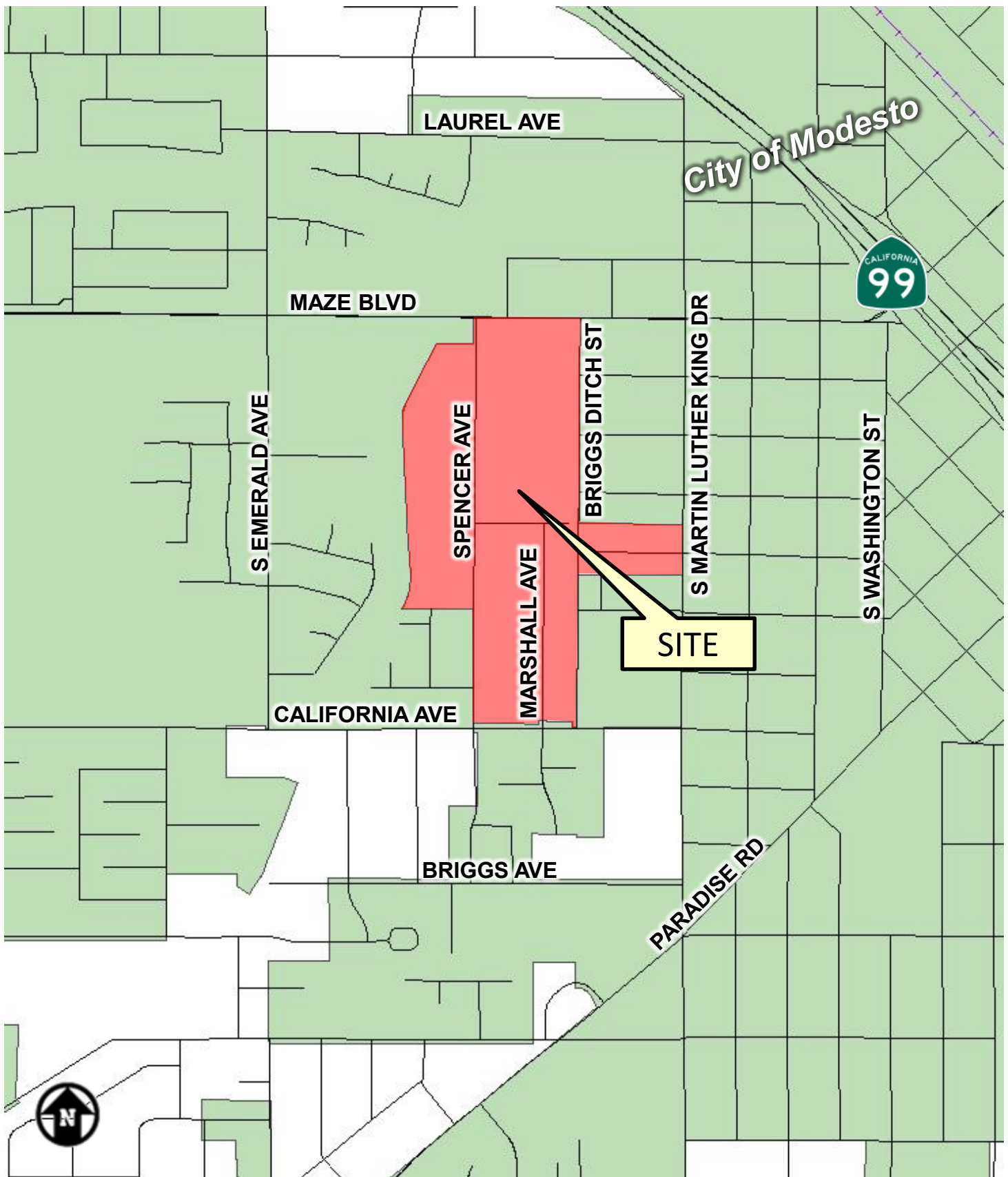
Attachment: Spencer-Marshall Neighborhood Area Map

## **EXHIBIT A**

### **Project Map**

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OUT-OF-BOUNDARY SERVICE APPLICATION  
SPENCER-MARSHALL NEIGHBORHOOD AREA  
VICINITY MAP



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## **EXHIBIT B**

### **Out-of-Boundary Application**

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# STANISLAUS LAFCO

Stanislaus Local Agency Formation Commission

1010 – 10 th Street, 3<sup>rd</sup> Floor ♦ Modesto, CA 95354

(209) 525-7660 ♦ FAX (209) 525-7643

www.stanislauslafco.org

## OUT OF BOUNDARY SERVICE APPLICATION

### AGENCY TO EXTEND SERVICE:

AGENCY NAME: City of Modesto

CONTACT PERSON: William Wong, Director of Utilities, Utility Department

ADDRESS: 1010 10th Street, Suite 4500, P.O. Box 642, Modesto CA 95353

PHONE: (209) 571-5801 FAX: (209) 522-1780 E-MAIL: wwong@modestogov.com

### CONTRACTING PARTY:

NAME OF PROPERTY OWNER: Multiple property owners

SITE ADDRESS: See attached project area map (Attachments 1 and 2)

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

CONTRACT NUMBER/IDENTIFICATION: N/A

ASSESSOR PARCEL NUMBER(S): This OBSA application includes approximately 114 parcels.

ACREAGE: The project area consist of one unincorporated island, totaling approximately 53 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:

City of Modesto Sanitary Sewer conveyance and treatment services to one unincorporated neighborhood (Spencer/Marshall) located in the western area of the City of Modesto, referred to as the "West Modesto Sewer Infrastructure Project - Spencer and Marshall Neighborhood."



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

Yes, sewer service infrastructure would be extended to provide sewer connection laterals to infill properties located within the project area, whose septic systems are beginning to fail. The system will re-direct flows from septic systems to City of Modesto public sewer facilities.

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.)

Individual "Outside Service Agreement for Sewer Service and Agreement to Waive Protest to Annexation Proceedings" will be executed with individual property owners in the project area, see Attachments 3 and 4. The extension of sewer service is to address health and safety concerns from failing septic systems in economically disadvantage unincorporated neighborhoods.

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

At this time, only a sewer boundary extension is being requested to mitigate failing septic systems. In the future, it is anticipated that the City of Modesto, Stanislaus County, and neighborhood land owners will discuss the topic of annexation to the City of Modesto. We want to acknowledge that annexation is the ultimate goal, even if the timeframe is unknown at this time.

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

Yes, the properties to be served are located within the City of Modesto's sphere of influence.

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

Extension of sewer lines and connection laterals will serve existing unincorporated properties whose septic systems are beginning to fail. Approval would serve existing developed properties and remaining infill (vacant and underdeveloped) properties.

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

Yes, the Board of Supervisors approved a Notice of Determination for this project, see Attachment 5. An electronic copy of the California Environmental Quality Act Initial Study and a copy of the National Environmental Policy Act determination of Finding of No Significant Impact were provided electronically.

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) This is an existing, developed County neighborhood of mostly residential and a few commercial land uses.

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 Attachments 2 and 6.

### 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:

DATED:

William Wong

2/6/2020

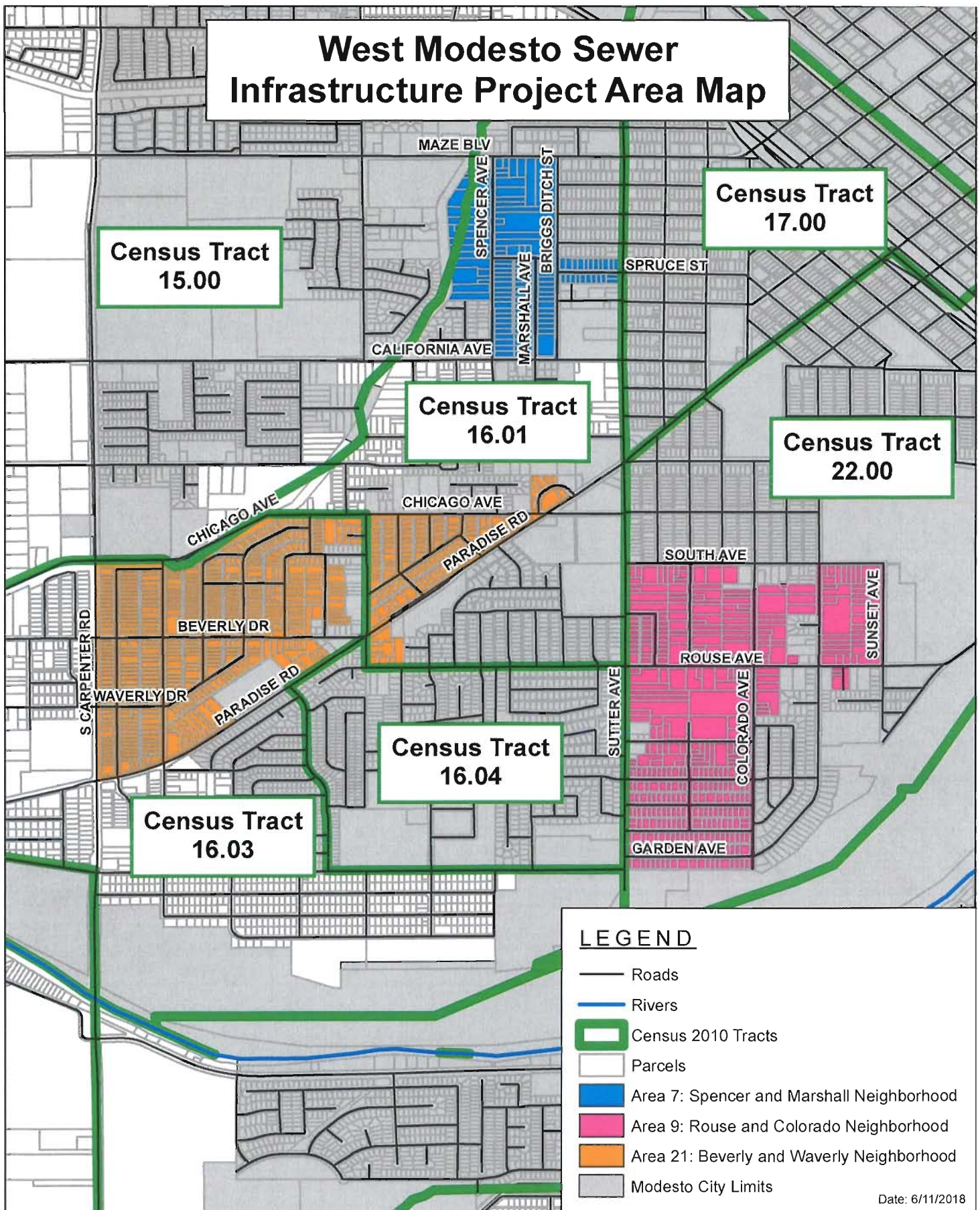
### REQUIRED ATTACHMENTS:

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. Application fee.

Please forward the completed form and related information to:

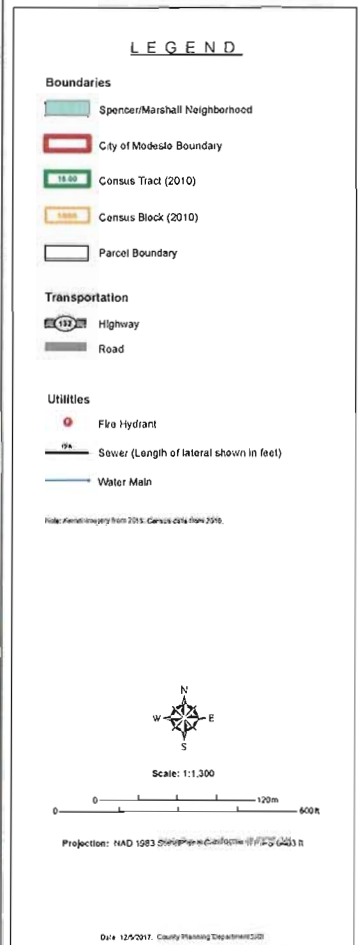
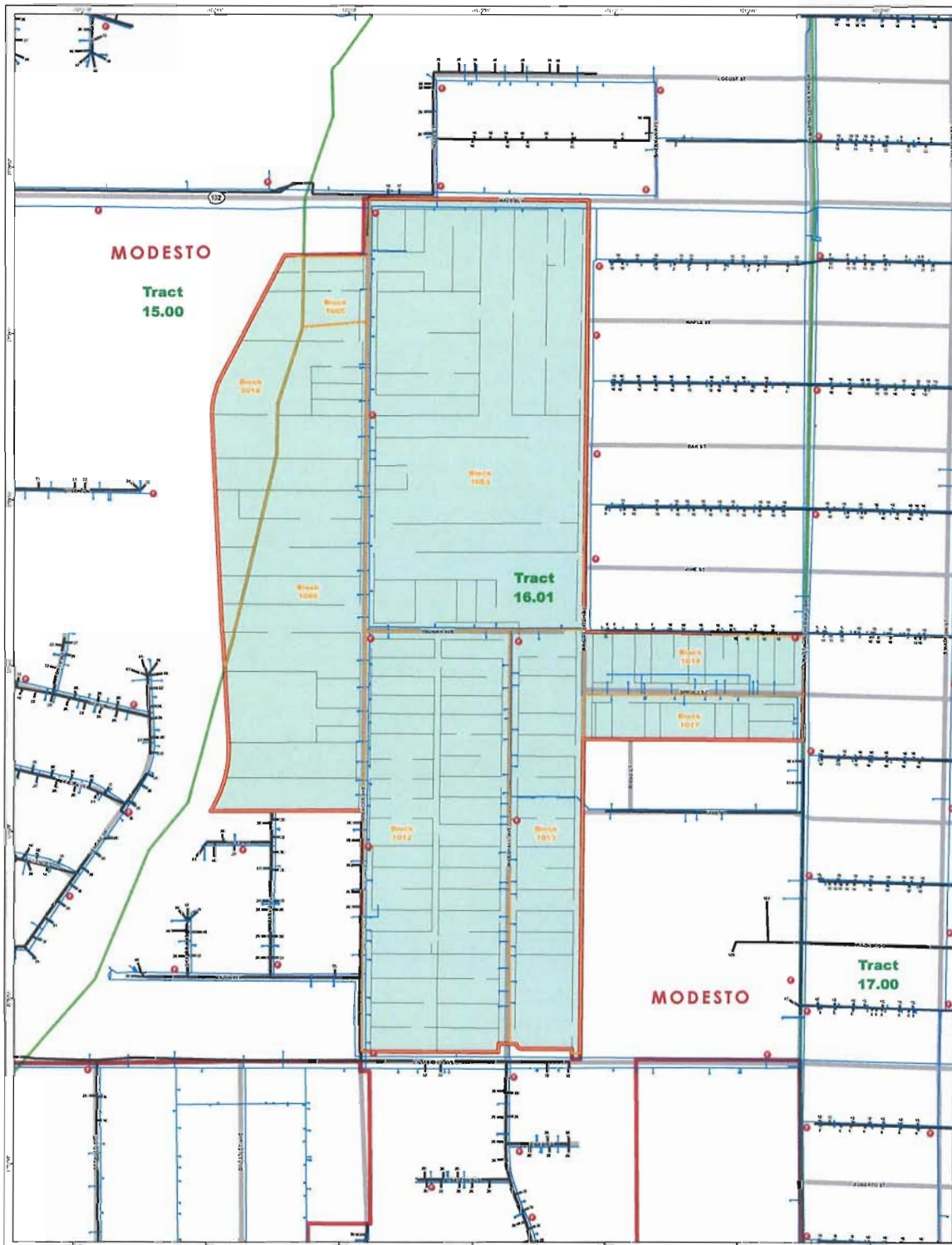
Stanislaus Local Agency Formation Commission  
Attn: Executive Officer  
1010 10<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Modesto, CA 95354

# West Modesto Sewer Infrastructure Project Area Map



Date: 6/11/2018





### CDBG Project Area Map Spencer and Marshall Neighborhood

Stanislaus County Planning and  
Community Development Department  
1010 16th St. Suite 3400 Modesto, CA 95354

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

---

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

This Agreement is made in the City of Modesto, County of Stanislaus, State of California, by and between, the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called CITY, and «Owner\_Names», and «Owner\_2\_Name», hereinafter called OWNER, and entered into on the date the last party executes said agreement.

This Agreement is made with reference to the following recitals:

- A. OWNER desires to have sewer service from CITY to his property located outside the City limits of CITY;
- B. CITY is agreeable to providing said sewer service under the following terms and conditions,

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

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

Address: «Address» \_\_\_\_\_

APN: «APN» \_\_\_\_\_

«Legal\_Description» (See Exhibit "A")

- 2. In the event OWNER, for whatever reason, fails to take whatever action is necessary to annex said property when requested to do so by City, City may at its election

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

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

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

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

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

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

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

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

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

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

**CITY:**

CITY OF MODESTO,  
a California municipal corporation

By: \_\_\_\_\_  
JOSEPH P. LOPEZ  
City Manager

**OWNER:**

By: \_\_\_\_\_  
«Owner\_1»  
Date \_\_\_\_\_

By: \_\_\_\_\_  
«Owner\_2»  
Date \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
STEPHANIE LOPEZ  
City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
ADAM U. LINDGREN  
City Attorney

**APPROVED AS TO SUFFICIENCY:**

**OFFICE OF THE CITY ENGINEER**

By: \_\_\_\_\_  
VICKY DION  
City Engineer



## ACKNOWLEDGMENT

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

State of California

County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared «Owner 1» and «Owner 2» \_\_\_\_\_,  
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 \_\_\_\_\_

(Seal)

Departmental Information:

LOCATION OF PROPERTY

«Address»

Street Address

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

«Mailing Address»

Street Address

«City», «State» «ZIP Code»

City

«Home Phone»

Phone Number

OWNER'S AGENT  
(if any)

Name

Address

City

## 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 \_\_\_\_\_, 2019, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter called "CITY", and «Owner\_Names», «Owner\_Description\_», hereinafter called "OWNER".

This Agreement is made with reference to the following recitals:

1. CITY and OWNER entered into an Outside Service Agreement on \_\_\_\_\_, 2019 (hereinafter "OSA"). That Agreement required OWNER to do any and all acts necessary to annex the following described property to CITY when requested to do so by CITY:

Address: «Address» \_\_\_\_\_

APN: «APN» \_\_\_\_\_

«Legal\_Description»

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

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

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

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

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

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

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

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

D. In consideration of OWNER'S agreements contained herein, CITY agrees to accept this waiver as a partial discharge of OWNER'S duties and obligations under the OSA, with respect to OWNER'S duty thereunder to do all things necessary to annex its property to the CITY when requested to do so by CITY.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attested by its City Clerk on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, and OWNER has executed the Agreement the day and year first above written.

**CITY:**

CITY OF MODESTO,  
a California municipal corporation

By: \_\_\_\_\_  
JOSEPH P. LOPEZ  
City Manager

**OWNER:**

By: \_\_\_\_\_  
«Owner\_1»  
Date \_\_\_\_\_

By: \_\_\_\_\_  
«Owner\_2»  
Date \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
STEPHANIE LOPEZ  
City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
ADAM U. LINDGREN  
City Attorney

## ACKNOWLEDGMENT

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

State of California

County of \_\_\_\_\_)

On \_\_\_\_\_ before me,

\_\_\_\_\_

(insert name and title of the officer)

personally appeared «Owner 1» and «Owner 2»

\_\_\_\_\_, 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 \_\_\_\_\_

(Seal)

**WEST MODESTO SEWER INFRASTRUCTURE PROJECT  
SPENCER/MARSHALL NEIGHBORHOOD  
AGREEMENT**

This Agreement ("Agreement") is entered into between City of Modesto ("City") and Stanislaus County ("County") as of Sept 3rd 2019 ("Effective Date").  
(The City and County are collectively referred to herein as "The Parties".)

**RECITALS**

WHEREAS, the Spencer/Marshall Community (County Area 7) is an unincorporated, disadvantaged community located on the west side side of the City of Modesto with approximately 114, primarily residential, parcels that rely on septic systems for treatment of sewage ("Spencer/Marshall Community"); and

WHEREAS, the Spencer/Marshall Community's septic systems are failing and pose a threat to the public health and ground water; and

WHEREAS, City owns and operates a sanitary sewer system adjacent to Spencer/Marshall Community and is willing to provide sewer services to the Spencer/Marshall Community; and

WHEREAS, the County will prepare preliminary plans for the construction of a sanitary sewer system for the Spencer/Marshall Community (the "West Modesto – County Area 7 Sewer Infrastructure Project" or the "Project"), which will be connected to the City of Modesto's sewer system; and

WHEREAS, prior to Project's construction, the City will review and approve Project plans and specifications; and

WHEREAS, County will submit a grant application to the State Water Resources Control Board ("SWRCB") for financing through the Clean Water State Revolving Fund and will enter into a "Grant Agreement" for funding necessary to construct Project Improvements (the "Grant"); and

WHEREAS, the terms of the Grant require certain continuing obligations with respect to the Project; and

WHEREAS, this Agreement is contingent upon County's ability to secure appropriate funding for the construction of this project; and

WHEREAS, the Parties have agreed that upon completion of the project the County will transfer ownership of the Project to the City and the City will maintain and operate the Project; and

NOW THEREFORE, the parties agree as follows:

#### **AGREEMENT**

1. Recitals. The above Recitals and are incorporated hereto as though fully set forth herein.
2. Scope of Work. The Parties agree that the construction of the Project improvements will conform to the plans and specifications approved by the County and the City. County will be the official Construction Manager for this project. However, the Parties will jointly inspect the construction of the Project.
3. City's Responsibilities. City will inspect the Project during construction for conformance with the plans and specifications and for conformance with City standards. The scope of City's services consists of:
  - a. During the design phase, the City will review Project plans, specifications, flow calculation connection fees and other project related materials. The City will coordinate plan review process with various relevant City departments and staff. The City shall facilitate Project's design by ensuring that the proposed City water improvements do not conflict with proposed project improvements. If any potential conflicts are identified during plan review process, the City shall immediately inform the County and assist the County with designing appropriate solution.
  - b. As necessary, City will supply to the County various information or documentation required for the Grant application.
  - c. Construction Inspection: City and County shall jointly inspect the construction of project improvements. City's inspections will focus on the construction of the sewer system and associated facilities.
  - d. Upon Project's completion, on annual basis the City will provide the County with a count of parcels that have connected to the constructed project improvements.
4. County's Responsibilities. County shall be responsible for all phases of project design. Prior to Project's construction, the County will allow the City to review improvements plans and related documents. Upon completion of final design, the County will advertise the Project, conduct bid opening, award construction contract, and manage construction of project improvements.



5. County's Costs. County will design and construct the Project at no cost to the City.
6. City's Costs. County will reimburse City for "Construction Inspection" services described above. The City has estimated the total cost for the above-mentioned services to be \$48,966.
7. City Acceptance of the Project. Once Project is constructed, County will file a Notice of Completion and submit a copy to the City. Within 60 days of the completion of the final inspection of the Project, City shall accept the County's transfer of ownership of the Project improvements.
8. Connection Fees. Upon completion of the improvements, County will pre-pay the sewer connection fees for approximately 114 parcels as detailed in Attachment A. The actual number of parcels serviced by this project is contingent on the Grant amount. The total estimated connection fees for the Project are shown in Attachment A and are estimated to be \$408,330. This amount will satisfy all connection fees related to the 114 parcels, including the sewer sub-trunk fee, the Waste Water Capacity Charge (WWCC) and the Outside Service Agreement fee. By entering into this agreement, the City acknowledges that information in the Attachment A has been reviewed to City's satisfaction and the total estimate shown above is consistent with the latest City requirements and charges. City shall verify information shown in the Attachment A and provide County with any credits for non-residential parcels. The actual pre-payment amount for the total connection fees shall be based on the actual numbers of parcels served with sanitary sewer. For the purposes of this agreement, the sewer connection fee rates shall be considered adopted by the City Council and are as shown in the Attachment A.
9. Grant Eligibility. The City certified that sewer service rates for Project's community are at least 2.0% of the Project's community median household income.
10. Project Access. The Parties agree to ensure that the SWRCB, the Governor of the State, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during Project construction and thereafter for the term of the County's Obligation under the Grant. The Parties acknowledge that, except for a subset of archeological records, the Project records and locations are public records, including all of the submission accompanying the application, all of the following documents, and all reports, disbursement requests, and supporting documentation submitted under the Grant:
  - a. The Project improvement plans and specifications, which are the basis for the construction contract to be awarded by the County.
  - b. Waste Discharge Requirement Order No. R-5-2017-0064.

11. Project Completion; Initiation of Operation. Upon Completion of Construction of the Project, the City agrees to expeditiously initiate System Operations.
12. Continuous Use of Project: Lease or Disposal of Project. The City agrees that, except as provided in the Grant, it will not abandon, substantially discontinue use of, lease, or dispose of the Project or any significant part or portion thereof during the useful life of the Project without prior written approval of the State Water Board. Such approval may be conditioned as determined to be appropriate by the State Water Board.
13. As Needed Reports. The Parties agree to expeditiously provide, during the term of Grant, such reports, data, and information as may be reasonably required by the State Water Board, including but not limited to material necessary or appropriate for evaluation of the State Water Pollution Control Revolving Fund Small Community Grant Fund Program or to fulfill any reporting requirements of the federal government.
14. As Needed Records. The Parties agree, during the term of Grant, to establish such accounts and maintain such records as may be necessary for the State to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations.
15. Keeping of Records. The Parties shall maintain separate books, records and other material relative to the Project. The Parties shall also retain such books, records, and other material for themselves and for each contractor or subcontractor who performed work on this project for a minimum of thirty-six (36) years after Project Completion. The Parties shall require that such books, records, and other material be subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the SWRCB, the Bureau of State Audits, the Governor, or any authorized representatives of the aforementioned, and shall allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Parties agree to include a similar right regarding audit, interviews, and records retention in any subcontract related to the performance of this Grant. The provisions of this section shall survive the term of this Agreement.
16. Audit. (a) The SWRCB, at its option, may call for an audit of financial information relative to the Project, where the SWRCB determines that an audit is desirable to assure program integrity or where such an audit becomes necessary because of federal requirements. Where such an audit is called for, the audit shall be performed by a certified public accountant independent of the audited Party and at the shared cost of the Parties. The audit shall be in the form required by the

SWRCB; (b) Audit disallowances will be paid by the responsible party and returned to the SWRCB.

17. Accounting and Auditing Standards. The County and City will maintain separate Project accounts in accordance with generally accepted accounting principles. The City shall comply with "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" promulgated by the U.S. General Accounting Office. (40 CFR § 35.3135, subd. (I).)
18. No Sale, Lease or Private Operation of the Project. The City will not sell or otherwise disposed of, in whole or in part, any portion of the Project to any person who is not a Governmental Unit during its useful life. The Project will not be leased to any person or entity that is not a Governmental Unit during its useful life. The City will not enter any contract or arrangement or cause or permit any contract or arrangement to be entered (to the extent of its reasonable control) with persons or entities that are not Governmental Units if that contract or arrangement would confer on such persons or entities any right to use the Project on a basis different from the right of members of the general public. The contracts or arrangements contemplated by the preceding sentence include but are not limited to management contracts, take or pay contracts or put or pay contracts, and capacity guarantee contracts. The economic useful life of the Project, commencing at Project Completion, is at least thirty years.
19. Indemnity.
  - a. Each Party mutually agrees, pursuant to Government Code section 894.5, to indemnify, hold harmless, and defend the other Party, its boards and commissions, officers, agents, employees, and volunteers (collectively, the "indemnified Parties") in an amount equal to its proportionate share of liability on a comparative fault basis. This indemnity obligation shall exist with respect to any claim, loss, liability, damage, lawsuit, cost or expense that arises out of, or is any way related to, the performance of services pursuant to this Agreement. This indemnity obligation extends, without limitation, to any injury, death, loss, or damage which occurs in the performance of the Agreement and that is sustained by a third-party, agent, or contractor of a Party. Each Party executing this Agreement certifies that it has adequate self-insured retention of funds to meet any obligation arising from this Agreement, and it shall continue to maintain such funds throughout the Term of this Agreement. Notwithstanding the foregoing, nothing herein shall be construed to require any Party to indemnify any other Party from any claim arising from the sole negligence or willful misconduct of another Party. Nothing in this section shall be construed as authorizing an award of attorney fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any

insurance policies are applicable. Any policy limits shall not act as a limitation upon the amount of indemnification to be provided.

- b. At its sole discretion, the indemnified Party may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve the indemnitor of any obligation imposed by this Agreement. The Parties shall notify each other promptly of any claim, action or proceeding and cooperate fully in the defense. The Parties agree to defend themselves from any claim, action or proceeding arising out of the concurrent acts or omissions of each Party. In such cases, the Parties agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs. Where a trial verdict or arbitration award allocates or determines the comparative fault of the Parties, the Parties may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault. The provisions of this section shall survive the termination of this Agreement.

- 20. Amendments. This Agreement may be amended or provisions contained herein may be altered, changed, or amended for the Project only by mutual written agreement signed and approved by the respective approving authorities of City and County. No oral understanding or agreement, not incorporated herein, shall be binding on any of the parties hereto.
- 21. Notices. Any notice which may be required under this Agreement shall be in writing and shall be given by personal service, first-class mail, certified or registered mail return receipt requested, or overnight delivery to the addresses set forth below:

Stanislaus County:  
David Leamon, Director  
Department of Public Works  
1716 Morgan Road  
Modesto CA 95358

City of Modesto:  
William Wong, Director  
Utilities Department  
1010 10<sup>th</sup> Street, Suite 4500  
Modesto, California 95354

All notices and other communications shall be deemed communicated as of actual receipt or after the second business day after the notice has been dispatched. The parties may change their respective address by giving notice of such change to the other party in the manner provided in this Section.

- 22. Necessary Documents. As may become necessary for the construction and delivery of the Project, through City and County cooperation, the Stanislaus County Director of Public Works and City's Authorized Representative are authorized to administer and execute, by mutual written consent, all documents

necessary to complete the Project, provided that such actions do not exceed the authority of this Agreement.

23. Enforceable Provisions. Should any of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either of the Parties to enter and carry out, such determination shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the Parties.
24. Termination. This Agreement may be terminated only by mutual written agreement signed and approved by the respective approving authorities of City and County.
25. Counterpart. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2019-398, adopted by the Council of the City of Modesto on the 3rd day of Sept., 2019, and County has authorized the execution of this Agreement in duplicate by the Director of the Department of Public Works under authority of Resolution No. 2019-0485, adopted by the Board of Supervisors of Stanislaus County on the 30th day of July, 2019.

**CITY OF MODESTO**

a municipal corporation

By:   
Joseph Lopez  
City Manager

ATTEST:


By:   
Stephanie Lopez  
City Clerk

APPROVED AS TO FORM:  
Adam U. Lindgren, City Attorney

By:   
Jose M. Sanchez  
~~Assistant City Attorney~~

**COUNTY OF STANISLAUS**

a political subdivision of the  
State California

By:   
Terrance Withrow  
Chairman of the Board of Supervisors

ATTEST:


Elizabeth A. King  
Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

By:   
Allison Lamberton  
Deputy Clerk

APPROVED AS TO CONTENT:

By:   
David Leamon  
Director of Public Works

APPROVED AS TO FORM:  
Thomas E. Boze, County Counsel

By:   
Todd James  
Deputy County Counsel

<b>ATTACHMENT A</b> <b>West Modesto Sewer</b> <b>Spencer/Matshall Ave Community (County Area 7) Project</b> <b>Estimated Connection Fees</b>											
No.	APN	#	Address	Acres (APN + 1/2 RW)	Use Code	Dwellings	Size	Sub- Trunk Fee	WWCC Fee*	OSA Fee \$211	Total Fees
1	030-004-002	113	Spencer Ave	0.31	SF	1	4	\$200	\$2,643	\$211	\$3,054
2	030-004-003	121	Spencer Ave	0.39	Vacant	1	4	\$251	\$2,643	\$211	\$3,105
3	030-004-004	127	Spencer Ave	1.20	Vacant	1	4	\$775	\$2,643	\$211	\$3,629
4	030-004-005	207	Spencer Ave	1.68	SF	1	4	\$1,083	\$2,643	\$211	\$3,937
5	030-004-006	211	Spencer Ave	0.19	SF	1	4	\$124	\$2,643	\$211	\$2,978
6	030-004-007	215	Spencer Ave	0.18	SF	1	4	\$119	\$2,643	\$211	\$2,973
7	030-004-008	221	Spencer Ave	0.19	SF	1	4	\$122	\$2,643	\$211	\$2,976
8	030-004-009	227	Spencer Ave	1.39	MS	1	6	\$895	\$2,643	\$211	\$3,749
9	030-004-010	301	Spencer Ave	1.01	MS	5	6	\$653	\$10,755	\$211	\$11,619
10	030-004-013	323	Spencer Ave	0.89	MF	2	6	\$575	\$4,302	\$211	\$5,088
11	030-004-014	333	Spencer Ave	0.87	SF	1	4	\$559	\$2,643	\$211	\$3,413
12	030-004-015	337	Spencer Ave	0.84	MS	1	6	\$541	\$2,643	\$211	\$3,395
13	030-004-016	311	Spencer Ave	0.88	SF	1	4	\$569	\$2,643	\$211	\$3,423
14	030-004-017	319	Spencer Ave	0.89	SF	1	4	\$575	\$2,643	\$211	\$3,429
15	030-005-001	523	Maze Blvd	1.82	MF	2	6	\$1,172	\$4,302	\$211	\$5,685
16	030-005-002	527	Maze Blvd	0.23	SF	1	4	\$148	\$2,643	\$211	\$3,002
17	030-005-003	531	Maze Blvd	1.49	SF	1	4	\$959	\$2,643	\$211	\$3,813
18	030-005-004	539	Maze Blvd	1.49	SF	1	4	\$963	\$2,643	\$211	\$3,817
19	030-005-005	541	Maze Blvd	0.55	SF	1	4	\$355	\$2,643	\$211	\$3,209
20	030-005-006	545	Maze Blvd	0.55	SF	1	4	\$356	\$2,643	\$211	\$3,210
21	030-005-007	601	Maze Blvd	0.22	SF	1	4	\$141	\$2,643	\$211	\$2,995
22	030-005-008	606	Maze Blvd	0.36	Vacant	1	4	\$229	\$2,643	\$211	\$3,083
23	030-005-009	114	Spencer Ave	0.21	SF	1	4	\$138	\$2,643	\$211	\$2,992
24	030-005-010	118	Spencer Ave	0.22	SF	1	4	\$141	\$2,643	\$211	\$2,995
25	030-005-011	128	Spencer Ave	0.95	SF	1	4	\$610	\$2,643	\$211	\$3,464
26	030-005-012	204	Spencer Ave	0.94	SF	1	4	\$603	\$2,643	\$211	\$3,457
27	030-005-013	214	Spencer Ave	0.50	SF	1	4	\$321	\$2,643	\$211	\$3,175
28	030-005-014	220	Spencer Ave	0.47	SF	1	4	\$304	\$2,643	\$211	\$3,158
29	030-005-015	226	Spencer Ave	1.02	SF	1	4	\$658	\$2,643	\$211	\$3,512
30	030-005-016	230	Spencer Ave	3.80	MS	3	6	\$2,448	\$6,453	\$211	\$9,112
31	030-005-017	304	Spencer Ave	0.21	SF	1	4	\$134	\$2,643	\$211	\$2,988
32	030-005-018	320	Spencer Ave	1.34	MS	1	6	\$866	\$2,643	\$211	\$3,720
33	030-005-020	611	Truman Ave	0.21	SF	1	4	\$138	\$2,643	\$211	\$2,992
34	030-005-021	617	Truman Ave	0.45	SF	1	4	\$291	\$2,643	\$211	\$3,145
35	030-005-022	326	Spencer Ave	0.23	SF	1	4	\$150	\$2,643	\$211	\$3,004
36	030-005-023	330	Spencer Ave	0.32	SF	1	4	\$205	\$2,643	\$211	\$3,059
37	030-005-024	603	Truman Ave	0.21	SF	1	4	\$137	\$2,643	\$211	\$2,991
38	030-005-026	533	Truman Ave	2.24	MS	1	6	\$1,445	\$2,643	\$211	\$4,299
39	030-008-003	415	Spencer Ave	1.53	MS	2	6	\$987	\$4,302	\$211	\$5,500

<b>ATTACHMENT A</b> <b>West Modesto Sewer</b> <b>Spencer/Matshall Ave Community (County Area 7) Project</b> <b>Estimated Connection Fees</b>											
No.	APN	#	Address	Acres (APN + 1/2 RW)	Use Code	Dwellings	Size	Sub- Trunk Fee	WWCC Fee*	OSA Fee \$211	Total Fees
40	030-008-004	417	Spencer Ave	0.16	SF	1	4	\$105	\$2,643	\$211	\$2,959
41	030-008-005	503	Spencer Ave	1.02	MS	4	6	\$655	\$8,604	\$211	\$9,470
42	030-008-006	511	Spencer Ave	1.01	MS	2	6	\$654	\$4,302	\$211	\$5,167
43	030-008-015	409	Spencer Ave	0.30	SF	1	4	\$191	\$2,643	\$211	\$3,045
44	030-008-016	405	Spencer Ave	1.24	SF	1	4	\$798	\$2,643	\$211	\$3,652
45	030-009-002	404	Marshall Ave	0.30	SF	1	4	\$190	\$2,643	\$211	\$3,044
46	030-009-003	408	Marshall Ave	0.59	SF	1	4	\$381	\$2,643	\$211	\$3,235
47	030-009-004	416	Marshall Ave	0.34	SF	1	4	\$220	\$2,643	\$211	\$3,074
48	030-009-005	500	Marshall Ave	0.34	SF	1	4	\$220	\$2,643	\$211	\$3,074
49	030-009-006	504	Marshall Ave	0.33	SF	1	4	\$210	\$2,643	\$211	\$3,064
50	030-009-007	508	Marshall Ave	0.32	SF	1	4	\$209	\$2,643	\$211	\$3,063
51	030-009-008	512	Marshall Ave	0.32	SF	1	4	\$209	\$2,643	\$211	\$3,063
52	030-009-009	516	Marshall Ave	0.44	SF	1	4	\$286	\$2,643	\$211	\$3,140
53	030-009-010	600	Marshall Ave	0.33	SF	1	4	\$216	\$2,643	\$211	\$3,070
54	030-009-011	604	Marshall Ave	0.34	SF	1	4	\$216	\$2,643	\$211	\$3,070
55	030-009-012	608	Marshall Ave	0.34	SF	1	4	\$216	\$2,643	\$211	\$3,070
56	030-009-013	612	Marshall Ave	0.33	SF	1	4	\$216	\$2,643	\$211	\$3,070
57	030-009-014	616	Marshall Ave	0.35	SF	1	4	\$224	\$2,643	\$211	\$3,078
58	030-009-015	529	California Ave	1.69	Church	2	6	\$1,089	\$4,302	\$211	\$5,602
59	030-009-017	617	Marshall Ave	0.33	SF	1	4	\$213	\$2,643	\$211	\$3,067
60	030-009-018	613	Marshall Ave	0.31	MS	3	6	\$203	\$6,453	\$211	\$6,867
61	030-009-019	609	Marshall Ave	0.31	SF	1	4	\$203	\$2,643	\$211	\$3,057
62	030-009-020	605	Marshall Ave	0.31	SF	1	4	\$203	\$2,643	\$211	\$3,057
63	030-009-021	601	Marshall Ave	0.31	SF	1	4	\$203	\$2,643	\$211	\$3,057
64	030-009-022	517	Marshall Ave	0.32	SF	1	4	\$208	\$2,643	\$211	\$3,062
65	030-009-023	513	Marshall Ave	0.40	MS	2	6	\$259	\$4,302	\$211	\$4,772
66	030-009-024	509	Marshall Ave	0.31	SF	1	4	\$197	\$2,643	\$211	\$3,051
67	030-009-025	505	Marshall Ave	0.31	SF	1	4	\$197	\$2,643	\$211	\$3,051
68	030-009-026	501	Marshall Ave	0.32	MS	1	6	\$206	\$2,643	\$211	\$3,060
69	030-009-027	417	Marshall Ave	0.29	SF	1	4	\$190	\$2,643	\$211	\$3,044
70	030-009-028	413	Marshall Ave	0.28	SF	1	4	\$178	\$2,643	\$211	\$3,032
71	030-009-030	401	Marshall Ave	0.41	SF	1	4	\$266	\$2,643	\$211	\$3,120
72	030-009-031	400	Spencer Ave	0.40	SF	1	4	\$257	\$2,643	\$211	\$3,111
73	030-009-032	404	Spencer Ave	0.28	SF	1	4	\$178	\$2,643	\$211	\$3,032
74	030-009-033	408	Spencer Ave	0.28	MS	1	6	\$178	\$2,643	\$211	\$3,032
75	030-009-034	412	Spencer Ave	0.28	MS	1	6	\$178	\$2,643	\$211	\$3,032
76	030-009-035	418	Spencer Ave	0.29	MS	2	6	\$190	\$4,302	\$211	\$4,703
77	030-009-036	500	Spencer Ave	0.38	SF	1	4	\$244	\$2,643	\$211	\$3,098



ATTACHMENT A											
West Modesto Sewer											
Spencer/Matshall Ave Community (County Area 7) Project											
Estimated Connection Fees											
No.	APN	#	Address	Acres (APN + 1/2 RW)	Use Code	Dwellings	Size	Sub- Trunk Fee	WWCC Fee*	OSA Fee \$211	Total Fees
78	030-009-037	504	Spencer Ave	0.29	SF	1	4	\$188	\$2,643	\$211	\$3,042
79	030-009-038	508	Spencer Ave	0.29	SF	1	4	\$188	\$2,643	\$211	\$3,042
80	030-009-039	512	Spencer Ave	0.29	SF	1	4	\$188	\$2,643	\$211	\$3,042
81	030-009-040	516	Spencer Ave	0.41	SF	1	4	\$262	\$2,643	\$211	\$3,116
82	030-009-041	600	Spencer Ave	0.32	SF	1	4	\$203	\$2,643	\$211	\$3,057
83	030-009-042	604	Spencer Ave	0.31	SF	1	4	\$203	\$2,643	\$211	\$3,057
84	030-009-043	608	Spencer Ave	0.31	SF	1	4	\$203	\$2,643	\$211	\$3,057
85	030-009-044	612	Spencer Ave	0.31	SF	1	4	\$203	\$2,643	\$211	\$3,057
86	030-009-045	616	Spencer Ave	0.33	SF	1	4	\$213	\$2,643	\$211	\$3,067
87	030-009-046	700	Spencer Ave	0.39	SF	1	4	\$254	\$2,643	\$211	\$3,108
88	030-009-047	704	Spencer Ave	0.39	SF	1	4	\$254	\$2,643	\$211	\$3,108
89	030-009-048	712	Spencer Ave	0.39	SF	1	4	\$254	\$2,643	\$211	\$3,108
90	030-009-049	716	Spencer Ave	0.56	SF	1	4	\$361	\$2,643	\$211	\$3,215
91	030-009-052	701	Marshall Ave	0.36	SF	1	4	\$234	\$2,643	\$211	\$3,088
92	030-009-053	705	Marshall Ave	0.36	SF	1	4	\$234	\$2,643	\$211	\$3,088
93	030-009-054	607	California Ave	0.50	SF	1	4	\$325	\$2,643	\$211	\$3,179
94	030-009-055	713	Marshall Ave	0.36	SF	1	4	\$231	\$2,643	\$211	\$3,085
95	030-009-056	409	Marshall Ave	0.28	SF	1	4	\$178	\$2,643	\$211	\$3,032
96	030-009-057	405	Marshall Ave	0.28	SF	1	4	\$178	\$2,643	\$211	\$3,032
97	030-009-058	400	Marshall Ave	0.43	SF	1	4	\$275	\$2,643	\$211	\$3,129
98	030-010-005	420	Spruce Street	0.20	SF	1	4	\$132	\$2,643	\$211	\$2,986
99	030-010-006	422	Spruce Street	0.18	SF	1	4	\$119	\$2,643	\$211	\$2,973
100	030-010-007	426	Spruce Street	0.28	MS	2	6	\$180	\$4,302	\$211	\$4,693
101	030-010-008	428	Spruce Street	0.21	SF	1	4	\$132	\$2,643	\$211	\$2,986
102	030-010-009	430	Spruce Street	0.28	MS	3	6	\$180	\$6,453	\$211	\$6,844
103	030-010-013	433	Spruce Street	0.16	SF	1	4	\$106	\$2,643	\$211	\$2,960
104	030-010-014	431	Spruce Street	0.16	SF	1	4	\$106	\$2,643	\$211	\$2,960
105	030-010-015	429	Spruce Street	0.16	SF	1	4	\$106	\$2,643	\$211	\$2,960
106	030-010-016	427	Spruce Street	0.15	SF	1	4	\$99	\$2,643	\$211	\$2,953
107	030-010-017	425	Spruce Street	0.18	SF	1	4	\$118	\$2,643	\$211	\$2,972
108	030-010-018	423	Spruce Street	0.20	MF	4	6	\$126	\$8,604	\$211	\$8,941
109	030-010-019	413	Spruce Street	0.16	SF	1	4	\$105	\$2,643	\$211	\$2,959
110	030-010-021	401	Spruce Street	0.20	SF	1	4	\$129	\$2,643	\$211	\$2,983
111	030-010-022	505	S Martin Luther Kin Dr	0.33	SF	1	4	\$214	\$2,643	\$211	\$3,068
112	030-010-033	409	Spruce Street	0.17	SF	1	4	\$107	\$2,643	\$211	\$2,961
113	030-010-034	411	Spruce Street	0.17	SF	1	4	\$107	\$2,643	\$211	\$2,961
114	030-010-036	414	Spruce Street	0.23	SF	1	4	\$146	\$2,643	\$211	\$3,000
				59.28		138	114	\$38,238	\$346,038	\$24,054	\$408,330
*WWCC fee rate for Single Family (SF) = \$2,643				4-inch service: 93							
*WWCC fee rate for Multi Family (MF) = \$2,151				6-inch service: 21							
								Assuming one service per APN, Sub-Trunk Fee was calculated using \$645/Acre.			



May 29, 2019

**Utilities  
Department**

1010 Tenth Street  
Suites 4500 & 4600  
P.O. Box 642  
Modesto, CA 95353

**Administration**  
(209) 577-5213  
(209) 577-5477 Fax

**Capital  
Improvement  
Services:**

**Capital Planning**  
(209) 577-5215  
(209) 522-1780 Fax

**Construction  
Administration**  
(209) 577-5452  
(209) 577-4302 Fax

**Engineering  
Design**  
(209) 577-5215  
(209) 522-1780 Fax

Hearing and Speech  
Impaired Only  
TDD 1-800-735-2929

Stanislaus County  
Angela Freitas, Director of Planning & Community Development  
1010 Tenth Street, Suite 4300  
Modesto, CA 95354

**Subject: Request for Affirmation of Capacity and Willingness of the City of Modesto to serve the West Modesto Sewer Infrastructure Project's Sewer flows and Request for Submission of an Out-of-Boundary Service Application Request for an Area-wide Approval to Extend Sewer Service to the West Modesto Sewer Infrastructure Project Area**

This letter is in response to the request submitted by Stanislaus County (County) dated February 15, 2019, for the City of Modesto to consider and formally affirm whether it has the capacity and availability to serve the West Modesto Sewer Infrastructure Project's sewer flows. In addition, the County requested that the City of Modesto consider submitting an Out-of-Boundary Service Application with the Stanislaus Local Agency Formation Commission (LAFCO) for the City to provide wastewater collection and treatment for the West Modesto Sewer Infrastructure Project areas. The County has agreed to prepare and fill-out the application form and cover the cost of Stanislaus LAFCO's application fees for consideration of an Out-of-Boundary Service Application for the collection system and treatment system for sanitary sewer flows from the West Modesto Sewer Infrastructure Project Area.

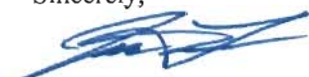
It is understood that the West Modesto Infrastructure Project Area includes three neighborhoods identified as Area 7 (Spencer/Marshall), Area 9 (Rouse/Colorado) and Area 21 (Beverly/Waverly). The City has verified that the project areas received a positive Measure M vote in 2015.

Based on studies performed in the City's Wastewater Master Plan, the City affirms capacity and willingness to serve the West Modesto Sewer Infrastructure Project areas. The City affirms Submission of an Out-of-Boundary Service Application Request for an Area-wide Approval to Extend Sewer Service to the West Modesto Sewer Infrastructure Project Area

The City of Modesto values and appreciates the partnership with Stanislaus County and looks forward to these sewer improvement projects.

If you have any questions, please contact me at (209) 571-5175.

Sincerely,

  
Jesse Franco, P.E.  
Engineering Division Manager  
Utilities Department  
[jfranco@modestogov.com](mailto:jfranco@modestogov.com)

CC: William Wong, Director of Utilities, City of Modesto  
David Leamon, Director, Stanislaus County Public Works  
Miguel Galvez, Deputy Director of Planning & Community Development

*Citizens First!*



**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

1010 10<sup>TH</sup> Street, Suite 3400, Modesto, CA 95354  
Planning Phone: (209) 525-6330 Fax: (209) 525-5911  
Building Phone: (209) 525-6557 Fax: (209) 525-7759

February 15, 2019

Mr. William Wong, P.E.  
Director of Utilities  
Utility Department  
City of Modesto  
1010 10<sup>th</sup> Street, Suite 4500  
Modesto, CA 95354

**SUBJECT: Request for Affirmation of Capacity and Willingness of the City of Modesto to serve the West Modesto Sewer Infrastructure Project's Sewer flows and Request for Submission of an Out-of-Boundary Service Application Request for an Area-wide Approval to Extend Sewer Service to the West Modesto Sewer Infrastructure Project Area**

Dear Mr. Wong,

In confirmation of the County's understanding based on previous input from the City, please accept this letter as a formal request for the City of Modesto to consider and formally affirm whether it has the capacity and availability to serve the West Modesto Sewer Infrastructure Project's sewer flows. In addition, the County is requesting that the City of Modesto consider submitting an Out-of-Boundary Service Application with the Stanislaus Local Agency Formation Commission (LAFCO) for the City to provide wastewater collection and treatment for the West Modesto Sewer Infrastructure Project areas.

The West Modesto Sewer Infrastructure Project consists of the County's installation of a new sanitary sewer system in three unincorporated neighborhoods depicted on Exhibit A. The intent of the project is to remedy failing septic tanks in these three neighborhoods. The County will apply federal and state resources for the design, construction and installation of sewer mains and laterals in compliance with City Standard Specifications. The installation of sewer infrastructure will be phased by neighborhood. It is anticipated that ownership of the sewer improvements would be transferred to the City of Modesto upon completion of the work and City acceptance of improvements.

Stanislaus County completed the environmental assessment process in compliance with the California Environmental Quality Act (CEQA) and adopted a Negative Declaration on July 18, 2018. The County also completed the environmental assessment process in compliance with the National Environmental Policy Act (NEPA), refer to the Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58, which are available for review at: <http://www.stancounty.com/planning/cdbg/index.shtm>.

**STRIVING TOGETHER TO BE THE BEST!**

The three neighborhoods identified as Area 7 (Spencer and Marshall neighborhood), Area 9 (Rouse and Colorado Neighborhood), Area 21 (Beverly and Waverly neighborhood), are disadvantaged communities located in west Modesto with predominantly residential parcels that currently rely on septic tanks for the treatment of sewage.

The project is proposed in response to health and safety concerns associated with failing septic systems which could lead to the degradation of groundwater quality. The project will include the installation of a new sewer system and street reconstruction. It is estimated that the project will include the installation of up to 80,000 linear feet of gravity mains and approximately a combined total of 1,004 new house laterals with approximately 144 services in Area 7, approximately 333 services in Area 9, and approximately 527 services in Area 21.

The completed project will allow property owners to abandon their existing septic tanks and connect to a public sewer system. The new sewer infrastructure will connect into the City of Modesto's existing public sewer system. Upon completion of the project, project ownership will be transferred to the City of Modesto for operation and maintenance.

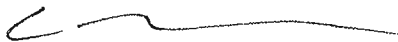
It is the County's understanding that the project areas were studied in the City's Wastewater Master Plan, incorporated into the City's wastewater system and there is capacity to accept flows from the project site. The County has contracted out engineering design and will soon be in a position to identify infrastructure needed to connect with the City system.

This project is federally funded with Community Development Block Grant funds administered by HUD. To fund the project's construction and final design, the County anticipates receiving grant funding from the Clean Water State Revolving Fund program administered by the State Water Resources Control Board.

The County is prepared to fill out the application form and cover the cost of Stanislaus LAFCO's application fees for consideration of an Out-of-Boundary Service Application for the collection and treatment of sanitary sewer flows from the West Modesto Sewer Infrastructure Project Area.

The County looks forward to the City's affirmative response.

Sincerely,



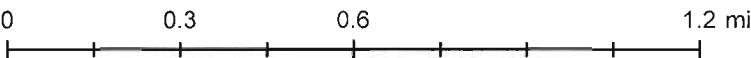
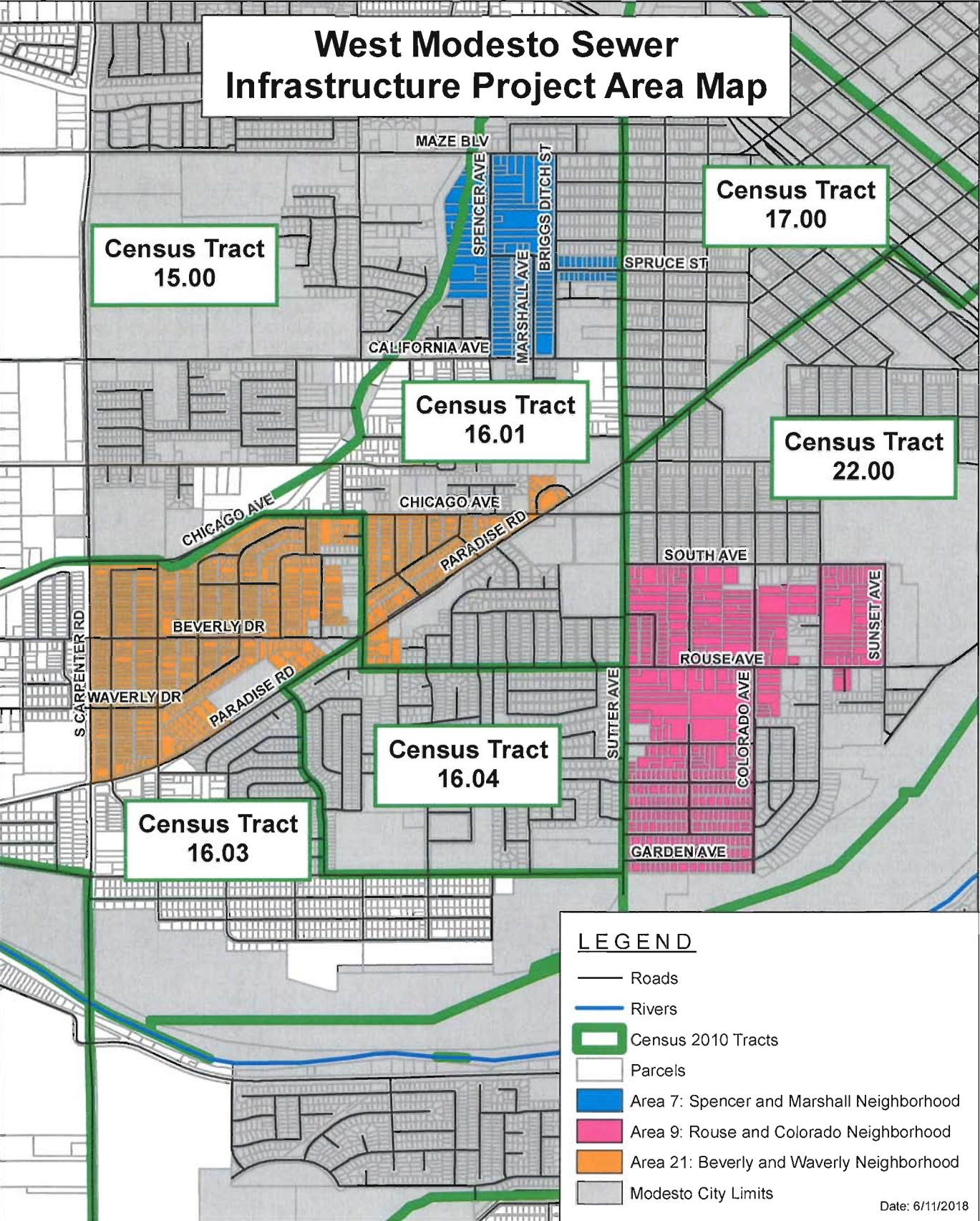
Angela Freitas, Director  
Planning and Community Development Department

Attachment:

Exhibit A: West Modesto Sewer Infrastructure Project Area Map

CC: David Leamon, Director, Stanislaus County Public Works Department  
Keith Boggs, Assistant Executive Officer, Chief Executive Office







FILED

2010 JUL 18 PM 2:44

STANISLAUS CO. CLERK-RECORDER  
Kalpana Suri

## NOTICE OF DETERMINATION

Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code

**Project Title:** West Modesto Sewer Infrastructure Project

**Applicant Information:** Miguel A. Galvez, Deputy Director  
Stanislaus County Planning and Community Development Department  
1010 10<sup>th</sup> Street, Suite 3400  
Modesto, CA 95354

**Project Location:** Spencer Avenue/Marshall Avenue, Beverly Drive/Waverly, and Rouse Avenue/Colorado Avenue in the City of Modesto, California.

**Description of Project:** The Beverly/Waverly neighborhood is located approximately 0.9 mile west of Highway 99 and is accessible from Paradise Road. The Rouse/Colorado neighborhood is located approximately 0.6 mile west of Highway 99 and is accessible from Tuolumne Boulevard and Roselawn Avenue (see Figures 1 through 3). The following street intersections and road segment are part of the project site: the California/Marshall Avenue intersection; Paradise Road/Pine Tree intersection; and approximately 100' east of the Lombardy Drive/Ritsch Lane intersection.

The Spencer/Marshall, Beverly/Waverly, and Rouse/Colorado neighborhoods are disadvantaged communities located in west Modesto with predominantly residential parcels that currently rely on septic tanks for the treatment of sewage. The project is proposed in response to health and safety concerns associated with failing septic systems which could lead to the degradation of groundwater quality. The project will include the installation of a new sewer system with approximately 80,000 linear feet of sewer main and street reconstruction. The completed project will allow property owners to abandon their existing septic tanks and connect to a public sewer system. The new sewer infrastructure will connect into the City of Modesto's existing public sewer system. Upon completion of the project, project ownership will be transferred to the City of Modesto for operation and maintenance.

Existing private septic systems and water services will remain active during project construction. No road closures are anticipated to occur and access to each residence will be maintained. Minor temporary detours for local traffic may take place. Temporary construction easements, utility easements, and encroachment permits may be needed on a limited basis to accommodate the installation of the proposed improvements. Construction for the Spencer/Marshall area is anticipated to last six months, for the Beverly/Waverly area eighteen months, and for the Rouse/Colorado area twelve months.

This project is federally funded with Community Development Block Grant funds administered by HUD. To fund the project's construction and final design, the County anticipates receiving grant funding from the Clean Water State Revolving Fund program administered by the State Water Resources Control Board. As such, the project requires compliance with both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). Stanislaus County is the lead agency for CEQA purposes and the responsible entity for NEPA purposes.



Name of Agency Approving Project: Stanislaus County Board of Supervisors

Lead Agency Contact Person: Miguel A. Galvez, Deputy Director

Telephone: (209) 525-6330

This is to advise that the Stanislaus County Board of Supervisors on **July 17, 2018**, approved the above described project and has made the following determinations regarding the above described project:

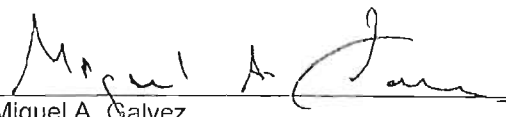
1. The project **will not** have a significant effect on the environment.
2. A **Negative Declaration** was prepared for this project pursuant to the provisions of CEQA.

The **Negative Declaration** and record of project approval may be examined at:  
Stanislaus County Department of Planning and Community Development  
1010 10<sup>th</sup> Street, Suite 3400  
Modesto, California 95354

3. Mitigation measures **were not** made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan **was not** adopted for this project.
5. A statement of Overriding Considerations **was not** adopted for this project.
6. Findings **were** made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the Negative Declaration, is available to the General Public @ <http://www.stancounty.com/planning/pl/agenda-min.shtm>

Dated July 18, 2018

  
Miguel A. Galvez,  
Deputy Director



State of California - Department of Fish and Wildlife

## 2018 ENVIRONMENTAL FILING FEE CASH RECEIPT

DFW 753.5a (Rev. 01/03/18) Previously DFG 753.5a

RECEIPT NUMBER:

50 — 2018 — 088

STATE CLEARINGHOUSE NUMBER (If applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY

Stanislaus County Planning

LEAD AGENCY EMAIL

DATE

07/18/2018

COUNTY/STATE AGENCY OF FILING

Stanislaus

DOCUMENT NUMBER

2018-088

PROJECT TITLE

West Modesto Sewer Infrastructure Project

PROJECT APPLICANT NAME

Stanislaus County Planning-Miguel A Galvez

PROJECT APPLICANT EMAIL

PHONE NUMBER

(209) 525-6330

PROJECT APPLICANT ADDRESS

1010 10th Street Suite 3400

CITY

Modesto

STATE

CA

ZIP CODE

95354

PROJECT APPLICANT (Check appropriate box)

☒ Local Public Agency

☐ School District

☐ Other Special District

☐ State Agency

☐ Private Entity

### CHECK APPLICABLE FEES:

☐ Environmental Impact Report (EIR)

\$3,168.00

\$ 0.00

☒ Mitigated/Negative Declaration (MND)(ND)

\$2,280.75

\$ 2,280.75

☐ Certified Regulatory Program document (CRP)

\$1,077.00

\$ 0.00

☐ Exempt from fee

☐ Notice of Exemption (attach)

☐ CDFW No Effect Determination (attach)

☐ Fee previously paid (attach previously issued cash receipt copy)

☐ Water Right Application or Petition Fee (State Water Resources Control Board only)

\$850.00

\$ 0.00

☒ County documentary handling fee

\$ 57.00

☐ Other

\$

### PAYMENT METHOD:

☐ Cash

☐ Credit

☒ Check

☐ Other

TOTAL RECEIVED \$ 2,337.75

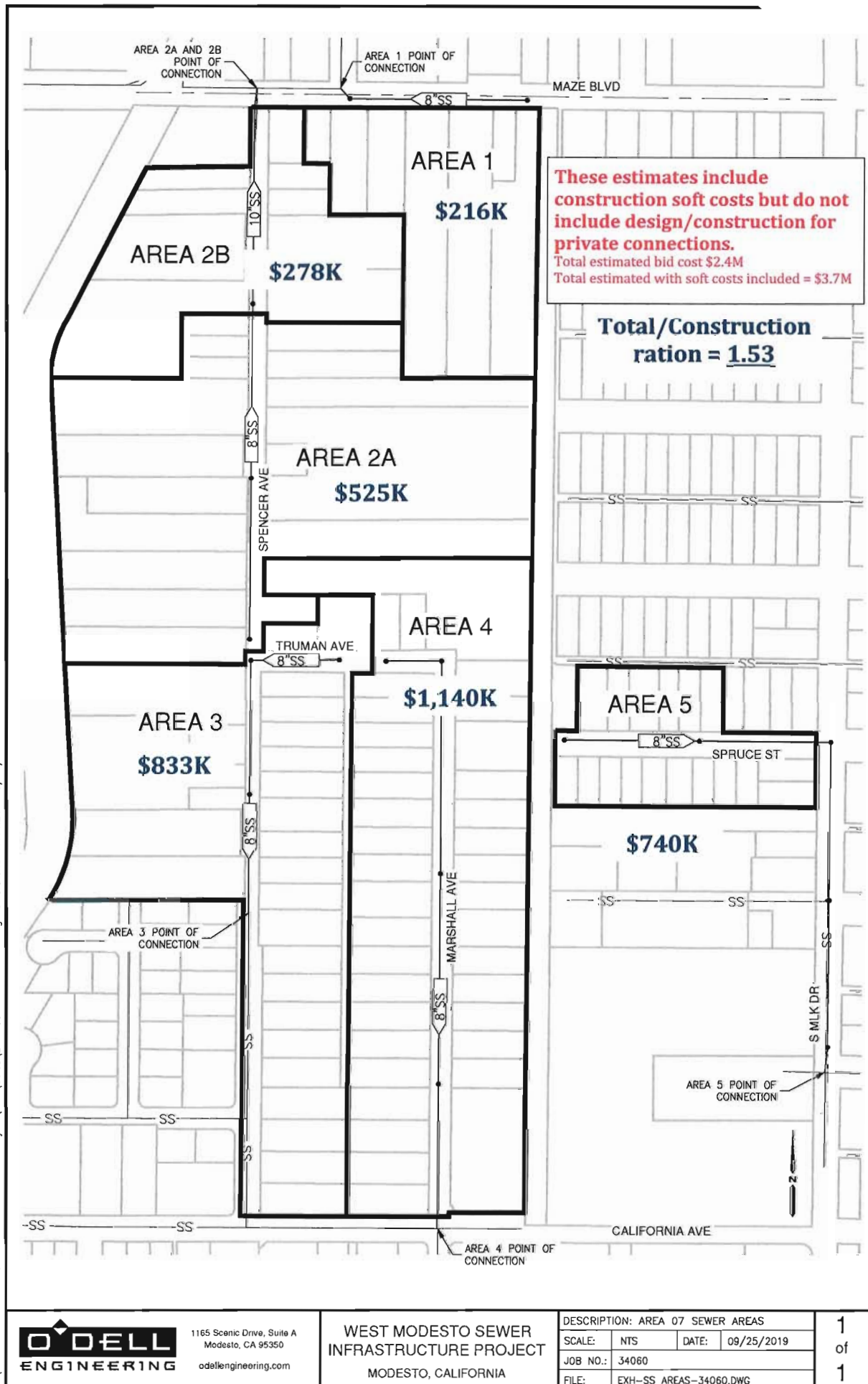
SIGNATURE

X

AGENCY OF FILING PRINTED NAME AND TITLE

Kalpana Surti, Legal Clerk





H:\34060-West Modesto Sewer Infrastructure Project\Civil\Coas\EXH-SS Areas-34060.dwg vdaofuente 17:14:24 09/24/2019

## **EXHIBIT C**

**Government Code Section §56133**

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## **Government Code Section §56133**

- (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.
- (b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.
- (c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, if both of the following requirements are met:
  - (1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.
  - (2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.
- (d) The executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of requests made pursuant to this section to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the extended services. If the new or extended services are disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.
- (e) This section does not apply to any of the following:
  - (1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
  - (2) This section does not apply to the transfer of nonpotable or nontreated water.
  - (3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

- (4) An extended service that a city or district was providing on or before January 1, 2001.
- (5) A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.
- (6) A fire protection contract, as defined in subdivision (a) of Section 56134.
- (f) This section applies only to the commission of the county in which the extension of service is proposed. **(Amended by Stats. 2019, Ch. 20)**

## **EXHIBIT D**

### **LAFCO Policy 15**

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

*(Amended January 24, 2018)*

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

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

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

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



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

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

**EXECUTIVE OFFICER'S AGENDA REPORT  
APRIL 22, 2020**

TO: LAFCO Commissioners

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

**SUBJECT: LAFCO BUDGET FOR FISCAL YEAR 2020-2021**

---

**RECOMMENDATION**

It is recommended that the Commission:

1. Receive the Executive Officer's report and accept public testimony regarding the LAFCO Budget.
2. Adopt Resolution No. 2020-05, approving the Proposed Budget for Fiscal Year 2020-2021 and Resolution No. 2020-06 conditionally approving the Final LAFCO budget.
3. Direct Staff to transmit the Proposed Budget, in accordance with State law, providing notice that it will become final in 21 days, unless an additional hearing is requested.
4. Upon the effective date of the Final Budget, request that the County Auditor apportion and collect the net operating expenses of the Final Budget from the County and nine cities in accordance with Government Code Sections 56381(b)(2) and 56381(c).

**EXECUTIVE SUMMARY**

The Proposed Fiscal Year (FY) 2020-2021 Budget includes operating expenses totaling \$532,490 and reflects a 7% increase as compared to the 2019-2020 budget. This is attributable to increases in salaries, retirement, insurance, and the CALAFCO membership rate. Table 1, below, summarizes the Proposed Budget and includes a comparison to the current year's budget.

*Table 1: LAFCO Proposed Budget Summary*

<b>Expenses</b>	<b>Current Budget FY 2019-20</b>	<b>Proposed Budget FY 2020-21</b>	<b>% Change (Proposed v. Current)</b>
Salaries & Benefits	\$429,200	\$456,320	6%
Services & Supplies	67,375	74,970	11%
Other Charges	1,600	1,200	-25%
<b>Total Expenses</b>	<b>\$498,175</b>	<b>\$532,490</b>	<b>7%</b>
<b>Revenues</b>			
Undesignated Fund Balance	(\$25,000)	(\$25,000)	0%
Application & Other Revenues	(20,000)	(20,000)	0%
<b>Agency Contributions</b>	<b>\$453,175</b>	<b>\$487,490</b>	<b>8%</b>

A chart depicting individual accounts for the Proposed Fiscal Year 2020-2021 Budget is attached to this report. An analysis of the Commission's estimated year-end fund balance is also included in this report.

Strategies for the Fiscal Year 2020-2021 Budget

During the previous budget year, the Commission was presented with projections warning of reduced reliance on fund balance, with agency contributions no longer being offset as they had in the past. Agency contributions were projected to exceed \$500,000 by fiscal year 2020-2021 to more closely match the operating expenses of LAFCO.

Staff is using the following strategies for the Fiscal Year 2020-2021 budget in response to economic concerns of the funding agencies arising from COVID-19 in order to delay a sharp increase in agency contributions:

- Use of \$25,000 in fund balance to offset agency contributions.
- Defer the biennial audit until Fiscal Year 2021-2022 (savings of \$10,000-12,000).
- Reduce education and training line item (savings of \$2,500). Reduced expenditures have already occurred in the current year due to cancellation of the Staff Workshop and those will contribute back towards the available fund balance.
- Retain reserves near their current levels and defer increasing the long-term liability reserve.

**BACKGROUND**

LAFCO is an independent commission established in each county by the State legislature. The Cortese-Knox-Hertzberg Local Government Reorganization Act establishes the specific funding methods and process for the annual LAFCO budget.

The Commission is funded by the County and its nine cities. Adopting the LAFCO budget is the responsibility of the Commission. The statutes governing LAFCO and directing its operations do not require separate approval of the financial program by the County, the nine cities, the independent special districts, nor any other local governmental agency. Section 56381(a) of the Government Code provides that:

- The Commission shall adopt annually, following noticed public hearings, a proposed budget by May 1, and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the Commission finds that reduced staffing or program costs will nevertheless allow the Commission to fulfill the purposes and programs of this chapter.
- The Commission shall transmit its proposed and final budgets to the board of supervisors, to each city, and to each independent special district.

Following adoption of a final budget, the County Auditor will allocate and charge LAFCO's final net budget to all participating local agencies as outlined under Government Code Section 56381(b).

**EXPENSES**

The expense portion of the Proposed Budget is divided into three main categories: Salaries and Benefits, Services and Supplies, and Other Charges.

*SALARIES AND BENEFITS (Accounts 50000+)*

Expenses in the salaries and benefits category are projected to increase by 6% overall during Fiscal Year 2020-2021. LAFCO's employee benefits mirror the County's benefits, including health insurance and retirement (through StanCERA), pursuant to a Memorandum of Understanding between the County and the Commission. Estimates for these accounts are typically provided by the County during each budget cycle and are incorporated into the LAFCO Budget. In June of 2018, the Board of Supervisors approved a 3% increase to base salaries for unrepresented employees, including LAFCO Staff, for Fiscal Year 2020-2021. Additionally, retirement costs are projected to increase by 19%. Conversely, health insurance costs are anticipated to have a slight decrease compared to current fiscal year, as reflected by the County's self-funded health insurance program. Also of note, following discussions with the auditor's office, the OPEB liability line item has been removed from this budget category as it is not a cash item.

*SERVICES AND SUPPLIES (Accounts 60000+)*

The proposed expenditures in the Services and Supplies category have increased by 11% as compared to the FY 2019-2020 budget. This category also includes liability insurance, memberships, and items associated with the County's Cost Allocation Plan (CAP) charges for various services provided to LAFCO, including County payroll, information technology, accounts payable/receivable, mailroom services, building services, legal services and overhead charges. The following are highlights for various line items in the Services and Supplies category.

Insurance - SDRMA (Account #61000)

Like many other LAFCOs, the Commission uses the Special District Risk Management Authority (SDRMA) for its general liability insurance. SDRMA's rates have remained relatively stable over the last decade with regular longevity credits given to members. SDRMA sent a letter to its members last month warning of overall rate increases in the insurance market and an estimated 30% increase in its rates. SDRMA also stated it is currently working with its excess/reinsures to negotiate costs. Staff has found that the proposed increases are comparable to what other LAFCO's and the County's general liability insurance are experiencing but will continue to monitor what options may be available for future years.

CALAFCO Membership (Account #62200)

The California Association of Local Agency Formation Commissions (CALAFCO) approved a restructuring of its membership dues in 2019, with the goal of more fairly spreading out the costs of its services to each County. This resulted in an increase of \$3,660 to Stanislaus LAFCO's dues.

Data Processing (IT) Services (Account #63990)

LAFCO's information technology services are provided by the County's Information Technology Central (ITC). ITC also houses the County's Geographical Information Systems (GIS) division, which offers reduced pricing for GIS license fees to County departments and partner agencies (including LAFCO). The overall cost for IT services has increased based on the costs for Office 365 licenses and enhanced IT security. Also included in this line item is the estimated annual cost for videotaping, televising, and live-streaming LAFCO meetings, totaling \$2,500.

Indirect Costs – “A-87 Roll-Forward” (Account #62450)

This account represents a two-year “true up” of estimated charges from the County’s Cost Allocation Plan (CAP) charges for various services provided to LAFCO. These amounts tend to fluctuate annually and can result in a credit or debit depending on actual costs. For the current year, the Commission is estimated to have a credit of \$460.

Commission Expense (Account #65890)

Commission Expense for FY 2020-2021 is proposed to remain at \$6,100. The majority of this is expended on monthly meeting attendance stipends, with remaining funds used for Commissioner travel expenses to trainings, as opportunities arise. During Fiscal Year 2019-2020, the Commission had a savings in this account due to only one Commissioner attending the Annual Conference, as well as stipend savings from cancelled meetings.

*OTHER CHARGES (Accounts #70000+)*

This category includes one account (#73024) for copy costs and a shared portion of the copier lease with the County Planning Department. These costs continue to trend lower than projected in the current fiscal year, as Staff strives to eliminate paper copies. Therefore, it is recommended that this account be reduced slightly to \$1,200.

**REVENUES**

The primary revenue source for LAFCO is contributions from the County and nine cities. Government Code Section 56381(b)(2) requires that the county and its cities shall each provide a one-half share of the commission’s operational costs. By statute, the cities share is apportioned by the County Auditor relative to each city’s total revenues, as reported in the most recent edition of the Cities Annual Report published by the State Controller.

In addition to scheduled municipal service review updates, Staff is aware of at least four annexation proposals, a district formation, and district dissolution that are in various stages and are expected to be received in FY 2020-2021. Applications are processed at actual cost, with deposits for different application types starting at \$3,000 and increasing based on estimated complexity. For FY 2020-2021, Staff proposes budgeting estimated fee revenues of \$20,000. Application fees that are received in any given year can vary widely, so this item is estimated conservatively. Any additional revenue received above this amount will be credited during the Commission’s next budget cycle.

**FUND BALANCE & RESERVES**

Government Code Section 56381(c) provides that “if at the end of the fiscal year, the Commission has funds in excess of what it needs, the Commission may retain those funds and calculate them into the following fiscal year’s budget.”

In 2015, an analysis of the fund balance was completed and the Commission reimbursed the majority of its undesignated fund balance back to the County and the nine cities. The remaining portion of the fund balance was used to establish reserves.

Table 2 outlines the changes to the fund balance based on projected operating revenues and expenses in the current fiscal year. The actual amount of fund balance will be calculated at

year's end (typically by September). However, based on the beginning year fund balance and projected revenues and expenses, Staff has estimated a year-end fund balance of \$324,243.

*Table 2: LAFCO Fund Balance*

Fund Balance July 1, 2019		\$	319,418
Revenues	Budgeted FY 19-20	Estimated Year-End	Difference Under/(Over)
City/County Contribution	\$ 453,175	\$ 453,175	\$ -
Application Revenue	20,000	33,506	(13,506)
Interest	-	8,827	(8,827)
<b>Total Revenues</b>	<b>\$ 473,175</b>	<b>\$ 495,508</b>	<b>\$ (22,333)</b>
Expenditures	Budgeted FY 19-20	Estimated Year-End	Difference Under/(Over)
Salaries and Benefits	\$ 429,200	\$ 434,581	\$ (5,381)
Services and Supplies	67,375	55,302	11,473
Other Charges (Copier)	1,600	800	800
<b>Total Expenditures</b>	<b>\$ 498,175</b>	<b>\$ 490,683</b>	<b>\$ 6,892</b>
<b>Revenues Less Expenditures</b>		\$	4,825
Estimated Fund Balance June 30, 2020		\$	324,243

#### Reserve Funds & Long-Term Pension Liability

The Commission's Reserve Fund Policy identifies two reserve categories to be calculated annually and allocated during the annual budget process: an Accrued Leave Fund (based on accumulated cash-out liability) and a General Fund Reserve (15% of operating expenses). The Commission also requested a reserve fund be included to represent long-term liabilities. Proposed reserve funds are shown in the following table:

*Table 3: Proposed Reserve Funds*

General Fund Reserve (15%)	\$ 79,875
Accrued Leave Fund (Cash-Out Liability)	87,000
Long-Term Liability Reserve	100,000
<b>Total Reserves</b>	<b>\$ 266,875</b>

The Commission's addition of a Long-Term Liability Reserve was in response to a recent accounting requirement known as GASB 68. GASB 68 requires employers to report long-term unfunded pension liabilities on their balance sheets. The estimated unfunded portion of the pension can vary significantly each year based on investment returns and contribution rates. It can be viewed as an indicator of the overall health of the StanCERA retirement system from year to year.

Accounting and budgeting for retirement costs are based on retirement contribution rates that are updated annually using actuarial analysis and adopted by the StanCERA Board. The rates are subsequently approved by the County Board of Supervisors, and participating departments and agencies are charged for their respective employees throughout the year for the current liability due for retirement contributions to the retirement system.

Long-term pension liability is currently reported on the Commission's balance sheet and can fluctuate greatly. Annual estimates of unfunded pension liability are based on LAFCO's proportion of the StanCERA system's overall unfunded pension liability and not actual amounts for LAFCO employees based on their years of service, retirement date, etc.

During the prior year's budget, the Commission set aside \$100,000 for its Long-Term Liability Reserve. For the proposed budget, this reserve item has been maintained at \$100,000. Staff from the County Auditor's office identified that there are many uncertainties with regards to the exact amount and timing of the long-term pension liability.

**Fund Balance Status – Use of Undesignated Funds**

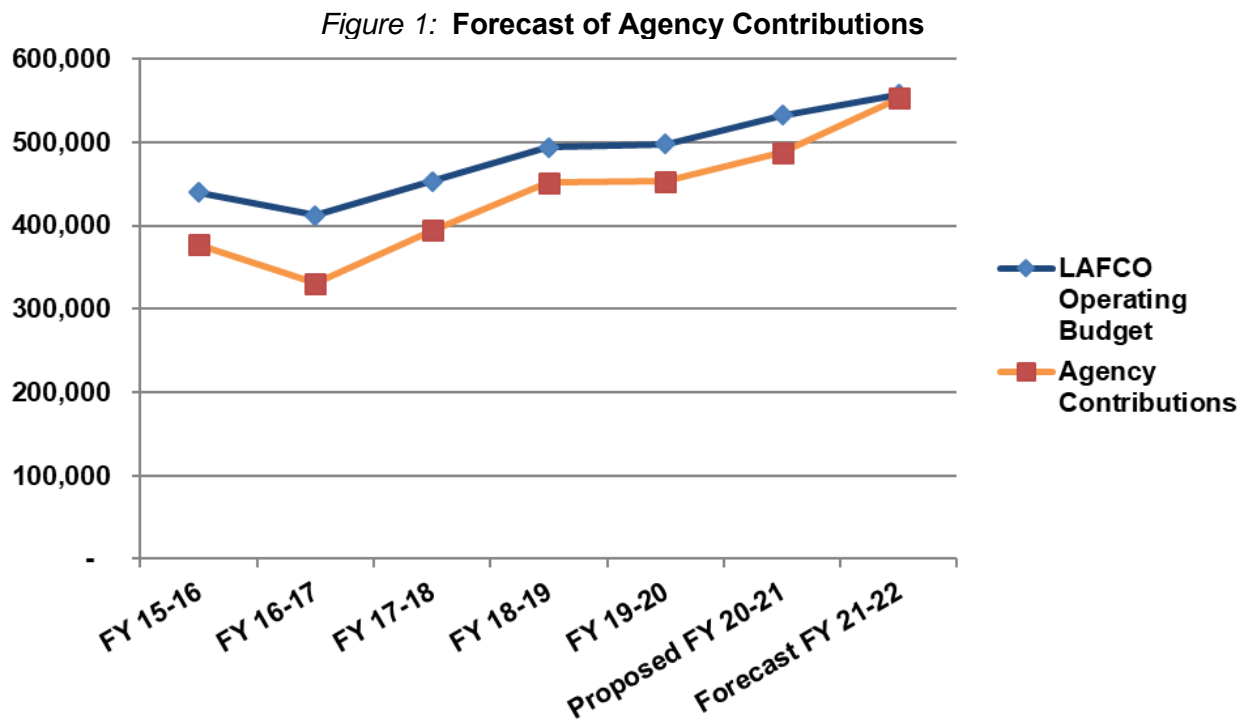
As the Commission has been depleting the remainder of its undesignated fund balance, agency contributions will continue to see a corresponding increase in their allocation amounts. For the current year, the Commission received higher than anticipated application revenues, as well as savings from lower than expected expenses. Therefore, Staff recommends using \$25,000 of the undesignated fund balance to offset the proposed FY 2020-2021 Budget. This, in conjunction with estimated application revenues (\$20,000), will help to offset agency contributions.

A forecast of the following year's budget shows that agency contributions will soon be closer to matching the Commission's operating expenses (see Table 4 and the following figure).

*Table 4: Total Budget & Agency Contributions*

	<b>FY 19-20</b>	<b>Proposed FY 20-21</b>	<b>Forecasted FY 21-22</b>
<b>Total Budget</b>	\$ 498,175	\$ 532,490	\$ 558,000
<b>Agency Contributions</b>	453,175	487,490	553,000
<b>Fund Balance Beg.</b>	319,418	324,243	299,243
<b>Drawdown</b> (Use of Fund Balance to Reduce Agency Contributions)	(25,000)	(25,000)	(5,000)
<b>Fund Balance End (Est.)</b>	323,643	299,243	294,243
<b>Designated Reserves: 15% Reserve</b>	74,730	79,875	83,700
<i>Accrued Leave (Cash-Out Liability)</i>	86,900	87,000	85,000
<i>Long-Term Liability Reserve</i>	100,000	100,000	125,000
<i>Total Reserves</i>	261,630	266,875	\$ 293,700
<b>Available Fund Balance to Offset Next FY Budget</b>	<b>\$ 62,013</b>	<b>\$ 32,368</b>	<b>\$ 543</b>





#### Agency Contributions

LAFCO is funded by contributions from the County and nine cities. By statute, the County is apportioned a half-share of the Commission's operational costs. The cities' share is calculated annually by the County Auditor and is relative to each city's total revenues, as published in the most recent State Controller reports.

Combined, the County and City of Modesto contribute about 80% of the Commission's budget, with the remainder split amongst the smaller cities. (Chart 1 on the following page provides a visual of the contributions). Contribution amounts fluctuate from year to year amongst the cities, as their revenues increase or decrease relative to each other. Cities with larger increases in reported revenues may see their LAFCO contribution increase higher than other cities. Likewise, if a city has very low reported revenues, they may see their contribution amount decrease, even with an increase in LAFCO's budget (see Table 5 on the following page).

Chart 1: City/County Allocations (Estimated FY 2020-2021)\*

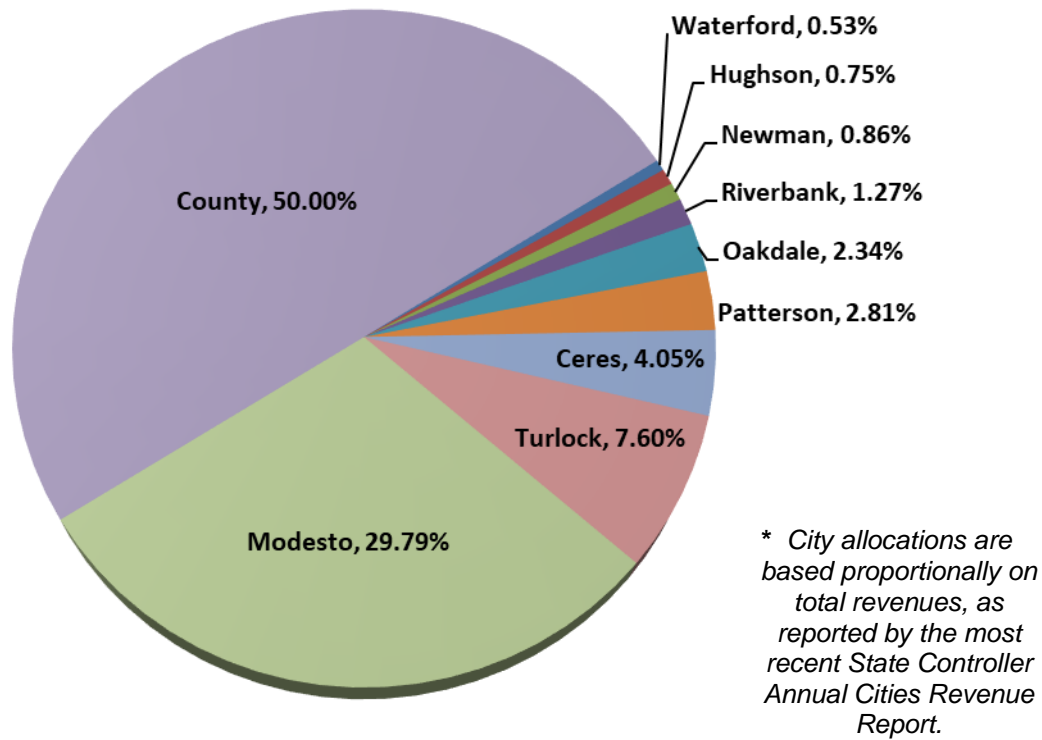


Table 5: Estimated Agency Contributions FY 2020-2021\*

	State Controller Reported Revenues (FY 18-19)	% of LAFCO Budget	Current FY 19-20 Contribution	Estimated FY 20-21 Contribution	Total Change	% Increase (Decrease)
<b>Ceres</b>	55,584,311	4.05%	18,751	19,745	993.98	5.30%
<b>Hughson</b>	10,326,605	0.75%	3,752	3,668	(83.83)	(2.23%)
<b>Modesto</b>	408,852,409	29.79%	133,251	145,233	11,981.77	8.99%
<b>Newman</b>	11,756,761	0.86%	4,029	4,176	147.72	3.67%
<b>Oakdale</b>	32,094,235	2.34%	10,869	11,401	531.99	4.89%
<b>Patterson</b>	38,560,075	2.81%	11,527	13,697	2,170.74	18.83%
<b>Riverbank</b>	17,440,417	1.27%	5,857	6,195	337.87	5.77%
<b>Turlock</b>	104,347,510	7.60%	36,251	37,066	815.59	2.25%
<b>Waterford</b>	7,216,975	0.53%	2,302	2,564	261.67	11.37%
<b>All Cities</b>	686,179,298	50%	226,588	243,745	17,158	7.57%
<b>County Contribution</b>		50%	225,960	243,745	17,158	7.57%
<b>Total Agency Contributions</b>		<b>100%</b>	<b>\$ 451,919</b>	<b>\$ 487,490</b>	<b>\$ 34,315</b>	<b>7.57%</b>

\* Estimates are based on the most recent State Controller's Reports. Final amounts will be determined by the County Auditor following adoption by the Commission.

**WORK PROGRAM & APPLICATION ACTIVITY**

During the current fiscal year, LAFCO Staff completed the Commission's municipal service review work program and has begun work on the updates scheduled for the remainder of 2020, including an update for the healthcare and hospital districts in the County. Staff also processed six annexation applications, including a large, multi-County proposal, four service extension requests, and a fire service contract. City and district application activity has remained steady, and we continue to receive inquiries regarding upcoming applications.

For the upcoming fiscal year, Staff expects to complete the Commission's 2020 adopted work program, including initiation of the municipal service review update for the fire protection districts. Staff has continued to enhance our Geographical Information Systems (GIS) data, which is relied upon by the County, cities, and districts.

**CONCLUSION**

The Commission and LAFCO Staff continue to exercise fiscal prudence, recognizing the financial constraints faced by our funding agencies. Approval of the LAFCO Budget will enable the Commission to perform its core responsibilities effectively, and continue its work on municipal service review and sphere of influence updates, policy development, and current projects.

Attachments: LAFCO Resolution No. 2020-05 – Proposed LAFCO Budget  
LAFCO Resolution No. 2020-06 – Final LAFCO Budget  
Proposed Fiscal Year 2020-2021 Budget Detail

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**Stanislaus LAFCO**  
**PROPOSED FISCAL YEAR 2020-2021 BUDGET**

Account	FY 19-20 Legal Budget	FY 19-20 Estimated Year-End	FY 20-21 PROPOSED BUDGET	Increase or (Decrease)	% Change
<b>Salaries and Benefits</b>					
50000+ Salaries and wages	\$ 263,630	\$ 269,000	\$ 279,800	\$ 16,170	6%
52000 Retirement	70,100	76,405	83,100	13,000	19%
52010 FICA	20,000	20,070	22,100	2,100	11%
53000 Group health insurance	62,080	58,600	60,800	(1,280)	-2%
53009 OPEB health insurance liability	2,920	-	-	(2,920)	-100%
53020 Unemployment insurance	450	450	360	(90)	-20%
53051 Benefits admin fee	190	190	190	-	0%
53081 Long term disability	380	396	425	45	12%
54000 Workers compensation insurance	1,300	1,095	995	(305)	-23%
55000 Auto allowance	2,400	2,400	2,400	-	0%
55080 Professional development	2,200	2,200	2,200	-	0%
55130 Deferred comp mgmt/conf	3,550	3,775	3,950	400	11%
<b>Total Salaries and Benefits</b>	<b>\$ 429,200</b>	<b>\$ 434,581</b>	<b>\$ 456,320</b>	<b>\$ 27,120</b>	<b>6%</b>
<b>Services and Supplies</b>					
60400 Communications (ITC - Telecom)	\$ 1,110	\$ 1,080	\$ 1,145	\$ 35	3%
61000 Insurance (SDRMA)	3,600	4,021	5,230	1,630	45%
61030 Fiduciary liability insurance	40	40	40	-	0%
62200 Memberships (CSDA, CALAFCO)	6,615	6,681	10,800	4,185	63%
62400 Miscellaneous expense	3,000	1,600	3,000	-	0%
62450 Indirect costs (A87 roll forward)	(3,760)	(3,760)	(460)	3,300	-88%
62600 Office supplies	1,500	1,000	1,500	-	0%
62730 Postage	1,200	1,000	1,200	-	0%
62750 Other mail room expense	420	420	445	25	6%
63000 Professional & special serv	11,690	11,620	12,360	670	6%
Building maint & supplies	3,000	3,200	3,430	430	14%
Office lease	4,010	3,850	4,100	90	2%
Utilities	1,410	1,440	1,515	105	7%
Janitorial	745	755	830	85	11%
Purchasing	275	275	285	10	4%
HR/Risk Mgt overhead	2,250	2,100	2,200	(50)	-2%
63090 Auditing & accounting	2,850	2,200	2,430	(420)	-15%
63400 Engineering services	2,000	2,000	2,000	-	0%
63640 Legal services	12,000	8,000	12,000	-	0%
63990 Outside data proc services (IT & GIS Lic)	11,530	10,950	12,200	-	6%
IT Services (ITC)	7,830	7,400	8,500	-	9%
Video Streaming (ITC)	1,000	1,000	1,000	-	0%
Mtg Recording (Final Cut Media)	1,500	1,350	1,500	-	0%
GIS License (ITC)	1,200	1,200	1,200	-	0%
65000 Publications & legal notices	1,000	900	1,000	-	0%
65780 Education & training	5,500	3,300	3,000	(2,500)	-45%
65810 Other supportive services (messenger)	350	330	350	-	0%
65890 Commission expense (stipends, training)	6,100	3,400	6,100	-	0%
67040 Other travel expenses (mileage)	500	400	500	-	0%
67201 Salvage disposal	130	120	130	-	0%
<b>Total Services and Supplies</b>	<b>\$ 67,375</b>	<b>\$ 55,302</b>	<b>\$ 74,970</b>	<b>\$ 7,595</b>	<b>11%</b>
<b>Other Charges</b>					
73024 Planning dept services	\$ 1,600	\$ 800	\$ 1,200	\$ (400)	-25%
<b>Total Other Charges</b>	<b>\$ 1,600</b>	<b>\$ 800</b>	<b>\$ 1,200</b>	<b>\$ (400)</b>	<b>-25%</b>
<b>TOTAL EXPENSES</b>	<b>\$ 498,175</b>	<b>\$ 490,683</b>	<b>\$ 532,490</b>	<b>\$ 34,315</b>	<b>7%</b>
<b>TOTAL REVENUES</b>					
40680+ Agency Contributions	453,175	453,175	487,490	34,315	8%
36414 Application & Other Revenues	20,000	33,506	20,000	-	0%
17000+ Interest Earnings & Refunds	-	8,827	-	-	-
<b>Use of Undesig. Fund Balance</b>	<b>\$ 25,000</b>		<b>\$ 25,000</b>	<b>\$ -</b>	<b>0%</b>

**Stanislaus LAFCO**  
**PROPOSED FISCAL YEAR 2020-2021 BUDGET**  
**Reserve Funds & Undesignated Fund Balance**

Estimated Fund Balance June 30, 2020	\$	324,243
<i>General Fund Reserve (15%)</i>		(79,875)
<i>Accrued Leave Fund (Cash-Out Liability)</i>		(87,000)
<i>Long-Term Liability Reserve</i>		(100,000)
<b>Undesignated Fund Balance (Est.)</b>	<b>\$</b>	<b>57,368</b>

**STANISLAUS COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**RESOLUTION**

**DATE:** April 22, 2020

**NO.** 2020-06

**SUBJECT: Adoption of the Final LAFCO Budget for Fiscal Year 2020-2021**

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

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

**THE FOLLOWING RESOLUTION WAS ADOPTED:**

**WHEREAS**, Government Code Section 56381(a) requires the Commission to adopt annually, following noticed public hearings, a proposed budget by May 1 and a final budget by June 15;

**WHEREAS**, the Stanislaus Local Agency Formation Commission wishes to provide for a budget to fulfill its purposes and functions as set forth by State law;

**WHEREAS**, pursuant to Government Code Section 56381(a), the proposed budget must be, at a minimum, equal to the previous budget, unless a finding is made that the reduced costs will nevertheless allow the Commission to fulfill the purposes and programs of the Stanislaus Local Agency Formation Commission (LAFCO);

**WHEREAS**, the Commission conducted a public hearing on April 22, 2020 and approved a Proposed Budget for Fiscal Year 2020-2021, as submitted by the Executive Officer;

**WHEREAS**, at the same public hearing, the Commission conditionally approved the Final Budget for Fiscal Year 2020-2021, following a 21-day notice period for anyone to call for an additional hearing;

**WHEREAS**, approval of the Final Budget will enable the Commission to perform its core responsibilities effectively, and to continue its work on State-mandated Municipal Service Reviews and Sphere of Influence Updates;

**NOW, THEREFORE, BE IT RESOLVED** that the Commission:

1. Finds that the Final Budget for Fiscal Year 2020-2021 will allow the Stanislaus Local Agency Formation Commission to fulfill the purposes and programs of the Cortese-Knox-Hertzberg Local Government Reorganization Act.
2. Adopts the Final Budget for Fiscal Year 2020-2021, with total operating expenses of \$532,490, as outlined in the attachment, to be effective May 15, 2020 unless an additional hearing is requested prior to that date.

3. Directs Staff to transmit the adopted Final Budget for Fiscal Year 2020-2021 to the Board of Supervisors, each City, each Independent Special District, and the County Auditor, pursuant to Government Code Section 56381(a).
4. Requests that the County Auditor apportion and collect the net operating expenses of the Commission's Final Budget for Fiscal Year 2020-2021 in the amount of \$487,490 from the County and each of the nine cities no later than July 1, 2020 for the amount each entity owes in accordance with Government Code Sections 56381(b)(2) and 56381(c).
5. Authorizes the Executive Officer and the County Auditor to determine the method of collection if a city or the County does not remit its required payment within 60 days, as outlined in 56381(c).

**ATTEST:**

\_\_\_\_\_  
Sara Lytle-Pinhey  
Executive Officer

Attachment: Final Budget for Fiscal Year 2020-2021



**STANISLAUS COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**RESOLUTION**

**DATE:** April 22, 2020

**NO.** 2020-05

**SUBJECT: Adoption of the Proposed LAFCO Budget for Fiscal Year 2020-2021**

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

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

**THE FOLLOWING RESOLUTION WAS ADOPTED:**

**WHEREAS**, Government Code Section 56381(a) requires the Commission to adopt annually, following noticed public hearings, a proposed budget by May 1 and a final budget by June 15;

**WHEREAS**, the Stanislaus Local Agency Formation Commission wishes to provide for a budget to fulfill its purposes and functions as set forth by State law;

**WHEREAS**, pursuant to Government Code Section 56381(a), the proposed budget must be, at a minimum, equal to the previous budget, unless a finding is made that the reduced costs will nevertheless allow the Commission to fulfill the purposes and programs of the Stanislaus Local Agency Formation Commission (LAFCO);

**WHEREAS**, approval of the Proposed Budget will enable the Commission to perform its core responsibilities effectively, and to continue its work on State-mandated Municipal Service Reviews and Sphere of Influence Updates;

**WHEREAS**, the Commission mailed notices of the Proposed Budget to the County Board of Supervisors, the nine cities and the independent special districts; published a notice in Modesto Bee, and posted said notice on its website;

**WHEREAS**, the Commission has conducted a public hearing on April 22, 2020, to consider the Proposed Budget for Fiscal Year 2020-2021, as submitted by the Executive Officer;

**NOW, THEREFORE, BE IT RESOLVED** that the Commission:

1. Finds that the Proposed Budget for Fiscal Year 2020-2021 will allow the Stanislaus Local Agency Formation Commission to fulfill the purposes and programs of the Cortese-Knox-Hertzberg Local Government Reorganization Act.
2. Adopts the Proposed Budget for Fiscal Year 2020-2021 as outlined in Exhibit 1, in accordance with Government Code Section 56381(a).

3. Direct Staff to transmit the Proposed Budget, in accordance with State law, providing notice that it will become final in 21 days, unless an additional hearing is requested.

**ATTEST:**

\_\_\_\_\_  
Sara Lytle-Pinhey  
Executive Officer

Attachment: Proposed Fiscal Year 2020-2021 Budget