



**STANISLAUS LAFCO  
LOCAL AGENCY FORMATION COMMISSION**

**Sara Lytle-Pinhey, Executive Officer**  
1010 10<sup>th</sup> Street, Third Floor  
Modesto, California 95354  
Phone: 209-525-7660  
Fax: 209-525-7643  
[www.stanislauslafco.org](http://www.stanislauslafco.org)

**Chair Terry Withrow, County Member**  
**Vice Chair Richard O'Brien, City Member**  
Amy Bublak, City Member  
Vito Chiesa, County Member  
Ken Lane, Public Member  
Javier Lopez, Alternate City Member  
Mani Grewal, Alternate County Member  
Bill Berryhill, Alternate Public Member

---

**AGENDA  
Wednesday, August 24, 2022  
6:00 P.M.  
Joint Chambers—Basement Level  
1010 10<sup>th</sup> Street, Modesto, California 95354**

- Members of the public may attend this meeting in person.
- You can also 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>

**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. CORRESPONDENCE**

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

- A. Specific Correspondence.
- B. Informational Correspondence.

1. CALAFCO Quarterly – August 2022.

2. CALAFCO U – “Two Agencies in Dispute” Flier.

C. “In the News.”

**4. DECLARATION OF CONFLICTS AND DISQUALIFICATIONS**

**5. CONSENT ITEMS**

A. **MINUTES OF THE MAY 25, 2022 LAFCO MEETING.** (Staff Recommendation: Accept the Minutes.)

B. **LEGISLATIVE UPDATE.** (Staff Recommendation: Accept the update.)

**6. PUBLIC HEARINGS**

A. **OUT-OF-BOUNDARY SERVICE APPLICATION: ROUSE-COLORADO (CITY OF MODESTO - SEWER SERVICE).** A request to provide an area wide out-of-boundary sewer service extension to the unincorporated Rouse/Colorado neighborhood outside the City of Modesto's existing city limits. The area consists of approximately 154 acres. As the territory is outside the City's limits, LAFCO review is required prior to the extension of City services. Stanislaus County, as Lead Agency under the California Environmental Quality Act (CEQA) prepared and subsequently approved a Negative Declaration for the proposal. (Staff Recommendation: Adopt Resolution No. 2022-08, approving the application.)

**7. OTHER BUSINESS**

None.

**8. COMMISSIONER COMMENTS**

Commission Members may provide comments regarding LAFCO matters.

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

The Commission Chair may announce additional matters regarding LAFCO matters.

**10. EXECUTIVE OFFICER'S REPORT**

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

A. On the Horizon.

**11. CLOSED SESSION – ANNUAL PERFORMANCE EVALUATION**

Pursuant to Government Code Section 54957, a closed session will be held to consider the following item: Public Employee Performance Evaluation – Title: LAFCO Executive Officer

**12. ADJOURNMENT**

A. Set the next meeting date of the Commission for September 28, 2022.

B. Adjournment.

---

#### 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.

---



## BOARDROOM Brief

**AT ITS VIRTUAL** meeting on July 22, the Board received the year-end financial reports from our accountant, considered a revised FY 22-23 budget, and resumed their discussion of the Government Code Section 56133 legislative amendment proposal.

The Fourth Quarter financial report found that the association is sound financially. It also disclosed an FY 21-22 net balance that was slightly larger than had been expected in April. Consequently, a revised FY 22-23 budget was also presented to the Board to capture the higher carryover, as well as to remove an erroneously duplicated stipend calculation from the Executive Director's salary line for the upcoming year. Those adjustments, along with another that the Board made to the payroll tax line, resulted in a revised FY 22-23 budget. The differences from the original version approved in April were increased carryover and contingency lines, and reductions to the ED salary and payroll tax lines. The revised budget can be found on the Board meeting portion of the website.

The last action item considered was the reconsideration of the legislative proposal from San Diego LAFCo regarding Government Code §56133. As many will recall, the topic has been a continuing one having been discussed and tabled at the January and April Board meetings. In April, the Board sent the proposal back to the Legislative Committee to complete additional research. Ultimately, the Board approved adding the endeavor to the list of CALAFCO projects, as well as approving a White Paper to guide the effort.

Reports were also received regarding CALAFCO U and the fall conference - including Elections. It was noted that Achievement Awards have an upcoming **deadline of AUGUST 12TH** - so get those nomination packets in ASAP!

The next Board meeting is scheduled for October 21st during the conference.

**All agendas, staff reports, and minutes can be found on the CALAFCO website at [www.calafco.org](http://www.calafco.org). Any questions should be directed to the Executive Director at [rlaroch@calafco.org](mailto:rlaroch@calafco.org).**

## SBA 938 Chaptered



Screen shot of Senator Hertzberg presenting SB 938 on the Senate Floor on June 23, 2022

**AS MOST** of you already know, SB 938 (the Protest Provisions bill) has been successfully concluded. It passed the Senate Floor on June 23rd with a 38-0 vote, and was signed by the Governor on July 1st.

Thank you to the many LAFCOs who rushed to get letters submitted to the Governor after that June 23rd passage.

Given that this is the culmination of an effort that began in 2017, special thanks must again go to the Protest Provisions Working Group members for the YEARS of work on this bill.

The Board of Directors - and all of CALAFCO - extends its sincerest thanks and gratitude to **Jo MacKenzie, José Henriquez, Kai Luoma, Steve Lucas, Paul Novak, Holly Whatley** and, of course, **Pamela Miller** (who stayed on to work the bill in a volunteer capacity.)

## Other Legislative Updates

**AB 2957**, the CALAFCO sponsored Omnibus bill has also been successfully completed. It was passed by the Senate on June 9th, and signed by the Governor on June 21, 2022. Thank you to all of the Legislative Committee members and EOs who submitted proposed changes for the bill. Special thanks to Joe Serrano who had the unenviable task of logging all of those changes!

See **OTHER UPDATES** on Page 3



A Message from the

## Executive Director

It's been a busy few months in the office.

We've held two successful and well-received CALAFCO U webinars. Like much of what we do, these could not exist without the volunteerism of our panelists. Thanks to Carolyn Emery (OC), Alison Alpert (BB&K), and Gary Phillips (Bob Murray and Associates) for participating in our June webinar on recruitments and hiring in a post pandemic world. Also, kudos to David Ruderman (Colantuono, Highsmith & Whatley) for organizing our July offering regarding R&T 99, with thanks to panelists José Henriquez (Sacramento), Israel Guevara (OC Auditor-Controller) and Holly Whatley (CHW). I hear time and again how much our members appreciate these offerings!

Our next CALAFCO U is scheduled in September, then they will go on hiatus through the conference and holidays. The target month for our first session in 2023 is February. Thanks to Dawn Mittleman Longoria (Napa) who has been my wing person on these. I could NOT have made it without her!!

Jeni and I are now in full conference mode. Registration opened on July 5th and they have been coming in steadily. If you missed the July 31st Early Bird deadline, the next date to watch is **August 31st** which will be the last day to get the Standard Registration Fee. After that it will be Late Fee only.

Sponsorship packets were sent out and we're seeing some new and returning sponsors already! However, I would ask and encourage you all to send a packet to those in your networks as well.

Our conference planning committee is working hard and the program is taking shape. Many thanks to José Henriquez who is spearheading that effort. Look for more specifics to be announced soon.

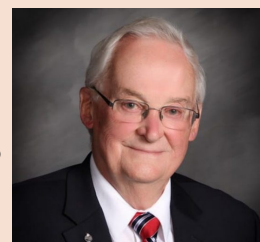
Also, a reminder that **ACHIEVEMENT AWARD NOMINATIONS** are due no later than **August 12th at 5:00 PM** so

See **ED**, column right

## IN MEMORIAM

### JERRY GLADBACH, Los Angeles LAFCo Commissioner

Sad news from Los Angeles LAFCo who lost long-time commissioner, Jerry Gladbach, on July 14th. Commissioner Gladbach was a representative of the Santa Clarita Valley Water Agency and had held a seat on the L.A. LAFCo where he had served as its Chair for 16 years. Commissioner Gladbach also served as a CALAFCO Director from 2005 to 2013, held the position of CALAFCO Board Chair in 2012, received the Most Outstanding Commissioner Award in 2013, as well as the prestigious and well-deserved Lifetime Achievement Award in 2021.



A resident of the Santa Clarita Valley since 1968, Commissioner Gladbach was a do-er who had also served on boards of the National Water Resources Association and the California Water Agencies Joint Powers Insurance Authority. He was renowned for his knowledge, dedication, kindness, and friendliness and will be missed by all.

CALAFCO sends its deepest condolences to Commissioner Gladbach's family, friends, and co-workers.



### Contra Costa LAFCo bid farewell to **Commissioner Igor**

**Skaredoff** (Contra Costa Resource Conservation District) who served as a Special District member since 2014. During Commissioner Skaredoff's tenure, Contra Costa LAFCo competed numerous Municipal Service Reviews covering fire/emergency medical, reclamation, healthcare, parks & recreation, cemetery, and city services; and acted on over 75 proposals including dozens of boundary changes and reorganizations, and four district dissolutions. Also, during Commissioner Skaredoff's tenure, Contra Costa LAFCo Commissioners were named "Most Effective Commission" at the 2019 annual CALAFCO conference.

See **CONNECTIONS** on Page 4

### **ED**, Continued from left column

get those nominations in to Steve Lucas today!

Another date to note is **September 19th** at 5:00 PM - which is when Director Nominations, Requests for Absentee/Electronic Ballots, and names of voting delegates must be **received**.

And if that wasn't enough, Absentee Ballots are due **October 14th**.

Lastly, a special shout out to Gary Thompson (Riverside) who will be presenting at the CSDA conference in balmy Palm Desert on August 24th. Many thanks, Gary!

Okay, folks, I know that's a lot of dates but you'll also find them all on the Calendar of Events on Page 3.

As usual, please feel free to reach out to me any time that you have any questions or concerns. Enjoy the summer, be safe, and see you at the Conference!!



## Upcoming EVENTS



### CALAFCO 2022 ANNUAL CONFERENCE

October 19 - 21, 2022

Join us at the **Hyatt Regency Newport Beach John Wayne Airport** on



October 19-21, 2022 for our long-awaited, long-overdue Annual Conference! The program planning committee is finalizing what is sure to be a great program. Go

to [calafco.org](http://calafco.org) for more details. See you in Newport Beach!

### 2023 STAFF WORKSHOP

April 26 - 28, 2023

Learn technical topics in a beautiful setting! Don't miss next year's Staff Workshop on the beautiful grounds of Ironstone Vineyards in Murphys, California.



CALAFCO U explores topics of interest to LAFcos and are offered at no cost to our members.

**Sep. 19, 2022:** Two Agencies in Dispute: *LAFco's Role in Assisting in Resolving the Conflict*  
1:00 PM

**TBD, 2023:** The Dirty Dozen: *Things I Wish I Knew About The Act*

### BOARD MEETINGS:

**Oct. 21, 2022** LOCATION: Newport Beach (Conference)

**Dec. 2, 2022** LOCATION: Virtual

### LEGISLATIVE COMMITTEE MEETINGS:

**Sept. 16, 2022** CANCELLED

**Oct. 7, 2022** LOCATION: Virtual

**Nov. 4, 2022** LOCATION: TBD

### OTHER IMPORTANT DATES:

**Aug. 12, 2022** ACHIEVEMENT AWARD NOMINATIONS DUE

**Sept. 19, 2022** BOARD OF DIRECTOR NOMINATIONS DUE

**Sept. 19, 2022** ABSENTEE/ELECTRONIC BALLOT REQUESTS DUE

**Sept. 19, 2022** NAME OF VOTING DELEGATE DUE

**Oct. 14, 2022** ABSENTEE BALLOTS ARE DUE

**Oct. 20, 2022** ELECTIONS

## OTHER UPDATES

*Continued from Page 1*

CALAFCO is currently tracking a total of 29 bills. Included among those are:

**AB 897** (Mullin), establishment of a regional climate network. This bill has stalled and is in its second year.

**AB 1640** (Ward), would authorize the creation of regional climate networks, as well as set up guidelines. Referred to the Senate Appropriations suspense file.

**AB 1773** (Patterson), return of Williamson Act subvention funding. Held under submission in Assembly Appropriations on May 19<sup>th</sup>.

**SB 739** (Cortese), was a gut and amend seeking to create ministerial processes for the annexations of unused golf courses to be used for the development of high rise buildings with 600-700 residences. The author's office notes that it will not be pursuing this bill this year.

**SB 852** (Dodd), is similar to AB 1640 in that it addresses the formation of climate resilience districts, however, this bill focuses on enhanced infrastructure financing to fund public capital facilities including projects that address climate change impacts. Scheduled for third reading in the Assembly on August 8<sup>th</sup>.

**SB 1100** (Cortese), which would amend the Brown Act to include provisions and procedures regarding meeting disruptions has passed both houses and is now in Engrossing and Enrolling.

**SB 1490, 1491, and 1492**, the annual Validation Acts, have now been chaptered.

The legislative season is now nearing a close with August 12<sup>th</sup> being the last day for fiscal committees to meet and report bills. After that, the remainder of the month will be Floor sessions only, with August 25<sup>th</sup> being the last day to amend bills on the floor. August 31<sup>st</sup> is the deadline for each house to pass bills, and the Final Recess will begin upon adjournment on that date.

It is fitting to note at this time that this important work does not happen in a vacuum. The Legislative Committee is composed of 32 members who have committed to give generously of their time and expertise. CALAFCO could not do what it does without them, so our sincerest thanks to the following:

**Board Appointees** - Bill Connelly, Gay Jones, Mike Kelley, Chris Lopez, Jo MacKenzie, Daron McDaniel, Mike McGill, Margie Mohler, Anita Pague, and Josh Susman.

**Staff Voting Members** - Clark Alsop, Gary Bell, Mark Bramfitt, Scott Browne, Carolyn Emery, René LaRoche, Steve Lucas, Kai Luoma, Jennifer Stephenson, and Gary Thompson.

**Staff Alternates** - Rob Fitzroy, Paula Graf, Joe Serrano, and Paula de Sousa.

**Advisory** - Tara Bravo, Crystal Craig, Brandon Fender, Sara Lytle-Pinhey, Priscilla Mumpower, Erica Sanchez, Jim Simon, and Luis Tapia.

## CONNECTIONS

*Continued from Page 2*

**Contra Costa** also welcomed Commissioner Patricia Bristow in June as its new Special District member. Commissioner Bristow currently serves as Board Member on both the Byron-Brentwood-Knightsen Union Cemetery District and the Byron Sanitary District and serves on the Contra Costa County Transportation Authority Citizen Advisory. Commissioner Bristow has lived in Brentwood and Byron her entire life and was a teacher and counselor in the Brentwood Unified School District for 34 years. Her family has farmed in the community for over 100 years.

### NEW Roles

#### **LUIS TAPIA promotes to OC AEO**

Orange County LAFCo announced the promotion of Luis Tapia to the Assistant Executive Officer position. Luis brings a great deal of experience to the role having been with Orange LAFCo since 2016 and is an Advisory member to the CALAFCO Legislative Committee.

#### **NATASHA CARBAJAL hired as Santa Barbara's new Analyst-Clerk**

Santa Barbara LAFCo is pleased to welcome Natasha Carbajal as its new Analyst/Clerk. Natasha had been providing clerking services for

about 10 months while she was with the Santa Barbara Clerk of the Board's Office. She comes to LAFCo with a broad range of skills and abilities, including great local government experience and all around good public service skills. Natasha has a Master of Public Administration from California State University Northridge and a Bachelor of Arts, Sociology from University Channel Islands.

#### **MORGAN BING welcomed as SLO Clerk Analyst**

Morgan Bing has joined San Luis Obispo LAFCo as their new Clerk Analyst. She comes to SLO LAFCo with a Bachelors and Masters degree from Cal Poly San Luis Obispo and four years of experience. SLO LAFCo is very excited to have her on their team!

#### **SAFARINA MALUKI becomes Clerk in Monterey**

Monterey LAFCo has welcomed Safarina Maluki as their new Clerk to the Commission/Office Administrator. Safarina has a wide range of responsibilities in support of the Commission and staff, and she looks forward to getting to know her colleagues around the State!

**Congratulations one and all!**

## Associate Member SPOTLIGHT

*The information below is provided by the Associate member upon joining the Association. All Associate Member information can be found in the CALAFCO Member Directory*

### **E MULBERG & ASSOCIATES**

Services include Municipal Service Reviews, Sphere of Influence updates, changes in organization, staff support, CEQA analysis, and assistance with applications to LAFCo.

To learn more about E Mulberg & Associates, visit their website at [www.emulberg.com](http://www.emulberg.com), or contact Elliot Mulberg at [Elliot@emulberg.com](mailto:Elliot@emulberg.com).



### **LOS ANGELES COUNTY SANITATION DISTRICTS**

Provides sewer service to 78 cities and unincorporated areas of LA County. Before a district can provide sewage service to a territory, it must be within its jurisdictional boundaries. Donna Curry administers the annexation program, including processing applications for annexation.

To learn more about LACSD visit their website at [www.lacsd.org](http://www.lacsd.org), or contact Donna Curry at [dcurry@lacsd.org](mailto:dcurry@lacsd.org)

**CALAFCO wishes to thank all of our Associate Members for your ongoing support and partnership. We look forward to highlighting you all in future Newsletters.**



# JOIN US!



## TWO AGENCIES IN DISPUTE

### LAFCO'S ROLE IN ASSISTING IN RESOLVING THE CONFLICT

Two public agencies are in dispute over future boundaries, and past unmet conditions of approval. What can a LAFCo do to assist in resolving these types of conflicts? How can a LAFCo navigate the dispute minefields while keeping a neutral role? Join us as we consider two case studies, and learn tools that can be used to assist in mediating disputes.

**MONDAY**  
**September 19, 2022**  
**1 – 2:30 p.m.**

#### COST

Free to CALAFCO Members\*

Non-members: \$125\*\*

\*CALAFCO Members include staff or commissioners of dues-paying LAFCos.

\*\*Non-members may only register if representing a local government or state agency in California.

#### SPEAKERS

Carolyn Emery, Executive Officer, Orange LAFCo

Priscilla Mumpower, Local Government Analyst, San Diego LAFCo

Moderator

Gary Thompson, Executive Officer, Riverside LAFCo



**CLICK HERE TO REGISTER for this webinar:** <https://bit.ly/3btwVw>

Once you register on Eventbrite you will receive the Zoom registration link with your confirmation email. You will then need to use that Zoom registration link prior to the session to get the updated webinar link to join that session. **DO NOT WAIT UNTIL THE LAST MINUTE TO DO THIS STEP.**

You can also find this information on the CALAFCO website at [www.calafco.org](http://www.calafco.org).

**DEADLINE TO REGISTER:** Sunday, September 18, 2022, 5 p.m.  
No late registrations will be accepted.

*This session is worth 1.5 AICP CM Credits.*



[www.CALAFCO.org](http://www.CALAFCO.org) | Phone: (916) 442-6536 | Email: [info@calafco.org](mailto:info@calafco.org)



## **IN THE NEWS**

### **Newspaper Articles**

- The Modesto Bee, May 25, 2022, “Bill could lead to higher flows on Modesto-area rivers. Local lawmaker is fighting it.”
- The Modesto Bee, June 7, 2022, “Where Housing Authority project would create 92 apartments for Modesto families, seniors.”
- The Modesto Bee, June 10, 2022, “State curtails river diversions again. What that means to Modesto-area water users.”
- The Modesto Bee, July 31, 2022, “As ailing Salida fire district seeks contract with Modesto, interim chief is named.”
- Ceres Courier, August 10, 2022, “Future of former Industrial Fire Station questioned.”

*This page intentionally left blank*

IN THE NEWS – The Modesto Bee, May 25, 2022

## Bill could lead to higher flows on Modesto-area rivers. Local lawmaker is fighting it

BY John Holland

Assemblyman Adam Gray, D-Merced, is maneuvering against a bill that seeks higher flows on local rivers.

Assembly Bill 2639 would set a Dec. 31, 2023, deadline for the State Water Resources Control Board to complete its plan for tributaries to the Sacramento-San Joaquin Delta. They include the Stanislaus, Tuolumne and Merced rivers.

The decision would follow decades of wrangling over whether fish should get more water on the lower rivers at the expense of farms and cities.

The bill, by Assemblyman Bill Quirk, D-Hayward, also would bar the board from issuing new rights for water storage if the plan is not completed. This could complicate plans to add or expand reservoirs in watersheds feeding the Delta.

Gray has offered an amendment that would keep the measure from going into effect “if it was found to hurt the drinking water supplies of disadvantaged communities,” his staff said by email Tuesday.

Gray has a history of disagreeing with fellow Democrats on certain water issues. He also supports “voluntary agreements,” under which diverters would modestly boost river levels while enhancing fish habitat with nonflow measures.

“My constituents won’t be sacrificial lambs,” Gray said in a news release. “Bureaucrats in Sacramento have already decided that the devastation caused by the state water grab to the San Joaquin Valley is ‘significant, but unavoidable.’ Now some in the Legislature are trying to advance a bill that will cut off negotiations to reach the voluntary agreements that are supported by local farmers, irrigation districts and the Newsom administration.”

Quirk’s bill has passed three Assembly committees but will fail if not approved by the full chamber by Friday, May 27. That’s the deadline for Assembly bills to move on to the Senate.

Quirk has support from a long list of environmental and fishing groups, among them the Tuolumne River Trust. The opponents include irrigation districts in Stanislaus County and elsewhere.

# Where Housing Authority project would create 92 apartments for Modesto families, seniors

BY Kevin Valine

The Stanislaus Regional Housing Authority is making another effort at providing affordable, market-rate housing in a project of 92 apartments for seniors and families in west Modesto.

The Parque Rio Development will consist of two apartment complexes on 4 acres along the south side of Robertson Road just west of Sutter Avenue. One complex will have 22 one-bedroom apartments for seniors, and the second will have 70 one- and two-bedroom apartments for families.

The Housing Authority's first effort at market-rate, affordable housing has been delayed by the pandemic, but work continues. The authority in 2020 purchased the Clarion Inn Conference Center in Modesto to convert it into 142 studio apartments for retail and restaurant workers and other moderate-income workers and to provide new administrative offices and maintenance facilities for the authority's operations.

The authority had hoped to have the entire renovation completed by December 2021. Housing Authority Executive Director Jim Kruse said the offices and maintenance facilities are on track to open in October. He said renovating motel rooms into apartments could start in early 2023 and take about six months.

Kruse said the Parque Rio Development is in the early stages and its details could change. He expects it could be affected by the pandemic, inflation and supply-chain issues.

The Housing Authority expects the residents could not make more than 120% of the Modesto area's median income. That would make it affordable, market-rate housing for working families and seniors whose income is too high for low-income, subsidized housing but not high enough to keep up with rising rental prices. These projects often are called workforce housing.

But the Housing Authority continues to assemble the project's funding, and Kruse said some government funding could require Parque Rio to provide housing for low-income residents, making the development more typical of traditional, affordable-housing projects.

The development's four acres are in Tuolumne River Regional Park, which is a partnership among Modesto, Ceres and Stanislaus County. Modesto manages the park.

The regional park's commission, which consists of elected officials from the three governments, and its citizens advisory commission have given conceptual approval of the land purchase, said Jessica Hill, Modesto's community development manager.

Hill said the purchase could come to the regional park's two commissions for approval in the next couple of months. She said the purchase then would have to be approved by the Modesto and Ceres city councils and the county Board of Supervisors.



#### **IN THE NEWS – The Modesto Bee, June 7, 2022 (continued)**

Kruse estimates Parque Rio could cost \$25 million. He said the Housing Authority has been allocated its first \$3 million through the federal government. He said the authority made a funding request through the office of U.S. Rep. Josh Harder, D-Turlock.

Kruse said the authority would like to spend the \$3 million to purchase the 4 acres — appraised at \$470,000 — and for project's development costs. The authority is working with the U.S. Department of Housing and Urban Development on getting the \$3 million released and on potential restrictions on how the money could be spent.

Kruse said it is too soon to give an estimate on when Parque Rio could be built. He said once the land purchase goes through, it could take all of 2023 for the housing authority to assemble the rest of the project's funding, gain the necessary approvals and develop all of the project's plans.

He expects construction could take 12 to 18 months.

"I think there is a genuine belief (in this project)," Kruse said. "Everybody has been supportive of this project. It's in a good location. It definitely is needed." Hill agreed, saying it was a great project for families and seniors.

Parque Rio is near other housing and where the city plans to build soccer fields. It also is near one of the city's waste-water treatment plants, but Kruse said an environmental review did not reveal any concerns.

# State curtails river diversions again. What that means to Modesto-area water users

BY John Holland and Dale Kasler

The state has again stopped river diversions in much of Stanislaus and nearby counties, but the effect on farms and cities is minimal for the moment.

The orders allow water agencies to continue delivering supplies already in reservoirs. They include the Modesto and Turlock irrigation districts and San Francisco on the Tuolumne River, and the Oakdale and South San Joaquin districts on the Stanislaus River.

These agencies have enough stored water for this year, but they still challenge the state's authority over their long-held river rights.

A drought now 3 years old forced Tuesday's action by the State Water Resources Control Board. It first curtailed diversions last August but lifted them after heavy storms in October and December. The months since then have been historically dry.

"We're not going to get a significant pulse of new snowmelt at this point," said Erik Ekdahl, the state board's deputy director. "There is no more snow to melt."

## MUCH OF VALLEY AFFECTED

The order affects many rights holders on the San Joaquin River and its tributaries. The state board seeks to provide at least some flow to protect fish and water quality in the Sacramento-San Joaquin Delta and San Francisco Bay.

Many irrigation districts on the west side of the San Joaquin Valley are already getting zero water from the federal Central Valley Project. Allotments are 75% for about a quarter-million acres with senior rights between the Crows Landing and Mendota areas.

MID and TID capped their customers at about 60% of normal use with the goal of having enough for 2023 and meeting lower-river fish rules. OID and SSJID do not have caps but have urged careful use. San Francisco has several years of storage but is urging conservation, too, in the Bay Area.

These agencies and others sued the state board last year on the grounds that it does not have the power to curtail their rights.

MID and TID issued a joint statement about the latest action: "As we continue to analyze these curtailment orders and the state water board's methodology to justify the need for curtailments on the Tuolumne River, the Modesto and Turlock irrigation districts will be able to continue to meet our customers' needs and environmental requirements."

## URBAN CONSERVATION LAGS

Meanwhile, new figures released by the state board show that urban Californians remain largely indifferent to Gov. Gavin Newsom's call for 15% voluntary water conservation.

## **IN THE NEWS – The Modesto Bee, June 10, 2022, (continued)**

The board said per-capita urban water consumption in April fell by 7% compared to a year earlier — and was 17% higher when compared with April 2020. All told, urban Californians have reduced consumption by just 2% since the governor called for savings last summer.

The fact that water usage fell in April compared to a year earlier was “at least heartening,” said board Chairman E. Joaquin Esquivel. Others, though, said the conservation numbers need to get a lot better.

“These are not the numbers we wanted to see, and they are not the numbers we need to see,” said Adel Hagekhalil, general manager of the Metropolitan Water District of Southern California.

Newsom has threatened to impose mandatory statewide cuts on urban usage if the conservation figures don’t improve.

# As ailing Salida fire district seeks contract with Modesto, interim chief is named

Ken Carlson

The Salida Fire Protection District is in negotiations for a possible agreement with the Modesto Fire Department.

The district has two board members on a committee working on a potential agreement.

District board member Mark Stone shared some details Tuesday at the Salida Municipal Advisory Council meeting.

Stone told the advisory council the five-year agreement would improve firefighting response within the district boundaries and essentially would be a contract for personnel.

The Salida district would keep its stations and equipment. And the district's name still would be on the side of its fire engines.

Stone said residents of the Salida district could expect to see 18 or 19 personnel initially arrive at a structure fire if there's a contract with Modesto. He described how engines from Riverbank, Modesto and other agencies would respond to incidents at different locations in the Salida district.

The Modesto Fire Department has entered management or service agreements with Oakdale, Stanislaus Consolidated, Ceres and Turlock, creating an expansive network for fire protection and emergency response.

Stone said Salida's paid firefighters would become employees of the Modesto Fire Department. He said the rural fire district is stretched thin in trying to protect residents and businesses within its 46-square-mile territory.

## AN INTERIM CHIEF FOR SALIDA

The potential agreement still is in negotiations, but one change will take effect this week. Modesto Fire Chief Alan Ernst said he's scheduled to become the temporary fire chief for Salida, effective Monday, to satisfy a legal requirement.

The Salida district has been operating without a fire chief. Ernst will add the title to his Modesto Fire responsibilities.

Salida once again is looking to partner with an outside agency. It was a key member of the Modesto Regional Fire Authority, which was created in 2011 and dissolved in 2014.

Ernst said Friday that Modesto and Salida are working on a services agreement similar to the contracts between the city and Ceres and Oakdale. Modesto Fire's agreements with Stanislaus Consolidated and Turlock are for administrative services.

Ernst said Salida is struggling with a limited staff of six allocated firefighter positions. With COVID-19 and other medical issues, staffing becomes a real challenge for Salida if a paid firefighter is injured, Ernst said.



## **IN THE NEWS – The Modesto Bee, July 31, 2022, (continued)**

Modesto could have a service agreement with Salida within two or three months, the chief said.

“We are still in the negotiations phase,” Ernst said. “But we are progressing well and hope to have something to bring to the City Council and fire board in the next few months.”

County Supervisor Terry Withrow, whose district includes Salida, said a fire service agreement would not affect the county Sheriff’s Department substation that’s located in the downtown Salida fire station. He said the county is not involved with the possible agreement between Salida Fire and Modesto, but he attended the Salida council meeting Tuesday.

Withrow said he understands why Salida is considering an agreement with Modesto. It comes down to a lack of personnel to provide fire services for the community, he said. “The people of Salida need fire coverage,” Withrow said.

“They need to have EMS (emergency medical service) coverage. They have to do something.”

# Future of former Industrial Fire Station questioned

Jeff Benziger

Ceres City Councilman Mike Kline wants the city to explore the future of the former Industrial Fire Station at 830 Pecos Avenue in light of the city accepting transfer of ownership.

The July 25 City Council agenda contained a resolution to have the city accept title to the station – commonly known as Ceres Fire Station #2 – from the Industrial Fire District. Industrial Fire Department has been contracting with the city of Ceres for fire suppression services since 2007 and hadn't turned the station over until now. The Industrial Fire District is located within the sphere of influence of the cities of Ceres and Modesto, principally the South Ninth Street corridor and residential areas south of River Road to Ceres city limits.

Last year the city of Ceres began contracting with the city of Modesto to run the fire department.

The city of Ceres spends about \$62,805 for utilities and maintenance annually on the station which is offset by revenues from Industrial Fire.

Kline pulled the item for discussion, saying he wants city staff to explore the possibilities of improving the station.

"We know that is an old station, needs to be upgraded, things need to be done, whether it's living quarters, plumbing, whatever," said Kline. "At least come back with an idea of what renovations need to be done, a cost, what need to be done if we tore it down and rebuilt the station there. The feasibilities if that is the right place for a station."

When it came to a vote to accept the station with the understanding of a future study for possible renovations, Kline, Vice Mayor Bret Silveira and Mayor Javier Lopez voted in favor while Councilman James Casey voted no.



# **STANISLAUS LOCAL AGENCY FORMATION COMMISSION**

## **MINUTES**

**May 25, 2022**

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

Vice-Chair O'Brien called the meeting to order at 6:00 p.m.

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

Commissioners Present: Richard O'Brien, Vice-Chair, City Member  
Amy Bublak, City Member  
Mani Grewal, Alternate County Member  
Ken Lane, Public Member  
Bill Berryhill, Alternate Public Member

Commissioners Absent: Terry Withrow, Chair, County Member  
Vito Chiesa, County Member  
Javier Lopez, Alternate City Member

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

### **2. PUBLIC COMMENT**

Barney Aggers and Dan Whetstone spoke regarding their concerns about the City of Riverbank's River Walk Specific Plan proposal.

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

- A. Minutes of the April 27, 2022 Meeting.

*Motion by Commissioner Grewal, seconded by Commissioner Lane and carried with a 4-0 vote to approve the Minutes of the April 27, 2022 meeting by the following:*

*Ayes: Commissioners: Bublak, Grewal, Lane, and O'Brien*  
*Noes: Commissioners: None*  
*Ineligible: Commissioners: Berryhill*  
*Absent: Commissioners: Chiesa, Lopez and Withrow*  
*Abstention: Commissioners: None*

#### 4. CORRESPONDENCE

A. Specific Correspondence.

1. Letter from Stanislaus County regarding item 7A, dated May 18, 2022.

B. Informational Correspondence.

None.

C. "In the News."

#### 5. DECLARATION OF CONFLICTS AND DISQUALIFICATIONS

None.

#### 6. CONSENT ITEMS

A. **INDEPENDENT AUDIT FOR FISCAL YEARS 2018-2019, 2019-2020 AND 2020-2021.** (Staff Recommendation: Accept and File Audit Report.)

B. **SCHEDULE OF FEES AND DEPOSITS UPDATE.** (Staff Recommendation: Adopt the updated Schedule of Fees and Deposits.)

*Motion by Commissioner Grewal, seconded by Commissioner Lane, and carried with a 4-0 vote to approve the consent items, by the following vote:*

*Ayes: Commissioners: Bublak, Grewal, Lane and O'Brien*

*Noes: Commissioners: None*

*Ineligible: Commissioners: Berryhill*

*Absent: Commissioners: Chiesa, Lopez and Withrow*

*Abstention: Commissioners: None*

#### 7. PUBLIC HEARING

A. **Continued from March 23, 2022 LAFCO APPLICATION NO. 2022-01, MUNICIPAL SERVICE REVIEW NO. 2022-01, & SOI UPDATE NO. 2022-01 – ACTIVATION OF LATENT POWERS (SEWER SERVICE) FOR THE MONTEREY PARK TRACT COMMUNITY SERVICES DISTRICT.** A request by the Monterey Park Tract Community Services District to provide sewer services within the existing boundaries of the 30± acre District. Currently the District is only authorized to provide water services. The District includes the rural subdivision known as the Monterey Park Tract and is located one mile west of the West Monte Vista Avenue and Crows Landing Road intersection. An updated Municipal Service Review and Sphere of Influence will also be considered for the proposal. (Staff Recommendation: Approve the application and Resolution No. 2022-03.)

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

Vice-Chair O'Brien opened the item up for Public Comment at 6:18 p.m.



Francisco Diaz, Board Member of Monterey Park Tract Community Services District and resident, spoke on behalf of the project.

Vice-Chair O'Brien closed the Public Hearing at 6:21 p.m.

*Motion by Commissioner Bublak, seconded by Commissioner Grewal and carried with a 4-0 vote to approve the application and adopt Resolution No. 2022-03, by the following vote:*

*Ayes: Commissioners: Bublak, Grewal, Lane and O'Brien  
Noes: Commissioners: None  
Ineligible: Commissioners: Berryhill  
Absent: Commissioners: Chiesa, Lopez and Withrow  
Abstention: Commissioners: None*

- B. **FINAL LAFCO BUDGET FOR FISCAL YEAR (FY) 2022-2023.** The Commission will consider the adoption of the final LAFCO budget consistent with Government Code Sections 56380 and 56381. (Staff Recommendation: Approve the Final Budget and adopt Resolution No. 2022-07.)

Sara Lytle-Pinhey, Executive Officer, presented the item with a recommendation of approval of the Final Budget.

Vice-Chair O'Brien opened the item up for Public Comment at 6:25 p.m.

There was none.

Vice-Chair O'Brien closed the Public Hearing at 6:25 p.m.

*Motion by Commissioner Lane, seconded by Commissioner Grewal and carried with a 4-0 vote to approve the Final Budget and adopt Resolution No. 2022-07, by the following vote:*

*Ayes: Commissioners: Bublak, Grewal, Lane and O'Brien  
Noes: Commissioners: None  
Ineligible: Commissioners: Berryhill  
Absent: Commissioners: Chiesa, Lopez and Withrow  
Abstention: Commissioners: None*

**8. OTHER BUSINESS**

None.

**9. COMMISSIONER COMMENTS**

Commissioner Lane asked for a moment of silence in honor of those who lost their lives in the Texas school shooting.

**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:
- The Executive Officer and LAFCO Counsel attended the first two of three special meeting bus tours of the Board of Supervisors. They have been beneficial.
  - Staff is currently working on the Fire MSR. Letters have been mailed out and we will soon be scheduling meetings with each district.
  - There are no Public Hearings scheduled for June. Staff suggests canceling the June Meeting.
  - There will be a protest hearing scheduled in July for the Monterey Park Tract Community Services District item. Staff will be considering July's commission meeting as tentative.

**12. ADJOURNMENT**

- A. Vice-Chair O'Brien adjourned the meeting at 6:31 p.m.

**DRAFT**

---

Sara Lytle-Pinhey, Executive Officer

## MEMORANDUM

DATE: August 24, 2022

TO: LAFCO Commissioners

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

SUBJECT: **Legislative Update**

### RECOMMENDATION

This Legislative Update is being provided for the Commission's information only. It is recommended that the Commission receive and file this report.

### DISCUSSION

Two bills of interest that received letters of the support from the Commission were recently signed by the Governor and will take effect January 1, 2023. They are summarized as follows:

#### **Protest Proceedings: Procedural Consolidation**

SB-938 (Hertzberg) – *Chaptered*

##### QUICK SUMMARY:

*SB-938 consolidates and clarifies existing statutes related to protest provisions. The bill raises the protest threshold for LAFCO-initiated actions to 25% (currently at 10%) to be consistent with other protest thresholds. For LAFCO-initiated dissolutions of special districts, it creates timeframes for a district to respond and remediate to issues identified in a Municipal Service Review.*

This bill is a result of a three-year collaborative effort amongst CALAFCO and stakeholders to consolidate existing statutes related to the protest process and make the protest thresholds consistent for Commission-initiated dissolution proposals.

SB-938 also creates a specific process for LAFCO-initiated dissolutions utilizing a Municipal Service Review as an opportunity for the subject district to respond and remediate potential issues.

- Determinations for the proposed dissolution must be documented in a Municipal Service Review and presented at a 21-day noticed public hearing;
- The subject district is granted a minimum 12-month remediation period and an opportunity to provide a progress report to the LAFCO prior to taking any action;

- A second 21-day public hearing must be held to determine if the identified issues are mitigated, resulting in the LAFCO either terminating the dissolution, or moving forward under the standard protest hearing process outlined in existing law with a public notice period of 60 days.

#### IMPLICATIONS FOR STANISLAUS LAFCO:

Previously, special districts were not required to respond to or remedy issues identified in an Municipal Service Review. This new law strengthens the Municipal Service Review document and the Commission's determinations. While there may be limited circumstances where a LAFCO-initiated dissolution is needed, it is important to have a fair and consistent process.

### **Omnibus Bill**

AB-2957 (Committee on Local Government) – *Chaptered*

#### QUICK SUMMARY:

*This CALAFCO-sponsored omnibus bill made minor clarifications and corrections to language in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act). This bill also extended a sunset in the Revenue and Taxation Code related to property tax exchange negotiations.*

This year's omnibus bill, AB-2957 contained non-controversial changes, including the following:

- Added a definition for "successor agency," meaning the local agency the Commission designates to wind up the affairs of a dissolved district.
- Made a minor clarification to the language related to when a change of organization or reorganization is deemed to "take effect."
- Replaced references to "proposal" with applications in various sections.
- Extended a sunset in the Revenue and Taxation Code related to property tax exchange negotiations during an annexation proposal and the use of consultant review, mediation, and arbitration.

The need for latter of these changes was noted by your Stanislaus LAFCO Staff during review of the property tax exchange negotiation process. With CALAFCO and the Legislative Committee's support, it was included as a final amendment to the bill that was signed by the Governor.

#### IMPLICATIONS FOR STANISLAUS LAFCO:

Clarifications and improvements to the CKH Act will insure the law is as unambiguous as possible to the Commission and Staff. Extension of the sunset date in the Revenue & Taxation Code retains the framework for property tax exchange negotiations in the circumstance where a master property tax exchange or other negotiated agreement is absent.

-----

### **Other Pending Bills of Interest:**

Two additional bills of interest to the Commission are nearing completion of the legislative process. The last day for any bill to be passed is August 31, 2022. The last day for the Governor to sign or veto bills is September 30, 2022.

### **Office of Planning & Research: Grant Program – Annexation of Unincorporated Areas**

SB-1449 (Caballero) – *Ordered to third reading as of the drafting of this report, expected to pass.*

#### **QUICK SUMMARY:**

*This bill would require the Office of Planning and Research to establish an Unincorporated Area Annexation Incentive Program, establishing a grant program to provide match funds to cities for the purpose of funding infrastructure projects related to annexation of substantially surrounded unincorporated areas or disadvantaged communities.*

The Office of Planning and Research (OPR) would prioritize the issuance of grants to fund projects related to any of the following:

- Annexation of fully surrounded unincorporated areas
- Annexations that would result in improvement of public health and safety infrastructure.
- Annexation of disadvantaged unincorporated communities.

If passed, the bill requires OPR to develop guidelines by September 1, 2023 in order to implement the program. A requirement has also been added that OPR consult with LAFCOs during development of the guidelines. CALAFCO, the California State Association of Counties, and the League of California Cities have all taken a support position for the bill.

#### **IMPLICATIONS FOR STANISLAUS LAFCO:**

The grant program has been a long-awaited and much-needed resource that will assist and support the statutory intent of LAFCOs. Staff will be participating in OPR's development of guidelines should the bill pass and will be prepared to support cities applying for these grant funds when available.

### **Open Meetings: Orderly Conduct**

SB-1100 (Cortese) – *Enrolled and presented to Governor for signature*

#### **QUICK SUMMARY:**

*This bill will authorize the removal of an individual from a public meeting who is "willfully interrupting" the meeting after a warning and a request to stop their behavior. "Willfully interrupting" is defined as intentionally engaging in behavior during a meeting of a legislative body that substantially impairs or renders infeasible the orderly conduct of the meeting in accordance with law.*

The Brown Act requires, with limited exceptions, that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and provide public comment. Existing law authorizes the legislative body to adopt reasonable regulations related to

public comment, including limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Existing law also authorizes the members of the legislative body to order the meeting room cleared and continue in session, as prescribed, if a group or groups have willfully interrupted the orderly conduct of a meeting and order cannot be restored by the removal of individuals who are willfully interrupting the meeting. SB-1100 would authorize the presiding member of the legislative body conducting a meeting or their designee to remove, or cause the removal of, an individual for disrupting the meeting. The bill, except as provided, would require removal to be preceded by a warning to the individual that the individual's behavior is disrupting the meeting and that the individual's failure to cease their behavior may result in their removal. The bill would authorize the presiding member or their designee to then remove the individual if the individual does not promptly cease their disruptive behavior.

**IMPLICATIONS FOR STANISLAUS LAFCO:**

SB-1100 provides a tool to help ensure safe, open and accessible public meetings by creating a process to restore order should disruptions occur that prevent a meeting from continuing in accordance with law.

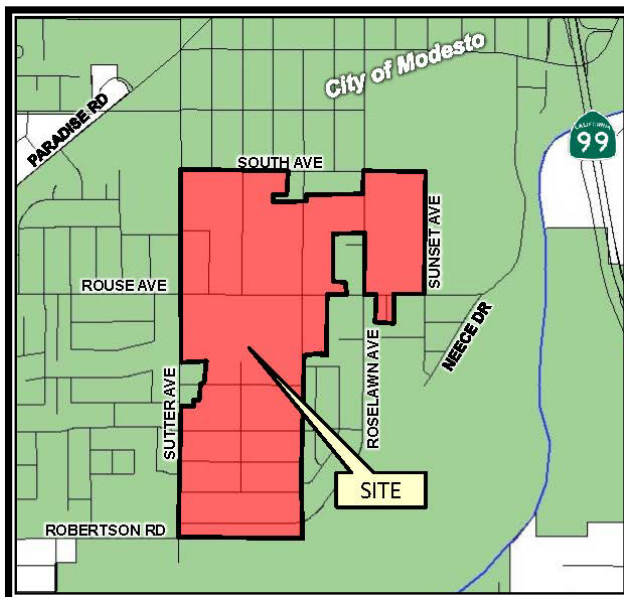
**EXECUTIVE OFFICER'S AGENDA REPORT  
AUGUST 24, 2022**

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

**APPLICANT:** City of Modesto

**LOCATION:** The territory is located south of South Avenue, west of Sunset Avenue, North of Robertson Road, and east of Sutter 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 Rouse-Colorado area. (See City's Out-of-Boundary Application, Exhibit B.) The area consists of approximately 154 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 Rouse-Colorado neighborhood, the Executive Officer has determined to forward the City's request to the Commission.



The proposed sewer service extension is the second phase of the "West Modesto Sewer Infrastructure Project." The three areas of the project include the currently proposed Rouse-Colorado neighborhood, the already-approved Spencer-Marshall neighborhood and the yet-to-be-approved Beverly-Waverly 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 second phase (Rouse-Colorado 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 phase 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 Spencer-Marshall Neighborhood, 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 Rouse-Colorado 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 with a very small area zoned for Highway Commercial and Neighborhood Commercial 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 Rouse-Colorado 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 Rouse-Colorado 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 Rouse-Colorado 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. 2022-08, 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 Rouse-Colorado neighborhood only.
- B. The City shall not allow additional sewer service connections outside the City limits and beyond the delineated Rouse-Colorado 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

**EXECUTIVE OFFICER'S AGENDA REPORT**  
**AUGUST 24, 2022**  
**PAGE 5**

shall be forwarded to the LAFCO office.

Respectfully submitted,

*Javier Camarena*

Javier Camarena  
Assistant Executive Officer

Attachments:   Draft LAFCO Resolution 2022-08  
                     Exhibit A - Map of the Rouse-Colorado Neighborhood  
                     Exhibit B - City's Out-of-Boundary Application  
                     Exhibit C - Government Code Section 56133  
                     Exhibit D - LAFCO Policy 15

*This page intentionally left blank.*

**STANISLAUS COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**RESOLUTION**

**DATE:** August 24, 2022

**NO.** 2022-08

**SUBJECT: Out-of-Boundary Service Application for the Rouse-Colorado 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 Rouse-Colorado 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 Rouse-Colorado 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 Rouse-Colorado 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 Rouse-Colorado Neighborhood's sewer flows;

**WHEREAS**, the City of Modesto currently provides water service to the Rouse-Colorado 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 August 24, 2022.

**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 Rouse-Colorado 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 Rouse-Colorado 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 Rouse-Colorado 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: Rouse-Colorado Neighborhood Area Map

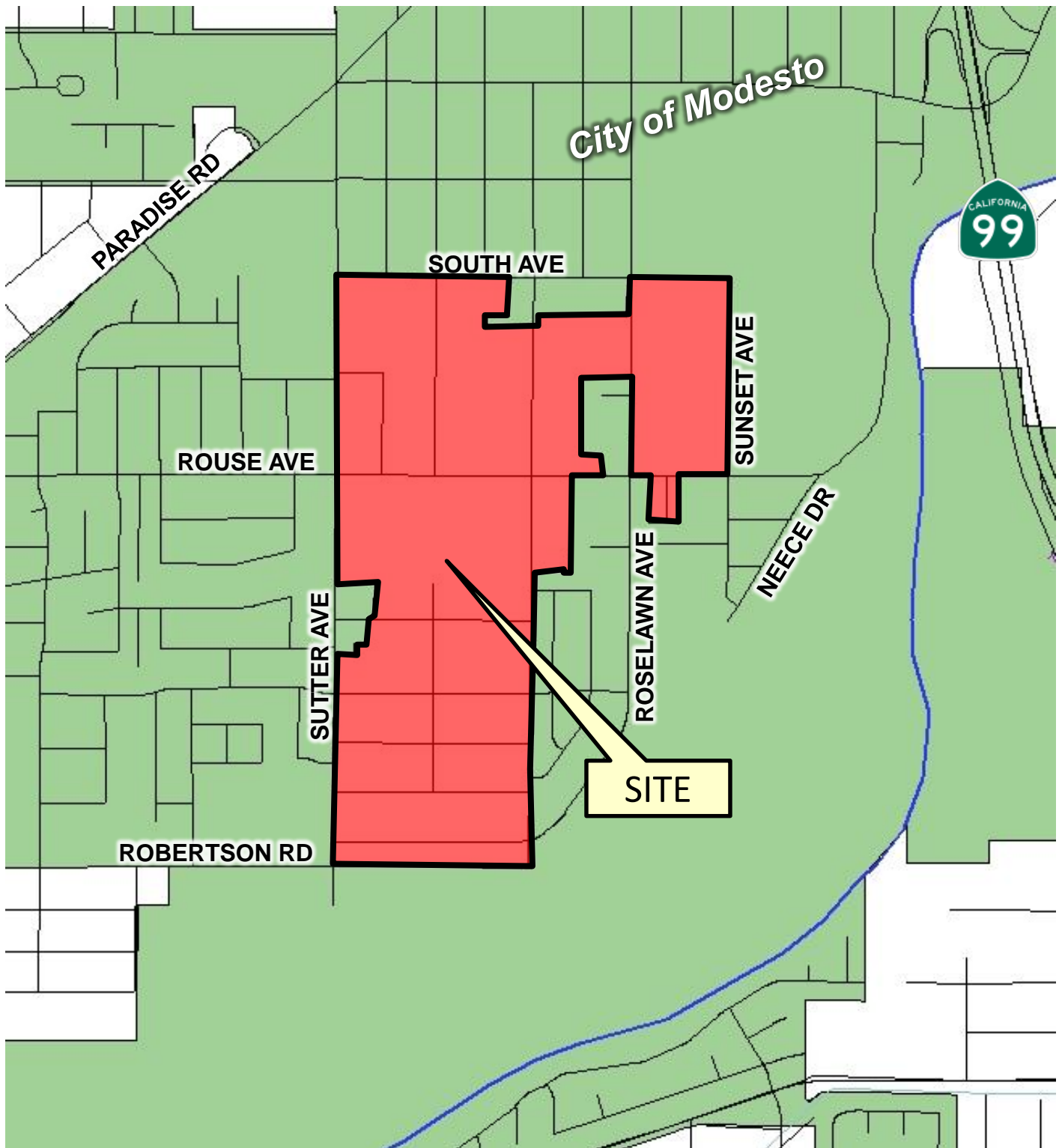


# **EXHIBIT A**

## **Area Map**

*This page intentionally left blank.*

OUT-OF-BOUNDARY SERVICE APPLICATION  
ROUSE-COLORADO NEIGHBORHOOD AREA  
AREA MAP



*This page intentionally left blank.*

## **EXHIBIT B**

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

*This page intentionally left blank.*

---

# 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](http://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 St. Suite 4500, PO 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: Rouse/Colorado neighborhoods (See Attachment A- Project Area Map)

PHONE: N/A FAX: N/A E-MAIL: N/A

CONTRACT NUMBER/IDENTIFICATION: N/A

ASSESSOR PARCEL NUMBER(S): Multiple APNs (See attached project map)

ACREAGE: Rouse/Colorado: approx. 154 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 the Rouse/Colorado neighborhood located in the western unincorporated area of Modesto, referred to as the "West Modesto Sewer Infrastructure Project- Rouse-Colorado 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 Agreements and Agreement to Waive Protest to Annexation" will be executed with individual property owners as properties are connected (See Attachment B- Example City Agreement). The sewer extension is to address health and safety concerns from failing septic systems in economically disadvantaged unincorporated communities.

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

At this time, only an "out of boundary" service extension is being requested to mitigate failing septic systems. A number of additional infrastructure improvements are still needed in the project areas in order to meet City standards. It is acknowledged and anticipated that annexation of the area into the City of Modesto will occur in the future.

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

Yes, the areas proposed are within the City of Modesto 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. The extension will serve existing developed properties and remaining infill (vacant and underdeveloped) properties within the proposed areas.

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

Yes, the Stanislaus County Board of Supervisors approved a Notice of Determination for the West Modesto Sewer Infrastructure project (See Attachment C and D). An electronic copy of the CEQA Initial Study and of the NEPA Finding of No Significant Impact determination were provided.

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) The proposed areas are existing, developed  
County neighborhoods 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 Attachment E- Proposed Connections Map

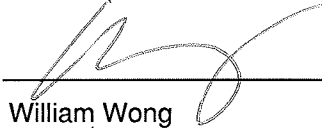
### CERTIFICATION

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

7/27/22

### 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

---

# 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](http://www.stanislauslafco.org)

---


## INDEMNITY AGREEMENT

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

Date: 7/27/22

### APPLICANT OR APPLICANT'S REPRESENTATIVE:

(Proof of authority must be provided)

Signature:   
Name: William Wong  
Title: Director of Utilities  
Agency: City of Modesto  
Address: 1010 10th St., Suite 4500 - P.O. Box 642  
Modesto, CA 95353

## **NEGATIVE DECLARATION**

**NAME OF PROJECT:** West Modesto Sewer Infrastructure Project

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

**PROJECT DEVELOPERS:** Stanislaus County Planning and Community Development  
1010 10<sup>th</sup> Street, Suite 3400  
Modesto, CA 95354

**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.

Based upon the Initial Study, dated **June 21, 2018**, the Environmental Coordinator finds as follows:

1. This project does not have the potential to degrade the quality of the environment, nor to curtail the diversity of the environment.
2. This project will not have a detrimental effect upon either short-term or long-term environmental goals.
3. This project will not have impacts which are individually limited but cumulatively considerable.
4. This project will not have environmental impacts which will cause substantial adverse effects upon human beings, either directly or indirectly.

The Initial Study and other environmental documents are available for public review at the Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto, California.

Initial Study prepared by: Miguel A. Galvez, Deputy Director

Submit comments to: Stanislaus County  
Planning and Community Development Department  
1010 10th Street, Suite 3400  
Modesto, California 95354

## **EXHIBIT C**

### **Government Code Section 56133**

*This page intentionally left blank.*



## **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**

*This page intentionally left blank.*

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

*(Amended January 24, 2018)*

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

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

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

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

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

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